Title of Document: Whatcom County Agriculture-Watershed Project

Attachments: Cover Memo, Project Summary

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

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

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

This is an informational discussion on the outcomes of the County’s Ag-Watershed Project, as authorized by Council through grant contract agreement between Whatcom County and the WA Department of Commerce for a planning-only land use grant for watershed protection and restoration.

The Whatcom County Ag-Watershed Project is examining how a marketplace approach can strengthen agricultural endeavors while enhancing larger-scale watershed processes and functions. This 3 year research and development project is nearing completion, and the project team will provide an update and information on project status, outcomes and final draft work products. See the project website at: http://www.whatcomcounty.us/1146/Current-Initiatives

Committee Action:

Council Action:

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

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

TO: Honorable Whatcom County Councilmembers
FROM: Karin Beringer – Planner 1
THROUGH: Mark Personius – Assistant Director, PDS
DATE: July 29, 2016
SUBJECT: Agriculture-Watershed Project Briefing

The Whatcom County Ag-Watershed Project has been examining how a marketplace approach can strengthen agricultural endeavors while enhancing larger-scale watershed processes and functions. This grant-funded 3 year research and development project is nearly complete, and the project team would like to provide an update and information on project status, outcomes and final draft work products.

Key outcomes of the Ag-Watershed Project include development of planning, measurement, accounting and administrative tools that could be used in a functional, formal marketplace, such as the Natural Resources Marketplace which has been discussed locally. However, even without a functioning marketplace, these tools can be applied together or separately within ongoing local processes such as land use, watershed and agricultural planning.

The Watershed Improvement Districts (WIDs) are now taking up the agriculture-watershed characterization and mapping results created through this project into their ongoing comprehensive planning processes. The WIDs are at different stages of planning, since some of them are newly established and will rely on this information to support the development of their first plan, while others already have comprehensive plans and are now updating those.

The watershed metrics that were tested in the project are suited for local use, and the Ag Metric has been developed using local agricultural knowledge and expertise and is designed for local use in Whatcom County.

The General Crediting Protocol v2.0 that was tested offers a robust, transparent and credible framework for securing the beneficial outcomes of investments in agricultural and watershed enhancements. However, the transaction costs associated with baseline assessment, ongoing monitoring and verification in a protocol such as this are not fully reflected in current business and budgeting processes, either those of Whatcom County or those of other potential participants.

Whatcom County will be able to use the work produced from this project in many different ways. The work will be especially helpful when the County and Cities convene the multi-stakeholder workgroup to develop a workable TDR Program (new Comprehensive Plan Policy 2A-14). Many of the deliverables from the Ag-Watershed Project will have immediate
benefits to the workgroup including the Ag Metric, and the memos on an agricultural mitigation framework, and legal constraints.

Both the Ag and Watershed metrics created and refined through this work may be helpful in future zoning decisions or designation changes. The “Drivers of Ag Land Conversion” memo provides a platform from which to review and revise the Ag Strategic Plan to best address agricultural land conversion.

Through this project, the County has created a beneficial working relationship with the WIDs and is looking forward to continuing to work with them to address water resource management issues in the County.

While this grant did not result in a fully operational Natural Resources Marketplace, the work products will be available in the continuing discussion around a Natural Resources Marketplace for Whatcom County and Washington State. Currently, King County is working on developing similar metrics for agriculture and watershed values. There is a lot of potential for future collaboration in this area.

Please reference the included Project Summary document, and the project website at http://www.whatcomcounty.us/2260/Agricultural-Watershed-Pilot-Project for more information.
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Appendix A: Project Review Committee
1 INTRODUCTION

The Ag-Watershed Project is a research and development project funded by a National Estuary Program Watershed Protection and Restoration Grant (June 2012 to June 2016) to Whatcom County Planning & Development Services, administered by the Washington Department of Commerce. Project Partners include: Whatcom Farm Friends–Community Education, Whatcom Conservation District and Washington State Department of Fish & Wildlife.

Agricultural operations and watershed features have long been key components of Whatcom County's distinct landscape. Both are critical for our community’s economy and health. While it may seem that agriculture and watershed functions are at odds with one another after decades of regulations and planning, there are in fact many locations where protection of agricultural lands and enhancement of watershed functions can result in mutual benefits.

The Whatcom County Agriculture-Watershed Pilot Project (the “Ag-Watershed Project”) has been examining ways to reward the good things that farmers already do - those beneficial actions that go beyond existing regulation to maintain, enhance or protect large-scale watershed processes, while also strengthening agriculture in Whatcom County.

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

The project fact sheets provide a broad overview of the objectives of the project and the tools that were tested in the pilots:

**Fact sheet 1:** Applying a Natural Resources Marketplace approach to achieve agricultural and watershed priorities.

**Fact sheet 2:** Identifying opportunities to strengthen agriculture & watershed systems in Whatcom County.

**Fact sheet 3:** Beneficial actions for agriculture & watersheds: Accounting tools and protocols.

**Fact sheet 4:** Implementing and testing a Natural Resources Marketplace approach: Phase 2 Pilots in Whatcom County.

**Fact sheet 5:** Planning, designing and implementing beneficial actions for agricultural and watershed enhancement.
2 PROJECT OVERVIEW

2.1 Approach
The Ag-Watershed Project has focused on “learning by doing” in two small-scale pilot projects located within the pilot focus area (the North Lynden watersheds – Bertrand, Fishtrap and Kamm watersheds). In the overall approach for the project, we:

- developed and applied an integrated and transparent planning process for finding situations where watershed enhancement and agricultural protection actions on the ground can be mutually supportive (“win-win” solutions), or at least can reflect acceptable tradeoffs between agricultural protection and watershed enhancement;
- worked with landowners in the two pilot sites to design site-specific projects that demonstrate how watershed enhancement actions might complement and strengthen agricultural endeavors and how to seek acceptable tradeoffs when needed between agricultural protection and watershed enhancement;
- explored a structured “marketplace approach” to implementation of such projects, incorporating the use of incentives and other market-based tools to encourage and reward voluntary actions that can achieve measurable outcomes towards both agricultural protection and watershed enhancement objectives;
- tested and evaluated a set of measurement, accounting and administrative tools for quantifying, verifying, tracking and reporting over time of the agricultural and watershed benefits of specific voluntary actions taken at farm-scale or reach-scale, and
- applied the planning and accounting tools in two ongoing local processes, viz. supporting comprehensive planning efforts by the Watershed Improvement Districts, and working with the

Some key concepts and definitions used in the project

Agricultural enhancement/protection entails maintaining the land base, soil, water, air, plants, animals, production capacity and natural infrastructure necessary to keep farmers farming over the long term as land uses and economic situations change over time. Thus “agricultural enhancement” and “agricultural protection” include but are not limited to agricultural land protection alone.

Watershed enhancement actions are those actions which improve the ability of the watershed to provide its natural benefits and services to communities. Watershed enhancement includes the idea of “repairing” major landscape processes related to hydrology and ecosystems, in order to maintain, protect or improve the delivery of watershed services.

Marketplace approach: In the context of the Ag-Watershed Project, a marketplace approach means a structured framework for connecting people who are willing to pay for actions that enhance watersheds and/or protect agriculture with people who can take those actions. The emphasis in a marketplace approach is in applying transparent and scientifically credible tools to measure, account for, and report on the outcomes of specific actions in a watershed, in order to recognize and secure credit for those actions. A marketplace approach includes simple incentives and payments for specific actions which will generate measurable outcomes, but could also extend to more sophisticated instruments such as offsets and purchase or trading of mitigation credits.

“Specific actions” or “beneficial actions” are the set of defined activities which could be eligible for incentives or credits in a marketplace approach. This would include actions to: enhance the condition of an agricultural system or a watershed system; counteract damage to an agricultural system or a watershed system from other activities, or avert risk e.g. protecting areas where there is imminent or projected loss of important agricultural services and/or watershed services.

For more detailed explanations of the marketplace approach, specific actions and credit accounting tools, see the Credit Accounting System Report (2013: Technical Memorandum #3). The most recent version of the report can be downloaded from https://sites.google.com/site/wcwatershedag/documents
Agricultural Advisory Committee on policy options and a framework for agricultural mitigation.

2.2 Project scope

**Phase 1** (June 2012 to July 2013) laid the groundwork for pilot testing, including:

a. Developing the ag-watershed characterization and mapping process for identifying priorities and needs in local agricultural and watershed systems in the pilot focus area (Bertrand, Fishtrap and Kamm watersheds) – see Fact Sheets 1 and 2;

b. Outreach and discussions with landowners and stakeholders to gather inputs on locally-suited tools and pilot concepts;

c. Review and selection of suitable scientific measurement tools and structured tracking, accounting and reporting protocols for quantifying benefits and securing value from actions intended to enhance watershed and/or agricultural functions on agricultural land - see Fact Sheet 3;

d. Exploration and consideration of potential pilot sites, with two sites identified for demonstration and testing of measurement tools and protocols – see Fact Sheet 4.

**Phase 2** (June 2012 to September 2015) included field work and testing of the tools and protocols in pilot applications:

a. Field-testing of scientific measurement tools that can connect specific actions taken on agricultural land to measurable agricultural or watershed benefits as outcomes of the specific actions;

b. Testing and evaluation of robust accounting protocols to measure, verify, report and track the benefits generated;

c. Implementation of actual pilot transactions to demonstrate how agricultural and watershed benefits generated by agricultural landowners can be recognized and accounted for;

d. Documentation and sharing of key learning from this project across technical disciplines and with nontechnical participants.

**Phase 2 extension** (October 2015 to June 2016) included implementation of selected pilot work products in ongoing local policy and planning processes:

a. Working with the Agricultural Advisory Committee (AAC) during their 2015-2016 program to develop recommendations for an agricultural mitigation policy framework, using the work products and learning from both Phases 1 and 2;

b. Working with the Watershed Improvement Districts (WIDs) in the county to extend the ag-watershed characterization and mapping beyond the original pilot focus area. The results are intended for use in the WIDs’ ongoing comprehensive planning processes.

2.3 Desired longer-term outcomes of the Ag-Watershed Project

The tasks and achievements during this project represent short-term targets that help lead the way to the much broader long-term outcomes we are trying to achieve in Whatcom County in the arena of agricultural and watershed planning, and the overall goal of greater efficiency in local government. While these are beyond the scope of the Ag-Watershed Project itself, they help to illustrate the direction in which we are going with the current project and are important to keep in mind as we move forward. Some of these long-term outcomes include:

- Achieving better integration of planning for water, watersheds and agricultural land in Whatcom County;
• Putting in place a non-regulatory, marketplace approach to provide incentives for implementing high-quality, high-priority watershed enhancement and/or resource land protection projects;
• Making opportunities available for public agencies to more effectively and efficiently mitigate for environmental impacts and for impacts on resource lands of necessary public works projects such as road construction or flood control levee work;
• Moving towards a consistent policy framework and procedures for governing impacts to and conversion of agricultural lands, in order to help achieve Comprehensive Plan goals for resource lands.

2.4 Project management, review and outreach

Whatcom County entered into grant agreement #201203014 with the Washington State Department of Commerce to implement an Agricultural-Watershed pilot project on April 10, 2012. Whatcom County Planning and Development Services (Bellingham) has been the lead entity for this project. The Project Partners (Whatcom Farm Friends–Community Education, Whatcom Conservation District and Washington State Department of Fish & Wildlife) have provided in-kind contributions of staff time, expertise, knowledge and data. The consultant team has been led by FHB Consulting Services Inc. of Lynden.

An interdisciplinary Project Review Committee was formed to advise and guide the technical work of the project in Phase 1. The Review Committee was reconstituted for Phase 2, with some changes to the membership in order to reflect the change in focus of the project from laying the groundwork in Phase 1 to pilot implementation in Phase 2. The Review Committee has been comprised of citizens and compensated agency personnel, with members serving as individuals to provide a broad range of interests and perspectives regarding the development, application and testing of work products. A majority of the Committee members are agricultural landowners and/or agricultural producers, who have brought knowledge of local agricultural priorities and local knowledge regarding flooding and drainage in the project focus area. Review Committee membership for Phases 1 and 2 of the project is shown in Appendix A.

Review and guidance in the Phase 2 extension work on agricultural mitigation policy recommendations was provided by the Whatcom County Agricultural Advisory Committee. Review and guidance for the extended ag-watershed characterization and mapping was provided by the Commissioners and members of the six Watershed Improvement Districts (WIDs: Bertrand, North Lynden, South Lynden, Laurel, Sumas and Drayton).

A public outreach plan was prepared for each of Phases 1 and 2. A transparent and integrated approach was used to involve Project Partners, Review Committee (RC) and a broad mix of stakeholders in project outreach activities implemented concurrently along multiple tracks, including:
• Engagement with Project Partners, their constituents, including landowners in focus area;
• Interdisciplinary Review Committee work sessions and input opportunities, including two field tours;
• A publicly-accessible website with regular posting of work products for review and input;
• Project briefings to Whatcom County Council committees, related advisory boards and interested stakeholders via email and committee presentations;
• Regular work sessions with Project Partners and their constituents, and
• Scientific conference presentations.

Ag-Watershed Project Summary – Preliminary Draft July 2016
3 PROJECT WORK PRODUCTS AND OUTCOMES

This section provides brief descriptions of the different kinds of tools developed during the Ag-Watershed Project, explains how they are intended to be used in a “marketplace approach”, and summarizes the results of pilot testing and application. The figure below (Figure 1) is a schematic illustration of how the tools would work together to support a marketplace approach, beginning with the planning and prioritization tools developed in Phase 1 of the project to characterize and map both agricultural and watershed priorities, and leading in to the measurement and accounting tools that were tested in the Phase 2 pilot studies.

Figure 1. Illustration of how the various project work products fit together for implementation

3.1 Groundwork and strategy development: a marketplace approach

Current programs to implement either watershed enhancement or agricultural protection activities rely to a large degree on grant funding, regulatory compliance or voluntary stewardship actions. This project has explored the use of additional implementation tools based on incentives and trades and applied within a structured marketplace approach, that could be used to encourage voluntary actions, to secure credit for measurable outcomes on the ground, and to reward those who do more than the minimum required to enhance watersheds and/or protect agricultural land.

A marketplace approach should complement existing regulatory and voluntary programs for both agriculture and watershed enhancement, and should help to advance adopted goals for both. A marketplace approach cannot replace either regulatory or voluntary programs, and in fact depends on there being a robust regulatory framework in place against which to measure the benefits of specific enhancement actions that go beyond what is required by regulation.

Quick summary
During Phase 1 of the Ag Watershed Project, we developed the concept of a marketplace approach further and considered the types of planning, measurement, accounting and administrative tools that would be needed to implement it. For more information, see the Program Strategy Report (2013) and Fact Sheet #1.

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Resources for implementation of watershed planning and agricultural planning objectives are limited and we can expect that to be the case for the foreseeable future, whether the resources are public or private. Smaller one-off or opportunistic watershed enhancement projects or agricultural protection actions will always be a necessary part of the implementation mix. However, the results of this project indicate that a marketplace approach could help to make more strategic, targeted and efficient use of available resources in projects which can generate high-value, measurable outcomes against recognized priorities for watershed enhancement and agricultural protection.

3.2 Planning tools: agriculture-watershed characterization & mapping

The methodology for agriculture-watershed characterization and mapping was developed and pilot-tested during Phase 1 of the Ag-Watershed Project. A range of stakeholders, including farmers, partners and Review Committee members, provided inputs to identify WHAT is important for agriculture and watershed systems (see Figure 2) and WHY these issues are important. Pilot characterization and mapping work identified WHERE these are important, so that they could be mapped concurrently. The mapping process allows agricultural priorities to be integrated into routine spatial planning for consideration alongside adopted watershed priorities in Whatcom County’s lowland areas and the Puget Sound region.

The pilot focus area covered the Bertrand, Fishtrap and Kamm watersheds. The results are reported in the Phase 1 report on pilot mapping and characterization (Gill, 2013). Project Fact Sheet #2 provides additional information on the pilot agriculture-watershed characterization and mapping process and results, while Fact Sheet #5 shows how those results can be used for planning, design and implementation of local enhancement projects and actions.

Later in the project, we extended the agriculture-watershed characterization from the initial pilot focus area to all six Watershed Improvement Districts (see section 3.7.2 of this document).

Quick summary
During Phase 1, we developed and tested the methodology for agriculture-watershed characterization and mapping in the Bertrand, Fishtrap and Kamm watersheds. The results were used to help identify a number of potential locations for pilot studies on the ground. See Fact Sheet #2 and Fact Sheet #5 for more explanation of the concepts and results.

What’s important: enhancement priorities

<table>
<thead>
<tr>
<th>Agriculture</th>
<th>Watershed</th>
</tr>
</thead>
<tbody>
<tr>
<td><em>Water quantity</em></td>
<td><em>Water quality:</em> Nutrients (N, P), Sediment, Bacteria, Dissolved Oxygen, Water temperature</td>
</tr>
<tr>
<td>(out of stream)</td>
<td><em>Water quantity:</em> Instream flows, aquifer recharge, surface water storage</td>
</tr>
<tr>
<td><em>Drainage of fields</em></td>
<td><em>Habitat:</em> Salmonid spawning &amp; rearing, other anadromous and ESA listed fish, wildlife habitat, wetland habitat</td>
</tr>
<tr>
<td><em>Protection of fields from flooding</em></td>
<td></td>
</tr>
<tr>
<td><em>Agricultural land protection</em></td>
<td></td>
</tr>
<tr>
<td><em>Ag-residential buffer areas</em></td>
<td></td>
</tr>
<tr>
<td><em>Revenue</em></td>
<td></td>
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<tr>
<td><em>Pollination</em></td>
<td></td>
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</tbody>
</table>

Figure 2. Agricultural and watershed enhancement priorities identified during Phase 1

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2 Ag-Watershed Project fact sheets can be downloaded from http://whatcomcounty.us/2260/Agricultural-Watershed-Pilot-Project
Ag-Watershed Project Summary – Preliminary Draft July 2016
3.3 Measurement tools: connecting measurable outcomes to specific beneficial actions

One of the two fundamental principles of the marketplace approach is that **you can’t get credit for what you can’t measure**. What this means is that credit for specific beneficial actions can only be generated and recognized or rewarded if the potential or actual agricultural and watershed enhancement benefits of those actions can be measured, using credible scientific methods which can directly connect the actions and their benefits to specific agricultural and/or watershed enhancement outcomes.

Having tools to quantify and track the benefits of enhancement actions over time, based on consistent and measurable performance criteria, underpins the delivery of incentives and payments for actions that go beyond the minimum required. During Phase 1 of the Ag-Watershed Project, we reviewed a number of potential measurement tools (metrics), as we looked for scientific, robust methods to connect a specific enhancement action to a measurable outcome, either for the agricultural system or the watershed system. The criteria for selection of metrics included: availability of the metric or model for rapid adoption in Whatcom County, with modification or adaptation if necessary; relevance to and proven accuracy in local watershed ecosystems and agricultural systems; sensitivity to priority enhancement actions that had already been identified; simplicity and data availability.3

We chose three metrics to test the watershed benefits of selected specific actions in the pilot studies (see Figure 3): (i) the **Shadalator model**, which was originally developed for Washington and Oregon watersheds and which measures the effects on water temperature of providing shading vegetation on smaller streams; (ii) a method being developed in Oregon, the **Stream Function Assessment Methodology** (SFAM), which supports measurement of the benefits to smaller lowland streams of actions to improve hydrology, instream and riparian habitat, water quality and biological characteristics; (iii) the **Washington Wetland Credit-Debit Method** for measurement of the watershed benefits of restoring, protecting or enhancing wetland habitat. While all three watershed

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3 See the Credit Accounting System Report (2013: Technical Memorandum #3). The most recent version of the report can be downloaded from [https://sites.google.com/site/wcwatershedag/documents](https://sites.google.com/site/wcwatershedag/documents).  
*Ag-Watershed Project Summary – Preliminary Draft July 2016*
metrics are potentially suitable for application here, each has its particular strengths and weaknesses, which are discussed further in the report on the pilot studies.

We also developed a new metric, the “ag metric,” for local use in measurement of the agricultural benefits of specific actions (discussed in more detail below). The ag metric expands on the existing method used in the Whatcom County Purchase of Development Rights (PDR) Program for evaluating agricultural properties.

3.3.1 The “Ag Metric”
The agricultural metric (“ag metric”) is a simple measurement tool that calculates the benefits for agriculture of actions taken on a single farm or in an area comprising multiple farms to enhance priority agricultural services and functions that are related to the natural infrastructure for agriculture. For example, protection of land from conversion to non-agricultural uses, maintenance of drainage for farm fields and protection of fields from flooding at critical times in the growing season are all specific actions that help to maintain or enhance the viability of agricultural operations and the local agricultural economy.

The prototype ag metric was developed in Phase 2 of the project and was tested in the pilot projects and a number of additional local case studies. The metric is used to connect specific actions to measurable outcomes for the agricultural system, in a similar way to the watershed metrics which connect specific actions to measurable outcomes for watershed systems (such as improved fish habitat, reduced water temperatures or enhanced groundwater recharge). Because it measures either the positive or the negative changes in overall agricultural benefit points due to specific actions (see Figure 4), the ag metric can be used as a supporting tool in agricultural mitigation. When applied in a mitigation context, the ag metric could be used to help determine what kind of mitigation might be required for the unavoidable conversion of agricultural land.

<table>
<thead>
<tr>
<th>Category</th>
<th>How is the ag benefit score calculated?</th>
</tr>
</thead>
<tbody>
<tr>
<td>Site information</td>
<td>How big is the site?</td>
</tr>
<tr>
<td></td>
<td>How much is farmable?</td>
</tr>
<tr>
<td>1. Land evaluation</td>
<td>Soil-based quality and capability</td>
</tr>
<tr>
<td>2. Site evaluation</td>
<td>Current farming activity, ag neighborhood, access to water, fragmentation</td>
</tr>
<tr>
<td>3. Ag land base protection</td>
<td>Potential density, level of protection</td>
</tr>
<tr>
<td>4. Maintenance of ag drainage</td>
<td>Active maintenance of existing drainage</td>
</tr>
<tr>
<td>5. Protection from flooding</td>
<td>Active maintenance of flood protection infrastructure</td>
</tr>
<tr>
<td>Overall site score</td>
<td>Ag benefit points</td>
</tr>
<tr>
<td></td>
<td>Ag acre-points</td>
</tr>
</tbody>
</table>

Figure 4. Overview of the Ag Metric

Ag-Watershed Project Summary – Preliminary Draft July 2016
3.4 Administrative tools: Protocols for verification, tracking and oversight

The second fundamental principle of a marketplace approach is that You can’t get credit for what isn’t taking place, meaning that credit for specific beneficial actions can only be secured where baseline and post-action calculations of credit have been independently verified, work done on the ground has been confirmed, and ongoing monitoring and verification reports indicate that the required performance standards are being met. This is described in more detail in the Credit Accounting System Report (2013)\(^4\) and Fact Sheet #4.

In the Ag-Watershed Project, we tested a protocol for verification, tracking and accounting that is already in use in the Willamette Ecosystem Marketplace in Oregon, viz. the Willamette General Crediting Protocol Version 2.0 (GCPv2.0).\(^5\) A simplified overview of the protocol steps is shown in Figure 5 below. The protocol can be modified to suit local conditions and needs, and the template was provided by the Willamette Partnership for that purpose. An advantage of using this template as the basis for a prototype Credit Accounting System for the Ag-Watershed Project is that several other similar marketplace initiatives in the Northwest are also using the same template. The collaborative use of regional infrastructure in this way can significantly reduce initial development costs, as well as potentially provide a much broader geographic base for marketplace implementation.

We applied the GCPv2.0 in our two pilot studies. The GCPv2.0 offers a robust and transparent system that can underpin implementation of a marketplace approach locally. Potential adaptations for local use and consideration of the pros and cons of this protocol, including transaction costs, resource and data needs and implications for institutional arrangements, are discussed in more detail in the report on the pilot studies.

\(^4\) See the Credit Accounting System Report (2013: Technical Memorandum #3). The most recent version of the report can be downloaded from https://sites.google.com/site/wcwatershedag/documents
Ag-Watershed Project Summary – Preliminary Draft July 2016
**TAC Protocol:** account for, track & monitor specific actions & outcomes

1. **Validation checklist**
   - Site information & history
   - Proposed specific actions
   - Types of benefits/credits
   - Additionality

2. **Project design report & credit estimate**
   - Detailed assessment of design vs baseline conditions
   - Estimated uplift/credit

3. **Project stewardship & monitoring plan**
   - Enhancement actions to be taken on site, timelines
   - Maintenance and management practices to be followed on site
   - Monitoring, reporting & verification responsibilities

4. **Buyer-Seller transaction**
   - Purchase/sale agreement
   - Easement if applicable
   - Closing & payment

Stewardship commitments by Landowner/Project Developer.
Third-party responsibilities for monitoring and ongoing verification.

Transaction between Buyer and Landowner/Project Developer.

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**Figure 5. Simplified view of the protocol for tracking, accounting and crediting**
3.5 Demonstration pilots

An initial list of 11 potential pilot projects was drawn up based on the results of the agricultural and watershed mapping and characterization analysis. The initial list was then refined iteratively over the course of discussions at project team work sessions and discussions with landowners, with members of the project Review Committee, project partners and staff of the Department of Ecology. Two pilots were finally selected. The pilots and the proposed specific actions are described briefly in the boxes below and in Table 1. A more detailed description of the process for development and selection of pilot projects is provided in the report on potential agricultural and watershed pilot projects.\(^6\)

**Quick summary**

During Phase 2 we tested the measurement and accounting tools in two pilots on agricultural land in the North Lynden area. One pilot included avoided conversion of wetland habitat which had become established on agricultural land as a result of beaver activity; the other entailed enhancement of instream and riparian habitat in exchange for improved drainage and flood protection for agricultural fields in the floodplain. For more information, see Fact Sheets 4 and 5.

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**Pilot 1 (single landowner)**

Proposed enhancement: Avoided conversion of wetland habitat resulting from beaver activity in the headwaters of an important salmon bearing stream, on a site that could be returned to active farming at the end of the Conservation Reserve Enhancement Program (CREP) lease.

**Agricultural benefits:** diversification of revenue from payment for permanent wetland conservation easement on marginal farmland.

**Watershed benefits:** wetland habitat and surface water storage capacity in the upper watershed are permanently protected.

**Learning from the pilot:**

1. The wetland credit-debit method was reasonably well suited to measure the benefits of avoiding conversion of the wetland habitat, but was not particularly well suited to measure the baseflow support benefits provided by the water storage that had resulted from beaver activity at the site.

2. Appraisal of the value of a conservation easement needs to be able to reflect not only the value of agricultural production lost by the landowner in a case such as this, but also the value of watershed benefits generated by the landowner.

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**Pilot 2 (multiple landowners):**

Improve flood protection and field drainage for low-lying farmland, while concurrently increasing stream width and channel complexity, improving stream-floodplain connectivity and restoring riparian vegetation in a highly channelized reach.

**Agricultural benefits:** improved flood protection and drainage for fields on prime farmland. Proposed project design addresses faster removal of flood waters from fields & improved efficiency of drainage ditches.

**Watershed benefits:** stream function and habitat condition in the reach are enhanced in exchange for a small amount of agricultural land taken out of production to accommodate.

**Outcomes:**

Four scenarios involving different configurations for stream function enhancements and agricultural enhancements were discussed with landowners and assessed for their agricultural and watershed benefits using the SFAM, the Shadalator and the ag metric.

The results allow comparison and optimization of possible actions that could generate mutual benefits for agriculture and the watershed. This allows landowners to ensure that agricultural needs will be adequately addressed in any future process for detailed project design.
Table 1. Specific actions proposed for Phase 2 pilot studies

**AGRICULTURE ENHANCEMENT BENEFITS PROPOSED IN PHASE 2 PILOTS**

<table>
<thead>
<tr>
<th>Enhancement benefit</th>
<th>Specific action(s) proposed</th>
<th>Measured with:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Drainage of agricultural fields</td>
<td>- Maintain effectiveness of existing field drainage system(^7) prevent sediment accumulation, remove reed canary grass and control re-growth in ditches</td>
<td>Ag metric</td>
</tr>
<tr>
<td>Flood protection for ag fields</td>
<td>- Protect crops on ag land from flooding at critical times</td>
<td>Ag metric</td>
</tr>
<tr>
<td>Ag land protection</td>
<td>- Transfer, extinguish or sell development rights; place Permanent Agricultural Conservation Easement on land.</td>
<td>Ag metric</td>
</tr>
<tr>
<td>Ag resilience &amp; diversity of revenue</td>
<td>- Easements, CREP(^8) leases, payments from other incentive programs</td>
<td>-</td>
</tr>
</tbody>
</table>

**WATERSHED ENHANCEMENT BENEFITS PROPOSED IN PHASE 2 PILOTS**

<table>
<thead>
<tr>
<th>Enhancement benefit</th>
<th>Specific action(s) proposed</th>
<th>Measured with:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Water quality-temperature</td>
<td>- Plant native vegetation on tributary streams</td>
<td>Shadalator</td>
</tr>
<tr>
<td>Habitat-Chinook</td>
<td>- Plant native vegetation on tributary streams</td>
<td>SFAM</td>
</tr>
<tr>
<td></td>
<td>- Provide instream enhancements such as large woody debris, sinuosity, complexity, gravel</td>
<td></td>
</tr>
<tr>
<td>Habitat-other anadromous fish</td>
<td>- Plant native vegetation on tributary streams</td>
<td>SFAM</td>
</tr>
<tr>
<td></td>
<td>- Provide stream channel fish habitat improvements(^1)</td>
<td></td>
</tr>
<tr>
<td>Habitat-wetlands</td>
<td>- Protect, enhance or restore wetland habitat</td>
<td>WA credit-</td>
</tr>
</tbody>
</table>

\(^7\) In coordination with *Hydraulic Project Approval* requirements that may need to be met

\(^8\) Conservation Reserve Enhancement Program – see *Whatcom Conservation District* website

*Ag-Watershed Project Summary – Preliminary Draft July 2016*
3.6 Implementing a marketplace approach

3.6.1 Characterizing demand

The Ag-Watershed Project team has drawn on regional collaboration already underway in the Northwest to identify, characterize and mobilize potential demand for the kinds of benefits that could be supplied by landowners who wish to participate in marketplace approaches. At this time, three main drivers of potential demand have been identified both within the Ag-Watershed Project Phase 1 work as well as other regional marketplace initiatives:

1. Demand for “compliance-grade credits.” This refers to demand originating in specific regulatory and permitting requirements for mitigation, and focuses primarily on allowable off-site mitigation for unavoidable environmental impacts. Wetland mitigation is an example that is already being implemented locally, through current Washington State regulations.

2. Demand for “voluntary credits.” This refers to demand for credits through programs which aim to restore, enhance or protect certain habitats or features of the landscape, generally for public benefit or to meet public policy objectives, but not related to off-site mitigation requirements associated with specific permits. Such programs are funded by public/government agencies, private donors or corporate entities.

3. Demand from direct beneficiaries. This refers to demand from beneficiaries (often downstream) who seek improvements in conditions (such as water quality) upstream or elsewhere in the watershed for their own direct benefits.

While not all of these types of demands can be met through a supply source generated by individual landowners, groups of landowners can work together on connected sections of streams or adjacent land areas to “aggregate” their benefits into a larger project that can deliver benefits at the scale required by the buyers or investors.

3.6.2 Quantifying demand

The Ag-Watershed Project has focused primarily on voluntary credits, both in the two pilot studies and in the development of measurement and accounting tools.

Demand for voluntary credits for watershed enhancement is difficult to quantify accurately, since many groups and organizations are receiving short-term grant funding from an array of sources to implement various kinds of watershed enhancement and restoration work in Whatcom County. Projects tend to be relatively small, and long-term follow up and monitoring of results is limited. There is no central source of information that would allow an accurate assessment of the resources currently being directed to small-scale watershed restoration, which might give a fuller picture of the actual demand for watershed benefits.
Agricultural land protection actions are funded primarily through the Whatcom County Purchase of Development Rights Program, which receives funding from the Conservation Futures Fund and additional State, Federal, and local matching programs.

3.6.3 Institutional and financial implications

The quantitative assessments, independent verification and ongoing long-term monitoring that are built into a protocol such as the Willamette General Crediting Protocol, which we tested for local use, are focused on assuring measurable outcomes from investments in watershed or agricultural enhancement. Providing this kind of assurance and credibility adds to the cost of each transaction.

During Phase 2 of the Ag-Watershed Project, we considered the potential transaction costs associated with use of the measurement and administrative tools in a number of ways.

- The Willamette Partnership provided information on the time and costs involved in applying the General Crediting Protocol in individual projects.
- Our two pilots provided information on the likely time and costs for desk and field work associated with baseline assessment, project design and field verification for the benefit types tested in those pilots. The ready availability of recent, credible data for use with the assessment methods will be a significant factor in keeping these costs down.
- Our smaller pilot provided information on the likely long-term monitoring, verification and stewardship costs associated with securing wetland benefits. These costs would be need to be reflected in the price of the wetland conservation easement and can be significant if the easement is permanent.
- The PDR Program currently includes independent oversight of compliance by landowners with the conditions of agricultural easements, and these costs are well documented.

There are a number of possible institutional configurations for implementing a marketplace approach locally, depending on local preferences, needs and capacity. We have reviewed examples of other similar approaches in the Northwest to provide information on possible options. More information is provided in the draft Marketplace Report.
3.7 Application of selected project work products in ongoing processes

3.7.1 Agricultural mitigation policy framework and supporting procedures

During the 2015-2016 work year, the Agricultural Advisory Committee (AAC) has explored the development of a consistent policy framework and procedures for agricultural mitigation.\(^9\) Agricultural mitigation is a potential tool that could be applied to minimize impacts to and conversion of agricultural lands, in order to achieve Comprehensive Plan goals for agricultural land. Agricultural mitigation policy options include approaches such as In Lieu Fee (ILF), Purchase of Development Rights (PDR), Transfer of Development Rights (TDR), incentives and trades.

The development of options for agricultural mitigation has been based on Whatcom County Council Resolution 2009-040, which confirms that: “100,000 acres of land available for agricultural use is the minimum goal for ensuring a land base necessary to support a viable agriculture industry in Whatcom County”. An earlier research report on options for mitigating impacts to agricultural land (June 2013)\(^10\) was prepared in Phase 1 of the Ag-Watershed Project and was transmitted to the Agricultural Advisory Committee (AAC). Current work has built on that earlier research and on previous work by the AAC on options for protection of agricultural lands.

The AAC worked with PDS staff and the consultant team to explore a potential framework and procedures for agricultural mitigation policy, as part of the scope of work of Task 5 in the Ag-Watershed Project.

Core work products related to the agricultural mitigation task are listed below:\(^11\).

- A summary of the AAC work and findings related to agricultural mitigation (June 2016).
- An emerging framework for program design (July 2016) that addresses program objectives, mitigation criteria, location of sending and receiving sites, actions that might trigger mitigation. The framework also includes a number of design questions still to be resolved, supporting notes and maps, examples of other mitigation programs as well as worked examples of various conversion scenarios to illustrate possible mitigation options.
- Project Memo on regulatory constraints for agricultural mitigation (July 2016), which provides the basis for the regulatory and procedural design of mitigation program options, including integration of mitigation into current planning and permitting procedures, administration and oversight issues.
- Project Memo on drivers of agricultural land conversion (July 2016), which provides the basis for the technical and operational design of mitigation program options, including issues such as which drivers of agricultural land conversion should be the main focus of mitigation, where to locate sending and receiving zones, and implications for mitigation criteria, ratios, fees and costs.
- Research Report on options for agricultural mitigation (June 2013).

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\(^9\) This work was identified as a medium term priority task in the Whatcom County Agricultural Strategic Plan (2011).


\(^11\) The most recent versions of these documents can be downloaded from https://sites.google.com/site/wcwatershedag/home/ag-mitigation-working-docs

Ag-Watershed Project Summary – Preliminary Draft July 2016
3.7.2 Extended agriculture-watershed characterization and mapping for the six Watershed Improvement Districts

During the period October 2015 to June 2016, the pilot methodology was refined and extended to provide characterization and mapping results for the six Watershed Improvement Districts\textsuperscript{12} in Whatcom County. Each Watershed Improvement District (WID) is a unique agricultural neighborhood in Whatcom County's broader farming community. Natural characteristics of the soil, locations of surface and ground waters and topography of the area help to delineate viable areas for the many types of agricultural production taking place. The boundaries of the WIDs not only reflect the characteristics and interests of different agricultural neighborhoods, but also align where possible with the geographic boundaries of water management areas used in mapping and planning of water resources by local and state governments and the agricultural land classifications used by local land use planners and agricultural specialists.

The watershed characterization and mapping results for each WID include tables and summary maps which describe the watershed services that are most needed for a healthy watershed (including the restoration of salmon populations) and where they could be enhanced in the watershed. In order to generate these tables and summary maps for each WID, the information contained in the watershed reference maps was combined with the results of water flow assessments (provided by the Department of Ecology in a series of watershed characterization\textsuperscript{13} maps showing the areas which are most in need of either restoration or protection of larger-scale water flow processes). The work session participants reviewed this information, provided additional local field knowledge on site-specific watershed priorities, and identified potential actions or projects that could help to achieve watershed priorities.

The agricultural characterization and mapping results for each WID include tables and summary maps which describe the agricultural services that are most needed for the long-term success of agriculture, and where they could be enhanced in the watershed. The primary focus was on the "natural infrastructure" for agriculture: soils, water, adequate drainage and flood protection, and long-term protection of the agricultural land base. Methods used to prioritize agricultural needs are based on a combination of: information from (i) existing agricultural protection programs in Whatcom County, (ii) available GIS data and (iii) local knowledge provided at the WID work sessions.

The agriculture-watershed characterization maps and tables generated in this task combine existing spatial data with field experience and farmers’ local knowledge to identify agricultural priorities and needs in the lowland areas of Whatcom County and to bring those into the planning conversation with watershed priorities and needs. The characterization maps and tables, which incorporate local knowledge and farmer insights, should help each WID to identify, prioritize, and strategically locate practical beneficial projects and actions at the farm or reach-scale, that can enhance agricultural operations and watershed functions in the WID area. The results can also be used to communicate the WIDs' priority enhancement needs to planners for consideration in broader integrated planning efforts such as Whatcom County's Comprehensive Planning process.

\textsuperscript{12} Links to each WID website can be found at http://www.agwaterboard.com/
\textsuperscript{13} Watershed 'characterization' is a set of water and habitat assessments that compare areas within a watershed for restoration and protection value. It is a coarse-scale tool that supports decisions regarding where on the landscape should efforts be focused first, and what types of actions are most appropriate to that place. See http://www.ecy.wa.gov/puget_sound/characterization/index.html

\textit{Ag-Watershed Project Summary – Preliminary Draft July 2016}
A customized report on the agriculture-watershed characterization and mapping has been prepared for each of the six Watershed Improvement Districts in Whatcom County. The results of the characterization and mapping will also be incorporated into an online story map for wider access to the information.

More information on how to use the characterization tables and maps can be found in Fact Sheet 5.

4 IN CONCLUSION

The planning, measurement, accounting and administrative tools that have been the focus of work in the Ag-Watershed Project could be used in a functional, formal marketplace, such as the Natural Resources Marketplace which has been discussed locally. However, even without a functioning marketplace, these tools can be applied together or separately within ongoing local processes such as comprehensive planning, watershed planning and agricultural planning.

The Watershed Improvement Districts are now taking up the agriculture-watershed characterization and mapping results into their ongoing comprehensive planning processes. The WIDs are at different stages of planning, since some of them are newly established and will rely on this information to support the development of their first plan, while others already have comprehensive plans and are now updating those.

The watershed metrics that we tested are suited for local use, but only the Shadalator is ready for use without additional adaptation and validation for local conditions. The ag metric has been developed using local agricultural knowledge and expertise and is designed for local use in Whatcom County.

The General Crediting Protocol v2.0 that we tested offers a robust, transparent and credible framework for securing the beneficial outcomes of investments in agricultural and watershed enhancements. However, the transaction costs associated with baseline assessment, ongoing monitoring and verification in a protocol such as this are not fully reflected in current business and budgeting processes, either those of Whatcom County or those of other potential participants.

5 FUTURE DIRECTIONS

Whatcom County will be able to use the work produced from this project in many different ways. The work will be especially helpful when the County and Cities convene the multi-stakeholder workgroup to develop a workable TDR Program (new Policy 2A-14). Many of the deliverables from this project will have immediate benefits to the workgroup including the Ag Metric, and the memos on an agricultural mitigation framework, and legal constraints.

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14 The most recent versions are available at the project website https://sites.google.com/site/wcwatershedag/home/wid-mapping-working-docs. Final versions will be available from each WID website http://www.agwaterboard.com/ and http://www.co.whatcom.wa.us/2260/Agricultural-Watershed-Pilot-Project

Ag-Watershed Project Summary – Preliminary Draft July 2016
Both the Ag and Watershed metrics created and refined through this work will be helpful in future zoning decisions or designation changes. The “Drivers of Ag Land Conversion” memo will provide a platform off which to review and revise the Ag Strategic Plan to best address ag land conversion.

Through this project, the County has created a beneficial working relationship with the Watershed Improvement Districts, and is looking forward to continue working with them to address water issues in the County.

While this grant did not result in a fully operational Natural Resources Marketplace, the work products will be available in the continuing discussion around a Natural Resources Marketplace for Whatcom County and Washington State. Currently, King County is working on developing similar metrics for agriculture and watershed values. There is a lot of potential for future collaboration in this area.
APPENDIX A: PROJECT REVIEW COMMITTEE

The Ag-Watershed Project Review Committee (RC) is a community-based, interdisciplinary body comprised of citizens and compensated agency personnel, with members serving as individuals to provide a broad range of interests, perspectives and knowledge regarding the conceptual approach to the project, technical resources used, development and potential application of work products, and educational information. Whenever possible, recommendations in final work products will call out those areas where RC members found consensus on key concepts, working definitions, and options for future use of tools and protocols. Work products will also include outstanding concerns or issues for future analysis by decision-makers.

This technical Project Review Committee includes individuals from a variety of government and public agencies, related citizen-advisory bodies, and community members engaged in watershed and agricultural protection efforts in Whatcom County, as well as lead staff from the ag-watershed project partner organizations. See general criteria below, used to identify invitees for phase 1 (July 2012-June 2013) and phase 2 (July 2013-Dec. 2014).

**General Criteria:** Areas of local knowledge and technical expertise were identified for Review Committee (RC) input regarding science-based tools available for application and use in WRIA 1, local, state and federal agricultural and watershed planning, see list below. Phase 1 focused on general knowledge;

- Agriculture System Functions
- Watershed System Functions
- Agricultural Preservation & Planning
- Watershed Protection & Planning
- Flooding, Drainage & River Management
- Landowners & Agricultural Producers in the project focus area
- Ecosystem Services & Mitigation

Additional phase 2 criteria requested by Whatcom Co. Council included: majority membership of landowners and/or agricultural producers, with preference for large acreage owners and/or local knowledge regarding flooding and drainage in the project focus area (see phase 2 RC roster below; members who meet the additional criteria are indicated by *).
<table>
<thead>
<tr>
<th>Phase 1 Members</th>
<th>Affiliations</th>
</tr>
</thead>
<tbody>
<tr>
<td>July 2012—June 2013</td>
<td>as identified by invitees who confirmed participation</td>
</tr>
<tr>
<td>Analiese Burns</td>
<td>Board member, Nooksack Salmon Enhancement Association</td>
</tr>
<tr>
<td>Casey Lankhaar</td>
<td>Commissioner, North Lynden Watershed Improvement District</td>
</tr>
<tr>
<td>Debbie VanderVeen</td>
<td>Member, Whatcom County Ag Advisory Committee</td>
</tr>
<tr>
<td>Jean Melious</td>
<td>Citizen, Professor, WWU</td>
</tr>
<tr>
<td>Jeremy Freimund</td>
<td>Staff, Lummi Nation Natural Resource</td>
</tr>
<tr>
<td>Larry Stap</td>
<td>Commissioner, North Lynden Watershed Improvement District</td>
</tr>
<tr>
<td>Leroy Plagerman</td>
<td>Member, Whatcom County Ag Advisory Committee</td>
</tr>
<tr>
<td>Oliver Grah</td>
<td>Staff, Nooksack Tribe Natural Resources</td>
</tr>
<tr>
<td>Skip Richards</td>
<td>Citizen, Water Resource &amp; Supply</td>
</tr>
<tr>
<td>Todd Jones</td>
<td>Member, Whatcom County Ag Advisory Committee</td>
</tr>
<tr>
<td>Vern VandeGarde</td>
<td>Commissioner, Bertrand Watershed Improvement District</td>
</tr>
<tr>
<td>Wendy Harris</td>
<td>Citizen, Retired Attorney</td>
</tr>
<tr>
<td>Samya Lutz</td>
<td>Staff, Whatcom County Planning &amp; Development Services*</td>
</tr>
<tr>
<td>Steve Seymour</td>
<td>Staff, WA Dept of Fish &amp; Wildlife*</td>
</tr>
<tr>
<td>George Boggs</td>
<td>Director, Whatcom Conservation District*</td>
</tr>
<tr>
<td>Henry Bierlink</td>
<td>Director, Whatcom Farm Friends*</td>
</tr>
<tr>
<td>Ben Rau</td>
<td>Staff, Dept of Ecology*</td>
</tr>
<tr>
<td>Doug Peters</td>
<td>Staff, WA Dept of Commerce*</td>
</tr>
<tr>
<td>Heather MacKay</td>
<td>Project Lead, FHB Consulting Services Inc.</td>
</tr>
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* Project Partner organizational lead staff participate in Review Committee meetings and are also responsible for additional outreach and engagement of agency personnel, constituents and relevant project partners.
<table>
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<tr>
<td>Chris Benedict</td>
<td>WSU Whatcom County Extension</td>
</tr>
<tr>
<td>Debbie VanderVeen</td>
<td>Member, Whatcom County Ag Advisory Committee 0</td>
</tr>
<tr>
<td>Eric Sundstrom</td>
<td>Citizen 0</td>
</tr>
<tr>
<td>Jean Melious</td>
<td>Citizen, Professor, WWU</td>
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<tr>
<td>Jeremy Freimuth</td>
<td>Staff, Lummi Nation Natural Resource</td>
</tr>
<tr>
<td>John Clark</td>
<td>Citizen, Ag Producer 0</td>
</tr>
<tr>
<td>Karen Steensma</td>
<td>Citizen, Ag Producer, Professor 0</td>
</tr>
<tr>
<td>Larry Stap</td>
<td>Commissioner, North Lynden Watershed Improvement District 0</td>
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<tr>
<td>Leroy Plagerman</td>
<td>Member, Whatcom County Ag Advisory Committee 0</td>
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<tr>
<td>Mike Finger</td>
<td>Member, Whatcom County Ag Advisory Committee 0</td>
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<td>Oliver Grah</td>
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<tr>
<td>Phelps McIlvaine</td>
<td>Board member, Nooksack Salmon Enhancement Association</td>
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<tr>
<td>Todd Jones</td>
<td>Citizen, Nursery Producer 0</td>
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<tr>
<td>Tom Buroker</td>
<td>Staff, Washington Department of Ecology, Bellingham Field Office</td>
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<tr>
<td>Vern VandeGarde</td>
<td>Commissioner, Bertrand Watershed Improvement District 0</td>
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<tr>
<td>Wendy Harris</td>
<td>Citizen, Retired Attorney</td>
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<tr>
<td>Karin Beringer</td>
<td>Staff, Whatcom County Planning &amp; Development Services*</td>
</tr>
<tr>
<td>Joel Ingram</td>
<td>Staff, Washington Department of Fish &amp; Wildlife*</td>
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<tr>
<td>George Boggs</td>
<td>Director, Whatcom Conservation District*</td>
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<tr>
<td>Heather MacKay</td>
<td>Project Lead, FHB Consulting Services Inc.</td>
</tr>
</tbody>
</table>

* Project Partner organizational lead staff participate in Review Committee meetings and are also responsible for additional outreach and engagement of agency personnel, constituents and relevant project partners.
**CLEARANCES** | Initial | Date | Date Received in Council Office | Agenda Date | Assigned to:
---|---|---|---|---|---
Division Head: | WP | 7-29-16 | | | |
Dept. Head: | SR | 7-29-16 | | | |
Prosecutor: | | | | | |
Purchasing/Budget: | | | | | |
Executive | 8-1-16 | | | | |

**TITLE OF DOCUMENT:**
Resolution Affirming the PDR Oversight Committee Ranking and Authorizing Whatcom County Purchase of Development Rights Administrator and Whatcom County Executive to Proceed with the Acquisition Process for PDR Applications

**ATTACHMENTS:**
Memo and Attachment A, Resolution, Purchase of Development Rights 2016 Applicant Ranking list (Exhibit 1) and (Exhibit 2)

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

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

**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: Executive Louws, Honorable Councilmembers

FROM: Karin Beringer; PDR Program Administrator

THROUGH: Mark Personius; Assistant Director, PDS

DATE: July 28, 2016

SUBJECT: PDR Program Update and Funding Request

Dear Executive Louws and Honorable Councilmembers-

The Whatcom County Purchase of Development Rights Oversight Committee (PDROC), in cooperation with long range planning staff, would like to provide an update on program progress, current initiatives, and funding needs. It has been a few months since the PDROC has provided an update to council, so we will begin with some program information.

Background Information

The Purchase of Development Rights (PDR) Program was created in 2002 to contribute to sustaining the farming enterprise in Whatcom County by protecting critically located County farmland. The program is voluntary and pays landowners fair market value for their remaining development rights and places a permanent agricultural conservation easement on the property. The easement does not allow any future residential development, and restricts (to a certain extent) other impervious surface. We use an agricultural conservation easement as the mechanism to retire development rights. This way the farmer gets to keep their land and continue farming activities, but the future residential potential of the land gets extinguished permanently. Whatcom County currently partners with the Whatcom Land Trust for the PDR Program. Whatcom Land Trust performs baseline studies on all properties before closing, and they hold and monitor the easements annually in perpetuity. In the past, the program has received 50-50 cost share for easement purchases from other sources such as the Washington State Recreation and Conservation Office’s Washington Wildlife Recreation Program (WWRP), and the Natural Resource Conservation Service (NRCS) Agricultural Conservation Easement Program – Agricultural Land Easements (ACEP-ALE).

Since the PDR program’s inception, 865.55 acres of farmland have been permanently protected from development, and 118 potential development rights have been permanently extinguished. The total cost of the transactions (purchase price, Whatcom Land Trust expenses, closing costs, and appraisal fees) is $5,809,120.60. Of that, Whatcom County’s conservation futures fund has paid $3,149,020.60. The remaining was reimbursed back into the conservation futures fund through cost share from the sources mentioned earlier.

Update on Progress Since 2015

The PDROC last came to Council in the fall of 2015 to provide a program update and to present recent property applications for approval. At that point, the program had 7 applications that had been approved by the PDROC. Those were the Williams (1 & 2), Servid-Williams, Cougar Creek
Ranch, Squalicum Ranch, Grubbs, and Matheson properties. At that meeting, Council approved Resolution 2015-032 in which the following was authorized:

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

2. Expenditure of Conservation Futures Funds are authorized to cover expenses associated with title search and appraisal services.

Since that resolution was passed, staff has acquired title and appraisal services for the properties included in the resolution to determine the value of the development rights. The results of the appraisals are as follows:

   a. Williams 1: $255,000
   b. Williams 2: $80,000
   c. Servid-Williams: $85,000
   d. Cougar Creek Ranch: $630,000
   e. Squalicum Ranch: $345,000
   f. Grubbs: $80,000
   g. Matheson: $225,000

Before and after appraisals value the land before enacting a conservation easement and after enacting the easement. The difference between the two is the value of the development rights. We have found through recent appraisals that the value per development right swings dramatically from one appraisal to another, however, the value per acre stays pretty stable around $4,000 per acre.

The landowners have been made aware of the appraisal amounts.

Since our last update to Council, we have also actively been doing outreach, and have received an additional 5 applications for the PDR Program. These 5 properties are Brar, Greenwood, Jacoby, Carbee, and Sidhu. Please see the attached spreadsheet (Attachment A) for a breakdown of property characteristics for all 12 of our current applicants. The PDROC has seen and has approved of the ranking for the 12 properties.

**Match Fund Sources**

Whatcom County has been awarded match funding through the Natural Resource Conservation Service (NRCS)' Agricultural Conservation Easement Program- Agricultural Land Easement (ACEP-ALE) Program. This grant provides 50-50 cost share on the purchase price of Williams 1, Cougar Creek Ranch, Grubbs, and Matheson properties. The total match amount is $582,500.

Staff requested match dollars from the Whatcom Community Foundation- Sustainable Whatcom Fund in the late spring of 2015 and were awarded $200,000 to be used as match for the purchase of conservation easements beginning in early 2016.

We have also applied for the Washington State Recreation and Conservation Office’s Washington Wildlife Recreation Program (WWRP) for match funding on all 12 properties. The WWRP provides funding for a broad range of land protection and outdoor recreation, including park acquisition and development, habitat conservation, farmland preservation, and construction of outdoor recreation facilities. It operates on a biennial (once every other year) cycle for its grant applications. We have applied for the 2016 cycle and should hear back on funding decisions this fall.

We are expecting 50% match funding for the Williams 1 easement through the Floodplains by Design Project. If we receive that funding, the Williams 1 easement would be 100% funded by sources other than the Conservation Futures Fund.

**Request**
The PDR Committee and staff request that we move forward toward acquisition on six (6) properties using the $782,500 match funds we have already acquired. Those properties are as follows: Cougar Creek Ranch, Squalicum Ranch, Matheson, Williams 2, Servid-Williams, and Grubbs.

The PDR Committee and staff also request that we move forward toward acquiring appraisals on five (4) properties as follows: Brar, Greenwood, Carbee, and Sidhu.

We propose to wait on the Williams 1 property until we hear back from the Floodplains by Design process.

There is also the possibility of receiving match funding through the WWRP for any of the 12 properties. If that happens on any of the properties we move toward closing, the Conservation Futures Fund can be retroactively reimbursed when we receive funds from the WWRP.
## Attachment A 2016 PDR Applicant Ranking Summary

<table>
<thead>
<tr>
<th>Property/Applicant</th>
<th>Parcel #</th>
<th>Acres</th>
<th># of DRI</th>
<th>Target Area</th>
<th>Zone</th>
<th>Final Score</th>
<th>Notes</th>
<th>Appraised Total Cost</th>
<th>Cost per Acre</th>
<th>Cost per DR</th>
<th>PDRDC Approval</th>
<th>Appraisal Complete</th>
<th>Match Funding Secured</th>
<th>Date of Application</th>
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</thead>
<tbody>
<tr>
<td>Brar</td>
<td>390425143234</td>
<td>78.1</td>
<td>14</td>
<td>No RS</td>
<td>76.27</td>
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<td>100.83</td>
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<td>Yes AG</td>
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<td>19.4</td>
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<td>Grubba</td>
<td>390413496869</td>
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<td>3</td>
<td>No RS</td>
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<td>house, barns</td>
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<td>$160,000</td>
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<td>Yes</td>
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**TOTALS** 383.38 88 484 $3,244,949

**Criteria**  | **Estimated Cost**  | **NRCS** Natural Resource Conservation Service  | **ACEP-ALE** Agricultural Conservation Easement Program - Agriculture Land Easement  | **RCO** Recreation and Conservation Office  | **WWRP** Washington Wildlife Recreation Program
---|---|---|---|---|---
Land Evaluation | 0.33 |  |  |  |  
Site Evaluation | 0.33 |  |  |  |  
Special Considerations | 0.32 |  |  |  |  
Slight Rural Opportunity |  |  |  |  |  
Bonuses | 0.12 |  |  |  |  
Total | 1.00 |  |  |  |  

Recommended Cut-off Score: 40 psi
RESOLUTION #________________

AFFIRMING THE PDR OVERSIGHT COMMITTEE RANKING AND AUTHORIZING WHATCOM COUNTY PURCHASE OF DEVELOPMENT RIGHTS ADMINISTRATOR AND WHATCOM COUNTY EXECUTIVE TO PROCEED WITH THE ACQUISITION PROCESS FOR 2016 APPLICATIONS

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

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

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

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

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

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

WHEREAS, The Purchase of Development Oversight Committee met on July 22, 2016 to develop a ranking of all applications received to date and forwarded that ranking to Council; and

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

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

WHEREAS, Council has determined the ranking in accordance with their policy priorities and the requirements of Title 3.25A and the PDR Guidelines Document, and
WHEREAS, Council passed resolution 2015-032 authorizing the PDR Administrator to acquire title and appraisal services for all 2015 applicants, and

WHEREAS, The PDR Administrator has acquired appraisal services for all properties listed in this Exhibit 1

NOW, THEREFORE, BE IT RESOLVED by the Whatcom County Council that:

1. The PDR Oversight Committee and Administrator proceed with the acquisition of conservation six (6) easements in the order of the approved ranking (Exhibit 1) pursuant to the process outlined in the PDR Guidelines Document.

2. The Executive is authorized to enter into Purchase and Sale Agreements (for the six easements listed in Exhibit 1), provided:
   a. Appraisals are completed and conservation easements are drafted which meet the requirements of the Whatcom County Purchase of Development Rights program, and
   b. Landowners have agreed to the offer price and conservation easement conditions.

3. The PDR Oversight Committee and Administrator proceed with the acquisition of title search and appraisal services in the order of the approved ranking (Exhibit 2) pursuant to the process outlined in the PDR Guidelines Document.

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

APPROVED this _______ day of ________, 2016

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

ATTEST:

__________________________  __________________________
Dana Brown-Davis, Council Clerk  Carl Weimer, Chairperson

APPROVED as to form:

__________________________
Civil Deputy Prosecutor
2016 Applications supported by PDR Oversight Committee
Whatcom County Agricultural Purchase of Development Rights Program
Exhibit 1

1. **Cougar Creek Ranch**
   - Number of Points: 68.60
   - Type of Farm: Currently contains pigs, poultry, sheep, corn silage, seed potatoes, and raspberries
   - Zoning District: AG
   - Property Size: 157.76 acres
   - Preliminary Estimate of Potential Development Rights: 3

   Cougar Creek Ranch consists of the original homestead purchased by the current land owner/steward’s great-great grandfather in 1894. Currently the farm is leased out to several local farm businesses supporting seed potatoes, corn silage, and raspberry production for many years. The current owner/steward is gradually taking over management of the entire farm. He is expanding production of meat poultry, hogs, and sheep, and has an interest in moving into beef production as well. This property is crossed by Wiser Lake Creek (previously Cougar Creek) and provides significant habitat opportunities for anadromous fish.

2. **Squalicum Ranch**
   - Number of Points: 57.63
   - Type of Farm: Supports beef cattle and dairy goats, with pasture and hay ground
   - Zoning District: Rural Forestry, R5
   - Property Size: 174.46 acres
   - Preliminary Estimate of Potential Development Rights: 10

   Squalicum Ranch has supported beef cattle production for many years and has been in the Foster family for over 50 years. This property protects a significant piece of the shore on Squalicum Lake as well as one of the main tributaries of Squalicum Creek. Property contains 66.5% prime soils and 30% soils of statewide significance. Additionally the property contains a significant forested section that serves to provide wildlife habitat and generate firewood and forestry potential for the property owner.

3. **Matheson (Sandra)**
   - Number of Points: 56.44
   - Type of Farm: Currently used for grazing and holding beef cattle
   - Zoning District: AG
   - Property Size: 17.9 acres
   - Preliminary Estimate of Potential Development Rights: 3

   This property is part of Matheson Farms which grows beef cattle, much of which is sold to Whatcom County consumers. This property was owned and farmed by the applicant’s parents as a working dairy farm. It has 100% prime soils and is located near the Guide Meridian with high pressure to convert to non-agricultural uses. There are currently no structures on the property and with hay and pasture it supports healthy cattle year round.
4. **Williams 2 (Justin)**

- Number of Points: 53.19
- Type of Farm: Currently in grain production, no house
- Zoning District: AG
- Property Size (approximate acres): 19.5
- Preliminary Estimate of Potential Development Rights: 1

This farm is located on Tom Road just north of Nooksack in the AG Zone. The property consists of 100% NRCS Prime soils, as well as having all soils on the property identified as APO soils by the County’s APO overlay. The entire property is in agricultural production. Currently, the property produces grain. There is neither home nor outbuildings on the property.

5. **Servid-Williams (Justin and Leslie)**

- Number of Points: 52.75
- Type of Farm: Vegetable and grain
- Zoning District: AG
- Property Size: 14.48
- Preliminary Estimate of Potential Development Rights: 1

This farm is located on Tom Road just north of Nooksack in the AG Zone. The property consists of 100% NRCS Prime soils, as well as having all soils on the property identified as APO soils by the County’s APO overlay. The entire property is in agricultural production. Currently, the property produces grain and garlic. There is neither home nor outbuildings on the property. This property is located immediately adjacent to the South of the Williams 2 property.

6. **Grubbs (Sam and Donna)**

- Number of Points: 52.10
- Type of Farm: Mixed vegetable and beef cattle
- Zoning District: R5
- Property Size: 19.7
- Preliminary Estimate of Potential Development Rights: 3

This farm, named Bellingham Country Gardens is located at the intersection of Kelly and Sand Roads. This property has supported cow-calf operations for many years and now also supports a diversified u-pick vegetable operation run by current owners. Property contains 100% prime soils and is bordered by Anderson Creek which is home to anadromous fish and is currently receiving improvements and restoration on other sections of the creek. One home and agricultural outbuildings currently exist on the property.
2016 Applications supported by PDR Oversight Committee
Whatcom County Agricultural Purchase of Development Rights Program
Exhibit 2

1. Brar (Harbinder and Jag)
   - Number of Points: 70.27
   - Type of Farm: Raspberry
   - Zoning District: R5
   - Property Size: 78.1
   - Preliminary Estimate of Potential Development Rights: 14

   The Brar Brothers farm is located on Sand Road and is a raspberry operation. The property has one house and adjacent agricultural buildings. The property is zoned R5 and has the potential for 14 additional development rights to be removed through an easement.

2. Greenwood (Michael)
   - Number of Points: 68.07
   - Type of Farm: Supports dairy operation with pasture and hay ground
   - Zoning District: R5
   - Property Size: 93.77
   - Preliminary Estimate of Potential Development Rights: 16

   The Greenwood property is part of a complex of applicants to the PDR Program that are contiguous. The complex consists of Greenwood, Carbee, and Grubbs. Mr. Greenwood recently purchased the property and leases it out to Mr. Carbee for support of Mr. Carbee’s replacement heifer operation.

3. Carbee (Harold and Etta)
   - Number of Points: 62.59
   - Type of Farm: Replacement heifer operation
   - Zoning District: R5
   - Property Size: 73.31
   - Preliminary Estimate of Potential Development Rights: 13

   This property is located near the corner of Kelly and Sand Roads in the same area as Grubbs and Greenwood. The property is used as a replacement heifer operation for a local dairy. The property is on Anderson Creek and has a large buffer along the creek bank.

4. Sidhu (Hardev and Harpreet)
   - Number of Points: 47.44
   - Type of Farm: Raspberry
   - Zoning District: R10
   - Property Size: 40
   - Preliminary Estimate of Potential Development Rights: 4

   This farm is located to the East of the City of Lynden. The Sidhu’s have approximately half of the property in raspberry production. The remainder of the property has excellent wildlife habitat values as forested wetland.
### WHATCOM COUNTY COUNCIL AGENDA BILL

<table>
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<th>Date</th>
<th>Date Received in Council Office</th>
<th>Agenda Date</th>
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### TITLE OF DOCUMENT:
Ord amending WCC Title 2, to reflect an increase in number of Council Districts

### ATTACHMENTS:

### 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.)

Ordinance amending Whatcom County Code Title 2, Administration and Personnel, to reflect an increase in the number of County Council Districts

### COMMITTEE ACTION:
7/12/2016: Discussed and amended
7/26/2016: Held in Committee

### COUNCIL ACTION:
7/12/2016: Substitute Introduced 7-0
7/26/2016: 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.
ORDINANCE NO. ______

AMENDING WHATCOM COUNTY CODE TITLE 2, ADMINISTRATION AND PERSONNEL, TO ADD LANGUAGE RELATED TO AN INCREASE IN THE NUMBER OF WHATCOM COUNTY COUNCIL Districts

WHEREAS, at the November 2015 General Election the voters of Whatcom County approved an amendment to the Whatcom County Charter to increase the number of county council districts from three to five; and

WHEREAS, in April 2016 a new five-district districting plan for Whatcom County was adopted by the 2016 Whatcom County Districting Committee; and

WHEREAS, the new districting plan divides Whatcom County into five council districts of approximately equal size; and

WHEREAS, Whatcom County Code Title 2, Administration and Personnel, contains district residency requirement language for the county council and select Whatcom County boards and commissions that must be amended to reflect the new five-district districting plan adopted for Whatcom County.

NOW, THEREFORE, BE IT ORDAINED by the Whatcom County Council that Whatcom County Code Title 2, Administration and Personnel, is hereby amended as outlined in "Exhibit A" to this ordinance.

BE IT FINALLY ORDAINED that these amendments will not disqualify a current board or commission member from holding office during the remainder of the term for which that member was appointed.

ADOPTED this ___ day of ________________, 2016.

ATTEST: __________________________________________

Dana Brown-Davis, Clerk of the Council

APPROVED AS TO FORM: __________________________________________

Jack Louws, County Executive

Barry Buchanan, Council Chair

( ) Approved ( ) Denied

Date: __________________________________________
EXHIBIT A
(AMEND WCC TITLE 2 RELATED TO DISTRICT REQUIREMENT)

CHAPTER 2.02
COUNTY COUNCIL

2.02.005 Council — Composition.
The council shall consist of seven members, two one councilmembers from each of the three-five council districts and one two councilmembers at-large.

CHAPTER 2.21
BOARD OF EQUALIZATION

2.21.010 Established
The Whatcom County board of equalization is established to consist of three primary members and two alternates, none of whom shall be members of the Whatcom County legislative authority.

2.21.020 Residency of members.
No more than one member of the board of equalization shall reside in each council district. (Ord. 95-044).

2.21.030 Residency of alternates.
Alternate members to the board of equalization shall be appointed on an at-large basis. (Ord. 95-044).

2.21.040 Membership — Term of Office.
Board members shall be appointed by the county council on an at-large basis as vacancies occur, provided that no two members shall reside in the same council district. Member terms shall be three years pursuant to RCW 84.48.026.

2.21.040 Compensation for meeting attendance.
As authorized by RCW 84.48.010, members of the board of equalization are to shall receive $75.00 per day for each day of actual attendance at a meeting of the board. (Ord. 95-044).

2.21.050 Established — Composition
The Whatcom County Board of Equalization is established pursuant to chapter 84.48 RCW and shall consist of five members, three of whom shall act as the Board on a rotating basis. The board members shall be selected based upon the qualifications established by the department of revenue by rule and shall not be members of the Whatcom County Council or hold any other elective office, or be employees of any elected official.

2.21.060 Membership Term of Office
Board members shall be appointed by a majority of the Whatcom County Council on an at-large basis as vacancies occur. Not more than two members shall reside in any one council district. Member terms shall be three years, or until their successors are appointed pursuant to RCW 84.48.026. Each appointed member may be removed by a majority vote of the Whatcom County Council.
CHAPTER 2.29
PARKS AND RECREATION DEPARTMENT

2.29.050 Parks and recreation commission.
B. The parks and recreation commission shall consist of seven members, two one members-appointed from each county council district and one two members appointed at-large. All terms of office shall be for four years. All appointments for the purpose of filling vacancies shall be for the remaining portion of the unexpired term. No member shall serve more than two consecutive full terms.

CHAPTER 2.31
PLANNING COMMISSION

2.31.030 Membership.
There shall be nine members of the planning commission, three of whom shall be appointed from each county council district. The planning commission shall consist of nine members appointed by the county council, one member from each council district and the other four representing:
   1. The development community.
   2. The environmental community.
   3. Transportation.
   4. Agriculture, forestry, mineral, or aquatic resource lands.

Members shall be citizens not serving in elective county offices. Appointment shall be in compliance with Chapter 2.03 of the Whatcom County Code.
36.70.030
Commission—Creation.

By ordinance a board may create a planning commission and provide for the appointment by the commission of a director of planning.

[1963 c 4 § 36.70.030. Prior: 1959 c 201 § 3.]

36.70.040
Department—Creation—Creation of commission to assist department.

By ordinance a board may, as an alternative to and in lieu of the creation of a planning commission as provided in RCW 36.70.030, create a planning department which shall be organized and function as any other department of the county. When such department is created, the board shall also create a planning commission which shall assist the planning department in carrying out its duties, including assistance in the preparation and execution of the comprehensive plan and recommendations to the department for the adoption of official controls and/or amendments thereto. To this end, the planning commission shall conduct such hearings as are required by this chapter and shall make findings and conclusions therefrom which shall be transmitted to the department which shall transmit the same on to the board with such comments and recommendations it deems necessary.

[1963 c 4 § 36.70.040. Prior: 1959 c 201 § 4.]

36.70.050
Authority for planning.

Upon the creation of a planning agency as authorized in RCW 36.70.030 and 36.70.040, a county may engage in a planning program as defined by this chapter. Two or more counties may jointly engage in a planning program as defined herein for their combined areas.

[1963 c 4 § 36.70.050. Prior: 1959 c 201 § 5.]

36.70.060
Regional planning commission—Appointment and powers.

A county or a city may join with one or more other counties, cities and towns, and/or with one or more school districts, public utility districts, private utilities, housing authorities, port districts, or any other private or public organizations interested in regional planning to form and organize a regional planning commission and provide for the administration of its affairs.
Such regional planning commission may carry on a planning program involving the same subjects and procedures provided by this chapter for planning by counties, provided this authority shall not include enacting official controls other than by the individual participating municipal corporations. The authority to initiate a regional planning program, define the boundaries of the regional planning district, specify the number, method of appointment and terms of office of members of the regional planning commission and provide for allocating the cost of financing the work shall be vested individually in the governing bodies of the participating municipal corporations.

Any regional planning commission or municipal corporation participating in any regional planning district is authorized to receive grants-in-aid from, or enter into reasonable agreement with any department or agency of the government of the United States or of the state of Washington to arrange for the receipt of federal funds and state funds for planning in the interests of furthering the planning program.

[1963 c 4 § 36.70.060. Prior: 1961 c 232 § 1; 1959 c 201 § 6.]

NOTES:

nmmission as employer for retirement system purposes: RCW 41.40.010.

36.70.070
Commission—Composition.

Whenever a commission is created by a county, it shall consist of five, seven, or nine members as may be provided by ordinance: PROVIDED, That where a commission, on June 10, 1959, is operating with more than nine members, no further appointments shall be made to fill vacancies for whatever cause until the membership of the commission is reduced to five, seven or nine, whichever is the number specified by the county ordinance under this chapter. Departments of a county may be represented on the commission by the head of such departments as are designated in the ordinance creating the commission, who shall serve in an ex officio capacity, but such ex officio members shall not exceed one of a five-member commission, two of a seven-member commission, or three of a nine-member commission. At no time shall there be more than three ex officio members serving on a commission: PROVIDED FURTHER, That in lieu of one ex officio member, only, one employee of the county other than a department head may be appointed to serve as a member of the commission.

[1963 c 4 § 36.70.070. Prior: 1959 c 201 § 7.]

36.70.080
Commission—Appointment—County.

http://app.leg.wa.gov/RCW/default.aspx?cite=36.70&full=true

7/28/2016
The members of a commission shall be appointed by the chair of the board with the approval of a majority of the board: PROVIDED, That each member of the board shall submit to the chair a list of nominees residing in his or her commissioner district, and the chair shall make his or her appointments from such lists so that as nearly as mathematically possible, each commissioner district shall be equally represented on the commission.

[ 2009 c 549 § 4107; 1963 c 4 § 36.70.080. Prior: 1959 c 201 § 8.]

36.70.090
Commission—Membership—Terms—Existing commissions.

When a commission is created after June 10, 1959, the first terms of the members of the commission consisting of five, seven, and nine members, respectively, other than ex officio members, shall be as follows:

(1) For a five-member commission—one, shall be appointed for one year; one, for two years; one, for three years; and two, for four years.

(2) For a seven-member commission—one, shall be appointed for one year; two, for two years; two, for three years; and two, for four years.

(3) For a nine-member commission—two, shall be appointed for one year; two, for two years; two, for three years; and three, for four years.

Thereafter, the successors to the first member shall be appointed for four year terms: PROVIDED, That where the commission includes one ex officio member, the number of appointive members first appointed for a four year term shall be reduced by one; if there are to be two ex officio members, the number of appointive members for the three year and four year terms shall each be reduced by one; if there are to be three ex officio members, the number of appointive members for the four year term, the three year term, and the two year term shall each be reduced by one. The term of an ex officio member shall correspond to his or her official tenure: PROVIDED FURTHER, That where a commission, on the effective date of this chapter, is operating with members appointed for longer than four year terms, such members shall serve out the full term for which they were appointed, but their successors, if any, shall be appointed for four year terms.
### TITLE OF DOCUMENT:

Ordinance Amending WCC 3.08. Purchasing System

### ATTACHMENTS:

Memo, Ordinance, Code Revision

### 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.

Ordinance to amend WCC 3.08 Purchasing System

### COMMITTEE ACTION:

- 6/14/2016: Held in Committee
- 6/28/2016: Discussed and Held in Committee
- 7/12/2016: Substitute held in Committee
- 7/26/2016: Held in Committee

### COUNCIL ACTION:

- 5/31/2016 Introduced
- 6/14/2016: Held in Committee
- 6/28/2016: Held in Committee
- 7/12/2016: Substitute held in Committee
- 7/26/2016: 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](http://www.co.whatcom.wa.us/council)
TO: Members of the Whatcom County Council

THROUGH: Jack Louws, County Executive

FROM: Tyler Schroeder, Deputy Executive and Jon Hutchings, Public Works Director

RE: Purchasing Policy Amendment

Date: July 7, 2016

Requested Action:
Consider and approve proposed amendments to WCC 3.08 Purchasing System that establishes administrative procedures for advertising and approving public contracts.

Background and Purpose:
Whatcom County Council and Executive share responsibility under WCC 3.08 for transparent, predictable, and efficient procurement of goods and services necessary to execute authorized County work. Certain provisions in the existing Purchasing Policy expose the County to contract claims and escalating procurement costs. This amendment is intended to preserve appropriate Council oversight of expenditures, incorporate 2015 changes to State purchasing laws, improve competitive access to public contracting opportunities, streamline project delivery, and reduce financial risk associated with contract administration. The amended ordinance:

- Improves advertising of requests for proposals, requests for qualifications, and invitations to bid
- Adjusts thresholds for soliciting price quotations and bids for professional services to $10,000 and $50,000, respectively, pursuant to State law
- Requires Council authorization for professional services contracts and other non-capital contracts of greater than $50,000
- Authorizes Executive approval for contracts and contract amendments identified in a Council-approved Capital Budget Authorization Ordinance, and for certain supplies.

As part of the Administration’s effort to provide a more transparent and program-oriented budget approval process, the 2017-2018 budget documents will contain a separate capital program showing specific capital expenditures for the budget cycle. This coincides with online access to all contracts and quarterly project expenditure updates.

Financial Implications:
These amendments reduce the likelihood of cost escalation associated with project delivery delays resulting from untimely change order approvals and associated contractor claims.

Please contact Tyler Schroeder at extension 5207 or Jon Hutchings at extension 6205 for questions or concerns regarding this amendment.

Enc.: Proposed amendment to existing WCC Chapter 3.08
PROPOSED BY: County Executive
INTRODUCTION DATE: 05/31/16

ORDINANCE NO. 2016-___

AN ORDINANCE AMENDING WHATCOM COUNTY CODE 3.08, PURCHASING SYSTEM

WHEREAS, The County wishes to achieve greater administrative efficiencies through clarifying purchasing processes and increasing dollar value of contracts that may be approved administratively; and

WHEREAS, Whatcom County is unique in its limited purchasing thresholds allowed under Executive Authority when compared to other Washington State Charter Counties and local municipalities; and

WHEREAS, Whatcom County has improved transparency and access to contracts and project budget reports by making them available on-line with the launch of a new public website;

WHEREAS, It is essential and in the best interest of Whatcom County Government and its citizens to keep work flow moving particularly during the short and busy construction season,

NOW, THEREFORE, BE IT ORDAINED BY THE WHATCOM COUNTY COUNCIL, Whatcom County Code 3.08 is amended to read in its entirely, as set forth in the attached Exhibit A:

ADOPTED this day of , 2016.

WHATCOM COUNTY COUNCIL
ATTEST:

WHATCOM COUNTY, WASHINGTON

Dana Brown-Davis, Clerk of the Council
Barry Buchanan, Council Chair

WHATCOM COUNTY EXECUTIVE
APPROVED AS TO FORM:

WHATCOM COUNTY, WASHINGTON

Civil Deputy Prosecutor

Jack Louws, County Executive

( ) Approved    ( ) Denied

Date Signed: _____________________________

Page 1
EXHIBIT A
Chapter 3.08
PURCHASING SYSTEM

Sections:
3.08.010 Purpose.
3.08.020 Administration.
3.08.030 Authority and functions.
3.08.040 Price quotations.
3.08.050 Vendor lists.
3.08.060 Bids and proposals required.
3.08.070 Contractor’s bond required for public works.
3.08.080 Labor and material claims.
3.08.090 Bid specifications, deposits and awards.
3.08.095 Small works roster contract award process.
3.08.100 Council approval required.
3.08.110 Unregistered or unlicensed contractors prohibited.
3.08.120 Joint purchasing.
3.08.130 Amendments to chapter.
3.08.140 Severability.

3.08.010 Purpose.

It shall be the purpose of this chapter to establish a purchasing system to work with all county departments, agencies, boards and commissions, and other operations of the county to ensure efficiency in procurement of supplies and equipment of the necessary quality at the lowest possible cost; to ensure compliance with purchasing statutes, regulations, policies and procedures; to ensure efficient utilization of county property, new and used; and to minimize employee time devoted to purchasing functions. (Ord. 2013-029 Exh. A; Ord. 2007-004 Exh. A; Ord. 97-034 Exh. A; Ord. 93-042 Exh. H).

In addition, it is intended that the purchasing system be as transparent as possible, deliver timely and complete procurement information to prospective vendors, and report successful bids, contracts and project expenditures to the public using the County’s website.

3.08.020 Administration.

The director of the administrative services department shall have full authority and responsibility for the operation and ongoing improvement of the purchasing system under the direction of the county executive. (Ord. 2013-029 Exh. A; Ord. 2007-004 Exh. A; Ord. 97-034 Exh. A; Ord. 93-042 Exh. H).

3.08.030 Authority and functions.

A. The authority to recommend and implement administrative policies and procedures that provide a comprehensive basis for purchasing functions shall fall under the purview of the purchasing system.
B. The following responsibilities shall be coordinated through the purchasing system:
1. Continue to improve services to departments and agencies in the area of purchasing.
2. Develop automated requisition and reporting systems.
3. Improve purchasing productivity and control for all departments.
4. Standardize high volume purchases.
5. Develop efficient policies and procedures for acquiring goods and services.
6. Implement inventory controls and minimize costs of goods and services.
7. Prepare and make available to all departments standardized forms for requisitions, vouchers, inventories and any other form required for county operations.
8. Assign purchase order numbers for the acquisition of supplies, materials, equipment, tools, services, rental of personal property, professional services and contracted public works exceeding $2,500.
9. Maintain vendor list pursuant to RCW 39.04.190.
10. Whenever practically possible, contact at least three vendors to assure competitive pricing. 
11. Ensure the Promote a competitive procurement process/environment by actively soliciting subscribers to the county’s web-based purchasing notification system.
12. Review and approve bid specifications and prepare invitations to bid pursuant to provisions set forth in this chapter.
13. Check bids for accuracy and compliance with specifications and invitation to bid.
14. Make bid recommendations on all awards to the county executive.
15. Perform such other duties as may be required to further the purposes of this chapter. (Ord. 2013-029 Exh. A; Ord. 2007-004 Exh. A; Ord. 97-034 Exh. A; Ord. 93-042 Exh. H).

3.08.040 Price quotations.

Whenever practicably possible, price quotations from at least three vendors shall be solicited for the acquisition of materials, supplies, services, tools, equipment or rental of personal property involving amounts greater than $5,000 but not exceeding $25,000 in a single transaction. Three price quotations will also be obtained for all contracted work constituting a public work not exceeding $40,000. Quotations for architects and engineers are subject to the requirements of Chapter 39.80 RCW. Records of all quotations obtained shall be maintained and shall be open to public inspection. Bids submitted periodically for the roster of rental equipment with operators may be used as the source of quotations for public works projects not exceeding $40,000. (Ord. 2013-029 Exh. A; Ord. 2007-004 Exh. A; Ord. 97-034 Exh. A; Ord. 93-042 Exh. H).

3.08.050 Vendor lists.

Whatcom County will maintain a vendor list pursuant to RCW 39.04.190. (Ord. 2013-029 Exh. A).

3.08.060 Bids and proposals required.

Awards of contracts for the acquisition of materials, supplies, services, tools, equipment or rental of personal property and professional services for a nonpublic work involving amounts exceeding $25,000 or for a public work exceeding $40,000, will be based upon bids or proposals received in response to specifications and invitations to bid, except as follows:
A. Sole source purchases shall not be required to go through competitive bidding. A purchase may be determined to be sole source by the county executive or designee when the bidding process would be futile because only one bidder could respond to the invitation.
B. In the event of an emergency when the public interest or property of the county would suffer material injury or damage by delay, upon an order of the county executive declaring the existence of such emergency and reciting the facts constituting same, the requirements governing competitive bids with reference to any purchase or contract may be waived pursuant to RCW 36.32.270.
C. Public works projects involving funds not exceeding the amount allowed in RCW 39.04.155. Small
works roster contract procedures – Limited public works process, or any successor statute, may be completed utilizing the small works roster contract award process.
D. Acquisition is from another public entity.
E. Contract does not require use of county funds.
Proposals from architects and engineers are subject to the requirements of Chapter 39.80 RCW. (Ord. 2013-029 Exh. A; Ord. 2007-004 Exh. A; Ord. 97-034 Exh. A; Ord. 93-042 Exh. H).

3.08.070 Contractor's bond required for public works.


3.08.080 Labor and material claims.


3.08.090 Bid specifications, deposits and awards.

A. In developing specifications for bids or proposals, all reasonable efforts shall be made to ensure a competitive process and that a variety of vendors shall be capable of fulfilling the stated requirements of the county. Performance considerations shall be included in the specifications. However, nothing in this section shall be construed to limit the county from pursuing sole source procurement where adequate justification has been presented that such procurement is in the best interests of county operations.
B. When the acquisition of materials, supplies, purchased services, tools, equipment, rental of personal property or professional services involves amounts greater than $25,000 $50,000 in a single transaction for a nonpublic work award or exceeding $40,000 for a public work award, the administrative services department shall be responsible for the review and approval of specifications and the preparation of invitations to bid pursuant to provisions set forth in this chapter.
C. All bid specifications shall be in writing and placed on file for public inspection.
D. All invitations for bids, requests for proposals, and requests for qualifications will be posted on the county’s website. Project announcements and bid solicitations or proposals that written specifications are on file and available for public inspection shall be published in the official county newspaper, and when in the county’s best interest, other regional publications. Additionally, the county will offer complimentary bid packets to multiple northwest and national plan centers. Advertisements shall be published at least once in each week for two consecutive weeks prior to the last date upon which bids will be received and may be published for as many additional publications as shall be considered in the county’s interest. Such advertisement shall state:
1. The date after which bids will not be received;
2. The character of the work to be done, or the materials, equipment or service to be purchased; and
3. Where the specifications may be seen, instruction on how to obtain additional information, including the complete bid packet.
E. No bid shall be considered for public works unless it is accompanied by a bid deposit in the form of a surety bond, postal money order, cash, cashier’s check, or certified check in an amount equal to five percent of the amount of the bid proposed.
F. Should the bidder to whom the contract is awarded fail to enter into the contract or fail to furnish the contractor’s bond within 10 days (exclusive of the date of notice) after notice of the award, the amount
of the bid deposit shall be forfeited to the county. Thereafter, the award shall be made to the next lowest responsive bidder. The bid deposit of an unsuccessful bidder (if his bid deposit has not been forfeited) shall be returned after the required contractor’s bond of the successful bidder has been accepted.

G. Bids received shall be opened and read in public on the date named in the advertisement for bids, or on a subsequent date established in a bid addendum.

H. After opening, all bids shall be reviewed and referred to the requisitioning department for recommendation of award. Bids will be forwarded by the director of the administrative services department or designee with a recommendation to the county executive for award.

I. After opening and award, all bids shall be filed for public inspection, and available by telephone inquiry.

J. Any or all bids may be rejected for good cause. If all bids are not rejected, the award shall be to the lowest responsive bidder. In determining which is the lowest responsive bidder, the county may take into consideration the bidder’s responsiveness to the county’s requirements, the quality of the articles to be purchased or leased, availability of parts and service, delivery time, the tax revenue the county would receive from purchasing from a supplier located within its boundaries and prior dealings with the bidder.

K. The county may issue requests for proposals for services, or for technologically complex equipment including but not limited to computers, software, or telephone systems. If all proposals are not rejected, the award shall be to the highest rated proposal, taking into account the selection criteria published in the request for proposals.

L. The county may award to multiple bidders for the same commodity or service when the bid specifications provide for special circumstances in the determination of which vendor is truly the lowest price to the county. Special circumstances may include differences in ability to deliver, delivery time, availability of material, special loading or unloading conditions, total cost including transport or labor if not included with bid item, performance of the delivered material, location of the source, and proximity to the delivery point.

M. Contracts that require county council approval per 3.08.100 entered into by the county, including those which involve externally funded pass-through moneys, may be administratively amended to a cumulative amount not to exceed $20,000 or 15% of contract amount, whichever is greater for professional services and $50,000 for bids; larger amounts require council approval. No administrative contract amendment may exceed authorized expenditure authority. (Ord. 2015-011 Exh. A; Ord. 2013-029 Exh. A; Ord. 2007-004 Exh. A; Ord. 97-034 Exh. A; Ord. 93-042 Exh. H).

3.08.095 Small works roster contract award process.

This section may be utilized in the acquisition of contractual services necessary to complete public works projects as allowed under RCW 36.32.250, and consistent with RCW 39.04.155, in order to use a small works roster contract award process in lieu of formal sealed bidding, the county shall:

A. Publish at least twice each year in the official county newspaper a notice of the existence of the roster and solicit the names of contractors that are qualified for the requested categories of work. Notice shall be published at least once in each week for two consecutive weeks prior to the last date upon which response to the notice will be received, and may be published for as many additional publications as shall be considered in the county’s interest.

B. In every case a certain category of work is to be accomplished under this section, all contractors responding to the above notice and indicating their qualification to perform the category of work proposed shall be contacted and provided an invitation to bid.

C. Include in the invitation to bid the date on which bids will be received, the scope and nature of work
to be performed, the materials and equipment to be furnished, and, if not provided otherwise in the invitation to bid, where the detailed plans and specifications may be seen and obtained.
D. Otherwise apply the provisions of WCC 3.08.090(B), (E), (F), (G), (H), (I), (J), and (M).

3.08.100 Council approval required.

**County Council approval is required for the following:**
- Contracts for professional services exceeding $20,000, and bid awards exceeding $250,000, and professional service contracts exceeding $50,000 and all real property leases.

A. Contracts or bid awards exceeding $50,000 and all real property leases must be submitted to the council for approval, except when pursuant to:
1. Exercising an option contained in a contract or lease previously approved by the council.
2. Contract is for the design, construction, right-of-way acquisition, professional services, or other capital costs approved by the county council in a capital budget appropriation ordinance.
3. Contract or bid award for supplies or for equipment approved in a capital budget appropriation ordinance.
4. Contract is for technical support and software maintenance from the developer of proprietary software which is currently being used by Whatcom County.
5. Contract is for manufacturer’s technical support and hardware maintenance of electronic systems.
6. Pursuant to and within the scope of a declaration of emergency made by the county executive under WCC 3.08.060(B). The county executive, pursuant to a declaration of emergency, shall submit the contract to the council for informational purposes at the council’s next regular or special meeting. (Ord. 2015-011 Exh. A; Ord. 2013-029 Exh. A; Ord. 2007-004 Exh. A; Ord. 2000-025; Ord. 97-034 Exh. A; Ord. 96-034; Ord. 93-042 Exh. H).

B. All informational materials distributed to more than 25% of county residences for the purpose of informing or educating the public on a specific capital project, levy or tax.

3.08.110 Unregistered or unlicensed contractors prohibited.

No contract shall be entered into or executed with any contractor who is not registered or licensed as required by the laws of this state (except only as permitted under RCW 39.06.010 for highway projects for contractors who have been prequalified as required under RCW 47.28.070). (Ord. 2013-029 Exh. A; Ord. 2007-004 Exh. A; Ord. 97-034 Exh. A; Ord. 93-042 Exh. H).

3.08.120 Joint purchasing.

The county may enter into agreements with the state or with any agency, political subdivision, or unit of local government to purchase goods or services cooperatively. Joint purchasing services are hereby authorized and encouraged with any other municipal corporation in Whatcom County. Assistance to the participating municipal corporation may be given in any way except that a sale or contract shall be between the vendor and the participating municipal corporation and not Whatcom County. Bids and quotes may be obtained jointly based on volume if it is in the county’s best interest to do so. (Ord. 2013-029 Exh. A; Ord. 2007-004 Exh. A; Ord. 97-034 Exh. A; Ord. 93-042 Exh. H).

3.08.130 Amendments to chapter.
The county council reserves the exclusive right to alter, amend, rescind, abrogate, delete, supersede or replace the provisions of this chapter, or any part thereof, in any manner not inconsistent with state law. Whether or not the county council takes action, the provisions of this chapter shall be deemed automatically altered, amended, or superseded to conform to any mandatory state administrative ruling or statute, as of the effective date of any such enactment appertaining to the matters covered in this chapter, to the effect that the provisions of this chapter shall at all times conform to, and never conflict with, said state laws and regulations. (Ord. 2013-029 Exh. A; Ord. 2007-004 Exh. A; Ord. 97-034 Exh. A; Ord. 93-042 Exh. H).

3.08.140 Severability.

If any provision of this chapter is held to be invalid, the remainder of the chapter shall remain in effect. (Ord. 2013-029 Exh. A; Ord. 2007-004 Exh. A; Ord. 97-034 Exh. A; Ord. 93-042 Exh. H).

1
Prior legislative history: Ord. 97-034 repealed WCC 3.08.050. Ord. 93-042 was formerly codified in the section.
WHATCOM COUNTY COUNCIL AGENDA BILL

CLEARANCES

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<th>Agenda Date</th>
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TITLE OF DOCUMENT: 2016 Supplemental Budget Request #13

ATTACHMENTS: Ordinance, Memoranda & Budget Modification Requests

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

Supplemental #13 requests funding from the General Fund:

1. To appropriate $100,000 in the Assessor's Office to fund continuation of refinery appeals defense.

2. To appropriate $5,000 in the Sheriff's Office to fund boating safety patrols from grant proceeds.

3. To appropriate $5,000 in the Sheriff's Office to fund overtime for drug enforcement investigations from reimbursement contract #RL-16-0014 proceeds.

4. To appropriate $5,000 in the Sheriff's Office to fund overtime for drug enforcement investigations from reimbursement contract #RL-16-0018 proceeds.

5. To appropriate $46,200 in Non-Departmental to fund What-Comm E911 pass-through grant.

COMMITTEE ACTION:

COUNCIL ACTION:

7/26/2016: Introduced 6-0, Donovan absent

Related County Contract #: Related File Numbers: Ordinance or Resolution Number:
ORDINANCE NO.
AMENDMENT NO. 13 OF THE 2016 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 2016 budget included therein:

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<tr>
<td>Non-Departmental</td>
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<td>Total Supplemental</td>
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<td>(61,200)</td>
<td>100,000</td>
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ADOPTED this ___ day of __________________, 2016.

ATTEST:

Dana Brown-Davis, Council Clerk

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

Barry Buchanan, Chair of the Council

APPROVED AS TO FORM:

Civil Deputy Prosecutor

( ) Approved    ( ) Denied

Jack Louws, County Executive

Date: ______________________

I:\BUDGET\SUPPLS\2016_Suppl\Supplemental #13-2016.docx 56
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<td>Assessor</td>
<td>To fund continuation of refinery appeals defense.</td>
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<td>Sheriff's Office</td>
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<td>Non-Departmental</td>
<td>To fund What-Comm E911 pass-through grant.</td>
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<td><strong>Total General Fund</strong></td>
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<td><strong>Total Supplemental</strong></td>
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<td>161,200</td>
<td>(61,200)</td>
<td>100,000</td>
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Supplemental Budget Request

Assessor

Fund 1  Cost Center 300  Originator: Keith Willnauer

Expenditure Type: One-Time  Year 2 2016  Add'l FTE ☐  Add'l Space ☐  Priority 1

Name of Request: Continuation of Refinery Appeals Defense

[Signature]  7/19/16

Department Head Signature (Required on Hard Copy Submission)  Date

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1a. Description of request:
Whatcom County's two Cherry Point petroleum refineries have appealed their 2013, 2014, and 2015 property valuations. They have placed over 310 million dollars of valuation into controversy. The Washington State Board of Tax Appeals will hear the case. The Whatcom County Assessor's Office with the assistance of the Washington State Department of Revenue is responsible for the defense.

The Assessor's Office will continue to contract professional services with specialty in this litigation arena to support the County's position. Approximately $200,000 has been spent or obligated in this effort to date. This supplemental request additional budget authority to be able to complete this case in 2016.

1b. Primary customers:
The affected taxing districts including Whatcom County, the Port of Bellingham, the Rural Library, Fire District #7, and the Blaine and Ferndale School Districts. Also, the taxpayers in all of the affected districts.

2. Problem to be solved:
The Assessor's Office does not have the available staff resource and expertise to perform the required defense. The negative consequences for substantial valuation reductions and associated tax refunds are significant. Taxpayers will be affected by higher property tax bills and diminished service delivery from taxing district budget impacts.

3a. Options / Advantages:
The parties are significantly distant in their initial opinions of value. No reasonable settlement is likely. The scope of damage to taxpayers and taxing districts requires a fully adequate defense.

3b. Cost savings:
The cost savings are estimated to be over 1 million dollars in direct taxing district budget revenue and an additional increase in property tax bills of $80.00 for a 250K valuation for every Whatcom County property taxpayer.

4a. Outcomes:
The Washington State Board of Tax Appeals will deliver it's 2013 decision following the cause's scheduled August, 2016 hearings conclusion.

4b. Measures:
The ruling will establish both the outcome and the measure of success.

5a. Other Departments/Agencies:
The Whatcom County Prosecuting Attorney's Department has assigned outside legal counsel and will also be required to provide additional Deputy Civil Prosecuting Attorney assistance.

5b. Name the person in charge of implementation and what they are responsible for:
The Assessor's Office's assigned Deputy Civil Prosecuting Attorney is Jeffrey Sawyer. He will be
Assessor

Supp't ID # 2174  Fund 1  Cost Center 300  Originator: Keith Willnauer

responsible for legal defense administrative support, strategic input, analysis, and document preparation, presentations and review.

6. Funding Source:
County Current Expense
MEMORANDUM

TO: Jack Louws, County Executive
FROM: Sheriff Bill Elfo
DATE: March 15, 2016
SUBJECT: Supplemental Budget ID# 2172
Recreational Boating Safety Grant 2016 Increase

The attached Supplemental Budget requests budget authority for the 2016 Recreational Boating Safety Grant increase in award.

Background and Purpose
The Sheriff’s Office received a Recreational Boating Safety Grant Award of $17,690.70 from Washington State Parks and Recreation Commission to conduct on the water patrols during the peak boating period from March 1 through September 30, 2016 (Whatcom County Contract #201603002).

In a letter dated July 8, 2016, The Washington State Parks and Recreation Commission awarded an additional $5,000 to the Sheriff’s Office in recognition of our long term support of the Recreational Boating Safety (RBS) Program and for providing State Parks RBS program instructors to conduct basic and advanced marine law enforcement training.

Funding Amount and Source
Additional $5,000 provided by Washington State Parks and Recreation Commission, Recreational Boating Safety Federal Financial Assistance Grant, CFDA No. 97.012.

Please contact Undersheriff Jeff Parks at extension 6610 if you have any questions.

Thank you.
Supplemental Budget Request

Status: Pending

Sheriff

Operations

Supp ID # 2172  Fund 1  Cost Center 1003512006  Originator: Dawn Pierce

Expenditure Type: One-Time  Year 2 2016  Add'l FTE ☐  Add'l Space ☐  Priority 1

Name of Request: Recreational Boating Safety Grant 2016 Increase

Department Head Signature (Required on Hard Copy Submission)

X

Date 7/11/16

Costs:

<table>
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<tr>
<th>Object</th>
<th>Object Description</th>
<th>Amount Requested</th>
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<tr>
<td>4333.8701</td>
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<td>6110</td>
<td>Regular Salaries &amp; Wages</td>
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<td>6140</td>
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<td>6210</td>
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<tr>
<td>6259</td>
<td>Worker's Comp-Interfund</td>
<td>$122</td>
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</table>

Request Total $0

1a. Description of request:
The Sheriff's Office will conduct additional on-the-water patrols to increase education and enforcement activities encouraging greater compliance with boating safety laws in an effort to reduce boating-related loss of life, personal injury, and property damage.

1b. Primary customers:
Whatcom County citizens and visitors

2. Problem to be solved:
The Sheriff's Office is currently the only law enforcement agency in Whatcom County that operates a state approved boating safety program under WAC 352-65. The Sheriff's Office provides recreational boating safety patrols and enforcement of both county code and state law.

3a. Options / Advantages:
Grant funds are awarded specifically for boating safety education, assistance, and enforcement activities.

3b. Cost savings:
Cost savings of $5,000.00

4a. Outcomes:
Marine patrols will be conducted during the peak boating period from May to September 2016.

4b. Measures:
Written vessel inspections using approved State Parks inspection forms will be completed and submitted.

5a. Other Departments/Agencies:

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

6. Funding Source:
To: Whatcom County Sheriff’s Office, Sheriff Bill Elfo

From: Wade Alonzo, Washington State Parks Boating Program, Boating Law Administrator

Subject: Grant increase for instructor support

Date: Friday, July 08, 2016

In recognition of the long-term support of the Recreational Boating Safety program and the fiscal, personnel, and logistic expenditures made by your agency by providing instructors to State Parks we are increasing your grant amount.

Your agency for providing instructor(s) to the State Parks RBS program will be immediately awarded an additional $5000.00 to your Federal Financial Assistance Grant. Your current grant amount of $17,690.70 is increased to $22,690.70 upon receipt of this notification. As State Parks has grown the number, and types of boating courses offered, it has required much more support and participation from your personnel and your agency.

This bonus amount may change from year to year based on multiple factors that affect the Federal Financial Assistance Grants. However, it is State Parks intention to compensate your agency for actively supporting Recreational Boating Safety in Washington State by going beyond the call of duty. Without your personnel and the support provided to them by your agency, our ability to offer basic and advanced level marine law enforcement training would be severely impacted.

Please do not hesitate to email or call Hoyle Hodges 360-902-8835 hoyle.hodges@parks.wa.gov Marine Law Enforcement Coordinator if there are any questions.
Memorandum

TO: Jack Louws, County Executive
FROM: Sheriff Bill Elfo
DATE: July 11, 2016
SUBJECT: Supplemental Budget ID #2170
Reimbursable OT – OCDETF DEA #RL-16-0014

The attached Supplemental Budget requests budget authority for overtime to participate in Federal Organized Crime Drug Enforcement Task Forces (OCDETF) investigations.

Background and Purpose
The Sheriff’s Office received approval from the U.S. Department of Justice Drug Enforcement Administration to participate in the investigation and prosecution of major drug trafficking organizations and will reimburse Whatcom County Sheriff’s Office overtime for deputies engaged in these Federal Organized Crime Drug Enforcement Task Forces (OCDETF) investigations.

Deputies assigned to assist in OCDETF investigations may perform a variety of functions, including: interviewing witnesses, conducting surveillance, performing undercover assignments, handling informant transportation and/or prisoner transportation, preparing and executing search and arrest warrants, serving subpoenas, assisting with trial preparation, and testifying at trials.

Funding Amount and Source
Funding of $5,000 will be provided by the U.S. Department of Justice Organized Crime Drug Enforcement Task Forces (OCDETF) State and Local Overtime (SLOT) Fund.

Please contact Undersheriff Jeff Parks at extension 6610 if you have any questions.

Thank you.
Supplemental Budget Request

Status: Pending

Sheriff Operations

<table>
<thead>
<tr>
<th>Fund</th>
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<th>Originator:</th>
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<tr>
<td>1</td>
<td>1003516001</td>
<td>Dawn Pierce</td>
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Expenditure Type: One-Time  Year: 2016  Add'l FTE □  Add'l Space □  Priority: 1

Name of Request: Reimbursable OT - OCDETF DEA #RL-16-0014

Department Head Signature (Required on Hard Copy Submission)  Date: 7/11/16

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<td>6259</td>
<td>Worker's Comp-Interfund</td>
<td>$113</td>
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Request Total: $0

1a. Description of request:
The Sheriff's Office received approval from the U.S. Department of Justice Drug Enforcement Administration to participate in the investigation and prosecution of major drug trafficking organizations. The Organized Crime Drug Enforcement Task Forces (OCDETF) State and Local Overtime (SLOT) Fund will pay for overtime of Whatcom County Sheriff's Office deputies engaged in Federal OCDETF investigations.

1b. Primary customers:
Citizens of Whatcom County.

2. Problem to be solved:
Additional budget authority is needed to provide the investigative services.

3a. Options / Advantages:

3b. Cost savings:
Cost savings of $5,000

4a. Outcomes:
Sheriff's Office Drug Task Force deputies will participate in Federal OCDETF investigations.

4b. Measures:
Activity logs will be completed and monthly reports submitted.

5a. Other Departments/Agencies:

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

6. Funding Source:
$5,000 will be provided by U.S. Department of Justice Organized Crime Drug Enforcement Task Forces (OCDETF) State and Local Overtime Fund.

Monday, July 11, 2016
Memorandum

TO: Jack Louws, County Executive
FROM: Sheriff Bill Elfo
DATE: July 11, 2016
SUBJECT: Supplemental Budget ID #2171
Reimbursable OT – OCDETF DEA #RL-16-0018

The attached Supplemental Budget requests budget authority for overtime to participate in Federal Organized Crime Drug Enforcement Task Forces (OCDETF) investigations.

Background and Purpose
The Sheriff’s Office received approval from the U.S. Department of Justice Drug Enforcement Administration to participate in the investigation and prosecution of major drug trafficking organizations and will reimburse Whatcom County Sheriff’s Office overtime for deputies engaged in these Federal Organized Crime Drug Enforcement Task Forces (OCDETF) investigations.

Deputies assigned to assist in OCDETF investigations may perform a variety of functions, including: interviewing witnesses, conducting surveillance, performing undercover assignments, handling informant transportation and/or prisoner transportation, preparing and executing search and arrest warrants, serving subpoenas, assisting with trial preparation, and testifying at trials.

Funding Amount and Source
Funding of $5,000 will be provided by the U.S. Department of Justice Organized Crime Drug Enforcement Task Forces (OCDETF) State and Local Overtime (SLOT) Fund.

Please contact Undersheriff Jeff Parks at extension 6610 if you have any questions.

Thank you.
Supplemental Budget Request

Status: Pending

Sheriff

Operations

Supp'ID # 2171

Fund 1
Cost Center 1003516002

Originator: Dawn Pierce

Expenditure Type: One-Time
Year 2 2016
Add'l FTE □ Add'l Space □ Priority 1

Name of Request: Reimbursable OT - OCDETF DEA #RL-16-0018

Department Head Signature (Required on Hard Copy Submission)

Date 7/11/16

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<td>4342.1013</td>
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<tr>
<td>6110</td>
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<td>$113</td>
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Request Total: $0

1a. Description of request:
The Sheriff's Office received approval from the U.S. Department of Justice Drug Enforcement Administration to participate in the investigation and prosecution of major drug trafficking organizations. The Organized Crime Drug Enforcement Task Forces (OCDETF) State and Local Overtime (SLOT) Fund will pay for overtime of Whatcom County Sheriff's Office deputies engaged in Federal OCDETF investigations.

1b. Primary customers:
Citizens of Whatcom County.

2. Problem to be solved:
Additional budget authority is needed to provide the investigative services.

3a. Options / Advantages:

3b. Cost savings:
Cost savings of $5,000

4a. Outcomes:
Sheriff's Office Drug Task Force deputies will participate in Federal OCDETF investigations.

4b. Measures:
Activity logs will be completed and monthly reports submitted.

5a. Other Departments/Agencies:

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

6. Funding Source:
$5,000 will be provided by U.S. Department of Justice Organized Crime Drug Enforcement Task Forces (OCDETF) State and Local Overtime Fund.

Monday, July 11, 2016
Rpt: Rpt Suppl Regular
MEMORANDUM

To: Whatcom County Executive Jack Louws and
Whatcom County Council Members

From: Suzanne Mildner, Grant Coordinator

Subject: Supplemental Budget Request for E911 funding (Pass through Grant to
What-Comm)

Date: July 13, 2016

The County is in the process of entering into a subrecipient agreement with the City of
Bellingham to facilitate a pass-through grant from The Washington State Military
Department. The grant funding is for FY2015-17 Emergency 911 operational expenses
for What-Comm Communications.

The grant contract period is July 2016 through August 2017, for a total of $46,200. The
execution of the Subrecipient Agreement will be contingent upon your approval of this
budget authority. Accordingly, we are requesting approval for supplemental funding in
the amount of $46,200 to support 911 operations at What-Comm Communications.
1a. Description of request:
This is an annual state-funded pass-through grant from the Washington State Military Department to reimburse the What-Comm Communications Center for eligible E911 operating expenditures under WAC 118-66-050 (eligible professional development and operational expenses).

1b. Primary customers:
City of Bellingham, What-Comm Communications Center

2. Problem to be solved:
What-Comm is able to access this State Military Department funding by way of passing through the local county government (by Subrecipient Agreement)

3a. Options / Advantages:
This intergovernmental grant agreement is a vehicle for accessing this fund source. The acceptance of these grant funds ultimately reduces the cost to the community for 911 services.

3b. Cost savings:
N/A

4a. Outcomes:
911 services cost reductions for our community due to state subsidies

4b. Measures:
N/A

5a. Other Departments/Agencies:
City of Bellingham, What-Comm Communications

5b. Name the person in charge of implementation and what they are responsible for:
Greg Erickson, E911 Coordinator

6. Funding Source:
Washington State Military Department
### TITLE OF DOCUMENT:
Interlocal Agreement between the City of Lynden and the Whatcom County Flood Control Zone District for the City’s Pepin Creek Project and Design of Bank Stabilization Measures along Double Ditch Creek

### ATTACHMENTS:
Cover Memo

<table>
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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>
<td>( ) Yes</td>
<td>( ) NO</td>
<td>Requested Date:</td>
<td></td>
<td></td>
</tr>
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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.)

The proposed Interlocal Agreement provides for up to $210,000 of Flood Control Zone District funding to be provided to the City of Lynden as reimbursement of the cost of design of bank stabilization measures associated with the Coty’s Pepin Creek project.

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

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

THROUGH: Jon Hutchings, Public Works Director

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

RE: Interlocal Agreement with the City of Lynden for the City's Pepin Creek Project

DATE: July 27, 2016

Enclosed are two (2) originals of Interlocal Agreement between the Whatcom County Flood Control Zone District (FCZD) and the City of Lynden for your review and signature.

Requested Action
Public Works respectfully requests that the County Executive, and the County Council, acting as the Flood Control Zone District (FCZD) Board of Supervisors, enter into an interlocal agreement with the City of Lynden for the sum of $210,000 for reimbursement of bank stabilization design costs associated with their Pepin Creek project.

Background and Purpose
The City of Lynden has been developing a project to address flooding in north Lynden in the vicinity of Benson and Double Ditch Roads. Phase 1 of the project involves relocating the stream that currently flows in a ditch along Benson Road into a new stream corridor located between Double Ditch and Benson Roads. The Benson Road ditch currently flows east into Fishtrap Creek, but will be rerouted to the west to flow into Double Ditch, a tributary that enters Fishtrap Creek further downstream than the current ditch outlet. There are existing bank erosion and stability issues on Double Ditch Creek downstream of where the new creek, known as Pepin Creek, will outlet. The City of Lynden has requested financial assistance from the FCZD to support design of bank stabilization measures to address these areas.

Funding Amount and Source
This interlocal agreement is in the amount of $210,000, consistent with the budget allocation in the adopted 2016 FCZD budget.

Please contact Paula Harris at extension 6285 or Gary Stoyka at extension 6218, if you have any questions or concerns regarding the terms of this agreement.

Encl.
Whatcom County Contract No. 201607021

WHATCOM COUNTY CONTRACT INFORMATION SHEET

Originating Department: Public Works
Division/Program: (i.e. Dept. Division and Program) River and Flood
Contract or Grant Administrator: Paula Harris
Contractor's / Agency Name: City of Lynden

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

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

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

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

Is this the result of a RFP or Bid process? Yes ☒ No ☐ If yes, RFP and Bid number(s): ____________________________ Contract: ____________________________ Cost Center: 169114

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): $ 210,000

This Amendment Amount: $ ____________________________

Total Amended Amount: $ 210,000

Contracts that require Council Approval (incl. agenda bill & memo)
• Professional Services Agreement above $20,000.
• Bid is more than $50,000.
• Professional Service Contract Amendments that have an increase greater than $20,000 and other contracts with a cumulative increase greater than $50,000.

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

Summary of Scope: The proposed Interlocal Agreement provides funding to the City of Lynden for streambank stabilization design so that the rerouting of flows associated with the City's Pepin Creek project will not exacerbate existing bank stability problems in the downstream system.

Term of Contract: Expiration Date: Upon completion of project

1. Prepared by: Paula Harris Date: 7/27/16
2. Attorney signoff: Daniel L Gibson Date: 07/28/16
3. AS Finance reviewed: bbennett Date: 7/27/16
4. IT reviewed (if IT related):
5. Contractor signed:
6. Submitted to Exec.:
7. Council approved (if necessary):
8. Executive signed:
9. Original to Council:

Last edited 02/10/16
INTERLOCAL AGREEMENT BETWEEN THE CITY OF LYNDEN AND THE
WHATCOM COUNTY FLOOD CONTROL ZONE DISTRICT RELATING TO THE
CITY'S PEPIP CREEK PROJECT AND DESIGN OF BANK STABILIZATION
MEASURES ALONG DOUBLE DITCH CREEK

This Agreement is made and entered into by and between the City of Lynden, a
Washington municipal corporation (hereinafter referred to as the “City”) and the Whatcom
County Flood Control Zone District, a Washington quasi-municipal corporation (hereinafter
referred to as the “District”).

WHEREAS, the area of the City, the Lynden Urban Growth Area, and unincorporated
Whatcom County north of Main Street and west of Benson Road experience drainage issues
from flood waters originating in Canada and the north County that flow south in the Benson
Road ditch and Double Ditch ditches through Lynden to Fishtrap Creek; and

WHEREAS, these flood events cause life safety, economic and social impacts to the
City and north County residents; and

WHEREAS, the City has been working to develop a new Pepin Creek channel/corridor
located between Benson and Double Ditch Roads to safely convey these flood waters to Fishtrap
Creek (Pepin Creek project); and

WHEREAS, existing bank erosion and stability issues downstream of Main Street may
preclude adding the combined flow of both roadside ditch systems (Double Ditch and Benson
Roads) to this new Pepin Creek channel until these issues can be investigated; and

WHEREAS, the City and the District realize and understand the benefits of the proposed
Pepin Creek project to their respective entities; and

WHEREAS, the Flood Control Zone District Advisory Committee unanimously
supported inclusion of funding for bank stabilization design in the District’s budget, provided the
City works in good faith to supply any excess material generated from the Pepin Creek project to
the District for use in levee back-sloping, and provided the City acquired the lands needed to
implement Phase 1 of the Pepin Creek project (up to the airport property); and

WHEREAS, the City has acquired all but one parcel necessary to complete the Pepin
Creek, from multiple owners, and is currently negotiating with the final property owner for
acquisition of the last remaining parcel; and

WHEREAS, the City fully expects to finalize negotiations with this last property owner
and acquire said property by not later than September 15, 2016;

NOW, THEREFORE, it is agreed by the parties hereto as follows:
1. PURPOSE. The purpose of this Agreement is to set the terms whereby the District will provide the City funding for streambank design consulting services associated with the Pepin Creek project. No property will be acquired or disposed of pursuant to this Agreement.

2. PARTY RESPONSIBILITIES

A. CITY OF LYNDEN RESPONSIBILITIES
   1. The City shall retain a consultant qualified in streambank stabilization design and manage the consultant contract. The City will comply with all applicable laws, rules and regulations relating to procuring these services.
   2. The City shall provide the District copies of the deliverables produced by the consultant including design reports and preliminary and final construction plans.
   3. The City shall request reimbursement from the District for the consultant services at least annually and not more than quarterly throughout the design process. Copies of consultant invoices should be provided to document the expenses incurred by the City for which reimbursement is requested.
   4. When Phase 1 or subsequent phases of the Pepin Creek project are put out to bid, the City shall include provisions in the contract documents that identify one or more potential permitted waste site(s) to be provided by the District for any excess material generated by said project that is to be exported off-site.

B. FLOOD CONTROL ZONE DISTRICT RESPONSIBILITIES
   1. The District shall provide up to two-hundred and ten thousand dollars ($210,000) of financial support to the City for consultant services to design streambank stabilization measures associated with the Pepin Creek project.
   2. If the City indicates that it anticipates excess material will be generated during any phase of construction of the Pepin Creek project, the District will evaluate said material for its suitability for use in levee back-sloping, and if suitable, the District will obtain permits for the material to be used to back-slope the levee, providing a permitted waste site for the excess material.

3. PAYMENT
   The District will provide payment to the City to reimburse the cost of consultant design services provided for bank stabilization measures associated with the Pepin Creek project in an amount not to exceed $210,000 within thirty (30) days of receiving the City's reimbursement request.

4. TERM OF AGREEMENT
   The period of performance for this Agreement shall commence on the date of execution and shall expire and terminate upon the final construction phase of the Pepin Creek project.

5. AGREEMENT ALTERATIONS AND AMENDMENTS
   This Agreement may be amended by mutual agreement of all of the parties hereto. Such amendments shall not be binding unless they are in writing and signed by personnel authorized to bind each of the parties.
6. DISPUTES
   In the event that a dispute arises under this Agreement, a dispute board shall resolve the
dispute in the manner set forth in this section. The parties to this Agreement shall each appoint a
member to the dispute board. The dispute board shall evaluate the facts, contract terms and
applicable statutes and rules and make a determination of the dispute. The determination of the
dispute board shall be final and binding on the parties hereto. In the performance of this
Agreement, it is mutually understood and agreed upon by the parties hereto that this Agreement
shall be governed by the laws and regulations of the State of Washington and the federal
government, both as to interpretation and performance.

7. ASSIGNMENT
   The obligations to be performed by the parties under this Agreement are not assignable or
delegable by any party in whole or in part, without the prior written consent of both of the other
parties.

8. WAIVER
   A failure by any of the parties to exercise its rights under this Agreement shall not
preclude that party from subsequent exercise of such rights and shall not constitute a waiver of
any other rights under this Agreement unless stated to be such in a writing signed by an
authorized representative of the party and attached to the original Agreement.

9. TERMINATION
   This Agreement may be terminated without cause by any Party effective upon sixty (60)
days written notice, mailed postage pre-paid by certified mail, return receipt requested, to all
remaining Parties last known address for the purposes of giving notice under this section. If this
Agreement is so terminated, the Parties shall be liable only for performance rendered or costs
incurred in accordance with the terms of this Agreement prior to the effective date of
termination.

10. SEVERABILITY
    If any provision of this Agreement or any provision of any document incorporated by
reference shall be held invalid, such invalidity shall not affect the other provisions of this
Agreement which can be given effect without the invalid provision, if such remainder conforms
to the requirements of applicable law and the fundamental purpose of this Agreement, and to this
end the provisions of this Agreement are declared to be severable.

11. INTEGRATION OF AGREEMENT
    This Agreement contains all the terms and conditions agreed upon by the parties. No
other understanding, oral or otherwise, regarding the subject matter of this Agreement shall be
deemed to exist or to bind any of the parties hereto.

12. CONTRACT MANAGEMENT
    No new separate legal or administrative entity is created to administer the provisions of
this Agreement. No agent, employee, servant, or representative of any party shall be deemed to
be an employee, agent, servant, or representative or any other party for any purpose. Each party
will be solely responsible for its acts and for the acts of its agents, employees, and servants
during the term of this Agreement. The Contract Administrator for each of the parties shall be
responsible for and shall be the contact person for all communications regarding the performance of this Agreement.

The Contract Administrator for the City is:
Steve Banham, Director
City of Lynden Public Works Department
300 4th Street
Lynden, WA 98264
(360) 354-3446
banhams@lyndenwa.org

The Contract Administrator for the District is:
Paula Harris, River and Flood Manager
Whatcom County Public Works Department
322 N. Commercial Street, Suite 120
Bellingham, WA 98225
(360) 778-6285
pharris@co.whatcom.wa.us

13. COUNTERPARTS
This Agreement may be executed in multiple counterparts and each shall be deemed an original, but all of which together constitute a single instrument.

14. EFFECTIVE DATE
This Agreement shall be in full force and effect upon full execution by the Parties and filing with the Whatcom County Auditor or posting on each Party’s website, whichever method of filing is chosen.

IN WITNESS WHEREOF, the parties have executed this Agreement.

CITY OF LYNDEN

By: __________________________
Title: __________________________
Date: __________________________
Approved as to form:

______________________________
Attorney for the City of Lynden

WHATCOM COUNTY FLOOD
CONTROL ZONE DISTRICT

By: __________________________
Title: __________________________
Date: __________________________
Approved as to form:

______________________________
Chief Civil Deputy Prosecutor for
Whatcom County
### WHATCOM COUNTY COUNCIL AGENDA BILL

**CLEARANCES**

- Originator: K. Olson
- Division Head: K. Christensen/R. Ney
- Dept. Head: J. Hutchings
- Prosecutor: D. Gibson
- Purchasing/Budget: B. Bennett
- Executive: J. Louws

**Date Received in Council Office**

- 7/27/16
- 7/27/16
- 7/2-7/16
- 07/25/16
- 07/26/16
- 8/1/16

**Date**

- 8/9/16
- 8/9/16

**Agenda Date**

- 8/9/16
- FCZD Board of Supervisors

**Assigned to:**

- Finance

---

**TITLE OF DOCUMENT**

Design Services for Harborview Road Drainage Improvement Project

---

**ATTACHMENTS:**

1. Memo
2. Contract information sheet
3. Contract and related exhibits

---

**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.)

Anchor QEA, LLC will provide engineering design assistance for the Harborview Road Drainage Improvement project. This contract phase will provide conceptual design options based on topographic survey and other field work.

---

**COMMITTEE ACTION:**

---

**COUNCIL ACTION:**

---

**Related County Contract #:**

---

**Related File Numbers:**

---

**Ordinance or Resolution Number:**

---

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

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

FROM: Jon Hutchings, Public Works Director

THROUGH: Rob Ney, Special Programs Manager
Kirk Christensen, PE, Stormwater Supervisor

DATE: July 25, 2016

RE: Contract with Anchor QEA, LLC for Drainage Design Services for the Harborview Road Drainage Improvement Project

Please find attached for your review and approval two (2) originals of a contract for services between Anchor QEA, LLC and Whatcom County for design services on the Harborview Road Drainage Improvement Project.

- Background and Purpose

Drainage problems along Harborview Road were identified in the Birch Bay Central North and Central South Subwatershed Master Plans as an area of localized flooding due to undersized stormwater infrastructure.

Anchor QEA, LLC will provide design services for the Birch Bay Watershed and Aquatic Resources Management (BBWARM) District Harborview Road Drainage Improvement Project. Anchor QEA, LLC was chosen through a competitive selection process (direct letter invitations using RFQ 15-01).

- Funding Amount and Source

This contract in the amount of $105,440.00 will be funded by existing authority in the BBWARM District budget (cost center 169250, work order 18711).

Please contact Kraig Olason at extension 6301 if you have any questions regarding this agreement.

Enclosures
Attachments
### WHATCOM COUNTY CONTRACT INFORMATION SHEET

**Parent Agency:** Public Works  
**Division/Program:** BBWARM (Stormwater)  
**Contract or Grant Administrator:** Kraig Olason, Senior Planner  
**Contractor’s / Agency Name:** Anchor QEA, LLC

---

<table>
<thead>
<tr>
<th>Question</th>
<th>Answer</th>
</tr>
</thead>
<tbody>
<tr>
<td>Is this a New Contract?</td>
<td>No</td>
</tr>
<tr>
<td>If not, is this an Amendment or Renewal to an Existing Contract?</td>
<td>Yes</td>
</tr>
<tr>
<td>If Amendment or Renewal, (per WCC 3.08.100 (a)) Original Contract #:</td>
<td></td>
</tr>
<tr>
<td>Does contract require Council Approval?</td>
<td>Yes</td>
</tr>
<tr>
<td>If No, include WCC: (see Whatcom County Codes 3.06.010, 3.08.092 and 3.08.100)</td>
<td></td>
</tr>
<tr>
<td>Is this a grant agreement?</td>
<td>No</td>
</tr>
<tr>
<td>If yes, grantor agency contract number(s):</td>
<td>CFDA#</td>
</tr>
<tr>
<td>Is this contract grant funded?</td>
<td>No</td>
</tr>
<tr>
<td>If yes, Whatcom County grant contract number(s):</td>
<td></td>
</tr>
<tr>
<td>Is this contract the result of a RFP or Bid process?</td>
<td>Yes</td>
</tr>
<tr>
<td>If yes, RFP and Bid number(s):</td>
<td>RFQ 15-01</td>
</tr>
<tr>
<td>Contract Cost Center:</td>
<td>169250, WO 18711</td>
</tr>
<tr>
<td>Is this agreement excluded from E-Verify?</td>
<td>No</td>
</tr>
<tr>
<td>If no, include Attachment D Contractor Declaration form.</td>
<td>Yes</td>
</tr>
</tbody>
</table>

**Owners/To Whom:**

If YES, indicate exclusion(s) below:

- [X] 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):

- $105,440.00

**This Amendment Amount:**

- $0

**Total Amended Amount:**

- $105,440.00

**Summary of Scope:**

Anchor QEA, LLC will provide preliminary design assistance for a phased project on Harborview Road. The contract includes public meetings, full topographic survey and up to three design options for addressing flooding and improved stormwater conveyance along Harborview Road and a portion of Birch Bay Drive.

**Term of Contract:**

- **Expiration Date:** April 28, 2017

---

**Contract Routing:**

1. Prepared by:  
   - K. Olason  
   - Date: 7/25/16

2. Attorney signoff:  
   - Daniel L. Gibson  
   - Date: 07/26/16

3. AS Finance reviewed:  
   - Date: 07/26/16

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:

---

**V2.0**
CONTRACT FOR SERVICES
Harborview Road Drainage Improvement Project
Anchor QEA, LLC

Anchor QEA, LLC hereinafter called Contractor, and Whatcom County Flood Control Zone District, hereinafter referred to as County, agree and contract as set forth in this Agreement, including:
General Conditions, pp. 3 to 7,
Exhibit A (Scope of Work), pp. 8 to 14,
Exhibit B (Compensation), pp. 15 to 16,
Exhibit C (Certificate of Insurance), p 17,
Attachment A (Survey Scope of Work and Budget), pp 18 to 25.
Copies of these items are attached hereto and incorporated herein by this reference as if fully set forth herein.

The term of this Agreement shall commence on the 15th day August, 2016, and shall, unless terminated or renewed as elsewhere provided in the Agreement, terminate on the 28th day of April, 2017.

The general purpose or objective of this Agreement is to provide design assistance for drainage improvements on Harborview Road and a portion of Birch Bay Drive, as more fully and definitively described in Exhibit A hereto. The language of Exhibit A controls in case of any conflict between it and that provided here.

The maximum consideration for the initial term of this agreement or for any renewal term shall not exceed ***ONE HUNDRED FIVE THOUSAND, FOUR HUNDRED FORTY AND NO/100 DOLLARS*** $105,440.00***. The Contract Number, set forth above, shall be included on all billings or correspondence in connection therewith.

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

IN WITNESS WHEREOF, the parties have executed this Agreement this 27th day of July, 2016.

CONTRACTOR:

Anchor QEA, LLC

Tracy Drury, P.E

STATE OF WASHINGTON  )
COUNTY OF Whatcom  ) ss.

On this 27th day of July, 2016, before me personally appeared Tracy Drury to me known to be the Professional Engineer of Anchor QEA, and who executed the above instrument and who acknowledged to me the act of signing and sealing thereof.

AMY L. NICOL
Notary Public, State of Washington
My Commission Expires March 02, 2018

NOTARY PUBLIC in and for the State of Washington, residing at Bellingham. My commission expires 03/02/2018.
WHATCOM COUNTY:

Recommended for Approval:

[Signature] 7/01/14
Jon Hutchings, Public Works Director  Date

Approved as to form:

[Signature] 7/20/16
Daniel Gibson, Chief Civil Deputy Prosecutor  Date

Approved:
Accepted for Whatcom County Flood Control Zone District:

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

STATE OF WASHINGTON )
) ss
COUNTY OF WHATCOM )

On this ______ day of __________, 2016, 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:

Anchor OEA, LLC
Tracy Drury P.E.
1605 Cornwall Ave
Bellingham, WA 98225

Contact Name: Tracy Drury, P.E.
Phone: 360-715-2703
Email: tdrury@anchoroea.com
GENERAL CONDITIONS

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

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

Series 10-19: Provisions Related to Term and Termination

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

10.2 Extension: Not Applicable

11.1 Termination for Default: Not Applicable

11.2 Termination for Reduction in Funding: Not Applicable

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

Series 20-29: Provisions Related to Consideration and Payments

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

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

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

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

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

23.1 **Labor Standards:** Not Applicable

**Series 30-39: Provisions Related to Administration of Agreement**

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

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

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

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

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

31.1 **Ownership of Items Produced:**
All writings, programs, data, public records or other materials prepared by the Contractor and/or its consultants or subcontractors, in connection with performance of this Agreement, shall be the sole and absolute property of the County. Contractor shall not be liable for any modification or reuse of their project materials for purposes not included under the scope of this Agreement. Contractor may retain one copy of project materials in their files.

31.2 **Patent/Copyright Infringement:** Not Applicable

32.1 **Confidentiality:** Not Applicable

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

34.1 Proof of Insurance:
The Contractor shall carry for the duration of this Agreement insurance with the following minimums:
1) Commercial General Liability coverage --
   a) Property Damage - $500,000.00 per occurrence;
   b) General Liability & Bodily injury- $1,000,000.00 per occurrence.

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

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

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

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

The parties specifically agree that this agreement is for the benefit of the parties only and this agreement shall create no rights in any third party.

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

Furthermore, in those cases in which the Contractor is governed by such laws, the Contractor shall take affirmative action to insure that applicants are employed, and treated during employment, without regard to their race, color, creed, religion, national origin, sex, age, marital status, sexual orientation, disability, or veteran status, except where such constitutes a bona fide occupational qualification. Such action shall include, but not be limited to: advertising, hiring, promotions, layoffs or terminations, rate of pay or other forms of compensation benefits, selection for training including apprenticeship, and participation in recreational and educational activities. In all solicitations or advertisements for employees placed by them or on their behalf, the Contractor shall state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex or national origin.
The foregoing provisions shall also be binding upon any subcontractor, provided that the foregoing provision shall not apply to contracts or subcontractors for standard commercial supplies or raw materials, or to sole proprietorships with no employees.

35.2 Non-Discrimination in Client Services: Not Applicable

36.1 Waiver of Noncompetition: Not Applicable

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

37.1 Administration of Contract:
This Agreement shall be subject to all laws, rules, and regulations of the United States of America, the State of Washington, and political subdivisions of the State of Washington. The Contractor also agrees to comply with applicable federal, state, county or municipal standards for licensing, certification and operation of facilities and programs, and accreditation and licensing of individuals.

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

Kraig Olason, Stormwater Senior Planner – 322 N. Commercial St. Bellingham, WA 98225

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

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

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

38.3 E-Verify:
The E-Verify contractor program for Whatcom County applies to contracts of $100,000 or more and sub contracts for $25,000 or more if the primary contract is for $100,000 or more. Contractor represents and warrants that it will, for at least the duration of this contract, register and participate in the status verification system for all newly hired employees. The term “employee” as used herein means any person that is hired to perform work for Whatcom County. As used herein, “status verification system” means the Illegal Immigration Reform and Immigration Responsibility Act of 1996 that is operated by the United States Department of Homeland Security, also known as the E-Verify Program, or any other successor electronic verification system replacing the E-Verify Program. Contractor/Seller agrees to maintain records of such compliance and, upon request of the County, to provide a copy of each such verification to the County. Contractor/Seller further represents and warrants that any person assigned to perform services hereunder meets the employment eligibility requirements of all immigration laws of the State of Washington. Contractor/Seller understands and agrees that any breach of these warranties may subject Contractor/Seller to the following: (a) termination of this Agreement and ineligibility for any Whatcom County contract for up to three (3) years, with notice of such cancellation/termination being made public. In the event of such termination/cancellation, Contractor/Seller would also be liable for any additional costs incurred by the County due to contract cancellation or loss of license or permit.” Contractor will review and enroll in the E-Verify program through this website: www.uscis.gov

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

40.1 Modifications:
Either party may request changes in the Agreement. Any and all agreed modifications, to be valid and binding upon either party, shall be in writing and signed by both of the parties.
40.2 Contractor Commitments, Warranties and Representations: Not Applicable

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

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

42.1 Disputes:

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

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

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

d. Arbitration: Not Applicable

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

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

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

Whatcom County Public Works  
Birch Bay Central North and South Subwatersheds  
Harborview Road and Birch Bay Drive Storm Drainage Improvements  
CIP Projects CR-1, CR-2, and HL-1  
Phase 1 Scope of Work

<table>
<thead>
<tr>
<th>Phase, Tasks, and Subtasks</th>
<th>Scope of Work Description</th>
<th>Deliverables</th>
</tr>
</thead>
<tbody>
<tr>
<td>Phase 1 – Stormwater Improvements Conceptual Design Development, Feasibility Evaluation, and Recommendations</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>1. Kickoff Meeting, Project Information/Data Review, Survey and Base Map Development</strong></td>
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<tr>
<td>1.1. Kickoff Meeting and Documentation</td>
<td>Conduct a kickoff meeting with County staff and key project team staff to review the project requirements and communications, County expectations, scope of work, schedule, and budget. Prepare brief meeting notes to summarize the outcome.</td>
<td>Kickoff meeting notes</td>
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</table>
| 1.2. Review of Project Information/Data and Targeted Improvements; Site Reconnaissance | Review available County project and site data, and reference documents. This is expected to include the County’s project area GIS database, existing stormwater improvement design/as-built drawings, subwatershed area storm drainage plans and recommendations, available project area utilities data, available drainage plan hydrologic and hydraulic models, and other project-specific information as provided by the County. Prepare a brief memorandum to summarize information useful for design, data gaps, and additional data needs to support project design. It is assumed that the County staff will research and compile the requested supplemental data for consultant team project use. | Memorandum to summarize available information/data, data gaps, and additional data needs to be provided by the County  
E-mail to summarize site reconnaissance findings, improvement alternatives for evaluation, and potential LID BMP project applications |

Review the County’s applicable CIPs and targeted project improvements. Assess and document the design basis and expected function and benefits of improvements with County staff. Conduct a site reconnaissance review with County staff, Anchor QEA key staff (3 maximum), and LDES survey subconsultant to better understand site conditions, survey needs for base map preparation, site and ROW constraints, and stormwater facility improvement alternatives. Identify potential opportunities for integration of LID BMPs as part of the improvements design, consistent with Ecology NPDES Phase II M54 Permit requirements.
<table>
<thead>
<tr>
<th>Phase, Tasks, and Subtasks</th>
<th>Scope of Work Description</th>
<th>Deliverables</th>
</tr>
</thead>
</table>
| 1.3. Survey Needs Coordination, LDES Survey/Mapping, and Base Map Review | Coordinate with the County regarding specific survey needs for the three project component areas defined by CIPs CR-1 (Birch), CR-2 (Harborview South), and HL-1 (Harborview North). Anchor QEA will also coordinate directly with the survey subconsultant (LDES) to get those survey services and associated base mapping completed. Expected survey data collection by the survey consultant will generally include the following:  
  - Improvements corridor planimetric and topographic survey (1-foot contour interval)  
  - Site storm drainage features type, size, and location/elevation including CB inlets, storm drains, vaults, and outlets including hydraulic control features  
  - Roadside conveyance ditch geometries, elevations, profiles  
  - Overhead and subsurface utilities alignment based on County coordinated/funded utility locates (single iteration)  
  - Roads ROW from County-provided ROW drawings documentation  
  - Existing/proposed outfalls beach transects  
  - Adjacent property line limits depiction | • Survey item needs list by project area reach  
• Summary of comments on draft base map as provided by the County  
• LDES survey and mapping deliverables identified in the attached scope of work |

Refer to the attached LDES scope of work and proposal for specific survey and mapping scope of work items to be provided by LDES within each reach. Anchor QEA will review the draft base map provided by LDES for the full project area including Harborview Road South as integrated with updates to existing base mapping for Birch Bay Drive and Harborview Drive North. Comments will be provided for areas of noted survey data point or mapping inconsistencies, including any missing or supplemental survey data needed for project facilities design. The final base map will be prepared by LDES as the basis for Task 2 through 4 services that responds to those base map revision needs.
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<tr>
<th>Phase, Tasks, and Subtasks</th>
<th>Scope of Work Description</th>
<th>Deliverables</th>
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</table>
| 2. Stakeholder/Public Involvement Communications Plan and Meetings | 2.1. Key Stakeholders and Public Communications Plan and Meeting Presentations Identify key project stakeholder for County and project team interface. Develop a plan and schedule for stakeholder/public meetings. Prepare for, attend, and assist County staff with two stakeholder/public meetings. Assumes that County staff will arrange meetings and facilities and will prepare presentations with input from the consultant team.  
- Meeting 1 – Project introduction, drainage improvement design process, alternatives review and feedback  
- Meeting 2 – Illustration of recommended design solution and expected benefits | • Meeting presentations inputs based on available graphics from other tasks  
• E-mail meeting notes to summarize outcomes                                                                                                                                                                                                                                                                   |
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<th>Phase, Tasks, and Subtasks</th>
<th>Scope of Work Description</th>
<th>Deliverables</th>
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<tr>
<td><strong>4. Site Investigations, Assessments, and Technical Analyses Supporting Drainage Improvements Design</strong></td>
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<tr>
<td><strong>4.1. Hydrologic Analysis for Drainage Improvements</strong></td>
<td>Review County-provided hydrologic analysis memoranda, and associated hydrologic (HSPF) model files. This will include supporting drainage area delineations with characterized land cover and soils backup (from existing model GIS files provided by the County). Identify further hydrologic analysis needs and methods to support design of recommended improvements. Modification of subarea characterization data are not anticipated. Translate existing hydrologic model input files to MGSFlood (a simplified HSPF model derivative) to apply to runoff analysis consistent with the recommended drainage conveyance improvements. Maintain existing storage/flow control elements, and incorporate high flow bypass features if part of recommended improvements. Conduct updated hydrologic model simulations to generate design flows, volumes, and flow-duration estimates needed for sizing and capacity assessment of the improvement features. Summarize hydrologic modeling/analysis methods, assumptions, and results.</td>
<td>MGSFlood hydrologic model files, adjusted consistent with recommended improvements Technical memorandum (combined with Task 4.2) to summarize updated hydrologic modeling/analysis findings and recommendations</td>
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<tr>
<td><strong>4.2. Hydraulic Analysis for Improvements</strong></td>
<td>Review County-provided hydraulic analysis memoranda and associated SWMM hydraulic model files. This will include supporting drainage system link/node layout backup. Identify further hydraulic analysis needs and methods to support design of recommended improvements. Modification of drainage system modeling parameters are not anticipated aside from connectivity adjustments between the existing and proposed drainage systems. Update the existing hydraulic models, or alternatively, generate a new hydraulic backwater evaluation spreadsheet as needed to complete drainage system analysis consistent with the recommended drainage conveyance improvements (no modeling of alternatives will be provided). Run hydraulic model and/or spreadsheet simulations to confirm that recommended improvements provide adequate conveyance capacity and level-of-protection consistent with County stormwater requirements. Evaluate possible downstream hydraulic effects. Summarize hydraulic modeling/analysis methods, assumptions, and results.</td>
<td>PCSWMM and/or spreadsheet hydraulic model files, adjusted consistent with recommended improvements Technical memorandum (combined with Task 4.1) to summarize updated hydraulic modeling/analysis findings and recommendations</td>
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<td>Phase, Tasks, and Subtasks</td>
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<td>4.3. Improvements</td>
<td><strong>Minimum Requirements Determination</strong> Based on the County's Stormwater Manual as equivalent to Ecology's Stormwater Management Manual for Western Washington (2014 amended), evaluate Minimum Requirements (MRs) triggered by the recommended plan improvements for consistency with the County’s NPDES Phase III MS4 Permit development/redevelopment program. Summarize findings as input to the Phase 2 Stormwater Site Plan documentation.</td>
<td>• E-mail summary of project improvements applicable Minimum Requirements (assumes MR #1-5 apply) • Identify potential LID BMPs needs for recommended design concept integration</td>
</tr>
<tr>
<td>4.4. Geotechnical Assessment for Drainage Improvements</td>
<td>Review and assess existing available geotechnical data as provided by the County as input to the alternative and recommended improvements plan development. Provide geotechnical guidance for Task 3 alternatives evaluation. Summarize findings and additional Phase 2 geotechnical site investigation needs to support the recommended improvements plan design.</td>
<td>• Brief memorandum to summarize Phase 1 geotechnical guidance based on available data</td>
</tr>
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</table>

5. **Project Management, Communications/Collaboration, and QC Review**

| 5.1. Project Management, Communications, and Administration | Manage the scope, schedule, and budget with monthly coordination calls with the County's project manager. Project MIS setup including subconsultant agreements. Coordinate project activities within the project team. | • Monthly progress coordination calls • Monthly status letter accompanying invoices |
| 5.2. County Coordination Meetings | Hold up to two project design coordination meetings (2-hour duration assumed) with the County's project manager. Integrate feedback from meetings into the project improvements design process. | • Meeting e-mail summaries |
| 5.3. QC Review | Implement QC review of all project deliverables to maintain the accuracy and high quality of the design products. | • Final QC-reviewed deliverables from other tasks |
Key Scope of Work Assumptions and Limitations (Beyond Those Included in Tasks)

1. County staff will conduct all services connected with project area wetlands where interface with proposed improvements occurs. This may include the need for wetlands and jurisdictional ditch confirmation as an extension of prior critical areas reporting; wetland delineation, reporting, and gaining USACE regulatory concurrence determination; project impacts assessment (operational, temporary, indirect); and the potential needs for wetland mitigation including a wetland mitigation plan if potential project impacts exceed allowable thresholds.

2. County staff will conduct the project environmental permitting as design input to the consultant team. County staff will prepare permit application materials (the consultant team will assist with supporting JARPA graphics), and will provide permitting agencies coordination through permits issue. County staff will also provide input on expected environmental permit conditions and limitations affecting the project design features.

3. County staff will arrange for and fund project corridor existing utility locates. If certain utilities require potholing for further location definition, the County will arrange for or conduct that activity to provide the necessary utility locates information.

4. Unless otherwise noted, only a single version of each deliverable will be provided. Where a draft and final version is identified, consultant team revisions will be based on a single set of comments to be provided by County staff on the draft deliverable.

Preliminary Schedule - Target Completion Dates

Phase 1
Notice to Proceed – August 10, 2016
Task 1 – October 10, 2016
Task 2 – December 31, 2016
Task 3 – December 1, 2016
Task 4 – December 31, 2016
Task 5 – December 31, 2016
Acronyms

APWA = American Public Works Association
BMP = best management practice
CIP = Capital Improvements Plan
CZMA = Coastal Zone Management Act
DAHP = Department of Archaeology and Historic Preservation
DFW = Washington Department of Fish and Wildlife
DNR = Washington Department of Natural Resources
Ecology = Washington State Department of Ecology
ESA = Endangered Species Act
GIS = Geographic Information Systems
HSPP = Hydrological Simulation Program – Fortran
JARPA = Joint Aquatic Resources Permit Application
LID = low impact development
MS4 = Municipal Separate Storm Sewer System
NMFS = National Marine Fisheries Service
NPDES = National Pollutant Discharge Elimination System

OHW = ordinary high water
PCSWMM = Personal Computer Storm Water Management Model
PS&E = plans, specifications, and estimates
PSE = Pacific Survey and Engineering
QC = quality control
ROW = right of way
SEPA = State Environmental Policy Act
SOW = scope of work
SSP = Stormwater Site Plan
SWMM = Storm Water Management Model
SWPPP = Stormwater Pollution Prevention Plan
TBD = to be determined
TESC = temporary erosion and sediment control
USACE = U.S. Army Corps of Engineers
USFWS = U.S. Fish and Wildlife Service
WSDOT = Washington State Department of Transportation
## EXHIBIT "B"
### (COMPENSATION)

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**Total Hours**  
**Total Labor**

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**Average Labor Rate**

| Billing Rate | $10,640 | $4,405 | $21,774 | $24,514 | $6,856 | $0      | $0      | $0      | $0      | $0       | $472        | 68,233       |

**Subconsultants**

| Billing Rate | $32,500 | $0      | $0      | $0      | $0      | $0      | $0      | $0      | $0      | $0       | $32,500    | $32,500     |

**Internal Reimbursables (no markup)**

| Billing Rate | $714   | $0      | $0      | $0      | $0      | $0      | $0      | $0      | $0      | $0       | $714       | $714        |

**External Expenses (markup)**

| Billing Rate | $1,393  | $0      | $0      | $0      | $0      | $0      | $0      | $0      | $0      | $0       | $1,393     | $1,393      |

**Phase 1 Total Costs**

| Billing Rate | $46,514 | $5,004 | $21,104 | $24,559 | $7,230 | $0      | $0      | $0      | $0      | $0       | $105,440   | $105,440    |
Budget Narrative
Contract amounts shall not exceed the total budget referenced above. As consideration for services provided in Exhibit A, Scope of Work, the County agrees to compensate the contractor according to the hourly rates provided in the project budget (Exhibit B). Other reasonable expenses incurred in the course of performing the duties herein shall be reimbursed, including mileage at the current IRS rate. Lodging and per diem shall not exceed the GSA rate for the location where services are provided. Other expenditures such as printing, postage, and telephone charges shall be reimbursed at actual cost plus 10%. Expense reimbursement requests must be accompanied by copies of paid invoices. Any work performed prior to the effective date or continuing after the completion date of the contract, unless otherwise agreed upon in writing, will be at the contractor's expense.
**EXHIBIT "C"**

*(INSURANCE)*

**CERTIFICATE OF LIABILITY INSURANCE**

**DATE:** 7/26/2016

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

**PRODUCER**

Servco Pacific Insurance
1100 Dexter Ave. N.
Ste 220
Seattle WA 98109

**CONTACT**

Certificate Department
PHONE 206-216-4830
FAX 206-280-2903
EMAIL certificateservcopacific.com

**INSURED**

ANCHQEA-01
720 Olive Way
Suite 1900
Seattle WA 98101

**INSURER A** The Travelers Indemnity Co of Conn
INSURER B: Lloyd's of London
INSURER C:
INSURER D:
INSURER E:
INSURER F:

**CERTIFICATE NUMBER:** 1845515647

**REVISION NUMBER:**

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

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ATTACHMENT "A"
(SURVEY SCOPE OF WORK AND BUDGET)

Harborview Road Drainage Improvements

Survey Scope of Work

Project History/Description: Whatcom County Public Works Stormwater Division is developing a stormwater drainage improvement project along Harborview Road in Birch Bay. The project was identified in the Birch Bay Comprehensive Stormwater Plan and conceptual designs were developed in the Central North and Central South Subwatershed Master Plans.

Survey work will be done by Land Development Engineering Services (LDES) in compliance with the Survey Requirements listed below. Deliverables will include the items listed under Deliverables below and will include all three of the project areas listed under the Scope.

Whatcom County will provide title reports for all properties along Harborview Road that are outside of the Birch Bay Drive ROW Plan for LDES reference for determining right of way.

The required survey elements are described below:

Project Areas:

(The project areas described below are shown in attachments A (air-photos))

Expected survey and mapping needs are described for each project area and must incorporate the Survey Requirements as included in this document.

**Task 1.0 BIRCH**

1. Complete supplemental survey pickups (focused on the NE side of the ROW) for existing storm drainage, ditch alignment/elevations/section definition, culverts, other utilities from County-provided utility mapping and public/private utility locates (if potholing for certain utilities later, some minor pickups may be needed later), and other existing features within the ROW where storm drainage improvements are proposed (see red SD lines on CIP layouts)

2. Confirm existing outfalls survey data (type, size, elevations) including existing groin covers alignment, elevations

**Task 2.0 SOUTH**

1. Provide new survey data for this missing section (for CIP Nos 1 and 2), with control consistent with adjoining existing surveys (BIRCH and NORTH)

2. Survey point data with adequate density for topographic mapping (1 foot contour interval) including areas shown beyond the road ROWs, existing SD infrastructure, existing utilities from County-provided utilities mapping and public/private utility locates, stormwater detention vault/outlet controls in the apartment parking area north of BBD/HVR
intersection, ROW limits, other surface features, existing easements, and record adjacent property lines as delineated on County Assessor Map.

**Task 3.0 NORTH**

1. Similar in approach to the BIRCH requirements, but provide required updates to LDES prior survey and base map for the Harborview Rd (NORTH) corridor
2. Provide requested supplemental survey pickups and merge into the existing base map, with adjustments where needed
3. Confirm ROW limits tie with existing mapping (if not already done) – need to be confident in ROW limits.
4. Show record adjacent property lines as delineated on County Assessor Map – Should temporary or permanent easements be required, owner will identify areas where additional boundary data is required to assist County with easement legal descriptions
5. Provide additional topographic definition in the area of the proposed Cottonwood Creek high flow diversion (at roadside ditch interface)

**DELIVERABLES**

1. Submit a stamped 24"x36" paper topographic map, 1’ contour interval. (Horizontal scale shall be 1”=20’ and vertical scale shall be 1”=5’, unless instructed otherwise by owner).
   a. draft review copy
   b. final iteration
2. Submit a stamped 24"x26" paper control worksheet, showing all vertical and horizontal control, defined ROW centerline alignment, ROW widths and station and offsets to ROW angle points.
   a. draft review copy
   b. final iteration
3. Submit a Civil 3D drawing files depicting all information noted above (referenced to project control)
4. Submit scanned copies of all field notes and any pertinent pictures.
5. Submit a text file formatted in PNEZD, comma delimited of all surveyed points.

**Survey Requirements:**

All work and deliverables completed for this project must comply with the requirements listed below.

1. **HORIZONTAL SURVEY CONTROL**
   A. All project survey control are to be tied to at least two published control monuments or control specified by project manager (PSE primary survey control-attached).
   B. Horizontal datum determined by contracting agency.
C. Control to be consistent for all reaches, including any required field ties between surveys previously conducted by PSE and LDES. The reference bench mark elevations should be cross-check between prior surveys, with application of a data point adjustments as needed. Horizontal control should also be cross-checked for a tie between the prior surveys.

2. **VERTICAL SURVEY CONTROL**
   A. Vertical control shall be based upon at least two published NAVD 88 benchmarks or control specified by the project manager (PSE primary survey control-attached).
   B. All vertical control is to be verified by closed differential leveling.
   C. Set two temporary benchmarks, one at each end of project sites.

3. **TOPOGRAPHIC SURVEY**
   A. The county will contact the utility locating center for marking underground utilities upon request from the consulting surveyor.
   B. Conduct a full topographic survey (right-of-way to right of way & 5’ beyond/project limits) sufficient for the development of a Civil 3D surface model and topographic base map.
   C. Locate all marked and visible utilities.
   D. Survey cross sections every 25 feet.
   E. Measure the size and note the type of pipe in all manholes, catch basins, and culverts.
   F. Establish elevations for culvert inverts.
   G. Measure down from rims to inverts on all manholes and catch basins.
   H. Establish elevations on top of water valve control nut.
   I. Locate trees 8” dbh (within survey limits).
July 7, 2016

Jerry Bibe, PE
Anchor QEA
720 Olive Way
Seattle WA 98101

RE: Birch Bay Storm Drain Improvements Survey – Revised estimate

Dear Mr. Bibe,

Per email from Jesse Allen (Senior PLS with Whatcom County Public Works) requesting Title Review and delineation of Right-Of-Way of project and adjacent easements, we have revised our proposal for the above mentioned project as follows:

- Topographic survey, Right of way and adjacent easements basemapping and as-built of storm/ sewer structures within the project limits (see attached exhibit) for the following areas:
  - Birch Survey
    Total: $13,100.00
  - North Survey (Verification and supplement additional data)
    Total: $1,600.00
  - South Survey
    Total: $17,800.00

Grand Total: $32,500.00

NOTE:
This proposal excludes title report fees and underground utility locates (provided by owners).

If you have any questions or concerns, please contact our office at 360-383-0620.

Sincerely,

Kyle Haggith, Principal, P.L.S.
APPROXIMATE SURVEY EXTENT

BIRCH BAY DRIVE SURVEY
- WATER AND TELEPHONE LINES,
  AND MISC. PICK-UPS
Land Development
Engineering & Surveying, Inc.
5160 Industrial Place # 108, Ferndale WA 98248
(360) 383-0620 fax (360) 383-0639
Surveying • Engineering Construction Management • Planning

Whatcom County – Birch Bay, Harborview Storm Improvements 2016
RATE SCHEDULE
Effective 7/1/2016

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Overtime will be billed at 1 ½ times regular rate.

MISCELLANEOUS REIMBURSABLE EXPENSES

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Reimbursable Expenses Are Invoiced at Cost Plus 10%

Revised 7/7/2016 11:46:52 AM
\Server\share\Common\Contracts or Proposals\Rates\Rate Schedule 3-27-2013.doc
**TITLE OF DOCUMENT:**
Approval for Contract Award of the construction contract for the Lakeway Drive Crosswalk – Safety and Multimodal Improvements, CRP 915017, to Larry Brown Construction, Inc.

**ATTACHMENTS:**
1. Memo
2. Bid Tabulation
3. Project Narrative
4. Project Cost Breakdown
5. Approval for Contract Award

<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 Works respectfully requests that the County Council authorize the County Executive to sign the Approval for Contract Award of the construction contract for the Lakeway Drive Crosswalk – Safety and Multimodal Improvements, CRP 915017, to Larry Brown Construction, Inc.

**COMMITTEE ACTION:**

**COUNCIL ACTION:**

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

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

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

Through: Jon Hutchings, Director

From: Joseph P. Rutan, P.E., County Engineer/Assistant Director
James P. Karcher, P.E., Engineering Manager

Date: July 25, 2016

Re: Lakeway Drive Crosswalk – Safety and Multimodal Improvements
CRP No. 915017
Construction Contract for Award

Attached for your review and signature is the standard construction contract award package for the Lakeway Drive Crosswalk – Safety and Multimodal Improvements, CRP No. 915017. This package consists of the following: agenda bill, approval for contract award, tabulation of all bids, project cost breakdown, and project narrative.

Requested Action
Public Works respectfully requests that the County Council authorize the County Executive to award and enter into a contract with the low bidder, Larry Brown Construction, Inc. Upon receipt of the signed Approval for Contract Award form, Public Works will submit the construction contract to the County Executive for contract execution.

Background and Purpose
Bid proposals for the project were opened at 2:30 p.m. on Tuesday, July 19, 2016. A total of two (2) responsive bids were received, with Larry Brown Construction, Inc. being the lowest responsible bidder in the amount of $296,252.65. The project is listed as Item No. 23 on the 2016 Annual Construction Program.

Funding Amount and Source
The total project budget is $400,000 through local funds. Sufficient funds exist to cover this contract, for which there is budget authority.

Please contact Kevin Thompson at extension 6278 if you have any questions or concerns regarding this contract.

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

[Signature]
Sara Winger, Purchasing Coordinator

[Date]
7/29/16
# Bid Tabulation
## Lakeway Drive Crosswalk
### Safety and Multimodal Improvements
#### CRP No. 915017

<table>
<thead>
<tr>
<th>Item No.</th>
<th>Description</th>
<th>Quantity</th>
<th>Unit</th>
<th>Engineer's Estimate</th>
<th>Contractor's Price</th>
<th>Total Amount</th>
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<tbody>
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<td>$25,000.00</td>
<td>$25,000.00</td>
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<td>HR</td>
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<td>3</td>
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<td>Back of Sidewalk Drain</td>
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<td>Cement Conc. Sidewalk</td>
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<td>Cement Conc. Curb Ramp</td>
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<td>31</td>
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<td>32</td>
<td>Signal / Advance Warning System Complete</td>
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<td>36</td>
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<td>DOL</td>
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<td>$30,000.00</td>
<td>$30,000.00</td>
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</tbody>
</table>

Total: $283,257.50

On this day personally appeared before me, Joseph P. Rutan, P.E., known to me to be the County Engineer and the person described herein and who executed the within and foregoing instrument.

[Signature]

Joseph P. Rutan, P.E.

County Engineer

Date: 7/3/16

My commission expires: 6/29/18
Lakeway Drive Crosswalk  
CRP # 915017

Construction Funding Year(s):  
2016

Project Narrative:  
This project is located in Section 34, T38N, R3E. This project will construct a HAWK crosswalk signal with advanced warning beacons at the intersection of Lakeway Drive and Parkstone Lane. This project is listed #R31 on the 2016-2021 Six-Year Transportation Improvement Program.

Project Status:  

<table>
<thead>
<tr>
<th>Total Estimated Project Cost:</th>
<th>$400,000</th>
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<tbody>
<tr>
<td>Expenditures to Date:</td>
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<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>
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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>N/A</td>
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<tr>
<td>County Forces (Estimate)</td>
<td>N/A</td>
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</table>
# Project Cost Breakdown

**Lakeway Drive Crosswalk - Safety and Multimodal Improvements**  
**CRP No. 915017**  
**Bid No. 16-42**

<table>
<thead>
<tr>
<th>Project Phase</th>
<th>Whatcom County</th>
<th>Total</th>
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</thead>
<tbody>
<tr>
<td>Preliminary Engineering</td>
<td>$85,000</td>
<td>$85,000</td>
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<tr>
<td>Right of Way</td>
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<td>$0</td>
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<tr>
<td>Contract</td>
<td>$296,253</td>
<td>$296,253</td>
</tr>
<tr>
<td>Constr Engr, Insp, Testing and Contingency</td>
<td>$18,000</td>
<td>$18,000</td>
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<tr>
<td><strong>Total</strong></td>
<td><strong>$399,253</strong></td>
<td><strong>$399,253</strong></td>
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</tbody>
</table>
Lakeway Drive Crosswalk
Safety and Multimodal Improvements
CRP No. 915017

APPROVAL FOR CONTRACT AWARD

Approval is hereby granted to award the Contract as follows:

Project: Lakeway Drive Crosswalk
Safety and Multimodal Improvements
CRP No. 915017

To: Larry Brown Construction, Inc.

In the amount of their bid proposal $296,252.65 including all taxes.

Whatcom County Executive
Approving Authority

Daniel L. Gibson
Chief Civil Deputy Prosecutor

 Date
07/29/16
**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>K. Christensen</td>
<td>7/24/16</td>
<td>RECEIVED AUG 02 2016 WHATCOM COUNTY COUNCIL</td>
<td>8/9/16</td>
<td>Finance</td>
</tr>
<tr>
<td>Division Head:</td>
<td>R. Ney</td>
<td>7/21/16</td>
<td>8/9/16</td>
<td>Council</td>
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</tr>
<tr>
<td>Dept. Head:</td>
<td>J. Hutchings</td>
<td>7/22/16</td>
<td>Council</td>
<td></td>
<td></td>
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<tr>
<td>Prosecutor:</td>
<td>D. Gibson</td>
<td>7/29/16</td>
<td>Council</td>
<td></td>
<td></td>
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<tr>
<td>Purchasing/Budget:</td>
<td>B. Bennett</td>
<td>7/22/16</td>
<td>Council</td>
<td></td>
<td></td>
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<tr>
<td>Executive:</td>
<td>J. Loaves</td>
<td>8/1/16</td>
<td>Council</td>
<td></td>
<td></td>
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</tbody>
</table>

**TITLE OF DOCUMENT:**

Change Order #2 – Academy Road Stormwater Improvements

**ATTACHMENTS**

1. Memorandum to County Executive and County Council
2. Agenda Bill
3. Contract Information Sheet
4. Change Order #2

**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.)

This Change Order #2 provides for modification of the flow distribution system to optimize performance and simplify maintenance. This work involves reconfiguration of the primary distribution system, addition of a second pre-treatment unit, traffic control, and landscape restoration.

**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>

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

THROUGH: Jon Hutchings, Public Works Director

FROM: Rob Ney, Special Programs Manager
      Kirk N. Christensen, P.E., Stormwater Supervisor

DATE: July 12, 2016

RE: Academy Road Stormwater Improvements, Cost Center 364100, WC Contract No. 201505013, Change Order No. 2, Razz Construction, Inc.

Enclosed for your review and signature are two originals of Change Order No. 2 for the above-referenced construction contract between Razz Construction and Whatcom County.

Requested Action
Stormwater respectfully requests the County Council authorize the County Executive to amend the contract with the Contractor for the Academy Road Stormwater Improvements project.

Background and Purpose
This Change Order #2 provides for a modification of the flow distribution system to optimize performance and simplify maintenance. This work involves reconfiguration of the primary distribution system, addition of a second pre-treatment unit, traffic control, and landscape restoration.

Funding Amount and Source
The project-based budget for the Academy Road Stormwater Improvements is $1,109,000 and is funded by locals funds and state grants. This proposed change order increases the contract value by $50,641.00 to an amended total of $830,526.59. Sufficient funds remain in the project-based budget to complete this project.

Please contact Kirk at extension 6297 if you have any questions regarding this contract.

Enclosures
**WHATCOM COUNTY CONTRACT INFORMATION SHEET**

<table>
<thead>
<tr>
<th>Originating Department:</th>
<th>Public Works</th>
</tr>
</thead>
<tbody>
<tr>
<td>Program/Project: (i.e. Dept. Division and Project)</td>
<td>Academy Road Stormwater Improvements</td>
</tr>
<tr>
<td>Contract or Grant Administrator:</td>
<td>Kirk Christensen, Stormwater Manager</td>
</tr>
<tr>
<td>Contractor’s / Agency Name:</td>
<td>Razz Construction, Inc.</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 #: 201505031

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

- **Is this a grant agreement?** Yes ☒ No ☐
  - If yes, grantor agency contract number(s): ________________ CFDA#: ________________

- **Is this contract grant funded?** Yes ☒ No ☐
  - If yes, Whatcom County grant contract number(s): 201503020

- **Is this contract the result of a RFP or Bid process?** Yes ☒ No ☐
  - If yes, RFP and Bid number(s): 15-13
  - Contract Cost Center: 364100

- 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): $779,885.59***
- **This Amendment Amount:** $50,641.00***
- **Total Amended Amount:** $830,526.59***

- **Summary of Scope:**
  - This Change Order #2 provides for modification of the flow distribution system to optimize performance and simplify maintenance. This work involves reconfiguration of the primary distribution system, addition of a second pre-treatment unit, traffic control, and landscape restoration.

- **Term of Contract:** 1. Prepared by: R. McConnell Date: 7/12/16
  2. Attorney signoff: Daniel L. Gibson Date: 07/14/16
  3. AS Finance reviewed: bbennett Date: 07/20/16
  4. IT reviewed (if IT related): Date:
  5. Contractor signed: Date:
  6. Submitted to Exec.: Date:
  7. Council approved (if necessary): Date:
  8. Executive signed: Date:
  9. Original to Council: Date:

**Expiration Date:** Until completion

Last edited 10/01/15
## Description of Work

You are hereby ordered to incorporate the following changes upon receipt of an approved copy of this change order:

Change Order #2 provides for improvements including reconfiguration of the primary distribution system and the addition of a second pre-treatment unit. Quantities and amounts for Bid Items A3 (Erosion/Water Pollution Control), A54 (Repair Public and Private Facilities), A55 (Landscape Restoration), and B3 (Traffic Control Labor) are increased as referenced on page 2.

Ten (10) working days have been added to the contract time for this change order. Except as provided herein, all work, materials and measurements shall be in accordance with the provisions of the Contract Documents and per the current WSDOT Standard Specifications. Contract Plans, Special Provisions, the Standard Specifications & Standard Plans for the type of construction work involved.

### Original Contract vs. Current Contract

<table>
<thead>
<tr>
<th>Description</th>
<th>Original Amount</th>
<th>Current Amount</th>
<th>Estimated Net Change</th>
<th>Estimated Contract Total After Change</th>
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<td>$760,885.59</td>
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### Approval

- **R.W. Christy**, Project Manager, signed on **7/21/16**
- **Public Works Director**, signed on **7/22/16**

Approved to as to form:

**Daniel L. Gibbons**, Chief Civil Deputy Prosecutor, signed on **07/22/16**
<table>
<thead>
<tr>
<th>Bid Item No.</th>
<th>Description</th>
<th>Estimated Quantity</th>
<th>Unit</th>
<th>Unit Price</th>
<th>Estimated Cost Change</th>
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<td>A3</td>
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<td>F.A.</td>
<td>$3,000.00</td>
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<td>A54</td>
<td>Repair Public and Private Facilities</td>
<td>F.A.</td>
<td>F.A.</td>
<td>$38,000.00</td>
<td>$38,000.00</td>
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<tr>
<td>A55</td>
<td>Landscape Restoration</td>
<td>F.A.</td>
<td>F.A.</td>
<td>$2,000.00</td>
<td>$2,000.00</td>
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<tr>
<td></td>
<td>Sales Tax</td>
<td></td>
<td></td>
<td>8.70%</td>
<td>$3,741.00</td>
</tr>
<tr>
<td></td>
<td><strong>Additions to Schedule B:</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>B3</td>
<td>Traffic Control Labor</td>
<td>60</td>
<td>HOURS</td>
<td>$65.00</td>
<td>$3,900.00</td>
</tr>
</tbody>
</table>

**TOTAL =** $50,641.00
### WHATCOM COUNTY COUNCIL AGENDA BILL

*NO.* 2016-249

<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></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Dept. Head:</td>
<td>M.M.</td>
<td>7/20/2016</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Prosecutor:</td>
<td>J.G.</td>
<td>7/28/16</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Purchasing/Budget:</td>
<td>b.o.</td>
<td>7/29/16</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Executive:</td>
<td>x.</td>
<td>8.1.16</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

#### TITLE OF DOCUMENT:
Neset Farm Building Stabilization and Repair

#### ATTACHMENTS:
Neset Farm Building Stabilization and Repair Contract

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

Parks requests approval for the County Executive to award Bid Number 16-43 and enter into a contract with low bidder, South Fork Construction Company for construction services that will make necessary repairs to two structures at the Neset Farm located at South Fork Park. Specific repairs include building foundation repairs and roof replacement at the Neset House and Out Building, and foundation repair and a patial wall and roof framing, and roof replacement at the Machine Shed. in the amount of $183,365.00

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

TO: Jack Louws, County Executive
FROM: Michael McFarlane
DATE: July 27, 2016
RE: Contract for construction services for Nesset Farm Building Stabilization and repair

Enclosed are two (2) originals of a proposed contract for construction services for Nesset Farm located at Nesset Farm Building Stabilization and Repair between Whatcom County and South Fork Construction Company for your review and signature.

- **Background and Purpose**
Parks recommends approval of the attached contract for construction services for the proposed structural repairs at Nesset Farm. South Fork Construction Company was one of three bids received for the proposed project. South Fork Construction Company was the lowest bid, and meets all of the qualification requirements for award of the contract.

- **Funding Amount and Source**
This project is funded by a donation from the Nesset Foundation, Cost Center 347100, Budget Supplemental Request approved by County Council on July 23, 2013 (Ordinance No. 2013-256).

- **Differences from previous Contract**
This is a new contract.

Please contact Rod Lamb at extension 5858, 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>Parks &amp; Recreation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Division/Program:</td>
<td>Click here to enter text.</td>
</tr>
<tr>
<td>Contract or Grant Administrator:</td>
<td>Rod Lamb</td>
</tr>
<tr>
<td>Contractor's / Agency Name:</td>
<td>South Fork Construction Company</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 ☐

Yes ☒ No ☐ If Amendment or Renewal, (per WCC 3.08.100 (a)) Original Contract #: N/A

**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): N/A CFDA#: N/A

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

**Is this contract the result of a RFP or Bid process?**
Yes ☒ No ☐ If yes, RFP and Bid number(s): 16-43 Cost Center: 347100

**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):

$ 183,365.00

**This Amendment Amount:**

$ N/A

**Total Amended Amount:**

$ 183,365.00

**Summary of Scope:**
This project will make necessary building repairs to two structures at the Nesset Farm located at South Fork Park. Specific repairs include building foundation repairs and roof replacement at the Nesset House and Out Building, and foundation repair and a patio wall and roof framing, and roof replacement at the Machine Shed.

**Term of Contract:** 12 Months

**Expiration Date:** August 18, 2017

**Contract Routing:**
2. Attorney signoff: Daniel J. Graham  Date: 8/23/16
3. AS Finance reviewed:  Date: 7/29/16
4. IT reviewed (if IT related):

5. Contractor signed:

6. Submitted to Exec.:

7. Council approved (if necessary):

8. Executive signed:

9. Original to Council:

Last edited 02/10/16
Bid Proposal Documents

Bid #16-43

Nesset Farm Building Stabilization and Repair
Whatcom County  
Bid #16-43  
Nesset Farm Building Stabilization and Repair  
Bid Proposal  

Date July 14, 2016

To: Whatcom County Executive and Council

This certifies that the Undersigned has examined the area to be renovated / repaired and the conditions of work. The Undersigned has carefully read and thoroughly understands the contract documents entitled "Nesset Farm Building Stabilization and Repair" including the "Bid Procedures and Conditions", "Specifications and Conditions", and "Contract Forms" sections governing the work embraced in this project, and the method by which payment will be made for said work. The Undersigned hereby proposes to undertake and complete the work embraced in this project in accordance with said contract documents.

The undersigned acknowledges that payment will be based on the actual work performed, as measured or provided for in accordance with the said contract documents, and that no additional compensation will be allowed for any taxes not otherwise included.

Company Name: South Fork Construction Co.

<table>
<thead>
<tr>
<th>NO.</th>
<th>DESCRIPTION</th>
<th>QUANTITY</th>
<th>UNIT</th>
<th>RATE</th>
<th>EXTENSION</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Mobilization</td>
<td>1</td>
<td>LS</td>
<td>$10,000.00</td>
<td>$10,000.00</td>
</tr>
</tbody>
</table>
| 2   | Nesset House and Out Building  
Crawl space excavation, concrete footings, beam installation, porch deck renovation and cedar shake roof replacement | 1 | LS | $120,000.00 | $120,000.00 |
| 3   | Machine Shed  
Crawl space excavation, concrete footings, exterior wall stud repair and cedar shake roof replacement | 1 | LS | $39,000.00 | $39,000.00 |

Subtotal $169,000.00  
WA State Sales Tax (8.5%) $14,365.00  
Total Bid $183,365.00

One hundred eighty-three thousand three hundred and sixty-five dollars

Written Total Amount
Whatcom County
Bid #16-43
Nesset Farm Building Stabilization and Repair

Bid Proposal (continued)

Supplementary Information

The Undersigned Bidder hereby acknowledges that the information furnished under this section will be considered in conjunction with the "Bid" price above, in the evaluation of bids for contract award.

Categories and Rates of Labor

The Undersigned Bidder certifies that all work to be performed under this Contract, except that work which will be performed by a subcontractor when approved in advance by the County, will be performed by the following classifications of labor for the rates as shown. The Undersigned agrees to accept as payment for said work the schedule of labor classifications and rates as set forth below.

<table>
<thead>
<tr>
<th>Classification</th>
<th>Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Carpenter</td>
<td>$54.02</td>
</tr>
<tr>
<td>Carpenter - Scaffold Erector</td>
<td>54.02</td>
</tr>
<tr>
<td>General Laborer</td>
<td>43.95</td>
</tr>
<tr>
<td>Laborer - Concrete Dumper</td>
<td>44.76</td>
</tr>
<tr>
<td>Roofers</td>
<td>25.27</td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
</tbody>
</table>
Qualifications

List projects completed or under way on this date that are similar to the work to be performed under this contract. CONTRACTORS must document adequate experience with and knowledge of the proper treatment and restoration of historic structures and their materials. Familiarity and experience with the National Park Service Standards for Restoration and Guidelines for Restoring Historic Buildings is highly desired.

<table>
<thead>
<tr>
<th>Contract Amount</th>
<th>Type of Work</th>
<th>Name &amp; Phone of Firm &amp; Contact Person</th>
</tr>
</thead>
<tbody>
<tr>
<td>$73,805</td>
<td>Nessen Barn Restoration</td>
<td>Nessen Foundation</td>
</tr>
<tr>
<td></td>
<td>- Historic Restoration</td>
<td>Rand Jack (360)389.1661</td>
</tr>
<tr>
<td></td>
<td></td>
<td>or Whatcom Co. Parks Rod Lamb</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(360) 733-2900</td>
</tr>
<tr>
<td>$147,207</td>
<td>Point Whitehorn Trail</td>
<td>Whetcom Land Trust</td>
</tr>
<tr>
<td></td>
<td>and Boardwalk Construction</td>
<td>Eric Carollo</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(360) 650-9470</td>
</tr>
<tr>
<td>$1,995</td>
<td>Nessen Garage Repair</td>
<td>Whatcom Co. Parks</td>
</tr>
<tr>
<td></td>
<td>- Historic Restoration</td>
<td>Rod Lamb</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(360) 733-2900</td>
</tr>
<tr>
<td>$45,650</td>
<td>Hidden Cr. Bridge Repair</td>
<td>US Forest Service</td>
</tr>
<tr>
<td></td>
<td>Repair/Installation</td>
<td>Mt. Baker: Squawline Nat. Forest</td>
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<tr>
<td></td>
<td></td>
<td>Gary Paul (360)936-2329</td>
</tr>
<tr>
<td>$23,500</td>
<td>Grouse Cr. Trail Bridge Repair</td>
<td>US Forest Service</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Mt. Baker, Snoq. NF</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Janet Huda</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(425) 783-6052</td>
</tr>
</tbody>
</table>

(Attach Additional Sheets as Necessary)

Note: When Washington State Dept. of Historic Preservation maintained a list of historic preservation contractors, South Fork Construction Co. was on the list, based on projects including the Nessen barn and outbuilding restoration, historic suspension bridge restoration and familiarity with National Park Service Standards and Guidelines for Restoring Historic Buildings.
Whatcom County  
Bid #16-43  
Nesset Farm Building Stabilization and Repair

Bid Proposal (continued)

Non-Collusion and Affidavit

I, the Undersigned, an authorized representative of South Fork Construction Co., being first duly sworn on oath do hereby certify that said person(s) firm, association or corporation has (have) not, either directly or indirectly, entered into any AGREEMENT, participated in any collusion, or otherwise taken any action in restraint of free competitive bidding in connection with the project for which this proposal is submitted.

I further acknowledge that by signing the proposal signature page of the proposal, I am deemed to have signed and have agreed to the provisions of this non-collusion affidavit.

Signature

7/15/2016

Date

STATE OF WASHINGTON

COUNTY OF Whatcom

ss.

On this 15th day of July, 2016, before me personally appeared Rosse | Alan Pfeiffer— to me personally known to be the person described in and who executed the above instrument and who acknowledged to me the act of signing thereof.

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

3118 Racine St  
Bellingham, WA, 98225

My Commission Expires April 20, 2020
Subcontractor List

Prepared in Compliance with RCW 39.30.060, as amended.

To be submitted with the Bid Proposal, Nesson Farm Building Stabilization and Repair.

Failure to list subcontractors who are proposed to perform work of heating, ventilation and air conditioning, plumbing as described in Chapter 18.106 RCW, and electrical work as described in Chapter 19.28 RCW, will result in your bid being non-responsive and therefore void.

Subcontractor(s) that are proposed to perform work of heating, ventilation and air conditioning, plumbing as described in Chapter 18.106 RCW, and electrical work as described in Chapter 19.28 RCW must be listed below. The work to be performed is to be listed below the subcontractor(s) name.

If no subcontractor is listed below, the bidder acknowledges that it does not intend to use any subcontractor to perform those items of work.

<table>
<thead>
<tr>
<th>Subcontractor Name</th>
<th>Work to be Performed</th>
</tr>
</thead>
<tbody>
<tr>
<td>Twin Oaks Construction</td>
<td>Excavation/Concrete</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Subcontractor Name</th>
<th>Work to be Performed</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>Subcontractor Name</th>
<th>Work to be Performed</th>
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<tr>
<th>Subcontractor Name</th>
<th>Work to be Performed</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>Subcontractor Name</th>
<th>Work to be Performed</th>
</tr>
</thead>
</table>
Bid Proposal (continued)

Bidder Identification

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

Firm Name: South Fork Construction Co.
Address: 6190 Saxon Rd., Acme, WA 98220

Telephone Number: (360) 595-2512
CONTRACTOR's WA Registration Number: SOUTHFC 116 PB
CONTRACTOR's WA UBI Number: 600-448-912
CONTRACTOR's WA Employment Security Department Number: new number pending
CONTRACTOR's WA Excise Tax Registration Number: 600-448-912

The Firm submitting this proposal is a:

- [ ] Sole Proprietorship
- [ ] Partnership
- [ ] Corporation

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

Russell A. Pfeiffer, Hoyt
Lucinda A. Pfeiffer, Hoyt

owner
owner

Note: Signatories of this proposal must be identified above. Failure to identify the Signatories will be cause for considering the proposal irregular and for subsequent rejection of the bid.
Whatcom County
Bid #16-43
Nesset Farm Building Stabilization and Repair

Bid Proposal (continued)

Bid Proposal Signature and Addendum Acknowledgment

The undersigned hereby agrees to reimburse its labor not less than the prevailing rates of wages or less than the hourly minimum rate of wages set forth in Whatcom County Prevailing Wage Rates for this project.

A proposal guaranty in the amount of five percent (5%) of the total bid, based upon the approximate estimate of quantities at the above process and in the form as indicated below, is attached hereto:

( ) CASHIER’S CHECK ($______________ dollars)

( ) CERTIFIED CHECK ($______________ dollars) payable to Whatcom County

√ PROPOSAL BOND made payable to Whatcom County in the amount of 5% of the bid.

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

SIGNATURE OF AUTHORIZED OFFICIAL(S)

(Proposal Must Be Signed) ____________ (Seal)

Firm Name: ____________

STATE OF WASHINGTON
COUNTY OF Whatcom

On this 15th day of July, 2016, before me personally appeared ____________ to me personally known to be the person described in and who executed the above instrument and who acknowledged to me the act of signing thereof.

My Commission Expires April 20, 2020

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

NOTE: This proposal form is not transferable and any alteration of the firm's name entered hereon without prior permission from the Contract Administrator will be cause for considering the proposal irregular and for subsequent rejection of the bid.
Whatcom County
Bid #16-43
Nesset Farm Building Stabilization and Repair

Bid Proposal (continued)

BID BOND

KNOWN ALL MEN BY THESE PRESENTS, that we, South Fork Construction Co.

of 6190 Saxon Rd. Acme, WA, as principal, and the RLI Insurance Company

a corporation duly organized under the laws of the State of Illinois and having its principal place of business at 3101 Western Ave #300, Seattle, in the State of Washington, as Surety, are held and firmly bound unto the County of Whatcom, a Municipal Corporation and Charter County in the State of Washington, in the full and penal sum of (5) percent of the total amount of the bid proposal of said principal for the work hereinafter described, for the payment of which, well and truly to be made, we bind our heirs, executors, administrators and assigns, and successors and assigns, jointly and severally, firmly by these presents.

The condition of this bond is such that, whereas, the principal herein is herewith submitting his or its bid proposal for "Nesset Farm Building Stabilization and Repair" said bid proposal, by reference thereto, being made a part hereof.

NOW, therefore, if the said bid proposal submitted by the said PRINCIPAL be accepted, and the contract be awarded to said PRINCIPAL, and if said PRINCIPAL shall duly make and enter into and execute said contract and shall furnish the performance bond as required by the bidding and contracts documents within a period of twenty (20) days from and after said award, exclusive of the day of such award, then its obligation to pay the above-mentioned penal sum as liquidated damages shall be null and void, otherwise it shall remain and be in full force and effect.

SIGNED AND SEALED this 8th day of July 2016

South Fork Construction Co.

Principal
By (Seal)

RLI Insurance Company

Surety
By Attorney-In-Fact

The Attorney-In-Fact who executes this bond on behalf of the surety company, must attach a copy of his power-of-attorney as evidence of his authority.
POWER OF ATTORNEY

RLI Insurance Company

Bond No. LSM0629447

Know All Men by These Presents:

That the RLI Insurance Company, a corporation organized and existing under the laws of the State of Illinois, and authorized and licensed to do business in all states and the District of Columbia does hereby make, constitute and appoint: Jessica Nichol in the City of Everson, State of Washington, as Attorney In Fact, with full power and authority hereby conferred upon him/her to sign, execute, acknowledge and deliver for and on its behalf as Surety, in general, any and all bonds, undertakings, and recognizances in an amount not to exceed Ten Million and 00/100 Dollars ($10,000,000.00) for any single obligation, and specifically for the following described bond.

Principal: South Fork Construction Co.
Obligee: County of Whatcom
Bond Amount: 5% of Total Amount Bid

The RLI Insurance Company further certifies that the following is a true and exact copy of a Resolution adopted by the Board of Directors of RLI Insurance Company, and now in force to-wit:

"All bonds, policies, undertakings, Powers of Attorney or other obligations of the corporation shall be executed in the corporate name of the Company by the President, Secretary, any Assistant Secretary, Treasurer, or any Vice President, or by such other officers as the Board of Directors may authorize. The President, any Vice President, Secretary, any Assistant Secretary, or the Treasurer may appoint Attorneys in Fact or Agents who shall have authority to issue bonds, policies or undertakings in the name of the Company. The corporate seal is not necessary for the validity of any bonds, policies, undertakings, Powers of Attorney or other obligations of the corporation. The signature of any such officer and the corporate seal may be printed by facsimile."

IN WITNESS WHEREOF, the RLI Insurance Company has caused these presents to be executed by its Vice President with its corporate seal affixed this 8th day of July, 2016.

ATTEST:

Cherie L. Montgomery Assistant Secretary

Barton W. Davis Vice President

On this 8th day of July, 2016, before me, a Notary Public, personally appeared Barton W. Davis and Cherie L. Montgomery, who being by me duly sworn, acknowledged that they signed the above Power of Attorney as Vice President and Assistant Secretary, respectively, of the said RLI Insurance Company, and acknowledged said instrument to be the voluntary act and deed of said corporation.

Jacqueline M. Bockler Notary Public
Contract Documents

Bid #16-43

Nessel Farm Building Stabilization and Repair
Whatcom County
Bid #16-43
Nesset Farm Building Stabilization and Repair

CONTRACT FOR SERVICES AGREEMENT
Nesset Farm Building Stabilization and Repair

South Fork Construction Co., hereinafter called CONTRACTOR, and Whatcom County, hereinafter referred to as COUNTY, agree and contract as set forth in this AGREEMENT, including:

General Conditions, pp. 22 to 28,
Exhibit "A" (Scope of Work), pp. 37 to 41
Exhibit "B" (Compensation), pp. 40 to 41
Exhibit "C" (Insurance), p. 44
Exhibit "D" (Construction Drawings), p.45

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

The terms of this AGREEMENT shall commence ten days following the issuance of Notice to Proceed, and subject to authorized adjustments, and shall, unless terminated or renewed as elsewhere provided in the AGREEMENT, shall be substantially complete 120 days following of the Notice to Proceed.

The general purpose or objective of this AGREEMENT is for: Foundation repairs and roof replacement at the Nesset House and Out Building, and foundation repair, partial wall and roof framing, and roof replacement at the Machine Shed as more definitively described in Exhibit "A". Documents hereto. The language of Exhibit "A" Documents controls in case of any conflict between it and that provided here.

The Contract Number, set forth above, shall be included on all billings or correspondence in connection therewith.

The CONTRACTOR agrees to keep records of all financial matters pertaining to this AGREEMENT in accordance with generally accepted accounting principles. The financial records shall be made available to representatives of the COUNTY or the Washington State Auditor’s Office for audit, at such reasonable times and places as the COUNTY shall designate.

Whatcom County’s contract administrator for this AGREEMENT is the Parks & Recreation, Design & Development Supervisor. All work will be scheduled through the Parks & Recreation Design & Development Supervisor or his/her designee.

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

IN WITNESS WHEREOF, the parties have executed this AGREEMENT this 26th day of July, 2016.

CONTRACTOR: [Signature]

Name of CONTRACTOR

STATE OF WASHINGTON

COUNTY OF WHATCOM

On this 26th day of July, 2016, before me personally appeared [Signature] and who executed the above instrument and who acknowledged to me the act of signing and sealing thereto.

NOTARY PUBLIC in and for the State of Washington, residing at Maple Falls, WA 98266

[Signature]

My Commission expires 11/19/16
WHATCOM COUNTY:

Approved as to form:

Daniel L. Gibson 07/25/16
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:

South Fork Construction Company

6190 Saxon Road

Acme, WA 98220

Russell A Pfeiffer-Hoyt

360.595.2512

Email: saxoncreek@msn.com
Whatcom County
Bid #16-43
Nesset Farm Building Stabilization and Repair

GENERAL CONDITIONS

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

0.1 Scope of Services:

The CONTRACTOR agrees to provide to the COUNTY services and any materials as set forth in the project narrative identified as Exhibit "A" during the AGREEMENT period. No material, labor, or facilities will be furnished by the COUNTY, unless otherwise provided for in the AGREEMENT.

Series 10-19: Provisions Related to Term and Termination

10.1 Term:

Services provided by CONTRACTOR prior to or after the term of this contract shall be performed at the expense of CONTRACTOR and are not compensable under this contract unless both parties hereto agree to such provision in writing prior to the commencement or continuation of work. The term of this AGREEMENT may be extended by mutual AGREEMENT of the parties; provided, however, that the AGREEMENT is in writing and signed by both parties.

10.2 Extension:

The duration of this AGREEMENT may be extended by mutual written consent of the parties, for a period of up to 30 days at a time, and for a total of no longer than 120 days.

11.1 Termination for Default:

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

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

11.3 Termination for Public Convenience:

The COUNTY may terminate the AGREEMENT in whole or in part whenever the COUNTY determines, in its sole discretion that such termination is in the interests of the COUNTY. Whenever the AGREEMENT is terminated in accordance with this paragraph, the CONTRACTOR shall be entitled to payment for actual work performed at unit contract prices for completed items of work. An equitable adjustment in the contract price for partially completed items of work will be made, but such adjustment shall not include provision for loss of anticipated profit on deleted or uncompleted work. Termination of this AGREEMENT by the COUNTY at any time during the term, whether for default or convenience, shall not constitute breach of contract by the COUNTY.
Whatcom County
Bid #16-43
Neset Farm Building Stabilization and Repair

Series 20-29: Provisions Related to Consideration and Payments

20.1 Accounting and Payment for CONTRACTOR Services:

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

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

21.1 Taxes:

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

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

22.1 Withholding Payment:

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

23.1 Labor Standards:

The CONTRACTOR agrees to comply with state and federal requirements, as applicable, pertaining to payment of wages and working conditions, in accordance with RCW 39.12.040, the Prevailing Wage Act; the Americans with Disabilities Act of 1990; the Davis-Bacon Act; and the Contract Work Hours and Safety
Whatcom County
Bid #16-43
Nesset Farm Building Stabilization and Repair

Standards Act providing for weekly payment of prevailing wages, minimum overtime pay, and providing that no laborer or mechanic shall be required to work in surroundings or under conditions which are unsanitary, hazardous, or dangerous to health and safety as determined by regulations promulgated by the Federal Secretary of Labor and the State of Washington.

Series 30-39: Provisions Related to Administration of AGREEMENT

30.1 Independent CONTRACTOR:

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

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

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

30.2 Assignment and Subcontracting:

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

30.3 No Guarantee of Employment:

The performance of all or part of this contract by the CONTRACTOR shall not operate to vest any employment rights whatsoever and shall not be deemed to guarantee any employment of the CONTRACTOR or any employee of the CONTRACTOR or any subcontractor or any employee of any subcontractor by the COUNTY at the present time or in the future.

31.2 Patent/Copyright Infringement: Not Applicable

32.1 Confidentiality:

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

33.1 Right to Review:

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

34.1 Proof of Insurance:

The CONTRACTOR shall obtain and keep in force during the terms of the AGREEMENT, or as otherwise required, the following insurance with companies or through sources approved by the State Insurance Commissioner pursuant to Title 48 RCW.

Property Damage per occurrence - $500,000.00

General Liability & Property Damage for bodily injury per occurrence- $2,000,000.00

A Certificate of Insurance and Endorsements must be provided by the CONTRACTOR to the COUNTY that names Whatcom County and its employees, agents, officials, and volunteers as named additional insureds on the CONTRACTOR’s insurance policy on this project. The CONTRACTOR’s insurance shall be primary and shall waive all rights of subrogation. The COUNTY insurance shall be noncontributory. The CONTRACTOR must submit the Certificate of Insurance and Endorsements as described above to the COUNTY as an attachment to the contract as Exhibit C, or if agreed by the parties, proof of insurance must be provided prior to the commencement of any work on this project.

All contracts between the CONTRACTOR and their subcontractors for work to be performed in furtherance or implementation of this contract shall contain the insurance provisions found herein.

Failure of the CONTRACTOR to take out and/or maintain any required insurance shall not relieve The CONTRACTOR from any liability under the AGREEMENT, nor shall the insurance requirements be construed to conflict with or otherwise limit the obligations concerning indemnification. The COUNTY does not waive any insurance requirements by the CONTRACTOR even in the event the Insurance Certificates and Endorsements provided by the CONTRACTOR were insufficient or inadequate proof of coverage but not objected to by the COUNTY.

It is agreed by the parties that insurers shall have no right of recovery or subrogation against the COUNTY, including its employees and other agents and agencies. It is further agreed by the parties that insurance companies issuing the policy or policies required by this AGREEMENT shall have no recourse against the COUNTY (including its employees and other agents and agencies) for payment of any premiums or for assessments under any form of policy. It is further agreed by the parties that any and all deductibles in the above described insurance policies shall be assumed by and be at the sole risk of the CONTRACTOR.

34.2 Industrial Insurance Waiver:

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

34.3 Defense & Indemnity AGREEMENT:

To the fullest extent permitted by law, the CONTRACTOR agrees to indemnify, defend and hold the COUNTY and its departments, elected and appointed officials, employees, agents and volunteers, harmless from and against any and all claims, damages, losses and expenses, including but not limited to court costs, attorney’s fees and alternative dispute resolution costs, for any personal injury, for any bodily injury, sickness, disease or death and for any damage to or destruction of any property (including the loss of use resulting therefrom) which 1) are caused in whole or in part by any act or omission, negligent or otherwise, of the CONTRACTOR , its employees, agents or volunteers or CONTRACTOR’s subcontractors and their employees, agents or volunteers; or 2) are directly or indirectly arising out of, resulting from, or in connection with performance of this AGREEMENT; or 3) are based upon the CONTRACTOR’s or its subcontractors’ use of, presence upon or proximity to the property of the COUNTY. This indemnification
obligation of the CONTRACTOR shall not apply in the limited circumstance where the claim, damage, loss or expense is caused by the sole negligence of the COUNTY. This indemnification obligation of the CONTRACTOR shall not be limited in any way by the Washington State Industrial Insurance Act, RCW Title 51, or by application of any other workmen’s compensation act, disability benefit act or other employee benefit act, and the CONTRACTOR hereby expressly waives any immunity afforded by such acts. The foregoing indemnification obligations of the CONTRACTOR are a material inducement to COUNTY to enter into this AGREEMENT, are reflected in the CONTRACTOR’s compensation, and have been mutually negotiated by the parties.

The COUNTY reserves the right, but not the obligation, to participate in the defense of any claim, damages, losses or expenses and such participation shall not constitute a waiver of CONTRACTOR’s indemnity obligations under this AGREEMENT.

The CONTRACTOR agrees all CONTRACTOR’s indemnity obligations shall survive the completion, expiration or termination of this AGREEMENT.

In the event the CONTRACTOR enters into subcontracts to the extent allowed under this AGREEMENT, CONTRACTOR’s subcontractors shall indemnify the COUNTY on a basis equal to or exceeding Provider’s indemnity obligations to the COUNTY.

It is further provided that no liability shall attach to the COUNTY by reason of entering into this contract, except as expressly provided herein.

35.1 Non-Discrimination in Employment:

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

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

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

35.2 Non-Discrimination in Client Services: Not Applicable

36.1 Waiver of Noncompetition: Not Applicable

36.2 Conflict of Interest:

If at any time prior to commencement of, or during the term of this AGREEMENT, CONTRACTOR or any of its employees involved in the performance of this AGREEMENT shall have or develop an interest in the subject matter of this AGREEMENT that is potentially in conflict with the COUNTY’s interest, then CONTRACTOR shall immediately notify the COUNTY of the same. The notification of the COUNTY shall be made with sufficient specificity to enable the COUNTY to make an informed judgment as to whether or not the COUNTY’s interest may be compromised in any manner by the existence of the conflict, actual or potential. Thereafter, the COUNTY may require the CONTRACTOR to take reasonable steps to remove the conflict of interest. The COUNTY may also terminate this contract according to the provisions herein for termination.
Whatcom County
Bid #16-43
Nesset Farm Building Stabilization and Repair

37.1 Administration of Contract:
This AGREEMENT shall be subject to all laws, rules, and regulations of the United States of America, the
State of Washington, and political subdivisions of the State of Washington. The CONTRACTOR also agrees to
comply with applicable federal, state, County or municipal standards for licensing, certification and
operation of facilities and programs, and accreditation and licensing of individuals.

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

Rod Lamb, Design & Development Supervisor
Whatcom County Parks & Recreation
3373 Mount Baker Highway
Bellingham, WA 98226

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

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

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

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

CONTRACTOR agrees to provide a warranty for all workmanship, materials, and equipment for a period of
not less than one year. If a manufacturer warrants materials and/or equipment for a time greater than one
year, all warranties will remain in effect for the duration as specified by the manufacturer.

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

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

a. General:

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

b. Notice of Potential Claims:

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

c. Detailed Claim:

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

d. Arbitration:

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

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

43.1 Venue and Choice of Law:

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

44.1 Survival:
Whatcom County
Bid #16-43
Nesset Farm Building Stabilization and Repair

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

45.1 **Entire AGREEMENT:**

This written AGREEMENT, comprised of the writings signed or otherwise identified and attached hereto, represents the entire AGREEMENT between the parties and supersedes any prior oral statements, discussions or understandings between the parties.
Whatcom County
Bid #16-43
Nesset Farm Building Stabilization and Repair
Performance Bond and Payment Bond

KNOW ALL MEN BY THESE PRESENTS, that

as PRINCIPAL, and

a corporation duly authorized to do a general Surety business in the State of Washington, as Surety, are jointly and severally held and bound unto the COUNTY of Whatcom, OBLIGEE herein, in the sum of DOLLARS, the lawful money of the United States, for the payment of which we bind our heirs, administrators, executors, successors, and assigns, jointly and severally, firmly by these presents.

WHEREAS, the PRINCIPAL has executed and entered into a certain Contract, with the OBLIGEE, dated _______ in the Contract described, which Contract is hereto annexed.

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION IS SUCH THAT:

If the PRINCIPAL shall well and truly perform and fulfill all and every obligation of the covenants, conditions, stipulations, and AGREEMENTS in the Contract mentioned to be performed and fulfilled; and shall promptly make payment to all persons supplying him or his subcontractors with labor, equipment and materials in the prosecution of the work provided for in the Contract; and shall keep the OBLIGEE harmless and indemnified from and against all and every claim, demand, judgment, lien, cost and fee of every description incurred in suits or otherwise against the OBLIGEE, growing out of or incurred in, the prosecution of the work according to the terms of the Contract; and shall repay to the OBLIGEE all sums of money which the OBLIGEE may pay to other persons on account of work and labor done or materials furnished on or for the Contract whether furnished by the CONTRACTOR, any of his subcontractors pursuant to paragraph 11.01 and 11.02 of the Contract; and if the PRINCIPAL shall pay to the OBLIGEE all damages or forfeitures which may be sustained by reason of the nonperformance or malperformance of the part of the PRINCIPAL of any of the covenants, conditions, stipulations, and AGREEMENTS of this Contract, then this obligation shall be void; otherwise the same shall remain in full force and virtue.

It is, however, mutually understood between the parties hereto, that in no event shall SURETY by liable for a greater sum than the penalty of this bond.

IN THE WITNESS WHEREOF, this instrument is executed in _____ counterparts, each one of which shall be deemed an original.

This ______ day of ______________, 20____.

WITNESS AS TO PRINCIPAL

__________________________________________ (Seal)
Principal

By_____________________________________

Surety

By_____________________________________

Attorney-in-Fact

The Attorney-in-Fact (Resident Agent) who executes this bond in behalf of the Surety, must attach a copy of his power-of-attorney as evidence of his authority.
Whatcom County
Bid #16-43
Nesset Farm Building Stabilization and Repair

Whatcom County CONTRACTOR’s Declaration Form

I. CONTRACTOR INFORMATION

<table>
<thead>
<tr>
<th>CONTRACTOR Name:</th>
<th>South Fork Construction Co</th>
</tr>
</thead>
<tbody>
<tr>
<td>Phone:</td>
<td>(360)595-2512</td>
</tr>
<tr>
<td>Contact Person:</td>
<td>Russ Pfeiffer Hoyt</td>
</tr>
<tr>
<td>Fax:</td>
<td></td>
</tr>
<tr>
<td>Address:</td>
<td>6190 Saxon Rd., Acme, WA 98220</td>
</tr>
</tbody>
</table>

II. E-VERIFY ENROLLMENT (check one or more boxes)
CONTRACTORs with funded contracts of $100,000 or more must be enrolled in E-Verify system. Work related subcontract is $25,000 or higher.
www.uscis.gov/e-verify

☐ CONTRACTOR is enrolled in E-Verify; a copy of the signed E-Verify Memorandum of Understanding is attached.

☐ CONTRACTOR is exempt from this requirement because:
☐ Contract is a professional services AGREEMENT which includes, but is not limited to, services from lawyers, architects, engineers, labor relations consultants, mental health providers and computer specialists.
☐ Contract is less than $100,000.
☐ Contract is for commercial off the shelf items (COTS).
☐ Contract work is for less than 120 days.
☐ Contract work is all performed outside of the U.S.
☐ Work related subcontract is for less than $25,000.

I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct, and that I am authorized to bind this entity contractually.

[Signature]
Date 7/26/2016

[Name]
Owner

Bid #16-43
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THE E-VERIFY
MEMORANDUM OF UNDERSTANDING
FOR EMPLOYERS

ARTICLE I
PURPOSE AND AUTHORITY

The parties to this agreement are the Department of Homeland Security (DHS) and the Russell A and Lucinda A Pfeiffer-Hoyt (Employer). The purpose of this agreement is to set forth terms and conditions which the Employer will follow while participating in E-Verify.

E-Verify is a program that electronically confirms an employee's eligibility to work in the United States after completion of Form I-9, Employment Eligibility Verification (Form I-9). This Memorandum of Understanding (MOU) explains certain features of the E-Verify program and describes specific responsibilities of the Employer, the Social Security Administration (SSA), and DHS.


ARTICLE II
RESPONSIBILITIES

A. RESPONSIBILITIES OF THE EMPLOYER

1. The Employer agrees to display the following notices supplied by DHS in a prominent place that is clearly visible to prospective employees and all employees who are to be verified through the system:

   a. Notice of E-Verify Participation

   b. Notice of Right to Work

2. The Employer agrees to provide to the SSA and DHS the names, titles, addresses, and telephone numbers of the Employer representatives to be contacted about E-Verify. The Employer also agrees to keep such information current by providing updated information to SSA and DHS whenever the representatives' contact information changes.

3. The Employer agrees to grant E-Verify access only to current employees who need E-Verify access. Employers must promptly terminate an employee's E-Verify access if the employer is separated from the company or no longer needs access to E-Verify.
4. The Employer agrees to become familiar with and comply with the most recent version of the E-Verify User Manual.

5. The Employer agrees that any Employer Representative who will create E-Verify cases will complete the E-Verify Tutorial before that individual creates any cases.
   
   a. The Employer agrees that all Employer representatives will take the refresher tutorials when prompted by E-Verify in order to continue using E-Verify. Failure to complete a refresher tutorial will prevent the Employer Representative from continued use of E-Verify.

6. The Employer agrees to comply with current Form I-9 procedures, with two exceptions:
   
   a. If an employee presents a "List B" identity document, the Employer agrees to only accept "List B" documents that contain a photo. (List B documents identified in 8 C.F.R. § 274a.2(b)(1)(B) can be presented during the Form I-9 process to establish identity.) If an employee objects to the photo requirement for religious reasons, the Employer should contact E-Verify at 888-464-4218.
   
   b. If an employee presents a DHS Form I-551 (Permanent Resident Card), Form I-766 (Employment Authorization Document), or U.S. Passport or Passport Card to complete Form I-9, the Employer agrees to make a photocopy of the document and to retain the photocopy with the employee’s Form I-9. The Employer will use the photocopy to verify the photo and to assist DHS with its review of photo mismatches that employees contest. DHS may in the future designate other documents that activate the photo screening tool.

Note: Subject only to the exceptions noted previously in this paragraph, employees still retain the right to present any List A, or List B and List C, document(s) to complete the Form I-9.

7. The Employer agrees to record the case verification number on the employee’s Form I-9 or to print the screen containing the case verification number and attach it to the employee's Form I-9.

8. The Employer agrees that, although it participates in E-Verify, the Employer has a responsibility to complete, retain, and make available for inspection Forms I-9 that relate to its employees, or from other requirements of applicable regulations or laws, including the obligation to comply with the antidiscrimination requirements of section 274B of the INA with respect to Form I-9 procedures.
   
   a. The following modified requirements are the only exceptions to an Employer’s obligation to not employ unauthorized workers and comply with the anti-discrimination provision of the INA: (1) List B identity documents must have photos, as described in paragraph 6 above; (2) When an Employer confirms the identity and employment eligibility of newly hired employee using E-Verify procedures, the Employer establishes a rebuttable presumption that it has not violated section 274A(a)(1)(A) of the Immigration and Nationality Act (INA) with respect to the hiring of that employee; (3) If the Employer receives a final nonconfirmation for an employee, but continues to employ that person, the Employer must notify DHS and the Employer is subject to a civil money penalty between $550 and $1,100 for each failure to notify DHS of continued employment following a final nonconfirmation; (4) If the Employer continues to employ an employee after receiving a final nonconfirmation, then the Employer is subject to a rebuttable presumption that it has knowingly
employed an unauthorized alien in violation of section 274A(a)(1)(A); and (5) no E-Verify participant is civilly or criminally liable under any law for any action taken in good faith based on information provided through the E-Verify.

b. DHS reserves the right to conduct Form I-9 compliance inspections, as well as any other enforcement or compliance activity authorized by law, including site visits, to ensure proper use of E-Verify.

9. The Employer is strictly prohibited from creating an E-Verify case before the employee has been hired, meaning that a firm offer of employment was extended and accepted and Form I-9 was completed. The Employer agrees to create an E-Verify case for new employees within three Employer business days after each employee has been hired (after both Sections 1 and 2 of Form I-9 have been completed), and to complete as many steps of the E-Verify process as are necessary according to the E-Verify User Manual. If E-Verify is temporarily unavailable, the three-day time period will be extended until it is again operational in order to accommodate the Employer's attempting, in good faith, to make inquiries during the period of unavailability.

10. The Employer agrees not to use E-Verify for pre-employment screening of job applicants, in support of any unlawful employment practice, or for any other use that this MOU or the E-Verify User Manual does not authorize.

11. The Employer must use E-Verify for all new employees. The Employer will not verify selectively and will not verify employees hired before the effective date of this MOU. Employers who are Federal contractors may qualify for exceptions to this requirement as described in Article II.B of this MOU.

12. The Employer agrees to follow appropriate procedures (see Article III below) regarding tentative nonconfirmations. The Employer must promptly notify employees in private of the finding and provide them with the notice and letter containing information specific to the employee's E-Verify case. The Employer agrees to provide both the English and the translated notice and letter for employees with limited English proficiency to employees. The Employer agrees to provide written referral instructions to employees and instruct affected employees to bring the English copy of the letter to the SSA. The Employer must allow employees to contest the finding, and not take adverse action against employees if they choose to contest the finding, while their case is still pending. Further, when employees contest a tentative nonconfirmation based upon a photo mismatch, the Employer must take additional steps (see Article III.B. below) to contact DHS with information necessary to resolve the challenge.

13. The Employer agrees not to take any adverse action against an employee based upon the employee's perceived employment eligibility status while SSA or DHS is processing the verification request unless the Employer obtains knowledge (as defined in 8 C.F.R. § 274a.1(l)) that the employee is not work authorized. The Employer understands that an initial inability of the SSA or DHS automated verification system to verify work authorization, a tentative nonconfirmation, a case in continuance (indicating the need for additional time for the government to resolve a case), or the finding of a photo mismatch, does not establish, and should not be interpreted as, evidence that the employee is not work authorized. In any of such cases, the employee must be provided a full and fair opportunity to contest the finding, and if he or she does so, the employee may not be terminated or suffer any adverse employment consequences based upon the employee's perceived employment eligibility status.
(including denying, reducing, or extending work hours, delaying or preventing training, requiring an employee to work in poorer conditions, withholding pay, refusing to assign the employee to a Federal contract or other assignment, or otherwise assuming that he or she is unauthorized to work) until and unless secondary verification by SSA or DHS has been completed and a final nonconfirmation has been issued. If the employee does not choose to contest a tentative nonconfirmation or a photo mismatch or if a secondary verification is completed and a final nonconfirmation is issued, then the Employer can find the employee is not work authorized and terminate the employee's employment. Employers or employees with questions about a final nonconfirmation may call E-Verify at 1-888-464-4218 (customer service) or 1-888-897-7781 (worker hotline).

14. The Employer agrees to comply with Title VII of the Civil Rights Act of 1964 and section 274B of the INA as applicable by not discriminating unlawfully against any individual in hiring, firing, employment eligibility verification, or recruitment or referral practices because of his or her national origin or citizenship status, or by committing discriminatory documentary practices. The Employer understands that such illegal practices can include selective verification or use of E-Verify except as provided in part D below, or discharging or refusing to hire employees because they appear or sound "foreign" or have received tentative nonconfirmations. The Employer further understands that any violation of the immigration-related unfair employment practices provisions in section 274B of the INA could subject the Employer to civil penalties, back pay awards, and other sanctions, and violations of Title VII could subject the Employer to back pay awards, compensatory and punitive damages. Violations of either section 274B of the INA or Title VII may also lead to the termination of its participation in E-Verify. If the Employer has any questions relating to the anti-discrimination provision, it should contact OSC at 1-800-255-8155 or 1-800-237-2515 (TDD).

15. The Employer agrees that it will use the information it receives from E-Verify only to confirm the employment eligibility of employees as authorized by this MOU. The Employer agrees that it will safeguard this information, and means of access to it (such as PINS and passwords), to ensure that it is not used for any other purpose and as necessary to protect its confidentiality, including ensuring that it is not disseminated to any person other than employees of the Employer who are authorized to perform the Employer's responsibilities under this MOU, except for such dissemination as may be authorized in advance by SSA or DHS for legitimate purposes.

16. The Employer agrees to notify DHS immediately in the event of a breach of personal information. Breaches are defined as loss of control or unauthorized access to E-Verify personal data. All suspected or confirmed breaches should be reported by calling 1-888-464-4218 or via email at E-Verify@dhs.gov. Please use "Privacy Incident – Password" in the subject line of your email when sending a breach report to E-Verify.

17. The Employer acknowledges that the information it receives from SSA is governed by the Privacy Act (5 U.S.C. § 552a(i)(1) and (3)) and the Social Security Act (42 U.S.C. 1306(a)). Any person who obtains this information under false pretenses or uses it for any purpose other than as provided for in this MOU may be subject to criminal penalties.

18. The Employer agrees to cooperate with DHS and SSA in their compliance monitoring and evaluation of E-Verify, which includes permitting DHS, SSA, their contractors and other agents, upon
reasonable notice, to review Forms I-9 and other employment records and to interview it and its employees regarding the Employer’s use of E-Verify, and to respond in a prompt and accurate manner to DHS requests for information relating to their participation in E-Verify.

19. The Employer shall not make any false or unauthorized claims or references about its participation in E-Verify on its website, in advertising materials, or other media. The Employer shall not describe its services as federally-approved, federally-certified, or federally-recognized, or use language with a similar intent on its website or other materials provided to the public. Entering into this MOU does not mean that E-Verify endorses or authorizes your E-Verify services and any claim to that effect is false.

20. The Employer shall not state in its website or other public documents that any language used therein has been provided or approved by DHS, USCIS or the Verification Division, without first obtaining the prior written consent of DHS.

21. The Employer agrees that E-Verify trademarks and logos may be used only under license by DHS/USCIS (see M-795 (Web)) and, other than pursuant to the specific terms of such license, may not be used in any manner that might imply that the Employer’s services, products, websites, or publications are sponsored by, endorsed by, licensed by, or affiliated with DHS, USCIS, or E-Verify.

22. The Employer understands that if it uses E-Verify procedures for any purpose other than as authorized by this MOU, the Employer may be subject to appropriate legal action and termination of its participation in E-Verify according to this MOU.

B. RESPONSIBILITIES OF FEDERAL CONTRACTORS

1. If the Employer is a Federal contractor with the FAR E-Verify clause subject to the employment verification terms in Subpart 22.18 of the FAR, it will become familiar with and comply with the most current version of the E-Verify User Manual for Federal Contractors as well as the E-Verify Supplemental Guide for Federal Contractors.

2. In addition to the responsibilities of every employer outlined in this MOU, the Employer understands that if it is a Federal contractor subject to the employment verification terms in Subpart 22.18 of the FAR it must verify the employment eligibility of any “employee assigned to the contract” (as defined in FAR 22.1801). Once an employee has been verified through E-Verify by the Employer, the Employer may not create a second case for the employee through E-Verify.

a. An Employer that is not enrolled in E-Verify as a Federal contractor at the time of a contract award must enroll as a Federal contractor in the E-Verify program within 30 calendar days of contract award and, within 90 days of enrollment, begin to verify employment eligibility of new hires using E-Verify. The Employer must verify those employees who are working in the United States, whether or not they are assigned to the contract. Once the Employer begins verifying new hires, such verification of new hires must be initiated within three business days after the hire date. Once enrolled in E-Verify as a Federal contractor, the Employer must begin verification of employees assigned to the contract within 90 calendar days after the date of enrollment or within 30 days of an employee’s assignment to the contract, whichever date is later.
b. Employers enrolled in E-Verify as a Federal contractor for 90 days or more at the time of a contract award must use E-Verify to begin verification of employment eligibility for new hires of the Employer who are working in the United States, whether or not assigned to the contract, within three business days after the date of hire. If the Employer is enrolled in E-Verify as a Federal contractor for 90 calendar days or less at the time of contract award, the Employer must, within 90 days of enrollment, begin to use E-Verify to initiate verification of new hires of the contractor who are working in the United States, whether or not assigned to the contract. Such verification of new hires must be initiated within three business days after the date of hire. An Employer enrolled as a Federal contractor in E-Verify must begin verification of each employee assigned to the contract within 90 calendar days after date of contract award or within 30 days after assignment to the contract, whichever is later.

c. Federal contractors that are institutions of higher education (as defined at 20 U.S.C. 1001(a)), state or local governments, governments of Federally recognized Indian tribes, or sureties performing under a takeover agreement entered into with a Federal agency under a performance bond may choose to only verify new and existing employees assigned to the Federal contract. Such Federal contractors may, however, elect to verify all new hires, and/or all existing employees hired after November 6, 1986. Employers in this category must begin verification of employees assigned to the contract within 90 calendar days after the date of enrollment or within 30 days of an employee’s assignment to the contract, whichever date is later.

d. Upon enrollment, Employers who are Federal contractors may elect to verify employment eligibility of all existing employees working in the United States who were hired after November 6, 1986, instead of verifying only those employees assigned to a covered Federal contract. After enrollment, Employers must elect to verify existing staff following DHS procedures and begin E-Verify verification of all existing employees within 180 days after the election.

e. The Employer may use a previously completed Form I-9 as the basis for creating an E-Verify case for an employee assigned to a contract as long as:

   i. That Form I-9 is complete (including the SSN) and complies with Article II.A.6,

   ii. The employee’s work authorization has not expired, and

   iii. The Employer has reviewed the Form I-9 information either in person or in communications with the employee to ensure that the employee’s Section 1, Form I-9 attestation has not changed (including, but not limited to, a lawful permanent resident alien having become a naturalized U.S. citizen).

f. The Employer shall complete a new Form I-9 consistent with Article II.A.6 or update the previous Form I-9 to provide the necessary information if:

   i. The Employer cannot determine that Form I-9 complies with Article II.A.6,

   ii. The employee’s basis for work authorization as attested in Section 1 has expired or changed, or

   iii. The Form I-9 contains no SSN or is otherwise incomplete.

Note: If Section 1 of Form I-9 is otherwise valid and up-to-date and the form otherwise complies with
Article II.C.5, but reflects documentation (such as a U.S. passport or Form I-551) that expired after completing Form I-9, the Employer shall not require the production of additional documentation, or use the photo screening tool described in Article II.A.5, subject to any additional or superseding instructions that may be provided on this subject in the E-Verify User Manual.

g. The Employer agrees not to require a second verification using E-Verify of any assigned employee who has previously been verified as a newly hired employee under this MOU or to authorize verification of any existing employee by any Employer that is not a Federal contractor based on this Article.

3. The Employer understands that if it is a Federal contractor, its compliance with this MOU is a performance requirement under the terms of the Federal contract or subcontract, and the Employer consents to the release of information relating to compliance with its verification responsibilities under this MOU to contracting officers or other officials authorized to review the Employer's compliance with Federal contracting requirements.

C. RESPONSIBILITIES OF SSA

1. SSA agrees to allow DHS to compare data provided by the Employer against SSA’s database. SSA sends DHS confirmation that the data sent either matches or does not match the information in SSA’s database.

2. SSA agrees to safeguard the information the Employer provides through E-Verify procedures. SSA also agrees to limit access to such information, as is appropriate by law, to individuals responsible for the verification of Social Security numbers or responsible for evaluation of E-Verify or such other persons or entities who may be authorized by SSA as governed by the Privacy Act (5 U.S.C. § 552a), the Social Security Act (42 U.S.C. 1306(a)), and SSA regulations (20 CFR Part 401).

3. SSA agrees to provide case results from its database within three Federal Government work days of the initial inquiry. E-Verify provides the information to the Employer.

4. SSA agrees to update SSA records as necessary if the employee who contests the SSA tentative nonconfirmation visits an SSA field office and provides the required evidence. If the employee visits an SSA field office within the eight Federal Government work days from the date of referral to SSA, SSA agrees to update SSA records, if appropriate, within the eight-day period unless SSA determines that more than eight days may be necessary. In such cases, SSA will provide additional instructions to the employee. If the employee does not visit SSA in the time allowed, E-Verify may provide a final nonconfirmation to the employer.

Note: If an Employer experiences technical problems, or has a policy question, the employer should contact E-Verify at 1-888-464-4218.

D. RESPONSIBILITIES OF DHS

1. DHS agrees to provide the Employer with selected data from DHS databases to enable the Employer to conduct, to the extent authorized by this MOU:

   a. Automated verification checks on alien employees by electronic means, and
b. Photo verification checks (when available) on employees.

2. DHS agrees to assist the Employer with operational problems associated with the Employer’s participation in E-Verify. DHS agrees to provide the Employer names, titles, addresses, and telephone numbers of DHS representatives to be contacted during the E-Verify process.

3. DHS agrees to provide to the Employer with access to E-Verify training materials as well as an E-Verify User Manual that contain instructions on E-Verify policies, procedures, and requirements for both SSA and DHS, including restrictions on the use of E-Verify.

4. DHS agrees to train Employers on all important changes made to E-Verify through the use of mandatory refresher tutorials and updates to the E-Verify User Manual. Even without changes to E-Verify, DHS reserves the right to require employers to take mandatory refresher tutorials.

5. DHS agrees to provide to the Employer a notice, which indicates the Employer's participation in E-Verify. DHS also agrees to provide to the Employer anti-discrimination notices issued by the Office of Special Counsel for Immigration-Related Unfair Employment Practices (OSC), Civil Rights Division, U.S. Department of Justice.

6. DHS agrees to issue each of the Employer’s E-Verify users a unique user identification number and password that permits them to log in to E-Verify.

7. DHS agrees to safeguard the information the Employer provides, and to limit access to such information to individuals responsible for the verification process, for evaluation of E-Verify, or to such other persons or entities as may be authorized by applicable law. Information will be used only to verify the accuracy of Social Security numbers and employment eligibility, to enforce the INA and Federal criminal laws, and to administer Federal contracting requirements.

8. DHS agrees to provide a means of automated verification that provides (in conjunction with SSA verification procedures) confirmation or tentative nonconfirmation of employees' employment eligibility within three Federal Government work days of the initial inquiry.

9. DHS agrees to provide a means of secondary verification (including updating DHS records) for employees who contest DHS tentative nonconfirmations and photo mismatch tentative nonconfirmations. This provides final confirmation or nonconfirmation of the employees' employment eligibility within 10 Federal Government work days of the date of referral to DHS, unless DHS determines that more than 10 days may be necessary. In such cases, DHS will provide additional verification instructions.

ARTICLE III
REFERRAL OF INDIVIDUALS TO SSA AND DHS

A. REFERRAL TO SSA

1. If the Employer receives a tentative nonconfirmation issued by SSA, the Employer must print the notice as directed by E-Verify. The Employer must promptly notify employees in private of the finding and provide them with the notice and letter containing information specific to the employee's E-Verify
case. The Employer also agrees to provide both the English and the translated notice and letter for employees with limited English proficiency to employees. The Employer agrees to provide written referral instructions to employees and instruct affected employees to bring the English copy of the letter to the SSA. The Employer must allow employees to contest the finding, and not take adverse action against employees if they choose to contest the finding, while their case is still pending.

2. The Employer agrees to obtain the employee's response about whether he or she will contest the tentative nonconfirmation as soon as possible after the Employer receives the tentative nonconfirmation. Only the employee may determine whether he or she will contest the tentative nonconfirmation.

3. After a tentative nonconfirmation, the Employer will refer employees to SSA field offices only as directed by E-Verify. The Employer must record the case verification number, review the employee information submitted to E-Verify to identify any errors, and find out whether the employee contests the tentative nonconfirmation. The Employer will transmit the Social Security number, or any other corrected employee information that SSA requests, to SSA for verification again if this review indicates a need to do so.

4. The Employer will instruct the employee to visit an SSA office within eight Federal Government work days. SSA will electronically transmit the result of the referral to the Employer within 10 Federal Government work days of the referral unless it determines that more than 10 days is necessary.

5. While waiting for case results, the Employer agrees to check the E-Verify system regularly for case updates.

6. The Employer agrees not to ask the employee to obtain a printout from the Social Security Administration number database (the Numident) or other written verification of the SSN from the SSA.

**B. REFERRAL TO DHS**

1. If the Employer receives a tentative nonconfirmation issued by DHS, the Employer must promptly notify employees in private of the finding and provide them with the notice and letter containing information specific to the employee's E-Verify case. The Employer also agrees to provide both the English and the translated notice and letter for employees with limited English proficiency to employees. The Employer must allow employees to contest the finding, and not take adverse action against employees if they choose to contest the finding, while their case is still pending.

2. The Employer agrees to obtain the employee's response about whether he or she will contest the tentative nonconfirmation as soon as possible after the Employer receives the tentative nonconfirmation. Only the employee may determine whether he or she will contest the tentative nonconfirmation.

3. The Employer agrees to refer individuals to DHS only when the employee chooses to contest a tentative nonconfirmation.

4. If the employee contests a tentative nonconfirmation issued by DHS, the Employer will instruct the
employee to contact DHS through its toll-free hotline (as found on the referral letter) within eight Federal Government work days.

5. If the Employer finds a photo mismatch, the Employer must provide the photo mismatch tentative nonconfirmation notice and follow the instructions outlined in paragraph 1 of this section for tentative nonconfirmations, generally.

6. The Employer agrees that if an employee contests a tentative nonconfirmation based upon a photo mismatch, the Employer will send a copy of the employee’s Form I-551, Form I-766, U.S. Passport, or passport card to DHS for review by:

   a. Scanning and uploading the document, or
   
   b. Sending a photocopy of the document by express mail (furnished and paid for by the employer).

7. The Employer understands that if it cannot determine whether there is a photo match/mismatch, the Employer must forward the employee’s documentation to DHS as described in the preceding paragraph. The Employer agrees to resolve the case as specified by the DHS representative who will determine the photo match or mismatch.

8. DHS will electronically transmit the result of the referral to the Employer within 10 Federal Government work days of the referral unless it determines that more than 10 days is necessary.

9. While waiting for case results, the Employer agrees to check the E-Verify system regularly for case updates.

ARTICLE IV
SERVICE PROVISIONS

A. NO SERVICE FEES

1. SSA and DHS will not charge the Employer for verification services performed under this MOU. The Employer is responsible for providing equipment needed to make inquiries. To access E-Verify, an Employer will need a personal computer with Internet access.

ARTICLE V
MODIFICATION AND TERMINATION

A. MODIFICATION

1. This MOU is effective upon the signature of all parties and shall continue in effect for as long as the SSA and DHS operates the E-Verify program unless modified in writing by the mutual consent of all parties.

2. Any and all E-Verify system enhancements by DHS or SSA, including but not limited to E-Verify checking against additional data sources and instituting new verification policies or procedures, will be covered under this MOU and will not cause the need for a supplemental MOU that outlines these changes.
B. TERMINATION

1. The Employer may terminate this MOU and its participation in E-Verify at any time upon 30 days prior written notice to the other parties.

2. Notwithstanding Article V, part A of this MOU, DHS may terminate this MOU, and thereby the Employer’s participation in E-Verify, with or without notice at any time if deemed necessary because of the requirements of law or policy, or upon a determination by SSA or DHS that there has been a breach of system integrity or security by the Employer, or a failure on the part of the Employer to comply with established E-Verify procedures and/or legal requirements. The Employer understands that if it is a Federal contractor, termination of this MOU by any party for any reason may negatively affect the performance of its contractual responsibilities. Similarly, the Employer understands that if it is in a state where E-Verify is mandatory, termination of this by any party MOU may negatively affect the Employer’s business.

3. An Employer that is a Federal contractor may terminate this MOU when the Federal contract that requires its participation in E-Verify is terminated or completed. In such cases, the Federal contractor must provide written notice to DHS. If an Employer that is a Federal contractor fails to provide such notice, then that Employer will remain an E-Verify participant, will remain bound by the terms of this MOU that apply to non-Federal contractor participants, and will be required to use the E-Verify procedures to verify the employment eligibility of all newly hired employees.

4. The Employer agrees that E-Verify is not liable for any losses, financial or otherwise, if the Employer is terminated from E-Verify.

ARTICLE VI
PARTIES

A. Some or all SSA and DHS responsibilities under this MOU may be performed by contractor(s), and SSA and DHS may adjust verification responsibilities between each other as necessary. By separate agreement with DHS, SSA has agreed to perform its responsibilities as described in this MOU.

B. Nothing in this MOU is intended, or should be construed, to create any right or benefit, substantive or procedural, enforceable at law by any third party against the United States, its agencies, officers, or employees, or against the Employer, its agents, officers, or employees.

C. The Employer may not assign, directly or indirectly, whether by operation of law, change of control or merger, all or any part of its rights or obligations under this MOU without the prior written consent of DHS, which consent shall not be unreasonably withheld or delayed. Any attempt to sublicense, assign, or transfer any of the rights, duties, or obligations herein is void.

D. Each party shall be solely responsible for defending any claim or action against it arising out of or related to E-Verify or this MOU, whether civil or criminal, and for any liability wherefrom, including (but not limited to) any dispute between the Employer and any other person or entity regarding the applicability of Section 403(d) of IIRIRA to any action taken or allegedly taken by the Employer.

E. The Employer understands that its participation in E-Verify is not confidential information and may be disclosed as authorized or required by law and DHS or SSA policy, including but not limited to,
Congressional oversight, E-Verify publicity and media inquiries, determinations of compliance with Federal contractual requirements, and responses to inquiries under the Freedom of Information Act (FOIA).

F. The individuals whose signatures appear below represent that they are authorized to enter into this MOU on behalf of the Employer and DHS respectively. The Employer understands that any inaccurate statement, representation, data or other information provided to DHS may subject the Employer, its subcontractors, its employees, or its representatives to: (1) prosecution for false statements pursuant to 18 U.S.C. 1001 and/or; (2) immediate termination of its MOU and/or; (3) possible debarment or suspension.

G. The foregoing constitutes the full agreement on this subject between DHS and the Employer.

To be accepted as an E-Verify participant, you should only sign the Employer's Section of the signature page. If you have any questions, contact E-Verify at 1-888-464-4218.
Company ID Number: 1112081

Approved by:

<table>
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**Department of Homeland Security – Verification Division**

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### Information Required for the E-Verify Program

#### Information relating to your Company:

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<td>North American Industry Classification</td>
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<td>Parent Company</td>
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<td>Number of Sites Verified for</td>
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Company ID Number: 1112081

Are you verifying for more than 1 site? If yes, please provide the number of sites verified for in each State:

WASHINGTON 1 site(s)
Company ID Number: 1112081

Information relating to the Program Administrator(s) for your Company on policy questions or operational problems:

Name: Russell A Pfeiffer-Hoyt
Phone Number: (360) 595 - 2512
Fax Number: 
Email Address: saxoncreek@msn.com
Pursuant to RCW 60.28.011, as amended, you may choose how your retainage under this contract will be held and invested. Please complete and sign this form indicating your preference. If you fail to do so, the COUNTY will hold your retainage as described in "Current Expense", Option 1 below:

1. **Current Expense**: The COUNTY will retain the money in its Current Expense Fund Account until thirty days following final acceptance of the improvement or work as completed. You will not receive interest earned on this money.

2. **Interest Bearing Account**: The COUNTY will deposit retainage in an interest bearing account in a bank, mutual savings bank, or savings and loan association, not subject to withdrawal until after the final acceptance of the improvement or work as completed, or until agreed to by both parties. Interest on the account will be paid to you.

3. **Escrow/Investments**: The COUNTY will place the retainage checks in escrow with a bank or trust company until thirty days following the final acceptance of the improvement or work as completed. When the moneys reserved are to be placed in escrow, the COUNTY will issue a check representing the sum of the moneys reserved payable to the bank or trust company and you jointly. This check will be converted into bonds and securities chosen by you and approved by the COUNTY, and these bonds and securities chosen by you will be held in escrow. Interest on these bonds and securities will be paid to you as interest accrues.
Whatcom County
Bid #16-43
Nesset Farm Building Stabilization and Repair

Escrow Agreement

To: __________________________ Project: __________________________

________________________________________

The undersigned, __________ hereinafter referred to as the CONTRACTOR, has directed Whatcom County
hereinafter referred to as the Agency, to deliver to you its warrants or checks which shall be payable to
you and the CONTRACTOR jointly. Such warrants or checks are to be held and disposed of by you in
accordance with the following instructions and upon the terms and conditions hereinafter set forth.

INSTRUCTIONS

1. The Agency shall deliver to you from time to time, checks or warrants payable jointly to you and the
CONTRACTOR. You are hereby authorized by the CONTRACTOR to endorse in the CONTRACTOR's name
any such check or warrant so that you may receive the proceeds thereof and invest the same. The
power of endorsement hereby granted to you by the CONTRACTOR shall be deemed a power coupled
with an interest and shall be irrevocable during the term, of this escrow. Although you may be a payee
named in such warrants or checks as shall be delivered to you, your duties and responsibilities with
respects to the same shall be only those duties and responsibilities which a depository bank would have,
pursuant to Article 4 of the Uniform Commercial Code of the State of Washington for an item deposited
with it for collection as of the date such check or warrant shall be delivered to you. The proceeds from
collections shall be used by you to purchase, as directed by the CONTRACTOR, bonds or other securities
chosen by the CONTRACTOR and approved by you, and the Agency. For the purpose of each such
purchase, you may follow the last written direction received by you from the CONTRACTOR, provided
such direction otherwise conforms with the restrictions on investments recited herein. Attached is a list
of such bonds or other securities approved by the Agency. No further approval is necessary if any
securities, except stocks, may be selected by the CONTRACTOR, subject to express written approval of
you and the Agency. Purchase of such bonds or other securities shall be in the form that shall allow you
alone to reconvert such bonds or other securities into money if you are required to do so by the Agency
as provided in paragraph 4 of this Escrow AGREEMENT.

The investments selected by the CONTRACTOR, approved by the Agency and purchased by you must
mature on or prior to the date set for the completion of the contract, including extensions thereof or
thirty days following the final acceptance of said improvement or work.

2. When and as interest on the securities held by you pursuant to this AGREEMENT accrues and is
paid, you shall collect such interest and forward it to the CONTRACTOR at its address designated below
unless with your written consent you are otherwise directed in writing by the CONTRACTOR.

3. You are not authorized to deliver to the CONTRACTOR all or any part of the securities held by you
pursuant to this AGREEMENT (or any monies derived from the sale of such securities, or the negotiation
of the Agency's warrants or checks except in accordance with written instructions form the Agency. The
Agency shall inform you and keep you informed in writing of the name of the person or person with
authority to give you such written instructions. Compliance with such instructions shall relieve you of
any further liability related thereto. The estimated completion date on the contract underlying this
Escrow AGREEMENT is __________. Upon request by you, the Agency shall advise you in writing of any
changes in the estimated completion date. If the estimated completion date is changed, you are
authorized to reinvest the monies held hereunder in accordance with the new estimated completion
date.
Whatcom County
Bid #16-43
Nesset Farm Building Stabilization and Repair

Escrow AGREEMENT (Continued)

4. In the event the Agency orders you to do so in writing, and notwithstanding any other provisions of this AGREEMENT, you shall, within thirty-five (35) days of receipt of such order, reconvey into money the securities held by you pursuant to this AGREEMENT and return such money, together with any other monies including accrued interest on such securities held by you hereunder, to the Agency.

5. The CONTRACTOR agrees to pay you as compensation for your services hereunder as follows:

Payment of all fees shall be the sole responsibility of the CONTRACTOR and shall not be deducted from any property placed with you pursuant to this AGREEMENT until and unless the Agency directs the release to the CONTRACTOR of the securities and monies held hereunder whereupon you shall be granted a first lien upon such property released and shall be entitled to reimburse yourself from such property for the entire amount of your fees and any unanticipated amounts which might be owing as provided for herein. In the event that you are made a party to any litigation with respect to the property held by you hereunder, or in the event that the conditions of this escrow are not promptly fulfilled or that you are required to render any services not provided for in these instructions, or that there is any assignment of the interests of this escrow of any modification hereof, you shall be entitled to reasonable compensation for such extraordinary services from the CONTRACTOR and reimbursement from the CONTRACTOR for all costs and expenses, including attorney fees occasioned by such default, delay, controversy or litigation.

6. Should you at any time and for any reason desire to be relieved of your obligations as escrow holder hereunder, you shall give written notice to the Agency and CONTRACTOR. The Agency and CONTRACTOR shall, within 20 days of the receipt of such notice, jointly appoint a successor escrow holder and instruct you to deliver all securities and funds held hereunder to said successor. If you are notified of the appointment of the successor escrow holder within 20 days, you may return the subject matter hereof to the Agency and upon so doing, it absolves you form all further charges and obligations in connection with this escrow.

7. This AGREEMENT shall not be binding until executed by the CONTRACTOR and the Agency and accepted by you.

8. This instrument contains the entire AGREEMENT between you, the CONTRACTOR and the Agency with respect to this escrow and you are not a party to nor bound by any instrument or AGREEMENT other than this; you shall not be required to take notice of any default or any other matter, nor be bound by nor require to give notice or demand, nor required to take any action whatever except as herein expressly provided; you shall not be liable for any loss or damage not caused by your own negligence or willful misconduct.

9. The foregoing provisions shall be binding upon the assigns, successors, personal representatives and heirs to the parties hereto.
Escrow AGREEMENT (Continued)

The undersigned have read and hereby approve the instructions as given above governing the administration of this escrow and do hereby execute this AGREEMENT the ________ day of ___________________ 20__.  

______________________________  
CONTRACTOR

By ________________________________  
Signature & Title

______________________________  
Address

______________________________  
Whatcom County

Agency

______________________________  
Signature & Title

______________________________  
Signature & Title

The above escrow instructions received and accepted this ______ day of ___________________, 20__.  

Bank or Trust Company

By ________________________________
List of Type of Bonds or Securities That are Approved by Agency

1. Bills, certificates, notes or bonds of the United States.

2. Other obligations of the United States or its agencies.

3. Any Corporation wholly-owned by the government of the United States.


5. Time deposits in Commercial Banks, Mutual Savings Banks or Savings and Loan Associations.

The investments selected must mature on or prior to the date set for completion of the contract, including extensions thereof.
Whatcom County
Bid #16-XX
Nesst Farm Building Stabilization and Repair

EXHIBIT 'A'
SCOPE OF WORK

The Nesst Farm Building Stabilization and Repair project is part of an historic restoration at the Nesst Farm. The designated repairs and replacement roof structures shall incorporate appropriate materials, finishes and details in order to maintain the historic integrity of homestead and farm complex.

The intent of the description and specifications is to include all information necessary for the proper execution and completion of the work; however, any item or detail not specifically mentioned in the specifications or shown on the drawings, but which is necessary to produce the intended results shall be included in this bid.

Nesst House & Out Building

This project consists of roofing and flashing replacement, restoration of the foundation, floor beams, porch floors, installation of a wall corner connection and crawl space excavation all in accordance with the Construction Drawings. The CONTRACTOR shall supply all materials and labor necessary to complete the work required for the Nesst House and Out Building repairs.

Nesst House Foundation, floor beam, porch floors, wall corner and crawl space excavation:
See Exhibit ‘D’ “Construction Drawings”

Nesst House Roof Replacement Requirements:

The CONTRACTOR shall provide all labor and materials to complete the Nesst House roof replacement. Cedar shakes shall be: Certi-Split®, Tapersplit premium grade, medium 24” shakes, 10” exposure to weather. All flashing and new ridge flashing materials shall be hot dipped galvanized.

CONTRACTOR shall remove and dispose of all roofing material, and inspect roof decking. CONTRACTOR shall remove and replace any sheathing members that are not structurally sound and in good repair.

CONTRACTOR shall install all shakes, underlayment, flashing, fasteners and all other roofing materials according to the Cedar Shake and Shingle Bureau (CSSB), manufacturer specifications and industry standards.

Shakes shall be secured with two (2) 4d (minimum) Type 304 stainless steel nails 1-1/2” above the exposure line. Fasteners shall be long enough to penetrate sheathing at least 3/4” or all the way through, and be driven flush with the shake surface.

Shakes over eaves shall be at least doubled, and the butt ends shall extend 1-1/2” beyond of the roof eaves and approximately 1” at the gable ends.

Machine Shed

This project consists of replacement of the foundation and one floor beam, partial replacement of wall framing and replacement of roof framing, sheathing and shakes, all in accordance with the Construction Drawings. The CONTRACTOR shall supply all labor and materials necessary to complete the work, except that the Owner will supply cedar shakes for the machine shed roof. An on-site pole for the machine shed...
floor beam, designated by the COUNTY, is available, with the CONTRACTOR responsible to cut and
transport.

Machine Shed Foundation, floor beam and wall framing repair:
See Exhibit ‘D’ “Construction Drawings”

Machine Shed Roof Replacement Requirements:
The proposed replacement roof is sometimes referred to as “BARN-STYLE” and utilizes a double
layer of 24” straight split cedar shakes with a 20” exposure to weather. CONTRACTOR shall
remove existing metal roofing; skip sheathing, any remaining shakes and install new 1”x6” rough
sawn skip sheathing spaced 20” on center.

Owner will provide Certi-Split®, 24” Straight-split premium grade shakes to the CONTRACTOR
for the Machine Shed Roof Replacement project. The CONTRACTOR shall provide all other labor
and materials (fasteners, flashing, etc.) to complete the roof replacement project. All materials
shall be installed according to the Cedar Shake and Shingle Bureau (CSSB) standards,
manufacturer specifications and industry standards except as modified to maintain the historic
integrity of the structure.

Shakes shall be secured with four (4) 4d (minimum) Type 304 stainless steel nails, two (2) 1-1/2”
above the exposure line and two (2) at the butt end of the shake centered in the 1”x6” skip
sheathing deck member. Fasteners shall be long enough to penetrate sheathing at least 3/4” or
all the way through, and be driven flush with the shake surface.

Butt ends of the shakes in the first course shall extend 1-1/2” beyond of the roof eaves and
approximately 1” at the gable ends.

CONTRACTOR shall install a new galvanized ridge flashing.

Site Protection
The CONTRACTOR is responsible for protection of the buildings, landscaping, and historic items from
damage. The CONTRACTOR shall also protect from damage an existing wooden box culvert that runs
under the driveway at Nesson Creek with a steel plate or other approved means to support vehicular
loading. Prior to work, the CONTRACTOR shall submit for approval a plan for protection of the historic
items during construction.

Project Location
Parcel #370521 494353 located at 6176 Saxon Road, Acme, WA.

Schedule
The project is to be substantially completed by October 31st, 2016. This completion date is subject to
extension by mutual agreement between the CONTRACTOR and COUNTY, for reasons related to
material availability and/or weather delays.

All paperwork requested from the Notice to Proceed must be submitted to the Parks & Recreation
Department prior to the start of work. This includes insurance, intent to pay prevailing wage, and any
other required documents.

Permits
Whatcom County
Bid #16-43
Nessel Farm Building Stabilization and Repair

COUNTY has acquired a building permit from Whatcom County Planning & Development Services. All other permits (if any) required to complete the proposed project will be the responsibility of the CONTRACTOR.

Hours of Work
Hours of work shall be coordinated with the Contract Administrator.

Special Conditions
The CONTRACTOR will follow all O.S.H.A. and W.S.H.A. Regulations for the safety of employees and County staff.

General Requirements
The CONTRACTOR will provide all labor and materials needed to complete this project and be entirely familiar with the relevant plans and specifications.

- The CONTRACTOR will work closely and collaboratively with COUNTY as directed in the pre-construction meeting.

- The CONTRACTOR is responsible for the following:
  - Coordinate electrical inspections if required by Puget Sound Energy.
  - Coordinate Whatcom County Building Services inspections.

- Access to the construction site is by way of a private road. 24 hour advanced notification is required prior to utilizing the road to access the site. Additionally, vehicles that are in excess of 26,000 GVW must receive written approval from the property owner prior to utilizing the road to access the site.

- Lead Disclosure: On April 9, 2015, Whatcom County Parks & Recreation engaged Avocet Environmental Testing to test for lead levels at Nessel House & Out Building that is subject to this bid. Testing for lead paint was completed and reported on April 21, 2015. The lead test results area as follows:

<table>
<thead>
<tr>
<th>Sample ID</th>
<th>Log Number</th>
<th>Test Performed</th>
<th>Method</th>
<th>Sample Result</th>
<th>Units</th>
<th>PQL</th>
<th>Analyst</th>
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<tr>
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<td>05749784</td>
<td>Lead</td>
<td>Sm3111B</td>
<td>300,000</td>
<td>mg/kg</td>
<td>16,000</td>
<td>ML</td>
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</table>

Lead levels for the Nessel House & Out Building exceed state and federal thresholds. The CONTRACTOR shall take all necessary precautions to safeguard workers and the public from lead exposure during contracted work, and to prevent introduction of lead into ground adjacent to the structure.

Notice is given of the following Washington state regulations regarding lead protection:

- WAC 296-62-07521 Lead Inspection and Compliance Procedures (L&I)
- WAC 296-155 Safety Standards for Construction Work
- WAC 365-230 Accreditation of lead-based training programs (Commerce)
Whatcom County
Bid #16-43
Nesset Farm Building Stabilization and Repair

It is a requirement of this bid that, prior to commencing work, CONTRACTOR shall have obtained training for staff as set forth in WAC 365-230 and that CONTRACTOR be listed on Washington L&I certified CONTRACTOR list.

- The CONTRACTOR shall provide an approved jobsite portable toilet unit. Said unit shall be maintained and serviced throughout the duration of the project.

- Order, receive, store, and deliver to job site all goods needed for the project. If needed, coordinate placement of a job storage container with the Contract Administrator.

- All work must meet all applicable codes. Report any or all violations or potential violation of applicable codes to the Contract Administrator to determine proper corrective measures.

- The work area must be cordoned and a clean jobsite must be maintained at all times.

- All construction debris and waste material becomes property of the CONTRACTOR and shall be removed from the job site. CONTRACTOR shall provide documentation as to the final destination and paperwork must be provided to the Contract Administrator to verify legal disposition of waste materials.

- The CONTRACTOR must protect all property, buildings & grounds, work, stored materials, and construction equipment in their care from damage, vandalism and theft.

- Upon completion of the project and prior to final payment, the CONTRACTOR must provide “as built” drawings to the Contract Administrator.

- All warranty information, technical manuals, signed off permits, and related materials must be submitted to the Contract Administrator before a final payment request can be processed.

- No work relating to change orders can be done without prior written consent of the COUNTY.

Quality Assurance

- CONTRACTOR and CONTRACTOR’s personnel shall be experienced, thoroughly trained and completely familiar with the systems, equipment, devices, fixtures, materials, etc. and the required methods of installation.

- CONTRACTOR must provide proof, upon request, that all personnel are licensed according to Washington State RCW.

- All materials, equipment and workmanship shall be properly inspected by the CONTRACTOR and at all times be subject to inspection by the COUNTY. The CONTRACTOR must provide all samples, data and documents necessary for such inspection. The COUNTY will be afforded full and free access at the jobsite and the shops and places of business of the CONTRACTOR for such inspection and to determine the status of the work. If CONTRACTOR covers all or any part of the work prior to any inspection or test specifically requested by COUNTY, the cost of any necessary uncovering and replacing shall be borne by the CONTRACTOR.

- Neither the failure to make inspections or tests, nor to discover defective workmanship, materials or equipment, shall prejudice the rights of the COUNTY thereafter to reject the work and or require its correction.
• The CONTRACTOR shall furnish the COUNTY any guarantee or warranty furnished as a customary trade practice in connection with the purchase of any equipment, materials or items incorporated into the project.

• Final acceptance shall not constitute acceptance of any unauthorized or defective work or material. The COUNTY shall not be barred from requiring the CONTRACTOR to remove, replace, repair, or dispose of any unauthorized or defective work or material, or from recovering damages for any such work or material.
EXHIBIT ‘B’
COMPENSATION

The maximum consideration for the initial term of this AGREEMENT or for any renewal term shall not exceed $169,000.00 not including Washington State Sales Tax.

The Contract Number, set forth, shall be included on all invoices or correspondence in connection therewith.

Invoices shall include a monthly statement of work performed. This statement must give the actual quantity and cost of the completed work as listed in the awarded contract bid proposal or by executed change order.

The CONTRACTOR must submit invoices to the County no later than the 5th day of the month following the month in which the work was completed. The County will process and issue warrants for the completed work by the end of the month in which the statement was submitted. Invoices submitted later than the above date will be paid at the end of the next month or within 60 days.

The CONTRACTOR shall send invoices to:

Whatcom County Parks & Recreation
Attn: Contract Administrator
3373 Mt. Baker Hwy
Bellingham, WA 98226

CONTRACTOR may invoice the COUNTY progressively not more than once per month. Progressive billings will be for the amount of work completed.

CONTRACTOR must submit to the Contract Administrator a completed Retainage Option Investment Form prior to submitting first invoice for payment.

CONTRACTOR may invoice the COUNTY upon completion of the project in its entirety for the full contract amount upon acceptance of the project by the Project Engineer and Contract Administrator.

Retainage will be administered in accordance with RCW 60.28.011, as amended, and in accordance with the “Retainage Option Investment Option” form.

The amount billed must reflect 5% withholding for Retainage.
Whatcom County
Prevailing Wage Rates
Bid #16-43
Nессet Farm Building Stabilization and Repair

www.lni.wa.gov/prevailingwage

This is a partial list of Prevailing Wage Rates. If the proper category is not listed, please refer to the website.
Washington State Prevailing Wage

The PREVAILING WAGES listed here include both the hourly wage rate and the hourly rate of fringe benefits. On public works projects, worker's wage and benefit rates must add to not less than this total. A brief description of overtime calculation requirements are provided on the Benefit Code Key.

Journey Level Prevailing Wage Rates for the Effective Date: 07/19/2016

<table>
<thead>
<tr>
<th>County</th>
<th>Trade</th>
<th>Job Classification</th>
<th>Wage</th>
<th>Holiday</th>
<th>Overtime</th>
<th>Note</th>
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<tbody>
<tr>
<td>Whatcom</td>
<td>Carpenters</td>
<td>Acoustical Worker</td>
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Exhibit C
Insurance
CERTIFICATE OF LIABILITY INSURANCE

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

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

PRODUCER
Kelley Insurance Agency, Inc.
103 West Main St., Suite 2A
P. O. Box 367
Everson, WA 98247
Anthony H. Kelley

INSURED
South Fork Construction Co
Russell & Lucinda Pfeiffer-Hoyt
6190 Saxon Rd
Acme, WA 98220

CONTACT
NAME: Anthony H. Kelley
PHONE: 360-966-3732
FAX: 360-966-2819
EMAIL: info@kelleyinsure.com

INSURER(S) AFFORDING COVERAGE
INSCR A: Ohio Casualty Company
NAIC #: 24074
INSCR B:
INSCR C:
INSCR D:
INSCR E:
INSCR F:

COVERAGE
CERTIFICATE NUMBER:

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

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WORKER'S COMPENSATION & EMPLOYER'S LIABILITY

Y/N: N/A
If yes, describe under DESCRIPTION OF OPERATIONS below

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

CERTIFICATE HOLDER
Whatcom County
311 Grand Avenue
Bellingham, WA 98225

CANCELLATION
WHATC-4

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

AUTHORIZED REPRESENTATIVE
Anthony H. Kelley
Exhibit D

Construction Drawings
A. Out-building wall stud connection detail

B. Out-building foundation connection

C. (n) Porch foundation detail

D. (n) building corner foundation detail

E. Typical crawl space footing detail

F. Typical crawl space footing detail

G. Typical crawl space footing detail

H. Exterior corner foundation detail

I. Exterior corner foundation view b-b

J. Exterior concrete column detail

K. Exterior shed building footing detail
**WHATCOM COUNTY COUNCIL AGENDA BILL**

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**TITLE OF DOCUMENT:** Approval to Purchase Fleet Vehicle Parts

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

**SEPA review required**

- ( ) Yes (x) NO

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

- Should Clerk schedule a hearing? ( ) Yes (x) NO

- Requested Date:

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

Public Works is requesting approval to purchase fleet vehicle parts using the Washington State Contract #01809 (expires 08/09/2018). The vendors are Advance Stores Company, AutoZone Stores, Inc., Genuine Auto Parts (dba NAPA), Parts Wholesalers, Inc., and Seattle Automotive Distributing. Fleet vehicle parts are purchased on an as needed basis and the total expenditure for fleet vehicle parts will not exceed $180,000.00. This is a regularly budgeted expenditure.

**COMMITTEE ACTION:**

**COUNCIL ACTION:**

**Related County Contract #:**

**Related File Numbers:**

**Ordinance or Resolution Number:**

**Please Note:** Once adopted and signed, ordinances and resolutions are available for viewing and printing on the County’s website at: www.co.whatcom.wa.us/council.
DATE: July 28, 2016
TO: Jack Louws, County Executive
FROM: Brad Bennett, AS Finance Manager
SUBJECT: Approval to Purchase Fleet Vehicle Parts

Background & Purpose

Public Works is requesting approval to use the Washington State Contract #01809 (expires 08/09/2018) to purchase miscellaneous auto and truck parts. These items are used for the maintenance and repair of county vehicles and equipment.

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

- Advance Stores Company – CarQuest/S&H Auto Parts (Lynden)
- Genuine Parts Company – NAPA Auto Parts (Lynden), Bridgeview Auto Parts (Ferndale)
- Seattle Automotive Distributing (Bellingham)

Consideration will be given as to the availability, total cost, and performance of the parts. Parts are purchased on an as needed basis and expenditures will not exceed $180,000.00.

Funding

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

[Signature]
AS Finance Manager

Approved as recommended:

__________________________________________
County Executive

Date of Council Action ______________________
MEMORANDUM

To: Brad Bennett, AS Finance Manager
Through: Jon Hutchings, Public Works Director
From: Eric L. Schlehuber, PW Equipment Services Manager
Date: July 27, 2016
Re: Washington State Bid Contract 01809 (Fleet Vehicle Parts, Just-In-Time)

* Requested Action
I am requesting Executive and Council approval to purchase the following material as needed from the Washington State Bid Procurement List during the period of 2016 through August 9, 2018 (the current state contract term is for the period of 08/10/2009 through 08/09/2018):

<table>
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<th>MATERIAL</th>
<th>STATE CONTRACT NO.</th>
<th>EXPIRATION DATE</th>
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<td>Fleet Vehicle Parts, Just-In-Time</td>
<td>01809</td>
<td>August 9, 2018</td>
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This state contract has been awarded to multiple vendors: Advance Stores Company, AutoZone Stores, Inc, Genuine Parts Co. (dba NAPA), Parts Wholesalers, Inc., and Seattle Automotive Distributing. Historically we have used the following local vendors for: 1) CarQuest Auto Parts (S&H Auto Parts in Lynden); 2) Genuine Auto Parts, dba NAPA (NAPA Auto Parts in Lynden and Bridgeview Auto in Ferndale); and 3) Seattle Automotive Distributing in Bellingham. Consideration will be given as to the availability of parts, total cost of the parts, and performance of the parts.

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

* Funding Amount and Source
These are regularly budgeted expenditures for automotive parts, which are used on an annual basis as needed and have been budgeted during the biennial budget process in the Equipment Rental and Revolving Fund. Expenditures for 2013 were $50,730, in 2014 were $51,029 and in 2015 were $74,542.

* Recommended Action
Please approve this purchase and forward to the Executive and the Whatcom County Council for approval at the August 9, 2016 Whatcom County Council Meeting.

Please contact Eric L. Schlehuber at extension 6405 if you have any questions or concerns.

Attachment
**TITLE OF DOCUMENT:**
Discussion of booking restrictions in the WC Jail

**ATTACHMENTS:**
Non

**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.)

Councilmembers Brenner and Mann would like to discuss the booking restrictions at the Whatcom County 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.
WHATCOM COUNTY COUNCIL AGENDA BILL

CLEARANCES

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TITLE OF DOCUMENT:
Repeal WCC Chapter 8.06 and establish WCC Chapter 24.14.

ATTACHMENTS:
- Memo to Executive WCC Chapters 8.06 and 24.14
- Ordinance_SmokingVapingInPublicPlaces
- Exhibit_A_County Code 24.14_SmokingVapingInPublicPlaces
- Community Feedback on E-Cigarettes & Vaping

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:
The purpose of the proposed Ordinance is to repeal WCC Chapter 8.06 and establish WCC Chapter 24.14.

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, Whatcom County Executive

FROM: Regina A. Delahunt, Director

DATE: July 20, 2016

RE: Ordinance Smoking and Vaping in Public Places and Establishing WCC Chapter 24.14

The attached ordinance to be considered by the Health Board establishes Whatcom County Code Chapter 24.14 as specified in Exhibit A to adopt the Washington State Smoking in Public Places Law, Chapter 70.160 RCW, by reference and to expand the prohibition on smoking to include the use of vapor products in public places and places of employment in Whatcom County. The ordinance also repeals Whatcom County Code Chapter 8.06, incorporating its provisions into the new Chapter 24.14.

The ordinance and code will provide a more comprehensive approach to regulating both smoking and vaping in public places. These regulations will positively impact emerging concerns that have been identified in Whatcom County over the past several years, as outlined in the ordinance.

In January of 2016, the Public Health Advisory Board recommended County staff develop policy language to regulate vapor product use in Whatcom County. Public feedback, collected through community surveys, public listening sessions and other means, demonstrated support for regulation.

These items align with the Washington State Legislature enacted ESSB 6328 in 2016, establishing Chapter 38, Vapor Products in Title 70 RCW, which allows political subdivisions to further regulate the use of vapor products in indoor public places.

Please contact Joe Fuller at ext. 6045 or Amy Hockenberry at ext. 6052 if you have any questions.
ORDINANCE NO. ________

AN ORDINANCE ADOPTING A
SMOKING AND VAPING IN PUBLIC PLACES LAW

WHEREAS, extensive medical and scientific research confirms that secondhand smoke is harmful to individuals who smoke and to non-smoking adults and children causing eye, nose and throat irritation, aggravating lung and heart diseases including emphysema, and is linked to various kinds of cancers; and

WHEREAS, the Washington State Legislature has recognized the public health impact of secondhand smoke and enacted Chapter 70.160 RCW, the Washington Clean Indoor Air Act, and the People of the Washington State have revised Chapter 70.160 RCW through Initiative 901 to further protect the public from hazardous environmental smoke, which passed by voter approval and became effective in December 2005 as the Smoking in Public Places law; and

WHEREAS, Chapter 70.160 RCW empowers local health departments to enforce the duties of owners or persons in control of public places and places of employment to ensure establishments are in compliance with the Smoking in Public Places law; and

WHEREAS, Chapter 70.160 RCW authorized local health departments to adopt regulations as required to implement the chapter; and

WHEREAS, vapor products including electronic cigarettes (e-cigarettes) commonly contain nicotine, a highly addictive drug that negatively impacts the developing brain and present a substantial risk of nicotine or other substance addiction; and

WHEREAS, Whatcom County has experienced a significant increase in youth usage of e-cigarettes and other vapor products; and

WHEREAS, local data shows that 26% of Whatcom County twelfth grade students reported past month e-cigarette use in 2014, a nine-fold increase from 5% in 2012; and

WHEREAS, Whatcom County youth report nearly twice as much e-cigarette use than combustible tobacco cigarette use; and

WHEREAS, e-liquids consumed in vapor products can contain marijuana or THC concentrates and may also be used for the purpose of illegal drug use; and

WHEREAS, the use of vapor products in public places and places of employment complicates enforcement of laws prohibiting smoking and use of marijuana in public places and places of employment; and

WHEREAS, the use of vapor products has not been proven safe and vapor products have not been approved for use as smoking cessation aids by the United States Food and Drug Administration; and

WHEREAS, scientific analysis, including by the United State Food and Drug Administration, shows the vapor or aerosol emitted by the use of vapor products contains particles of solvents, flavorings, and chemical byproducts produced in the heating process that may result in adverse health consequences from direct or passive exposure, especially
in vulnerable populations such as children, pregnant women, and individuals with
compromised lung function or cardiovascular conditions; and

WHEREAS, the lack of regulations prohibiting vaping in public places sends a mixed
message to youth, may renormalize the use of nicotine, and may adversely impact the
health of both vapor product users and non-users; and

WHEREAS, the Washington State Legislature enacted ESSB 6328 in 2016, establishing
Chapter 38, Vapor Products in Title 70 RCW, which regulates the sales and promotion of
vapor products, prohibits vaping in certain public places where children congregate, and
allows political subdivisions to further regulate the use of vapor products in indoor public
places; and

WHEREAS, Whatcom County Code Chapter 8.06 Smoking in the Workplace does not
address the use of vapor products and does not prohibit smoking in public places as
comprehensively as the Washington Smoking in Public Places law 70.160 RCW; and

WHEREAS, the majority of public feedback received in Whatcom County supports
regulation of e-cigarettes and vaping; and

WHEREAS, the quality of individual citizen’s health, access to clean air, and benefit to
public health and safety are a priority; and

WHEREAS, reduced access and exposure to smoking and vaping for children and youth
promote a healthier environment.

NOW, THEREFORE, BE IT ORDAINED by the Whatcom County Council, acting as the Whatcom
County Health Board, that Whatcom County Code Chapter 8.06 Smoking in the Workplace is
repealed; and

BE IT FURTHER ORDAINED that Whatcom County Code Chapter 24.14 is established as
specified in Exhibit A to adopt the Washington State Smoking in Public Places Law, Chapter
70.160 RCW, by reference and to expand the prohibition on smoking to include the use of
vapor products in public places and places of employment in Whatcom County.

ADOPTED this ____ day of __________, 20____.

ATTEST:

WHATCOM COUNTY HEALTH BOARD
WHATCOM COUNTY, WASHINGTON

Dana Brown-Davis, Clerk of the Council

Barry Buchanan, Health Board Chair

WHATCOM COUNTY EXECUTIVE
APPROVED AS TO FORM:

WHATCOM COUNTY, WASHINGTON

______________________________

Civil Deputy Prosecutor

Jack Louws, County Executive

(  ) Approved   (  ) Denied

Date Signed: _____________________187
Exhibit A

Chapter 24.14
Smoking and Vaping in Public Places

Sections
24.14.010 Authority, Applicability, and Intent
24.14.020 Adoption by Reference of Chapter 70.160 RCW
24.14.030 Definitions and Local Supplemental Definitions Relative to Chapter 70.160 RCW
24.14.050 Vaping Prohibited Within Twenty-five Feet of Public Places or Places of Employment - Application to Modify Presumptively Reasonable Minimum Distance
24.14.060 Required Signage
24.14.070 Tastings
24.14.080 Enforcement Procedures
24.14.090 Severability
24.14.100 References to State Law
24.14.110 Effective Date


A. The statutory authority for the adoption of this Chapter is provided in Chapter 70.160 RCW, Smoking in Public Places, the amendments to Title 70 RCW set forth in 2016 Washington Laws, 64th Leg., 1st Special Session, Chapter 38, Vapor Products, and the authority of Chapter 70.05 RCW to preserve, promote, and improve the public health.

B. These regulations apply to the prohibition of smoking and the prohibition of use of vapor products in indoor public places and places of employment.

C. These regulations supplement but do not replace the regulations adopted by the United States Food and Drug Administration and the regulations enacted by the state of Washington and enforced by the Liquor and Cannabis Board regarding the licensure and regulation of vapor product promotions and sales at retail.

D. This regulation is not intended to restrict vaping in private facilities which are occasionally open to the public, except upon the occasions when a facility is open to the public.

E. This regulation does not preclude or prohibit any property owner from implementing “no smoking”
and/or "no vaping" policies on, or within, any property or structures under their control.

F. Nothing contained in this regulation is intended to be nor shall be construed to create or form the basis for, any liability on the part of the Whatcom County Health Department or its officers, employees or agents, for any injury or damage resulting from the failure of any person subject to these rules and regulations to comply with these rules and regulations, or by reason or in consequence of any act or omission in connection with the implementation or enforcement of these rules and regulations on the part of the Health Department.

24.14.020 Adoption by Reference of Chapter 70.160 RCW.

Chapter 70.160 RCW known as Smoking in Public Places is adopted and incorporated in this Chapter by reference.

24.14.030 Definitions and Local Supplemental Definitions Relative to Chapter 70.160 RCW.

Pursuant to the authority provided by Chapter 70.160 RCW and for the sake of clarity in the application of Chapter 70.160 RCW, the following local supplemental definitions relative to certain terminology found in Chapter 70.160 RCW are adopted and the following specific definitions shall apply:

A. "Chapter" means a chapter in Whatcom County Code.

B. "County" means Whatcom County.

C. "Employee" means any individual who is employed by an employer in return for the payment of direct or indirect monetary wages, benefit, or profit, any individual who volunteers his or her services to an employer for no monetary compensation or any individual who performs work or renders services, for any period of time, at the explicit or implicit direction of an owner, shareholder, member, lessee or other person in charge of a place that is subject to the provisions of this ordinance.

D. "Employer" means any person, sole proprietorship, partnership, corporation, association, nonprofit organization, or other entity of any kind that pays another person direct or indirect monetary wages, profit or provides any other benefit in consideration for such other person's providing services on the premises of the employer. "Employer" shall also mean the owner(s), shareholders or member(s) respectively of a sole proprietorship, corporation or Limited Liability Corporation, association, nonprofit organization, or other business entity.

E. "Health Officer" means the Health Officer of Whatcom County, or the Health Officer's designee.

F. "Indoor public place" means that portion of any building or vehicle used by and open to the public, regardless of whether the building or vehicle is owned in whole or in part by private persons or
entities, the state of Washington, or other public entity, and includes a presumptively reasonable minimum distance, as set forth in Section 24.14.050 of this Chapter, of twenty-five (25) feet from entrances, exits, windows that open, and ventilation intakes that serve an enclosed area where smoking is prohibited. Public places include, but are not limited to: Schools, elevators, public conveyances or transportation facilities, taxis, buses, for hire conveyances, museums, concert halls, theaters, auditoriums, exhibition halls, indoor sports arenas, hospitals, nursing homes, health care facilities or clinics, enclosed shopping centers, retail stores, retail service establishments, financial institutions, educational facilities, ticket areas, public hearing facilities, state legislative chambers and immediately adjacent hallways, public restrooms, libraries, restaurants, waiting areas, lobbies, bars, clubs, taverns, bowling alleys, skating rinks, casinos, reception areas, and no less than seventy-five (75) percent of the sleeping quarters within a hotel or motel that are rented to guests. "Indoor Public Place" also means any public or private place that is open to the general public regardless of whether dues, cover charges or a fee is charged or there are restrictions such as an age requirement for the privilege of admission, and includes any place used by a membership association or club at which non-member guests are present or permitted. This Chapter is not intended to restrict smoking in private facilities, which are occasionally open to the public except upon the occasions when the facility is open to the public. An indoor public place does not include a private residence unless the private residence is used to provide licensed childcare, foster care, adult care, or other similar social service care on the premises.

G. "Place of employment" means any area under the control of a public or private employer which employees are required to pass through during the course of employment, including, but not limited to: Entrances and exits to the places of employment, and including a presumptively reasonable minimum distance, as set forth in Section 24.14.050 of this Chapter, of twenty-five (25) feet from entrances, exits, windows that open, and ventilation intakes that serve an enclosed area where smoking is prohibited; work areas; restrooms; conference and classrooms; break rooms and cafeterias; and other common areas. "Place of employment" also means an outdoor venue or workspace that is adjacent to or enjoined with a business enterprise or work environment where employees are required to pass through during the course of employment; including but not limited to food/drink service areas such as on decks or outdoor areas. A private residence or home-based business, unless used to provide licensed childcare, foster care, adult care, or other similar social service care on the premises, is not a place of employment.

H. "Retail outlet" means a place of business in Whatcom County from which vapor products are sold to customers, but does not include any business licensed or endorsed for the sale of recreational or medical marijuana by the state of Washington and/or the Washington State Liquor and Cannabis Board.

I. "Smoke" or "smoking" means the carrying, use or smoking of any kind of lighted, combustible, smoldering, or burning cigarette, pipe, cigar or other lighted smoking equipment including but not limited to tobacco, flavored tobacco products such as shisha, or marijuana.
J. "Tasting" means to try or taste a vapor product in a retail outlet where entry is restricted to persons eighteen years of age or older.

K. "Vape" or "Vaping" means the use of a vapor product, or the act of inhaling/exhaling the vapor or aerosol from a vapor product.

L. "Vapor product" means any: (a) device that employs a battery or other mechanism to heat a solution or substance to produce a vapor or aerosol intended for inhalation; (b) cartridge or container of a solution or substance intended to be used with or in such a device or to refill such a device; or (c) solution or substance intended for use in such a device, including, but not limited to, concentrated nicotine. "Vapor product" includes any electronic cigarettes, electronic nicotine delivery systems, electronic cigars, electronic cigarillos, electronic pipes, vape pens, steam stones, or similar products or devices, as well as any parts that can be used to build such products or devices. "Vapor product" does not include any drug, device, or combination product that has been approved by the United States Food and Drug Administration for legal sales for use as a smoking cessation product or other medical purposes, and is marketed and sold for such approved purpose.


No person may smoke or use a vapor product in an indoor public place or in any place of employment except for the purpose of tastings within the premises of a vapor product retail outlet pursuant to amendments to Title 70 RCW set forth in 2016 Washington Laws, 64th Leg., 1st Special Session, Chapter 38, Vapor Products.


Use of vapor products is prohibited within a presumptively reasonable minimum distance of twenty-five (25) feet from entrances, exits, windows that open, and ventilation intakes that serve an enclosed area where use of vapor products is prohibited so as to ensure that vapor does not enter the area through entrances, exits, open windows, or other means. Owners, operators, managers, employers, or other persons who own or control a public place or place of employment may seek to rebut the presumption that twenty-five (25) feet is a reasonable minimum distance by making application to the director of the local health department or district in which the public place or place of employment is located. The presumption will be rebutted if the applicant can show by clear and convincing evidence that, given the unique circumstances presented by the location of entrances, exits, windows that open, ventilation intakes, or other factors, vapor will not infiltrate or reach the entrances, exits, open windows, or ventilation intakes or enter into such public place or place of employment and, therefore, the public health and safety will be adequately protected by a lesser distance.

In addition to requirements for signs prohibiting smoking as adopted by reference from Chapter 70.160 RCW, owners, or in the case of leased or rented space the lessee or other person in charge, of a place regulated under these regulations shall post signs prohibiting the use of vapor products. Signs shall be posted conspicuously at each building entrance. Signs prohibiting the use of vapor products may be combined with signs prohibiting smoking, such as "No Smoking. No Vaping," or "No Smoking or Vaping Allowed." or "No Smoking or Vaping Allowed within 25 Feet of Doorway or Entrance."


No retail outlet may offer a tasting of vapor products unless all of the following conditions are met.

A. The retail outlet is licensed by the state of Washington as a vapor product retailer pursuant to amendments to Title 70 RCW set forth in 2016 Washington Laws, 64th Leg., 1st Special Session, Chapter 38, Vapor Products, or is a vapor product retailer already in existence as of the effective date of this ordinance that has applied to the state for a license within thirty days of the Washington State Liquor and Cannabis Board prescribing the form for an application for a license, is in the process of being so licensed, and whose application has not been denied.

B. Pursuant to amendments to Title 70 RCW set forth in 2016 Washington Laws, 64th Leg., 1st Special Session, Chapter 38, Vapor Products, the retail outlet restricts entry to its premises to persons eighteen years or older, products are tasted only within the retail outlet's premises and are not removed from within the premises by the customer, and a disposable mouthpiece tip or a disposable device is used if the customer is tasting from a vapor device owned and maintained by the retailer.

C. Except for the limited and immediate purpose of tasting a vapor product solution or testing a device, the retail outlet does not allow the consumption or use of any vapor products within its premises, including vapor products purchased for personal use from the retail outlet or brought into the retail outlet premises by any person, including employees.


A. The Health Officer is authorized to enforce the restrictions and requirements of this Chapter, including the imposition of Civil Penalties, in accordance with Chapter 24.07 of the Health Code and the following subsections.

B. The Health Officer or his/her duly authorized inspector shall have the authority to seek entry and inspect any building, structure, property, or portion thereof, at reasonable times for the purposes of determining compliance with or enforcing the provisions of this Chapter. The Whatcom County Health Department may work with the Washington State Liquor and Cannabis Board to conduct inspections
to assure compliance.


Should any section, subsection, paragraph, sentence, clause or phrase of this Chapter be declared unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining portions of this regulation.

24.14.100 References to State Law.

Any and all reference to state statues are in effect as referenced above or as hereinafter amended by state authority.

24.14.110 Effective Date.

This Ordinance shall take effect and be in force thirty (30) days after its passage.
Community Feedback on

E-Cigarettes & Vaping

May 10, 2016

**Background:** Youth e-cigarette and vaporizer use has risen significantly in Whatcom County over the past few years. The Health Department collected public feedback from Whatcom County residents about potential policy options that could help to protect youth and the larger community.

A community survey was disseminated to collect public feedback during the month of April, 2016. A total of 613 responses were collected during that time. A summary of those results is included in this report, including these highlights:

- More than 7 in 10 (72%) supported expanding the *Smoking in Public Places (SIPP)* law to include e-cigarettes and vaping
- 91% supported other types of regulation

**PROFILE OF PARTICIPANTS**

Q3 Please identify areas that describe you (check all that apply):

Answered: 613   Skipped: 0

- Youth (under 18)...
- Parent (child under 18)...
- Parent (child over 18)...
- Adult (over 18, non-parent)...
- College Student...
- Public Schools (sta... 8.81%

Participation also came from local businesses, including 29 retailers, 16 restaurants, 4 vape shops, 3 bars, and 1 marijuana retailer.
SUPPORT FOR EXPANDING SIPP TO PROHIBIT VAPING

The Smoking in Public Places (SIPP) law prohibits smoking in all restaurants, bars, and indoor workplaces, among other locations. Local support for expanding SIPP to include vaping and vapor products was gauged in the survey, and found that a majority of community members supported its inclusion.

Support for expanding the Smoking in Public Places (SIPP) law to prohibit vaping?

- More than 7 in 10 (72%) support including e-cigarettes an vaping into existing SIPP, with an additional 10% reporting a neutral position.

Although 18% indicated they were not in favor, some comments from those respondents either reflected inaccurate information “they are just water vapors,” or actually cited a positive health benefit for regulations, such as clean air.

SUPPORT FOR EXPANDING SIPP TO PROHIBIT VAPING (BY POPULATION)

Although the simple majority of each population was supportive of expanding SIPP to including vaping, strong support was demonstrated by schools representatives (staff), youth, parents of children under 18, and parents of children over 18. Even though college students showed the lowest direct support, the difference fell largely to “not sure,” and not as opposed.

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<td>85%</td>
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<td>72%</td>
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<td>63%</td>
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<td>College Student</td>
<td>56%</td>
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*respondents could identify more than one category, allowing for some duplication (613 total surveys collected; 737 categories selected for this question)

SUPPORT FOR VAPE FREE PARKS

Support for vape free parks quantitatively amounted to less than expansion of SIPP, but it still left roughly 80% of the population as either supportive (65%) or neutral/not sure (15%).
Q5 Do you support vape-free parks?
Answered: 498  Skipped: 115

64.66% 20.88% 14.46%

0% 10% 20% 30% 40% 50% 60% 70% 80% 90% 100%

Yes  No  Not Sure

FEEDBACK FOR SUPPORTING VAPING REGULATIONS (BY TOPIC AREAS)

Respondents answered the question “How would prohibiting vaping in public places impact you?” 613 total surveys were collected of which 230 individuals provided comments that were categorized below. A small portion of comments addressed more than one topic area (i.e. benefits of clean air as well as reduced exposure to children), in which case their response was counted in more than one topic category.

Feedback by Topic Areas

- 88% of the comments were either favorable (73%) or neutral (15%) about including e-cigarettes and vaping into existing SIPP

Clean Air 31%
Exposure to Children 23%
Better Community/Other Benefit 19%
Neutral 15%
Restricts Use 5%
Other comment 2%
Other Non-support 5%
While responses were categorized into themes that emerged, examples of feedback received are provided. Comments supporting regulation, and comments not supporting regulation, are both included.

In Favor:
- “I would love to see this happen as soon as possible and I know that our community would support this. Let’s do it!”
- “I would be glad to keep it away from my kids”
- “It would allow me to use public spaces knowing that the air will be clean and free of harmful chemicals”
- “It would help protect air quality for all public space users”
- “Improves the health of the community by limiting exposure to chemicals in second-hand vapor. I think it should be treated just like smoking cigarettes”
- “My kids wouldn’t need to worry about walking through a smoke cloud”
- “The smoke and steam from vaping irritates my throat and lungs. It would make it more comfortable for me to use those spaces. I also understand that second hand vaping is harmful to my health”
- “We don’t always know what is being vaped”
- “It would minimize the risk of my three young children getting exposed to potentially dangerous metals and other hazardous chemicals in the air”
- “I think it would help with social norming and setting a positive example for young people, because they would have less exposure to it”
- “My son was five when he was diagnosed with cancer. It nearly killed him. He should be allowed to enjoy parks without being affected by second hand smoke”
- “As an asthmatic person, I like being able to breathe without any vaping or smoke nearby”

Not In Favor:
- “As an occasional smoker myself, I would be forced to limit my use in particular places”
- “Restricts my rights”
- “It would make it harder for me to vape when and where I would like to vape”
- “I vape and go a lot of places with my children. I avoid smoking as much as possible and vaping is something I find is safer for my children”
- “It would restrict my ability to enjoy public places”
- “It would make it so that a lot of places can’t be vaped in or around that are specifically there for that purpose”
- “There’d be more people smoking and tossing butts”
• “I would have to reconsider cigarettes at that point. They’re more convenient and vaping would be just as restricted so at that point I might as well go back to them”

**FEEDBACK FOR SUPPORTING VAPING REGULATIONS (BY TYPE OF REGULATION)**

The community survey included a list of potential policy options where respondents could identify their level of support. Following release of the survey, Senate Bill 6328 was passed, which either directly preempted local jurisdiction from taking action in these areas, or assigned regulatory authority of these items to a designated state agency. With these items acted upon at the state level, only two options are available for local action, including the expansion of SIPP to include vaping and vapor products, and restricting the use of vapor products at parks. The results of this local feedback, however, have been included below.

**Q6 Would you like to see a local vaping ordinance include any of the following:**

<table>
<thead>
<tr>
<th>Option</th>
<th>Yes (%)</th>
<th>No (%)</th>
<th>Not Sure (%)</th>
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<td>Prohibit possession of vapor products (e-cigarettes, e-liquids, and other unregulated nicotine delivery products) by minors</td>
<td>81.32</td>
<td>11.71</td>
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<td>Prohibit vapor product sales to minors by requiring photo ID checks to verify age of purchaser</td>
<td>91.00</td>
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<td>Require sellers to restrict youth access by placing vapor products behind counter</td>
<td>85.77</td>
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<td>Prohibit sampling of vapor products</td>
<td>63.08</td>
<td>23.25</td>
<td>13.68</td>
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<tr>
<td>Prohibit use of vending machines for sales of vapor products unless located in area where minors are prohibited</td>
<td>88.90</td>
<td>8.50</td>
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<td>Prohibit the use of coupons except when used in person and when ID is checked</td>
<td>74.02</td>
<td>12.50</td>
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<tr>
<td>Require restrictions that reduce advertising exposure to youth</td>
<td>81.20</td>
<td>11.97</td>
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<td>Require retailers to display signs that state sales of vapor products are prohibited to persons under the age of 18</td>
<td>87.41</td>
<td>7.48</td>
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<td>Require retailers to display signs about the harmful effects of nicotine and to keep away from children, at the point of sale</td>
<td>85.88</td>
<td>8.50</td>
<td>5.62</td>
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**Answers:** 452 | **Skipped:** 24
PUBLIC LISTENING SESSION RESULTS

On May 16, 2016, a Public Listening Session was held to engage the public in discussions around potential policy options with vapor products. Twenty people people attended the event and provided input. Four individuals represented businesses, including three that represented vape shops. The following questions were asked:

1. Do you support expanding the Smoking in Public Places (SIPP) law to prohibit vaping? (The SIPP Law prohibits smoking in all restaurants, bars, and indoor workplaces, etc.). Why or why not?
2. How would prohibiting vaping in public places impact you?
3. The state will be required to regulate advertising for e-cigarettes and vaporizers. What would like them to consider?

Common themes followed much of what was collected during the community survey. General themes that demonstrated support included the benefits of clean air, reduced exposure to youth, positive impacts for businesses, protection of employee health, and a desire for vape use not to become a norm. One attendee mentioned that vape use outside of her business has already negatively impacted her customers and her business.

Some transcribed comments in favor of regulation included:

- Concerns about access and availability to youth
- Concerns as a parent of social norms messages to kids seeing use in public places
- Consistency of message/perception (bar/restaurant can give a consistent message without driving patrons elsewhere)
- That the device is also used for doing drugs/other substances
- It’s a justice issue for workers who don’t have choice to work around it or not
- Concern of children, elderly, low immune system
- Comfortable work environment

Similarly, themes that demonstrated a lack of support included inconvenience to users of vape products, potential negative impact on businesses, use of vapor products as a cessation tool, and the desire for sampling inside vape shops. Some transcribed comments not in favor of regulation included:

- Inconvenient for users
- I believe that owners of private businesses should determine the use of vapor products in their establishment
- I believe that the owners of private businesses to determine the appropriateness of the use of vapor in their private establishment
- Consider the economic impact on business
- I am directly opposed to limiting vaping in bars. All other private institutions (schools, government buildings, etc.) are appropriate locations to limit use
- Not supportive of limiting vaping inside vape shops
- Impact on vaping as a cessation tool for adults and teens
- Harm reduction tool (smoking cessation tool), but not something that should be promoted as something to start
- Equity to address other things that impact health of youth (sugary drinks in schools)
- Like to vape while recreating in parks
- Access in “adult only” spaces
WHATCOM COUNTY COUNCIL AGENDA BILL

CLEARANCES

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TITLE OF DOCUMENT:
Resolution in the matter of the Whatcom County Six-Year Transportation Improvement Program for the years 2017 through 2022

ATTACHMENTS:
1. Memo to County Executive and Council
   Attachment “A” – 2017-2022 Capital Project Priority Order and Financial Distribution by Year
   Attachment “R1-R33, B1-B16, F1-F4, Y1-Y8” – Project Summary Sheets
   Attachment “B1-B3” – Road Fund Balance, Revenue, Expenditure
   Attachment “C” – Roadway Priority Rating Program
   Attachment “D” – Bridge Report
2. 2017-2022 Six Year Transportation Improvement Program Resolution
   Exhibit “A” – 2017-2022 Six-Year Transportation Improvement Program
   Exhibit “B” – 2017-2030 Fourteen-Year Ferry Capital Program

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

Should Clerk schedule a hearing? ( X ) Yes ( ) NO
Requested Date: 9/13/16

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE: (If this item is an ordinance or requires a public hearing, you must provide the language for use in the required public notice. Be specific and cite RCW or WCC as appropriate. Be clear in explaining the intent of the action.)
Each year the County is required to update its Six-Year Transportation Improvement Program (STIP), per RCW 35.77.010 and RCW 36.81.121. The STIP includes the capital elements of the first six years of the Fourteen-Year Ferry Program. The STIP is intended as a planning tool for local, state and federally funded projects and is designed to identify projects for preliminary engineering, right-of-way purchase and/or construction.

COMMITTEE ACTION: 

COUNCIL ACTION:

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

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

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

Through: Jon Hutchings, Director

From: Joseph P. Rutan, P.E., County Engineer/Assistant Director

Date: July 27, 2016

Re: Six-Year Transportation Improvement Program, 2017-2022
PW Committee Work Session, Introduction, Public Hearing and Adoption

Requested Action:
The Department of Public Works requests that a Council Public Works Committee work session be scheduled for August 9th, for discussion of the information attached to this memorandum regarding the 2017-2022 Six-Year Transportation Improvement Program (STIP). If approved by the Committee, we request that the STIP Resolution and its associated exhibits, 2017-2022 Six-Year Transportation Improvement Program and 2017-2030 Fourteen-Year Ferry Capital Program, be introduced at that evenings County Council meeting. We then request that a public hearing be advertised for and held at the September 13th County Council meeting, with the resolution potentially adopted at said meeting.

Background and Purpose:
Each year the County is required to update its Six-Year Transportation Improvement Program, per RCW 35.77.010 and RCW 36.81.121. The County is also required to prepare a Fourteen-Year Ferry Capital Program each year per RCW 36.54.015. The STIP includes the capital elements of the first six years of the Fourteen-Year Ferry Capital Program which is Exhibit “B” of the resolution.

Information:

1- Memorandum to County Executive and Council
   Attachment “A” - 2017-2022 Capital Projects Financial Distribution by Year
   Attachment “R1-R33, B1-B16, F1-F4, Y1-Y8” – Project Summary Sheets
   Attachment “B1” - Road Fund Balance Projections
   Attachment “B2” - Road Fund Revenue Projections
   Attachment “B3” - Road Fund Expenditure Projections
   Attachment “C” - Roadway Priority Rating Program
   Attachment “D” - Bridge Report

   Attachment “A” is a simplified form of Exhibit “A” to the STIP. This simplified form shows priority order of proposed projects as well as expenditures by year. This is being provided in order to facilitate the Public Works Committee work session.

2- 2017-2022 Six Year Transportation Improvement Program Resolution
   Exhibit “A” - 2017-2022 Six-Year Transportation Improvement Program
   Exhibit “B” - 2017-2030 Fourteen-Year Ferry Capital Program
2017-2022 Six Year Transportation Improvement Program (STIP)

Project Removals & Additions

--Not complete list of all changes--

Projects Removed From Previous STIP:

R20 – Marine Drive Bridge Slow Vehicle Warning – Expected 2016 Completion
R28 – County Road Safety Program – Expected 2016 Completion
R29 – South Pass Road Failure Repair – Expected 2016 Completion
R31 – Lakeway Crosswalk – Expected 2016 Completion
B3 - Hannegan Rd/Nooksack Bridge 252 – Completed
B12- Mosquito Lake Rd/N Fork Nooksack River Bridge 332 – Completed
B15- S Bay Rd/Fir Creek Bridge #120 – Expected 2016 Completion

Projects Added to Previous STIP:

R8 - Smith Rd/NW Dr, Intersection Improvements
R16- Slater Rd/Haxton Way, Signal Improvements
R19- Birch Bay Dr, Jackson Rd to Shintaffer Rd, Pavement Repair
R31- Airport Drive Subsurface Repair
R32- Ferndale Road/Levee Improvements
R33- Abbott Road/Levee Improvements
# 2017-2022 Six Year Transportation Improvement Program

**Financial Distribution by Year**

*xxx2016*

**Project Costs in Thousands of Dollars**

*Attachment "A"*

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<td>Birch Bay Drive &amp; Pedestrian Facility</td>
<td>9,250</td>
<td>990</td>
<td>8,260</td>
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## Bridge Capital Construction

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<th>Project Description</th>
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<td>Roberts Road/Anderson Creek/Bridge No. 249</td>
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<td>810</td>
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## Ferry Capital Construction

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<th>F4</th>
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<td>Refurbish/Upgrade of the Whatcom Chief</td>
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<td>Ferry Terminal Electrical and Painting Project</td>
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<td>Lummi Dolphin and Breakwater Replacement</td>
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<td>Replacement of Whatcom Chief</td>
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## Yearly Capital Construction

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<th>Y6</th>
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<td>Y1</td>
<td>Various Bridges Rehabilitation/Replacement</td>
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<td>Y8</td>
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Total: 31,680, 3,350, 28,330, 15,935, 10,275, 1,460, 2,145, 880, 990
Birch Bay Drive and Pedestrian Facility
CRP #907001

Construction Funding Year(s): 2017 / 2018 / 2019

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 2017-2022 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 2016 and construction is planned for 2017 / 2018 / 2019. 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: $3,170,000 (STP and TAP)
- State: $0
- Local: $8,280,000

Environmental Permitting: Whatcom County-Shorelines; WDFW-HPA, Army Corps of Engineers, DOE; Sec 404 Clean Water Act

Right-of-Way Acquisition (Estimate): $300,000
County Forces (Estimate): N/A
Birch Bay Drive, Embankment Repair
CRP # 914014

Construction Funding Year(s): 2017

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 2017-2022 Six-Year Transportation Improvement Program.

Project Status: Preliminary engineering and permitting completed. Construction scheduled for 2017 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
Lake Whatcom Boulevard, Phase II
Water Quality Improvements
CRP # 915009

Construction Funding Year(s): 2019

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 #R3 on the 2017-2022 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: $ 55,000

Funding Sources:
Federal $0
State $0
Local $100,000 (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 # 916002

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 #R4 on the 2017-2022 Six-Year Transportation Improvement Program.

Project Status:
Design, right-of-way, and permitting to begin in 2017 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: $20,000

Funding Sources:
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<th>Amount</th>
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<td>$990,000 (STP)</td>
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<td>State</td>
<td>$0</td>
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<td>Local</td>
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Environmental Permitting
ECS, BA, SEPA, CLR/CAO, Corps of Engrs

Right-of-Way Acquisition (Estimate)  TBD

County Forces (Estimate) N/A
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 #R5 on the 2017-2022 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: $21,000,000*</th>
<th>Funding Sources:</th>
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<tbody>
<tr>
<td>*Includes Project #6 and #7 Expenditures to Date: $0</td>
<td>Federal $0</td>
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<tr>
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<td>State $21,000,000 (7/2019 for Projects #6 and #7)</td>
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<td>Local $5,000</td>
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Environmental Permitting
ECS, BA, SEPA, CLR/CAO, Corps of Engrs

Right-of-Way Acquisition (Estimate) TBD

County Forces (Estimate) N/A
Slater Road
I-5 Interchange
CRP # 916003

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 #R6 on the 2017-2022 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.

Total Estimated Project Cost: $21,000,000*
Expenditures to Date: $0

Funding Sources:

<table>
<thead>
<tr>
<th>Source</th>
<th>Amount</th>
</tr>
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<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>
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<td>Local</td>
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Environmental Permitting: TBD
Right-of-Way Acquisition (Estimate): TBD
County Forces (Estimate): TBD
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 Aldrich Road. This project is listed #R7 on the 2017-2022 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.

<table>
<thead>
<tr>
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<th>Funding Sources:</th>
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<tbody>
<tr>
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<td>Federal $0</td>
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<tr>
<td></td>
<td>State $0</td>
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<td></td>
<td>Local $5,000</td>
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Environmental Permitting  ECS, BA, SEPA, CLR/CAO, Corps of Engrs
Right-of-Way Acquisition (Estimate)  TBD
County Forces (Estimate)  N/A
Smith Road & Northwest Drive

CRP # Not Assigned

Construction Funding Year(s): TBD

Project Narrative:
This project is located in Section 27 & 34 of T39N, R2E. The work involves intersection improvements that will likely be a roundabout or traffic signal at the current 4-way stop. This project will also require drainage upgrades and R/W acquisition, and is dependent on the NW Annex building being demolished at a future date. This project is listed #R8 on the 2017-2022 Six-Year Transportation Improvement Program.

Project Status: The project is currently being scoped.

<table>
<thead>
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<th>Total Estimated Project Cost:</th>
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<tbody>
<tr>
<td>Expenditures to Date:</td>
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<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>
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</table>

Environmental Permitting: TBD
Right-of-Way Acquisition (Estimate): TBD
County Forces (Estimate): TBD
### Roadway Frost Depth Detectors
**CRP # 913014**

#### Construction Funding Year(s):
2018

#### 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 2017-2022 Six Year Transportation Improvement Program.

#### Project Status:

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<td>State $</td>
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<td>Local $250,000 (STIP 2015-2016)</td>
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| Environmental Permitting    | TBD               |
| Right-of-Way Acquisition (Estimate) | TBD               |
| County Forces (Estimate)   | TBD               |

Due to the nature of this item, no map exists. Location of the new roadway frost depth detectors will be determined in 2016.
Bennett Drive, Marine Dr. to West Bakerview Rd.
CRP # 916005

Construction Funding Year(s): 2017

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 will be upgraded to current ADA (Americans with Disabilities Act) standards, signalized crosswalks will be evaluated at safe routes to school, and the roadway will be re-channelized to create bike lanes in both directions. This project is listed as #R10 on the 2017-2022 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: $50,000

Funding Sources:

<table>
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</table>

Environmental Permitting | N/A
Right-of-Way Acquisition (Estimate) | TBD
County Forces (Estimate) | N/A
Marine Drive
McAlpine Road to Alderwood Avenue
Reconstruction and Bike/Ped Facilities
CRP # Not Assigned

Construction Funding Year(s): TBD

Project Narrative:
This Marine Drive project is located between McAlpine Road and Alderwood Avenue in Section 15 of T38N, R2E. The work involves reconstruction of approximately ½ mile of roadway with emphasis on bike/pedestrian enhancements. This project is listed #R11 on the 2017-2022 Six-Year Transportation Improvement Program.

Project Status:
Design, permitting, RW and construction time frames would be contingent on availability of additional grant monies to fund the project.

| Total Estimated Project Cost: | $2,550,000 |
| Expenditures to Date: | $0 |

| Funding Sources: |
| Federal | $0 |
| State | $0 |
| Local | $300,000 (Grant funds to be sought) |

| Environmental Permitting | ECS, BA, SEPA, CLR/CAO, Corps of Engrs |
| Right-of-Way Acquisition (Estimate) | TBD |
| County Forces (Estimate) | N/A |

[Map showing the location of Marine Drive and Alderwood Avenue]
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 #R12 on the 2017-2022 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
North Shore Road
Bellingham City Limits to Y Road
CRP # 902007

Construction Funding Year(s): TBD

Project Narrative:
This project is located in Sections 25 and 26, T38N, R3E. The work will involve improvements to a 2.87 mile section of the North Shore Road from the Bellingham City Limits to ‘Y’ Road, including: various improvements to address horizontal and vertical alignment deficiencies; spot safety upgrades, and stormwater quality treatment. This project is listed #R13 on the 2017-2022 Six-Year Transportation Improvement Program.

Project Status:
Preliminary design and construction time frames will be contingent on resolution of funding needs, along with permitting and R/W issues associated with the final selected sites.

<table>
<thead>
<tr>
<th>Total Estimated Project Cost: TBD</th>
<th>Funding Sources:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Expenditures to Date: $ 0</td>
<td>Federal $0</td>
</tr>
<tr>
<td></td>
<td>State $0</td>
</tr>
<tr>
<td></td>
<td>Local $10,000 (Grant funding will be sought)</td>
</tr>
</tbody>
</table>

Environmental Permitting SEPA, CLR/CAO, Shorelines
Right-of-Way Acquisition (Estimate) TBD
County Forces (Estimate) N/A
Lummi Nation Transportation Projects
CRP #912017

Construction Funding Year(s): 2017

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 \#R14 on the 2017-2022 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>
<th>$4,000,000</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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</thead>
<tbody>
<tr>
<td>Federal</td>
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</tr>
<tr>
<td>$0</td>
</tr>
<tr>
<td>$2,000,000</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 2017.
Point Roberts Transportation Improvements
CRP # 910002

Construction Funding Year(s): 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 #R15 on the 2017-2022 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, selection, and development.

| Total Estimated Project Cost: | $150,000 (2017) |
| Expenditures to Date: | $4,000 |

<table>
<thead>
<tr>
<th>Funding Sources:</th>
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<tbody>
<tr>
<td>Federal</td>
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<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 |
Slater Road/Haxton Way
CRP # Not Assigned

Construction Funding Year(s): 2017

**Project Narrative:** This project is located on Slater Road in Section 36, T39N, R1E. The project is to improve the intersection, thru location of a dedicated left hand turn signal, pavement, drainage, signing, and striping improvements. This project is listed #R16 on the 2017-2022 Six Year Transportation Improvement Program.

**Project Status:**

<table>
<thead>
<tr>
<th>Total Estimated Project Cost</th>
<th>$ TBD</th>
</tr>
</thead>
<tbody>
<tr>
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**Funding Sources:**

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<tr>
<th>Source</th>
<th>Amount</th>
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</thead>
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<tr>
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<tr>
<td>State</td>
<td></td>
</tr>
<tr>
<td>Local</td>
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</table>

**Environmental Permitting**

HPA, SEPA, Sec 404, NEPA

**Right-of-Way Acquisition (Estimate)**

$ TBD

**County Forces (Estimate)**

TBD
East Smith Road
Everson-Goshen Road to SR 542
CRP # 916006

Construction Funding Year(s): TBD

Project Narrative:
This East Smith Road project is located between Everson-Goshen Road and State Route 542 in Section 25 of T39N, R3E and Sections 28, 29, 30 T39N, R4E. The work will involve the pavement rehabilitation of approximately 3.25 miles of roadway. This project is listed #R17 on the 2017-2022 Six-Year Transportation Improvement Program.

Project Status:
Design, permitting and construction to be completed in 2017. Rural Arterial Pavement Preservation (RAPP) grant funds will be sought.

<table>
<thead>
<tr>
<th>Total Estimated Project Cost: $1,400,000</th>
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<tbody>
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<td>State</td>
</tr>
<tr>
<td></td>
<td>Local $5,000</td>
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</table>

<table>
<thead>
<tr>
<th>Environmental Permitting</th>
<th>SEPA, ESA</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>
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 #R18 on the 2017-2022 Six-Year Transportation Improvement Program. This intersection currently experiences delays due to the lack of left-turn channelization on Smith Road. The first phase of this project is to analyze a range of solutions as well as their associated benefits, limitations, and costs.

Project Status:
Traffic counts and warrants completed with an associated 'Alternatives Analysis' in 2014. Preliminary engineering will begin in 2016, contingent on funding and finalization of scope.

Total Estimated Project Cost: $ TBD
Expenditures to Date: $ 14,000

Funding Sources:
<table>
<thead>
<tr>
<th></th>
<th>Federal</th>
<th>State</th>
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<tbody>
<tr>
<td></td>
<td></td>
<td>$</td>
<td>$ 150,000</td>
</tr>
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</table>

Environmental Permitting SEPA, ESA
Right-of-Way Acquisition (Estimate) N/A
County Forces (Estimate) N/A
Birch Bay Drive – Jackson Rd. to Shintaffer Rd.
CRP #Not Assigned

Construction Funding Year(s): 2020

Project Narrative:
This project is located in Sections 24, 30, and 31 of T40N, R1E. The work involves pavement rehabilitation of approximately 2.5 miles of roadway through a grind/repave operation. This project is listed #R19 on the 2017-2022 Six-Year Transportation Improvement Program.

Project Status:
Project design and construction will closely follow the Birch Bay Drive & Pedestrian Facility project to rehabilitate Birch Bay Drive after the soft shore berm construction activities. Additional funding sources will be pursued as they become available.

| Total Estimated Project Cost: | $1,170,000 |
| Expenditures to Date: | $0 |
| Funding Sources: | |
| Federal | $TBD |
| State | $TBD |
| Local | $1,170,000 |

Environmental Permitting
SEPA, CLR/CAO, Shorelines

Right-of-Way Acquisition (Estimate) $0

County Forces (Estimate) TBD
North Enterprise Road
Harksell Road to Birch Bay Lynden Road
CRP # 915011

Construction Funding Year(s): TBD

Project Narrative:
This North Enterprise Road project is located between Ferndale City Limits to Harksell Road in Sections 5 & 8 of T39N, R2E. The work involves the pavement rehabilitation of approximately 2 miles of roadway. This project is listed #R20 on the 2017-2022 Six-Year Transportation Improvement Program.

Project Status:
Design & construction will be pursued when additional funding sources become available. Rural Arterial Pavement Preservation (RAPP) funds will be sought.

<table>
<thead>
<tr>
<th>Total Estimated Project Cost: $1,000,000</th>
<th>Funding Sources:</th>
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<tbody>
<tr>
<td>Expenditures to Date: $0</td>
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<tr>
<td></td>
<td>State: $0</td>
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<td></td>
<td>Local: $5,000</td>
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Environmental Permitting: ECS, BA, SEPA, CLR/CAO, Corps of Engrs
Right-of-Way Acquisition (Estimate): N/A
County Forces (Estimate): N/A
West Badger Road
Sunrise Road to Markworth Road
CRP # Not Assigned

Construction Funding Year(s):
TBD

Project Narrative:
This West Badger Road project is located between Sunrise Road and Markworth Road in Sections 8 and 9 of T40N, R2E. The work involves reconstruction of approximately 2 miles of roadway, including realignment, widening, safety upgrades and water quality / quantity treatment. This project is listed #R21 on the 2017-2022 Six-Year Transportation Improvement Program.

Project Status:
Design, permitting and R/W could begin in 2018; however, the degree of project activity would be contingent on resolution of funding needs. Rural Arterial Pavement Preservation (RAPP) funds will be sought.

<table>
<thead>
<tr>
<th>Total Estimated Project Cost:</th>
<th>$ TBD</th>
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<tbody>
<tr>
<td>Expenditures to Date:</td>
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<tr>
<th>Funding Sources:</th>
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<tbody>
<tr>
<td>Federal</td>
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</tr>
<tr>
<td>State</td>
<td>$0</td>
</tr>
<tr>
<td>Local</td>
<td>$5,000</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
Portal Way
Birch Bay Lynden Road to Faris Road
CRP # Not Assigned

Construction Funding Year(s): TBD

Project Narrative:
This Portal Way project is located between Birch Bay Lynden Road and Faris Road in Sections 27, 35, and 36 of T40N, R1E. The work involves pavement rehabilitation of 2.85 miles of roadway. This project is listed #R22 on the 2017-2022 Six-Year Transportation Improvement Program.

Project Status:
Design, permitting and construction would be contingent on the resolution of additional funding needs. Rural Arterial Pavement Preservation (RAPP) grand funds will be sought.

<table>
<thead>
<tr>
<th>Total Estimated Project Cost</th>
<th>TBD</th>
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<tbody>
<tr>
<td>Expenditures to Date</td>
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<tbody>
<tr>
<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>

| $0                             |
| $0                             |
| $5,000                         |

Environmental Permitting: ECS, BA, SEPA, CLR/CAO, Corps of Engrs
Right-of-Way Acquisition (Estimate): N/A
County Forces (Estimate): N/A
Turkington Road/Jones Creek
CRP # 915013

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 a debris flow berm project being developed by the River and Flood Division. The project is listed #R23 on the 2017-2022 Six-Year Transportation Improvement Program.

Project Status:
Alternate analysis work is underway by the River & Flood Division.

<table>
<thead>
<tr>
<th>Total Estimated Project Cost: $ TBD</th>
<th>Funding Sources:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Expenditures to Date: $0</td>
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<tr>
<td></td>
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<tr>
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</table>

<table>
<thead>
<tr>
<th>Environmental Permitting</th>
<th>BA, HPA, SEPA, Corps of Engrs, CLR/CAO, Shorelines, DNR</th>
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</thead>
<tbody>
<tr>
<td>Right-of-Way Acquisition (Estimate)</td>
<td>$50,000</td>
</tr>
<tr>
<td>County Forces (Estimate)</td>
<td>N/A</td>
</tr>
</tbody>
</table>
Lincoln Road II
Harborview Road to SR 548 (Blaine Road)
Reconstruction and New Alignment
CRP # 908011

Construction Funding Year(s):
TBD

Project Narrative:
This Lincoln Road project, from Harborview Road to SR 548 (Blaine Rd), is located in Sections 18 and 19 of T40N, R1E. The work involves improvements to a 1 mile section that includes road reconstruction, new roadway alignment, safety upgrades, and storm water quality and quantity treatment. This project is listed #R24 on the 2017-2022 Six-Year Transportation Improvement Program.

Project Status:
Design, permitting, R/W and construction time frames would be contingent on availability of addition grant monies to fund the project, as well as resolution of some key acquisition, WSDOT access and wetland mitigation issues.

| Total Estimated Project Cost: | $ TBD |
| Expenditures to Date:          | $0    |

<table>
<thead>
<tr>
<th>Funding Sources:</th>
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</thead>
<tbody>
<tr>
<td>Federal</td>
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<tr>
<td>State</td>
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<table>
<thead>
<tr>
<th>Environmental Permitting</th>
<th>ECS, BA, SEPA, CLR/CAO, Corps of Engrs</th>
</tr>
</thead>
<tbody>
<tr>
<td>Right-of-Way Acquisition (Estimate)</td>
<td>TBD</td>
</tr>
<tr>
<td>County Forces (Estimate)</td>
<td>N/A</td>
</tr>
</tbody>
</table>
Marine Drive II
Alderwood Avenue to Bridge No. 172
Reconstruction and Bike/Ped Facilities
CRP # Not Assigned

Construction Funding Year(s): TBD

Project Narrative:
This Marine Drive project is located between Alderwood Avenue and Bridge No. 172 in Sections 15 of T38N, R2E. The work involves reconstruction of approximately ½ mile of roadway with emphasis on bike/pedestrian enhancements. This project is listed #R25 on the 2017-2022 Six-Year Transportation Improvement Program.

Project Status:
Design, permitting, R/W and construction time frames would be contingent on availability of addition grant monies to fund the project.

Total Estimated Project Cost: TBD
Expenditures to Date: $0

Funding Sources:
<table>
<thead>
<tr>
<th>Source</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Federal</td>
<td>$0</td>
</tr>
<tr>
<td>State</td>
<td>$0</td>
</tr>
<tr>
<td>Local</td>
<td>$5,000</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
Hemmi Road Flood Mitigation
CRP # 916007

Construction Funding Year(s): TBD

Project Narrative: This Hemmi Road Flood Mitigation project is located on Hemmi Road approximately a half mile east of Hannegan Road, located in Section 16 and 21 of T39N, R3E. Hemmi Road is submerged several months of the year at this location. This project is listed #R26 on the 2017-2022 Six-Year Transportation Improvement Program.

Project Status: Preliminary engineering and alternatives analysis work began in 2016 and is expected to be completed in early 2017.

Total Estimated Project Cost: TBD
Expenditures to Date: $70,000

Funding Sources:

<table>
<thead>
<tr>
<th></th>
<th>Federal</th>
<th>State</th>
<th>Local</th>
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<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td>$150,000</td>
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</tbody>
</table>

Environmental Permitting: TBD
Right-of-Way Acquisition (Estimate): TBD
County Forces (Estimate): TBD
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 #R27 on the 2017-2022 Six Year Transportation Improvement Program.

Project Status:
Preliminary design and permitting work is underway with alternatives and associated costs to be developed in 2017.

| Total Estimated Project Cost: | TBD |
| Expenditures to Date: | $ 45,000 |
| Funding Sources: | |
| Federal | $0 |
| State | $0 |
| Local | $30,000 |

Environmental Permitting: TBD
Right-of-Way Acquisition (Estimate): TBD
County Forces (Estimate): TBD
Larrabee Road Flood Prevention
CRP # 914003

Construction Funding Year(s): TBD

Project Narrative:
This project is located near the Bellingham city limits in Section 11, T38N, R2E. This is a project to provide fish passage, restore habitat, and reduce chronic flooding along a tributary to Bear Creek. This project is listed #R28 on the 2017-2022 Six-Year Transportation Improvement Program.

Project Status:
Project site is monitored routinely. Project scoping and design scheduled to begin in 2016 pending results of the ongoing monitoring program.

<table>
<thead>
<tr>
<th>Total Estimated Project Cost</th>
<th>Funding Sources</th>
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<tbody>
<tr>
<td>TBD</td>
<td>Federal</td>
</tr>
<tr>
<td>Expenditures to Date:</td>
<td>State</td>
</tr>
<tr>
<td>$ 0</td>
<td>Local</td>
</tr>
</tbody>
</table>

| Environmental Permitting    | TBD             |
| Right-of-Way Acquisition (Estimate) | TBD         |
| County Forces (Estimate)    | TBD             |
Lakeway Drive Corridor
Preliminary Engineering Study
CRP # Not Assigned

Construction Funding Year(s): 2019

Project Narrative:
This project is located in Section 34, T38N, R3E. This project proposes to rechannelize 1.4 miles of Lakeway Drive to create a center left turn, ADA upgrades and bus pull-outs. This project is listed #R29 on the 2017-2022 Six-Year Transportation Improvement Program.


| Total Estimated Project Cost: | TBD |
| Expenditures to Date: | $0 |

| Funding Sources: |
| Federal | $0 |
| State | $0 |
| Local | $5,000 |

| Environmental Permitting | TBD |
| Right-of-Way Acquisition (Estimate) | TBD |
| County Forces (Estimate) | N/A |
Yacht Club Rd RR Quiet Zone
CRP # 915008

Construction Funding Year(s): 2017 / 2018

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 #R30 on the 2017-2022 Six-Year Transportation Improvement Program.

Project Status: Federal Application is submitted to the Federal Railroad Administration for approval; construction date pending approval and funding source.

<table>
<thead>
<tr>
<th>Total Estimated Project Cost: $50,000 (LID)</th>
<th>Funding Sources:</th>
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<td>State</td>
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<tr>
<td></td>
<td>Local $5,000</td>
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</table>

Environmental Permitting  TBD
Right-of-Way Acquisition (Estimate) TBD
County Forces (Estimate) $50,000 – funded by local improvement district (LID)
Airport Drive Subsurface Repair
CRP # Not Assigned

Construction Funding Year(s): 2017

Project Narrative:
This project is located in Section 14, T38N, R2E. This project proposes to repair a subsurface issue on Airport Drive just west of Canterbury Lane. This project is listed #R31 on the 2017-2022 Six-Year Transportation Improvement Program.

Project Status: Design, permitting and construction to be completed in 2017.

| Total Estimated Project Cost: $300,000           | Funding Sources: |
| Expenditures to Date: $0                           | Federal          |
|                                                  | State            |
|                                                  | Local $300,000   |

Environmental Permitting: TBD

Right-of-Way Acquisition (Estimate): TBD

County Forces (Estimate): TBD
Ferndale Road/Levee Improvements
CRP # Not Assigned

Construction Funding Year(s): 2023 - 2024

Project Narrative:
This project is located in Sections 30 and 31, T39N, R2E. This project includes reconstruction of 1.2 miles of levee with the Ferndale Levee and Ferndale Treatment Plant Levee segments. The new levee will be set back slightly to Ferndale Road with the roadway serving as the crest of the levee. This project is listed #R32 on the 2017-2022 Six-Year Transportation Improvement Program.

Project Status: Due to the high cost, outside funding will be sought. The WCFCZD will pursue funding through the Floodplains by Design grant program administered by the DOE.

Total Estimated Project Cost: $7,000,000
Expenditures to Date: $0

Funding Sources:

<table>
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<tr>
<th>Source</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
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<td>State</td>
<td>$</td>
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<td>Local</td>
<td>$75,000</td>
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</table>

Environmental Permitting: TBD
Right-of-Way Acquisition (Estimate): TBD
County Forces (Estimate): $
**Abbott Road/Levee Improvements**  
CRP # Not Assigned

**Construction Funding Year(s):** 2024

**Project Narrative:**  
This project is located in Section 27, T40N, R3E. This project proposes to extend the upstream end of the Abbott Levee and realigned it to run under Abbott Road. This project is listed **#R33** on the 2017-2022 Six-Year Transportation Improvement Program.

**Project Status:** The funding sources will likely include the County Road fund, the WCFCZD and the LE Subzone.

<table>
<thead>
<tr>
<th><strong>Total Estimated Project Cost:</strong> $800,000</th>
<th><strong>Funding Sources:</strong></th>
</tr>
</thead>
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<thead>
<tr>
<th><strong>Environmental Permitting</strong></th>
<th>TBD</th>
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<tbody>
<tr>
<td><strong>Right-of-Way Acquisition (Estimate)</strong></td>
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</tr>
<tr>
<td><strong>County Forces (Estimate)</strong></td>
<td>$</td>
</tr>
</tbody>
</table>

---

[Map of Abbott Road and surrounding areas with R33 marked.]
Potter Road
South Fork Bridge No. 148 Replacement
CRP #998027

Construction Funding Year(s): 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 2017-2022 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 Fall 2016, with plant establishment and environment mitigation fully complete in early 2017.

<table>
<thead>
<tr>
<th>Total Estimated Project Cost: $9,600,000</th>
<th>Funding Sources:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Expenditures to Date: $8,200,000</td>
<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
Slater Road/Jordan Creek Bridge  
CRP # 915007

Construction Funding Year(s): 2017

**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 with a new bridge. The project is listed #B2 on the 2017-2022 Six Year Transportation Improvement Program.

**Project Status:** Preliminary engineering work and alternatives analysis of culvert replacement options completed 2015. Recommended alternative of a full span bridge replacement approved by council in early 2015 and design and permitting work for new bridge underway with construction expected in 2017. Work on-going to secure outside funding for construction phase of project.

| Total Estimated Project Cost: | $6,030,000 |
| Expenditures to Date: | $480,000 |

**Funding Sources:**
- Federal
- State
- Local
  - $6,030,000

**Environmental Permitting**  
HPA, SEPA, Sec 404, NEPA

**Right-of-Way Acquisition (Estimate)**  
$50,000

**County Forces (Estimate)**

---

[Map of the area with marked locations and project #B2]
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 #B3 on the 2017-2022 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 | Funding Sources: |
| Expenditures to Date: | $0 | Federal | $0 |
| | | State | $0 |
| | | Local | $20,000 |

Environmental Permitting: HPA, NEPA
Right-of-Way Acquisition (Estimate): TBD
County Forces (Estimate): TBD
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 2012-2022 Six Year Transportation Improvement Program.

Project Status:
Design and permitting completed in 2015, construction completed in 2016 and project closeout to be completed in 2017.

| Total Estimated Project Cost: | $1,410,000 |
| Expenditures to Date: | $1,200,000 |

| Funding Sources: |
| Federal | $ |
| State | $ |
| Local | $60,000 |

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): 2016

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 2017-2022 Six Year Transportation Improvement Program.

Project Status:
Construction completed in November of 2015, mitigation planting work completed in 2016 and project closeout to be completed in 2017.

Total Estimated Project Cost: $4,048,6004
Expenditures to Date: $3,970,000

Funding Sources:
- Federal $3,000,000 (BR)
- State $0
- Local $1,048,604

Environmental Permitting: HPA, SEPA, SEC 404, NEPA, County Shorelines
Right-of-Way Acquisition (Estimate): None Required
County Forces (Estimate): None
**Jackson Road / Terrell Creek - Bridge No. 81 Replacement**

**CRP # Not Assigned**

<table>
<thead>
<tr>
<th>Construction Funding Year(s):</th>
<th>TBD</th>
</tr>
</thead>
</table>

**Project Narrative:**
This project is located near Birch Bay in Section 31, T40N, R1W. This is a project to replace the existing 62-foot structurally deficient bridge. This project is listed **B6** on the 2017-2022 Six Year Transportation Improvement Program.

**Project Status:**
Preliminary design and permitting to begin in 2017 with construction time frames to be contingent upon availability of grant funds.

<table>
<thead>
<tr>
<th>Total Estimated Project Cost:</th>
<th>$ TBD</th>
</tr>
</thead>
<tbody>
<tr>
<td>Expenditures to Date:</td>
<td>$ 0</td>
</tr>
</tbody>
</table>

**Funding Sources:**

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<thead>
<tr>
<th>Source</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Federal</td>
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<tr>
<td>State</td>
<td>$0</td>
</tr>
<tr>
<td>Local</td>
<td>$50,000</td>
</tr>
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<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>

![Map of Birch Bay and vicinity with markings for project B6 and Tarte Rd.]

243
Mosquito Lake Road / Porter Creek - Bridge No. 141 Replacement
CRP # Not Assigned

Construction Funding Year(s): TBD

Project Narrative:
This project is located south of Welcome in Section 11, T38N, R5E. This is a project to replace the existing 31-foot bridge in order to mitigate ongoing scour and debris issues. This project also affords an opportunity to address geometric issues that arose from the emergency realignment of Mosquito Lake Road in 2004. This project is listed #B7 on the 2017-2022 Six Year Transportation Improvement Program.

Project Status:
Preliminary design and permitting to begin in 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>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Funding Sources:</th>
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</thead>
<tbody>
<tr>
<td>Federal</td>
</tr>
<tr>
<td>State</td>
</tr>
<tr>
<td>Local</td>
</tr>
</tbody>
</table>

Environmental Permitting: TBD
Right-of-Way Acquisition (Estimate): TBD
County Forces (Estimate): TBD

[Map of the area with B7 highlighted]
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 project will perform an engineering analysis on replacement options for this existing 250-foot timber bridge. This project is listed #B8 on the 2017-2022 Six-Year Transportation Improvement Program.

Project Status:
Preliminary engineering work began in 2016 with completion of a type, size and location report expected in early 2017 to aid in determining the bridge replacement type. Anticipate applying for BRAC funds for final design and construction phase in 2017.

| Total Estimated Project Cost: | TBD |
| Expenditures to Date: | $175,000 |

Funding Sources:
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<tr>
<td>State</td>
<td>$0</td>
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<td>Local</td>
<td>$500,000</td>
</tr>
</tbody>
</table>

Environmental Permitting: TBD
Right-of-Way Acquisition: TBD
County Forces: 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 2017-2022 Six Year Transportation Improvement Program.

Project Status:  
Project design and permitting work expected to be completed in 2017. Rural Surface Transportation Program (STP) Funds have been obtained for the construction of the project.

<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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</tbody>
</table>

<table>
<thead>
<tr>
<th>Funding Sources:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Federal</td>
</tr>
<tr>
<td>State</td>
</tr>
<tr>
<td>Local</td>
</tr>
</tbody>
</table>

Environmental Permitting: TBD  
Right-of-Way Acquisition (Estimate): TBD  
County Forces: N/A
Roberts Road/Anderson Creek, Bridge No. 249
CRP # 915020

Construction Funding Year(s): 2018

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 2017-2022 Six Year Transportation Improvement Program.


Total Estimated Project Cost: $2,000,000
Expenditures to Date: $240,000

<table>
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<tr>
<td>State</td>
<td>$0</td>
</tr>
<tr>
<td>Local</td>
<td>$900,000</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): 2017

Project Narrative:
This project is located east of Everson in Section 5, T39N, R4E. This is a project to replace the deck on this structurally deficient bridge. This project is listed #B11 on the 2017-2022 Six-Year Transportation Improvement Program.

Project Status: Preliminary design and permitting is underway with construction scheduled in 2017.

<table>
<thead>
<tr>
<th>Total Estimated Project Cost:</th>
<th>$235,000</th>
</tr>
</thead>
<tbody>
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<td>Expenditures to Date:</td>
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</tbody>
</table>

<table>
<thead>
<tr>
<th>Funding Sources:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Federal</td>
</tr>
<tr>
<td>State</td>
</tr>
<tr>
<td>Local</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Environmental Permitting</th>
</tr>
</thead>
<tbody>
<tr>
<td>HPA, SEPA, Shorelines</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Right-of-Way Acquisition</th>
</tr>
</thead>
<tbody>
<tr>
<td>N/A</td>
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</table>

<table>
<thead>
<tr>
<th>County Forces (Estimate)</th>
</tr>
</thead>
<tbody>
<tr>
<td>$200,000</td>
</tr>
</tbody>
</table>
W. Badger Road/Bertrand Creek Bridge No. 50
CRP # 915024

Construction Funding Year(s): TBD

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 #B12 on the 2017-2022 Six Year Transportation Improvement Program.

Project Status: BRAC funding obtained in 2015. Preliminary engineering work started in 2016 and will be on-going in 2017.

Total Estimated Project Cost: TBD
Expenditures to Date: $205,000

Funding Sources:
Federal $120,000 (BR)
State $0
Local $50,000

Environmental Permitting: TBD
Right-of-Way Acquisition (Estimate): TBD
County Forces (Estimate): TBD
Goshen Road/Anderson Creek Bridge No. 248
CRP # Not Assigned

Construction Funding Year(s): TBD

Project Narrative:
This project is located south of Everson/Goshen in Section 19, T39N, R4E. This is a bridge rehabilitation and sedimentation control project. This project is listed #B13 on the 2017-2022 Six Year Transportation Improvement Program.

Project Status: Preliminary design and permitting to begin in 2018.

Total Estimated Project Cost: TBD
Expenditures to Date: $0

Funding Sources:
Federal $0
State $0
Local $20,000

Environmental Permitting: TBD
Right-of-Way Acquisition (Estimate): TBD
County Forces (Estimate): TBD
Slater Road / Nooksack River Bridge No. 512 Overheight Detection
CRP #914013

Construction Funding Year(s): TBD

Project Narrative:
This project is located on Slater Road at the Nooksack River in Section 6, T38N, R2E. This is an overheight detection/warning system project. The project is listed #B14 on the 2017-2022 Six-Year Transportation Improvement Program.

Project Status:
Preliminary design work to begin in 2017.

<table>
<thead>
<tr>
<th>Total Estimated Project Cost:</th>
<th>TBD</th>
<th>Funding Sources:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Expenditures to Date:</td>
<td>$1,500</td>
<td>Federal</td>
</tr>
<tr>
<td></td>
<td></td>
<td>State</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Local</td>
</tr>
</tbody>
</table>

Environmental Permitting: TBD
Right-of-Way Acquisition (Estimate): TBD
County Forces (Estimate): N/A
Martin Road/Anderson Creek Bridge No. 250  
CRP # Not Assigned

### Construction Funding Year(s):
TBD

### Project Narrative: Project:
This project is located on Martin Road in Section 18 & 19, T39N, R4E. This is a project to replace the existing 31-foot structurally deficient bridge. This project is listed #B15 on the 2017-2022 Six-Year Transportation Improvement Program.

### Project Status:
Preliminary design and permitting to begin in 2021.

<table>
<thead>
<tr>
<th>Total Estimated Project Cost:</th>
<th>TBD</th>
</tr>
</thead>
<tbody>
<tr>
<td>Expenditures to Date:</td>
<td>$0</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Funding Sources</th>
</tr>
</thead>
<tbody>
<tr>
<td>Federal</td>
</tr>
<tr>
<td>State</td>
</tr>
<tr>
<td>Local</td>
</tr>
<tr>
<td></td>
</tr>
<tr>
<td>$5,000</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>TBD</td>
</tr>
</tbody>
</table>

[Map of Goshen area with bridge location marked B15]
Loomis Trail Rd/Bertrand Cr. Trib. Bridge No. 497
CRP # Not Assigned

Construction Funding Year(s): TBD

Project Narrative:
This project is located on Loomis Trail Road in Section 15 & 22, T40N, R2E. This project is to replace the existing 21-foot structurally deficient bridge. This project is listed #B16 on the 2017-2022 Six-Year Transportation Improvement Program.

Project Status:
Preliminary design and permitting to begin in 2022.

Total Estimated Project Cost: TBD
Expenditures to Date: $0

<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>$5,000</td>
</tr>
</tbody>
</table>

Environmental Permitting: TBD
Right-of-Way Acquisition (Estimate): TBD
County Forces (Estimate): TBD

[Map of the area with landmarks and roads]
Refurbish / Upgrade of the Whatcom Chief
CRP #910012

Construction Funding Year(s): TBD

Project Narrative:
This project involves the upgrade and preservation of the current ferry to Lummi Island, M/V Whatcom Chief. The project definition will address safety, accessibility and reliability concerns associated with the approximately 50 year old ferry. This project is listed #F1 on the 2017-2022 Six Year Transportation Improvement Program.

Project Status:
Opportunities for project funding will be reviewed as they become available.

<table>
<thead>
<tr>
<th>Total Estimated Project Cost: TBD</th>
<th>Funding Sources:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Expenditures to Date: $2,000</td>
<td>Federal $0</td>
</tr>
<tr>
<td></td>
<td>State $0</td>
</tr>
<tr>
<td></td>
<td>Local $5,000</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Environmental Permitting</th>
<th>None Required</th>
</tr>
</thead>
<tbody>
<tr>
<td>Right-of-Way Acquisition (Estimate)</td>
<td>None Required</td>
</tr>
<tr>
<td>County Forces (Estimate)</td>
<td>N/A</td>
</tr>
</tbody>
</table>

M/V Whatcom Chief
Ferry Dock Electrical and Painting Project
CRP #916020

Construction Funding Year(s): 2018

Project Narrative:
This project includes electrical improvements and painting of the approach spans and towers at both ferry terminals. This project is listed #F2 on the 2017-2022 Six Year Transportation Improvement Program.

Project Status:
Design and permitting work began in 2016 with construction anticipated in 2018.

Total Estimated Project Cost: $1,290,000

Expenditures to Date: $90,000

Funding Sources:
- Federal
- Federal
- State
- Local $1,290,000

Environmental Permitting
HPA, SEPA, CORPS 404, COUNTY SHORELINES

Right-of-Way Acquisition (Estimate)
None Required

County Forces (Estimate)
N/A
Lummi Dolphin and Breakwater Replacement
CRP #914015

Construction Funding Year(s): TBD

Project Narrative:
This project includes replacing the three remaining timber dolphins and southerly breakwater at the Lummi Island ferry terminal. These structures were constructed in the mid 1980's and are reaching the end of their service life. This project is listed #F3 on the 2017-2022 Six Year Transportation Improvement Program.

Project Status:
Federal Ferry Boat Program funds have been obtained for this project. Design and permitting work is underway.

Total Estimated Project Cost: TBD
Expenditures to Date: $75,000

Funding Sources:
Federal $60,000 (FBP)
State $
Local $15,000

Environmental Permitting: HPA, SEPA, CORPS 404, COUNTY SHORELINES
Right-of-Way Acquisition (Estimate): None Required
County Forces (Estimate): N/A
Replacement of the Whatcom Chief
CRP # Not Assigned

Construction Funding Year(s): TBD

Project Narrative:
This project involves replacement of the current ferry to Lummi Island, M/V Whatcom Chief. This project is listed #F4 on the 2017-2022 Six Year Transportation Improvement Program.

Project Status:
Opportunities for project funding will be reviewed as they become available.

<table>
<thead>
<tr>
<th>Total Estimated Project Cost: TBD</th>
<th>Funding Sources:</th>
</tr>
</thead>
<tbody>
<tr>
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<td></td>
<td>State $0</td>
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<td></td>
<td>Local $10,000</td>
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</tbody>
</table>

Environmental Permitting None Required
Right-of-Way Acquisition (Estimate) None Required
County Forces (Estimate) None Required

M/V Whatcom Chief
### Various Bridges Rehabilitation / Replacement

**CRP #Not Assigned**

<table>
<thead>
<tr>
<th>Construction Funding Year(s):</th>
<th>2017</th>
</tr>
</thead>
</table>

**Project Narrative:**
This item provides funding to address unanticipated bridge rehabilitation and/or replacement. It is listed #Y1 on the 2017-2022 Six Year Transportation Improvement Program.

**Project Status:**
Design and construction to occur as necessary.

<table>
<thead>
<tr>
<th>Total Estimated Project Cost: $1,750,000</th>
<th>Funding Sources:</th>
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<tbody>
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<td></td>
<td>State $</td>
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<tr>
<td></td>
<td>Local $1,750,000 (STIP 2017-2022)</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

# Right of Way Acquisition  
CRP # Not Assigned

## Construction Funding Year(s):
2017-2022

### 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 2017-2022 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>
<tr>
<td></td>
<td>Local</td>
</tr>
<tr>
<td></td>
<td>$180,000</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.
## Unanticipated Site Improvements

**CRP # Not Assigned**

### Construction Funding Year(s): 2017 - 2022

### 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 2017-2022 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>
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<th>Total Estimated Project Cost: $1,800,000</th>
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</tr>
</thead>
<tbody>
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<table>
<thead>
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<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>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.
# Stormwater Quality Improvements

**CRP # Not Assigned**

<table>
<thead>
<tr>
<th>Construction Funding Year(s):</th>
<th>2017 - 2018</th>
</tr>
</thead>
</table>

## 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 2017-2022 Six Year Transportation Improvement Program.

## Project Status:
Design and construction will be completed in 2017/2018.

<table>
<thead>
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<th>Total Estimated Project Cost:</th>
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<td>Expenditures to Date:</td>
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<tr>
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<tr>
<td>Federal</td>
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</tr>
<tr>
<td>State</td>
<td>$0</td>
</tr>
<tr>
<td>Local</td>
<td>$345,000</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.
Non-motorized Transportation Improvements  
CRP # Not Assigned  

Construction Funding Year(s): 2017 - 2022  

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 2017-2022 Six Year Transportation Improvement Program.  

Project Status:  
It is anticipated that the design and construction of projects will occur yearly as the needs and locations are determined.  

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<td></td>
<td>State $0</td>
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<td></td>
<td>Local $600,000</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.
Fish Passage Project
CRP #912014

Construction Funding Year(s): 2017 – 2018

Project Narrative:
This project is for the design and construction of fish passage projects. This project is listed #Y6 on the 2017-2022 Six Year Transportation Improvement Program.

Project Status:
Design will begin in 2016 with construction of the first project scheduled for 2017.

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<tbody>
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<table>
<thead>
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<th>Right-of-Way Acquisition (Estimate)</th>
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Due to the nature of this program item, no map exists. Council review and prioritization will be sought at the appropriate time.
# Railroad Crossing Improvements
CRP # Not Assigned

<table>
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<th>Construction Funding Year(s):</th>
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**Project Narrative:**
Locations to be determined. Identification and prioritization to be addressed. This project is listed #Y7 on the 2017-2022 Six Year Transportation Improvement Program.

**Project Status:**
Locations and prioritization of projects is on-going. Negotiations with BNSF will be a factor on timing and cost.

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<td>Local</td>
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Due to the nature of this program item, no map exists. Council review and prioritization will be sought at the appropriate time.
# Neighborhood Traffic Calming
## CRP # Not Assigned
### Construction Funding Year(s): 2017 - 2022

**Project Narrative:**
Locations to be determined. Identification and prioritization to be addressed. This project is listed #Y8 on the 2017-2022 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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**Environmental Permitting**
TBD

**Right-of-Way Acquisition (Estimate)**
TBD

**County Forces (Estimate)**
TBD

Due to the nature of this program item, no map exists. Council review and prioritization will be sought at the appropriate time.
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<tr>
<th>Year</th>
<th>General Revenue</th>
<th>Capital Expense</th>
<th>Non-Capital Revenue</th>
<th>Capital Expense</th>
<th>Net</th>
<th>Const. Revenue</th>
<th>Const. Expense</th>
<th>Capital Program</th>
<th>Net</th>
<th>Ending Fund Balance</th>
<th>Designated Fund Balance</th>
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<td>($0.990)</td>
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# Whatcom County Public Works

## ATTACHMENT "B2"

### Road Fund

**Cash Flow Projections ($ in millions)**

<table>
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<tr>
<th>Year</th>
<th>Property Tax Revenue</th>
<th>General Fuel Tax</th>
<th>Private Timber Harvest</th>
<th>Federal Forest</th>
<th>State Forest</th>
<th>Ferry Tolls</th>
<th>Fuel Tax Ferry Deficit</th>
<th>Reimb.</th>
<th>Interfund Charges</th>
<th>Other Revenue</th>
<th>Total Non-Const Revenue</th>
<th>Const. Grants &amp; Loans</th>
<th>Total Revenue</th>
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<tr>
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**Notes:**

- Ferry Fund created 1/1/2006 - ferry toll and ferry deficit revenues no longer included in the Road Fund
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<th>108110</th>
<th>10890</th>
<th>10851</th>
<th>10852/10855</th>
<th>10853/10854</th>
<th>108131/108920</th>
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<th>CRP &amp; PBB</th>
<th>Total Expense</th>
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$2 million in fund 338 for Lummi lease commitment.
## 2016
### Whatcom County
#### Priority Rating Program

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**Rating:** 0 (worst) to 100 (best)
Incorporates: road geometrics, surface condition, ride, drainage, traffic volumes, traffic types, accident history

**Federal Functional Classification (FFC):**
- 7 & 8 - Rural collectors
- 14, 16, 17 & 18 - Urban arterials/collectors
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**Rating:** 0 (worst) to 100 (best)

Incorporates: road geometrics, surface condition, ride, drainage, traffic volumes, traffic types, accident history

**UC - Under construction**

**Federal Functional Classification (FFC):**

7 & 8 - Rural collectors

14, 16, 17 & 18 - Urban arterials/collectors
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# 2016

**Whatcom County**  
**Priority Rating Program**

## 2016

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**Rating:** 0 (worst) to 100 (best)  
Incorporates: road geometrics, surface condition, ride, drainage, traffic volumes, traffic types, accident history  
UC - Under construction

**Federal Functional Classification (FFC):**  
7 & 8 - Rural collectors  
14, 16, 17 & 18 - Urban arterials/collectors
### 2016 Whatcom County Priority Rating Program

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**Rating:** 0 (worst) to 100 (best)

Incorporates: road geometrics, surface condition, ride, drainage, traffic volumes, traffic types, accident history

**Federal Functional Classification (FFC):**

7 & 8 - Rural collectors
14, 16, 17 & 18 - Urban arterials/collectors

Page 6 of 7
### 2016 Whatcom County Priority Rating Program

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Total miles = 358.39

**Rating:** 0 (worst) to 100 (best)
Incorporates: road geometrics, surface condition, ride, drainage, traffic volumes, traffic types, accident history
UC - Under construction

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2015 Annual Bridge Report

Prepared by the Whatcom County Public Works Bridge and Hydraulic Group
Submitted September 2016
Whatcom County
2015 Bridge Report
Submitted: September 2016

This bridge report is prepared by Whatcom County Public Works Bridge and Hydraulic Division under the direction of the County Engineer each year to fulfill requirements of the Washington Administrative Code (WAC) 136-20-060. This WAC requires the County Engineer’s report of bridge inspections as follows:

"Each county engineer shall furnish the county legislative authority with a written resume of the findings of the bridge inspection effort. This resume shall be made available to said authority and shall be consulted during the preparation of the proposed six-year transportation program revision. The resume shall include the county engineer’s recommendations as to replacement, repair or load restriction for each deficient bridge. The resolution of adoption of the six year transportation program shall include assurances to the effect that the county engineer’s report with respect to deficient bridges was available to said authority during the preparation of the program."

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County Engineer/Assistant Director

Cover Photo:
Public Works Maintenance & Operations crew complete maintenance work on the Mosquito Lake Road/North Fork Nooksack River Bridge No. 332. This 210-foot span steel girder bridge with reinforced concrete approach spans was constructed in 1965.
<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
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<td>1</td>
</tr>
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<td>18</td>
</tr>
</tbody>
</table>
## Acronyms

The following is a list of common acronyms widely used in the bridge inspection field:

<table>
<thead>
<tr>
<th>Acronym</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>ADT</td>
<td>Average Daily Traffic</td>
</tr>
<tr>
<td>BRAC</td>
<td>Bridge Replacement Advisory Committee</td>
</tr>
<tr>
<td>FHWA</td>
<td>Federal Highway Administration</td>
</tr>
<tr>
<td>FO</td>
<td>Functionally Obsolete</td>
</tr>
<tr>
<td>HBRRP</td>
<td>Highway Bridge Replacement and Rehabilitation Program</td>
</tr>
<tr>
<td>NBIS</td>
<td>National Bridge Inspection Standards</td>
</tr>
<tr>
<td>SD</td>
<td>Structurally Deficient</td>
</tr>
<tr>
<td>SID</td>
<td>Structure Identification Number</td>
</tr>
<tr>
<td>SR</td>
<td>Sufficiency Rating</td>
</tr>
<tr>
<td>UBIT</td>
<td>Under Bridge Inspection Truck</td>
</tr>
<tr>
<td>WAC</td>
<td>Washington Administrative Code</td>
</tr>
<tr>
<td>WSDOT</td>
<td>Washington State Department of Transportation</td>
</tr>
</tbody>
</table>

Canyon Creek Bridge 334 on Mosquito Lake Road.
Executive Summary

This report has been completed in compliance with WAC 136-20-060, which requires that each County Engineer furnish a written resume of the county’s bridge inspection efforts to the county legislative authority. It is also the intention of this report that information presented here be incorporated into a comprehensive program strategy to preserve the county’s roadways.

Highlights and Changes in 2015

- Whatcom County bridge inventory consists of 161 structures.

- A total of 85 Whatcom County bridge condition inspections were completed in 2015.

- Whatcom County provided bridge inspection services for 5 outside local agencies in 2015.

- A total of 28 bridge repair work orders were completed by Whatcom County crews and others in 2015.

- The new Bridge on Potter Road over the South Fork of the Nooksack was opened to traffic in September 2015. This replaced a structurally deficient one lane truss Bridge.

- Maintenance and Operations crews completed installation of temporary timber supports at the west abutment on Martin Road/Anderson Creek Bridge No. 250

Oversize/Overweight Load Permits

In recent years Whatcom County has seen an increase in oversize/overweight permit applications. There were over 30 oversize/overweight permits issued for loads crossing county owned bridges in 2015. Bridge program staff review these applications to ensure that these oversize/overweight loads can cross these bridges without causing any harm to the structure.

Summary of Bridge Inventory

- As of the end of 2015, the unincorporated Whatcom County road system contains 161 bridges and culverts which provide connectivity between our 974 miles of roads. Ten of these structures are classified as structurally deficient (SD); of these four are scheduled for replacement or rehabilitation within the next six years.

- A list of all structurally deficient bridges recommended for future replacement or rehabilitation is shown in Exhibit C.
Bridge Inventory

Of the 161 structures in the Whatcom County inventory 5 are of timber construction, 101 are of concrete construction, 6 are predominately steel (all of which are fracture critical) and the remainder are a combination of these materials. See Appendix A for a complete list of Whatcom County Bridges.

This Bridge on Friday Creek is typical of our channel beam girders supported by timber piles and caps.

Lummi Island Ferry Terminals
As a part of our bridge program, Whatcom County inspects and maintains the Gooseberry Point and Lummi Island Ferry Terminals. These consist of a steel transfer span and a timber trestle at the Gooseberry Point terminal and a steel transfer span and a reinforced concreted girder approach dock at the Lummi Island terminal.

Lummi Island approach span

Short Span Bridges
The Highway Bridge Replacement and Rehabilitation Program (HBRRP) excludes short span bridges (span length of 20 feet or less) from receiving federal funding. Out of the 161 bridges in Whatcom County inventory, 21 of these bridges are classified as short span bridges.

Outside Local Agency Bridges
The Whatcom County Bridge and Hydraulics program provides inspection services to local agencies upon request. The county works with cities under inter-local agreements (ILA), with conditions set forth in the Revised Code of Washington (RCW) Chapter 39.34. The county’s services are provided primarily to local agencies that lack expertise to inspect and maintain their bridge inventory. In addition, the Whatcom County Public Works Road Maintenance Division contracts with local agencies for the maintenance of other local agency bridges. In 2015 the county provided inspection services on 57 bridges for outside local agencies.

<table>
<thead>
<tr>
<th>Local Agency</th>
<th>Number of bridges inspected in 2015</th>
</tr>
</thead>
<tbody>
<tr>
<td>City of Everson</td>
<td>1</td>
</tr>
<tr>
<td>City of Lynden</td>
<td>11</td>
</tr>
<tr>
<td>City of Sumas</td>
<td>2</td>
</tr>
<tr>
<td>City of Bellingham</td>
<td>41</td>
</tr>
<tr>
<td>Port of Bellingham</td>
<td>1 (ferry terminal)</td>
</tr>
<tr>
<td>San Juan County</td>
<td>1</td>
</tr>
</tbody>
</table>

Summary of outside local agency bridges inspected in 2015
Bridge Inspection, Findings and Recommendations

Bridge inspections are performed in accordance with the National Bridge Inspection Standards (NBIS) in conformance with 23 CFR 650.3. The standards mandate that all public agencies with a bridge inventory inspect and report the findings at a minimum of once every two years (routine inspection). Special inspections are required for bridges that cannot be given close or adequate inspection from the ground. For these bridges an Under-Bridge Inspection Truck (UBIT) is required. Steel bridges with fracture critical members may also require special inspections with special inspection equipment. A third category of special inspections are the Under Water Inspections which are required every five years for bridges with piers that extend below ordinary low-water levels.

During bridge inspections, the current condition of each bridge element is noted. The deficiencies are coded to NBIS standards and show the degree of deterioration in various elements- the three primary elements being:

- Deck,
- Superstructure, and
- Substructure.

As deterioration accelerates, the coding values drop and work orders for repairs are issued. In the case where the coding factors are extremely low, recommendations are made for repair, replacement or rehabilitation. Bridges with identified deficiencies may be inspected or monitored at more frequent intervals.

The results of our inspection program are forwarded to the Washington State Department of Transportation (WSDOT) for review. Once the report has been accepted by WSDOT it is available for the Federal Highway Administration (FHWA).

Whatcom County has many reinforced concrete channel beam superstructures designed in 1955 which are at the low end of today's load carrying capacity requirements and are supported by timber caps and piles. These structures are being maintained and/or replaced on a regular basis depending on the age and the deterioration rate of the structure.

The NBIS utilizes information from the latest bridge inspection to determine the Sufficiency Rating (SR) which is a calculated score based on information from the most recent bridge inspection. The SR is a number from 0 to 100 with 100 being an entirely sufficient bridge, and 0 being an entirely insufficient or deficient bridge. Items that factor into the determination of the SR include: load bearing capacity, average daily traffic, availability and length of detour, the geometry of the bridge and the risk of scour on bridge foundations at waterway crossings.

As of December 31, 2015, Whatcom County has 86 bridges with a SR rating of less than 80 that are eligible to compete for federal rehabilitation funding. There are 4 bridges with a SR less than 40 that are eligible to compete for federal replacement funding. Of the 4 bridges with an SR rating of 40 or less, federal BRAC replacement funds have been secured to replace two of these structures (Roberts Rd/Anderson Creek Bridge 249 and W. Badger Rd/Bertrand Creek Bridge 50).

This year routine inspections were performed on 142 bridges, including 57 outside local agency bridges.

If the underside of the bridge deck cannot be given close or adequate inspection from the ground then a special inspection using an under bridge inspection truck (UBIT) or under bridge inspection platform is required.

See Exhibit A for our master list of special inspections and details on inspection frequencies and schedules for all of our UBIT and underwater bridge inspections.
<table>
<thead>
<tr>
<th>Bridge #</th>
<th>Bridge Name</th>
<th>Fracture Critical Last Inspection Date</th>
<th>Underwater Last Inspection Date</th>
<th>Special Equipment Last Inspection Date</th>
<th>UBIT Frequency</th>
</tr>
</thead>
<tbody>
<tr>
<td>3</td>
<td>MARIETTA</td>
<td></td>
<td>September 2012</td>
<td>January 2013</td>
<td>72 Months</td>
</tr>
<tr>
<td>115</td>
<td>HIGH BRIDGE</td>
<td></td>
<td></td>
<td>April 2014</td>
<td>48 Months</td>
</tr>
<tr>
<td>140</td>
<td>MIDDLE FORK</td>
<td>August 2014</td>
<td></td>
<td></td>
<td>24 Months</td>
</tr>
<tr>
<td>148</td>
<td>SOUTH FORK</td>
<td>February 2014</td>
<td></td>
<td></td>
<td>24 Months</td>
</tr>
<tr>
<td>252</td>
<td>NOOKSACK RIVER</td>
<td>March 2014</td>
<td>September 2015</td>
<td></td>
<td>24 Months</td>
</tr>
<tr>
<td>332</td>
<td>NORTH FORK</td>
<td>April 2015</td>
<td></td>
<td></td>
<td>24 Months</td>
</tr>
<tr>
<td>421</td>
<td>ROCKY CREEK</td>
<td>April 2015</td>
<td></td>
<td></td>
<td>24 Months</td>
</tr>
<tr>
<td>500</td>
<td>DAKOTA CREEK</td>
<td></td>
<td>April 2013</td>
<td></td>
<td>48 Months</td>
</tr>
<tr>
<td>503</td>
<td>GOOSEBERRY FERRY SLIP</td>
<td>October 2014</td>
<td>March 2011</td>
<td></td>
<td>24 Months</td>
</tr>
<tr>
<td>507</td>
<td>LUMMI ISLAND FERRY SLIP</td>
<td>October 2014</td>
<td>March 2011</td>
<td></td>
<td>24 Months</td>
</tr>
<tr>
<td>512</td>
<td>NOOKSACK RIVER</td>
<td>April 2015</td>
<td></td>
<td></td>
<td>24 Months</td>
</tr>
</tbody>
</table>
Load, Height and Width Restricted Bridges

Each bridge is required to have a "Load Rating" calculation. The Load Rating establishes how much weight the bridge can carry for several standard configurations of vehicle axle loads.

During the 2015 inspection cycle, no bridges were added to the load restriction list. As of December 31, 2015, there are a total of fourteen (14) restricted bridges in the county.

Bridges that have traffic portals of 15 feet or less are required to be posted with the allowable height. Whatcom County has two roads passing through posted height restricted bridge structures.

Of the fourteen (14) bridges posted for load restrictions, three (3) are scheduled for replacement. Most of Whatcom County’s posted bridges have a deficient superstructure due to the original girder design and are not an immediate concern for our lower ADT roads but they are inspected every 12 months to look for any problems that would accelerate their need for replacement.

<table>
<thead>
<tr>
<th>Bridge #</th>
<th>Road Name</th>
<th>Features Crossed</th>
<th>Restricted Width</th>
<th>Restricted Vertical Clearance</th>
<th>Bridge Posted for Load Restriction</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>MARINE DR</td>
<td>ACCESS RD CREEK OLD RR</td>
<td></td>
<td></td>
<td>Yes</td>
</tr>
<tr>
<td>44</td>
<td>BRIDGE WAY</td>
<td>CALIFORNIA CR</td>
<td>16</td>
<td>Yes</td>
<td></td>
</tr>
<tr>
<td>51</td>
<td>FLYNN RD</td>
<td>FISHTRAP CR</td>
<td>16</td>
<td>Yes</td>
<td></td>
</tr>
<tr>
<td>81</td>
<td>JACKSON RD.</td>
<td>TERRELL CR.</td>
<td></td>
<td>Yes</td>
<td></td>
</tr>
<tr>
<td>82</td>
<td>ALDERSON RD</td>
<td>TERRELL CREEK</td>
<td></td>
<td>Yes</td>
<td></td>
</tr>
<tr>
<td>91</td>
<td>STEIN RD</td>
<td>DAKOTA CR. TRIB.</td>
<td></td>
<td>Yes</td>
<td></td>
</tr>
<tr>
<td>105</td>
<td>MANLEY ROAD</td>
<td>SILVER CREEK</td>
<td>11.8</td>
<td></td>
<td></td>
</tr>
<tr>
<td>107</td>
<td>N. LAKE SAMMISH DR.</td>
<td>LAKE SAMMISH</td>
<td>12</td>
<td>Yes</td>
<td></td>
</tr>
<tr>
<td>132</td>
<td>HUDSON ROAD</td>
<td>JONES CREEK</td>
<td>15</td>
<td></td>
<td></td>
</tr>
<tr>
<td>140</td>
<td>MOSQUITO LK RD</td>
<td>MIDDLE FORK</td>
<td>13.2</td>
<td>18'</td>
<td></td>
</tr>
<tr>
<td>151</td>
<td>HILLSIDE RD.</td>
<td>SIGITOWITZ CREEK</td>
<td></td>
<td>Yes</td>
<td></td>
</tr>
<tr>
<td>249</td>
<td>ROBERTS RD.</td>
<td>ANDERSON CR</td>
<td></td>
<td>Yes</td>
<td></td>
</tr>
<tr>
<td>291</td>
<td>MASSEY RD</td>
<td>SUMAS RIVER</td>
<td></td>
<td>Yes</td>
<td></td>
</tr>
<tr>
<td>308</td>
<td>ALM RD</td>
<td>SUMAS RIVER</td>
<td></td>
<td>Yes</td>
<td></td>
</tr>
<tr>
<td>332</td>
<td>MOSQUITO LK RD</td>
<td>NORTH FORK</td>
<td></td>
<td>Yes</td>
<td></td>
</tr>
<tr>
<td>503</td>
<td>LUMMI VIEW DR</td>
<td>9104</td>
<td>12</td>
<td></td>
<td></td>
</tr>
<tr>
<td>503A</td>
<td>LUMMI VIEW DR</td>
<td>HALE PASS</td>
<td></td>
<td>Yes</td>
<td></td>
</tr>
<tr>
<td>506</td>
<td>HERON LANE</td>
<td>JOHNSON CR</td>
<td>12</td>
<td></td>
<td></td>
</tr>
<tr>
<td>507</td>
<td>LUMMI IS FERRY RTE</td>
<td>HALE PASSAGE</td>
<td>14</td>
<td>39'03&quot;</td>
<td></td>
</tr>
<tr>
<td>507A</td>
<td>LUMMI IS FERRY RTE</td>
<td>HALE PASSAGE</td>
<td>14</td>
<td>Yes</td>
<td></td>
</tr>
<tr>
<td>510</td>
<td>COAL CREEK RD</td>
<td>GALLOP CREEK</td>
<td>14</td>
<td></td>
<td></td>
</tr>
<tr>
<td>512</td>
<td>SLATER RD</td>
<td>NOOKSACK RIVER</td>
<td>15'03&quot;</td>
<td>Yes</td>
<td></td>
</tr>
</tbody>
</table>
Bridge Replacement and Rehabilitation Plan for Deficient Bridges

The county's current focus is to replace or rehabilitate bridges that are classified as structurally deficient (SD) per NBIS. Three structurally deficient bridge replacement/rehabilitation projects were in the design phase at the end of 2015. Since 2000, 17 bridges have been replaced or re-built in Whatcom County. Lists of future replacement/rehabilitation candidates, including short-span bridges, are shown in Exhibit 'C.'

2015 Replacement and Rehabilitation Projects

Potter Road-Bridge 148-Replacement
This project replaced the existing one-lane, two-way, SD and functionally obsolete fracture critical truss bridge with a reinforced concrete bridge. The new structure was opened in the fall of 2015.

![View of completed bridge structure](image1)

Slater Road Bridge 512 Paint Restoration
This project involved painting the Slater Road/Nooksack River Bridge No. 512 steel truss to prolong the structure's service life. Project was completed in the fall of 2015.

![View of containment system](image2)

Hannegan Road Bridge 252 Scour Mitigation Project
This project included installing scour counter measures at pier number 2 to remove the scour critical designation on this bridge. Project completed fall of 2015.

![View of angular rock placement at pier 2](image3)

Dakota Creek Bridge #500 Seismic Retrofit
This project retrofitted the 1928 Concrete T-Beam structure to a Level 2 seismic condition. This work also extends the service life of this structure and removes the SD designation. Project completed in the fall of 2015.

View of new steel column jacket installation
## Exhibit “C” – Structurally Deficient Bridges

<table>
<thead>
<tr>
<th>Bridge #</th>
<th>Bridge Name</th>
<th>Deficiency’s</th>
<th>Sufficiency Rating</th>
<th>Status</th>
</tr>
</thead>
<tbody>
<tr>
<td>50</td>
<td>BERTRAND CR</td>
<td>Timber Cap Section Loss</td>
<td>22.51</td>
<td>Construction 2018</td>
</tr>
<tr>
<td>81</td>
<td>JACKSON RD.</td>
<td>Timber Cap and Pile Deterioration</td>
<td>28.20</td>
<td>Monitoring</td>
</tr>
<tr>
<td>248</td>
<td>ANDERSON CR</td>
<td>Timber Cap and Pile Deterioration</td>
<td>36.88</td>
<td>Monitoring</td>
</tr>
<tr>
<td>249</td>
<td>ANDERSON CR</td>
<td>Timber Cap Section Loss</td>
<td>39.86</td>
<td>Construction 2017</td>
</tr>
<tr>
<td>1</td>
<td>LITTLE SQUALICUM</td>
<td>Delamination of Deck, Cap Beam Capacity</td>
<td>41.73</td>
<td>Monitoring</td>
</tr>
<tr>
<td>291</td>
<td>SUMAS RIVER</td>
<td>Concrete Channel Beam Deterioration</td>
<td>42.72</td>
<td>Monitoring</td>
</tr>
<tr>
<td>497</td>
<td>BERTRAND CR TRIB</td>
<td>Scour Exposing Concrete Footings</td>
<td>45.37</td>
<td>Monitoring</td>
</tr>
<tr>
<td>212</td>
<td>SAAR CR</td>
<td>Timber Cap and Pile Deterioration</td>
<td>47.41</td>
<td>Construction 2016</td>
</tr>
<tr>
<td>172</td>
<td>BNSF RR</td>
<td>Deck Deterioration</td>
<td>75.45</td>
<td>Monitoring</td>
</tr>
<tr>
<td>250</td>
<td>ANDERSON CR</td>
<td>Timber Cap and Pile Deterioration</td>
<td>53.54</td>
<td>Monitoring</td>
</tr>
</tbody>
</table>
Maintenance and Repair Recommendations

The majority of bridge repair and maintenance work is done by Whatcom County Maintenance & Operation crews, with support from various vendors. During 2015 Maintenance & Operation crews cleaned the majority of the County bridges and all of the bridges in the County inventory were washed. In addition, the majority of the bridges were brushed to support ongoing maintenance, repair and inspection activities. Twenty eight (28) maintenance work orders were completed in 2015. (See Exhibit D below).

Work planned for 2016 includes major work orders and routine maintenance on most of our bridges. The work includes helper piles and caps, abutment repairs, asphalt approaches, concrete repair and bridge cleaning and brushing.

### Exhibit “D” – Maintenance Work Orders Completed in 2015

<table>
<thead>
<tr>
<th>Bridge #</th>
<th>Waterway</th>
<th>Work Completed</th>
<th>Date Repaired</th>
</tr>
</thead>
<tbody>
<tr>
<td>513</td>
<td>RED RIVER</td>
<td>Repair Abutment</td>
<td>March 2015</td>
</tr>
<tr>
<td>91</td>
<td>DAKOTA CR. TRIB.</td>
<td>Repair</td>
<td>March 2015</td>
</tr>
<tr>
<td>349</td>
<td>JOHNSON CREEK</td>
<td>Repair</td>
<td>April 2015</td>
</tr>
<tr>
<td>242</td>
<td>SAAR CREEK</td>
<td>Repair</td>
<td>April 2015</td>
</tr>
<tr>
<td>201</td>
<td>SWIFT CREEK</td>
<td>Repair</td>
<td>April 2015</td>
</tr>
<tr>
<td>53</td>
<td>RIVER ROAD</td>
<td>Remove stream debris</td>
<td>July 2015</td>
</tr>
<tr>
<td>88</td>
<td>S. FORK DAKOTA CREEK</td>
<td>Repair Approaches</td>
<td>August 2015</td>
</tr>
<tr>
<td>11</td>
<td>RED RIVER</td>
<td>Repair Approaches</td>
<td>August 2015</td>
</tr>
<tr>
<td>163</td>
<td>DAKOTA CR TRIB</td>
<td>Repair Approaches</td>
<td>August 2015</td>
</tr>
<tr>
<td>250</td>
<td>Martin Rd</td>
<td>Temp. Cap Repairs</td>
<td>July 2015</td>
</tr>
<tr>
<td>249</td>
<td>ANDERSON CR</td>
<td>Re-Torque Bolts</td>
<td>August 2015</td>
</tr>
<tr>
<td>37</td>
<td>CALIFORNIA CREEK</td>
<td>Fix Expansion joints</td>
<td>August 2015</td>
</tr>
<tr>
<td>50</td>
<td>DAKOTA CR</td>
<td>Re-Torque Bolts</td>
<td>August 2015</td>
</tr>
<tr>
<td>3</td>
<td>NOOKSACK RIVER</td>
<td>Paint Bearings</td>
<td>October 2015</td>
</tr>
<tr>
<td>306</td>
<td>SUMAS RIVER</td>
<td>Joint Repair</td>
<td>August 2015</td>
</tr>
<tr>
<td>201</td>
<td>SWIFT CR</td>
<td>Remove sediment from bridge</td>
<td>October 2015</td>
</tr>
<tr>
<td>507A&amp;507</td>
<td>Ferry Slip &amp; App. Lummi Is</td>
<td>Tighten Cables</td>
<td>September 2015</td>
</tr>
<tr>
<td>507A&amp;507</td>
<td>Ferry Slip &amp; App. Lummi Is</td>
<td>Hand Rail Repairs</td>
<td>September 2015</td>
</tr>
<tr>
<td>503A&amp;503</td>
<td>Ferry Slip &amp; App. Gooseberry</td>
<td>Apply non-skid surfacing</td>
<td>September 2015</td>
</tr>
<tr>
<td>----------</td>
<td>-----------------------------</td>
<td>------------------------</td>
<td>----------------</td>
</tr>
</tbody>
</table>
Glossary of Bridge Terms

**Abutment** – a substructure supporting the end of a single span, or the extreme end of a multi-span super-structure and, in general, retaining or supporting the bridge approach fill.

**Approach span** – the span or spans connecting the abutment with the main span or spans.

**Back wall** – the top-most portion of an abutment functioning primarily as a retaining wall to contain approach roadway fill.

**Beam** – a linear structural member designed to span from one support to another.

**Bent** – a supporting unit of the beams of a span made up of one or more column or column-like members connected at their top-most ends by a cap, strut, or other horizontal member.

**Box Girder** – a support beam that is a hollow box; its cross-section is a rectangle or square.

**Bracing** – a system of tension or compression members, or a combination of these, connected to the parts to be supported or strengthened by a truss or frame. It transfers wind, dynamic, impact, and vibratory stresses to the substructure and gives rigidity throughout the complete assemblage. Can also refer to diagonal members that tie two or more columns of a bent together.

**Cap** – the horizontally-oriented, top-most piece or member of a bent serving to distribute the beam loads upon the columns and to hold the beams in their proper relative positions.

**Cast-in-Place** – concrete poured within form work on site to create a structural element in its final position.

**Catwalks** – temporary foot bridges, used by bridge inspection personnel.

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Basic Bridge Parts 1

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**Chord** – in a truss, the upper-most and the lower-most longitudinal members, extending the full length of the truss.

**Column** – a vertical structural member that transfers dead and live load from the bridge deck and girders to the footings or shafts.

**Column cross brace** – transverse brace between two main longitudinal members.

**Compression** – a type of stress involving a pressing or squeezing together; tends to shorten a member; opposite of tension.

**Culvert** – a pipe or small structure used for drain-age under a road, railroad or other embankment. A culvert with a span length greater than 20 feet is included in the National Bridge Inventory and Receives a rating using the NBI scale.

**Dead load** – a static load due to the weight of the structure itself.

**Deck** – the roadway portion of a bridge that provides direct support for vehicular and pedestrian traffic.

**Deck bridge** – a bridge in which the supporting members are all beneath the roadway.

**Deck truss** – a bridge whose roadway is supported from beneath by a truss.

**Diagonal** – a sloping structural member of a truss or bracing system.

**Elastomeric pads** – rectangular pads made of neoprene, found between the sub-structure and superstructure that bears the entire weight of the superstructure. Elastomeric pads can deform to allow for thermal movements of the superstructure.

**End wall** – the wall located directly under each end of a bridge that holds back approach roadway fills. The end wall is part of the abutment.

**Expansion joint** – A joint designed to provide means for expansion and contraction movements produced by temperature changes, load, or other forces.

**Fatigue** – Cause of structural deficiencies, usually due to repetitive loading over time.

**Footing** – The enlarged, lower portion of a substructure that distributes the structure load either to the earth or to supporting piles; the most common footing is the concrete slab; "footer" is a colloquial term for footing.

**Fracture critical member** – a member in tension or with a tension element whose failure would probably cause a portion of or the entire bridge to collapse.

**Girder** – a main support member for the structure that usually receives loads from floor beams and stringers; also, any large beam, especially if built up.

**Hanger** – a tension member serving to suspend an attached member.

**Hinge** – a point in a structure at which a member is free to rotate.

**Live load** – vehicular traffic, wind, water; and/or earthquakes.

**Lower chord** – the bottom horizontal member of a truss.

Main beam – a beam supporting the spans and bearing directly onto a column or wall.
Member – an individual angle, beam, plate, or built piece intended to become an integral part of an assembled frame or structure.

Oscillation – a periodic movement back and forth between two extreme limits. An example is the string of a guitar that has been plucked. Its vibration back and forth is one oscillation. A vibration is described by its size (amplitude), its oscillation rate (frequency), and its timing (phase). In a suspension bridge, oscillation results from energy collected and stored by the bridge. If a part of the bridge has to store more energy than it is capable of storing, that part will probably fail.

Pier – a structure comprised of stone, concrete, brick, steel, or wood that supports the ends of the spans of a multispansuperstructure at an intermediate location between abutments. A pier is usually a solid structure as opposed to a bent, which is usually made up of columns.

Pile – a linear (vertical) member of timber, steel, concrete, or composite materials driven into the earth to carry structure loads into the soil.

Pile bent – A row of driven or placed piles with a pile cap to hold them in their correct positions; see "Bent."

Plate girder – a large, solid web plate with flange plates attached to the web plate by flange angles or fillet welds. Typically fabricated from steel.

Post or column – a member resisting compressive stresses, in a vertical or near vertical position.

Pre-cast girder – fabricated off-site of Portland Cement Concrete, reinforcing steel and post-tensioning cables. These girders are shipped to the construction site by truck and hoisted into place by cranes.

Reinforced concrete – concrete with steel reinforcing bars bonded within it to supply increased tensile strength and durability.

Scour – erosive action of removing streamed material around bridge substructure due to water flow. Scour is of particular concern during high-water events.

Short span bridge – these bridges have a single NBS span length of 20 feet or less. They are typically supported by timber piles or shallow concrete footings.

Soffit – the underside of the bridge deck or sidewalk.

Spall – a concrete deficiency wherein a portion of the concrete surface is popped off from the main structure due to the expansive forces of corroding steel rebar underneath. This is especially common on older concrete bridges.

Span – The distance between piers, towers, or abutments.

Steel – A very hard and strong alloy of iron and carbon.

Stringer – a longitudinal beam (less than 30 feet long) supporting the bridge deck, and in large bridges, framed into or upon the floor beams.

Sufficiency rating – the sufficiency rating is a numeric value from 1 (a bridge in new condition) to 0 (a bridge incapable of carrying traffic). The sufficiency rating is the summation of four calculated values: Structural Adequacy and Safety, Serviceability and Functional Obsolescence, Essentiality for Public Use, and Special Reductions.
Substructure – the abutment, piers, grillage, or other structure built to support the span or spans of a bridge superstructure, and distributes all bridge loads to the ground surface. Includes abutments, piers, bents, and bearings.

Superstructure – the entire portion of a bridge structure which primarily receives and supports traffic loads and in turn transfers the reactions to the bridge substructure; usually consists of the deck and beams or, in the case of a truss bridge, the entire truss.

Tension – type of stress involving an action which pulls apart.

Tie – a member carrying tension.

Torsion – a twisting force or action.

Truss bridge – a bridge having a pair of trusses for the superstructure.

Upper chord – the top longitudinal member of a truss.

Web – the portion of a beam located between and connected to the flanges.

Welded joint – a joint in which the assembled elements and members are united through fusion of metal.

Wheel rail – a timber curb fastened directly to the deck, most commonly found on all-timber bridges.

Wingwall – walls that slant outward from the corners of the overall bridge that support roadway fill of the approach.
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RESOLUTION NO. ________

WHATCOM COUNTY SIX-YEAR TRANSPORTATION IMPROVEMENT PROGRAM
FOR THE YEARS 2017 THROUGH 2022

WHEREAS, pursuant to RCW 36.81.121, Whatcom County is required to prepare and approve a Six-Year Transportation Improvement Program each year; and

WHEREAS, pursuant to RCW 36.54.015, Whatcom County is required to prepare a Fourteen-Year Ferry Capital Program each year; and

WHEREAS, following approval of the Six-Year Transportation Improvement Program, the law requires an annual review of the work accomplished under the program and a determination of current transportation needs; and

WHEREAS, based upon the findings of the annual review, and after a public hearing, a Six-Year Transportation Improvement Program shall be approved; and

WHEREAS, pursuant to RCW 36.81.121, the Six-Year Transportation Improvement Program and Fourteen-Year Ferry Capital Program must be consistent with the County comprehensive plan pursuant to RCW 36.70A; and

WHEREAS, the Six-Year Transportation Improvement Program attached hereto as Exhibit "A" has been reviewed and determined to be consistent with the County’s comprehensive plan; and

WHEREAS, the Fourteen-Year Ferry Capital Program attached hereto as Exhibit "B" has been reviewed and determined to be consistent with the County’s comprehensive plan;

NOW, THEREFORE, BE IT RESOLVED by the Whatcom County Council as follows:

1. That the Whatcom County Six-Year Transportation Improvement Program for the years
2017 through 2022, which is attached hereto as Exhibit "A", including the capital elements of the first six-years of the Fourteen-Year Ferry Capital Program, which is attached hereto as Exhibit "B", is hereby approved.

2. That the County Engineer is directed to file a copy of the same with the County Road Administration Board and the State Secretary of Transportation.

APPROVED this _____ day of __________, 2016.

ATTEST:

[Signature]
Dana Brown-Davis, Clerk of the Council

APPROVED AS TO FORM:

[Signature]
Dan Gibson, Chief Civil Deputy Prosecutor

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

[Signature]
Barry Buchanan, Chair of the Council
301


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**Expenditure Schedule**

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**Bridge Capital Construction**

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**Notes:**
- Project cost is in thousands of dollars.
- Federal/Recorded funds are included in the state fund.
- Total cost includes state fund and federal/recorded funds.

**Exclusion:**
- Projects not eligible for state or federal funds.

**Approval:**
- Projects require approval from the state or federal agencies.
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### “Draft” Six Year Transportation Improvement Program 2017-2022

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<th>PROJECT PHASE</th>
<th>FUNDING SOURCE INFORMATION</th>
<th>EXPENDITURE SCHEDULE</th>
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<td>D. Street/Road Name or Number</td>
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<td>E. Beginning MP or Road-Ending MP or Road</td>
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<th>STATE FUNDS</th>
<th>OTHER REVENUES</th>
<th>LOCAL FUNDS</th>
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| PROJECT | MONTHLY/YEAR | FUND CODE | FUND CODE | STATE FUNDS | STATE FUNDS | OTHER | LOCAL | TOTAL |
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| CN |                | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Total | 1 | 0 | 0 | 5 | 5 | 0 | 0 | 5 | 5 |

### Ferry Capital Construction

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### Yearly Capital Construction

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**County No. 37 Co.Name:** Whatcom Co.
**City No:** 0000
**MPO/RPO:** NON/WCCG
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<td>Various locations</td>
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<td></td>
<td></td>
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<td></td>
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<td></td>
<td></td>
<td></td>
<td>RW</td>
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<td></td>
<td></td>
<td></td>
<td></td>
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<td>CN</td>
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<td></td>
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<td>Total</td>
<td>3,350</td>
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</tbody>
</table>
Six Year Transportation Improvement Program
Instructions for Completing the Form

Complete the form for the six year program in accordance with the following instructions. Include all transportation-related projects regardless of location or source of funds.

Heading

Agency
Enter name of the sponsoring agency.

County Number
Enter the OFM assigned number (see LAG Appendix 21.44).

City Number
Enter the OFM assigned number (see LAG Appendix 21.45).

MPO/RTPO
Enter the name of the MPO (if located within urbanized area) or RTPO (if in the rural area).

Hearing Date
Enter the date of the public hearing.

Adoption Date
Enter the date this program was adopted by council or commission.

Resolution Number
Enter Legislative Authority resolution number if applicable.

Amendment Date
Enter the date this program was amended by council or commission.

Column Number

1. **Functional Classification.** Enter the appropriate 2-digit code denoting the Federal Functional Classification. (Note: The Federal Functional Classification must be approved by FHWA.)

   **Description**
   00 - No Classification

   **Rural (under 5,000 population)**
   01 - Interstate
   02 - Principal Arterial
   06 - Minor Arterials
   07 - Major Collector
   08 - Minor Collector
   09 - Local Access

   **Urban (over 5,000 population)**
   11 - Interstate
   12 - Freeways & Expressways
   14 - Other Principal Arterials
   16 - Minor Arterial
   17 - Collector
   19 - Local Access

2. **Priority Numbers.**
   - R - Road Capital Construction; B - Bridge Capital Construction; F - Ferry Capital Construction; Y - Yearly Capital Construction

3. **Project Identification.** Enter (a) Federal Aid Number if previously assigned; (b) Bridge Number; (c) Project Title; (d) Street/Road Name or Number/Federal Route Number; (e) Beginning and Ending Terminus (Mile Post or Street/Road Names); and (f) Describe the Work to be Completed.

4. **Improvement Type Codes.** Enter the appropriate federal code number(s).

   **Description**
   01 - New construction on new alignment
   02 - Relocation
   03 - Reconstruction
   04 - Major Widening
   05 - Minor Widening
   06 - Other Enhancements
   07 - Resurfacing
   08 - New Bridge Construction
   09 - Bridge Replacement
   10 - Bridge Rehabilitation
   11 - Minor Bridge Rehabilitation
   12 - Safety/Traffic Operation/TSM
   13 - Environmentally Related
   14 - Bridge Program Special
   21 - Transit Capital Project
   22 - Transit Operational Project
   23 - Transit Planning
   24 - Transit Training/Admin
   31 - Non Capital Improvement
   32 - Non Motor Vehicle Project

5. **Funding Status.** Enter the funding status for the entire project which describes the current status.

   **S** - Project is 'selected' by the appropriate selection body & funding is secured.
   **P** - Project is subject to selection by an agency other than the lead and is listed for planning purposes and funding has not been determined.

6. **Total Length.** Enter project length to the nearest hundredth mile (or code "00" if not applicable).

7. **Utility Code(s).** Enter the appropriate code letter(s) for the utilities that would need to be relocated or are impacted by the construction project.

   **C** - Cable TV
   **G** - Gas
   **O** - Other
   **P** - Power
   **S** - Sewer (other than agency-owned)
   **T** - Telephone
   **W** - Water

307
Six Year Transportation Improvement Program
Instructions for Completing the Form

8. Project Phase. Select the appropriate phase code of the project.
    PE - Preliminary Engineering, including Design (or Planning)
    RW - Right of Way or land acquisition
    CN - Construction only (or transit planning or equipment purchase)
    ALL - All Phases from Preliminary Engineering through Construction
      (Use only in Years 4, 5, & 6)

9. Phase Start Date. Enter the month/day/year (in MM/DD/YY format) that the selected
   phase of the project is actually expected to start.

10. Federal Fund Sources. Enter the Federal Fund Source code from the table below.

<table>
<thead>
<tr>
<th>Code</th>
<th>Description</th>
<th>Code</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>CBI</td>
<td>Combined Border Infrastructure</td>
<td>5307</td>
<td>FTA Urban Areas</td>
</tr>
<tr>
<td>BIA</td>
<td>Bureau of Indian Affairs</td>
<td>5309(B)</td>
<td>Bus</td>
</tr>
<tr>
<td>BR</td>
<td>Bridge Replacement or Rehab.</td>
<td>5309(F)</td>
<td>Fixed Guideways</td>
</tr>
<tr>
<td>CBGD</td>
<td>Community Development Block Grant (HUD)</td>
<td>5309(NS)</td>
<td>New Starts</td>
</tr>
<tr>
<td>CMAQ</td>
<td>Congestion Mitigation Air Quality</td>
<td>5310</td>
<td>FTA Elderly/Disabled</td>
</tr>
<tr>
<td>DEMO</td>
<td>TEA-21 Demo Projects (Selected)</td>
<td>5311</td>
<td>FTA Rural Areas</td>
</tr>
<tr>
<td>Discretionary</td>
<td>Ferry Boat Discretionary, Public Lands</td>
<td>5316</td>
<td>FTA JARC Rural</td>
</tr>
<tr>
<td>DOD</td>
<td>Department of Defense</td>
<td>5317</td>
<td>FTA New Freedom</td>
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<td>IC</td>
<td>Interstate Construction</td>
<td>REV</td>
<td>Rural Economic Vitality Program</td>
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<tr>
<td>IM</td>
<td>Interstate Maintenance</td>
<td>SRTS</td>
<td>Safe Routes To Schools</td>
</tr>
<tr>
<td>IRR</td>
<td>Indian Reservation Roads</td>
<td>STP(C)</td>
<td>STP Statewide Competitive Program</td>
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<tr>
<td>NHS</td>
<td>National Highway System</td>
<td>STP(E)</td>
<td>STP Transportation Enhancements</td>
</tr>
<tr>
<td>3037</td>
<td>FTA Job Access/Reverse Commute</td>
<td>STP(L)</td>
<td>STP Legislative Earmarks</td>
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<tr>
<td></td>
<td></td>
<td>STP(S)</td>
<td>STP Safety Including Hazard and RR</td>
</tr>
<tr>
<td></td>
<td></td>
<td>STP(R)</td>
<td>STP Rural Regionally Selected</td>
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<tr>
<td></td>
<td></td>
<td>STP(U)</td>
<td>STP Urban Regionally Selected</td>
</tr>
<tr>
<td></td>
<td></td>
<td>STP</td>
<td>STP (WSDOT Use Only)</td>
</tr>
</tbody>
</table>

11. Federal Cost. Enter the total federal cost (in thousands) of the phase regardless of when
    the funds will be spent.

12. State Fund Code. Enter the appropriate code for any of the listed funds to be used on this project.

<table>
<thead>
<tr>
<th>Code</th>
<th>Description</th>
<th>Code</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>CAPP</td>
<td>County Arterial Preservation Program</td>
<td>PWTF</td>
<td>Public Works Trust Fund</td>
</tr>
<tr>
<td>CHAA</td>
<td>Route Transfer Program (formerly City Hardship Assistance Account)</td>
<td>RAP</td>
<td>Rural Arterial Program</td>
</tr>
<tr>
<td>TPP</td>
<td>Transportation Partnerships Program</td>
<td>SCP</td>
<td>Small City Arterial Program</td>
</tr>
<tr>
<td>AIP</td>
<td>Urban Arterial Program (formerly Arterial Improvement Program)</td>
<td>SCP+</td>
<td>Small Cities Pavement Preservation</td>
</tr>
<tr>
<td>PSMP</td>
<td>Sidewalk Program (formerly Pedestrian Safety &amp; Mobility Program)</td>
<td>FMSIB</td>
<td>Freight Mobility Strategic Invest. Board</td>
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<tr>
<td></td>
<td></td>
<td>WSDOT</td>
<td>WSDOT funds</td>
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<tr>
<td></td>
<td></td>
<td>OTHER</td>
<td>Any other unlisted state fund codes</td>
</tr>
</tbody>
</table>

13. State Funds. Enter all funds from the State Agencies (in thousands) of the phase regardless of when
    the funds will be spent.

14. Local Funds. Enter all the funds from Local Agencies (in thousands) of the phase regardless of when
    the funds will be spent.

15. Total Funds. Enter the sum of columns 10, 12, and 14. (This will auto-total in the STIP software program.)

16-19. Expenditure Schedule - (1st, 2nd, 3rd, 4th thru 6th years). Enter the estimated expenditures
        (in thousands) of dollars by year. (For Local Agency use.)

20. Environmental Data Type. Enter the type of environmental documentation that will be required for
    this project. Environmental determination must be completed before the Right-of-Way/Construction phase(s) can
    be obligated. (This is required for Federally funded projects.)

<table>
<thead>
<tr>
<th>Code</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>EIS</td>
<td>Environmental Impact Statement</td>
</tr>
<tr>
<td>EA</td>
<td>Environmental Assessment</td>
</tr>
<tr>
<td>CE</td>
<td>Categorical Exclusion</td>
</tr>
</tbody>
</table>

21. R/W Certification. If Right of Way acquisition is required, enter R/W Certification Date, if known.
    (This is required for Federally funded projects.)
WHATCOM COUNTY
2017-2030 FOURTEEN-YEAR FERRY CAPITAL PROGRAM
Overview

This program provides a blueprint for the effective, efficient, and continuing operation of the Whatcom County Ferry System within existing financial constraints. Capital improvements are scheduled based on many years of experience operating and maintaining the system, while complying with applicable regulations.

Inevitably, priorities and available funds for the ferry system will change over the fourteen years projected in this program. Therefore, the intention of the program is to be a guide indicating long-range improvements and anticipated revenues and expenditures. Strict adherence is not required.

Enacted in 1975, Revised Code of Washington (RCW) 36.54.015 states “The legislative authority of every county operating ferries shall prepare, with the advice and assistance of the county engineer, a fourteen year long range capital improvement plan embracing all major elements of the ferry system. Such plan shall include a listing of each major element of the system showing its estimated current value, its estimated replacement cost, and its amortization period.”

Table 1: Ferry System Current and Replacement Values – meets applicable requirements, showing the current value, replacement cost, and amortization periods for the vessels and facilities. The current value of the M/V Whatcom Chief is the book value, calculated from the depreciated original construction cost and any depreciated improvements/major repairs. The facilities' current value is book value; original cost less depreciation plus depreciated improvements.

RCW 36.81.121 (1) states “…the legislative authority of each county, after one or more public hearings thereon, shall prepare and adopt a comprehensive transportation program for the ensuing six calendar years….and for those counties operating ferries shall also include a separate section showing proposed capital expenditures for ferries, docks, and related facilities. Copies of the program shall be filed with the county road administration board and the secretary of transportation not more than thirty days after its adoption by the legislative authority…” Subsection (2) requires expanded information on how a county will spend all its money on the various facets of the transportation program. This RCW Section was enacted in 1961. The capital expenditure portion of Subsection (1) is satisfied by:

Table 2: Projected Revenues defines the known and/or anticipated sources of operating and capital project funding for the 14-Year Plan.

Table 3: Projected Expenditures includes all other expenditures on the system that meet Subsection (2) requirements. Operational expenditures are delineated
between vessel and non-vessel costs. U.S. Coast Guard regulations currently require the ferries to be dry-docked every two years, however to extend the life, improve reliability and protect our capital investment Whatcom County schedules dry-docking every year for its vessel. The landings are inspected regularly as required by the National Bridge Inspection Standards administered through the Washington State Department of Transportation. The inspection report helps identify and schedule major maintenance and replacement of these facilities.

This RCW section also provides the reporting requirement and timing of program submission, as well as establishing the annual update requirement.

Additionally, the Federal Highway Administration requires all agencies within a Metropolitan Planning Organization to develop and annually update the long range Transportation Improvement Plans and their Biennial Element. Whatcom County updates this 14-Year plan each year and incorporates the results into the Six-Year Transportation Improvement Program.

Major Project Analysis

Gooseberry Point dock improvements include electrical system upgrades and terminal painting which are in the design and permitting stages in 2017 with construction anticipated for 2018. In 2019, preliminary plans will be developed for the replacement of the approach span and transfer span decks.

Design work will continue in 2017 and 2018 for the Lummi Island dock improvements which include dolphin and breakwater replacement. Electrical system upgrades and terminal painting are in the design and permitting stages in 2017 with construction anticipated for 2018. In 2019, preliminary plans will be developed for the replacement of the approach span and transfer span decks.

Major Maintenance/Reconstruction

Pile, dolphin & fender work:  
Major pile dolphin and fender work replacement is scheduled as funding and operational periods allow.

Vessel dry-docking:  
US Coast Guard regulations require periodic inspections of all ferry vessels. In addition to yearly certifications, each vessel is required to be dry-docked every two years, with an underwater hull survey required as part of the annual certification between dry dockings. Whatcom County schedules dry-docking every year. The engine overhaul, vessel painting, hull repairs, and other major and minor repairs occur during dry-docking. Propulsion engine overhauls occur every third year. Generator engines are overhauled on a six-year cycle. Engines are replaced every ten to twelve years. Every three to five years, a vessel survey is conducted to assess the vessel's overall condition (last valuation was in 2014),
establish the fair market value, estimate replacement cost, and provide a detailed hull strength assessment. This survey is used in part to determine the requirements for hull plating and framing replacement, and is also a requirement of the current insurance carrier.

**Minor Maintenance**

General minor maintenance is continual on the ferry, landings, aprons, approaches, and waiting facilities. The costs and extent of the work is unpredictable and frequently, problems must be repaired immediately upon detection. Routine maintenance such as building painting and roof cleaning is more predictable and scheduled in advance.

**History of the Ferry System**

The ferry system is the only public transportation link for the majority of Lummi Island residents and vehicles to the mainland at Gooseberry Point. In the event of an emergency ferry outage or mechanical failure, the County has contracted pedestrian only ferry services while the vessel is being repaired.

Following is a brief chronology outlining the history of the Whatcom County Ferry System.

**YEAR EVENT**

1926 Lummi Shore Road from Bellingham was completed and a ferry, the Central, owned by Whatcom County and large enough to hold six small Model-T Fords started making scheduled runs between Lummi Island and Gooseberry Point.

1929 The slightly larger Chief Kwina replaces the Central.

1950 Gooseberry Point terminal built.

1962 The M/V Whatcom Chief begins service.

1978 Lummi Island terminal is relocated.

1982 New lift mechanism installed on transfer span at Lummi Island. Gooseberry Point pier refurbished

1987 Gooseberry Point Transfer span, wing walls and dolphins replaced

1997 Major refurbishment of Gooseberry point landing accomplished

2002 20-Year Plan Phase 1 Process and report completed.

2005 Major Status Report on Ferry System

2006 Lummi Island Dock preservation project (Bearing Seats Rebuild). Major corrosion repair to vessel hull. Completed design package for a 35-car replacement vessel.

2008 Rate Increase

2009 Rate adjustment
2009  Emergency wing wall replacement on Lummi Island
2010  Emergency wing wall replacement on Lummi Island
2011  Rate increase and long term lease with the Lummi Nation
2012  Planning and design for the remote control installation at Lummi Island
      and the wing wall replacement at Gooseberry Point.
2013  Gooseberry Point terminal wooden wingwalls replaced with modern steel-
      pile supported wingwalls.
2013  Lummi Island terminal transfer span and apron remote control system
      installed.
2014  Gooseberry Point terminal wooden dolphins replaced with modern steel-
      pile supported dolphins.
2015  Rate adjustment
2015  Dolphin Emergency Repair – Lummi Island Terminal
# Ferry System Current and Replacement Values - 2015

## Vessels

<table>
<thead>
<tr>
<th>Current Statistics</th>
<th>M/V Whatcom Chief</th>
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</thead>
<tbody>
<tr>
<td>LENGTH (ft)</td>
<td>94</td>
</tr>
<tr>
<td>BEAM (ft)</td>
<td>44</td>
</tr>
<tr>
<td>DISPLACEMENT (tons)</td>
<td>78</td>
</tr>
<tr>
<td>YEAR BUILT</td>
<td>1962</td>
</tr>
<tr>
<td>CAPACITY - Passengers</td>
<td>100</td>
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<tr>
<td>CAPACITY - Cars</td>
<td>20</td>
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<tr>
<td>CURRENT INSURED VALUE - 2015</td>
<td>$910,000</td>
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**TOTAL CURRENT VALUE - 2015**

<table>
<thead>
<tr>
<th>Replacement Statistics</th>
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<tbody>
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<td>2015</td>
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<tr>
<td>CAPACITY - Passengers</td>
<td>100</td>
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<tr>
<td>CAPACITY - Cars</td>
<td>20</td>
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<tr>
<td>REPLACEMENT VALUE - 2015</td>
<td>$5,886,000</td>
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</table>

**TOTAL - REPLACEMENT VALUE - 2015**

## Facilities

<table>
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<tr>
<th>Location</th>
<th>YEAR BUILT</th>
<th>REPLACEMENT VALUE - 2009(5)</th>
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</thead>
<tbody>
<tr>
<td><strong>Lummi Island Landing</strong></td>
<td></td>
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<tr>
<td>Transfer Span</td>
<td>1982</td>
<td>$1,990,000</td>
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<td>Dock</td>
<td>1978</td>
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<tr>
<td>Dolphins/Wingwall(3)</td>
<td>1978</td>
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<td>Parking Lots</td>
<td>2005</td>
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<tr>
<td>Passenger Waiting/Office</td>
<td>1978</td>
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<tr>
<td><strong>Subtotal - Lummi Island Landing</strong></td>
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<td>$4,210,000</td>
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<tr>
<td><strong>Gooseberry Point Landing</strong></td>
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</tr>
<tr>
<td>Transfer Span</td>
<td>1987</td>
<td>$2,200,000</td>
</tr>
<tr>
<td>Dock</td>
<td>1997</td>
<td>$590,000</td>
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<tr>
<td>North and South Wingwalls</td>
<td>2009, 2010</td>
<td>$326,000</td>
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<tr>
<td>Dolphins/Wingwall(3)</td>
<td>2013, 2014</td>
<td>$1,540,000</td>
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<tr>
<td><strong>Subtotal - Gooseberry Point Landing</strong></td>
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<td>$4,656,000</td>
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</tbody>
</table>

**TOTAL FACILITIES VALUE**

|       | $3,021,000 | $8,866,000 |

**TOTAL VESSEL & FACILITIES VALUE**

|       | $3,331,000 | $14,752,000 |

**Notes:**

1. Depreciated Columbia Sentinel Engineers (2015) Value plus Depreciated Improvements
2. Appreciated Columbia Sentinel Engineers (2015) Replacement Value
3. Replace with Steel Pilings, estimation of replacement value due to recent replacement timeframe
4. Estimated using a 40-year life and straight-line depreciation (including depreciated improvements)
5. Replacement value based on cost estimates by Art Anderson Associates (2009)
### Lummi Island Ferry 14-Year Capital Program

#### All $ in 000's Revenues 2017-2023

<table>
<thead>
<tr>
<th>Category</th>
<th>2017</th>
<th>2018</th>
<th>2019</th>
<th>2020</th>
<th>2021</th>
<th>2022</th>
<th>2023</th>
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</thead>
<tbody>
<tr>
<td>Punch Card Fares (3)</td>
<td>$1,124</td>
<td>$1,149</td>
<td>$1,176</td>
<td>$1,204</td>
<td>$1,232</td>
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<td>$1,292</td>
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<td>287</td>
<td>294</td>
<td>301</td>
<td>308</td>
<td>315</td>
<td>323</td>
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<td>(Memo 55% of Operating Cost) (1)</td>
<td>1404</td>
<td>1437</td>
<td>1470</td>
<td>1505</td>
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<td>140</td>
<td>140</td>
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<tr>
<td>County Road Fund Subsidy</td>
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<td>1197</td>
<td>1223</td>
<td>1251</td>
<td>1279</td>
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<tr>
<td>Total Revenues</td>
<td>2716</td>
<td>2774</td>
<td>2833</td>
<td>2895</td>
<td>2959</td>
<td>2917</td>
<td>3094</td>
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<tr>
<td>Total Expenditures (2)</td>
<td>3062</td>
<td>5144</td>
<td>2896</td>
<td>2948</td>
<td>3002</td>
<td>3058</td>
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<tr>
<td>Net Unfunded</td>
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<td>2370</td>
<td>63</td>
<td>53</td>
<td>43</td>
<td>1341</td>
<td>22</td>
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</table>

### Lummi Island Ferry 14-Year Capital Program

#### All $ in 000's Revenues 2024-2030

<table>
<thead>
<tr>
<th>Category</th>
<th>2024</th>
<th>2025</th>
<th>2026</th>
<th>2027</th>
<th>2028</th>
<th>2029</th>
<th>2030</th>
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</thead>
<tbody>
<tr>
<td>Punch Card Fares (3)</td>
<td>$1,323</td>
<td>$1,356</td>
<td>$1,389</td>
<td>$1,424</td>
<td>$1,462</td>
<td>$1,496</td>
<td>$1,530</td>
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<tr>
<td>Cash Fares (4)</td>
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<td>339</td>
<td>347</td>
<td>356</td>
<td>365</td>
<td>374</td>
<td>382</td>
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<tr>
<td>(Memo 55% of Operating Cost) (1)</td>
<td>1654</td>
<td>1695</td>
<td>1736</td>
<td>1780</td>
<td>1827</td>
<td>1869</td>
<td>1912</td>
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<td>MVFT Deficit Subsidy</td>
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<td>County Road Fund Subsidy</td>
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<td>1433</td>
<td>1468</td>
<td>1506</td>
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<td>Total Revenues</td>
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<td>3309</td>
<td>3388</td>
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<tr>
<td>Total Expenditures (2)</td>
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**Note 1:** After Subtracting the MVFT Deficit Subsidy. Budgeted for 57% fare recovery based on historical

**Note 2:** As Shown On Table 2, including capital expenditures

**Note 3:** Equal to 80% of Fares

**Note 4:** Equal to 20% of Fares
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A proposed Comprehensive Plan Amendment to change the land use designation from Rural to Rural Community (LAMIRRD per RCW 36.70A.070(5)(d)(i)), and a proposed zoning map amendment to rezone from Rural 1 dwelling unit per 5 acres (R-5A) to Rural Industrial Manufacturing (RIM) for approximately 2 acres on the north side of Smith Road about 500 feet west of Guide Meridian, located in Section 25, T.39 N., R.2 E., Assessor’s Parcel 390225459079.
Memorandum

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

FROM: Gary Davis, AICP, Senior Planner

THROUGH: Mark Personius, AICP, Assistant Director

DATE: July 12, 2016

SUBJECT: Specified Fittings Comprehensive Plan and Zoning Map Amendment

On January 15, 2013 the County Council voted to forward for concurrent review an ordinance changing the Comprehensive Plan designation and zoning district for about two acres on Smith Road west of Guide Meridian. This property is a portion of the 12-acre industrial property, and had been excluded from the industrial zoning because the zoning boundary had been drawn to follow BPA powerlines that cross the parcel diagonally.

The property owner applied to rezone the land from R-5A to RIM, and to include it within the boundary of the Comprehensive Plan "Rural Community" designation, a limited area of more intensive rural development (LAMIRD) (PLN2012-00006). Because the Smith/Guide Meridian LAMIRD was subject to a Growth Management Hearings Board order of invalidity in 2013 (GMHB Case No. 11-2-0010c), the ordinance to change the zoning and Comprehensive Plan designation could not be considered as part of the 2013, 2014, or 2015 concurrent review of the Comprehensive Plan.

On February 8, 2016, after Whatcom County and petitioners in the case signed a settlement agreement, the Hearings Board issued an order finding compliance and lifting the finding of invalidity concerning the LAMIRD boundary. PDS is now forwarding the ordinance for consideration of adoption concurrent with the 2016 periodic update of the Comprehensive Plan. The draft ordinance is attached. Please contact me at extension 5931 if you have questions concerning this proposal.

Attachments:
   Draft ordinance
PROPOSED BY: 
INTRODUCTION DATE: 7/26/2016 

ORDINANCE NO. ________

AMENDING THE COMPREHENSIVE PLAN DESIGNATION IN THE SMITH ROAD / GUIDE MERIDIAN AREA FROM RURAL TO RURAL COMMUNITY AND AMENDING THE OFFICIAL WHATCOM COUNTY ZONING MAP FROM R5A TO RIM

WHEREAS, Specified Fittings, Inc. submitted an application to rezone a two-acre portion of a 12-acre parcel from Rural one dwelling per five acres (R-5A) to Rural Industrial Manufacturing (RIM); and

WHEREAS, the Whatcom County Planning Commission held a public hearing and recommended approval on November 15, 2012; and

WHEREAS, notice of the Whatcom County Planning Commission public hearing was published November 2, 2012; and

WHEREAS, notice of the subject rezone and development agreement was sent to state and local agencies, and property owners within 1000 feet of the site; and

WHEREAS, the Whatcom County Council has reviewed the Planning Commission recommendations; and

WHEREAS, legal notice requirements have been met; and

WHEREAS, the Whatcom County Council hereby adopts the following findings of fact and conclusion:

FINDINGS OF FACT

1. The subject property is a two acre portion of a 12 acre parcel, and is located largely within an easement for major electrical lines.

2. The owner has applied to amend the Comprehensive Plan land use designation from Rural to Rural Community (Type I LAMIRD), and to amend the zoning from Rural, one dwelling per five acres, to Rural Industrial Manufacturing on the two-acre property.
3. A determination of non-significance (DNS) was issued under the State Environmental Policy Act (SEPA) on November 9, 2012.

4. The proposal was posted on the County website on November 2, 2012.

5. Notice that the proposal had been posted on the County website was sent to citizen, media and other groups on the County’s e-mail list on November 6, 2012.

6. Notice of the subject amendment was submitted to the Washington State Department of Commerce on October 26, 2012.

7. Notice of the Planning Commission hearing for the subject amendment was published in the Bellingham Herald on November 2, 2012.

8. Notice of the Planning Commission hearing for the subject amendment was posted on the County’s website on November 2, 2012.

9. Notice of the Planning Commission hearing was mailed to owners of the subject properties and surrounding land owners within 1,000’ of the subject properties on November 1, 2012.

10. Notice of the Planning Commission hearing was posted on the subject site on November 2, 2012.

11. The Planning Commission held a public hearing on the subject amendment on November 15, 2012.

12. Pursuant to WCC 2.160.080, in order to approve the proposed comprehensive plan amendments the Planning Commission and County Council must find all of the following:
   
a. The amendment conforms to the requirements of the Growth Management Act, is internally consistent with the county-wide planning policies and is consistent with any interlocal planning agreements.
   
b. Further studies made or accepted by the Department of Planning and Development Services indicate changed conditions that show need for the amendment.
c. The public interest will be served by approving the amendment. In determining whether the public interest will be served, factors including but not limited to the following shall be considered:

i. The anticipated effect upon the rate or distribution of population growth, employment growth, development, and conversion of land as envisioned in the comprehensive plan.

ii. The anticipated effect on the ability of the county and/or other service providers, such as cities, schools, water and/or sewer purveyors, fire districts, and others as applicable, to provide adequate services and public facilities including transportation facilities.

iii. Anticipated impact upon designated agricultural, forest and mineral resource lands.

d. The amendment does not include or facilitate spot zoning.

e. Urban growth area amendments that propose the expansion of an urban growth area boundary are required to acquire development rights from a designated TDR sending area, with certain exceptions.

13. A January 9, 2012 Growth Management Hearings Board order found the boundary of the Smith / Guide Meridian Rural Community (Type I LAMIRD) to be noncompliant with GMA and invalid (Case No. 11-2-0010c). Subsequent to a settlement agreement between Whatcom County and petitioners in the Hearings Board case, the Board issued an order finding compliance on February 8, 2016, which included the Smith / Guide Meridian LAMIRD boundary.

CONCLUSIONS

1. Because of the size of the subject parcel and its location within a power line easement, it is largely unusable as residential land.

2. The subject Comprehensive Plan amendment complies with the Growth Management Act and the approval criteria of WCC 2.160.080.

3. The subject zoning map amendment is consistent with the Whatcom County Comprehensive Plan.

NOW, THEREFORE, BE IT ORDAINED by the Whatcom County Council that:

Section 1. Map 2.1 of the Whatcom County Comprehensive Plan is hereby amended as shown in Exhibit 1.
Section 2. The Official Whatcom County Zoning Map is hereby amended as shown in Exhibit 2.

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

ADOPTED this ___ day of ____________________ 2016.

ATTEST:

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

Dana Brown-Davis, Council Clerk

Barry Buchanan, Council Chair

APPROVED as to form:

( ) Approved ( ) Denied

Jack Louws, Executive

Date: __________________________
File #: PLN2012-00006
Proposed Comprehensive Plan Land Use Changes

- Proposed designation change
- Existing Comprehensive Plan Boundary

Proposed CP Designation - RURAL COMMUNITY (not in parentheses)
Existing CP Designation - (RURAL)
File #: PLN2012-00006
Proposed Rezoning

- Existing Zoning Boundary
- Proposed Rezone Area

Proposed Zoning: RIM (not in parentheses)
Existing Zoning: (R5A)
## TITLE OF DOCUMENT
Resolution relating to the Whatcom County Coordinated Water System Plan 2016 update.

### ATTACHMENTS:
- Cover Memorandum
- Resolution
- Whatcom County Coordinated Water System Plan – Executive Summary

### CLEARANCES
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### SEPA review required? ( ) Yes ( ) No
( X ) Yes ( ) No

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

The Water Utility Coordinating Committee, composed of water purveyor and government representatives, approved the Coordinated Water System Plan (CWSP) on April 20, 2016. RCW 70.116.050(4) and (7) require the County Council to hold a public hearing to “insure that the plan is not inconsistent with land use plans, shoreline master programs and/or development policies” of the County. Following acceptance of the plan by the County Council, the CWSP will be submitted to the Washington Department of Health for approval per RCW 70.116.060.

### COMMITTEE ACTION:
7/26/2016: Forwarded to Council for approval

### COUNCIL ACTION:
5/31/2016 Introduced
6/14/2016: Held in Council
7/26/2016: Held in Council 4-2, Weimer and Buchanan opposed, Donovan absent

### Related County Contract #:

### Related File Numbers:

### Ordinance or Resolution Number:

Please Note: Once adopted and signed, ordinances and resolutions are available for viewing and printing on the County’s website at: www.co.whatcom.wa.us/council.
TO: The Honorable Jack Louws, County Executive  
Honorable Members of the Whatcom County Council

THROUGH: Jon Hutchings, Director

FROM: Gary S. Stoyka, Natural Resources Program Manager

RE: Resolution Accepting the Coordinated Water System Plan 2016 Update

DATE: May 16, 2016

Requested Action
Enclosed is one original of a resolution to accept the Whatcom County Coordinated Water System Plan (CWSP) 2016 update and find the Plan to be not inconsistent with land use plans, shoreline master programs and/or development policies of the County. Public Works staff requests that Council approve this resolution.

Background and Purpose
The County Council commenced an update of the current 2000 Whatcom County Coordinated Water System Plan (CWSP) on September 30, 2014 by adoption of Resolution 2014-045. A CWSP is a plan for public water systems within a defined area that identifies the present and future needs of the systems and sets forth means of meeting those needs in the most efficient manner possible. The County Council established the planning area, called the Critical Water Supply Service Area (CWSSA), for the original CWSP effort in 1993, and retained the same area for the 2000 update, as well as for this update. The CWSSA includes all of Whatcom County west of the Mount Baker-Snoqualmie National Forest Boundary excluding certain portions of the Lummi and Nooksack Indian reservations.

This CWSP update was prepared under the direction of the Water Utility Coordinating Committee (WUCC). Per RCW 70.116.040, the WUCC included representatives of all individual water utilities located in the CWSSA with more than 50 connections that chose to participate, as well as representatives of the Washington State Department of Health (DOH), Whatcom County Health Department (WCHD), Whatcom County Planning & Development Services (PDS), Whatcom County Public Works (WCPW), and the Whatcom County Council. In addition, all water systems in the CWSSA and the Lummi Nation and Nooksack tribes were invited to participate on the WUCC as non-voting members. WUCC meetings were held from late 2014 through early 2016 to review the existing 2000 CWSP update, provide recommended changes that reflect the needs of the current water system community in the county, and provide guidance for the future. These actions were conducted with the primary objective of supporting the public drinking water supply needs of the County and achieving coordination between water services, the Growth Management Act (GMA), and the update of Whatcom County's Comprehensive Plan.

This CWSP represents the collective views of the WUCC and integrates the documented views of other state and local governments. This document is officially known as the "Regional Supplement,"
and it and the approved individual water system plans (WSPs) comprise the CWSP. When integrated with the County’s Comprehensive Plan, the CWSP presents a significant piece of the larger resource and growth management strategy for the County's future.

The WUCC unanimously approved the Whatcom County CWSP on April 20, 2016. The Planning and Development Services (PDS) Department subsequently conducted a State Environmental Policy Act (SEPA) and consistency review. PDS issued a determination of non-significance (DNS) and determined that the CWSP was not inconsistent with land use plans, shoreline master programs, and/or development policies of the County.

Please contact Gary Stoyka at extension 6218, if you have any questions or concerns regarding this resolution.

Encl.
RESOLUTION NO. 

RELATING TO THE WHATCOM COUNTY COORDINATED WATER SYSTEM PLAN UPDATE

WHEREAS, State law (RCW 70.116.050(4) and (7)) requires the County Council to review the Coordinated Water System Plan and insure that it is "not inconsistent with the land use plans, shoreline master programs, and/or development policies" of the County and consider other factors; and

WHEREAS, the Water Utility Coordinating Committee, consisting of water purveyor and County government representatives, finalized the Coordinated Water System Plan Update in April of 2016 in accordance with RCW 70.116.050(2); and

WHEREAS, a determination of non-significance was issued pursuant to the State Environmental Policy Act; and

WHEREAS, the County Council held a public hearing and acted on the Coordinated Water System Plan within 60 days of receiving it, as required by RCW 70.116.050(7);

NOW, THEREFORE, BE IT RESOLVED that the Whatcom County Council hereby determines that the Coordinated Water System Plan Update is not inconsistent with the Whatcom County Comprehensive Plan and development regulations and satisfies RCW 70.116.050, subject to the following conditions:

1) Outside of Urban Growth Areas, as designated on the Whatcom County Comprehensive Plan map, City water service shall be provided consistent with planned densities as set forth in the Whatcom County Comprehensive Plan and Official Whatcom County Zoning Ordinance (Title 20).
2) A City’s designation of a water service area that extends outside of an Urban Growth Area shall not be utilized as justification for later expanding the Urban Growth Area.

APPROVED this ____ day of __________, 2016.

ATTEST:

________________________
Dana Brown-Davis, Clerk of the Council

APPROVED AS TO FORM:

______________________
Daniel L. Gibson, Civil Deputy Prosecutor

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

________________________
Barry Buchanan, Council Chair
WHATCOM COUNTY
PLANNING & DEVELOPMENT SERVICES

2016 Coordinated Water System Plan Consistency Review

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I. Background Information

Subject: Coordinated Water System Plan (CWSP) Update 2016

Summary of Request: County Council review to insure that the CWSP is not inconsistent with the Whatcom County Comprehensive Plan and development regulations and satisfies RCW 70.116.050.

State Environmental Policy Act (SEPA) compliance: The SEPA Official for Whatcom County issued a determination of non-significance on May 12, 2016.

County Council Timeframe: Pursuant to RCW 70.116.050(7), the County Council is to take action on a CWSP within 60 days of receiving it.

II. Analysis of the Proposed Amendment

The Whatcom County Council passed Resolution Nos. 90-73 and 91-075 in the early 1990s, declaring the portion of Whatcom County west of the National Forest, with the exception of certain tribal lands, to be a “critical water supply area” under RCW 70.116. This declaration committed water purveyors with more than 50 connections and County government representatives (collectively known as the “Water Utility Coordinating Committee”) to prepare a Coordinated Water System Plan. Specifically, Resolution No. 90-73 indicates that this CWSP would include “establishment of service boundaries, interconnections, conservation measures, and other provisions regarding the efficient provision of water to meet present and future needs by public and private utilities.”

The Water Utility Coordinating Committee met between November 5, 2014 and April 20, 2016 in a process to update the CWSP. They gave final approval of the CWSP on April 20, 2016. The CWSP has gone through SEPA review and the County Council must find that the CWSP is not inconsistent with County land use plans, and consider several other factors, prior to sending the CWSP to State DOH for final approval.

Specifically, the factors that are to be considered in evaluating a proposed CWSP are set forth in RCW 70.116.050(4) and (7). These factors are addressed below.

(A) Ensure that the CWSP is not inconsistent with the land use plans, shoreline master programs, and/or development policies of the general purpose local government or governments whose jurisdiction the water system plan affects.

Staff has reviewed the CWSP and finds that it is not inconsistent with the Whatcom County Comprehensive Plan and development regulations. Specific land use planning issues are highlighted below.

Issue #1 – City Water Service Areas Extending Outside of Urban Growth Areas

Clearly, urban levels of water service should not be extended outside of UGAs, as evidenced by:
The Countywide Planning Policies (CWPP)

Policy F-6: Unless specifically provided for by state statutes, Cities, other municipal corporations, and other public and private utilities shall not extend urban levels of water service to serve urban uses outside Urban Growth Areas. If legally allowed water extensions are made outside of Urban Growth Areas, the maximum number of connections shall not exceed the density allowed under the associated zoning. The number of connections shall be specified in a legally binding document at the time the extension is approved. Property contiguous to extension of utilities necessary to solve existing water deficiencies, but which cannot benefit from them because of zoning constraints, shall not be assessed for those improvements. (Whatcom County Comprehensive Plan, Appendix C, p. C-7)

Policy F-7: The availability of pipeline capacity required to meet local needs and/or supply shall not be used to justify development counter to Countywide land development pattern and shall not be considered in conversions of agricultural land, forestry, and rural areas (Whatcom County Comprehensive Plan Appendix C, p. C-7).

The Whatcom County Comprehensive Plan

... Outside of Urban Growth Areas, cities and other public and private utilities may extend water only at rural levels of service. If rural levels of service are extended, availability of pipeline capacity to meet local supply needs shall not be used to justify development counter to Countywide land development patterns and shall not be considered in conversions of agriculture land, forestry, or rural lands ... (p. 5-3).

Policy 2Q-1: Ensure that service providers do not extend sewer or urban levels of water service to serve areas outside urban growth areas except when necessary to protect basic public health and safety and the environment and when such services are financially supportable at zoned densities and do not permit urban development.

Policy 5P-3: Discourage extension of urban levels of water service to areas not designated as urban growth areas or Rural Communities, except in those limited circumstances shown to be necessary to protect basic public health and safety and the environment and when such services are financially supportable at rural densities and do not permit urban development.

Policy 2N-4: Ensure that cities or other service providers do not extend sewer or urban levels of water service to serve areas outside urban growth areas except when necessary to protect basic public health and safety and the environment and when such services are financially supportable at zoned densities and do not permit urban development. (p. 2-25)

As in the previous CWSP, the water service areas of three cities (Bellingham, Ferndale, and Sumas) extend outside of the Urban Growth Areas designated in the Whatcom County Comprehensive Plan. However, the below prior explanations of why, and their service intent, still pertain.
Bellingham – The City of Bellingham’s service area extends outside of the Urban Growth Area in four places:

- Chuckanut Dr.;
- Mt. Baker Highway;
- Aldrich Rd. west of Cordata; and
- In the Curtis Rd. area, northwest of the Airport.

In an e-mail memo of 3/20/00, the Bellingham’s Superintendent of Utilities, Tony Seman, indicated that these places are included in their service area, even though they are outside of the Urban Growth Area, for the following reasons:

1. We have had a water main to Larrabee state park since 1938.
2. Mt. Baker Highway water main was installed (1958), owned and maintained by the VanWyck Water Association up until 1993, when the association requested the city to take over the ownership and maintenance. They have always been supplied with City water through a master meter until the takeover when the master meter was removed.
3. Aldrich Road – Was Twin Lakes Water Association until 1982 when the master meter for the association was removed and became part of the City’s direct service.
4. Curtis Road main installed 1973 (also location of Foster reservoir) – provided service to Water District #2...

Additionally, Mr. Seman’s 3/20/00 e-mail stated:

The City has no intent on increasing service potential above the current Whatcom County zoning designations for each area. The Public Works Department has been active in ensuring that as water service requests are received, we only sell services that are consistent with County zoning and that are inside the current City water service zone. Many owners have asked for service outside those areas and we have denied their requests on a continual basis...

Three of the four service areas outside Bellingham’s Urban Growth Area pre-date adoption or the Growth Management Act in 1990, and all four pre-date adoption of final Urban Growth Area boundaries in 1997. These factors, along with the City’s commitment to serve these properties at current zoning densities, alleviate concerns that the service area designations are inconsistent with the Whatcom County Comprehensive Plan.

Ferndale – The City of Ferndale’s water service area extends outside of the Urban Growth Area in five places:

- Douglas Rd./Olson Rd./Thornton Rd.
- Imhof Rd.
- Gadwa Rd./Kaas Rd./Trigg Rd.
- Northwest Dr./W. Smith Rd.
- Brown Rd./Aldergrove Rd.
In a personal communication dated 6/7/16, the City of Ferndale's Superintendent of Utilities, Mike Olinger, indicated that this City is in the process of updating its Water System Plan and service areas which will bring the service area boundaries within city limits or the UGA boundary except:

- Brown Rd./Aldergrove Rd.
- Douglas Rd./Olson Rd./Thornton Rd.
- Graveline Road and Slater Road east of Interstate-5

Although outside of the UGA, all of these areas are within Ferndale’s UGA reserve.

In addition, there are the following areas:

- Northwest Dr./ W. Smith Rd.
- W. Axton Rd./Ten Mile Creek area

These areas have historically been served by the City of Ferndale since before the GMA was enacted. The City will continue to serve these areas but will not accept new connections except when dealing with a public health emergency. The City has connected one home in this area due to a declared public health emergency.

**Sumas** – The City of Sumas' water service area extends outside of the Urban Growth Area east of the city, into designated Agricultural lands.

In a letter of March 27, 2000, Sumas City Administrator David Davidson addresses this issue by stating:

The water service area identified in the City's “Declaration,” as filed recently in conjunction with the CWSP process, contains two swathes of land not included within the Sumas UGA. They are an area immediately east of Heron Lane and a triangular area north of Rock Road and east of the Sumas River. They are included in the service area because residents in those areas have been receiving water service from the City for at least a decade. Service was initiated to those properties simply because each was on the City's side of the master meters separating our service area from that of the Sumas Rural Water Association. The City will continue to provide service in those areas consistent with the County's zoning code – i.e., if the County issues a building permit, the City will provide water.

There is a difference between the Sumas UGA legally established by County ordinance and the UGA identified in the City's Comprehensive Plan. Our plan, as well as our declared service area, includes a 40-acre area south of Rock Road and west of the Sumas-Kendall Road, as well as an irregular pocket extending in from Heron Land immediately south of Johnson Creek. The City has included these areas in its future service area because they are included in the City’s desired UGA. In each case the City now provides water to some or all of the residents in the area.

However, the City has no intention of using the water service area declaration as a means of justifying future inclusion of those areas within the UGA established by the County. At the next Countywide UGA update, Sumas does intend to argue for inclusion of those areas, but not on the basis of the existing water service.
RCW 57.16.140 states that “The construction of or existence of sewer capacity or water supply in excess of the needs of the density allowed by zoning shall not be grounds for any legal challenge to any zoning decision by the county.” Cities, water districts and associations have historically provided service to development in rural areas of Whatcom County (although in this day of growth management planning, city water service areas should closely resemble Urban Growth Area boundaries). The cities of Bellingham, Ferndale, and Sumas provide water service outside their Urban Growth Areas. These services should continue to be provided at rural densities. Additionally, existence of water service should not be not be used as justification for expanding Urban Growth Area boundaries and rezoning rural or agricultural properties to higher densities. Therefore, the resolution addressing consistency between the CWSP and the County’s Comprehensive Plan should contain two conditions:

1) Outside of Urban Growth Areas, as designated on the Whatcom County Comprehensive Plan map, City water service shall be provided consistent with planned densities as set forth in the Whatcom County Comprehensive Plan and Official Whatcom County Zoning Ordinance (Title 20).

2) A City’s designation of a water service area that extends outside of an Urban Growth Area shall not be utilized as justification for later expanding the Urban Growth Area.

Issue #2 – City Service Areas That Don’t Include Portions of the Urban Growth Area

Under the existing policies, cities are to have plans to provide urban levels of service to their UGAs once annexed.

CWPP D-3: Cities shall develop a plan to provide urban level water and sewer services within their Urban Growth Areas. This plan should be developed in cooperation with existing water purveyors and other municipal corporations providing water or sewer services within each city’s Urban Area…”

The Whatcom County Comprehensive Plan contains the following:

Policy 5Q-2: Ensure provision of urban levels of water service to urban growth within areas designated for urban growth.

It appears that all areas of UGAs are contained within the cities’ service areas.

Issue #3 – Population Projections

The Whatcom County Comprehensive Plan provides official population projections for the 20-year planning period (2016-2036). It projects that there will be 275,668 people living in Whatcom County in 2036 (p. 1-10). Approximately 205,800 of these people would live in cities (including their Urban Growth Areas) and the remaining 69,650 people would live in the rural areas of the County. This population growth projected in the Whatcom County Comprehensive Plan represents a 1.3% average annual increase over the 20-year planning period (2016-2036).

The CWSP uses the 20-year population projections established in the Whatcom County Comprehensive Plan. While the CWSP projects population to the year 2066, it assumes that the Comprehensive Plan projections for the year 2036 will be correct, including the distribution among urban and rural areas.
Therefore, the CWSP is wholly consistent with the Whatcom County Comprehensive Plan’s population projections.

**Issue #4 – Utility Policies in the Comprehensive Plan**

Whatcom County Comprehensive Plan policies relating to utilities are found in chapter 5. Goals and policies that govern the provision of water include:

**Goal 5Q:** Work with water purveyors to provide service to all existing and designated urban growth or industrial areas.

**Policy 5Q-1:** Work with the appropriate jurisdictions to ensure adequate water rights and supplies to the Urban Growth Areas and designated industrial areas in northwest Whatcom County. Consider all options, including but not limited to, extension of water service areas, conjunctive management of surface and groundwater, artificial storage, and recovery and reclamation of wastewater to the UGAs and designated industrial areas in northwest Whatcom County.

**Staff Comment:** The County works with the appropriate jurisdictions to ensure adequate water rights and supplies to the UGAs and designated industrial areas in northwest Whatcom County through the development of the CWSP. Additionally, staff works with the various purveyors when they are developing their individual service plans.

**Policy 5Q-2:** Ensure provision of urban levels of water service to urban growth within areas designated for urban growth.

**Staff Comment:** This policy is enacted through the Comprehensive Plan UGA review and evaluation process conducted by PDS, wherein the County ensures through preparation of the 20-Year Capital Facilities Plan (CFP) that all areas designated for urban growth are contained within one of the providers’ service areas and that those service area plans provide for the provision of water at urban service levels.

**Policy 5Q-3:** Periodically review Urban Growth Areas to ensure adequate water supplies.

**Staff Comment:** By law, the County reviews its Urban Growth Area boundaries at least every 8 years to ensure, among other things, that there are adequate water supplies to serve the area(s).

**Policy 5Q-4:** Encourage annexation of areas zoned for urban densities concurrent with extension of urban level services.

**Staff Comment:** The County has long encouraged cities to annex areas of their UGAs concurrent with the extension of urban level services. Additionally, most cities have policies in place that do the same.

**Policy 5Q-5:** The County should work closely with purveyors and the State Department of Health in the development and review of Comprehensive Water Plans to ensure consistency with land use and urban growth area needs.
Staff Comment: The Water Utility Coordinating Committee, which is composed of representatives of water purveyors that have 50 or more connections, and County representatives worked collaboratively to develop the CWSP. Additionally, State Department of Health representatives participated in the meetings during development of the CWSP.

Policy 5Q-6 The County will work with the Department of Ecology, City of Bellingham, the Port of Bellingham, the PUD, and local, regional, and state economic development agencies to ensure an adequate water supply to areas planned for industrial development.

Staff Comment: The County works with the appropriate jurisdictions to ensure adequate water supplies to designated industrial areas through the development of the Comprehensive Plan UGA review and evaluation process.

Goal 5R: Ensure that potable water supplies required to serve development are available at the time the development is available for occupancy and use.

Staff Comment: There are two components to the CWSP: The “supplemental provisions,” which are included in the document currently under review, and Water System Plans submitted by individual purveyors (see RCW 70.116.030 and CWSP, p. 1-5). These Water System Plans are the primary documents that the individual purveyors use to plan for water needs of development within their service area. Additionally, the CWSP “supplemental provisions” establish a procedure for obtaining water if the designated purveyor is not able to provide service in a timely and reasonable fashion.

Policy 5R-1: Building permit applicants, new subdivisions, short plats, and binding site plans will be required to provide evidence that adequate and legal (in consultation with the Department of Ecology) supplies of water are available prior to their approval by the County.

Staff Comment: The CWSP indicates that the “utility service review procedure,” which is intended to identify an existing water purveyor willing and able to provide water, applies to subdivisions, binding site plans, and building permits. While the actual requirement to provide proof of water supply for a subdivision or permit is contained in other statutes, the CWSP guides applicants in the process for obtaining an acceptable water supply.

Policy 5R-2: Work with purveyors to assist them in modifying their systems as required to support the land use element of the comprehensive plan.

Staff Comment: The County reviews Water System Plans of individual purveyors for consistency with land use plans and is willing to assist if conflicts are identified.

Issue #5 – Coordination with Zoning

The CWSP’s “utility service review procedure” sets up a process to obtain water for land use activities that conform to the “local zoning ordinance” (CWSP, p. 6-4). However, the CWSP also recognizes that rezone applications are submitted from time to time. In these cases, water purveyors are given the opportunity to comment on the rezone request (CWSP, p. 6-9). Additionally, fire flow standards in the
CWSP have been coordinated with zoning designations (CWSP, p. 1-2 and 5-13). Finally, water system plans that are periodically submitted by individual purveyors are reviewed in light of the zoning densities allowed within the purveyor's service area.

**Issue #6 – Coordination with Land Division Regulations**

Since the last CWSP, Whatcom County amended its land division regulations to provide a uniform set of criteria for determining whether a public water supply would be required in long and short plats. The CWSP sets up a process for identifying a public water purveyor who is willing and able to provide public water service, should the land division regulations require such a public water supply (CWSP, pp. 6-4 to 6-9). If existing purveyors are unwilling or unable to provide service, a new public water system may be created (CWSP, p. 6-8).

**Issue #7 – Coordination with Shoreline Management Program**

Section 23.100.180.10.12 of the Whatcom County Shoreline Management Program contains the following policies relating to water systems:

(a) Only those components of public water systems which are shoreline dependent should be located on shorelines, unless alternatives are infeasible.

(b) Private and public intake facilities and wells on shorelines should be located where there will be no adverse effects upon natural features and other users.

Staff has not identified any components of the CWSP that conflict with these policies.

**(B) Recognize all water resource plans, water quality plans, and water pollution control plans which have been adopted by units of local, regional, and state government.**

Within Whatcom County there are a number of water plans that have been adopted or are under development. These include plans related to wellhead protection areas, surface water source protection, shellfish districts, watershed planning under RCW 90.82, Lake Whatcom, stormwater, marine resources, and salmon recovery. The Coordinated Water System Plan has been and will be integrated and coordinated with these plans.

**(C) Incorporate the fire protection standards developed pursuant to RCW 70.116.080.**

RCW 70.116.080 indicates that the State Department of Health has the responsibility of developing fire protection standards for new and expanding public water systems. These standards are embodied in WAC 246-293-601 through 690. According to WAC 246-293-670, alternative methods may be utilized if approved by the local fire protection authority and the State Department of Health. The Whatcom County Fire Marshal was involved in the process of developing the fire protection standards in the CWSP and officially approved these standards. The CWSP will proceed to the State Department of Health for its approval after the County Council concludes its review.
(D) Identify the future service area boundaries of the public water system or systems included in the plan within the critical water supply service area.

A service area map for all Group A water systems (generally defined as those serving 15 or more connections) that responded to the County’s request for information has been included in the CWSP. The current map includes 169 of the approximately 186 Group A system in the county. Additionally, 92 Group B systems—generally defined as those systems service less than 15 connections—that are expanding were mapped. Some of the water purveyor’s service area boundaries overlap. The County Health Department plans to contact additional purveyors that have not yet declared their service area boundaries so that the map can be periodically updated and contact purveyors with overlapping boundaries in an attempt to eliminate or reduce such overlaps.

(E) Identify feasible emergency interties between adjacent purveyors.

Interties are addressed in section 8.6.2 of the CWSP, which states:

An intertie is an interconnection between public water systems, which permits the exchange or delivery of water between the systems. An intertie can be for emergency or seasonal use, for use during repairs or facility maintenance only or used on a continual basis. Interties are recognized as valuable management tools for public water systems because they improve overall system reliability, enhance the manageability of the system, provide opportunities for conjunctive use, or delay the need to develop new water sources... (CWSP, p. 8-21)

Existing interties for expanding Group A water systems are listed in Table 8-6 of the CWSP. Additionally, Water System Plans for individual water purveyors (which are part of the CWSP) include a section on interties (WAC 246-290-100(4)).

(F) Include satellite system management requirements consistent with RCW 70.116.134.

Satellite management is addressed in section 6 of the CWSP. This section states:

Prior to 1991, the term SMA (Satellite Management Agency) was applied loosely to those water utilities that provided service to remote systems.

In 1991, the legislature modified the Public Water System Coordination Act rules to establish criteria for designating entities approved as SMAs. The current definition of a SMA is:

A person or entity that is approved by DOH to own or operate more than one public water system on an area wide-basis, without the necessity for a physical connection between such water systems.

Currently, the laws and policies relating to the provision of satellite management services are embodied in legislation passed in 1995... which required all new public water systems to be owned or managed and operated by an “approved” SMA, where one was available... (p. 6-11).

RCW 70.116.134 contains two basic requirements for the County relating to Satellite Management Agencies (SMAs):
• Identifying potential satellite management agencies where no purveyor has designated a future service area and where the existing purveyor is unable or unwilling to provide service.

• Prior to construction of a new public water system, the County must direct the proponent to a SMA to explore the possibility of the SMA either owning or operating the new water system.

Regarding the first issue, Section 6.4.7 of the CWSP lists the approved SMAs (p. 6-12). This list could expand in the future if additional SMAs are approved.

The second issue is addressed in Section 6.4.6 of the CWSP, which indicates that when an applicant cannot obtain water from an existing purveyor, he will be referred to a SMA prior to being allowed to create a new water system. If a SMA is not available, then a new water system may be created (pp. 6-11 and 6-12).

(G) Include policies and procedures that generally address failing water systems for which counties may become responsible under RCW 43.70.195.

Failing water systems are addressed in section 7 of the CWSP. This section states:

RCW 43.70.195 provides that whenever an action is brought by the Secretary of Health or a local health officer to place a public water system in receivership, the petition shall include the names of one or more suitable candidates for receiver who have consented to assume operation of the water system. If there is no other person or entity willing and able to be named a receiver, the court shall appoint the county in which the water system is located as receiver.

Existing utilities have accepted the lead responsibility for providing public water supply within their designated service areas through the establishment of service area boundaries in the Coordinated Water System Plan (CWSP) and the review process described above. Therefore, these utilities should be considered the primary candidate as receiver for a failing system within or adjacent to their system. A logical extension of this responsibility is for the designated utilities to assist in correcting problems of failing systems within the boundaries of their service areas and ultimately accept ownership of the failing system following the designated system’s upgrade to standards. Designated satellite management agencies (SMAs) are candidates named as the receivers of failing systems outside all other designated service areas and within designated service areas where suitable candidates are not otherwise available.

Group A – Community systems with 100 or more permanent connections, and all expanding public water systems that intend to have 100 or more permanent connections, will be considered candidates to assume the receivership role described in RCW 43.70.195 for failing systems within their designated service area.

The Secretary of Health or Whatcom County Health Officer will advise the court of the name of one or more suitable candidates for receiver who have consented to assume operation of the water system in any future petition for receivership.

As stated above, if no other entity is willing or able to be the receiver, the court shall designate the county as the receiver of last resort. If Whatcom County is named the receiver, RCW
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36.94.150 allows the County to lien the owner’s real property and foreclose against such property within 60 days of delinquency should the owner fail to pay rates and charges. Additionally, all of the County’s costs for administrating the receivership, including staff time (salary and benefits), are billable directly to the system owners as receivership administrative expenses (RCW 7.60.060). (pp. 7-1 and 7-2)

III. Recommendation
Based upon the above analysis, Planning and Development Services recommends that the County Council approve the resolution relating to the Coordinated Water System Plan so that it can be sent to the State Department of Health for final approval.
Whatcom County
Coordinated Water System
Plan Update

May 2016

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Whatcom County Coordinated Water System Plan Update 2016

The material and data contained in this plan were prepared under the direction and supervision of the undersigned, who is licensed to practice in the State of Washington and whose seal as a professional engineer is fixed below.

5/31/2016

5/31/2016
Acknowledgements

An undertaking of this magnitude is not possible without the efforts of numerous individuals and groups. This plan is a product of extensive input and a compilation of the recommendations of numerous special studies and related planning efforts.

Those of us at RH2 Engineering, Inc. would like to pay particular tribute to those agencies and individuals listed below.

- Patrick Sorensen, Chair, Water Utility Coordinating Committee
- Larry Helm, Vice-Chair, Water Utility Coordinating Committee
- Members of the Whatcom County Water Utility Coordinating Committee
- Gary Stoyka, Whatcom County Public Works Department
- John Wolpers, Whatcom County Health Department
- Laurette Rasmussen, Whatcom County Health Department
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- Richard Rodriguez, Washington State Department of Health
- Jolyn Leslie, Washington State Department of Health
- Water Resources Inventory Area 1 (WRIA 1) Watershed Planning Unit
DOH Approval Letter

Note: The final approval letter from DOH will be inserted here once the plan update is approved.
Glossary of Acronyms and Terms

The following acronyms and terms, with accompanying definitions, are included in this Coordinated Water System Plan. Additional definitions may be found in Chapter 246-290 Washington Administrative Code (WAC), Drinking Water Regulations of the State Board of Health, effective April 1999.

**Acronyms**

af  Acre feet (1 acre-foot equals 43,560 cubic feet or 32,585 gallons)
av  Acre-feet per year
APWA American Public Works Association
ARC Appeals Resolution Committee
AWWA American Water Works Association
BRB Whatcom County Boundary Review Board
ccf 100 cubic feet (100 cubic feet is equal to approximately 748 gallons)
cfs Cubic feet per second (1 cfs is equal to approximately 449 gallons per minute)
CIP Capital Improvement Program
CT Contact time
CWPP County-wide Planning Policies
CWSP Coordinated Water System Plan (Prepared pursuant to Chapter 70.116 Revised Code of Washington (RCW))
CWSSA Critical Water Supply Service Area (Chapter 70.116 RCW and Chapter 246-293 WAC)
DOH Washington State Department of Health
Ecology Washington State Department of Ecology
EPA United States Environmental Protection Agency
ERU Equivalent Residential Unit
GIS Geographic Information System
GMA Growth Management Act
gpcd Gallons per capita per day
gpd Gallons per day
gpm Gallons per minute
<table>
<thead>
<tr>
<th>Acronym</th>
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<tr>
<td>GWI</td>
<td>Groundwater sources under the direct influence of surface water</td>
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<td>IBC</td>
<td>International Building Code</td>
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<td>International Fire Code</td>
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<td>International Water Association</td>
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<td>MCL</td>
<td>Maximum Contaminant Level</td>
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<tr>
<td>MGD</td>
<td>Million gallons per day (1 MGD = 3.0689 acre-feet of water per day)</td>
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<td>MPA</td>
<td>Microscopic Particulate Analysis</td>
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<td>NTNC/TNC</td>
<td>Non-transient Non-community/Transient Non-community</td>
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<tr>
<td>NRW</td>
<td>Non-revenue water</td>
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<td>Washington State Office of Financial Management</td>
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<td>PDS</td>
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<tr>
<td>ppb</td>
<td>Parts per billion – a measurement of contaminant levels in water</td>
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<td>psi</td>
<td>Pounds per square inch</td>
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Glossary of Acronyms and Terms

WUCC Water Utility Coordinating Committee
WUE Water Use Efficiency

Terms

Adjacent – Water lines are considered adjacent to a property when the water lines lie within either side of the right-of-way or easements directly abutting the property.

Appeals Resolution Committee (ARC) – A committee, consisting of the following:

- The Director of the Whatcom County Health Department or his/her designee
- The Director of Whatcom County Planning and Development Services or his/her designee
- The Director of Whatcom County Public Works or his/her designee
- A representative from one of the approved SMAs identified in Section 6.

The ARC is chaired by the representative of the Health Department for review and informal resolution of appeals regarding the conditions of water service outside of the retail service area.

Community Water System – Any Group A public water system providing service to 15 or more service connections used by year-round residents for 180 or more days within a calendar year, regardless of the number of people, or regularly serving at least 25 year-round (i.e., more than 180 days per year) residents.

Coordinated Water System Plan (CWSF) – Per RCW 70.116.030(1), a coordinated water system plan is:

A plan for public water systems within a critical water supply service area which identifies the present and future needs of the systems and sets forth means for meeting those needs in the most efficient manner possible. Such a plan shall include provisions for subsequently updating the plan. In areas where more than one water system exists, a coordinated plan may consist of either: (a) A new plan developed for the area following its designation as a critical water supply service area; or (b) a compilation of compatible water system plans existing at the time of such designation and containing such supplementary provisions as are necessary to satisfy the requirements of this chapter. Any such coordinated plan must include provisions regarding: Future service area designations; assessment of the feasibility of shared source, transmission, and storage facilities; emergency inter-ties; design standards; and other concerns related to the construction and operation of the water system facilities.

Coordination Act – Public Water System Coordination Act (Chapter 70.116 RCW).

Critical Water Supply Service Area (CWSSA) – Per RCW 70.116.030(2), a CWSSA is:

A geographical area which is characterized by a proliferation of small, inadequate water systems, or by water supply problems which threaten the present or future water quality or reliability of service in such a manner that efficient and orderly development may best be achieved through coordinated planning by the water utilities in the area.
SECTION 0

Declaration of Water Utility Service Area – A declaration signed by water utilities that identifies the service area that the water utility is willing and able to serve unless constraints do not enable the utility to do so. The service area may include existing, retail, wholesale, and future service areas.

Designated Purveyor – A water purveyor (utility) identified to provide water service to a given area. When willing to provide the service in a timely and reasonable manner, the designated purveyor is assigned an exclusive right to provide public water service to the area and is required to include the area within its approved Water System Plan.

Duty to Serve – A municipal water supplier, as defined in RCW 90.03.015, has a duty to provide retail water service within its retail service area if:

1. its service can be available in a timely and reasonable manner;
2. the municipal water supplier has sufficient water rights to provide the service;
3. the municipal water supplier has sufficient capacity to serve the water in a safe and reliable manner as determined by the department of health; and
4. it is consistent with the requirements of any comprehensive plans or development regulations adopted under chapter 36.70A RCW or any other applicable comprehensive plan, land use plan, or development regulation adopted by a city, town, or county for the service area and, for water service by the water utility of a city or town, with the utility service extension ordinances of the city or town (RCW 43.20.260).

Equivalent Residential Unit (ERU) – The amount of water typically used by a single-family residence.

Exempt Well – A well that is exempt from the water rights permitting process as established in RCW 90.44.050.

Existing Service Area – The specific area where a water system already provides direct service, remote service, or where service connections are currently available.

Expanding Water Systems – Per WAC 246-293-610(2), expanding water systems are:

Those public water systems installing additions, extensions, changes, or alterations to their existing source, transmission, storage, or distribution facilities which will enable the system to increase in size its existing service area. New individual retail or direct service connections onto an existing distribution system shall not be considered an expansion of the public water system.

Financial Viability – The ability to obtain sufficient funds to develop, construct, operate, maintain, and manage a public water system in full compliance with local, state, and federal requirements on a continuous basis.

Firefighting Water Use – The use of water to contain, suppress, and extinguish a fire that is an immediate threat to persons or property. It also includes temporary use of water for drinking and sanitation by firefighting personnel as needed during the act of fire suppression and extinguishment. A water right is not required for this use.
Glossary of Acronyms and Terms

Fire Flow – The rate of water delivery needed for the sole purpose of fighting fires. For design purposes, the fire flow volume shall be in addition to the requirements of the water system for domestic demand, and a 20 pounds per square inch (psi) residual pressure should be maintained throughout the system under combined maximum demand flow conditions.

Fire Protection – A beneficial use of water associated with the ongoing use of water to reduce fire risks. It includes irrigating buffer areas, storing water for fire use, and supplying fire hydrants within developments. Fire protection water also includes the use of water within a firefighting facility for training firefighting personnel, and testing and maintaining firefighting equipment. A water right is required for such uses.

Franchise Area – Non-exclusive area in which a utility is permitted by the County to extend facilities within public rights-of-way. A franchise area is not equivalent to a service area.

Future Service Area – The specific area where a purveyor or utility plans to serve water.

Groundwater Sources under the Direct Influence of Surface Water (aka GWI) – Any water beneath the surface of the ground with:

1. Significant occurrence of insects or other macroorganisms, algae or large-diameter pathogens such as *Giardia lamblia*, or

2. Significant and relatively rapid shifts in water characteristics such as turbidity, temperature, conductivity, or pH which closely correlate to climatological or surface water conditions.

Under the direct influence of surface water means the groundwater source is located close enough to nearby surface water, such as a river or lake, to receive direct surface water recharge. Since a portion of the groundwater source's recharge is from surface water, the groundwater source is considered at risk of contamination from pathogens such as *Giardia lamblia* and viruses, which are not normally found in true ground waters.

Sources most likely to be under the direct influence of surface water are:

- Infiltration galleries and Ranney wells located near surface waters;
- Poorly constructed spring source facilities; and
- Shallow wells located near surface waters.

Group A Water System – A system that serves 15 or more connections or 25 or more people per day for 60 or more days per year. Group A systems are divided into a series of subgroups as diagrammed in Exhibit 2-1. A full description of the classes of systems is contained in WAC 246-290-010.

Group B Water System – A system that serves less than 15 connections and less than 25 people per day or 25 or more people per day during fewer than 60 days per year.

(Note: As specified in the Joint Plan of Responsibilities (JPR) between the State Department of Health and Whatcom County Health Department, two party (shared) wells are exempt from the Group B requirements as allowed in WAC 246-291-005(3), Applicability, which states “The rules of this chapter do not apply to a Group B system that provides water to one or two service connections, except: (a) In a county in which a local board of health has adopted requirements for Group B systems with one or two service connections.” (See also WCC 24.11 Drinking Water.)
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Intertie – An interconnection between public water systems permitting the exchange or delivery of water between those systems (see WAC 246-290-010(141)).

Ordinarily, the use of an intertie is governed by a written agreement or contract between the utilities. A modification to water rights issued by Ecology may also be required, or may, in many cases, be accomplished via an amendment to the system’s WSP.

Land Use Designation – The land use(s) allowed in a geographical area by right or permit, as provided in the applicable comprehensive plan or zoning ordinance.

Level of Service – Operational features, such as pressure, flow, and reliability provided to the customer by the water system.

Municipal Corporation – Any city, town, county, water-sewer district, port district, public utility district, irrigation district, and any other municipal corporation, quasi-municipal corporation, or political subdivision of the state (RCW 70.315.020 – Water Purveyors – Fire Suppression Facilities).

Municipal Water Supplier – An entity that supplies water for municipal water supply purposes (RCW 90.03.015(3)).

Municipal Water Supply Purposes – Per RCW 90.03.015(4):

A beneficial use of water: (a) For residential purposes through fifteen or more residential service connections or for providing residential use of water for a nonresidential population that is, on average, at least twenty-five people for at least sixty days a year; (b) for governmental or governmental proprietary purposes by a city, town, public utility district, county, sewer district, or water district; or (c) indirectly for the purposes in (a) or (b) of this subsection through the delivery of treated or raw water to a public water system for such use. If water is beneficially used under a water right for the purposes listed in (a), (b), or (c) of this subsection, any other beneficial use of water under the right generally associated with the use of water within a municipality is also for "municipal water supply purposes," including, but not limited to, beneficial use for commercial, industrial, irrigation of parks and open spaces, institutional, landscaping, fire flow, water system maintenance and repair, or related purposes. If a governmental entity holds a water right that is for the purposes listed in (a), (b), or (c) of this subsection, its use of water or its delivery of water for any other beneficial use generally associated with the use of water within a municipality is also for "municipal water supply purposes," including, but not limited to, beneficial use for commercial, industrial, irrigation of parks and open spaces, institutional, landscaping, fire flow, water system maintenance and repair, or related purposes.

Nearby – For the purposes of determining access to public water supplies, “nearby” shall mean at a distance of 1/2 mile or less.

New Construction (as it relates to components of a public water system) – Any addition of supply, transmission, distribution, or storage facilities, either in a new water system or an expanding water system, which provides a capability to serve additional dwelling units or other buildings.
**Glossary of Acronyms and Terms**

**Non-community Water System** – A Group A public water system that is not a community water system. Non-community water systems are further defined as non-transient non-community and transient non-community.

**Non-transient Non-community Water System** – A Group A public water system that provides service opportunities to 25 or more of the same non-residential people for 180 or more days within a calendar year.

**Private Water Supply** – A water supply serving up to two single family residences or a commercial business for which the director has waived all public water system development and monitoring standards found in WAC 246-291-005 and 030. Private water supplies shall not be approved to serve a connection with a use listed under WCC 24.11.040(a) through (h).

**Public Water System** – All systems except those serving one single-family residence or four or fewer service connections on the same farm. As used in this document, the term is generally synonymous with “Purveyor” and “Utility.”

**Purveyor** – Any agency or subdivision of the state or any municipal corporation, firm, company, mutual or cooperative association, institution, partnership, or person or any other entity, that owns or operates for wholesale or retail service a public water system. It also means the authorized agents of any such entities. As used in this document, generally synonymous with “utility” and “public water system.”

**Receiver** – An entity appointed by the court to manage a water system. Generally, the court intends receivership to be temporary until a permanent solution for the water system is found.

**Receivership** – The process by which a receiver is appointed to temporarily manage a water system with the goal of bringing a failing public water system back into organizational and operational compliance.

**Reclaimed Water** – Water derived in any part from wastewater with a domestic wastewater component that has been adequately and reliably treated, so that it can be used for beneficial purposes. Reclaimed water is not considered a wastewater (RCW 90.46.010(15)).

**Remote System** – A public water system, located within the designated service area of a utility, which is detached from the primary facilities of the utility. A remote system has its own source of supply, unless it connects to the utility's primary source and distribution facilities.

**Retail Service Area** – The specific area where a municipal water supplier has a duty to serve new service connections under certain conditions (see the Municipal Water Law – Duty to Provide Service Requirements fact sheet, DOH 331-366, for details).

**Rural Levels of Service** – Includes those public services and public facilities historically and typically delivered at an intensity usually found in rural areas, and may include domestic water systems, fire, and police protection services.

**Satellite Management Agency (SMA)** – An individual, purveyor, or entity that is approved by the secretary to own or operate more than one public water system on a regional or countywide basis, without the necessity for a physical connection between such systems (WAC 246-295-010).

**Satellite Management and Operation Services** – All day-to-day responsibilities of a water system. Management responsibilities shall include planning and policy decision making. Operational responsibilities shall include normal day-to-day operations, preventative maintenance,
SECTION 0

water quality monitoring, trouble-shooting, emergency response, response to complaints, public/press contact, and recordkeeping.

Secretary – The secretary of the Washington State Department of Health or the secretary’s authorized representative.

Service Area – A water system’s service area is the specific area or areas the system serves or plans to serve. This may include the:

- Existing service area;
- Retail service area (applies to municipal water suppliers only);
- Future service area; and
- Wholesale service area (where the system provides water to other public water systems).

The largest area identified on a map where a municipal water supplier currently provides direct service and remote service, and the area it plans to serve. The service area may include the existing service area, retail service area, and the future service area. The service area may also include where a water system provides wholesale water supply to other public water systems through an intertie. This area may represent a water right’s expanded place of use if the requirements of WAC 246-293-107 are met. Note: The service area and the water right place of use should be consistent with each other (i.e., the utility should have authority from a water rights perspective to serve water anywhere within its designated service area).

Boundaries are defined by agreements among adjacent utilities and are recorded on a set of maps on file with Whatcom County. Water service provided within designated service areas must be consistent with local land use plans.

Service Connection – A physical connection through which water may be delivered to a customer for discretionary use. Unless otherwise indicated, all such connections, whether currently in use or not, shall be considered as a service connection. The service connection defines the limit of the water utility's responsibility for system design and operation unless otherwise provided for in the water utility's condition of service policies.

Utility customers such as mobile home parks, planned unit developments, condominiums, apartment buildings, industrial/commercial sites, or other similar complexes are generally considered exterior to the water system. In such cases, the purveyor shall be required to meet design standards for water systems up to the point of service to the customer; and beyond that point, the applicable plumbing and building codes, fire codes, county health regulations, and local ordinances are deemed to be sufficient to protect the public health and to ensure adequate water service. These customers are not themselves considered herein as water purveyors unless specifically designated as such by DOH.

Timely and Reasonable – Because the Coordination Act and Municipal Water Law use different definitions of “timely” and because neither defines “reasonable,” the term “timely and reasonable” is defined as follows (in order of priority) for the Whatcom County CWSP:

1. As defined in the water utility’s approved water system plan.
2. If the water utility does not have a water system plan, the definition shall be as defined in the utility’s service policies and not inconsistent with the Coordination Act.
3. If the water utility does not have a water system plan or service policies or the water system plan or service policies do not provide a definition for timely and reasonable, the definitions shall be as follows:
   - Water service is considered timely when:
     o the water utility can provide service within 120 days of receiving all necessary permits to begin installation of required system improvements, if the utility is conducting system installation; or
     o the water utility can provide service within 120 days of the applicant installing all necessary system improvements; or
     o as otherwise agreed to between the applicant and utility.
   - Water service is considered reasonable if costs and conditions of service are consistent with the utility’s acknowledged standard practice experienced by other applicants requesting similar service.

**Transient Non-community Water System** – A Group A public water system that serves:

   (a) Twenty-five or more different people each day for 60 or more days within a calendar year; or

   (b) Twenty-five or more of the same people each day for 60 or more days, but less than 180 days within the calendar year.

**Urban Growth Area (UGA)** – The Growth Management Act requires that participating counties designate a boundary that includes cities and other areas characterized by urban growth, or adjacent to such areas that are planned to accommodate future urban growth. Growth occurring outside the boundary cannot be urban in nature. A final UGA is determined and included in the completed comprehensive plan of each city and the county. As comprehensive plans are updated, the criteria for designation and placement of these boundaries are guided by the GMA and county-wide planning policies.

**Urban Levels of Service** – Includes those public services and public facilities historically and typically delivered at an intensity usually found in urban areas, and typically includes domestic water systems, fire, and police protection services.


**Utility Service Review Procedure** – An administrative procedure established under local agency jurisdiction to identify the water purveyor best able to serve an area where new public water service is requested.

**Water Availability** – Water is considered available when an applicant for a project requiring potable water has access to an adequate supply of safe drinking water which meets the intent of the Growth Management Act of 1990, as amended, and other requirements for the provision of a safe and adequate water supply (WCC 24.11).

**Water Availability Form** – The Water Availability Form (WAF) required by PDS, and reviewed by WCHD, as part of a building permit application to show that the applicant has access to an adequate supply of safe drinking water which meets the intent of the Growth Management Act of 1990, as amended, and other requirements for the provision of a safe and adequate water supply.

**Water Resource Inventory Area (WRIA)** – An administrative and planning boundary established by the Washington State Department of Ecology. Washington State is divided into
SECTION 0

62 WRIAs. WRIA 1 is the Nooksack Watershed and certain adjacent drainages (WAC 173-500-040).

**Water System Plan** – A written plan prepared for a particular water system and service area. Also known as a Comprehensive Water System Plan. Details of Water System Plan requirements can be found in WAC 246-290-100.

**Water Utility** – See “Public Water System” and “Purveyor” definitions.
# Whatcom County Coordinated Water System Plan
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Executive Summary
Executive Summary

This Coordinated Water System Plan (CWSP) is a plan for public water systems within the Critical Water Supply Service Area (CWSSA) that was established by the Whatcom County Council to include all of Whatcom County (County) west of the Mount Baker-Snoqualmie National Forest boundary, excluding certain portions of the Lummi and Nooksack Indian reservations (Figure 1-1).

This CWSP update was prepared under the direction of the Water Utility Coordinating Committee (WUCC), which was established pursuant to the Public Water System Coordination Act of 1977 (Coordination Act; Chapter 70.116 Revised Code of Washington (RCW)). This CWSP represents the collective views of the WUCC and integrates the documented views of other state and local governments. This document, officially known as the “Regional Supplement,” and the individual water system plans (WSPs) approved by the Washington State Department of Health (DOH), comprise the CWSP. When integrated with the County’s GMA Comprehensive Plan, the CWSP presents a significant piece of the larger resource and growth management strategy for the County's future.

The County’s 2016 GMA Comprehensive Plan Update anticipates that more than 80 percent of new growth over the next 20 years will be accommodated within cities and Urban Growth Areas (UGAs), with the remainder in rural areas. However, public water service and systems can either be urban or rural as defined in RCW 36.70A.030 (17:20). Water supply and service policies in this CWSP are designed to support the Growth Management Act (GMA) and local land use policies by projecting population and employment growth capacities for the existing municipal and non-government (Group A) water suppliers (comprising both UGAs and non-UGAs). These population growth capacities (i.e., maximum potential demand) are then compared with their respective water rights (supply) and DOH-approved system connection capacities. Cumulatively, there are sufficient water rights available to meet all current and projected needs for the next 50 years. Most utilities have sufficient individual water rights to meet their current demand and their projected full build out demand. The WUCC recommends several measures, such as new water lines and interties, that individual water utilities with inadequate water rights should implement to provide legal and secure supply of water to areas requiring additional water to support future growth and development.

Water utilities are given exclusive right to provide service in their designated service areas. The Coordination Act mostly addresses service in a utility’s future service area. Under the Municipal Water Law, a water utility has a duty to serve within their retail service area providing certain conditions are met. Water systems are required to identify their service areas by submitting a Declaration of Water Utility Service Areas to the Whatcom County Health Department (WCHD). Any changes to a utility’s service area must be reported to WCHD on the appropriate form. Service areas are shown on the official CWSP map. Service area overlaps may occur and do not necessarily present a conflict. This CWSP includes minimum design standards for water systems within the CWSSA. In most cases, the minimum design standards apply only to new or expanding water systems, although existing water systems are encouraged to meet these standards to support the provision of safe, reliable, and high-quality drinking water throughout the CWSSA, including the provision of adequate fire flow. This CWSP also includes updated fire protection and hydrant placement requirements.
Executive Summary

When a water system fails to provide safe and reliable water, the DOH uses a variety of tools to bring it back into compliance. As a last resort, if the system fails to correct problems, the Secretary of Health or the local health officer may file a petition with the Whatcom County Superior Court. The Court, in turn, may appoint a receiver who is willing and able to operate the water system. Receivership is not a final action, but is a process to bring failing public water systems back into organizational and operational compliance.

This CWSP presents administrative procedures for directing applicants with development proposals that require potable water service in the unincorporated portion of the CWSSA to the most appropriate source of water. These procedures are intended to guide local officials, citizens, development applicants, and regulatory agencies in identifying the necessary facilities for providing adequate potable water service and may, in some cases, involve management and operation by an approved Satellite Management Agency.

This CWSP also presents issues with potential implications for public water systems in Whatcom County. These issues include the Lummi Peninsula groundwater settlement, tribal water rights claims, recent changes to water rights laws, financial viability of small systems, water quality problems, data management and lack of water quality and quantity data, lack of joint facilities and interties, water use efficiency, and potential use of reclaimed water.

An appeal procedure is provided for applicants to resolve disputes regarding certain conditions of service issues. Appeals must be filed with the Hearing Examiner. Whatcom County also offers a voluntary appeals process that parties may decide to use to see if the dispute can be resolved without the expense of a formal appeal.

The CWSP includes a list of new implementation actions resulting from this latest update and continuing implementation actions that require continued attention.
Section 1 – Introduction
1.0 Introduction

A Coordinated Water System Plan (CWSP) is a plan for public water systems within a defined area that identifies the present and future needs of the systems and sets forth means of meeting those needs in the most efficient manner possible. The Whatcom County Council established the planning area, called the Critical Water Supply Service Area (CWSSA), for the original CWSP effort in 1993, and retained the same area for the 2000 update, as well as for this update. The CWSSA includes all of Whatcom County west of the Mount Baker-Snoqualmie National Forest Boundary excluding certain portions of the Lummi and Nooksack Indian reservations (Figure 1-1).

This CWSP update was prepared under the direction of the Water Utility Coordinating Committee (WUCC). Per Revised Code of Washington (RCW) 70.116.040 (The Public Water System Coordination Act of 1977, hereafter referred to as the Coordination Act), the WUCC included representatives of all individual water utilities located in the CWSSA with more than 50 connections that chose to participate, as well as representatives of the Washington State Department of Health (DOH), Whatcom County Health Department (WCHD), Whatcom County Planning & Development Services (PDS), Whatcom County Public Works (WCPW), and the Whatcom County Council. In addition, all water systems in the CWSSA and the Lummi Nation and Nooksack tribes were invited to participate on the WUCC as non-voting members. WUCC meetings were held from late 2014 through early 2016 to review the existing 2000 CWSP, provide recommended changes that reflect the needs of the current water system community in the county, and provide guidance for the future. These actions were conducted with the primary objective of supporting the public drinking water supply needs of the county and achieving coordination between water services, the Growth Management Act (GMA), and the update of Whatcom County’s Comprehensive Plan.

This CWSP represents the collective views of the WUCC and integrates the documented views of other state and local governments. This document is officially known as the “Regional Supplement,” and it and the approved individual water system plans (WSPs) comprise the CWSP. When integrated with the County’s Comprehensive Plan, the CWSP presents a significant piece of the larger resource and growth management strategy for the County’s future.

Preparation of the CWSP update has been in accordance with the contract between Whatcom County and RH2 Engineering, Inc., dated October 1, 2014. Close coordination was maintained with the DOH during the CWSP preparation to conform to the requirements of the Coordination Act. This CWSP was approved by the WUCC, and PDS has determined that it is not inconsistent with County land use plans, shoreline master programs, and/or County developmental policies and regulations.

This CWSP includes the following sections:

Glossary of Acronyms and Terms

Executive Summary

Section 1 – Introduction
Section 2 – The Coordinated Water System Process – This section provides an overview of the process, the history of the CWSP in Whatcom County, Whatcom County Council resolution providing direction to the CWSP update, and the WUCC membership.

Section 3 – Population, Water Demand, and Existing Water Systems – This section provides population projections consistent with the County’s Comprehensive Plan update and water demand forecasts, and compares water demand forecasts to water rights capacity to identify water systems with adequate and inadequate water supplies.

Section 4 – Water Supply Service Areas – This section provides a general discussion of existing, future, retail, and wholesale service areas and the significance of each in terms of rights and responsibilities of the water system, municipal water system commitments, service area declarations, service area appeals and appeal resolution, and the process to amend service area boundaries.

Section 5 – Minimum Design Standards – This section establishes the minimum design standards for new or expanding water systems in the CWSSA, including standards related to fire hydrants, and fire flow requirements linked to zoning classifications.

Section 6 – Utility Service Review Procedures – This section describes the administrative review procedures for applicants with development proposals requiring potable water service in a variety of scenarios, such as: service within an existing retail service area; within a designated future service area; and within relinquished or non-designated service areas. This section also describes procedures for approval of new public water systems and private water supplies, describes a voluntary appeal resolution process, and satellite management within the CWSSA.

Section 7 – Receivership of Failing Systems – This section discusses receivership as an option of last resort for a failing public water system and clarifies the obligations that remain with a public water system even as it makes use of the receivership process.

Section 8 – Issues with Potential Implications for Public Water Systems in Whatcom County – The CWSP process encourages regional solutions to water supply issues. This section briefly identifies a number of water resource related issues to provide context for the public water system coordination efforts identified and established in the CWSP update.

Section 9 – Plan Implementation – This section identifies recommended steps to be taken by the County, public water systems, and others to implement this CWSP and provides an appeals process.

Throughout this CWSP, the words “must,” “will,” “shall,” or “required” are used when practices are required by rule or statute, sufficiently standardized to permit specific delineation of requirements, or where safeguarding the public health justifies definitive criteria or action (and is legally allowable to do so). Where requirements are spelled out in statutes or rules, an attempt has been made to cite the relevant source of the statements.

The words “should” or “recommend” indicate procedures, criteria, or methods that are not required and can be approached with some degree of flexibility. In such cases, water managers may need to explain the basis of the altered approach or, in some cases, why another approach may be more applicable. Unless specifically noted, the WUCC has determined this flexibility should be retained and the related recommendations should not be codified.
Introduction

In cases where the WUCC has determined that certain actions, standards, or procedures are sufficiently important to warrant adoption into the Whatcom County Code, this has been noted in the CWSP, and those changes are specifically identified in Section 9, where the WUCC recommends the County Council amend the existing code to implement the recommendations of the WUCC.
Section 2 – Coordinated Water System Plan Process
Section 2 – Coordinated Water System Plan
Process

2.0 Introduction

The Public Water System Coordination Act (Coordination Act), enacted in 1977, modified in 1991 and 1995, and codified as Chapter 70.116 Revised Code of Washington (RCW), establishes a procedure for the state’s water utilities to coordinate their planning and construction programs with adjacent water utilities and other local government activities, including planning under the Growth Management Act (GMA). The Coordination Act provides authority to the county for identifying a critical water supply service area (CWSSA) in a given area “where water supply problems related to uncoordinated planning, inadequate water quality or unreliable water service appear to exist.” The Whatcom County Council established its CWSSA for the original Coordinated Water System Plan (CWSP) effort in 1993, and retained the same area for the 2000 and 2016 updates. This area includes “all lands west of the National Forest Boundary excluding certain portions of the Lummi and Nooksack Indian reservations,” (Whatcom County Council Resolution No. 2014-045).^1

This update to the CWSP has been completed in accordance with the Coordination Act and is composed of a regional supplement (this document), and a compilation of individual water system plans (WSPs). These individual WSPs have been developed in accordance with Washington Administrative Code (WAC) 246-290-100, and are subject to approval by the Washington State Department of Health (DOH). Water system plans demonstrate a water system’s “operational, technical, managerial, and financial capability to achieve and maintain compliance with relevant local, state, and federal plans and regulations, and must also demonstrate how the water system will address present and future needs in a manner consistent with other relevant plans and local, state, and federal laws, including applicable land use plans.”

The Coordination Act authorizes DOH and the county’s legislative authority to convene a Water Utility Coordinating Committee (WUCC) which is comprised of: water utilities in the area serving more than 50 customers; the county legislative authority; county planning agency; and health agencies. The WUCC advises as to the geographic extent of the area defined as the CWSSA, and plays a major role in the development of the CWSP that serves to guide orderly and efficient delivery of potable water to water dependent users in the region.

Preparation of the regional supplement is the responsibility of a WUCC. In addition to the statutory members of the WUCC listed above, Whatcom County invited representatives of all public water systems in the CWSSA to attend the WUCC meetings as were representatives of DOH, the Washington State Department of Ecology (Ecology), the Lummi Nation, and the Nooksack Tribe to broaden the range of perspectives in developing the CWSP update. A

^1 Whatcom County Government’s web site provides access to its ordinances and resolutions at the following link: http://www.whatcomcounty.us/1414/Legislation Note: For purposes of uniform archiving and retrieval, Whatcom County now uses a standardized numbering system to file resolutions and ordinance that may be different than the original, e.g. Resolution No. 90-73 as adopted is now filed as Resolution No. 1990-073.
SECTION 2

schematic outlining the comparison of Groups A and B and municipal purpose water systems is provided in Table 2-1.

Table 2-1
Chapter 246-290 WAC – Public Water System Definition

Public Water Systems
All systems except those serving only one single family residence or four or fewer service connections on the same farm.

Group A
System that regularly serves:
- 15 or more service connections
  OR
- 25 or more people/day for 60 or more days/yr.

Community
- System that regularly serves 15 or more year-round service connections, or 25 or more year-round residents (for 180 or more days/yr).

Non-Community
- Any system that is not a community system

Group B
System that serves:
- Less than 15 service connections
  AND
- Less than 25 people/day
  OR
- 25 or more people/day during fewer than 60 days/yr.

Non-Transient (NTNC)
- System that serves 25 or more of the same people/day for 180 or more days/yr.

Transient (TNC)
System that serves:
- 25 or more different people/day during 60 or more days/yr.
  OR
- 25 or more of the same people/day for less than 180 days/yr and during 60 or more days/yr.
  OR
- 1,000 or more people for two, or more, consecutive days.

In addition, the County will review the CWSP and identify any inconsistencies with the existing Whatcom County Code (WCC) 24.11 and, where inconsistencies are found, will either modify the CWSP to eliminate the inconsistency or will identify the inconsistency and include a recommendation to modify the code where the WUCC has deemed such modifications to be desirable as part of the implementation section (Section 9).

Once the CWSP update has been developed by the WUCC, the Coordination Act requires that the CWSP update be submitted to the County Council for concurrence that the document is not inconsistent with local planning policies and requirements. The County Council is also required to hold at least one public hearing on the update. The CWSP is subsequently submitted to the DOH for approval.
Coordinated Water System Plan Process

More than 80 percent of Whatcom County’s 208,000 residents obtain their drinking water from public water systems subject to this CWSP. The remaining population obtains their potable water from private water systems and are not subject to this CWSP.

This CWSP provides updated processes and strategies for Whatcom County water utilities to define their role in the program consistent with adopted land use policies and the County’s projected 20-year population and employment growth strategy identified in the 2016 GMA Comprehensive Plan Update. The CWSP update represents the collective views of the WUCC and, although it is not the total and final water resource management plan for the County, it is a significant piece of the larger water resource and growth management strategy for the County. Existing municipal and non-governmental water suppliers (serving both urban and rural areas) are expected to provide water service to more than 90 percent of the new growth projected over the next 20 years.

In preparing this 2016 CWSP update, a major goal was to achieve coordination between public water service and the County’s 2016 GMA Comprehensive Plan Update. Among many of the GMA’s provisions is the creation of urban growth areas (UGAs) within which urban densities and utility services are allowed. Outside the UGA, rural densities are specified. The County’s 2016 GMA Comprehensive Plan Update anticipates that more than 80 percent of new growth over the next 20 years will be accommodated within cities and UGAs, with the remainder in rural areas. However, public water service and systems can either be urban or rural as defined in RCW 36.70A.030(17:20). Therefore, much effort was spent reviewing and revising water supply and service policies that support GMA and local land use policies. Key to this effort was projecting population and employment growth capacities for all the existing municipal and non-governmental (Group A) water suppliers (comprising both UGAs and non-UGAs), and comparing those population growth capacities (i.e., maximum potential demand) with their respective Ecology-approved water rights (supply) and DOH-approved system connection capacities. This coordination effort is highlighted in Section 3.

Chapter 36.93 RCW established boundary review boards and identified their roles and authorities and includes Boundary Review Board (BRB) responsibilities in the extension of water and sewer service outside of existing service areas by a city, town, or special purpose district. These revisions were incorporated into Utility Service Review Procedures developed for the CWSP.

RCW 70.116.050(4) lists several requirements for Coordinated Water System Plans:

To insure that the plan incorporates the proper designs to protect public health, the secretary shall adopt regulations pursuant to chapter 34.05 RCW concerning the scope and content of coordinated water system plans, and shall ensure, as minimum requirements, that such plans:

(a) Are reviewed by the appropriate local governmental agency to insure that the plan is not inconsistent with the land use plans, shoreline master programs, and/or developmental policies of the general purpose local government or governments whose jurisdiction the water system plan affects. (The 2016 CWSP has been reviewed by Whatcom County Planning and Development Services (PDS) and Whatcom County Health Department (WCHD) for consistency.)
(b) Recognize all water resource plans, water quality plans, and water pollution control plans which have been adopted by units of local, regional, and state government. (The 2016 CWSP has been reviewed by PDS, WCHD, and WPW for consistency and the plan has been shared with, and reviewed by, the WRIA 1 Planning Unit. In addition, the CWSP identifies a number of issues with potential implications for water users in Whatcom County but defers to other planning efforts for the discussion and resolution of those issues (Sections 2 and 9).

(c) Incorporate the fire protection standards developed pursuant to RCW 70.116.080 (Section 5).

(d) Identify the future service area boundaries of the public water system or systems included in the plan within the critical water supply service area (Section 2).

(e) Identify feasible emergency inter-ties between adjacent purveyors.

(f) Include satellite system management requirements consistent with RCW 70.116.134 (Section 5).

(g) Include policies and procedures that generally address failing water systems for which counties may become responsible under RCW 43.70.195 (Sections 5 and 6).

For the purpose of this CWSP, Whatcom County (County) has committed to review the following plans to ensure that the CSWP update is not inconsistent with those plans:

- Whatcom County Comprehensive Plan (including land use plans and adopted subarea plans, as applicable);
- Whatcom County Shoreline Master Plan;
- WRIA 1 Watershed Management Plan;
- 2005 WRIA 1 Salmon Recovery Plan; and
- Total Maximum Daily Load studies (TMDLs).

It should also be noted that Chapter 246-290 WAC, which is a regulation governing Group A public water systems, was updated several times subsequent to the 2000 CWSP update. This CWSP update has incorporated these changes and is consistent with the current content and requirements of Chapter 246-290 WAC.

The CWSP is also required to be consistent with other related planning documents.

**2.1 CWSP History in Whatcom County**

This CWSP update represents the third generation of CWSP efforts conducted by Whatcom County (County) since the early 1990s. Table 2-2 outlines the chronology of efforts to develop and approve a CWSP for Whatcom County. The County's original CWSP, completed in 1993, complemented other ongoing County activities to establish a cohesive strategy addressing water and land use issues throughout the CWSSA. Key issues at that time targeted the creation of procedures to define service areas and service responsibilities, eliminate the proliferation of
Coordinated Water System Plan Process

poorly managed water systems, establish minimum design standards, conduct inventories of
system capabilities and water rights, and address regional water resources issues.

The 1993 CWSP was submitted by the WUCC and accepted unanimously by the County
Council. However, after submitting the CWSP to DOH, disputes arose with the Lummi Nation
regarding how water resource issues on tribal lands were being addressed by the State and
presented in the CWSP. In January 1995, the issue was directed by the Lummi Nation to the
Governor’s office for intervention. In March 1995, DOH notified the County that the CWSP
could not be approved until issues with the tribe were satisfactorily resolved. Consequently,
DOH never formally approved the 1993 CWSP although the County’s Comprehensive Plan was
prepared during this same period and was adopted in May of 1997.

In 2000, Whatcom County prepared an update of the 1993 CWSP. The Whatcom County
Council determined that the update was “not inconsistent with the land use plans, shoreline
master programs and/or development policies” of the County and the update was approved by
the DOH.

Since its approval in 2000, the CWSP has been implemented with limited success. The CWSP is
referenced in the County’s Comprehensive Land Use Plan land use policies as a guiding
document to address coordination of the provision of water service to UGAs. The CWSP map, a
living document subject to ongoing revision, directs applicants seeking water supply to the most
likely public water system available. The CWSP utility service review procedure has served to
help coordinate review on land development proposals (including building permits and land
division), ensuring water availability prior to issuance of project development permits. The 2000
update identified the WUCC as a key first step in the resolution of disputes related to conflicts
between water customers and water utilities. However, the WUCC, although never formally
disbanded, did not continue to meet, with the result that the dispute resolution process envisioned
in the update did not come to fruition. In 2015, the WUCC developed a new dispute resolution
process that is detailed in this document.
Table 2-2
Chronology of Whatcom County CWSP Effort

<table>
<thead>
<tr>
<th>Date</th>
<th>Action</th>
</tr>
</thead>
<tbody>
<tr>
<td>November 1, 1990</td>
<td>The Whatcom County Council adopted a resolution establishing a Critical Water Supply Service Area (CWSSA) for the purpose of initiating the development of a Coordinated Water System Plan.</td>
</tr>
<tr>
<td>June 22, 1993</td>
<td>Whatcom County Council voted unanimously to adopt the CWSP.</td>
</tr>
<tr>
<td>August 2, 1994</td>
<td>Lummi Nation protests County’s SEPA determination of non-significance (DNS) due to dispute over tribal water right claims and jurisdiction on reservation.</td>
</tr>
<tr>
<td>May 20, 1997</td>
<td>Whatcom County Comprehensive Plan (GMA) approved by the County Council, but appeals filed. CWSP remains unapproved by DOH due to ongoing Lummi negotiations and current invalidation status of the Whatcom County Comprehensive Plan (GMA).</td>
</tr>
<tr>
<td>January 30, 1998</td>
<td>Whatcom County submits scope of work to DOH and requests funding to update the 1993 CWSP.</td>
</tr>
<tr>
<td>October 28, 1998</td>
<td>Whatcom County begins update of the unapproved 1993 CWSP.</td>
</tr>
<tr>
<td>August 7, 2000</td>
<td>DOH approves the 2000 update of the CWSP for Whatcom County.</td>
</tr>
<tr>
<td>August 1, 2014</td>
<td>Whatcom County commences update of the approved 2000 CWSP document.</td>
</tr>
<tr>
<td>September 30, 2014</td>
<td>Whatcom County Council approves resolution 2014-045, commencing the Coordinated Water System Plan Update Process, re-establishing the CWSSA with the same boundaries as before, and identifying several specific issues to be addressed.</td>
</tr>
<tr>
<td>November 5, 2014</td>
<td>The first meeting of the WUCC is convened to begin the CWSP update process. RH2 file sharing site established for posting of material for WUCC review.</td>
</tr>
<tr>
<td>December 17, 2014</td>
<td>WRIA 1 Planning Unit briefed on the scope and schedule of the CWSP update project.</td>
</tr>
<tr>
<td>January 21, 2015</td>
<td>WUCC meeting. Chair and Vice-Chair selected. Draft of updated service area map reviewed and discussed. Standards/Fire Flow subcommittee initiated. County to assemble a group to discuss utility service review procedures.</td>
</tr>
<tr>
<td>February 18, 2015</td>
<td>The water rights appendix was provided to the WUCC for review and comment. Standards/Fire Flow working group was established.</td>
</tr>
<tr>
<td>February 23, 2015</td>
<td>The Utility Service Review Procedures (USR) working group met for the first time.</td>
</tr>
<tr>
<td>February 25, 2015</td>
<td>Design Standards/Fire Flow working group met for the first time.</td>
</tr>
<tr>
<td>March 13, 2015</td>
<td>Design Standards/Fire Flow and USRP working groups meet.</td>
</tr>
<tr>
<td>April 15, 2015</td>
<td>The updated water rights appendix was presented to the WUCC, the updated service area map was presented, and the WUCC was updated on the work of the USRP group and the Design Standards/Fire Flow working group, which includes a representative from the County Fire Marshal’s Office.</td>
</tr>
<tr>
<td>April 21, 2015</td>
<td>Design Standards/Fire Flow and USRP working groups meet.</td>
</tr>
<tr>
<td>May 20, 2015</td>
<td>WUCC voted to approve the section on Receivership of Failing Systems. Section 8, Issues with Potential Implications for Public Water Systems in Whatcom County, was discussed. WUCC was updated on the work of the USRP and Design Standards/Fire Flow working groups. The WUCC was briefed on the water demand table and accompanying map. Design Standards/Fire Flow and USRP working groups meet.</td>
</tr>
<tr>
<td>June 10, 2015</td>
<td>Design Standards/Fire Flow and USRP working groups meet.</td>
</tr>
<tr>
<td>June 25, 2015</td>
<td>USRP working group meets.</td>
</tr>
<tr>
<td>July 30, 2015</td>
<td>USRP working group meets.</td>
</tr>
<tr>
<td>August 19, 2015</td>
<td>Section 0, Glossary of Acronyms and Terms, was approved by the WUCC. Section 2, the CWSP Process was approved by the WUCC. Section 8, Issues with Potential Implications for Public Water Systems in Whatcom County, was approved by the WUCC.</td>
</tr>
<tr>
<td>October 21, 2015</td>
<td>Section 5, Minimum Design Standards, was approved by the WUCC. The WUCC was updated on the status of the USRP section revisions. Section 9, Plan Implementation, was discussed with the WUCC.</td>
</tr>
<tr>
<td>December 16, 2015</td>
<td>Section 3, Population, Water Demand, and Existing Systems, was approved by the WUCC. Section 4, Water Utility Service Areas was approved by the WUCC. Section 6, Water Utility Service Areas was approved by the WUCC.</td>
</tr>
<tr>
<td>February 17, 2016</td>
<td>Section 1, Introduction and Section 9, Plan Implementation were approved by the WUCC.</td>
</tr>
<tr>
<td>April 20, 2016</td>
<td>The WUCC approved the final update of the CWSP Regional Supplement document for submittal to the Whatcom County Council.</td>
</tr>
</tbody>
</table>
2.2 CWSP Update Preparation

The Coordination Act provides that updates or revisions to coordinated water system plans may be initiated by the county legislative authority at any time [RCW 70.116.060(6)]. During the 15 years following approval of the County’s CWSP, changing conditions in regards to water resource, water supply, and land use planning all suggested that a review and update of the CWSP would benefit the County.

On September 30, 2014, the Whatcom County Council approved Whatcom County Resolution No. 2014-045, and by this action initiated an update to the County’s 2000 CWSP. This resolution re-confirmed the boundaries of the CWSSA established under Resolution No. 91-075, which includes all lands in the county west of the National Forest boundary, excluding certain tribal lands on the Nooksack and Lummi Indian reservations.

Whatcom County’s Resolution 2014-045, initiating the CWSP update, identifies the following areas for review:

1. Water demand forecasting consistent with the 2016 update of the County’s Comprehensive Plan (Section 3);
2. A review of minimum design standards for water systems, including emergency interties and fire flow requirements (Section 5);
3. A review of service area boundary designations and identification of contested service areas (Sections 3 and 4);
4. A review of the utility service review procedure (Section 6);
5. A review of policies regarding satellite management agencies (Section 6);
6. A review of water quality issues, but not necessarily limited to, nitrate contamination issues (Section 8);
7. Terms of the Lummi Peninsula groundwater settlement agreement (Section 8);
8. Incorporation of provisions of the state Municipal Water Law of 2003, including water use efficiency measures (Section 8); and
9. Coordination, identification, and provision for specific links with other water resource management efforts, including but not necessarily limited to the WRRA 1 Watershed Management Project, in order to ensure efficient use of time and funding, and consistency of use of parameters such as per capita water use rates, and to avoid overlap and duplication of effort (Sections 2 and 9).

The Whatcom County Council chose, in September 2014, to begin this update of the CWSP for a number of reasons, one being that the timing presented an opportunity to coordinate water supply planning with GMA requirements for periodic review and update of Whatcom County’s Comprehensive Land Use Plan, scheduled for completion in 2016.

This update recognizes all water resource plans, water quality plans, and water pollution control plans which have been adopted by units of local, regional, and state government. Special emphasis is given to the County’s Watershed Resource Inventory Area 1 (WRIA 1) Watershed Management Plan Phase I, adopted in 2005, because an update to the CWSP is listed as a task in one of its implementing strategies. One of the implementing strategies of this plan, adopted in 2010, includes what is commonly known as the “Lower Nooksack Strategy.” The 2010 Lower Nooksack Strategy, Objective 3, Task 3 specifically calls for an update to Whatcom County’s
Coordinated Water System Plan “…to be used as the basis for furthering the completion of a comprehensive water supply plan…”

The County Council further resolved to seek input from the WRIA 1 Planning Unit at the outset of the update process. A final draft of the updated CWSP will be submitted to the WRIA 1 Planning Unit prior to its approval by the County Council.

DOH also requested that special emphasis during this update be centered on revising the appeals process, updating the utility service review procedures (USRP), and coordinating with the Lummi Nation to accurately reflect details of the settlement agreement for the Lummi Peninsula area of the Lummi Reservation.

Whatcom County authorized RH2 Engineering, Inc., (RH2) to begin work to update the CWSP on October 1, 2014.

In addition, the 2016 update, like the 2000 CWSP Update, is intended to reaffirm the benefit and successes of the coordination process and addresses a broad portion of the County to include areas experiencing, or expected to experience, increased growth and water demands. As with the previous versions of the CWSP, the intent is to facilitate the coordinated provision of water service and provide a structured approach to this element of water resource management throughout the County in a manner consistent with local land use policies and regulations.

Mr. Patrick Sorensen of the Lake Whatcom Water and Sewer District and Mr. Larry Helm of the Y-Squalicum Water Association were selected by the WUCC as chair and vice chair, respectively. Decisions requiring a vote of WUCC members were decided by a majority of the voting members present, as required by statute.

Table 2-3 lists those systems eligible and invited to participate as voting members on the WUCC and whether the system has a current Declaration of Water Utility Service Area on file with the County. Table 2-3 serves a number of purposes, including the following:

- Identifies for each utility its compliance with submitting a declaration, and the planning requirements of the CWSP;
- Assists the County and DOH in their review of the CWSP for consistency with County policies and state statutes and regulations; and
- Directs County and DOH attention to those utilities that must satisfy basic CWSP planning requirements before system improvement and/or expansion of service takes place.

Declaration of Water Utility Service Area

To ensure a high degree of CWSP compliance, the WUCC maintains that:

- All water utilities who have not done so, should immediately complete and file a declaration and associated service area map with the County; and
- Failure to have a declaration and an approved and current WSP on file with Whatcom County Planning and Development Services (PDS) and DOH may result in delays of approvals for proposed system expansions. As WSPs are reviewed by the County for consistency with land use plans and receive DOH approval, they will be administratively included within the adopted CWSP.

2-8
Due to the importance of tracking the status of these utilities, the PDS will be responsible for updating the service area maps and Table 2-3. The GIS files used to develop the base map and all service areas are available at the County for this purpose. Any changes to service areas boundaries will follow the procedure established in Section 4.

### Table 2-3

<table>
<thead>
<tr>
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<tbody>
<tr>
<td>Acme Water District No. 18</td>
<td>00250</td>
<td>A</td>
<td>Comm</td>
<td>Yes</td>
<td>Yes</td>
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<tr>
<td>Aldergrove Water Association</td>
<td>01200</td>
<td>A</td>
<td>Comm</td>
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<tr>
<td>Belfern Water Association</td>
<td>05370</td>
<td>A</td>
<td>Comm</td>
<td>Yes</td>
<td>Yes</td>
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<tr>
<td>Bell Bay Jackson Water Association</td>
<td>05450</td>
<td>A</td>
<td>Comm</td>
<td>Yes</td>
<td>Yes</td>
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<tr>
<td>Bellingham Water Division, City of</td>
<td>05600</td>
<td>A</td>
<td>Comm</td>
<td>Yes</td>
<td>Yes</td>
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<tr>
<td>Berthussen Road Water Association</td>
<td>05875</td>
<td>A</td>
<td>Comm</td>
<td>Yes</td>
<td>Yes</td>
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<tr>
<td>Birch Bay Water and Sewer District</td>
<td>95904</td>
<td>A</td>
<td>Comm</td>
<td>Yes</td>
<td>Yes</td>
<td></td>
</tr>
<tr>
<td>Blaine, City of</td>
<td>07300</td>
<td>A</td>
<td>Comm</td>
<td>Yes</td>
<td>Yes</td>
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<tr>
<td>Central City Water Association</td>
<td>12150</td>
<td>A</td>
<td>Comm</td>
<td>Yes</td>
<td>Yes</td>
<td></td>
</tr>
<tr>
<td>Chuckanut Trails Water Association</td>
<td>01383</td>
<td>A</td>
<td>Comm</td>
<td>Yes</td>
<td>Yes</td>
<td></td>
</tr>
<tr>
<td>Columbia Valley Water District</td>
<td>66110</td>
<td>A</td>
<td>Comm</td>
<td>Yes</td>
<td>Yes</td>
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<tr>
<td>Custer Water Association</td>
<td>17050</td>
<td>A</td>
<td>Comm</td>
<td>Yes</td>
<td>Yes</td>
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<tr>
<td>Deer Creek Water Association</td>
<td>18418</td>
<td>A</td>
<td>Comm</td>
<td>Yes</td>
<td>Yes</td>
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<tr>
<td>Deer Creek Water Association/Guide South</td>
<td>A8912</td>
<td>A</td>
<td>Comm</td>
<td>Yes</td>
<td>Yes</td>
<td></td>
</tr>
<tr>
<td>Delta Water Association</td>
<td>18750</td>
<td>A</td>
<td>Comm</td>
<td>Yes</td>
<td>Yes</td>
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<tr>
<td>Deming Water Association</td>
<td>18800</td>
<td>A</td>
<td>Comm</td>
<td>Yes</td>
<td>Yes</td>
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<tr>
<td>Evergreen Mobile Park &amp; Sales</td>
<td>24151</td>
<td>A</td>
<td>Comm</td>
<td>Yes</td>
<td>Yes</td>
<td></td>
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<td>Everson Water Association</td>
<td>24195</td>
<td>A</td>
<td>Comm</td>
<td>Yes</td>
<td>Yes</td>
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<tr>
<td>Everson, City of</td>
<td>24200</td>
<td>A</td>
<td>Comm</td>
<td>Yes</td>
<td>Yes</td>
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<tr>
<td>Ferndale, City of</td>
<td>24850</td>
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<td>Comm</td>
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<td>Yes</td>
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<tr>
<td>Ferndale Mobile Village</td>
<td>24840</td>
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<td>Comm</td>
<td>Yes</td>
<td>Yes</td>
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<tr>
<td>Glacier Springs Water System</td>
<td>27755</td>
<td>A</td>
<td>Comm</td>
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<tr>
<td>Glacier Water District</td>
<td>95915</td>
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<td>Comm</td>
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<td>Yes</td>
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<tr>
<td>Glenhaven Lakes Club</td>
<td>28050</td>
<td>A</td>
<td>Comm</td>
<td>Yes</td>
<td>Yes</td>
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<tr>
<td>Guide Meridian Water Association</td>
<td>30200</td>
<td>A</td>
<td>Comm</td>
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<td>Yes</td>
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<tr>
<td>Hemni Road Water Association</td>
<td>32350</td>
<td>A</td>
<td>Comm</td>
<td>Yes</td>
<td>Yes</td>
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<tr>
<td>Hilltop Water Owners Association</td>
<td>33364</td>
<td>A</td>
<td>Comm</td>
<td>Yes</td>
<td>Yes</td>
<td></td>
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<tr>
<td>Isle Aire Beach Association</td>
<td>36268</td>
<td>A</td>
<td>Comm</td>
<td>Yes</td>
<td>No</td>
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<tr>
<td>Joe Louie Water Association</td>
<td>29014</td>
<td>A</td>
<td>Comm</td>
<td>Yes</td>
<td>Yes</td>
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<tr>
<td>Lake Samish Terrace Park</td>
<td>44540</td>
<td>A</td>
<td>Comm</td>
<td>Yes</td>
<td>Yes</td>
<td></td>
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<tr>
<td>LISECC</td>
<td>43290</td>
<td>A</td>
<td>Comm</td>
<td>Yes</td>
<td>Yes</td>
<td></td>
</tr>
<tr>
<td>LWWSD - Eagleridge</td>
<td>08118</td>
<td>A</td>
<td>Comm</td>
<td>Yes</td>
<td>Yes</td>
<td></td>
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<tr>
<td>LWWSD - South Shore Water System</td>
<td>95910</td>
<td>A</td>
<td>Comm</td>
<td>Yes</td>
<td>Yes</td>
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<tr>
<td>Lynden Water Department</td>
<td>49150</td>
<td>A</td>
<td>Comm</td>
<td>Yes</td>
<td>Yes</td>
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<tr>
<td>Mantheys Country Mobile Park</td>
<td>50900</td>
<td>A</td>
<td>Comm</td>
<td>Yes</td>
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<td>Maple Falls Water Coop</td>
<td>51100</td>
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<td>Comm</td>
<td>Yes</td>
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<td>Meadowbrook Water Association</td>
<td>53250</td>
<td>A</td>
<td>Comm</td>
<td>Yes</td>
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<tr>
<td>Mount Baker Water Association</td>
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<td>A</td>
<td>Comm</td>
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<tr>
<td>Mountain View Water Association</td>
<td>56900</td>
<td>A</td>
<td>Comm</td>
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</tr>
</tbody>
</table>
2.2.1 Coordination with the Growth Management Act

**Water Supply and Land Use Planning Meet**

The Coordination Act, enacted by the Washington State legislature in 1977, predates the State’s 1990 GMA. The Coordination Act and its implementing rules follow a general trend of law making in the late 1960s and early 1970s in response to the environmental movement. During this time, many environmental laws were enacted at state and national levels to preserve, protect, and enhance environmental resources for the use and enjoyment of future generations. Although original enactment of these two laws is separated by a period of 13 years, they continue to complement one another. They each provide regulatory authority and direction to local governments to employ an intentional approach that considers water resources, water quality, and water quantity when developing goals, policies, and regulations that apply to land use and development, and capital facility planning for the region.

A goal of the Coordination Act is to provide for an adequate supply of potable water for consumptive use while recognizing that water supplies are finite and variable within the County and must be used efficiently. A second goal is to ensure that an adequate supply of water is readily available to serve projected growth and land uses. These goals represent a nexus between water supply planning and land use planning. Growth strategies must take into account the availability of water when conducting land suitability and capacity assessments, acknowledging
Coordinated Water System Plan Process

existing uses, allocating population or employment, or assigning density or scale and intensity of planned uses in any geographic area.

Land use planning coordinated with water supply planning ensures predictability for both the water utility and the developer. When land use and water supply planning are coordinated, water utilities may develop long-range financial, technical, and operational plans with regards to capacity in accordance with planned land use. This coordination, when documented in a CWSP including individual WSPs provide developers with some degree of certainty as to whether or not water service may be available in the course of a development process and provides greater transparency and efficiencies to all involved parties.

The Growth Management Act (GMA) [Chapter 36.70A RCW]
The GMA directs Washington counties and cities of a certain size that are growing at a certain rate to adopt comprehensive land use strategies (RCW 36.70A.040). Whatcom County and the seven cities within its boundaries are subject to the GMA’s provisions. The GMA, codified in Chapter 36.70A RCW, with rules in Chapter 365-196 WAC, directs jurisdictions that are required to fully plan under the GMA to adopt internally consistent land use plans, generally referred to as a comprehensive plan. These plans contain generalized land use policy statements that guide and coordinate orderly growth and development based on a 20-year vision for the region. GMA planning goals are broad guiding principles that are applied locally to meet the unique needs of each community. GMA planning goals are implemented through locally-adopted comprehensive land use goals, policies, and implementing regulations; for example, zoning, critical areas, shorelines, watershed, and resource protection ordinances.

The GMA requires counties planning under the act to designate lands that are most suitable for rural, natural resource (e.g., mineral, forestry, and agricultural), urban, commercial, industrial, recreation, and open space, and to set goals and policies in a comprehensive land use plan that direct and guide development on such lands in a way that is coordinated, orderly, and internally consistent. The Whatcom County Comprehensive Plan Land Use Map, including urban growth areas and associated land use designations is shown in Figure 2-1.

Because most land use depends on water, when reviewing geographies for land use suitability, the availability of water for the type of uses planned must be considered.

When planning under the GMA, local jurisdictions must designate and accommodate critical areas, including Critical Aquifer Recharge Areas (CARA), which are defined as “areas with a critical recharging effect on aquifers used for potable water” [RCW 36.70A.030(5)]. Accordingly, local jurisdictions must adopt provisions that protect both the quality and quantity of groundwater used for public water supplies, protect groundwater and surface water resources in rural areas, protect and enhance shorelines of the state, and protect critical areas.

As stated above, the GMA requires counties planning under the act to develop a comprehensive land use planning strategy to ensure orderly growth and development. Whatcom County and the seven cities within the County develop and adopt comprehensive land use plans and development regulations. These must be reviewed, evaluated, and amended periodically to ensure that these plans are internally consistent and consistent with one another. Whatcom County’s Comprehensive Plan policies and County-wide planning policies identify implementation of the CWSP as one of its strategies to achieve compliance with GMA goals that address water resources, water quality, and water supply planning.
SECTION 2

Whatcom County’s 2016 Comprehensive Plan Update includes a variety of strategies to address water resources and water supply, which are discussed in Chapter 2 – Land Use, Chapter 4 – Capital Facilities, Chapter 5 – Utilities, Chapter 7 – Economics, Chapter 8 – Resource Lands, and Chapter 11 – Environment.

Whatcom County Comprehensive Plan Chapter 11 contains a thorough discussion on the various water resource planning strategies adopted and/or endorsed by the County.

Whatcom County Comprehensive Plan – Growth Management Compliance

A discussion about coordination between water supply planning and GMA land use planning would not be complete without mentioning that since its enactment in 1990, implementation of the GMA across jurisdictions statewide has resulted in numerous appeals to the Washington State Growth Management Hearings Board and higher courts requesting clarity on how its provisions should be interpreted and applied.

When there is a legal challenge to county or city compliance with the GMA that results in a Growth Management Hearings Board Final Decision and Order of Invalidity (Order), this can have an effect on both land use and water supply to the area that is subject to the Order, both during the timeframe when the legal issues are being resolved and after. Such an Order results in restrictions to land use, especially new development, because the local comprehensive plan and implementing regulations are considered invalid until resolved and the Order is lifted. The result is that during the time period when a part of the GMA comprehensive plan is subject to the Order, there is a lack of local authority in which to approve proposed land uses (RCW 36.70A.302). In some cases, the timeframe for resolving legal issues may span many years. In coordinating land use and water supply planning, the potential for legal challenges with respect to GMA land use implementation strategies may present uncertainties, requiring increased coordination and information sharing with respect to any proposed development in the affected areas.

2.2.2 Water System Service Areas

Each utility was requested through correspondence, and during the WUCC meetings, to submit a map and Declaration of Water Utility Service Area (Declaration) that verified its service area boundary. The Declaration signifies that the utility is willing and able to provide service within that area unless regulatory constraints preclude it from doing so. All changes were incorporated in GIS and are included in the County’s map which is shown in Figure 2-2 which is located at the end of this Section.

Each water system was asked to review its service area and confirm the boundary was consistent within the CWSP and its individual WSP. Upon completion of the CWSP, the DOH has the authority to deny extension requests for expanding systems with inconsistent service area boundaries, or if Declarations have not been submitted. Detailed discussions regarding service areas, their designation, and the implications of those designations are included in Section 4, and Section 6.

2.2.3 Minimum Design Standards

The design standards and fire flow requirements developed in the 1993 CWSP were reviewed by the Design Standards and Fire Flow Subcommittee and the WUCC. The Whatcom County Fire Marshal participated in the work of the subcommittee.
Section 5 provides guidance on minimum planning and design standards that apply to water service delivery, assessment of feasibility of shared source, transmission, storage facilities, interties and emergency interties between systems, and system reliability. Section 5 also includes minimum standards for fire flow, minimum standards for fire hydrants, and addresses alternate methods for fire protection that are developed pursuant to RCW 70.116.080.

It should be noted that the DOH encourages standard construction specifications be developed by each utility and submitted as part of their individual WSP.

2.2.4 Utility Service Review Procedure

RCW 19.27.097 and WCC 24.11.060 require that each application for a building permit necessitating potable water shall provide evidence of an adequate water supply for the intended use of the building.

A primary goal of the Coordination Act is to provide both guidance and “a strategy to ensure an adequate supply of potable water for domestic, commercial, and industrial uses is readily available with a minimum of loss or waste.”

The Utility Service Review Procedure (USRP) is discussed in Section 6. The USRP describes the various options for obtaining water service within the CWSSA when public water is readily available and also when public water service is not readily available (e.g., if a public system exists but is not able to serve in a manner that is “timely and reasonable,” or when a public water system (municipal water supplier) is not subject to a “duty to serve” in its retail service area, or when no public water system is available). The USRP details specific steps that apply when establishing remote systems, satellite management systems, and private wells.

Section 9, Plan Implementation, provides a path to a voluntary dispute resolution process when there are differing opinions between either the County, the water purveyor, and/or the applicant, developer, or project proponent as to what constitutes delivery of water service in a “timely and reasonable” manner, a water purveyor’s “duty to serve,” or when the County Health Department has denied an applicant’s request to drill a private well. The first step consists of a voluntary pre-hearing conference where information sharing, negotiation, and agreement can take place and, if this is unsuccessful in resolving the problem, a process is outlined where an aggrieved party may request resolution to a dispute utilizing the appropriate existing process.

Under current law, disputes regarding service in retail service areas are resolved in Superior Court. Disputes regarding water service in future service areas are resolved by a process beginning with the County Hearing Examiner, followed by the County Council, and Superior Court appeals system.

The intent of the voluntary dispute resolution process is to develop a locally-driven, less expensive and, hopefully, faster way of resolving disputes. Details of this process are included in Section 9.

The revised USRP are revised in Section 6.

2.2.5 Issues with Potential Implications for Public Water Systems in Whatcom County

Several issues with potential implications for public water systems in Whatcom County are discussed in Section 8. Topics addressed include the Lummi Peninsula Groundwater Settlement;
tribal requests to the federal government regarding their claimed federal reserved water rights; an overview of the water right approval process, including alternative means of water rights processing such as the cost-reimbursement process; water conservancy boards; the use of certified water rights examiners to prepare "proof exams" to move water right permits to the certificate stage; the ability, under certain conditions, to drill new or replacement wells without obtaining prior approval from Ecology; and the municipal water law. Other elements of the regional resource issues include discussions regarding the financial viability of small systems; bacteriological contamination; the presence of nitrates, arsenic, iron, and manganese in drinking water; seawater intrusion; relic saltwater; the search for productive deep wells; the presence of volatile organics and pesticides; data needed for management of both water quantity and quality; the presence or lack of joint facilities and system interties; water conservation and efficiency, including the water use efficiency requirements embodied in the municipal water law; and reclaimed water.

2.2.6 Individual Water System Plans

The DOH rules (Chapter 246-290 WAC) require that certain categories of public water systems shall develop a WSP for review and approval by DOH. One listed category is public water systems required to develop water system plans under the Public Water System Coordination Act of 1977, Chapter 70.116 RCW and Chapter 246-293 WAC.

Elements of the WSP are to be based upon a 20-year planning period, with identification of specific improvements and a financial program for the first 6 years. The purveyor is to update the plan at least every 6 years. However, the DOH may require a plan submission or update at any time. In 2014, DOH announced plans to implement a more flexible and tailored approach to the development of comprehensive water system plans. While the plans still will need to look at planning horizons of 6 and 20 years, systems will now have the option of working with DOH to determine the appropriate interval between plan updates rather than being locked into an update every 6 years. For example, if a system is relatively stable, the system could propose to extend the period to an update every 10 years.

The planning requirements are determined by the DOH and vary for utilities based upon their expansion plans, size, and intent for satellite management.

In the preparation or update of their plan, systems must address issues relating to their consistency with the CWSP, including:

- Map of service area;
- Signed service area agreement;
- Population and water demand projections;
- Design standards;
- Implementation of utility service review procedure;
- Satellite management policies and procedures, if a utility intends to provide services; and
- Receivership policy.
Coordinated Water System Plan Process

All systems are to coordinate with DOH to determine the extent of water system planning requirements and their appropriate submittal date.

2.3 Regional Supplement

This CWSP update has been prepared under the provisions of WAC 246-293-220, which allows for a CWSP that consists of: 1) a compilation of WSPs approved by DOH; and 2) a supplement (this document) that addresses water purveyor concerns relating to the entire CWSSA. All completed WSPs of the individual utilities referenced herein are on file with DOH or the County. The review and approval procedure for this document is outlined in Section 9.
Section 3 – Population, Water Demand, and Existing Water Systems
Section 3 – Population, Water Demand, and Existing Water Systems

3.0 Introduction

Washington State has given certain mandates on land use plans and utility services to individual counties as part of the Growth Management Act (GMA). The link between growth management and responsible water resource management for Whatcom County (County) exists when population and industrial/agricultural/fisheries water demands occur simultaneously. As the County population continues to grow, the demand for water will increase, as will the competition for water from the various out of stream and instream uses. The County places a high priority on water resources management to ensure a secure and sustainable supply of water for all future uses. This Coordinated Water System Plan (CWSP) update is one part of the County’s comprehensive water resource management efforts.

3.1 Population Forecasts

As required by Revised Code of Washington (RCW) 36.70A.110, the Washington State Office of Financial Management (OFM) developed a range of population projections for the County and its cities (including their urban growth areas (UGAs)) from 2013 through 2036. The GMA requires the County to plan for population growth that is consistent with OFM population projections. The County’s Draft 2016 Comprehensive Plan presents a population projection of 275,625 people in 2036, which is within OFM’s range of projections. The County and each city plan for the distribution of this growth within and outside of the UGAs through the comprehensive planning processes.

For this CWSP, population projections over the planning period were developed by linear interpolation of the County’s distribution of the existing and projected population presented in the Draft 2016 Comprehensive Plan. The County’s population estimates developed for the Draft 2016 Comprehensive Plan are shown in Table 3-1. The projections in Table 3-1 indicate that the proportion of the County’s population that resides in urban areas is expected to increase from approximately 68 percent in 2013 to 72 percent in 2036.
**SECTION 3**

**Table 3-1**

Population by County Areas

<table>
<thead>
<tr>
<th></th>
<th>Estimated 2013 Population</th>
<th>Forecasted 2036 Population</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>(cities include Urban Growth Areas)</td>
<td>(cities include Urban Growth Areas)</td>
</tr>
<tr>
<td>Bellingham</td>
<td>92,660</td>
<td>123,710</td>
</tr>
<tr>
<td>Birch Bay</td>
<td>7,540</td>
<td>13,040</td>
</tr>
<tr>
<td>Blaine</td>
<td>5,171</td>
<td>9,585</td>
</tr>
<tr>
<td>Columbia Valley</td>
<td>3,103</td>
<td>4,448</td>
</tr>
<tr>
<td>Everson</td>
<td>2,665</td>
<td>3,907</td>
</tr>
<tr>
<td>Ferndale</td>
<td>12,758</td>
<td>19,591</td>
</tr>
<tr>
<td>Lynden</td>
<td>12,872</td>
<td>19,275</td>
</tr>
<tr>
<td>Nooksack</td>
<td>1,435</td>
<td>2,425</td>
</tr>
<tr>
<td>Sumas</td>
<td>1,449</td>
<td>2,323</td>
</tr>
<tr>
<td><strong>City/UGA Total</strong></td>
<td><strong>139,653</strong></td>
<td><strong>198,304</strong></td>
</tr>
<tr>
<td><strong>Unincorporated Whatcom County Non UGA</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>66,147</td>
<td>77,321</td>
</tr>
</tbody>
</table>

**Whatcom County**

Grand Total: 205,800

|                  | 205,800 | 275,625 |


Note: The Cherry Point UGA population of 43 people is included in the Unincorporated Whatcom County Non UGA population. No additional population growth is anticipated in the Cherry Point UGA.

Longer term projections, up to 50 years into the future, are made in this CWSP update to plan for future water supply needs. The average annual growth rates presented by the OFM were used to develop the three population projections shown in **Table 3-2**. Each population projection applies an annual growth rate of either 0.4 percent (low projection), 1.3 percent (medium projection), or 2.1 percent (high projection) to the population data presented in **Table 3-1** to project future population growth to the year 2065.

**Table 3-2**

County-wide Population Forecast

<table>
<thead>
<tr>
<th></th>
<th>2015</th>
<th>2020</th>
<th>2030</th>
<th>2040</th>
<th>2050</th>
<th>2060</th>
<th>2065</th>
</tr>
</thead>
<tbody>
<tr>
<td>Low Projection</td>
<td>212,300</td>
<td>216,500</td>
<td>225,400</td>
<td>234,500</td>
<td>244,100</td>
<td>254,000</td>
<td>259,200</td>
</tr>
<tr>
<td>Med. Projection</td>
<td>212,300</td>
<td>226,400</td>
<td>257,600</td>
<td>293,200</td>
<td>333,600</td>
<td>379,600</td>
<td>404,900</td>
</tr>
<tr>
<td>High Projection</td>
<td>212,300</td>
<td>235,500</td>
<td>289,900</td>
<td>356,900</td>
<td>439,300</td>
<td>540,800</td>
<td>600,000</td>
</tr>
</tbody>
</table>

While future uncertainties exist, for water planning purposes, the medium projection will be utilized as the forecast or most likely scenario. **Table 3-3** shows the estimated distribution of population in urban and rural areas. The values in the table were developed by linear interpolation of the change in the County’s ratio of urban to rural population shown in **Table 3-1**. For years beyond 2035, it is assumed that the proportion of people who will reside in urban areas will continue to increase. It is the intent of the policies in the Draft 2016 Comprehensive Plan Update to encourage a greater share of urban growth in the future.

3-2
Population, Water Demand, and Existing Water Systems

Table 3-3
Urban and Rural Distribution for Population Projections

<table>
<thead>
<tr>
<th>Land Use</th>
<th>2015</th>
<th>2020</th>
<th>2030</th>
<th>2040</th>
<th>2050</th>
<th>2060</th>
<th>2065</th>
</tr>
</thead>
<tbody>
<tr>
<td>Urban</td>
<td>144,064</td>
<td>155,895</td>
<td>182,645</td>
<td>213,747</td>
<td>248,586</td>
<td>286,701</td>
<td>306,897</td>
</tr>
<tr>
<td>Rural</td>
<td>68,236</td>
<td>70,505</td>
<td>74,955</td>
<td>79,453</td>
<td>85,014</td>
<td>92,899</td>
<td>98,003</td>
</tr>
<tr>
<td>Total</td>
<td>212,300</td>
<td>226,400</td>
<td>257,600</td>
<td>293,200</td>
<td>333,600</td>
<td>379,600</td>
<td>404,900</td>
</tr>
</tbody>
</table>

It should be noted that the U.S. Bureau of the Census is projecting that the United States, as a whole, will grow less than 1 percent per year between 2015 and 2060. Growth rates in the County have been higher than the nation over the last 40 years. The Census Bureau also projects that the nation’s rate of population increase will be declining between 2015 and 2060. Extrapolating the County’s historical growth rates does not take into account changes that could take place in future trends. Therefore, population projections should be monitored closely and revised every 5 years to incorporate the most recent data. Additionally, a more sophisticated projection technique that incorporates trends in specific components of change (birth, death, and migration rates) could be employed in the future.

3.2 Water Demand Forecasts

3.2.1 Current and Future Demand Forecasts

Planning for future water supply needs requires demand projections for both short- and long-term. Short-term projections are generally necessary to define capital improvements anticipated in the near future. Such improvements require lead time for financing, design, and construction. Long-term forecasts are necessary to quantify probable water resource requirements, including identifying and sizing long-range supply facilities, acquiring water rights, and managing water resources necessary to meet future demands. The time required to plan and develop water sources and systems is such that short-term planning is for a period of 20 years (consistent with GMA 20-year planning requirements), and long-term planning must consider a 50-year horizon. This is much further into the future than land use plans generally project development. In contrast, however, the current key issues of water supply in the County were created by actions taken in the late 1800s and early 1900s.

Population growth and competing uses for water resources are the most influential factors on future water demands. Not only does the magnitude of future population have an impact, but the location of new population centers will greatly affect delivery of future water supplies. Therefore, water supply and systems must be coordinated with, and based on, population growth according to approved land use plans and policies.

3.2.2 Current and Future Water Consumption Data

The existing water use for most Group A community public water systems was obtained by reviewing the annual water use efficiency reports that were submitted to the Washington State Department of Health (DOH). The metered annual supply volume from the reports was divided by the number of existing connections identified by DOH to calculate each system’s annual average use per connection.


**SECTION 3**

Table 3-4 presents the range and average daily water consumption per connection for both urban and rural Group A public water systems in the County. For the purposes of this analysis, urban water systems are defined as systems serving the primary urban population centers in the County, as identified in Table 3-1. Water systems not serving the UGAs listed in Table 3-1 are defined as rural water systems. Rural water use discussed in this section is associated with rural public water systems and does not encompass all water use that occurs outside of urban population centers and incorporated portions of the County. Rural water use has the largest range in customer supply needs due, in part, to the mix of residential, commercial, and agricultural connections present in many of the systems. Water consumption data are from either 2013 or the most recent data set available at the time of this CWSP update. As shown in Table 3-4, there is a large range in water consumption per connection for the water systems throughout the County. This is due to the wide range in connection types, from individual single-family services to dairies or large industrial customers who may only be served by one connection.

<table>
<thead>
<tr>
<th>Water System Category</th>
<th>Range (gal/conn/day)</th>
<th>Average Daily Use (gal/conn/day)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Urban</td>
<td>125 to 918</td>
<td>309</td>
</tr>
<tr>
<td>Rural</td>
<td>38 to 2,191</td>
<td>258</td>
</tr>
</tbody>
</table>

Table 3-5 summarizes the water demands for Group A community public water systems in the Critical Water Supply Service Area (CWSSA) in 2015 and at full buildout, based on current zoning and land use classifications. It should be noted that the analysis did not look at areas that may not be buildable due to slope, soil type, sensitive areas, etc. with the result that the full-buildout scenario essentially represents a "worst-case" build-out condition. Due to the lack of metering data available for Group B public water systems, they are not included in this analysis. Using GIS data, based on water system service areas defined in April 2015, the County estimated an additional number of connections for each system, representing full build-out conditions in accordance with the zoning densities within each water service area boundary. Each system’s average consumption per connection was applied to the additional connections at full buildout and added to the existing system demands to estimate the buildout demands. For systems with high water use per connection, the future consumption per connection for additional connections was assumed to be 350 gallons per day\(^1\), with the assumption that most future development will be residential in nature with few new high water use connections.

Although metering data is generally not available for Group B and private water systems, county population figures suggest that approximately 41,741 people are supplied water by private wells (2015 County Population [212,300] minus the 2015 Group A and B population [170,559] people yields 41,741 people on private wells). Dividing that number by the County average of 2.56 people per connection means that there are approximately 16,305 well connections. Assuming average

\(^1\) As shown in Table 3-4, average daily urban water use is 309 gallons per connection per day and average daily rural water use is 258 gallons per connection per day. The value of 350 gallons per connection per day was selected as a conservative assumption for future uses.
Population, Water Demand, and Existing Water Systems

Water use of 350 gallons per connection per day (0.39 acre-feet per year), private well water use accounts for approximately 6,360 acre-feet of water use per year.

<table>
<thead>
<tr>
<th>System Classification</th>
<th>Existing (2015)</th>
<th>Buildout</th>
</tr>
</thead>
<tbody>
<tr>
<td>Urban</td>
<td>14.8</td>
<td>39.4</td>
</tr>
<tr>
<td>Rural</td>
<td>4.8</td>
<td>6.0</td>
</tr>
<tr>
<td>County-wide</td>
<td>19.6</td>
<td>45.4</td>
</tr>
</tbody>
</table>

Note: Buildout represents estimated year 2065 data for urban systems and build-out demands for rural systems.

3.3 Water Right Capacity Analysis

In evaluating public water systems and their ability to provide water to their customers now and in the future, there are several factors that must be considered. Many of these factors are addressed by the DOH Water Facilities Inventory process, which considers the capacity of the system, the number of existing connections, and the number of approved connections for future use. As part of the Comprehensive Plan development, the County is evaluating projected population and must allocate the forecasted population growth to locations within the County. When the County identifies an anticipated population increase in a specific area, it is important to determine whether the public water system slated to serve that population can, in fact, provide that service. A key component of that determination is an analysis of each system’s water rights, including existing intertie agreements, compared to their existing and future water demands.

A water rights capacity analysis was conducted to compare each water system’s existing water rights, and/or existing intertie agreements, against current and anticipated future demands. Both the existing and build-out water demands for each system, as described in the previous section, were compared against their respective annual water rights (Qa) in an effort to determine whether systems are projected to meet their future requirements, have surplus water, or have insufficient future water rights. No comparison was made between peak demand and instantaneous water rights (Qi). The results of this analysis are summarized in Table 3-6 and depicted in the map in Appendix 1, which also includes the table from which the summary in Table 3-6 is derived. Based on the results of the water rights analysis (which take into account existing intertie agreements), the existing and projected population, and the historic and projected water demand, a water rights status for each Group A community public water system is assigned on Figure 3-1. The total annual water rights held by Group A community public water systems in the CWSSA and the buildout demands are shown in Table 3-7. This analysis is planning level in nature to help identify potential problem areas and does not represent a determination of the legal status of any water right. Analyses prepared in the individual water system plans will be more accurate and should be utilized if available.
SECTION 3

Table 3-6
Group A Community Public Water Systems Water Right Capacity Analysis Summary Table

<table>
<thead>
<tr>
<th>Water Right Status¹</th>
<th>Number of Systems</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Currently Exceeding Water Right Limits</td>
<td>6</td>
<td>Water rights are insufficient to meet current demand.</td>
</tr>
<tr>
<td>Projected to Exceed Water Right Limits at Full Buildout</td>
<td>16</td>
<td>Water rights may be insufficient to meet projected demand at full buildout.</td>
</tr>
<tr>
<td>Enough Water Rights to Meet Current and Future Projected Water Demand</td>
<td>15</td>
<td>Water rights are satisfactory to meet current and future projected water demand at full buildout.</td>
</tr>
<tr>
<td>More Water Rights than Current and Future Projected Water Demand²</td>
<td>53</td>
<td>Water rights exceed the current and future projected water demand (i.e., surplus water may be available).</td>
</tr>
<tr>
<td>No Data on System Water Use</td>
<td>12</td>
<td>No data available.</td>
</tr>
</tbody>
</table>

¹ In this table, the water right status includes not only water rights held by the system, but also intertie agreements currently in place for receipt of water from other systems. Any water included as part of an intertie agreement was subtracted from the water available to the system providing the water to meet its own projected demand.

² The City of Lynden falls within the status "More Water Rights than Current and Future Projected Water Demand" based on its 2004 Memorandum of Agreement with Ecology.

Figure 3-1
Water Right Capacity Analysis Map
Population, Water Demand, and Existing Water Systems

Table 3-7

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Total Annual Water Rights (afy*)</td>
<td>209,644</td>
<td>209,644</td>
</tr>
<tr>
<td>Annual Water Demand (afy)</td>
<td>21,972</td>
<td>50,864</td>
</tr>
<tr>
<td>Surplus Water Rights</td>
<td>187,672</td>
<td>158,781</td>
</tr>
</tbody>
</table>

*afy is acre-feet per year.

Note: To be conservative, it has been assumed that no additional water rights will be obtained in the future. Note: Buildout represents estimated year 2065 data for urban systems and buildout demands for rural systems.

The six Group A community public water systems that appear to be currently exceeding their water rights include Delta Water Association (198 acre-feet per year (afy) exceedance), Flemings Platt Water Association (2 afy exceedance), Guide Meridian Water Association (27 afy exceedance), Skookum Chuck Water Association (60 afy exceedance), Tall Cedars Estates Water Association (14 afy exceedance), and Wickershaw Water Association (8 afy exceedance). The total exceedance is approximately 309 afy. No water rights information was found for Flemings Platt Water Association, Tall Cedars Estates Water Association, and Wickershaw Water Association; consequently, it was assumed that these systems are relying on the groundwater permit exemption (RCW 90.44.050), which limits withdrawals to 5,000 gallons per day and a maximum annual volume of 5.6 afy, for group domestic use. The remaining three systems have state-issued water rights that appear inadequate to meet existing demands. None of these systems currently have permanent interties with other systems that have excess water rights.

The strategy of meeting these demands through regional supply development, aggressive conservation measures, individual wells, surface supplies, desalinization, or other combinations is partially fulfilled with the CWSP update and adoption by the Whatcom County Council of portions of the update into the Whatcom County Code.

The water right capacity analysis is intended to provide some perspective on the potential water resource requirements facing the County. It is acknowledged that future reduction in usage patterns, land use policy and/or water resource policy, and other factors are key variables in a supply plan. Subsequent water resource planning efforts and individual water system plans are expected to further refine these numbers as part of an effort to quantify the anticipated out-of-stream water demands for the County. Permanent interties and intetrie agreements with nearby public water systems could be a viable option for meeting the existing demand for many of these systems.

3.4 Existing Water Systems

The estimated 2015 County population was 212,300, of which approximately 80 percent were served by either Group A, or Group B public water systems, and approximately 20 percent were served by other water systems (e.g., permit-exempt wells, individual surface water sources, etc.).

The number and type of systems are shown in Table 3-8. This table was created using data from the DOH Sentry system, which is an online database containing information on public water systems. The method used to determine the values in the Estimated Connections column is
consistent with how the DOH calculates existing connections in Sentry. The Estimated Population column is the sum of the population values provided for each system.

| Table 3-8  
Number and Type of Public Water Systems |
<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Number of Systems</td>
<td>Estimated Connections</td>
<td>Estimated Population</td>
<td>Percent of Total</td>
</tr>
<tr>
<td><strong>Group A</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Community Water System</td>
<td>102</td>
<td>64,794</td>
<td>168,283</td>
<td>98.666%</td>
</tr>
<tr>
<td>Non-transient Non-community Water System (NTNC)</td>
<td>15</td>
<td>123</td>
<td>5</td>
<td>0.003%</td>
</tr>
<tr>
<td>Transient Non-community Water System (TNC)</td>
<td>64</td>
<td>3,673</td>
<td>137</td>
<td>0.080%</td>
</tr>
<tr>
<td><strong>Group B</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>234</td>
<td>1,016</td>
<td>2,134</td>
<td>1.251%</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>415</td>
<td>69,606</td>
<td>170,559</td>
<td>100%</td>
</tr>
</tbody>
</table>

3.4.1 DOH Operating Permits

Once a year, the DOH mails an annual fee statement form containing existing data previously provided by the water systems’ Water Facilities Inventory (WFI) form. Once the completed form is returned to DOH either confirming the data or noting any changes, along with the permit fee, the DOH issues the water system a color-coded operating permit representing the system’s compliance status. The compliance status is updated on an annual basis or when significant changes have occurred to the water system.

The following permit colors are assigned to Group A community public water systems. Non-community water systems are not assigned operating permit colors from the DOH.

**Green** — In compliance with all DOH requirements. Adequate for existing uses and additional connections up to the approved number of connections, unless it is already at capacity.

**Yellow** — In compliance with all DOH requirements; however, the system was notified to submit a water system plan and has not satisfied the planning requirement or is under a compliance agreement for a state significant non-complier violation. Adequate for existing uses and additional connections up to the approved number, unless otherwise limited by a compliance agreement.

**Blue** — In compliance with DOH requirements. However, the system does not meet design approval requirements or has exceeded the number of approved connections established by DOH. Adequate for existing uses, but not adequate for adding new connections.

**Red** — In non-compliance with DOH requirements. Inadequate for existing uses and no additional connections are allowed. This may result in denial of home loans, building permits, on-site sewage disposal permits, food service, liquor licenses, and other permits or licenses for properties served by the system.

The operating status of Group A community water systems as of August 12, 2015 are shown in Tables 3-9, 3-10, and 3-11. The breakdown of the operating status for the 102 systems listed is shown in Figure 3-2. No systems currently have red operating permits in the County.
# Population, Water Demand, and Existing Water Systems

## Table 3-9
Green Operating Permits – DOH Group A Water Systems in Whatcom County

<table>
<thead>
<tr>
<th>DOH System ID No.</th>
<th>Water System Name</th>
</tr>
</thead>
<tbody>
<tr>
<td>00250</td>
<td>ACME WATER DISTRICT NO. 18</td>
</tr>
<tr>
<td>00496</td>
<td>AGATE BAY TRAILER PARK</td>
</tr>
<tr>
<td>01200</td>
<td>ALDERGROVE WATER ASSOCIATION</td>
</tr>
<tr>
<td>05370</td>
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### Table 3-9 (continued)

Green Operating Permits – DOH Group A Water Systems in Whatcom County

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<td>43290</td>
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<tr>
<td>29014</td>
<td>LOUIE, JOE WATER ASSOCIATION</td>
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<tr>
<td>52957</td>
<td>LAKE WHATCOM WATER AND SEWER DISTRICT - AGATE HEIGHTS</td>
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<tr>
<td>08118</td>
<td>LAKE WHATCOM WATER AND SEWER DISTRICT - EAGLERIDGE</td>
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<td>95910</td>
<td>LAKE WHATCOM WATER AND SEWER DISTRICT - SOUTH SHORE WATER SYSTEM</td>
</tr>
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<td>LYNDEN WATER DEPARTMENT</td>
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<td>51100</td>
<td>MAPLE FALLS WATER COOP</td>
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<td>53250</td>
<td>MEADOWBROOK WATER ASSOCIATION</td>
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<td>27631</td>
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<td>74705</td>
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<td>76105</td>
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<td>79800</td>
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<td>84870</td>
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Population, Water Demand, and Existing Water Systems

Table 3-10
Blue Operating Permits – DOH Group A Water Systems in Whatcom County

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<td>BAKER VIEW WATER ASSOCIATION</td>
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<td>CEDAR LYNN WATER ASSOCIATION</td>
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<td>24151</td>
<td>EVERGREEN MOBILE PARK &amp; SALES</td>
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<td>00119</td>
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<td>NEPTUNE BEACH WATER ASSOCIATION</td>
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Table 3-11
Yellow Operating Permits – DOH Group A Water Systems in Whatcom County

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<td>71290</td>
<td>RATHBONE PARK WATER ASSOCIATION</td>
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</table>
3.5 Conclusions

Forecasts suggest that the population of Whatcom County will increase by approximately 70,000 people by 2036, and approximately 200,000 people by 2065. The projected 2065 population is nearly double the existing population. This additional population will place increasing demand on the County’s public water systems.

On a CWSSA wide basis, the public water systems collectively hold more than enough water rights to meet the projected demand. However, there are individual water systems that have excess water rights and some that have insufficient water rights.

A comparison of existing water rights and intertie agreements held by Group A community public water systems with existing and forecasted demand was performed to identify which systems need additional supply now, which systems will likely need additional supply in the future, which systems appear to have sufficient water to meet their needs, and which systems appear to have water in excess of their needs that could potentially be utilized to alleviate other systems’ shortfalls. In the future, it will be important for systems to work together to meet demands. The County should encourage cooperation and resource sharing among systems.

Three quarters of the Group A community public water systems in the CWSSA have green operating permits, meaning they are in compliance with all DOH regulations and capable of serving existing and authorized connections. However, one quarter of the Group A community public water systems are operating under either blue or yellow operating permits indicating that there may be room for improvement. There are no systems classified as red (non-compliance).
Section 4 – Water Utility Service Areas
Section 4 – Water Utility Service Areas

4.0 Introduction

This section is a general discussion regarding water utility service areas. It explains the different categories or types of service areas; the obligations of certain public water systems that accompany the various types of service areas; the process by which service areas were identified for this CWSP update; the changing nature of service areas over time, the implications of such changes; and the requirements for water system planning. Procedures for addressing new developments requiring the provision of potable water are discussed in Section 6.

The Coordination Act provides the legal authority for municipalities and private water utilities to establish an exclusive service area within the county’s designated CWSSA1. The term "service area(s)" within this document means the specific geographical area described in the written agreement required by WAC 246-293-250. These agreements are formalized in Exhibit 4-1, known as the Declaration of Water Utility Service Areas. This procedure, and resulting agreements between utilities provides assurance that water system planning, capital improvement programs, and financial commitments are consistent with state and county requirements.

The establishment of service area boundaries carries with it obligations. The first obligation is that county and state governments recognize an identified utility as the agency responsible for providing all public water service within a designated area. The second obligation is that the designated utility assumes responsibility, within its service area, for development of cost-effective and efficient service to accommodate the future growth that these areas will experience. For those systems that are required by the Washington State Department of Health (DOH) to prepare planning documents (water system plan or small water system management program), these documents and any system improvements should be consistent with the growth management objectives established for these areas by Whatcom County's Comprehensive Plan. For water service requests in areas that are outside of any utility's designated service area, there is a utility service review procedure (Section 6) that gives Whatcom County (County) the authority to designate service first to an adjacent utility, then to an approved Satellite Management Agency (SMA). If neither of these is available, a new utility may be formed. A third obligation relates to the designated retail service area in which a municipal water supplier has a "duty to serve" when conditions defining this duty in RCW 43.20.260(1:4) are met.

The Coordination Act requires that service area boundaries be established among the purveyors based on a variety of factors, including topography, readiness and ability to serve, local franchise areas, legal water system or municipal boundaries, future population projections, and sewer service areas. It also specifies that these service areas be developed in conformance with the land use policies of the County. Designated service areas include those areas in which the utility expects adequate customer growth, within a reasonable period of time, to support an established plan for system development.

All water utilities are required to designate a service area by submitting a Declaration of Water Utility Service Areas form to PDS. Utilities with water system plans must also designate service

1 Note: Title 57 of the Revised Code of Washington establishes the authority and responsibilities of water and sewer districts in Washington State. However, when such Districts provide potable water service, they also fall under the purview of the Public Water System Coordination Act and municipal water law as discussed herein.
areas in the plan. For water utilities that do not have a water system plan, their service areas shall be shown on a Declaration of Water Utility Service Areas (Declaration) form provided in Exhibit 4-1, which is to be completed by an authorized representative of the water utility, and then submitted to PDS. PDS then processes the Declaration in accordance with the procedure in Exhibit 4-2.

The types of water service areas are as follows.

- Existing Service Area. DOH Publication 331-432 (dated November 2010) defines an existing service area as the area in which the utility currently provides direct service, remote service, or where service connections are currently available.
- Future Service Area. Public water utilities may identify future service areas that are outside of the current retail service area but in which they plan to serve water in the future.
- Retail Service Area. WAC 246-290-100 requires all municipal water suppliers to designate a retail service area where they currently provide or plan to provide direct retail service connection to customers and where they have a “duty to serve” when conditions defining this duty in RCW 43.20.260 (1:4) are met.
- Wholesale Service Area. Utilities with water system plans may also designate wholesale service areas, where they provide only wholesale water service. Wholesale service areas are not regulated under the Coordination Act.

If a water system plan does not differentiate between retail and future service areas, then their entire service area is presumed to be their retail service area.

### 4.1 Service Area Commitments and Procedures

#### 4.1.1 Municipal Water Supplier Service Area Commitments

Municipal water suppliers (as defined in RCW 90.03.015) that are required by DOH to prepare water system plans in accordance with WAC 246-290-100, must identify a retail service area in their Water System Plan². The retail service area must include all areas where the municipal water supplier currently provides direct retail service and may include areas where new retail service is proposed. A municipal water supplier has a duty to provide retail water service (duty to serve) to all new service connections within its retail service areas when the following conditions defining are met:

1. The municipal water supplier can provide service in a timely and reasonable manner.
2. The municipal water supplier has sufficient water rights to provide service.
3. The municipal water supplier has sufficient capacity to serve water in a safe and reliable manner.
4. The service request is consistent with adopted local plans and development regulations.

A municipal water supplier may extend water service outside the retail service area to provide temporary service for a neighboring water system if there is a written agreement in place.

Those municipal water suppliers that are required by DOH to prepare a water system plan pursuant to WAC 246-290-100 must address the four conditions that define a duty to serve water within

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² Not all municipal water suppliers will be required to prepare a water system plan pursuant to WAC 246-290-100.
their retail service area. A municipal water supplier must provide service for all requests within its retail service area, unless it can document that it does not have a duty to serve because it does not satisfy the conditions established in RCW 43.20.260(1:4) and WAC 246-290-106.

The water system plan (WSP) must address the four threshold factors as follows.

**Capacity:** Municipal water suppliers must include a capacity determination in their WSP. Capacity determinations incorporate a water system’s physical capacity (source and storage) and water right limitations.

**Consistency:** Consistency applies to locally-adopted comprehensive plans, land use plans, development regulations, and utility service extension ordinances. Consistency determinations must evaluate land use, 6-year growth projections, service extension ordinances, new water service provisions, and other elements determined by DOH as being related to water supply planning. Municipal water suppliers must ask their local government(s) to determine consistency. If a local government does not complete the determination, the municipal water supplier must document its efforts to obtain local review and then determine consistency itself.

**Water Rights:** The Washington State Department of Ecology (Ecology) is responsible for water right sufficiency determinations. Municipal water suppliers must include a water right self-assessment in their WSP or small water system management program. DOH forwards a copy of the planning document and the water rights self-assessment to Ecology for review and incorporates any water right limitations into its service capacity approvals. The utility’s service area should be consistent with the place of use on the utility’s water right (i.e., the utility should ensure they have the legal authority to put water to beneficial use within their service area). When the service area and the water right place of use are not the same, water systems whose use satisfies the definition of a municipal purpose water right may modify the water right place of use by an amendment to the utility’s water system plan, indicating that the water right place of use conforms to the area served by the utility. With this process, there is no need to submit a water right change application to Ecology.

**Timely and Reasonable:** Municipal water suppliers must include their service policies in their WSP. They must describe how they will provide new service and what constitutes the timely and reasonable provision of water service. The phrase “timely and reasonable” is defined within this CWSP and is included in the **Glossary of Acronyms and Terms**.

It should be noted that a utility's water facilities, such as sources of supply and reservoirs, can be located outside the utility's service area. These facilities can be located within another utility's retail service area, provided the facilities are not used for direct retail service without the written concurrence of the designated utility.

### 4.1.2 Service Area Designation

As part of previous CWSP efforts, public water systems were asked to submit Declarations to the Whatcom County Health Department (WCHD). As part of this 2016 CWSP update, systems were asked to review and update their service area declarations and associated service area maps. Once this information was compiled, the existing service areas of the utilities located in the Critical Water Supply Service Area (CWSSA) were mapped. This update used Geographic Information System (GIS) technology to generate parcel-level accuracy for delineating service area boundaries. The maps were reviewed at several meetings of the Water Utility Coordinating Committee (WUCC), and refinements were made based on feedback received.
SECTION 4

Once adopted as part of this CWSP, the designated service area is the exclusive service area of the identified utility, giving the utility first priority for serving future customers. As a condition of being granted a designated service area, the utility shall meet the obligations and commitments identified in this CWSP update.

The resulting map of service areas, showing almost all Group A and some Group B systems within the CWSSA, is provided in Figure 2-2 at the end of Section 2. This map is referred to as the “Official CWSP Map.” The Official CWSP Map, and individual water utility Declarations and associated maps, are stored as GIS digital files and in hard copy at PDS.

PDS has provided copies of the Official CWSP Map to each utility. Furthermore, PDS has provided a complete set of maps, along with any subsequent updates to the DOH, Ecology, WCHD, and the Whatcom County Boundary Review Board (BRB).

4.1.3 Service Area Overlaps

The Official CWSP Map (Figure 2-2) also identifies areas where there are overlaps in service areas. Such overlaps may or may not represent a conflict. For example, in many cases, a public water system’s service area is located entirely within the service area of a larger system and functions relatively independently, until such time as the larger system becomes willing and able to provide water to the smaller system. Such conditions do not represent a service area conflict. The WUCC is not aware of any service area conflicts in the CWSSA.

Conflicts occur where adjacent utilities both desire to serve the same area. When this occurs, there is a voluntary dispute resolution process that may be utilized to resolve such conflicts. An area found to be in conflict would be denied additional service until the dispute is resolved. The voluntary dispute resolution process is available to help resolve such disputes, as discussed in Section 4.2 and Section 9.2.3.

4.1.4 Service Area Declarations

The Declaration form (Exhibit 4-1) identifies the service area boundaries and acknowledges that the utility is willing and able to serve that area unless regulatory constraints preclude the utility from so doing. A specific example of these constraints is the inability to secure water rights. The Declaration allows a utility to designate their existing, future, retail, and wholesale service areas.

Utilities will need to develop a more detailed agreement when understandings concerning service in a neighboring utility's service area, transfer of service, or common boundaries require more specific terms. In order for these agreements to be recognized when implementing the CWSP, the utilities must include them in their WSPs and file them with PDS as an addendum to the Declaration. PDS shall, in turn, make the appropriate updates to the service area map and provide an updated copy, with the date of the most recent update, to WCHD.

The WUCC also reviewed the Declaration signature process. In the past, some confusion has occurred when agreements were signed by individuals who did not have the full authority of the water utility. In response, the WUCC developed new language that was included in the Declaration to verify an individual's authority to sign (Exhibit 4-1).
4.1.5 Service Area Adjustments

Service area boundaries are subject to change through time. Consequently, the service area map is intended to be dynamic and will be revised, as necessary, to accurately reflect service area boundary changes.

In the future, service boundaries can be revised if a utility determines that its service area is either too large or too small, or if a utility determines that it is unable or unwilling to serve a specific request. Changes in utility service area boundaries will occur when one or more utilities wish to expand or reduce their service areas. Expansion of service areas must be approved by PDS, and will only be allowed if a new conflict in service areas is not created by the modification.

The CWSP specifies a procedure to request, document, and implement such service area changes. Exhibit 4-2 provides a summary of these service area adjustment procedures. If the purveyor has not already obtained approval to proceed from DOH, the first step is for PDS to direct the purveyor to DOH to determine whether a proposed expansion or revision to a CWSP water service area boundary will require a new WSP or update to an existing WSP. After the initial coordination with DOH, the essence of these procedures requires that a utility initiate a change by submitting a request to amend its Declaration to PDS. PDS will ensure that proper notification occurs for public input and that adjacent utilities are notified of the change. As previously stated, PDS reviews the request to ensure no conflicts are created.

Subsequently, the affected service area maps are revised and distributed to the appropriate entities. PDS will date stamp and keep on file copies of all Declaration amendment documents and related correspondence for each participating utility. As discussed above, PDS will provide an updated version of the service area map, with the date of the updates, to WCHD for their use in responding to applicants for projects requiring potable water.

Recognition of these new and altered utility service areas and Declarations should be incorporated into the County utility franchise process by revising the franchises. It is the utility’s responsibility to update their franchise agreement with the County as necessary. The BRB shall also be provided copies of the new and revised service areas for their information. For those water utilities required by DOH to prepare a WSP pursuant to WAC 246-290-100, any expansion of service area must be addressed in an update to its water system plan and, following approval by DOH, the utility’s CWSP water service areas must be adjusted to correspond to those boundaries identified in the approved water system plan. The service area boundaries should also be consistent with the place of use identified in the system’s water rights. Note that, under the municipal water law, a municipal water supplier has the ability to change their authorized place of use by amending their WSP as opposed to filing a water right change application with Ecology.

4.2 Service Area Disputes and Dispute Resolution

The Coordination Act (RCW 70.116 RCW) provides for a mediation procedure to resolve service area disputes at the local level. The procedure specifies that if there are any contested service areas that are not resolved within 1 year of the establishment of the CWSSA, DOH may conduct a public hearing in regard to the contested service area. At the termination of that hearing, DOH may either establish a service area line or delay approval of new water service extensions to a contested service area pending resolution of that conflict. This delay in approval would be limited to the area...
in question and is not extended to the entire service area of the utilities involved. Further
development in the contested service area would be delayed until the dispute is resolved.

When a dispute is brought to the attention of the County, the County will offer to initiate a
voluntary dispute resolution process.

The goal is to resolve the dispute amicably, with minimal cost to all parties, in the hopes of
avoiding the use of either the DOH mediation process or other measures such as the County
Hearing Examiner or Superior Court. Details regarding dispute resolution are included in Section
9.2.3.

4.3 Boundary Review Board

Whatcom County and its seven cities are planning comprehensively in accordance with the goals
of the Growth Management Act (GMA) as provided in Chapter 36.70A RCW. Pursuant to RCW
36.93.030, Whatcom County has established a BRB, which is codified in Whatcom County Code
(WCC) 2.24. The BRB plays an important role in supporting GMA land use planning county-wide,
and reviews proposals for boundary changes by cities, fire districts, and water sewer/districts
within Whatcom County, including city or district annexations, new city incorporations, and
district mergers.

For the purposes of this section, discussion about the role of the BRB is limited to proposed actions
by municipalities or water districts that involve the creation, modification, or dissolution of
jurisdictional boundaries, or involve the extension of public water service outside of a water
district's existing water service area.

4.3.1 Notice of Intention

RCW 36.93.090 requires a municipality or water district that proposes to establish a new service
area or extend permanent water service outside of its existing, approved service area to file a Notice
of Intention with the BRB. The definition of "service area" as it is used in this context includes all
of the area within an entity's corporate boundary plus the area outside of the corporate boundaries
that has been designated through the approval process outlined in Exhibit 4-2.

All municipalities and special purpose districts are required to file a Notice of Intention with the
BRB on forms provided by the BRB, when:

- Annexation, incorporation, or change in municipal area or boundaries is proposed; or
- A permanent water line extension is proposed outside of a water district's service area,
  as defined in RCW 36.93.090(4).

4.3.2 BRB Review of Proposed Actions

The BRB notifies potentially interested jurisdictions of proposed actions, and exercises its
boundary review authority only when such actions are contested. Requests made to the BRB to
"invoke its jurisdiction," conduct a review, and hold a hearing, must come either from an affected
jurisdiction, or from residents and property owners within the affected area by petition.

4.3.3 Public Notification of Proposed Actions

All utilities are required to seek public input by following the procedures for Service Area
Adjustments provided in Section 4.1.3.
4.4 Department of Health Action

Once a utility has a current Declaration that has been reviewed and approved by PDS (and DOH, as applicable), the service area will be designated to that utility. If, at any time, DOH determines that the utility has failed to comply with the standards or provisions of its WSP, approval of planned construction activities may be delayed pending compliance.

Further, unless a documented health-related problem is involved, a utility's failure to submit a Declaration will result in DOH's delay of planned construction activities until a valid Declaration is in effect. For utilities with contested service area conflicts, delay of DOH approvals will be limited to proposed activities within the contested service area pending resolution of the dispute.

Section 6 includes a detailed discussion of the procedures to be followed by an applicant seeking potable water service. It includes a number of possible scenarios, including direct service by the water system in whose retail service area the applicant's project is located, service within a system's future service area, creating a remote system within the existing service area, service in a relinquished service area or a non-designated area, service by an adjacent utility, creating a new public water system, or developing a new private water supply.
SECTION 4

Exhibit 4-1
DECLARATION OF WATER UTILITY SERVICE AREAS
for
WHATCOM COUNTY COORDINATED WATER SYSTEM PLAN

This Declaration, submitted by 'water utility', confirms that the attached map* accurately identifies the service areas (existing, retail, future, and wholesale) that the water utility either serves or plans to serve unless regulatory or other constraints do not enable the utility to do so.

The intent of this declaration is to define service areas in a manner which assures that time, effort, and money are best used by avoiding any unnecessary duplication of service. In the absence of overlapping boundaries, the Whatcom County Health and Human Services along with the Washington State Department of Health (DOH) will recognize the existing, retail, and future boundaries as the exclusive service area of the undersigned utility, giving the utility right of first refusal for serving future customers. The wholesale service area does not convey an exclusive service area, but is important for delineating the extent of a municipal water supplier's service area, which may represent its water right place of use.

Any proposed changes to a designated service area must include submittal of this declaration to Whatcom County Planning and Development Services, to allow the County to update the CWSP service area map. The utility will also need to provide service in a manner consistent with its own individual water system plan and service policies.

The person signing below assures that he or she has been authorized to sign the Declaration on behalf of the utility.

__________________________
Date

__________________________
Water Utility

__________________________
Authorized Representative

*Note: This map needs to be clearly dated to ensure the most up-to-date version is being used and should accurately depict the existing, future, retail, and wholesale service areas.
Exhibit 4-2
Whatcom County CWSP
Service Area Boundary Amendment Procedure

Application: Amendments in water utility service area boundaries will occur when a utility or adjacent utilities wish to expand or reduce their service area and will be approved by the procedures defined herein only if a new conflict in service areas is not created by the modification.

Potential Stakeholders: The utility proposing the amendment; adjacent utilities; Whatcom County Planning and Development Services (PDS); Whatcom County Health Department (WCHD); and Washington State Department of Health (DOH).

Procedures:

1. The water utility must submit their request for a service area boundary amendment in writing to PDS, along with an up-to-date map identifying the existing and requested boundaries and identifying the existing, future, retail, and wholesale service areas. The written request shall specify the reason or justification for the change. All submittals of requests for amendments, confirmation of non-conflict, and signed revised Service Area Declarations must bear the signature of an official authorized to represent the respective utility. Some form of written confirmation of this authority and/or agreement with the requested boundary amendment by the utility’s governing body must be submitted to PDS.

2. Upon receipt of a service area boundary amendment request, PDS will schedule a pre-application meeting between DOH, the applicant, and PDS to establish preliminary feasibility of the proposal, and to identify any potential inconsistencies with changes in service relative to planned land use. This meeting will also provide DOH with an opportunity to conduct preliminary assessments and make notification to the applicant as to whether or not the proposed revision to service area will require a new or updated Water System Plan pursuant to and in accordance with WAC 246-290-100. No changes in the service area or to the delivery of water shall be made until the DOH review process has been completed.

3. PDS will require that the water utility requesting the service area boundary amendment has formally sought public input regarding the requested amendment and has provided copies of any comments received to PDS. PDS will prepare two copies of the revised service area map and a Declaration for Water Utility Service Area and submit them to the affected utilities within ½ mile for the utility’s review and written confirmation that the proposed change does not create a service conflict. It should be noted that not all service area overlaps constitute a conflict. When such conditions exist, any special working agreements between the affected utilities, if they exist, shall be submitted as attachments to the Declaration.

4. If a conflict exists, no further boundary modifications shall occur until the conflict is resolved between the impacted parties. The utilities shall be referred to the voluntary dispute resolution process identified in Section 4.2.

5. If there are no conflicts, or any conflicts are resolved, and all necessary approvals have been obtained, PDS will update the official CWSP map on GIS and hard copy. PDS shall update the official map at least quarterly and the map shall be kept on file by PDS.

6. Copies of all signed Declarations and related correspondence shall be date stamped and kept on file for each participating utility by PDS.
Section 5 – Minimum Design Standards
Section 5 – Minimum Design Standards

5.0 Introduction
The Coordination Act requires development of minimum design standards applicable within the CWSSA. Unless otherwise noted, the minimum design standards included in this section shall apply only to new or expanding public potable water systems. However, existing water systems are encouraged to meet these minimum design standards to support the provision of safe, reliable, and high quality drinking water throughout the CWSSA.

In addition to design standards, the Washington State Department of Health (DOH) approval procedure for WSPs encourages the development of standard construction specifications by larger water utilities. Construction specifications are more detailed than the design standards included in this CWSP update. Construction specifications are typically used by contractors for reference during construction of system improvements, whereas design standards are typically referenced by the design engineer during planning or design of system improvements. Construction specifications are typically included or referenced in the technical specifications for improvement projects. The construction specifications and the design standards contained in individual WSPs shall not be less stringent than the standards described in this section per WAC 246-290-200.

Throughout this update, the words “must,” “will,” “shall,” or “required” are used when design practices are sufficiently standardized to permit specific delineation of requirements, or where safeguarding the public health justifies definitive criteria or action (such as state statute or rule requirements). Where requirements are spelled out in statutes or rules, an attempt has been made to cite the relevant source.

“Should” or “recommend” indicate procedures, criteria, or methods that are accepted as standard practices but are not required by law and that can be approached with some degree of flexibility. In such cases, managers need to explain the basis of the altered approach or, in some cases, why another approach may be more applicable. The words “should” or “recommend” indicate procedures, criteria, or methods that are not required and can be approached with some degree of flexibility. Unless specifically noted, the WUCC has determined this flexibility should be retained and the related recommendations should not be codified.

In cases where the WUCC has determined that certain actions, standards, or procedures are sufficiently important to warrant adoption into the Whatcom County Code, it has been noted and those changes are identified later in Section 9 – Implementation Plan. The Implementation Plan specifies what the WUCC recommends the County Council amend in the existing code.

5.1 Rural and Urban Levels of Standards
"Urban" levels of service are provided within the urban growth area (UGA) boundaries and, conversely, "rural" services occur outside the UGA. Without further definition by local government, the legislature has determined that rural services include those public services and public facilities historically and typically delivered at an intensity usually found in rural areas, and may include domestic water systems, fire, and police protection services.

The GMA also mandates that each county develop county-wide planning policies (CWPP) that shall serve as written policy statements used solely for establishing a county-wide framework from
which county and city comprehensive plans are developed and adopted. These policies are companions to any existing non-conflicting land use policies already in place.

The CWPPs developed for Whatcom County specify in Section F that cities will not extend water and sewer utilities without an adopted program for annexation and an adopted capital facilities plan. Exceptions may be made in cases where human health is threatened. The CWPPs require that, if water extensions are made, they must be consistent with the service area boundaries and other provisions of the CWSP. Outside of UGAs, cities and other public and private utilities may extend water only at rural levels of service. If rural levels of service are extended, availability of pipeline capacity to meet local supply needs shall not be used to justify development counter to county-wide land development patterns, and shall not be considered in conversions of agriculture land, forestry, or rural lands.

The following goals and policies are specified in Chapter Five – Utilities of the Whatcom County Comprehensive Plan. These strategies aim to provide adequate water supply for new developments consistent with the County's future growth and demands.

**Goal: Resolve county water issues through proactive participation in processes leading to a solution of water-related conflicts.**

- Plan for interlocal agreements with other agencies to manage failing water associations that fall into receivership.
- Encourage and actively participate in forums, workshops, and other water-related planning activities.
- Discourage extension of urban levels of water service to areas not designated as urban growth areas or Rural Communities, except in those limited circumstances shown to be necessary to protect basic public health and safety and the environment and when such services are financially supportable at rural densities and do not permit urban development.
- Investigate the opportunity for multiple solutions to other issues such as flood management when looking towards acquiring additional water supplies/rights.
- Evaluate and, where feasible, support alternative supplies of water such as desalination, re-use of treated wastewater, and storage of flood water. Investigate reservoir holding ponds that take advantage of flood water when needed for beneficial uses such as fisheries, agriculture, domestic and industrial water supplies.

**Goal: Work with water purveyors to provide service to all existing and designated urban growth or industrial areas.**

- Work with the appropriate jurisdictions to ensure adequate water rights and supplies to the Urban Growth Areas and designated industrial areas in Whatcom County. Consider all options, including but not limited to, extension of water service areas, conjunctive management of surface and groundwater, artificial storage and recovery and reclamation of wastewater.
Minimum Design Standards

- Ensure provision of urban levels of water service to urban growth within areas designated for urban growth.
- Periodically review Urban Growth Areas to ensure adequate water supplies.
- Encourage annexation of areas zoned for urban densities concurrent with extension of urban level services.
- The County should work closely with purveyors and the State Department of Health in the development and review of Comprehensive Water Plans to ensure consistency with land use and urban growth area needs.
- The County will work with the Department of Ecology, City of Bellingham, the Port of Bellingham, the PUD, and local, regional, and state economic development agencies to ensure an adequate water supply to areas planned for industrial development.

Goal: Ensure that potable water supplies required to serve development are available at the time the development is available for occupancy and use.

- Building permit applicants, new subdivisions, short plats, and binding site plans will be required to provide evidence that adequate and legal (in consultation with the Department of Ecology) supplies of water are available prior to their approval by the County.
- Work with purveyors to assist them in modifying their systems as required to support the land use element of the comprehensive plan.

The design standards presented herein have been reviewed by the WUCC to ensure compliance with the policies of the County's Comprehensive Plan.

5.2 Minimum Design Standards

5.2.1 Purpose

The purpose of these standards is to set a base level of utility planning and design for public water utilities. Once the CWSP update is approved by the DOH, these standards will apply to expanding public water systems or to the construction of new public water systems. The base-level planning must provide for development consistent with adopted land use plans of the agencies with jurisdiction per WAC 246-290-100. Uniformity and consistency in standards will, in the long-term, reduce costs to consumers as system interties and/or consolidation of utilities takes place. Reliability of water supply will also be improved.

Subject to certain exceptions contained in the Coordination Act, each utility must adopt minimum design standards as a part of its WSP (WAC 246-290-100). It is intended that a utility may adopt the minimum design standards described herein or more stringent standards, provided such standards are not inconsistent with applicable land use plans. As discussed, the development and submittal of standard construction specifications for larger utilities is encouraged by the DOH and is separate from these minimum design standards.

The WUCC found that the minimum design standards from the 2000 CWSP were generally acceptable in their current state. Additional clarification was requested from the County Fire
SECTION 5

Marshal and local fire district authorities regarding fire protection requirements and hydrant placement. These standards incorporate this clarification and are discussed in Section 5.3.

5.2.2 Application of Standards

Existing Water Systems

Existing water systems are not required to utilize these minimum standards for connection of new retail customers to existing mains (infill), repair or replacement of facilities, or distribution system extensions in an existing service area identified in a current and approved WSP or project report, so long as they are not an expanding system that will increase in size its existing service area and/or its number of approved service connections. However, adherence to these standards in all cases is encouraged to provide better public water service throughout the County. If existing facilities must be repaired or replaced to serve an expanded service area, the new construction shall meet these minimum standards (Chapter 246-290 WAC).

The newly proposed DOH definition of an expanding water system is a public water system that increases the existing service area or approved number of service connections. For the purposes of this CWSP, when a public water system increases its existing service area, it shall be considered an expanding water system.

When a water system proposes to increase the approved number of service connections within its existing service area, PDS shall convene a meeting of PDS staff, DOH staff, and representatives of the water system to determine the appropriate level of planning for the proposed increase in connections, with the goal of mutually agreeing on whether the proposed change constitutes an expansion of the water system. For example, if the system already has infrastructure in place and is now able to serve more connections because of improvements in their water use efficiency or development of a new source, DOH may consider that as in-filling and not system expansion. However, if the utility needs to install new infrastructure to serve that area, that may constitute expansion of the system. Such a determination is appropriately made on a case-by-case basis through a collaborative effort by the parties listed above. In the event a determination is made and any party disagrees, they may seek resolution through the DOH appeals process.

Indian Tribes and Nations

Since the tribal lands on the Nooksack and Lummi Indian reservations are excluded from the CWSSA, the standards contained herein are not binding upon public water systems owned and operated by the tribes or tribal members and serving exclusively tribal lands.

Water System Plans and Applicable Land Use Plans

New, expanding, and other utilities required to meet the water system planning requirements under WAC 246-290-108 shall use land use designations as prescribed in the Whatcom County Comprehensive Plan for their service area, zoning codes, city comprehensive plans, and any related interlocal agreements. Such designations shall be identified in the utility's WSP and used to establish design standards.

The WSP and capital improvement schedule shall provide the anticipated level of service within the utility’s designated water service area, consistent with the land use plan (WAC 246-290-100). When the utility that is required to meet the water system planning requirements under WAC 246-290-108 is requested to provide water service, it will identify that portion of planned capital facilities, as well as other installations, that are necessary to provide the service requested.
As growth occurs, the full level of water service will eventually be provided throughout the service area of the utility through implementation of a capital improvement schedule that meets County or municipal requirements.

Once a utility's WSP is approved, the utility should be consulted by the land use planning agency with jurisdiction regarding any proposed land use changes which impact the required level of water service. The water service related cost of said impacts, as determined by the utility, should be fully considered by the planning agency in acting on the proposed land use change.

5.2.3 General Provisions

Source Development

New sources must be designed and developed to meet the Washington State Department of Ecology (Ecology) and DOH regulations and design guidelines, including Chapter 173-160 WAC, “Minimum Standards for Construction and Maintenance of Wells,” as administered by Ecology, and Chapter 246-290 WAC, “Group A Public Water Supplies,” as administered by the DOH.

All test and production wells must be drilled in accordance with state and local drilling and testing specifications. Wells used for domestic supply must meet the minimum requirements and must obtain written source approval from DOH in accordance with Chapter 246-290 WAC.

Source Abandonment

Any well that is unusable, abandoned, or whose use has been permanently discontinued, or that is in such disrepair that its continued use is impractical or is an environmental, safety, or public health hazard shall be decommissioned in accordance with WAC 173-160-381. If a water source is abandoned, the water system should notify both Ecology and DOH of the abandonment of that source and should make the appropriate changes to their WSP and related water rights.

Water Quality

Water quality must be proven to conform to the federal Safe Drinking Water Act (SDWA), and DOH criteria specified in Chapter 246-290 WAC.

Design Standards

Standards Incorporated by Reference – The existing standards listed below, or as may be modified by the appropriate authorities, are hereby incorporated by reference. Priority for application of these standards is in the order listed, but the most stringent applies. Except as otherwise superseded by the County standards described herein, these standards will apply to water system design, installation, modification, and operation.

- Group A Public Water Supplies (Chapter 246-290 WAC), Water System Design Manual, DOH publication no. 331-123.
- Applicable County or city rules, regulations, ordinances, and standards.
- Standard Specifications for Road, Bridge, and Municipal Construction, as published by the Washington State Department of Transportation/American Public Works Association (WSDOT/APWA), latest edition.
- Standards of the American Water Works Association (AWWA).
SECTION 5

General Standards – Selection of materials and construction of water system facilities in the County shall conform to the provisions outlined above, with the additional provisions:

- All owners/operators of water systems that have water mains in County road rights-of-way must comply with franchise requirements outlined in ordinances passed by the County Council authorizing such use of the road and rights-of-way (Whatcom County Code Chapter 12.27);
- Construction within incorporated areas remains subject to municipal permitting requirements; and
- All projects requiring design by a registered professional engineer shall be inspected by the utility or its designated representative before closure of any excavation.

Hydrostatic Pressure Test
A hydrostatic pressure leakage test will be conducted on all newly constructed water mains, fire lines, fire hydrant leads, and shutoffs in accordance with WSDOT/APWA Section 7-11.3(11) or AWWA C-600 specifications, unless otherwise specified by the designated utility.

Disinfection and Bacteriological Testing
All pipe, reservoirs, and appurtenances shall be flushed and disinfected in accordance with the standards of AWWA C651-86 and C652-86, or WSDOT/APWA Section 7-11.3(12), unless otherwise specified by the designated utility.

Utility Interties
When a utility or utilities are planning to install new or replacement water mains, the utility should evaluate the feasibility of emergency or permanent interties with nearby water systems as a potential means of improving efficiency and reliability of their water supplies.

Flow Measurements
All new groundwater wells used as water sources for new and expanding public water supplies shall be provided with an access port for measurement of depth to water (WAC 173-160-291), and measuring devices for determining flow rate and total production (WAC 246-290-496). Installation of these devices is also recommended for existing groundwater sources. Water users are advised to examine their water right documents to determine whether metering requirements are included as a condition of their water right.

Cross-connection Control
Where the possibility of contamination of the supply exists, water services shall be equipped with appropriate cross-connection control devices in accordance with WAC 246-290-490. The designated utility shall determine the need, size, kind, location, maintenance, and testing requirements of the device as specified in WAC 246-290-490.

5.2.4 Specific Provisions
If a public water system has adopted specific design standards that have been approved by DOH, those standards shall apply instead of the specific provisions discussed below, and shall be at least as stringent (WAC 246-290-200).
Minimum Design Standards

Pressure Requirements

All public water systems shall be designed to maintain a minimum residual pressure of 30 pounds per square inch (psi) at the meter, or property line if there is no meter, under peak hourly demand flow conditions, excluding fire demand. For water systems providing fire flow capability, the design shall be adequate to maintain, under fire flow plus maximum daily demand flow conditions, a residual pressure of 20 psi throughout the system (Chapter 246-290 WAC). Section 5.3 contains additional details relating to the fire flow provisions.

Pipe Sizing and Materials

For new systems or expansions to existing systems, the minimum pipe diameter for distribution mains should be 8 inches within UGAs, rural community, urban, and rural business land use designations. These land use designations are as defined in the County’s current Comprehensive Plan. For all other designations, the minimum diameter shall be 6 inches, unless it can be justified hydraulically that all other service conditions can be maintained (WAC 246-290-230). Exceptions to the 6-inch minimum diameter requirement may be granted by the appropriate agency (DOH or Whatcom County Health Department) under the following conditions:

a) Fire flow is not required under current land use; or

b) A system is to be developed within a designated service area, there is not a direct connection to the designated utility, and the designated utility has entered into a water service agreement with the developer that includes provisions for eventual direct connection of the development. Fire protection requirements, if any, must be met during the interim by the system to be developed.

Water main size shall be adequate to deliver the required fire flow (if applicable) and maintain pressure requirements. Water mains serving fire hydrants, either as part of new construction or planned phased improvements, shall not be less than 8 inches in diameter for dead-end lines, or less than 6 inches in diameter if looped. Hydrant leads extending less than 50 feet or across a street should be of a suitable size to carry the required fire flow, but shall not be less than 6 inches in diameter. In a dead-end cul-de-sac, smaller diameter mains may be installed from the last hydrant to remaining residences.

All water mains shall meet applicable engineering and health standards adopted by DOH and the water purveyor, including Chapters 246-290 and 246-293 WAC. Maximum flow velocities shall be consistent with WAC 246-290-230(9) and Chapter 8.1 of the DOH Water System Design Manual.

All pipe material shall be equal to or greater than AWWA standard specifications unless previously approved by the appropriate agency. All pipe material for new water systems shall be constructed with lead-free materials in accordance with Chapter 246-290 WAC.

Isolation Valves

Valves should be installed in a configuration that permits isolation of water mains and minimizes the number of customers out of service when the water system turns the water off for maintenance, repair, replacement, or additions. A valve is not required for short block lines of less than 100 feet. Valves should be installed at main intersections with normal maximum spacing, as listed in Table 5-1. The zoning designations are as defined in the County’s current Comprehensive Plan. The general zoning classification may be referenced for zoning within incorporated areas.
### Table 5-1
**Isolation Valve Spacing**

<table>
<thead>
<tr>
<th>Zoning Classification</th>
<th>Valve Spacing</th>
</tr>
</thead>
<tbody>
<tr>
<td>Industrial (HII, UI, GM, GI, RIM, AO)</td>
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</tr>
<tr>
<td>Commercial (RGC, GC, TC, NC, STC, RC)</td>
<td>500 feet</td>
</tr>
<tr>
<td>Urban Residential (URMX, URMX10-24, URMX6-12, URMX6-10, URM24, URM18, URM12, URM6)</td>
<td>500 feet</td>
</tr>
<tr>
<td>Urban Residential (URM6, URM6, UR4, UR3)</td>
<td>800 feet</td>
</tr>
<tr>
<td>Rural Residential (RR3, RR2, RR1)</td>
<td>800 feet</td>
</tr>
<tr>
<td>Rural Residential (RR5A, RR10A, RRI, TZ)</td>
<td>0.50 mile</td>
</tr>
<tr>
<td>Rural (R2A, R5A, R10A)</td>
<td>0.50 mile</td>
</tr>
<tr>
<td>Resources (AG, CF, RF, MRL)</td>
<td>0.50 mile</td>
</tr>
<tr>
<td>Other (ROS, EI)</td>
<td>0.50 mile</td>
</tr>
</tbody>
</table>

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### Air and Air-vacuum Relief Valves

To minimize problems associated with air entrapment, the purveyor should install air valves or combined air-vacuum relief valves at appropriate points of high elevation in the system.

### Blow-off Valves

A hydrant or blow-off assembly should be installed in accordance with each water system’s design standards at low points and dead-ends in the distribution system to allow sufficient flushing and proper disinfection of distribution mains. The blow-off assembly should be installed in the utility right-of-way, except where an access and construction easement is provided for in writing to the water utility. In no case should the location and construction be such that there is a possibility of back-siphoning into the distribution system.

### Pressure Reducing Stations

Pressure reducing stations should include a manifold system that provides for a redundant pressure reducing valve, a bypass valve, or other suitable device that ensures reliability and continuity of service.

### Storage

The design of each storage tank shall adhere to the design considerations, provisions, and appurtenant design details discussed in Chapter 9 of the DOH *Water System Design Manual* per Chapter 246-290 WAC. Storage facility requirements are based upon the following five components.
Minimum Design Standards

a) Equalizing Storage: required to supplement production from water sources during high demand periods.

b) Standby Storage: required as backup supply in case the largest source is out of service.

c) Fire Storage: required to deliver the level of fire flow service for the required duration identified in the utility's approved WSP.

d) Operational Storage: the volume of distribution storage associated with source or booster pump normal cycling times under normal operating conditions.

e) Dead Storage: the volume of stored water not available to all consumers at the minimum design pressure.

As a minimum, sizing of storage tanks shall be adequate to provide for equalizing storage plus the larger of standby or fire storage requirements (nesting). Nesting of standby and fire storage is allowed only where not prohibited by local ordinance, the local fire protection authority, or the county fire marshal (WAC 246-290-235). Equalizing and standby storage volumes shall be determined using the DOH Water System Design Manual. Fire storage volumes shall be determined using the fire flow and duration as provided in the levels of service requirements of the County or municipal ordinance and the utility's approved WSP. Siting of storage facilities should consider locations that provide gravity flow. Ground-level, partially-buried, and underground reservoirs should be designed to minimize the potential for contamination in accordance with the DOH Water System Design Manual.

General Facility Placement

Facilities shall be located in accordance with applicable municipal or county ordinances. Where no ordinance applies, water mains should be installed at a location that is compatible with the existing water system, terrain, and location of other utilities. In new subdivisions, binding site plans, and short plats water mains should be installed parallel to the center line on the north or east sides of the street, wherever practical.

In addition, all piping, pumping, source, storage, and other facilities should be located on public rights-of-way or dedicated utility easements. Utility easements should be a minimum of 15 feet wide, unless the easement is contiguous and parallel to an access easement or public right-of-way. In such cases, the minimum easement width should be 10 feet. Piping should be installed no closer than 5 feet from the edge of an easement. Unrestricted access should be provided to all public water system lines and their appurtenances, and public fire hydrants that are maintained by public agencies or utilities.

Pipe Cover

The depth of trenching, installation of pipes, and backfill should be such as to give a minimum cover of 36 inches over the top of the pipe for transmission and distribution lines, and 24 inches over service piping. Backfilling up to 12 inches over the top of the pipe should be evenly and carefully placed. The remaining depth of trench is to be filled in accordance with applicable construction standards identified in Section 5.2.3 – General Provisions. Materials capable of damaging the pipe or its coating should be removed from the backfill material.
SECTION 5

Concrete Thrust Blocking

Concrete thrust blocking should be placed at bends, tees, dead ends, and crosses in accordance with the utility's standards. Blocking should be concrete poured in place. Concrete blocking should bear against solid undisturbed earth at the sides and bottom of the trench excavation and should be shaped so as not to obstruct access to the joints of the pipe or fittings.

Water and Sewer Line Separation Distances

Whenever possible, transmission and distribution water piping should be separated at least 10 feet horizontally from on-site waste disposal piping, drain fields, and/or wastewater gravity or force mains. The bottom of the water main should be 18 inches above the top of the sewer. Where local conditions prevent such horizontal and/or vertical separation, closer spacing is permissible where the separation is mitigated in the design and construction, and meets the special requirements of Ecology's Criteria for Sewage Works Design.

5.3 Fire Hydrants and Fire Flow

The goal of these standards is to prevent or minimize the loss of life, loss of property, and damage to the environment from the adverse effects of fire.

5.3.1 New Fire Hydrants

For new or expanding systems, new fire hydrants within the unincorporated areas of the County shall comply with the minimum design criteria set forth in Whatcom County Code 15.04.040, and shall be compatible with local fire department standards and the design criteria adopted by each purveyor. Fire hydrants shall adhere to the specific design criteria and standards utilized by the utility but may not be less stringent than the Whatcom County Code.

5.3.2 Fire Hydrant Location

Fire hydrants shall be located in unincorporated areas in accordance with Whatcom County Code 15.04.040. Within municipalities, the location specifications provided in the city fire ordinance or water system design standards shall apply, but shall not be less stringent than the Whatcom County Code.

Actual location of hydrants should be identified in the development site plan and should be approved by the water purveyor and fire marshal prior to construction. Placements should be made to provide unhindered access for fire hose connections, testing, and maintenance.

5.3.3 Fire Hydrant Maintenance

It is the determination of the WUCC that the responsibility for maintenance and testing of fire hydrants primarily rests with the water systems that own the infrastructure. For non-municipal corporations, a description of the hydrant maintenance procedures must be kept on file to be eligible for liability protection under RCW 70.315.060 for damages that may arise out of a fire event. Within all water systems, fire hydrants that are permanently inoperable or unusable shall be repaired or removed. Fire hydrants that are temporarily inoperative or unusable shall be wrapped or otherwise provided with temporary indication of their condition and the local fire authority notified when they are unavailable. Fire hydrants that are temporarily inoperative or unusable shall be repaired as soon as possible (WAC 246-293-650).
**Minimum Design Standards**

Public water systems are encouraged to communicate with their local fire authorities regarding the location, operation, and status of their fire flow facilities. Where appropriate, a written agreement that identifies responsibilities for maintenance and testing of fire hydrants should be negotiated between the fire department or district and the water utility (WAC 246-293-650(8)). Such agreements could establish operation, maintenance, and testing policies that are mutually beneficial to both the fire authority and the water utilities and would clarify each party's respective roles and responsibilities. Communication is seen as being most important in the unincorporated areas and/or where County fire districts exist with dynamic boards of commissioners and local fire district chiefs.

The tasks itemized in Table 5-2 should be carried out in a responsible manner by the assigned party at the specified frequency. The utility should notify the local fire authority in advance before any changes are made to hydrant installation or relocation. The local fire authority should notify the utility in advance of testing any fire hydrants.


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Table 5-2

<table>
<thead>
<tr>
<th>Water Utility Responsibility</th>
<th>Frequency</th>
</tr>
</thead>
<tbody>
<tr>
<td>Review of location, installation, and type of hydrant, ports, and valves</td>
<td>At time of permitting</td>
</tr>
<tr>
<td>Inspection of new facility</td>
<td>At time of construction</td>
</tr>
<tr>
<td>Painting, numbering, and coding of hydrants</td>
<td>As needed</td>
</tr>
<tr>
<td>Hydrant testing, maintenance, and recordkeeping</td>
<td>As needed</td>
</tr>
<tr>
<td>Communications (emergency, alert system, faulty hydrant, etc.)</td>
<td>As needed</td>
</tr>
<tr>
<td>Clear vegetation and brush from hydrant</td>
<td>Seasonally or more often as needed</td>
</tr>
<tr>
<td>Backflow prevention between potable and fire protection systems</td>
<td>Annually</td>
</tr>
<tr>
<td>Estimate volume and time of use of hydrants for Water Use Efficiency reporting</td>
<td>Monthly</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Fire District Responsibility</th>
<th>Frequency</th>
</tr>
</thead>
<tbody>
<tr>
<td>Review of location, installation, and type of hydrant, ports, and valves</td>
<td>At time of permitting</td>
</tr>
<tr>
<td>Notify water utility in advance when hydrants are used for training or testing</td>
<td>As needed</td>
</tr>
<tr>
<td>Communications (emergency, alert system, faulty hydrant, flow tests, etc.)</td>
<td>As needed</td>
</tr>
<tr>
<td>Install and check reflector location, if used</td>
<td>As needed</td>
</tr>
<tr>
<td>Private hydrant and fire system testing</td>
<td>Annual</td>
</tr>
<tr>
<td>Estimate volume and time of use of hydrants</td>
<td>Per occurrence</td>
</tr>
</tbody>
</table>

5.3.4 Fire Flow Requirements

Water supply facilities for new developments and new or expanding public water systems shall be designed to meet the minimum fire flow requirements set forth in Table 5-3. The WUCC defers to the Fire Marshall’s expertise and believes that the recommended fire flow requirements in Table 5-3 are an appropriate level of fire flow to meet the goal of this section of preventing or minimizing the loss of life, loss of property, and damage to the environment from the adverse effects of fire. Although typical fire flow requirements established for individual structures during the development review process are based on building type, construction, and other factors,
Table 5-3 presents fire flow recommendations based on zoning to assist water purveyors in planning for fire protection within their service areas. The recommended fire flow requirements shown in Table 5-3 were developed in coordination with the County Fire Marshal and the WUCC, and includes flows that are typically required by the fire marshal for development within the zoning designations. The zoning designations in Table 5-3 are as defined in the County’s current Comprehensive Plan. The general zoning classification may be referenced for zoning within incorporated areas.
## Section 5

### Table 5-3
Minimum and Recommended Fire Flow Requirements

<table>
<thead>
<tr>
<th>Zoning Classification</th>
<th>Minimum Fire Flow Requirement (gallons per minute (gpm))</th>
<th>Recommended Fire Flow Requirement (gpm)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Industrial (HI, UI, GM, GI, RIM, AO)</td>
<td>1,000 gpm for 2 hours</td>
<td>2,000 gpm for 2 hours</td>
</tr>
<tr>
<td>Commercial (RGC, GC, TC, NC, STC, RC)</td>
<td>1,000 gpm for 2 hours</td>
<td>1,500 gpm for 2 hours</td>
</tr>
<tr>
<td>Urban Residential (URM6X, URMX10-24, URMX6-12, URMX6-10, URM24, URM18, URM12)</td>
<td>750 gpm for 1 hour or commensurate with standards of the adjacent municipal corporation, whichever is greater</td>
<td>1,500 gpm for 1 hour</td>
</tr>
<tr>
<td>Urban Residential (URM6, URG6, UR4, UR3)</td>
<td>500 gpm for 1 hour or commensurate with standards of the adjacent municipal corporation, whichever is greater</td>
<td>750 gpm for 1 hour</td>
</tr>
<tr>
<td>Rural Residential (T2)</td>
<td>500 gpm for 1 hour</td>
<td>500 gpm (residential)/1,000 gpm (commercial) for 1 hour</td>
</tr>
<tr>
<td>Rural Residential (RR3, RR2, RR1)</td>
<td>500 gpm for 1 hour</td>
<td>500 gpm for 1 hour</td>
</tr>
<tr>
<td>Rural Residential (RRSA, RR10A, RR1)</td>
<td>No fire flow requirement</td>
<td>500 gpm for 1 hour</td>
</tr>
<tr>
<td>Rural (R2A, R5A, R10A)</td>
<td>No fire flow requirement</td>
<td>500 gpm for 1 hour</td>
</tr>
<tr>
<td>Resources (AG, RF, MBL)</td>
<td>No fire flow requirement</td>
<td>500 gpm for 1 hour</td>
</tr>
<tr>
<td>Resources (CF)</td>
<td>No fire flow requirement</td>
<td>No fire flow requirement</td>
</tr>
<tr>
<td>Other (ROS, EI)</td>
<td>No fire flow requirement</td>
<td>500 gpm for 1 hour for parks with structures, otherwise no fire flow requirement</td>
</tr>
</tbody>
</table>

**Notes:**

(1) Fire protection may be provided by means other than hydrants supplied by a water utility's distribution system provided that such alternative methods are fully documented in the utility's WSP and approved by the local fire protection authority (WAC 246-293-670, Whatcom County Code 15.04.040).

(2) Projected density based upon designated land use in adopted County or city comprehensive plans.

(3) Whenever existing land use densities are greater than the comprehensive land use designation density, the fire flow rate will be determined on the basis of existing density or per the determination of the fire marshal.

(4) Within a designated service area, a utility that has fire flow capability shall extend existing water mains to provide flows whenever feasible. When main extension is not feasible, a remote system may be developed that is designed to accommodate fire flows in accordance with a jointly developed plan between the water utility and fire marshal's office. The plan shall be incorporated in the utility's WSP.

(5) A greater flow rate may be required for certain developments as determined by the fire marshal.

(6) Fire flow requirements for churches, schools, and labor camps will be established by the County Fire Marshal, but in no case will the required fire flow be less than that specified in the table above.

Table 5-3 presents zoning-based fire flow requirements. However, the actual fire flow requirement for individual structures will be determined during the development review process and may be higher than those stated in Table 5-3. Utilities shall develop their capital improvement programs for meeting their fire flow objectives in consultation with the appropriate local fire authorities. It is the intent that said programs may be scheduled to be phased-in over a specific period of time.
considered to be reasonable for the individual circumstances. The program and schedule shall be described in the utility's comprehensive water system plan, which is subject to DOH approval.

5.3.5 Fire Flow Mitigation Alternatives

The fire marshal and building official may consider any combination of alternative strategies to mitigate in part or in whole the lack of adequate or available fire flow water and/or reduce the minimum required fire flow storage volume or flow for a given project proposal (Whatcom County Code 15.04.040). Such strategies may include, but are not necessarily limited to:

- Provide an automatic sprinkler system throughout the building or fire area when not otherwise required by the International Fire Code (IFC) or International Building Code (IBC).
- Upgrade the proposed building construction type from combustible to non-combustible and/or fire-rated. For example, upgrade from Type VB to Type VA or Type IIB construction.
- Provide fire walls or fire barrier walls to divide the building into smaller fire areas or to provide isolated storage of combustible packaging supplies and/or hazardous materials.
- Provide enhanced setbacks from property lines and other buildings on the site.
- Partner with an existing water purveyor to provide approved upgrades to the delivery capability of the existing purveyor system, such as up sizing sections of the piping system, providing a station or satellite pump, providing an additional system storage tank, or similar approved system upgrades.
- Provide additional fire hydrants at approved locations with adequate, parking-prohibited staging areas for the fire district.
- Provide a monitored fire alarm system when not otherwise required by the IFC or IBC.
- Where appropriate, provide additional exits from the building to adequate, accessible exit discharge areas.
- Reduce high-piled storage racking systems.
- Other approved strategies that reduce risk to building occupants and emergency responders.

Approval of such strategies is at the discretion of the fire marshal in cooperation with the Building Official. They are to be considered on a case-by-case basis, and based on the specific characteristics of a given project. The fire marshal may require system strategies be analyzed, evaluated, and/or designed by an approved Fire Technician or licensed Fire Tech/System Design Engineer.

5.3.6 Phased Fire Flow Plan

If water service is requested of a utility in an area where only limited fire flow is currently provided, the cost of installing all improvements at once to meet the required level of fire flow may be prohibitive. In this case, the utility and developer may reach an agreement to provide the desired service through a schedule of improvements over a reasonable period of time. Until the schedule of improvements is fully implemented, the required level of fire flow may not be available in all
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areas of the development. This phased plan must be approved by the County for service in unincorporated areas, or the city agency with jurisdiction within corporate limits, and must be consistent with the approved WSP of the utility (Chapter 246-293 WAC).

If fire hydrants are not initially installed as part of the phased fire flow plan, a tee shall be installed at least every 900 feet where fire hydrants will be located (WAC 246-293-650(1)) or at approved hydrant location intervals per applicable sections of the current adopted edition of the IFC Section 507, Fire Protection Water Supplies; IFC Appendix C, Fire Hydrant Locations and Distribution; and as amended per Whatcom County Code 15.04.040.

A phased fire flow plan shall be applicable when the following conditions are met:

a) If the proposed new service is within the utility's designated service area, the utility shall have an approved WSP that contains a capital improvement schedule that provides the full level of water service to the phased fire flow plan area. If the new service is proposed outside of a designated service area and the utility intends to provide service, or if it is to be developed by a Satellite Management Agency (SMA), the utility or SMA shall submit an amendment to its WSP that addresses the needs of the new service area.

b) A written agreement between the utility and developer setting forth the phased fire flow plan is submitted and approved by the city or County prior to issuing a development permit (subdivision, binding site plan, plat, short plat, etc.). The plan must identify the fire flow to be initially provided, projected growth expected in the proposed development, additional capital facilities required, a schedule of construction, and eventual fire flow to be provided. The phased construction schedule must provide for compliance with design standards within a reasonable period of time agreed to by the County.

c) All water mains and other permanent facilities installed during the phased development period shall be in accordance with the eventual system design identified in the capital improvement schedule of the utility’s WSP.

If land use changes occur, or if growth does not occur as anticipated, the utility may submit a revised plan that identifies the reasons for variation from the original plan and a fixed date for compliance to be achieved.

5.3.7 Low Flow Hydrants (For Existing Systems)

While not all public drinking water systems in Whatcom County provide fire flow, it is recognized that some water systems have installed fire hydrants that do not meet fire flow standards. Connection to these systems for fire suppression can result in negative pressures and possible cross contamination of the system.

Public water systems that are not required to comply with minimum fire flow standards shall coordinate with the local fire control authorities to ensure that any hydrants on the system, if they can possibly be used in the course of fire suppression activities, do not create adverse pressure problems within the water system as a result of fire control actions (WAC 246-290-221).

In order to safeguard public health, drafting (pulling water from a hydrant) of fire hydrants is prohibited unless otherwise agreed between the purveyor and the fire authority. Hydrant connections may only be made with collapsible hose unless the utility informs the local fire control authority otherwise. For all water systems in the unincorporated portions of the County, the caps on all hydrants must be color-coded RED when:
Minimum Design Standards

- The effects of supplying fire flow are unknown;
- Fire flow is less than 500 gallons per minute (gpm); or
- Fire flow would reduce system pressures to less than 20 psi;

The reason for this measure of safety is that most existing rural water systems are not designed to meet minimum fire flow standards, even if they have fire hydrants, while maintaining 20 psi throughout the entire system during fire flow conditions. It is a common misconception that a fire hydrant can be used (drafted/pulled) for its maximum flow capacity as long as the pressure at that fire hydrant does not drop below 20 psi. In fact, an individual hydrant may free flow large quantities of water while maintaining in excess of 20 psi. However, the assumption is false that more water is available to be drawn from a hydrant by drafting (pulling) down to 20 psi. Drafting or pulling from a hydrant beyond what freely flows is likely to reduce the pressure elsewhere in the system below 20 psi and create negative pressure, which can cause contamination through backflow, failure of residential plumbing, and even catastrophic failure of water system facilities. The WUCC believes it is the responsibility of a water system to take steps to retard free flow of water from its system hydrants to maintain system pressures above 20 psi. These steps may include installation and operation of valves, orifices, or other flow restriction methods.

5.3.8 Water Rights and Fire Flow

The diversion or withdrawal and use of water for firefighting, such as containing, suppressing, and extinguishing a fire, including the use of water from hydrants, is essential to the public welfare and does not require a water use authorization from Ecology. However, use of water for some fire protection purposes does require a water right permit.

The following definitions of firefighting facility, firefighting water use, and fire protection are taken from Ecology Policy POL-2015:

**Firefighting** facility means any building or place that provides firefighting service and is used primarily for storing and maintaining firefighting equipment and/or housing firefighting personnel. Water may be used within the facility for training firefighting personnel, and testing and maintaining firefighting equipment. A water right is required for such uses.

**Firefighting** water use means the use of water to contain, suppress, and extinguish a fire that is an immediate threat to persons or property. It also includes temporary use of water for drinking and sanitation by firefighting personnel as needed during the act of fire suppression and extinguishment. A water right is not required for this use.

**Fire protection** is a beneficial use of water associated with the ongoing use of water to reduce fire risks. It includes irrigating buffer areas, storing water for fire use, and supplying fire hydrants within developments. Fire protection water use also includes the use of water within a firefighting facility for training firefighting personnel, and testing and maintaining firefighting equipment. A water right is required for such uses (emphasis added).

When a water right permit is required, it must be obtained in accordance with Ecology regulations and procedures (Chapter 173-160 WAC). Copies of water rights documents, correspondence, and other records are to be maintained on file by the purveyor. Water used for firefighting facilities...
and for fire protection purposes, if not a permit exempt use of water, also requires a water right. Any water right issued for these purposes will identify “fire protection” as the beneficial use.

Groundwater withdrawals of not more than 5,000 gallons per day, as authorized under the groundwater permit exemption (RCW 90.44.050), may be used to serve a firefighting facility, or up to 1/2-acre lawn or noncommercial garden may be irrigated as a buffer area for fire protection purposes.

5.4 Standards Review Subcommittee

A Standards Review Subcommittee (Subcommittee) shall be established by the WUCC and should be convened by the Whatcom County Executive’s Office, or his/her designee, at least annually to review these standards and their implementation. The Subcommittee shall seek input from the County Fire Marshal, city fire departments, and the County Fire Chiefs Association in matters related to fire protection standards. The Subcommittee should also include representation from engineering firms and other technical staff, as required. Recommendations of the Subcommittee shall be submitted to the WUCC and, if revisions are approved, they shall be forwarded to the County Council for adoption.

5.5 Severability

If any provisions of these standards or their application is found to be invalid, the remainder of the standards and their implementation should not be affected.
Section 6 – Utility Service Review Procedures
Section 6 – Utility Service Review Procedures

6.0 Introduction

This section of the CWSP, the Utility Service Review Procedures (USRP), presents the administrative procedures for directing applicants with development proposals that require potable water service (WCC 24.11.050) in the unincorporated portion of the CWSSA to the most appropriate source of water.

This section is developed in accordance with WAC 246-293-190 rules that are in part authorized by the Coordination Act. The USRP generally directs applicants with development proposals that require potable water availability approval to water utilities with readily available water service. When water service is not readily available, it provides procedures for developing a new water public water system. Although not required by state law or rule, this section also applies to the circumstances in which a private water supply may be approved.

These procedures are intended to guide local officials, citizens, development applicants, and regulatory agencies in identifying the necessary facilities for providing adequate potable water service.

The Coordination Act (RCW 70.116.060) prohibits the establishment of a new public water utility within the CWSSA unless it is determined that existing utilities are unable to provide the service in a timely and reasonable manner. The primary goal of these procedures is to first direct applicants to existing utilities that are willing and able to provide water service. The GMA requires that each applicant for a building permit necessitating potable water shall provide evidence of an adequate water supply for the intended use of the building1.

Any major change in land use plans may require substantial system improvements to serve the proposed development because water utilities should, and in some cases must, develop their systems to be consistent with applicable land use plans. Therefore, special review procedures are provided in this section and will apply to applications that propose a land use change.

6.1 Service Areas

Reference to "service area(s)" within the CWSP means the specific geographical area described in the written agreement required by RCW 70.116.070(1) and WAC 246-293-250 (Section 4.0). All water utilities are required to designate a service area boundary. Service areas within the CWSSA are depicted in Exhibit 2-2. For utilities with water system plans, service area designations will be included in the plan. For water utilities that do not have a water system plan, their service areas shall be attached to a Declaration of Water Utility Service Area form as provided in Exhibit 4-1, which is completed by an authorized representative of the water utility, and submitted to PDS.

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1Statutory authority included in Substitute House Bill 2929 of 1990 codified in Chapter 19.27 RCW.
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The types of water service areas are as follows:

- **Existing Service Area:** DOH Publication 331-432 (dated November 2010) defines an existing service area as the area in which the utility currently provides direct service, remote service, or where service connections are currently available.

- **Future Service Area:** Public water utilities may identify future service areas that are outside of the current retail service area but in which they plan to serve water in the future.

- **Retail Service Area:** WAC 246-290-100 requires all municipal water suppliers to designate a retail service area where they currently provide or plan to provide direct retail service connection to customers.

- **Wholesale Service Area:** Utilities may also designate wholesale service areas in their water system plan where they provide or plan to provide only wholesale water service. Wholesale service areas are not regulated under the Coordination Act.

If a water system plan does not differentiate between retail and future service areas, then their entire service area is presumed to be a retail service area.

6.2 Activities within City Boundaries

Water service requests within incorporated areas are not subject to the USRP provided in this section. Applicants for such water service must contact the municipality directly.

6.3 Timely and Reasonable

The USRP makes reference to the provision of water service in a timely and reasonable manner. The term "timely and reasonable" is included in both the Coordination Act (RCW 70.116.060(3)(a)) and the Municipal Water Law, although with different meanings.

**With respect to the Coordination Act (Chapter 70.116 RCW), the term “timely and reasonable” is applied to the conditions of service for applicants seeking water service within the future service area of a water utility.** Applicants for water service located in an existing water system’s future service area must request service from the existing system. In this case, the existing utility has the “right of first refusal” of water service. If the system cannot provide the new service in a timely and reasonable manner, the applicant may pursue the following options in the order presented:

1. Seek service from another water system. If service is not available, the applicant may

2. Develop a new public water system if another system is not willing or able to provide the service.

Note: “Public water system” includes all systems except those serving one single-family residence or four or fewer service connections on the same farm. As used in this document, the term is generally synonymous with “Purveyor” and “Utility.” “Private water supply” means a non-Group B water supply serving up to two single-family residences (per Whatcom County Drinking Water Ordinance – WCC 24.11).
Utility Service Review Procedures

The Coordination Act defines “timely” as actions taken within 120 days, but it does not specify when the period begins and ends. The Coordination Act allows CWSPs to specify utility actions for completion in this 120-day period. The Coordination Act does not define “reasonable.” The DOH suggests the following criteria for defining reasonable (DOH Publication No. 331-444, December 2012):

- Conditions of service are consistent with local land use plans and development regulations;
- Conditions of service and associated costs are consistent with those documented in the system’s approved water system plan.
- Conditions of service and associated costs are consistent with the system’s acknowledged standard practice experienced by other applicants requesting similar water services.

Under the Municipal Water Law, the term “timely and reasonable” is used as one of the conditions in which a water utility has a “duty to serve” within their retail service area. Municipal water suppliers have a duty to provide service to all new connections within their retail service area where the circumstances meet four threshold factors (DOH Publication No. 331-366, November 2010):

1. The utility has sufficient capacity to serve water in a safe and reliable manner.
2. The service request is consistent with adopted local plans and development regulations.
3. The utility has sufficient water rights to provide service.
4. The utility can provide service in a timely and reasonable manner.

Because the two laws use the term “timely” differently and neither law defines “reasonable,” DOH recommends that a definition for timely and reasonable service be provided in the CWSP. Consequently, timely and reasonable service shall be defined as follows (in order of priority):

1. As defined in the water utility’s approved water system plan.
2. If the water utility does not have a water system plan, the definition shall be as defined in the utility’s service policies provided that the definition is not inconsistent with the Coordination Act.
3. If the water utility does not have a water system plan or service policies or the water system plan or service policies do not provide a definition for timely and reasonable, the definitions shall be as follows:

- Water service is considered timely when:
  - the water utility can provide water service within 120 days of receiving all necessary permits to begin installation of required system improvements, if the utility is conducting system installation; or
  - the water utility can provide water within 120 days of the applicant installing all necessary system improvements; or
  - as otherwise agreed to between the applicant and utility.
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- Water service is considered reasonable if costs and conditions of service are consistent with the utility's acknowledged standard practice experienced by other applicants requesting similar service.

This CWSP update includes an appeals process to resolve disputes between applicants and utilities regarding the timely and reasonable provision of water service.

6.4 Utility Service Review Procedures

The first step in the USRP is to identify the utility service area within which a proposed development is located. The CWSP places responsibility on the review agencies to recognize a designated utility service area. In turn, the utility is responsible for effective management within that service area. The USRP then describes, in order of priority, the available water service options. It also describes options for water service to proposed developments lying outside of designated service areas (Figure 2-2 – Water System Service Area Map).

The USRP applies to all development proposals requiring potable water availability approval by Whatcom County including, but are not limited to: new plat or subdivision development; short plats; land use permits; rezones; issuance of residential and commercial building permits; creation of new water systems; resolution of health emergencies arising out of existing public water systems; source site inspections; and other related activities. PDS will initiate and administer the review procedure at the time an application is submitted for permits or approvals, or upon request. A flow chart of steps to be followed in the USRP is provided as Figure 6-1.
The USRP directs applicants for water availability approval to the Official CWSP map to identify an existing water utility willing and able to provide water service. In effect, the result of the USRP is to assign the proposed new development to the service area of a designated water utility. In the event a designated utility is unable or unwilling to provide service, the referral process referenced in subsequent paragraphs shall be followed.

Pursuant to state law (RCW 70.116.060 and 070 and WAC 246-293-401, 420, and 430), approval of water service requests occurring within a contested service area or the service area of a utility that has not completed either its required individual water system planning document or its Declaration of Water Utility Service Area (Exhibit 4-1) may be denied by the County until these
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issues are resolved. Contested service area disputes should be resolved by the affected utilities. If the utilities cannot resolve their dispute, the affected utilities are directed to the appeals process in **Section 9.2.** If the affected utilities are unable or unwilling to resolve their service area conflicts, the DOH shall render a determination following appropriate due process as defined in RCW 70.116.070(2).

**6.4.1 Review Process for Development Proposals or Water Service Requests in Conformance with Applicable Land Use Plans**

When development and associated water service applications conform to land use plans and zoning ordinances, the USRP will generally follow the sequential steps outlined in **Figure 6-1.** This sequence is described as follows.

1. PDS will coordinate review of all development proposals within the unincorporated area of the CWSSA. PDS will review land use development proposals and determine whether or not they are in conformance with the applicable comprehensive land use plans, zoning, building, and fire code, and service area interlocal agreements. Upon determination of appropriate land use designation, PDS will review applications for residential or non-residential building permits for conformance with the appropriate codes.

2. Applicants requesting water availability approval must coordinate their supply needs with an existing utility, as directed by PDS. PDS will review the proposed water service request and direct the applicant to one of the following water sources: the designated utility; an adjacent utility; a Satellite Management Agency (SMA); the creation of a new utility; or use of a private water supply, as outlined in the steps below.

**a) Proposed Development within a Municipal Water Supplier’s Designated Retail Service Area**

The applicant will first be referred to the designated municipal water supplier (utility). Per the requirements of RCW 43.20.260, a municipal water utility has a duty to serve the applicant if the applicant’s project is located within the utility’s retail service area and if the conditions defining “duty to serve” are met.

In response to a request for water service, the utility will give written notice on the Notification of Water Availability form of its intent to exercise one of the following options, in order of priority:

i. The designated utility provides direct service by connection to existing mains or by extension of existing mains and supply; or

ii. The designated utility approves a design for a new detached, remote system and upon construction in accordance with said design, owns and operates the system; or

iii. The designated utility approves design of a new water system that is separate from the designated utility’s water system, to be owned by the developer of the new system, and enters into an agreement specifying the operational requirements and financial obligations of the owners of the remote system. The remote system may be operated by the designated utility, an adjacent utility, an SMA, or the developer/homeowners.
association. The remote system owner submits documentation to PDS that the designated utility acknowledges and approves the creation of the new system. The remote system owners are responsible for financing, constructing, and properly operating the system until the two systems are connected.

If the utility cannot meet one or more of the duty to serve conditions, including timely and reasonable, the applicant will be referred to an adjacent utility (WAC 246-293-190). If the adjacent utility is unable or unwilling to serve, or it is determined that the conditions of service extensions identified by the utility are not timely and reasonable, the applicant may develop a new water system or a private water supply.

(b) Proposed Development within Designated Future Service Areas

The applicant will be referred to the designated water utility. In response to a request for water service, the utility will give notice of its intent to exercise one of the following options, in order of priority:

i. The designated utility provides direct service by extending existing mains and supply; or

ii. The designated utility denies direct service. The applicant then requests water service for the proposed development from a utility adjacent to the service area. The adjacent utility must have an approved water system plan that allows for expansion or must modify their plan to provide for the expansion. If the developer reaches agreement for water service with an adjacent utility, the adjacent utility will initiate an appropriate change in their designated service area boundaries through the process established in Section 4; or

iii. The designated utility approves a design for a new detached, remote system and upon construction in accordance with said design, owns and operates the system; or

iv. The designated utility approves design of a new water system that is separate from the designated utility’s water system, to be owned by the developer of the new system, and enters into an agreement specifying the operational requirements and financial obligations of the owners of the remote system. The remote system may be operated by the designated utility, an adjacent utility, an SMA, or the developer/homeowners' association. The remote system owner submits documentation to PDS that the designated utility acknowledges and approves the creation of the new system. The remote system owners are responsible for financing, constructing, and properly operating the system until the two systems are connected; or

v. The designated utility denies service and thereby may be subject to relinquishment of that portion of its service area. At this point, because water service cannot be provided in a timely or reasonable manner pursuant
to the Coordination Act, a new water system is developed, and service options are further determined through the procedures described below.

(e) Proposed Development in Relinquished Service Areas or Non-Designated Areas

If the development is in a relinquished or undesignated service area, the following will occur, in order of priority:

i. PDS will refer the applicant to the Whatcom County Health Department (WCHD); WCHD will identify existing utilities within 1/2 mile of the proposed development and refer the applicant to those utilities for water service. The adjacent utility must have an approved water system plan that allows for expansion or must modify their plan to provide for the expansion. If the applicant reaches agreement for water service with an adjacent utility, designated service area boundaries are changed through the process established in Section 4 of this CWSP; or

ii. If adjacent utilities are unwilling to provide service, do not exist, or service cannot be provided in a timely and reasonable manner, the applicant may create a new public water system or establish a private water supply\(^2\) following the process described below.

(d) Approval of New Public Water Systems

The process described above may result in the formation of a new public water system only in those instances where existing utilities are unwilling or unable to provide service in a timely and reasonable manner. A new water utility will be required to have an approved Declaration of Water Utility Service Area (Exhibits 4-1 and 4-2), the required water system planning document, and provide evidence of a water right (if required) issued by the Department of Ecology. Applicants wishing to use groundwater as a water source need to comply with applicable local standards relating to the siting of the well and to state requirements including, but not limited to, RCW 90.44.050 (the groundwater permit exemption), Chapter 173-160 WAC, Minimum Standards for Construction and Maintenance of Wells, and the Water Resource Inventory Area (WRIA) 1 and WRIA 3 Instream Resources Protection Programs (Chapters 173-501 and 173-503 WAC).

(e) Approval of Private Water Supply\(^2\)

The Coordination Act and its rules (specifically, WAC 246-293-190) do not require counties to develop procedures that apply to the approval of a private water supply. However, in the interests of overall coordination and ease of use, Whatcom County has elected to enlarge the scope of its USRP to include procedures that apply to private water supplies.

This procedure applies only to those land uses that do not require public water per the Whatcom County Drinking Water Ordinance (WCC 24.11). This ordinance requires applicants who are requesting water availability approval of a private water supply to first request service from an existing public water system; and, if

\(^2\)See CWSP Glossary for a definition of "private water supply."
connections are available and the public water system is willing to provide service, the applicant must connect to that public water system when (WCC 24.11.050):

1. The applicant proposes to use surface water, spring water, rainwater, or contaminated groundwater; or

2. The applicant proposes to build on a lot located in a long or short subdivision approved based on the availability of public water; or

3. The existing public water system has water lines adjacent to the property line of the applicant and connection is consistent with RCW 36.70A.110; or

4. The existing public water system has defined a “service area boundary” in accordance with the CWSP which includes the property of the applicant.

If a public water system or municipal water supplier does not have available connections or is unwilling to provide service in either its existing, retail, or future service areas, and no adjacent system is able or willing to provide service and, provided that the particular land use does not require a public water system, then in that case a private water supply may be developed subject to water availability approval by the WCHD and in accordance with WCC 24.11.

**Additional Considerations**

1. When development is proposed on existing lots that were created and approved on the basis of a private water supply, the existing private water supply must continue to meet WCHD requirements, and at time of application for a building permit, the proposed development may require additional water availability review and re-approval.

2. In the rare event that water availability approval is requested on a lot that was created and approved on the basis of a public water system, but at the time of application for a building permit and request for water availability approval it is determined that a public water system is not available, WCHD will make a case-by-case determination as to whether or not a private water supply may be approved or whether public water service is required. If WCHD determines that public water service is required, and also finds that no other existing public water system is able or willing to serve, then in that case, a new public water system may be developed subject to these utility service review procedures that apply to the development of a new public water system.

**6.4.2 Review Process for Development Proposals or Water Service Requests Not in Conformance with Applicable Land Use Plans**

If a development proposal requires a zoning change or alteration of applicable land use plans, then PDS shall contact each affected utility and allow them to comment on the proposal prior to approval of the zoning change. By identifying new or additional utility costs associated with changes in land use or zoning, the costs of development can be integrated into the decision making process and will allow the consideration of an assignment of costs.

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3 For the purposes of this CWSP, water lines are considered adjacent to a property when the water lines lie within either side of the right-of-way or easements directly abutting the property.
SECTION 6

6.4.3 Appeals Process

The USRP process described herein provides the process for directing applicants for water service to the appropriate source of water, and conditions for providing that service. Issues of what constitute appropriate conditions of service may be expected to arise between applicants and water utilities. To resolve these disputes, an appeal procedure has been developed. The appeals procedure is included in Section 9, along with procedures for resolving other disputes.

6.4.4 Special Review Consideration

In the review of development proposals and associated requests for water service, PDS shall be guided by the special considerations provided below.

(1) Applications for Service to Non-residential Properties

Commercial and industrial properties represent a fire flow responsibility that may greatly exceed flows required for residential housing. These flow requirements are critical to the sizing of the storage, pumping, and piping facilities. For these reasons, PDS shall also use the referral process described herein for all proposed commercial and industrial developments. (See Section 5 for system design standards.)

(2) Expanding Group A Non-community or Group B Systems

Special consideration is required for Group A Non-community or Group B systems currently designated as non-expanding systems (after adoption of the CWSP) that wish to expand both inside and outside of designated service areas. These considerations are addressed below.

(a) Expansion outside Utility's Designated Service Areas

An expanding Group A Non-community or Group B system located outside of a utility's designated service area will be referred by PDS to adjacent, larger utilities with approved water system plans or SMAs. This will allow the expanding system to discuss and evaluate utility service proposals by an adjacent utility or SMA versus expansion. If the decision is made to pursue expansion, the system owner must submit a completed Service Area Agreement to PDS. Furthermore, pursuant to WAC 246-290-100, a water system plan needs to be prepared or revised to incorporate the proposed expansion. The plan must be submitted to PDS to be reviewed for local government consistency, and approved by DOH before the expansion is allowed to take place.

(b) Expansion within Utility's Designated Service Areas

An expanding Group A Non-community or Group B system located within a designated utility service area will not be allowed without approval by the designated utility.

6.4.5 Public Water System Availability

A public water system is considered to be available if any of the following apply:

1. The distribution line for the public water utility is of adequate size and adjacent to the property requesting service; or
Utility Service Review Procedures

2. The existing public water utility is planning, at the utility’s own expense, to extend the existing water supply line adjacent to the property within one year from the initial written request for water availability; or

3. The applicant is willing to extend the existing water supply line to the property at the applicant's own expense, per the existing public water utility's policies and procedures; or

4. The applicant is located within the retail service area of an existing utility and that system has agreed to serve the applicant’s project; the terms of the service offered by the utility are timely and reasonable, and consistent with the conditions of service provisions contained within the water system’s DOH approved water system plan; documentation is provided from the existing public water utility that any of the above provisions can be met; and a Letter of Water Availability that is related to this procedure and acceptable to the County is provided from the existing public water utility.

6.4.6 DOH Satellite Management Agency (SMA) Requirements

Creation of a new public water system can occur after all of the USRP processes are exhausted. When a new system is created, it must be owned or operated by a department-approved SMA if one is available (WAC 246-290-035(1)(a)). The requirements for the provision of SMA services are embodied in the Coordination Act at RCW 70.116.134 and in Chapter 246-295 WAC. The RCW and WAC establish the criteria for designating entities as approved SMAs, delineate the process that SMAs must follow, and outline procedures for coordination between water users, utilities, SMAs, local government, and the DOH. A SMA is defined in RCW 70.116.134(6) as “A person or entity that is approved by the secretary to own or operate more than one public water system on a regional or countywide basis, without the necessity for a physical connection between such systems.”

DOH policy regarding SMA service in areas having CWSPs is as follows:

If a utility has claimed a future served area in a DOH approved WSP and identified that it may be served with a remote system, DOH will require that system, in their next WSP update, to include information about their SMA program that satisfies the approval criteria. If the system opts not to submit the SMA information, DOH will not approve the updated WSP until the service area to be served with remote systems is modified.

WAC 246-295-070, Requests for Water Service, states that:

The county or city agency responsible for determining water availability shall direct an individual or other entity proposing a new system or requesting water service to contact one or more approved SMAs designated for the service area where the new system is proposed. Such contact shall take place prior to construction of a new public water system and shall be documented in writing to the appropriate county or city.

In addition, WAC 246-290-035(1)(a) states that:

(1) The following requirements apply to all newly developed public water systems:
(a) Except for systems proposed within an individual water system's approved
service area in a critical water supply service area as governed by the Public Water System Coordination Act, chapter 70.116 RCW and chapter 246-293 WAC, and offered service by that existing system, any proposed new public water system must be owned or operated by a department approved satellite management agency (SMA) if one is available.

If no approved SMA agrees to own or operate the proposed system, the applicant can seek DOH approval to operate the system itself by demonstrating that it has the ability to meet financial viability and other operating requirements.

6.4.7 Current Approved SMAs in the Whatcom County CWSSA

The DOH maintains a list of approved SMAs for each county. The criteria and process for the approval of SMAs is contained in Chapter 246-295 WAC. This regulation establishes the submittal and approval process and identifies the required contents of an SMA plan when the SMA proposes to own the new system, and when it intends only to manage and operate the new system. As of January 1, 2016, the following entities are approved as SMAs in Whatcom County. For each approved SMA, the contact person, the type of service offered by the SMA (ownership, operation and management, or both), and contact information are listed. Note that all of the approved SMAs in Whatcom County are currently authorized for management and operations only. No SMAs are authorized for system ownership in Whatcom County. Each of these SMAs provides services countywide.

Northwest Water Systems
(SMA #119)
Management & Operations only
Jon Wiley, President
PO Box 123
Port Orchard, WA 98366
(360) 876-0958
info@nwwatersystems.com

Northwest Water Works, Inc.
(SMA #126)
Management & Operations only
Brad Ferris
8618 Tilbury Road
Maple Falls, WA 98266
(360) 656-5576

Water & Wastewater Services
(SMA #148)
Management & Operations only
Kelly Wynn
14263 Calhoun Road
Mount Vernon, WA 98273
(360) 466-4443
wwsvc@wwsvc.com

Water Systems Services, Inc.
(SMA #163)
Management & Operations only
Dave Olson, President
6951 Hannegan Road Suite 2
Lynden, WA 98264
(360) 739-5661
info@watersystemservices.net


Section 7 – Receivership of Failing Systems
Section 7 – Receivership of Failing Systems

7.0 Receivership of Failing Systems

The Washington State Department of Health (DOH) and local health jurisdictions share responsibility for enforcing state drinking water regulations to ensure safe, reliable drinking water. The DOH tracks water system sample results, conducts technical investigations, and takes action as needed to ensure compliance.

When a water system fails to provide safe and reliable water, the DOH uses a variety of tools to bring it back into compliance. These include informal actions such as phone calls, letters, site visits, and technical assistance, as well as formal enforcement actions such as issuing orders and penalties.

In most cases, by the time formal enforcement action occurs, the water system has exhausted all reasonable justifications for not meeting DOH requirements. As a last resort, if the system fails to respond, the Secretary of Health or the local health officer may file a petition with the Whatcom County Superior Court. The Court, in turn, may appoint a receiver who is willing and able to operate the water system. A receiver is an entity appointed by the court to manage a water system. Receivership is not a final action, but is a process to bring failing public water systems back into organizational and operational compliance. Generally, the court intends receivership to be temporary until permanent solutions have resolved the water system’s problems. The failing water system should carefully evaluate receivership, as it will result in obligations to meet, including but not limited to, the following:

- Conducting an audit by a Certified Public Accountant (CPA) of all accounts, corporate books, and records (Revised Code of Washington (RCW) 7.60.180; RCW 64.38.045);
- Ensuring that a licensed professional engineer with expertise in water systems conducts a physical inventory of all assets within 35 days of appointment as a receiver (RCW 7.60.090(2));
- Taking sworn depositions of all current and past officers and directors (RCW 7.40.060(1)(i); RCW 7.60.080(4));
- Obtaining an appraisal of water system value (RCW 7.60.060(1); RCW 7.60.090(5)) by a qualified appraiser;
- Developing a proposal prepared by a licensed professional engineer with expertise in water systems to upgrade the water system to meet current DOH standards (RCW 43.70.195); and
- Developing a proposal for how to pay for the proposed upgrade costs (such as a local improvement district), and recover public expenses through special assessments against the owners (RCW 43.70.195(5)).

RCW 43.70.195 provides that whenever an action is brought by the Secretary of Health or a local health officer to place a public water system in receivership, the petition shall include the names of one or more suitable candidates for receiver who have consented to assume operation of the water system. If there is no other entity willing and able to be named as receiver, the court shall appoint the county in which the water system is located as receiver.
SECTION 7

Existing utilities have accepted the lead responsibility for providing public water supply within their designated service areas through the establishment of service area boundaries in the Coordinated Water System Plan (CWSP) and the review process described above. Therefore, these utilities should be considered the primary candidate as receiver for a failing system within or adjacent to their system. A logical extension of this responsibility is for the designated utilities to assist in correcting problems of failing systems within the boundaries of their service areas and ultimately accept ownership of the failing system following the designated system’s upgrade to standards. Designated satellite management agencies (SMAs) are candidates named as the receivers of failing systems outside all other designated service areas and within designated service areas where suitable candidates are not otherwise available.

Group A – Community systems with 100 or more permanent connections, and all expanding public water systems that intend to have 100 or more permanent connections, will be considered candidates to assume the receivership role described in RCW 43.70.195 for failing systems within their designated service area.

The Secretary of Health or Whatcom County Health Officer will advise the court of the name of one or more suitable candidates for receiver who have consented to assume operation of the water system in any future petition for receivership.

As stated above, if no other entity is willing or able to be the receiver, the court shall designate the county as the receiver of last resort. If Whatcom County (County) is named the receiver, RCW 36.94.150 allows the County to lien the owner’s real property and foreclose against such property within 60 days of delinquency should the owner fail to pay rates and charges. Additionally, all of the County’s costs for administering the receivership, including staff time (salary and benefits), are billable directly to the system owners as receivership administrative expenses (RCW 7.60.060).
Section 8 – Issues with Potential Implications for Public Water Systems in Whatcom County
Section 8 – Issues with Potential Implications for Public Water Systems in Whatcom County

8.0 Introduction

The CWSP encourages implementation of regional solutions to resource issues commonly shared by water utilities throughout the area. During development of the 1993 and 2000 CWSPs, several issues were identified as impediments to adequately meeting current and future water service responsibilities. In this section, a brief summary of the status of some of these issues are presented.

The purpose of this section is to identify the issues that may affect the management of water by and for public water systems in Whatcom County. The discussions provided below are summary in nature and solely intend to provide general awareness and understanding of the various issues so that water system may consider the potential ramifications on the operation and maintenance of their systems. It is not the role of the CWSP to propose or implement solutions for these issues. Rather, the CWSP is intended to serve as a part of the County’s larger overall efforts related to water supply issues. These issues would be addressed best as part of an overall water supply plan that includes all beneficial uses of water and would ultimately inform the County’s comprehensive plan as it relates to water supply and water use in the County. The information provided also encourages consideration of these issues in the broader comprehensive planning effort mentioned above.

8.1 Tribal Water Issues

The Lummi Indian Nation and Nooksack Indian Tribe are federally-recognized sovereign Indian tribes. The Lummi Nation has a reservation located in western Whatcom County. As federally-recognized sovereign tribes, they have powers of self-governance and the authority to regulate many various aspects of water management within their reservations and have treaty rights affecting water resources that may extend beyond their reservation boundaries.

8.1.1 Lummi Peninsula Groundwater Settlement

In January 2001, the United States, in its own right and on behalf of the Lummi Nation, commenced suit in the United States District Court for the Western District of Washington regarding the use of groundwater against landowners who owned wells on a portion of the Lummi Reservation, referred to here as the Lummi Peninsula, and against the Washington State Department of Ecology. The Lummi Nation intervened in the suit as a plaintiff, and the Court ordered the plaintiffs to join all non-Lummi fee landowners within the litigation area. Negotiations between the parties occurred and the settling parties filed a Notice of Filing, along with the revised Settlement Agreement and all exhibits, on November 13, 2007. On November 20, 2007, Judge Zilly signed and filed the Order and Judgment in this case, which approved the Settlement Agreement as it was filed with amendments required by the Court. This concluded the litigation at the Court. The settlement agreement was appealed by some objectors, and twice the Ninth Circuit Court of Appeals affirmed the Court’s judgment approving the Settlement Agreement.
Figure 8-1 shows the extent of the area included in the settlement agreement in relation to the entire Lummi Reservation uplands.

The settlement agreement provided clarity to all users of groundwater on the Lummi Peninsula and established a framework for Ecology to appropriate the remainder of the state’s allocation. The agreement laid out the rights and obligations of all parties and developed a framework to protect the groundwater resource and ensure compliance with the settlement agreement. It also established metering requirements, maximum annual pumping volume, water quality monitoring requirements, replacement well setbacks, and reporting requirements.

Ecology is charged with making sure that all of the public water systems and individual water users pumping water from the state’s allocation comply with the settlement agreement. The Lummi Nation is charged with making sure that the Lummi Nation Peninsula Tribal Water District system and the individual tribal water users pumping water from the Tribe’s allocation comply with the settlement agreement. A federal water master has been assigned to guarantee compliance by all parties with the settlement agreement.

The state-regulated water users were originally granted 120 acre-feet per year (afy) of water, and the Lummi Nation could take the remainder of the water physically available (estimated to be up to 780 afy based on groundwater modeling). Even though the Lummi Nation could assert that its water rights are senior, since they date from the time of formation of the reservation (1855), the Tribe agreed not to assert the senior priority of water rights on the state water users as long as the conditions of the settlement agreement were followed. Under the settlement, water quality monitoring and triggers were put in place to protect the resource from saltwater intrusion. Setbacks were established between single and group domestic wells to prevent a new well from being drilled within a specified distance of an existing well to help spread withdrawal over the aquifer and reduce interference drawdown between neighboring wells. All wells supplying single homes were granted an annual volume of 0.39 afy, which equates to an annual average withdrawal of 350 gallons per day (gpd) per home. Public water systems were granted either the volume of water listed on the face of their water right documents, or 0.39 acre-feet for each connection if the system was served by a permit-exempt well. (Harnden Island Water Association is limited to 11 connections on a permit-exempt well, and Bell Bay Community Water Association is limited to 5 connections on a permit-exempt well.) The public water systems included in the settlement are shown in Table 8-1 and on Figure 8-1.

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1 The Lummi Tribal Water District is established under Title 16 of the Lummi Nation Code of Laws.
<table>
<thead>
<tr>
<th>Water System Name</th>
<th>Public Water System ID</th>
<th>Group</th>
<th>Water System Type</th>
<th>Annual Volume (afy)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sunset Water Association</td>
<td>86200</td>
<td>A</td>
<td>Comm</td>
<td>35.0</td>
</tr>
<tr>
<td>Georgia Manor Water Association</td>
<td>27450</td>
<td>A</td>
<td>Comm</td>
<td>20.0</td>
</tr>
<tr>
<td>Leeward/Northgate Water Association</td>
<td>64916</td>
<td>B</td>
<td>*</td>
<td>7.0</td>
</tr>
<tr>
<td>Harnden Island View Water Association</td>
<td>31366</td>
<td>B</td>
<td>*</td>
<td>4.29</td>
</tr>
<tr>
<td>Bell Bay Community Water Association</td>
<td>05400</td>
<td>B</td>
<td>*</td>
<td>1.95</td>
</tr>
</tbody>
</table>

* The DOH Sentry database does not specify a water system type.

1 Volume from Water Right Documents.

2 Volume from number of lots served at an allocation of 0.39 afy per lot.

On the Lummi Reservation, the CWSSA (and thus the applicability of the CWSP) only applicable—includes fee lands within existing service areas that are under state and County jurisdiction and are not currently receiving water service from the Lummi Indian Nation. The settlement agreement allows individuals and public water systems that have rights to the state allocation to transfer their rights to the Lummi Nation in exchange for being connected to the larger Lummi Tribal Water District Lummi Nation Peninsula water system. Some public water systems have done this since the 2000 CWSP update.

In 2004, the Gooseberry Point Water Association settled separately with the Lummi Nation and agreed to have their water system integrated into the larger Lummi Tribal Water District Lummi Nation Peninsula water system. With this change, the Gooseberry Point Water Association no longer falls within the definition of the CWSSA; therefore, it is no longer included in the CWSP.

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2 The Lummi Nation disputes any jurisdiction by the State of Washington or Whatcom County within the external boundary of the reservation, regardless of the status of land ownership and water purveyor. The DOH’s position is The Washington State Department of Health (DOH) indicated that the U.S. EPA has jurisdiction over those systems on the reservation that are either Lummitribally—owned or have been integrated into the Lummi Tribal Water District System. The EPA can, but currently does not, regulate the non-tribalLummi-owned systems that are on the reservation. The DOH is in discussions with the EPA to identify which agency has authority over systems within the Lummi Reservation. In the absence of the EPA exerting its authority, the non-tribalLummi-owned systems within the reservation are, for the purposes of this CWSP update, considered to be under the jurisdiction of the DOH. For this reason, the County has elected to continue to include those state and County-regulated water systems located on the reservation as part of this CWSP.
In 2007, shortly after the settlement agreement was implemented, Gulfside Mobile Home Park, which served six connections, was purchased by the Lummi Nation. In 2011, this system was connected to the larger Lummi Tribal Water District Lummi Nation Peninsula water system. With these changes, the Gulfside Mobile Home Park public water system no longer falls within the definition of the CWSSA and is no longer governed by the CWSP.

The Lummi Nation disputes any jurisdiction by the State of Washington or Whatcom County within the external boundary of the reservation, regardless of the status of land ownership and water purveyor. The Washington State Department of Health (DOH) indicated that the U.S. EPA has jurisdiction over those systems on the reservation that are either tribally owned or have been integrated into the Lummi Water System. The EPA can, but currently does not, regulate the non-tribal systems that are on the reservation. The DOH is in discussions with the EPA to identify which agency has authority over systems within the Lummi Reservation. In the absence of the EPA exerting its authority, the non-tribal systems within the reservation are, for the purposes of this CWSP update, considered to be under the jurisdiction of the DOH. For this reason, the County has elected to continue to include those state and County regulated water systems located on the reservation as part of this CWSP.

8.1.2 Public Water Systems on Lummi Reservation Outside of Peninsula Settlement Area

There are also a few non-tribal-Lummi-owned public water systems that are located inside the boundaries of the reservation, but outside of the peninsula settlement area discussed above. These water systems are identified in Table 8-2.

<table>
<thead>
<tr>
<th>Water System Name</th>
<th>Group</th>
<th>Public Water System ID</th>
<th>Water System Type</th>
<th>Annual Volume (afy)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sandy Point Improvement Company</td>
<td>A</td>
<td>76105</td>
<td>Comm</td>
<td>143</td>
</tr>
<tr>
<td>Fertile Meadows Water Association</td>
<td>B</td>
<td>24900</td>
<td>Comm</td>
<td>187 or 107 (uncertainty in water right record)</td>
</tr>
<tr>
<td>Neptune Beach Water Association</td>
<td>A</td>
<td>58950</td>
<td>Comm</td>
<td>35</td>
</tr>
</tbody>
</table>

1 Volume from Water Right Documents.
2 Group B water systems are not categorized by water system type.
3 Fertile Meadows Water Association and River Road Water Association (which is outside of the Lummi Reservation) utilize the same well as a source.

The service areas of these water systems are either wholly located within the boundaries of the Lummi Reservation or they straddle the reservation boundary (Figure 8-1). These systems are included in the CWSSA.

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8.1.3 Tribal Claims of Treaty-reserved Fishing and Water Rights

In addition to the settlement efforts related to the ground-water of the Lummi Peninsula, in March 2011, the Nooksack Tribe, in a letter to the U.S. Department of the Interior, requested "that the United States commence litigation against the State of Washington for the purpose of obtaining a declaratory judgment that quantifies the Nooksack Tribe’s treaty reserved water rights and enjoins the issuance of, or reliance upon, state water permits that would impair these rights." The Lummi Nation sent a similar request in June 2011.

In their letters, the Nooksack Tribe and the Lummi Nation made three principal assertions:

1. The Lummi Nation and the Nooksack Indian Tribe have federal reserved water rights for instream flows necessary to support its treaty fishery;

2. The Lummi Nation and the Nooksack Indian Tribe have federal reserved rights in an amount necessary to fulfill the “homeland” purposes of their reservations, including, but not limited to, instream flow for treaty fisheries; and

3. Federal action is necessary to protect and preserve Lummi Nation and Nooksack Tribe water rights and the Lummi Nation and Nooksack Tribe treaty fishery.

In their letters to the U.S. Department of the Interior, the Lummi Nation and Nooksack Tribe cited the failure of ongoing negotiations to resolve these issues locally. The water rights in the Nooksack Basin (Water Resource Inventory Area (WRIA) 1) have not been the subject of a general stream adjudication. The Lummi Nation and Nooksack Tribe’s assertion of treaty-based water rights held in trust by the federal government has not been established by the courts and no such rights have been quantified by either the federal government or a general stream adjudication.

As of publication of this CWSP, no response has been provided by the United States. The ultimate resolution of these issues will have significant implications for all water users in the County. All water users, including public water systems, are encouraged to closely monitor any actions taken by the United States on behalf of the Lummi Nation and the Nooksack Tribe, and to become actively involved in any local efforts aimed at the resolution of these issues, which are beyond the scope of this CWSP update.

8.2 Water Rights

A water right summary for each of the Group A community water systems is contained in Appendix 1 and discussed in more detail in Section 3. Appendix 2 includes a brief description of the water rights procedures that have been in place for many years. The appendix also highlights changes in water right procedures since 2000 that are applicable to public water supplies.

8.2.1 Background

The water rights procedures that have been in place for many years in the State of Washington are based on the State Surface Water Code of 1917 (Chapter 90.03 RCW), the State Ground Water Code of 1945 (Chapter 90.44 RCW), and the various state regulations adopted by Ecology and its predecessor agencies for administration of these two codes.

Historically, Ecology has been charged with processing water right applications. The typical process applies to either a new application to appropriate public surface or ground waters, or an
application for change to an existing right. The typical steps for this process are included in Appendix 2. As a result of Washington State Supreme Court decisions and other factors affecting the complex decision-making process for water rights, Ecology has revised some policies and procedures that may affect public water supply projects.

8.2.2 Postema Case

Postema v. Pollution Control Hearings Board, et al. (2000) raised issues as to what Ecology’s obligations are when analyzing an application to withdraw groundwater that is interconnected to surface water (“hydraulic continuity”). The Supreme Court ruled that the legal test of impairment (i.e., whether the withdrawal of groundwater affects the volume of surface water that it is connected with) is “no impairment.” Hydraulic continuity between groundwater and a stream where instream flows are not met part of the year is not sufficient to find impairment; impairment must be determined on a case-by-case basis. And finally, the court also ruled that an application for a withdrawal from groundwater in hydraulic continuity with a closed stream must be denied if that withdrawal will affect the flow or level of the surface water. This is the decision that is often referred to as the “one-molecule rule” for the determination of hydraulic continuity.

8.2.3 Municipal Water Law

In 2003, the Washington State Legislature significantly amended Washington water law to provide clarity on the nature of water rights issued for municipal supply purposes, and flexibility to municipal water suppliers in exercising their water rights. (SES S HB 1338; Chapter 5, Laws of 2003; 58th Legislature; 2003 1st Special Session; Municipal Water Supply – Efficiency Requirements. In a unanimous decision on October 28, 2010, the Washington State Supreme Court upheld the constitutionality of this Municipal Water Law.) The Municipal Water Law (MWL) defines the terms “municipal water supplier” and “municipal water supply purposes;” defines when the “place of use” could be the same as a municipal water supplier’s service area; establishes that municipal water rights are not limited to the stated number of connections on a water right but to the number of connections approved in a water system plan; and requires specific water use efficiency (WUE) practices and planning. Under the law, utilities must use water efficiently.

To help in understanding the MWL, Ecology developed its 2003 Municipal Water Law Interpretive and Policy Statement, POL-2030. This policy is included as Appendix 3 of this CWSP.

Background

Traditionally, Ecology issued water right certificates to public water systems when they demonstrated the ability to serve water to customers within their service area, regardless of whether or not water was actually being provided to the entire area. This was in recognition of the fact that many systems construct their distribution system but recognize that it may be some time before the area is fully built out and all parcels within the service area are using water. Such certificates have come to be known as pumps and pipes certificates because they were issued when the utility could demonstrate it had installed the necessary pumps and pipes to provide water within its service area. The water that is in the water right certificate stage but has not yet been placed to beneficial use is called an inchoate water right. In the Theodoratus case (1998), the Supreme Court found that Ecology erred in issuing such certificates. Following this decision,
Ecology no longer issues such certificates; Ecology waits until water is actually put to beneficial use before issuing a water right certificate. The court’s decision raised questions about the validity of the pumps and pipes certificates. The municipal water law decision decreed that such certificates are in good standing (RCW 90.03.330(3)). Ecology has interpreted this portion of the Court’s decision based on the proposition that by including the term “in good standing” for such certificates, the Legislature intended that holders of such rights would still have to meet other water law principles, such as reasonable diligence in project development to keep the rights in good standing. (See Ecology Policy POL 2030 at RCW 90.03.330(3).)

The Supreme Court decision means that inchoate portions of a water right that are found to be in good standing are eligible for change or transfer, which could allow that inchoate water to be transferred to another municipal water supplier or integrated into a regional water supply system.

Under RCW 90.44.100, inchoate groundwater rights can be changed or transferred, but inchoate surface water rights for municipal purposes can be changed or transferred only if criteria under RCW 90.03.570 are met. In determining whether an inchoate groundwater right remains in good standing and is valid for change, Ecology considers the three parameters described on page 8 of POL 2030:

- The original intent described in the water right document including the nature of the project the original applicant sought to pursue;
- Whether there was reasonable diligence to complete the project sought to be developed through the water right; and
- Whether or not approval of the change would be contrary to the public interest.

**MWL**

The Municipal Water Law was intended to clarify which water rights were for municipal water supply purposes and to enable the holders of those water rights to meet the demands of serving growing communities more easily. In addition, the law also required the holders of such rights to engage in WUE measures to improve the efficiency of their systems.

The law included the following definitions per RCW 90.03.015:

(3) "Municipal water supplier" means an entity that supplies water for municipal water supply purposes.

(4) "Municipal water supply purposes" means a beneficial use of water: (a) For residential purposes through fifteen or more residential service connections or for providing residential use of water for a nonresidential population that is, on average, at least twenty-five people for at least sixty days a year; (b) for governmental or governmental proprietary purposes by a city, town, public utility district, county, sewer district, or water district; or (c) indirectly for the purposes in (a) or (b) of this subsection through the delivery of treated or raw water to a public water system for such use. If water is beneficially used under a water right for the purposes listed in (a), (b), or (c) of this subsection, any other beneficial use of water under the right generally associated with the use of water within a municipality is also for "municipal water supply purposes," including, but not limited to, beneficial use for commercial, industrial, irrigation of parks and open spaces, institutional, landscaping, fire flow, water system maintenance and repair,
or related purposes. If a governmental entity holds a water right that is for the purposes listed in (a), (b), or (c) of this subsection, its use of water or its delivery of water for any other beneficial use generally associated with the use of water within a municipality is also for "municipal water supply purposes," including, but not limited to, beneficial use for commercial, industrial, irrigation of parks and open spaces, institutional, landscaping, fire flow, water system maintenance and repair, or related purposes.

Note that, in identifying the "governmental entities" that are eligible to hold municipal purpose water rights, the legislature identified cities, towns, public utility districts, counties, sewer districts, and water districts.

If the beneficial use of water by a public water system meets the definition of municipal water supply purposes, then that entity is considered a municipal water supplier regardless of the purpose of use stated on their water right. The result is that all water systems whose purpose of use on their water rights is domestic, community domestic, group domestic, or some other term but whose use meets the definition, are now considered municipal water suppliers. Such water right holders are not required to modify their water rights but may request that Ecology "conform" their rights to municipal purpose if desired under RCW 90.03.560.

RCW 90.14.160 states that:

...any person entitled to divert or withdraw waters of the state...who abandons the same, or who voluntarily fails, without sufficient cause, to beneficially use all or any part of said right to divert or withdraw for any period of five successive years after July 1, 1967, shall relinquish such right or portion thereof, and said right or portion thereof shall revert to the state, and the water affected by said right shall become available for appropriation in accordance with RCW 90.02.250.

RCW 90.14.140 provides exemptions from the relinquishment provision above by defining what constitutes "sufficient cause" for the non-use of all or a portion of the water by the owner of a water right for a period of 5 or more consecutive years. RCW 90.14.140(2)(d) states the user has sufficient cause for non-use: "If such right is claimed for municipal water supply purposes under chapter 90.03 RCW." Thus, municipal water supplies are not subject to relinquishment. However, such water rights can be lost in cases where the water right is found to be abandoned (Okanogan Wilderness League, Inc., 133 Wash. 2nd at 781).

In addition to the issuance of pumps and pipes certificates as discussed previously, Ecology also often included the anticipated maximum number of connections that would be served by the public water system and viewed this number as a limitation on the water right. In other words, if the applicant sought an amount of water to serve 65 homes, they would be limited to serving water to only 65 homes, even if the applicant still had water remaining in their water right. RCW 90.03.260(4) and (5) provide that the maximum population or number of connections specified on an application or any subsequent water right documents for a municipal water supply right is no longer a limitation of the water right. The municipal water supplier must have an approved water system plan or an approval from the Department of Health to serve a specified number of service connections to not be subject to this limit. Also, DOH is responsible for determining the approved
number of connections. (Note that other water right provisions such as the requirement for metering and reporting data and screening intakes still apply.)

All water rights describe a place of use in which the water may be put to beneficial use. Generally speaking, if a water right holder wanted to change the place of use of their water right, they were required to submit a water right change application; Ecology would need to process that application and make a determination of whether the change could be approved. This process often took a long time due, in part, to the backlog of water rights, but it did allow for notification of potentially affected third parties via a legal notice process. The Municipal Water Law provided another avenue for changing the place of use of a municipal purpose water right.

Under RCW 90.03.386(2), a municipal water supplier may now modify their place of use of water by amending their water system plan or an engineering document that is approved by DOH. In submitting the document to DOH, the system must attest that the change is in compliance with their water system plan and is “not inconsistent” with other local planning documents. This change eliminated the need to file a water right change application with Ecology in order to change the place of use specified for the water right. However, it is still necessary to file a change application if the supplier wants to change the point of withdrawal or diversion of a municipal water right.

Appendix 3 is Ecology’s Municipal Water Law Interpretive and Policy Statement. In the discussion of RCW 90.03.330(3) on page 8, it states:

“Inchoate portions of water rights for municipal supply purposes found to be in good standing through this assessment (mentioned above), are eligible for change or transfer. This approach may, among other things, allow for the inchoate portion to be transferred to another municipal water supplier or integrated into a regional water system.”

Ecology views the municipal water law as a law that is intended to make the management of municipal water supplies easier and less cumbersome and that includes interties as they relate to the potential creation of regional water supplies. Systems wishing to develop new interties are advised to consult with both Ecology and DOH early in the process to ensure that the proposal addresses the concerns of these agencies.

Another key element of the Municipal Water Law related to WUE is discussed in more detail in Section 8.7.

The DOH and Ecology share responsibilities under the Municipal Water Law, and have developed agreements to coordinate planning, engineering, and public health and safety matters relating to water systems and water resources. The DOH is responsible for ensuring safe and reliable drinking water, and reviews and approves planning and engineering documents for water systems. Ecology administers the state’s Water Resource Program, including water rights administration and watershed planning.

8.2.4 Changes or Transfers of Water Rights

In 2001, the legislature amended RCW 90.03.380 and 90.44.100, to clarify that Ecology could process applications for changes to existing water rights in a separate line from applications requesting new water rights. This splitting of the processing lines has reduced the processing time for change applications considerably.
8.2.5 Exempt Well Consolidation

Under RCW 90.44.105, it is possible for a water system to obtain additional water rights when it connects to an entity that was previously supplied by a permit-exempt withdrawal. For this to happen, all of the following must be satisfied.

1. The water system must hold a groundwater right whose point of withdrawal taps the same body of public groundwater as the permit-exempt well.

2. Use of the permit-exempt well shall be discontinued upon approval of the consolidation.

3. A legally enforceable agreement must prohibit construction of another exempt well to serve the area previously served by the permit-exempt well and must be binding on future property owners.

4. The permit-exempt well must be properly decommissioned.

5. Other existing water rights cannot be impaired because of the consolidation.

The rate and volume of water added to the water system’s groundwater right is equivalent to the permit-exempt use that has been established through beneficial use, not to exceed 5,000 gpd. Ecology is required to make a decision on exempt well consolidation applications within 60 days of the end of the comment period following public notice. Therefore, this process is faster than the typical water right change application process.

Exempt well consolidation is generally supported within the CWSSA because it reduces the number of wells in a particular source, does not impact the amount of water available for the water system to serve existing or future customers, and has the potential to improve the quality of water delivered to the end user.

8.2.6 New or Replacement Wells

In 1997, the Legislature enacted new provisions of RCW 90.44.100 (the State Groundwater Code). The provisions, which are codified at RCW 90.44.100(3) and RCW 90.44.100(4), state:

3) The construction of a replacement or new additional well or wells at the location of the original well or wells shall be allowed without application to the department for an amendment. However, the following apply to such a replacement or new additional well: (a) The well shall tap the same body of public groundwater as the original well or wells; (b) if a replacement well is constructed, the use of the original well or wells shall be discontinued and the original well or wells shall be properly decommissioned as required under chapter 18.104 RCW; (c) if a new additional well is constructed, the original well or wells may continue to be used, but the combined total withdrawal from the original and additional well or wells shall not enlarge the right conveyed by the original water use permit or certificate; (d) the construction and use of the well shall not interfere with or impair water rights with an earlier date of priority than the water right or rights for the original well or wells; (e) the replacement or additional well shall be located no closer than the original well to a well it might interfere with; (f) the department may specify an approved manner of construction of the well; and (g) the...
department shall require a showing of compliance with the conditions of this subsection (3).

4) As used in this section, the “location of the original well or wells” is the area described as the point of withdrawal in the original public notice published for the application for the water right for the well.

Use of RCW 90.44.100(3) is only available to holders of state-issued groundwater permits and certificates. This process is not available to holders of a water right claim, as water right claims do not go through the public notice process. This process is also not available to holders of surface water rights.

The “location of the original well or wells” means within the same area advertised as the point of withdrawal in the legal notice that was published for the original water right. While this is typically the quarter-quarter section, it does vary, and whatever is listed in the published legal notice constitutes the “location of the original well or wells.”

The drilling of a new or replacement well under this section does not require an application to change an existing water right. Instead, it requires submittal of a notarized showing of compliance to Ecology identifying the changes made and compliance with the terms of this section. This form is available at Ecology’s website at: https://fortress.wa.gov/ecy/publications/UIPages/PublicationList.aspx?IndexTypeName=Program&NameValue=Water%20Resources&DocumentTypeName=Form.

Ecology does not approve or deny such submittals. The affidavit is simply to provide notification to Ecology of the changes being made. Public water systems making such changes also are advised to notify the DOH of the additional or replacement wells to ensure that the system obtains source approval from the DOH for these new facilities.

8.3 Financial Viability of Small Systems

Financial viability is defined as “the ability to obtain sufficient funds to develop, construct, operate, maintain, and manage a public water system in full compliance with local, state, and federal requirements on a continuous basis,” (DOH Publication No. 331-405 Revised, August 2013). DOH urges that water systems should be run like a business.

Due to financial constraints, many small water systems are not able to make required system improvements or upgrades, and are not considered financially viable as a result. Currently, DOH records indicate that there are 183 active Group A water systems in Whatcom County, with 164 inside the CWSSA, and 19 outside of the CWSSA. It is not known how many of these systems are financially viable.

The DOH identified the following benefits of financial viability for small water systems:

1. Predictable funding for capital improvements;
2. Improved system efficiency;
3. Cost savings;
4. Eligibility for grants and loans;
5. Emergency response; and
6. Peace of mind.  
The DOH identified the following guidelines for public water systems to work towards financial viability:
1. Develop an operating budget;
2. Evaluate rates for adequacy;
3. Create and fund an operating cash reserve;
4. Create and fund an emergency reserve; and
5. Create and fund reserves for capital improvements and equipment replacement.

It is recommended that all public water systems evaluate their systems according to the DOH guidelines and identify any needed changes to ensure their long-term financial viability. To that end, the Rural Community Assistance Corporation has free financial viability software available online at http://www.rcac.org/home.

For additional information, visit the DOH Drinking Water website at: http://www.doh.wa.gov/CommunityandEnvironment/DrinkingWater.

8.4 Existing and Potential Water Quality Problems

Water quality data in this section was obtained from the DOH's Sentry database. No attempt was made to identify additional data, or to verify that all systems have submitted a report as required.

Water quality issues throughout the County can be categorized as discussed in the following subsections. WCC 24.11 requires public water systems and private water supplies to comply with water quality standards that vary depending on the type of water supply being developed. Public water systems that have contaminants exceeding the Maximum Contaminant Levels (MCLs) specified in WAC 246-290-310 will not be approved. Private water systems that exceed MCLs are required to provide treatment to reduce the concentration of regulated contaminants to levels below the MCL to gain approval.

8.4.1 Bacteriological Contamination

Surface water sources must be consistently treated to remove bacteria. Failure to operate and maintain the treatment system will usually result in bacteriological MCL violations.

According to DOH records, 38 water systems in the CWSSA performed coliform tests that showed a presence of the bacteria in 2013.

In general, causes for these violations are attributed to improper well construction, groundwater under the direct influence of surface water, lack of reservoir maintenance, improper disinfection of repairs and new lines, improper sampling technique, disinfection system malfunction, and cross connections. Except for unusual circumstances, such as a direct conduit of sewage into an aquifer in the immediate vicinity of a well, the causes of bacteriological contamination in distribution systems are easily corrected through operation and maintenance procedures.
8.4.2 Nitrate

In 1997, six water systems exceeded the MCL for nitrate, which is 10.0 milligrams per Liter (mg/L), and 15 water systems were above 5 mg/L for nitrate. In 1998, seven water systems exceeded the MCL for nitrate, and 16 water systems were above 5 mg/L for nitrate. As shown in Table 8-3 and on Figure 8-2, according to DOH data, 18 active public water systems have had at least one water quality sample that has exceeded the MCL for nitrate at least one time from January 2005 to June 2015. Of those systems, 10 have average nitrate concentrations that are greater than 10.0 mg/L, 5 have average nitrate concentrations that are between 5.0 and 10.0 mg/L, and 3 have average nitrate concentrations that are less than 5.0 mg/L. The U.S. Geological Service, in their report entitled Hydrogeology, Ground Water Quality, and Sources of Nitrate in Lowland Glacial Aquifers of Whatcom County, Washington, and British Columbia, Canada reported that there are areas within the study area where nitrate levels are declining and areas where the nitrate levels are increasing. This data suggests that nitrate contamination of public water supply wells is a current concern that warrants continued monitoring.
Table 8-3
Public Water Systems with a Source that has had a Water Quality Sample that Exceeded the Nitrate MCL of 10.0 mg/L at Least Once from 2005 through June 2015

<table>
<thead>
<tr>
<th>Water System Name</th>
<th>Public Water System ID</th>
<th>Group</th>
<th>Water System Type*</th>
<th>Total Number of Samples</th>
<th>Category</th>
</tr>
</thead>
<tbody>
<tr>
<td>Delta Water Association</td>
<td>18750</td>
<td>A</td>
<td>Comm</td>
<td>85</td>
<td></td>
</tr>
<tr>
<td>East Badger Water Association</td>
<td>37823</td>
<td>B</td>
<td>-</td>
<td>26</td>
<td></td>
</tr>
<tr>
<td>Ehlers Labor Camp</td>
<td>58951</td>
<td>A</td>
<td>TNC</td>
<td>11</td>
<td></td>
</tr>
<tr>
<td>Hoag Acres Water System</td>
<td>59730</td>
<td>B</td>
<td>-</td>
<td>4</td>
<td></td>
</tr>
<tr>
<td>Line Road Water Association</td>
<td>47385</td>
<td>B</td>
<td>-</td>
<td>1</td>
<td>Average and maximum concentration greater than 10.0 mg/L</td>
</tr>
<tr>
<td>Lynden Valley View Association</td>
<td>91001</td>
<td>B</td>
<td>-</td>
<td>1</td>
<td></td>
</tr>
<tr>
<td>Northwood Park</td>
<td>62135</td>
<td>A</td>
<td>Comm</td>
<td>41</td>
<td></td>
</tr>
<tr>
<td>Northwood Water Association</td>
<td>62150</td>
<td>A</td>
<td>Comm</td>
<td>43</td>
<td></td>
</tr>
<tr>
<td>Rader Farms Labor Camp</td>
<td>56829</td>
<td>A</td>
<td>TNC</td>
<td>66</td>
<td></td>
</tr>
<tr>
<td>Rathbone Park Water Association</td>
<td>71290</td>
<td>A</td>
<td>Comm</td>
<td>81</td>
<td></td>
</tr>
<tr>
<td>Belfern West</td>
<td>09899</td>
<td>A</td>
<td>Comm</td>
<td>54</td>
<td></td>
</tr>
<tr>
<td>Century Water Association</td>
<td>00601</td>
<td>A</td>
<td>Comm</td>
<td>45</td>
<td>Average concentration between 5.0 and 10.0 mg/L</td>
</tr>
<tr>
<td>Delta Grocery Water System</td>
<td>08255</td>
<td>A</td>
<td>TNC</td>
<td>9</td>
<td>Maximum concentration greater than 10.0 mg/L</td>
</tr>
<tr>
<td>Evergreen Drive Water Association</td>
<td>02400</td>
<td>B</td>
<td>-</td>
<td>4</td>
<td></td>
</tr>
<tr>
<td>Vicente Farms &amp; Sons – Enterprise</td>
<td>56831</td>
<td>A</td>
<td>TNC</td>
<td>40</td>
<td></td>
</tr>
<tr>
<td>Covenant Christian School</td>
<td>15596</td>
<td>A</td>
<td>NTNC</td>
<td>41</td>
<td>Average concentration less than 5.0 mg/L</td>
</tr>
<tr>
<td>Raspberry Ridge Water Association</td>
<td>27631</td>
<td>A</td>
<td>Comm</td>
<td>16</td>
<td>Maximum concentration greater than 10.0 mg/L</td>
</tr>
<tr>
<td>Wiser Lake Kingdom Hall Jehovahs</td>
<td>61494</td>
<td>A</td>
<td>TNC</td>
<td>36</td>
<td></td>
</tr>
</tbody>
</table>

*Comm = Community; NTNC = Non-transient Non-community; TNC = Transient Non-community

Most of the impacted systems are located in the northern part of the County, near the City of Lynden, with the source of supply being the Abbotsford-Sumas aquifer (Figure 8-2). This particular aquifer is susceptible to nitrate contamination because it is unconfined, it is relatively thin (approximately 40 feet thick), and the depth to the water table is often less than 10 feet.

Public water systems are required to monitor nitrates quarterly for new sources and where annual monitoring indicates nitrate levels above 5 mg/L. Any existing system with a nitrate sample greater than 10 mg/L (the MCL) must provide treatment and collect a confirmation sample. For systems treating for nitrates, monthly sampling is required to ensure the treatment is working properly.
Nitrate sources include failing on-site sewage systems, and past and present improper manure or fertilizer application or storage. The July 1992 Environment Canada study of nitrates and pesticides in the Abbotsford-Sumas aquifer shows nitrate levels over 10 mg/L in 60 percent of the wells sampled in the south Matsqui area. This study is significant to Whatcom County because the regional groundwater flows in the southern part of the Abbotsford-Sumas aquifer is generally southward, according to the Environment Canada study.

In May 1998, Ecology completed the Sumas-Blaine Surficial Aquifer Nitrate Characterization Study (Publication No. 98-310). Of the 250 sources sampled for nitrate in this study over a 10-week period, about 21 percent exceeded the 10 mg/L MCL for nitrate. According to the study, elevated nitrate levels in drinking water sources are associated with up-gradient agricultural land use practices. The nitrate levels in drinking water sampled ranged from less than the detection limit (0.01 mg/L) to 53 mg/L. The results of this study indicate the Sumas-Blaine surficial aquifer has elevated nitrate concentrations in the groundwater.

The United States Geological Survey completed a study titled Hydrogeology, Ground-Water Quality, and Sources of Nitrates in Lowland Glacial Aquifers of Whatcom County, Washington, and British Columbia, Canada (Water-Resources Investigations Report 98-4195) in 1999. This study similarly showed that the majority of nitrate contamination to groundwater occurs in the Abbotsford-Sumas aquifer. This study concluded that the main contributors to nitrate in groundwater were dairy manure applied to cropland, mineralization of soil organic matter, inorganic nitrogen fertilizers, leakage from manure lagoons, redisposition of nitrogen volatilized from manure, septic tank effluent, and residential fertilizer use.

Figure 8-2 shows the spatial distribution of the water system service areas that are impacted by nitrate concentrations above the MCL in at least one of their sources. Some systems are blending sources to reduce the nitrate concentration before the water is distributed, while other water systems continue to exceed the MCL.

One option to assist water systems dealing with high nitrate groundwater includes transmission of water from uncontaminated sources, such as the City of Blaine, City of Sumas, Public Utility District No. 1 of Whatcom County (PUD), and City of Lynden. The most difficult part of this potential solution is the distance between the sources (Blaine, Sumas, and the PUD), and the water right uncertainty for the City of Lynden.

8.4.3 Arsenic

Elevated arsenic levels in Whatcom County are found in systems using a groundwater source and is the result of the natural weathering of certain types of arsenic-bearing bedrock and sediments, as opposed to human contamination. Figure 8-2 shows that elevated arsenic in groundwater is most prevalent in southern and western Whatcom County, with five of the systems being located on northern Lummi Island.

Historically, arsenic problems in general appeared to be limited to four public water systems on Lummi Island. In the 2000 CWSP update, it was reported that only one public water system exceeded the MCL for arsenic of 50 parts per billion (ppb) in effect at that time. In 2001, the EPA adopted a new lower standard for arsenic in drinking water of 10 ppb, which went into effect on January 23, 2006. The adoption of this new standards means new water systems sources or expansions of systems exceeding the MCL will not be approved without installation of an approved treatment system.
Table 8-4 lists water systems that had raw water samples that yielded at least one arsenic exceedance in the period from 2005 to 2015. All of these systems have either moved to a new source or are blending their water or treating it to achieve arsenic levels that are below the MCL.

**Table 8-4**

**Public Water Systems that have had Raw Water from a Source Exceed the Arsenic MCL of 10 ppb at Least Twice from 2005 through June 2015**

<table>
<thead>
<tr>
<th>Water System Name</th>
<th>Public Water System ID</th>
<th>Group</th>
<th>Water System Type ¹</th>
</tr>
</thead>
<tbody>
<tr>
<td>Acme Water District No. 18</td>
<td>00250</td>
<td>A</td>
<td>Comm</td>
</tr>
<tr>
<td>Fairfield MHP</td>
<td>02601</td>
<td>A</td>
<td>Comm</td>
</tr>
<tr>
<td>Hilltop Water Owners Association ²</td>
<td>33364</td>
<td>A</td>
<td>Comm</td>
</tr>
<tr>
<td>Isle Aire Beach Association ²</td>
<td>36368</td>
<td>A</td>
<td>Comm</td>
</tr>
<tr>
<td>Pleasant Valley Water System</td>
<td>67900</td>
<td>A</td>
<td>Comm</td>
</tr>
<tr>
<td>Sandy Point Improvement Company</td>
<td>76105</td>
<td>A</td>
<td>Comm</td>
</tr>
<tr>
<td>Cornwall Church of God Water System</td>
<td>07028</td>
<td>A</td>
<td>NTNC</td>
</tr>
<tr>
<td>Marine View Estates Water System ²</td>
<td>50155</td>
<td>B</td>
<td></td>
</tr>
</tbody>
</table>

¹ Comm = Community; NTNC = Non-transient Non-community; TNC = Transient Non-community
² System located on Lummi island.
³ Group B water systems are not characterized by water system type.

Any new sources of water should be evaluated to determine whether they contain arsenic at levels of concern. If they do, appropriate actions should be taken, ranging from a decision not to develop that source of water to blending with other sources to achieve adequate water quality to treating the water to reduce arsenic concentrations to acceptable levels.

### 8.4.4 Surface Water and Groundwater under the Influence of Surface Water Sources

Public water systems using groundwater under the influence of surface water (GWI) are at risk of contamination by microbiological pathogens and are required to treat water under the Surface Water Treatment Rule (SWTR). Potential GWI is defined in WAC 246-290-010(189), and the GWI determination process is defined in WAC 246-290-640.

DOH considers all spring sources and wells less than 50 feet deep and within 200 feet of surface water to be potential GWI sources. These water systems must conduct either water quality monitoring, or a hydrogeologic investigation to determine if the source is hydraulically connected with the surface water. Water quality monitoring includes 12 months of testing the source water and surface water for water quality parameters such as temperature, turbidity, and conductivity. Other GWI sources include springs, water systems with bad water quality, and water systems associated with a disease outbreak. If, at the conclusion of the initial monitoring, the source appears to be "hydraulically connected" to surface water, the water system must...
reconstruct the source to eliminate any surface water; install a disinfection system with a minimum contact time (CT) of 6 (concentration x contact time); and conduct microscopic particulate analysis (MPA) to determine the source’s relative risk to the presence of surface water organisms such as *Giardia* and *Cryptosporidium*. If these surface water organisms are present, the source is classified as a surface water source and treatment is required.

The seven systems in the CWSSA listed in **Table 8-5** were evaluated by the DOH (c. 2005) as “potential” GWI sources. All seven of these systems were determined not to be GWI as described in the “GWI Status” column of **Table 8-5**.

**Table 8-5**

<table>
<thead>
<tr>
<th>Water System Name</th>
<th>Public Water System ID</th>
<th>Group</th>
<th>Water System Type</th>
<th>GWI Status*</th>
</tr>
</thead>
<tbody>
<tr>
<td>Samish Park</td>
<td>15064</td>
<td>A</td>
<td>TNC</td>
<td>D-GW(MPA)</td>
</tr>
<tr>
<td>Deming Water Association</td>
<td>18800</td>
<td>A</td>
<td>Comm</td>
<td>D-GW(MPA)</td>
</tr>
<tr>
<td>Double L Mobile Home Park</td>
<td>19890</td>
<td>A</td>
<td>Comm</td>
<td>D-GW(MPA)</td>
</tr>
<tr>
<td>Evergreen Retreat MHP</td>
<td>24164</td>
<td>A</td>
<td>Comm</td>
<td>D-GW(MPA)</td>
</tr>
<tr>
<td>Glacier Springs Water System</td>
<td>27755</td>
<td>A</td>
<td>Comm</td>
<td>D-GW</td>
</tr>
<tr>
<td>Plantation Range</td>
<td>52681</td>
<td>A</td>
<td>TNC</td>
<td>D-GW(MPA)</td>
</tr>
<tr>
<td>Slavic Gospel Church Water System</td>
<td>AA034</td>
<td>A</td>
<td>TNC</td>
<td>D-GW(MPA)</td>
</tr>
</tbody>
</table>

*GWI Status key:

- D-GW(MPA) means system was determined to be groundwater based on water quality monitoring (MPA results) and are required to disinfect to CT6.
- D-GW means source was determined to be groundwater based on water quality monitoring (temp, conductivity) and no disinfection treatment is needed.

The DOH indicated that now that the groundwater rule is in effect they may conduct assessment source water monitoring under WAC 246-290-300(3)(e), which could lead to new interpretation and implementation around the definition of potential GWI. This may occur for wells that tap shallow, unconfined aquifers with indicators of surface contamination risk (e.g., nitrates in agricultural areas).

**8.4.5 Seawater Intrusion**

Seawater intrusion occurs from over pumping of groundwater in areas where the aquifer is hydraulically connected to seawater. Seawater intrusion results in excessive levels of chloride, sodium, and other related contaminants. The MCL for chloride is a secondary contaminant with a secondary MCL of 250 mg/L. Chloride concentrations above 100 mg/L this level in areas prone to seawater intrusion are generally considered to be an indicator that seawater intrusion is occurring. While seawater intrusion was reported to have been a historic issue for systems located along the marine shoreline, there are currently no public water systems in the CWSSA exceeding the secondary MCL for chloride.
While there is no established MCL for sodium at this time, the DOH can require treatment for chloride based on the Policy for Treatment of Secondary Contaminants, which considers consumer complaints.

8.4.6 Relic Saltwater

In many parts of Whatcom County, west of the Mount Baker – Snoqualmie National Forest, there is evidence of relic saltwater, especially in the deeper sediments. It is generally believed this is due to seawater that was trapped either within glacial sediments that were deposited when marine water covered the area or in sediment and bedrock that was already in place when marine water covered the area. Chloride levels in relic saltwater can exceed the MCL of 250 mg/L. The presence of relic saltwater is not considered a significant problem countywide but can be an issue in localized areas where it prevents the use of groundwater for potable supply.

8.4.7 Deep Wells

Deep wells have been drilled in many locations of the County, primarily for the following reasons: searching for a source that is not contaminated with nitrates or relic saltwater; searching for a deep aquifer that is not in hydraulic continuity with surface water bodies with the hopes of obtaining new water rights; and searching for a suitable aquifer storage and recovery reservoir. Some deep wells have successfully found productive aquifers with good water quality (primarily located in the vicinity of the City of Blaine), while the remainder drilled in the CWSSA have only tapped marginal, deep, unconsolidated, and bedrock aquifers that typically contain relic saltwater, as described above.

As of 2015, a suitable deep aquifer for aquifer storage and recovery has not yet been identified.

8.4.8 Volatile Organic Chemicals (VOCs) and Pesticides

Sandy soils overlying shallow aquifers in the County can allow agricultural chemicals applied to the ground to enter the drinking water easily. Many studies have been conducted since 1984 that provide information about water quality in northern Whatcom County. Ecology, among other agencies, has conducted several studies in the County, such as the 1986 Phase I Investigation of Sites in Whatcom County, the 1990 Washington State Agricultural Chemicals Pilot Study, and the 1991 Bertrand Creek EDB Site Study. These studies show the presence of soil fumigants such as 1,2-dichloropropane (1,2-DCP) and ethylene dibromide (EDB) in groundwater in specific areas of the County.

Historically, five water systems have detected 1,2-DCP at levels below the MCL of 5.0 mg/L. In 1998, only one water system detected 1,2-DCP (and the results were below the MCL. Historically, no EDB has been detected in public water system sources. Since 2000, no systems have exceeded the MCL for volatile organic chemicals although, as discussed below, some individual groundwater wells have been found to contain some volatile organic contaminants and EDB.

Ecology, the City of Lynden, and the Whatcom County Health Department (WCHD) collaborated to construct a pipeline to supply Nooksack River water for domestic supply to properties where the groundwater in private wells were contaminated with EDB and/or 1,2-DCP. The pipeline, called either the Bertrand Creek Water Main Extension or EDB-line, is connected to the City of Lynden’s water system. The extension consists of 5.4 miles of
distribution system for domestic service to approximately 51 existing residences with wells that were contaminated at the time of construction. The system has the capacity to serve up to 86 equivalent residential units, and is located on the following roads:

- Birch Bay Lynden Road from Tromp Road to 500 feet west of Bob Hall Road;
- Bob Hall Road from Birch Bay Lynden Road to 1,000 feet north of Birch Bay Lynden Road;
- Rathbone and Wiley’s Lake Roads from Birch Bay Lynden Road to 7,700 feet south of Birch Bay Lynden Road;
- Berthusen Road between Birch Bay-Lynden and Loomis Trail Road;
- Loomis Trail Road from Berthusen Road to approximately 600 feet west of Weidkamp Road; and
- Weidkamp Road for 1,000 feet north of Loomis Trail.

For the purposes of the EDB pipeline project, domestic supply refers to the use of water typically associated with human hygiene in a residence, specifically including potable supply for drinking and cooking, toilet flushing, hand washing, showers, bathing, etc. It also includes the use of water outside of the residence for up to 1/2 acre of non-commercial lawn and garden watering and other typical residential uses such as car washing. The human hygiene uses described above may also be associated with pre-existing commercial operation; however, the water may not be used for commercial purposes such as food processing, parts washing, industrial cooling, or any other types of industrial process activities (Source: Protested ROE for S1-28116, Department of Ecology).

In 2002, Ecology issued a water right permit to the City of Lynden (S1-28116P) for the water supply to serve the extension in an amount not to exceed an instantaneous diversion rate of 0.57 cubic feet per second (cfs) (approximately 266 gallons per minute) and an annual volume of 70 afy.

The water right established the following criteria under which a property is eligible to receive water under Ecology Report of Examination S1-28116, Recommendation No. 3:

Only property where 1,2-DCP has been detected by a certified laboratory at or above 2.5 parts per billion (one-half of the Maximum Contamination Level, or MCL, of 5.0 parts per billion or where EDB has been detected at or above 0.01 parts per billion (one-half the MCL of 0.02 parts per billion) are eligible to receive water pursuant to this permit. The level of 0.01 parts per billion is also the Practical Quantification Limit which is essentially the lowest level at which a substance can be reliably detected.

In 2007, a follow-up study was conducted to determine the current state of pesticides in groundwater in the Abbotsford-Sumas aquifer. The results of this study indicated that pesticides were still present in groundwater in some private water systems and that EDB, 1,2-DCP, and nitrates also remained contaminants of concern for users of wells in the Abbotsford-Sumas aquifer.

Metering data from 2004 through 2013 show that the amount of water utilized by those along the Bertrand Creek Water Main Extension has ranged from 11.83 afy in 2013 up to 19.31 afy in 2009.
8.4.9 Iron/Manganese

Iron (secondary maximum contaminant level (SMCL) of 0.3 mg/L) and manganese (SMCL of 0.05 mg/L) are aesthetic water quality problems through much of the sand and gravel aquifers in the County. Iron and manganese are naturally occurring substances that do not pose a known health threat, but can cause taste and staining problems if untreated. They are relatively common throughout much of the County, but can generally be treated with relative ease and reasonable costs.

8.5 Data Management and Lack of Water Quality and Quantity Data

8.5.1 Data Management

Implementation of many state laws, such as the State Environmental Policy Act, the Water Pollution Control Act, and the Water Resources Act of 1971, requires various agencies to collect water data. In addition, water data is generated from private well testing, solid waste site monitoring wells, surface and groundwater studies, hatchery facilities, and public water system testing. Water data is captured and maintained by a variety of federal, state, and local governments. There is no uniformity to the format, nomenclature, or units of measurement used in the data at this time.

At the state level, the DOH developed a drinking water database referred to as Sentry. The database is available on the Internet and provides local health departments and the general public with current information on public water systems in the County and the state. WCHD uses the Sentry database and is able to map Sentry data as needed. Data for private one- and two-party wells are captured as scanned documents and are not in a searchable database format that can be extracted for reports or mapping.

8.5.2 Quantity

There has been relatively little water quantity data collected in Whatcom County. Those that have been conducted include the Blaine Ground Water Management Study, the Lynden Everson Nooksack Sumas Ground Water Study, the Lummi Peninsula Aquifer Study, and the Lummi Island Ground Water Study. Due to funding limitations, the major focus of these studies has been on water quality. The LENS study, for example, was unable to thoroughly explore the physical availability and quality of groundwater at bedrock depths. If a deep aquifer existed, it would probably not be in hydraulic continuity with the closed surface water sources.

Since passage of the Municipal Water Law, most public water systems are now collecting data on current water usage and reporting that data to DOH on an annual basis. This data has been used in this CWSP and will be useful to those interested in reviewing the volume of water withdrawn and diverted for public water system use in the future. Most systems have source meters and all systems will eventually have individual service meters installed to enable data collection and analysis for different user categories. Water use data is necessary to evaluate the effectiveness of WUE efforts.

In addition, due to shallow aquifers, some water systems have wells that go dry during the summer and early fall. For these sources, interties with other water systems, emergency sources, and WUE measures may be options for increasing source reliability year-round.
The adoption of the WRIA 1 Watershed Management Plan was followed by development of the Lower Nooksack Strategy, which presented a number of action items necessary to meet the goals identified for the Lower Nooksack Sub-basin. In 2012, a water budget was developed for the area, a part of which was to be a groundwater model, to gain a better understanding of the hydrogeology and ground/surface water interaction potential in the region. In 2014, as a follow-up, local agencies initiated a groundwater modeling project that will better characterize groundwater quantity. The study area will focus primarily on the Lynden-Everson-Nooksack-Sumas portion of Whatcom County. The primary objective for this effort is to develop a groundwater model that ultimately has the ability to estimate potential temporal and spatial impacts to surface water resources from activities ranging from general (large scale) changes in land use to the use of an individual domestic/irrigation groundwater supply well.

8.5.3 Wellhead Protection

The DOH maintains a database of water quality results as submitted by public water systems known as the Sentry database. This database is available to local water systems and the general public.

Although the County has collected some information on water quality in the past, there is not a comprehensive map of groundwater sources, aquifer recharge areas, flow directions, aquifer yields, or aquifer discharging areas for water purveyors to use when selecting new sources or trying to protect their existing sources from contamination.

Under the 1996 amendments to the Safe Drinking Water Act (SDWA), Washington State is required to implement Source Water Assessment Programs (SWAP). The DOH has addressed this requirement by implementing a wellhead protection program, among others. This program ensures Group A water systems delineate the 1-, 5-, and 10-year time of travel for groundwater around the source(s), inventory potential contamination sources in the time of travel, and conduct a susceptibility assessment for each drinking water source. Most water systems can use a calculated fixed radius approach, but are encouraged to use a more sophisticated method (i.e., a hydrogeological consultant) if needed.

By developing the time of travel around the source water, water systems are able to comment on proposed land use issues that may impact water quality in the future. Furthermore, water systems can educate the users on protecting the groundwater through septic system maintenance, conserving water, and limiting the use of herbicides and pesticides on lawns and gardens.

During the update of the CWSP, the WUCC expressed the need for a process to incorporate results from delineating wellhead recharge areas or vital source protection areas into the Comprehensive Plan. The WUCC felt that the state and federal mandate for water utilities to delineate time-of-travel zones and wellhead protection plans is ineffective if these areas are not reflected as critical aquifer recharge areas by the Growth Management Act (GMA) and incorporated into land use decisions. To address this concern, it is recommended that Goal 11F, and especially Goal 11F.3, of the Comprehensive Plan should be coordinated with water resource information and protection efforts of water systems.
8.6 Lack of Joint Facilities and System Interties

8.6.1 Joint Facilities

Many times water systems will plan improvements without taking into account the plans of neighboring utilities. Through coordination, sharing a facility can sometimes eliminate duplication. Several types of shared source projects have proven to be very effective solutions to quantity, quality, and economic problems in the State of Washington. Advantages include:

- Combining sources can assist a utility in meeting water needs until additional sources can be developed.
- Neighboring systems experiencing quality problems can jointly afford the construction and maintenance costs of a treatment facility that is too expensive to provide separately.
- System reliability problems can be resolved by using different sources of supply during different time periods.
- Water of marginal quality may be combined with higher quality water to avoid the costs of treatment.

8.6.2 Interties

An intertie is an interconnection between public water systems that permits the exchange or delivery of water between the systems. An intertie can be used for emergency or seasonal supply, during repairs or facility maintenance only, or on a continual basis. Interties are recognized as a valuable management tool for public water systems because they improve overall system reliability, enhance the manageability of the system, provide opportunities for conjunctive use, or delay the need to develop new water sources.

Legislation related to public water system interties was enacted in 1991 that enables utilities to address water right matters related to system interties through submittal of water system plans or CWSPs to DOH. Its provisions are codified at RCW 90.03.383 and summarized as follows:

- Interties are recognized as a valuable management tool for public water systems and are defined to allow other than emergency use of water by systems other than the one holding the water right subject to certain conditions.
- The place of use of water resulting from interties which were existing and in use as of January 1, 1991, shall be recognized for water right purposes subject to certain conditions.
- System interties where use commenced after January 1, 1991, are to be incorporated into the CWSP or utility's water system plan for review and approval by DOH and Ecology as part of the plan review process. Water right requirements are to be addressed in this process. The plan is to state how the intertie will improve overall system reliability, enhance the manageability of the system, provide opportunities for conjunctive use, or delay or avoid the need to develop new water sources.
- Interties may be necessary to supply adequate potable water to those areas planned for growth, since the place of use described on water rights is not always perfectly aligned with anticipated growth. Interties also avoid the need to develop new water sources and
they provide a valuable tool to ensure reliable public water supplies. When facilities join together to share water treatment facilities, reservoirs and water lines, the cost of operating the water systems will lower capital facility costs for the county as a whole.

- Municipal water law was established to increase the flexibility of municipal purpose water rights, including the creation of interties to facilitate regional water solutions where such solutions are deemed appropriate.

Table 8-6 lists the existing permanent and emergency interties between Group A water systems within the CWSSA as identified through the Sentry database. The geographic locations of the systems are shown on Figure 8-3. Public water systems should identify interties in their WSPs. In those plans, the utility providing the water should identify the receiving utility’s service area as all or part of their wholesale service area, and the receiving system should indicate the existence of the intertie in their WSP as well. Systems should also identify emergency interties in their WSPs but do not need to include the receiving area as a wholesale service area.

**Table 8-6**

<table>
<thead>
<tr>
<th>System Providing Water</th>
<th>Providing System PWS ID</th>
<th>Receiving System PWS ID</th>
<th>Usage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bellingham-Water Department, City of</td>
<td>05600</td>
<td>Deer Creek Water Assn/Guide South</td>
<td>A9512</td>
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<tr>
<td></td>
<td></td>
<td>Glen Cove Water Association</td>
<td>27950</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Lummi Tribal Water and Sewer District</td>
<td>NA</td>
</tr>
<tr>
<td></td>
<td></td>
<td>LWWSD - Eagleridge</td>
<td>08118</td>
</tr>
<tr>
<td></td>
<td></td>
<td>LWWSD - South Shore Water System</td>
<td>95910</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Whatcom County Water District No. 2</td>
<td>95700</td>
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<tr>
<td></td>
<td></td>
<td>Whatcom County Water District No. 7</td>
<td>95900</td>
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<tr>
<td>Birch Bay Water &amp; Sewer</td>
<td>95904</td>
<td>Bell Bay Jackson Water Association</td>
<td>05450</td>
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<td>07300</td>
<td>Bell Bay Jackson Water Association</td>
<td>05450</td>
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<tr>
<td></td>
<td></td>
<td>Birch Bay Water &amp; Sewer District</td>
<td>95904</td>
</tr>
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<td>Delta Water Association</td>
<td>18750</td>
<td>Valley View Water Association</td>
<td>91000</td>
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<tr>
<td>Everson, City of</td>
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<td>Everson Water Association</td>
<td>24195</td>
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<td>Hampton Water Association</td>
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<td>Nooksack</td>
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<td>Ferndale, City of</td>
<td>24850</td>
<td>Central City Water Association</td>
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<td>Mountain View Water Association</td>
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<td>North Star Water Association</td>
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<td>Thornton Water Association</td>
<td>88050</td>
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<td>Hemmi Road Water</td>
<td>32350</td>
<td>Meridian School Complex</td>
<td>A9234</td>
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<td>Lynden Water Department</td>
<td>49150</td>
<td>Berthesen Road Water Association</td>
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<td>Sumas Rural Water Association</td>
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<tr>
<td>Greater Vancouver Water District</td>
<td>NA</td>
<td>Point Roberts Water District No. 4</td>
<td>95750</td>
</tr>
</tbody>
</table>

1 Water can also be moved from Valley View Water Association to Delta Water Association through this emergency intertie.
8.7 Water Use Efficiency

8.7.1 Introduction

This discussion regarding water use efficiency (WUE) is intended to provide public water system owners, operators, managers, and customers with an understanding of what is required of them in terms of WUE, what options they have in establishing WUE goals, and how to design their WUE program to meet those goals. Specific information about individual water systems and their use of water is available in their comprehensive water system plans and WUE efficiency reports on file with the DOH Office of Drinking Water. https://fortress.wa.gov/doh/eh/portal/odw/si/DownloadsReports.aspx.

Due to the various tools now available, WUE can offer a variety of different benefits to utilities and their customers. This is important because the design of WUE programming needs to be carefully matched to the objectives of the utility, so the desired benefits can be achieved.

Some of the objectives that might be achieved from the efficient use of water through WUE are:

- Manage the Scale and Timing of New Supply and Treatment
  In recent years, it has become increasingly difficult to develop new sources of water supply due to limitations on the availability of new water rights. This trend is likely to continue as growth increases the need for water, while at the same time, environmental and water quality requirements grow more stringent.

  WUE planning can reduce, or delay, the need for new sources of supply, while increasing public support for new sources of supply if and when they are needed. At the same time, increased regulatory requirements for water treatment have driven up the cost of supplying potable water. By reducing water needed, WUE can also lower the cost of water treatment.

- Reduce Utility Operating Expenses
  Reducing water consumption and system losses allows a corresponding reduction in chemical usage, energy consumption, and carbon footprint. This can lead to considerable savings in utility operating expenses. In addition, a comprehensive leak detection and repair program can reduce expenditures on emergency repairs.

- Reduce or Delay Investments in Wastewater Capacity
  Given the connection between water consumption and wastewater flows, WUE also offers a means to reduce demand on wastewater collection and treatment systems. This, in turn, can reduce or delay capital expenditures on wastewater collection and treatment capacity.

- Minimize Impacts on Natural Resources
  By reducing the amount of water diverted from streams or pumped from aquifers that recharge rivers and wetlands, WUE provides a tool for utilities and their customers to minimize their impacts on the natural environment.

- Water Use Efficiency as an Ethic and for a Sustainable Future
Citizens and public officials acknowledging that water is a finite resource that varies within the County can manage its use efficiently to ensure its continued availability. In this case, WUE may be implemented even though it is not the most cost-effective alternative to other supply development options because it has greater social or environmental benefits.

- Regulatory Compliance

The Municipal Water Law includes WUE elements. In response to the Municipal Water Law, WDOH promulgated WAC 246-290-800 through 840 related to water use efficiency, and added metering requirements to WAC 246-290-496. The purpose was to define the requirements of water use efficiency programs in water system plans developed under WAC 246-290-100, and small water system management programs developed under WAC 246-290-105. This included the following elements:

- Establish a water distribution system leakage standard;
- Define a process requirement for water use efficiency goal setting; and
- Establish annual water use efficiency performance reporting requirements.

Municipal water suppliers must:

- Publicly establish water savings goals for their customers through a public forum occurring at a minimum every 6 years;
- Evaluate or implement specific water saving measures to achieve customer-based goals based on the number of active connections;
- Develop a WUE planning program to support the established goals;
- Install meters on all customer connections by January 22, 2017;
- Achieve a standard of no more than 10-percent water loss; and, if over the standard, develop and implement a water loss control action plan to achieve compliance;
- Report total production, authorized consumption, and distribution system leakage volumes and percent annually and include a short narrative about progress towards achieving these goals.

The DOH specified that any Group A community water system that serves at least 15 residential service connections must comply with the Water Use Efficiency Rule, whether they are publicly or privately owned. WAC 246-290-800 through 840, and WAC 246-290-496 are included in Appendix 4 of this CWSP. Additional details are available in the DOH Water Use Efficiency Guidebook, Third Edition, January 2011, DOH 331-375 (Revised).

### 8.7.2 WUE Program Measures

The term WUE embraces a range of supply and demand efficiency measures. Measures are identified once supply and demand characteristics are evaluated and factored into the final WUE goal. Activities may include, but are not limited to: system-wide water audits documenting authorized uses; leak surveys; and repairs on meters, lines, storage facilities, and valves. WAC 246-290-810(4) provides details on the WUE program that is required of municipal purpose water suppliers.
Supply-side WUE measures can be implemented readily and may be among the most cost effective tools available for managing water use. Supply-side measures include, but are not limited to:

- Leak detection and repair;
- Main replacement;
- Corrosion prevention;
- Management of hydrant flushing; and
- Meter repair, replacement, and calibration.

Demand side measures can involve customers in a variety of ways, ranging from customer education, financial incentives for installing water-saving equipment, developing rate structures that include an economic incentive to reduce consumption, or imposing regulatory requirements on plumbing fixtures, landscaping, or water use. In addition, WUE demand-side measures can be designed to reduce base water use, peak use, or both. Some common demand-side WUE measures include the following:

- Broadly packaged information and outreach (e.g., advertising, billing inserts).
- Narrowly targeted information and outreach (e.g., free water-use audits for businesses or homeowners).
- Water bill showing consumption history.
- Improved metering.
- Hardware retrofit programs.
- Appliance rebate programs.
- Conservation-based rate structure.
- Landscaping ordinances.
- Seasonal outdoor use restrictions.
- Recycling or re-use programs.

Utilities are encouraged to reference the DOH Water Use Efficiency Guidebook for additional information on planning WUE program measures.

8.7.3 Water Loss Control

In 2003, the American Water Works Association (AWWA) adopted improved best practice methods for defining and measuring water loss in water distribution systems. The AWWA abandoned the use of the term unaccounted for water as all water sent into the distribution system can be accounted for. The term now used is non-revenue water (NRW). NRW is specifically defined to include the sum of specific types of water loss and any authorized, unbilled consumption that occurs within water distribution systems. The AWWA states in its Best Practice in Water Loss Control: Improved Concepts for 21st Century Water Management that:
It is important to understand that all water utility distribution systems incur leakage (real losses). Similarly, all water utilities fail to recover revenue from all of the water that is (or should be) billed to customers (apparent losses). Although every system is unique, all water utilities should employ leakage control and revenue recovery programs that strive to keep losses contained to appropriate, economically justified levels. AWWA’s Manual: *Water Audits and Loss Control Programs* (M36) and the AWWA FREE Audit Software (http://www.awwa.org/resources-tools/water-knowledge/water-loss-control.aspx) provide a robust pathway for utilities to develop data-driven program to cost-effectively manage all water loss components (apparent and real) in distribution systems, as shown below in the International Water Association (IWA)/AWWA Water Balance (Table 8-7).

### Table 8-7
The IWA/AWWA Water Balance

| Volume from Own Sources (corrected for known errors) | Water Exported (corrected for known errors) | Authorized Consumption | Billed Authorized Consumption | Billed Metered Consumption | Revenue Water
|---|---|---|---|---|---|
| System Input Volume | Water Supplied | Unbilled Authorized Consumption | Unbilled Metered Consumption | Unbilled Unmetered Consumption | Non-revenue Water
| Water Imported (corrected for known errors) | Water Losses | Apparent Losses | Customer Metering Inaccuracies | Unauthorized Consumption | Systematic Data Handling Errors | Real Losses | Leakage on Transmission and Distribution Mains | Leakage and Overflows at Utility’s Storage Tanks | Leakage on Service Connections up to the Point of Customer Metering | Revenue Water

**NOTE:** All data in volume for the period of reference, typically one year.


### 8.7.4 Costs of WUE

The complete program of supply and demand side measures that is the most cost effective at achieving WUE goals will vary considerably from one utility to another. Since WUE programs may involve both up-front expenditures and continuing investments, it is valuable to develop levelized costs that provide equivalent comparisons. In addition, it is important to consider the costs and savings to the utility, as well as those experienced by the customer.

While performing an analysis of expected costs and benefits is important to WUE planning, it should be recognized that, in many cases, water savings cannot be projected with precision.
Therefore, decisions on WUE programming require careful consideration of the importance of other factors besides cost effectiveness. For example, as a matter of policy, the utility may decide to promote WUE to respond to community desires or offer increased protection to an environmental resource. In addition, it is important to consider the impact on a variety of customer classes and income groups in designing a complete WUE program. Finally, utilities need to consider the revenue implications of reduced water usage and modify their rate structure as necessary to maintain financial viability as WUE goals are achieved. These revenue implications need to be assessed in terms of wastewater system needs as well.

The CWSP recommends that water systems initiate WUE efforts that can be jointly implemented by several utilities and achieve cost savings through combined purchasing. Specific recommendations are for joint contracting of leakage detection analysis and the procurement of public education material. The DOH and AWWA are sources of literature and material that can be tailored for the Whatcom County area.

8.8 Reclaimed Water

Reclaimed water is a water supply produced by treatment of municipal or domestic wastewater. The treatment processes are designed to ensure that the water is safe and suitable for the intended use. Sometimes called water recycling or water reuse, the process of reclaiming water involves an engineered treatment system that speeds up nature’s restoration of water quality.

In Washington, reclaimed water can be used for a wide variety of non-potable benefits such as irrigation, industrial processes and cooling water, toilet flushing, dust control, and construction activities. Under current law, it cannot be used as potable water. It can also be used as a resource for creating, restoring, and enhancing wetlands, recharging groundwater supplies, and increasing flows in rivers and streams.

A hurdle for many reclaimed water projects is the issue of impairment. Reclaimed water use may not impair a water right existing at the time of the water reclamation. For example, if a facility has been discharging to a water body and that discharge is reduced or eliminated by reclaiming the water for other uses, the reduction in that discharge may not impair a downstream user, including a minimum instream flow established by rule as part of the Washington Administrative Code that has historically relied on the flow provided by the discharge. In such cases, the reclamation of water may not be allowed or the party reclaiming the water may have to provide mitigation to the party whose use of water is impaired. It is easier for a wastewater treatment facility that discharges directly to marine water to get authorization to reclaim water since there are no impairment concerns.

Ecology’s Water Quality Program is proposing a new rule, Chapter 173-219 WAC – Reclaimed Water, directed by the state Legislature under Chapter 90.46 RCW. The purpose is to establish an efficient, effective, and consistent statewide implementation framework, including standards and permit requirements, for reclaimed water.

8.8.1 Reclaimed Water in Whatcom County

8.8.1.1 City of Blaine

In 2010, the City of Blaine initiated operation of a new Class A water reclamation facility that features membrane bioreactor (MBR) technology and can treat up to 3.1 million gallons per day.
The reclaimed water is not acceptable for drinking but is acceptable for human contact, irrigation, and industrial use. The treated water is being piped and re-sold to large customers such as the Semiahmoo Resort, where it will be used for golf course irrigation. It will also be used by Blaine for street cleaning and other industrial uses. It is being sold at about 80 percent of the cost of fresh water. Use of reclaimed water can help to stretch the City’s available existing supplies of potable water into the future.

8.8.1.2 City of Lynden

The City of Lynden has been looking at reclaimed water options, but has yet to plan for delivery outside of the wastewater treatment facility. Currently, Lynden utilizes reclaimed water in its wastewater treatment facility for cleaning and wash down. The current range of use is between 300,000 and 500,000 gallons per day, and averages 350,000 gallons per day.

8.8.1.3 Birch Bay and PUD No. 1 of Whatcom County

The PUD is completing a water reclamation study that is looking at opportunities to work with some of its customers at Cherry Point to reclaim and/or reuse water those customers now buy from the PUD. As the source of that water is the mainstem of the Nooksack River, any reduction in the use of the Nooksack River will increase stream flow in the Nooksack downstream from the PUD’s diversions.

Two opportunities the PUD is considering are:

- Diverting Birch Bay Water and Sewer District wastewater discharge to industrial customers at Cherry Point for use in the refining process, which would decrease wastewater discharge into the Cherry Point Aquatic reserve, and reduce a small portion of the water taken from the mainstem of the Nooksack; and

- Discharging some of the Cherry Point industrial processing discharge water now going to Puget Sound back into the mainstem of the Nooksack.
Section 9 – Plan Implementation

9.0 Introduction

This CWSP update was prepared to fulfill the requirements of the Public Water System Coordination Act, RCW 70.116, and provide clarity on related processes and procedures. This section briefly outlines the approval process for the CWSP, a process of appealing CWSP decisions, how the CWSP will be updated, and the environmental review.

Throughout this CWSP, the words “must,” “will,” “shall,” or “required” are used when practices are required by rule or statute, sufficiently standardized to permit specific delineation of requirements, or where safeguarding the public health justifies definitive criteria or action (and is legally allowable to do so). Where requirements are spelled out in statutes or rules, an attempt has been made to cite the relevant source of the statements.

“Should” or “recommend” indicate procedures, criteria, or methods that are not required and can be approached with some degree of flexibility. In such cases, water system managers need to explain the basis of the altered approach or why another approach may be more applicable. Unless specifically noted, the WUCC has determined this flexibility should be retained and the related recommendations should not be codified.

In cases where the WUCC has determined that certain actions, standards, or procedures are sufficiently important to warrant adoption into the Whatcom County Code, this has been noted in the CWSP. These changes are summarized later in this section, where the WUCC recommends the Whatcom County Council amend the existing code to implement the recommendations of the WUCC.

9.1 Plan Approval Procedures

As outlined in Section 2, the completed CWSP is presented in two parts: (1) the supplemental provisions detailed in this Regional Supplement document; and (2) a compilation of individual water system plans for individual water utilities, which are approved separately by the County and the DOH. Approved WSPs are on file with DOH and the County. It is the responsibility of each utility to fulfill its water system planning requirements. The level of effort required is based upon the system size, the expansion plans of the utility, and the type of system ownership. Guidelines for preparing WSPs are available from DOH. All individual WSPs are to be updated on a schedule coordinated with DOH.

Preparation of the supplemental provisions is the responsibility of the County and the local utilities, acting through the WUCC. The WUCC identified local needs and gave direction to the development of the CWSP as it related to area-wide issues. Through the efforts of the WUCC and the County, the procedures, regional policies, and minimum design standards have been reviewed and revised accordingly.

Once approved by the WUCC, the completed CWSP is submitted to the Whatcom County Council for a consistency review. The purpose of the consistency review is to ensure this CWSP is not inconsistent with existing land use plans or policies. The council has 60 days upon receipt of the CWSP to hold a public hearing and act on the document. Once reviewed and accepted by the council, the CWSP is submitted to DOH, which must act upon adoption within 60 days.
SECTION 9

Once assured that the local preparation and review procedures of RCW 70.116 have been followed, DOH will be able to approve this document as the Regional Supplement of the Whatcom County CWSP. It should be emphasized that the DOH may approve portions of the CWSP found to be consistent with adopted plans and policies in effect at the time of their review. This will enable approval of this CWSP Regional Supplement and those completed individual WSPs. As specified in Section 2, requests for system expansion will be denied for those water utilities that have not completed their planning requirements.

Any changes requested to individual WSPs or service area boundaries prior to the next update of the CWSP can follow the administrative change procedures specified in the CWSP without additional formal action by the Whatcom County Council.

9.2 Appeals Process

As discussed in Section 6, the Utility Service Review Procedure (USRP) process gives existing systems preference for providing water service to new developments. Each service must be timely and reasonable. Disagreements as to what constitutes appropriate conditions of service may be expected to arise from time to time between applicants for new water service and existing systems. For these reasons, an appeal procedure was developed.

Per the USRP, applicants for land use permits that require potable water service within the designated service area of a water utility must work out the conditions for new service with the designated utility. Conditions of service disputes within a utility’s retail service area are not subject to the CWSP appeals process but may be pursued through means specified in the MWL, including Superior Court.

An applicant who is not satisfied with the designated utility’s conditions for new service outside of their retail service area may initiate an appeal as detailed in Sections 9.2.1 through 9.2.3, below.

9.2.1 Issues Subject to Appeal and Review

Only water service related issues are subject to appeal and review under this process. In most instances, such issues will be identified when the applicant requests the Water Availability Form from the water utility. Issues subject to appeal and review are limited to the following:

- Interpretation and application of water utility service area boundaries;
- Proposed schedule for providing service outside of the retail service area;
- Conditions of service outside of a utility’s retail service area, such as the timeliness and reasonableness of service, but excluding published rates and fees;
- Annexation provisions imposed as a condition of service; provided, however, existing authorities of city government are not altered by the CWSP, except where an interlocal agreement exists between a city and the County or as are specifically authorized by Chapter 70.116 RCW; and
- Lack of response by a utility.

Issues other than conditions of service, such as those related to conformance with the State Environmental Policy Act (SEPA), the GMA, any county-wide planning policies, county and city
Plan Implementation

land use plans, financing policies, and wholesale agreements are not subject to the CWSP appeals process, but may be addressed through other avenues.

9.2.2 Timeliness and Reasonableness of Service

State law requires that no other utility shall establish a public water system within the area covered by a CWSP unless the local legislative authority (Whatcom County Council) determines that the existing utilities are unable to provide the service in a timely and reasonable manner. The USRP makes reference to the provision of water service in a timely and reasonable manner. The term “timely and reasonable,” as included in both the Public Water System Coordination Act (RCW 70.116.060(3)(a)) and the Municipal Water Law, have different meanings.

With respect to the Coordination Act (Chapter 70.116 RCW), the term is applied to the conditions of service for applicants seeking water service within the future service area of a water utility. Applicants for water service located in an existing water system’s future service area must request service from the existing system. In this case, the existing utility has the “right of first refusal” of water service. If the system cannot provide the new service in a timely and reasonable manner, the applicant may pursue the following options in the order presented.

1. Receive service from another water system.

2. If service is not available, the applicant may develop a new public water system or a private supply.¹

The Coordination Act defines “timely” as actions taken within 120 days, but it does not specify when the period begins and ends. The Coordination Act allows CWSPs to specify utility actions for completion in this 120-day period. The Coordination Act does not define “reasonable.” DOH suggests the following definitions for reasonable:

- Conditions of service are consistent with local land use plans and development regulations;
- Conditions of service and associated costs are consistent with those documented in the system’s approved water system plan; and
- Conditions of service and associated costs are consistent with the system’s acknowledged standard practice experienced by other applicants requesting similar water services.

Under the Municipal Water Law, the term “timely and reasonable” is used as one of the conditions in which a water utility has a “duty to serve” within their retail service area. Municipal water suppliers have a duty to provide service to all new connections within their retail service area when the following criteria are fulfilled.

1. The utility has sufficient capacity to serve water in a safe and reliable manner.

¹ Note: “Public water system” includes all systems except those serving one single-family residence or four or fewer service connections on the same farm. As used in this document, the term is generally synonymous with “Purveyor” and “Utility.” “Private water supply” means a non-Group B water supply serving up to two single-family residences (per WCC 24.11).
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2. The service request is consistent with adopted local plans and development regulations.
3. The utility has sufficient water rights to provide service.
4. The utility can provide service in a timely and reasonable manner.

Because the two laws define "timely" differently, and neither law defines "reasonable" service, the DOH recommends that a definition for timely and reasonable service be provided in the CWSP. Consequently, timely and reasonable service shall be defined as follows (in order of priority).

1. As defined in the water utility's approved water system plan.
2. If the water utility does not have a water system plan, the definition shall be as defined in the utility's service policies, so long as those policies are not inconsistent with the Coordination Act.
3. If the water utility does not have a water system plan or service policies, or the water system plan or service policies do not provide a definition for timely and reasonable, the definitions shall be as follows:
   - Water service is considered timely when:
     - the water utility can provide service within 120 days of receiving all necessary permits to begin installation of required system improvements, if the utility is conducting system installation; or
     - the water utility can provide service within 120 days of the applicant installing all necessary system improvements, or as otherwise agreed to between the applicant and utility.
   - Water service is considered reasonable if costs and conditions of service are consistent with the utility's acknowledged standard practice experienced by other applicants requesting similar service.

9.2.3 Appeals Process

Step 1 — Filing of an Appeal

An aggrieved party has 30 days from receipt of a written decision from a utility to file an appeal of issues identified in Section 9.2.1 with the Whatcom County Hearing Examiner and notify the Whatcom County Health Department (WCHD). The appeal shall be accompanied by a fee as set forth in the Unified Fee Schedule. The current fee schedule is provided in Whatcom County Ordinance 2014-063.

Step 2 — Voluntary Appeal Resolution Process

When an aggrieved party notifies the WCHD that an appeal has been filed, the County will offer to initiate a voluntary appeal resolution process. The goal of the voluntary appeal resolution process is to amicably resolve the dispute of an issue subject to appeal with minimal cost to all parties in the hopes of avoiding the use of other more costly and time consuming remedies, such as a formal appeal before the Hearing Examiner or Superior Court. If both parties desire to enter into the voluntary appeal resolution process, the aggrieved party shall request a stay of the Hearing Examiner proceedings for a specific period of time. Additional stays can be requested, if necessary and desirable.
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The voluntary appeal resolution process can be initiated by either party sending a written request for review of the disputed issues to the Director of the WCHD. If all parties agree to the voluntary process, the appeal will be heard by an appeal resolution committee (ARC) consisting of the Director of WCHD (or his/her designee), the Director of Planning and Development Services (PDS) (or his/her designee), the Director of Public Works (or his/her designee), and a representative from a Satellite Management Agency (SMA) currently approved for operation in Whatcom County. The ARC shall be chaired by the representative from the WCHD.

The goal of the ARC shall be to find a mutually agreeable solution to the dispute and have the parties memorialize any agreement by executing a service agreement. However, neither party is bound by the decision; if either party subsequently wishes to pursue a final resolution in another venue, they may do so. Furthermore, no official record of this appeal resolution process will be provided. The WUCC recommends that Whatcom County develop a process for appellants to receive a refund of the Hearing Examiner filing fees if the voluntary appeal resolution process is successful.

Step 3 — Hearing Examiner

If the voluntary appeal resolution process is not successful, or if the parties choose not to engage in that process, either party may appeal issues identified in Section 9.2.1 to the Hearing Examiner in accordance with WCC 20.92.210. Further review will then take place under standard Hearing Examiner procedures (WCC 20.92).

Per WCC 20.92, the Hearing Examiner shall conclude review and issue a final decision within 45 days of receiving the appeal and "Staff Findings." Upon completion of the Hearing Examiner review and any appeals thereunder, the WCHD will continue processing the development application consistent with the final resolution.

Step 4 — County Council

The final decision of the Hearing Examiner may be appealed to the County Council within 10 days of the decision in accordance with WCC 20.92.600. This appeal shall be accompanied by a fee as set forth in the Unified Fee Schedule.

Step 5 — Review Court

Upon receipt of a report of findings and a decision regarding unresolved appeals from the Hearing Examiner, an appeal may be made to Superior Court and/or other appropriate courts following the rules of that venue.

9.3 Coordinated Water System Plan Update

Because rules, laws, and practices change over time, it is recommended that the CWSP be updated in coordination with updates of the Whatcom County Comprehensive Plan to ensure that both documents remain relevant and useful. More frequent updates of the CWSP may be initiated, as necessary, at the direction of the County Council or DOH. In accordance with RCW 70.116.060(8), if DOH initiates an update or revision of the CWSP, the state shall pay for the cost of the update.

9.4 Periodic Review of CWSP Implementation

The Director of WCHD (or his/her designee) shall contact WUCC members at least once per calendar year to determine whether there are issues of significance requiring attention by the full WUCC or a sub-committee of the WUCC. The Director will also contact the members of the Water
SECTION 9

Resource Inventory Area (WRIA) 1 watershed planning process established under RCW 90.82, including the WRIA 1 Planning Unit, at least annually to determine if there are issues from that process that require attention by the WUCC. These issues may include the identification of items for which the WUCC or the Planning Unit recommend the County engage in education-related efforts intended to foster the successful implementation of the CWSP.

9.5 Environmental Review

The State Environmental Policy Act (SEPA), Chapter 43.21C RCW, requires that all CWSPs be accompanied by an appropriate environmental document. A SEPA Checklist has been prepared for the Whatcom County CWSP and its recommended activities. This checklist is included as Appendix 5.

The CWSP update has been prepared to establish administrative, management, and policy procedures to respond to the needs of existing and future customers in the County. It is intended to address regional concerns within the County that are not ordinarily included in each utility's WSP. Examples of those regional issues are: procedures for reviewing and approving future water use activities; minimum design standards; designated water utility service areas; and water utility management policies.

The CWSP contents are referenced in the SEPA Checklist. It is anticipated that both negative and positive impacts will occur to earth, water, land use, population, public services, and utilities as a result of implementing the individual water system plans. The CWSP update has been developed in coordination with the GMA County-wide Planning Policies and County land use documents to reflect local land use policies and requirements. Therefore, implementation of this CWSP and the employment of sound engineering and construction practices during the implementation of each utility's WSP will minimize any adverse impacts.

Before the CWSP has been formally accepted by the Whatcom County Council, it is recommended that a final environmental determination be made by PDS. This final determination is attached as Appendix 5 for submittal to DOH for approval.

9.6 Implementation Tasks

This section presents a summary of actions that are recommended to fully implement this CWSP or otherwise improve the coordination of water service in the County. The first list (Section 9.6.1) includes new implementation measures that the WUCC identified during the 2016 CWSP update process and recommends for implementation. The second list (Section 9.6.2) is a list of other implementation actions that were included in the 2000 CWSP or otherwise in effect, but were not fully implemented or do not require continuing implementation.

9.6.1 New Implementation Measures

1. Whatcom County will provide a link to the Service Area Map on the PDS and WCHD websites for easy reference.

2. Whatcom County will update the Service Area Map whenever changes to Group A public water system service areas are filed with the County and will include the date of the update on the map to ensure that all users are working from the most current version.
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3. Whatcom County will provide a link to staff contacts on the PDS and WCHD websites for questions regarding the CWSP.

4. Whatcom County will revise the Water Availability Notification forms for consistency with this update of the CWSP.

5. Whatcom County shall implement the voluntary appeals resolution process discussed in Section 9.2 as necessary.

6. The Director of WCHD (or his/her designee) shall contact WUCC members at least once per calendar year to determine whether there are issues of significance requiring attention by the full WUCC or a sub-committee of the WUCC. The Director will also make contact with members of the WRIA 1 watershed planning process at least annually to determine if there are issues from that process that require attention by the WUCC. These issues may include the identification of items for which the WUCC or the Planning Unit recommend the County engage in education-related efforts intended to foster the successful implementation of the CWSP.

7. Whatcom County Health Department will pursue the development of a GIS layer depicting all public water system services areas in Whatcom County, including community and non-community water systems.

8. The County shall seek to amend WCC 24.11 as follows:
   - Adopt the CWSP or its successor by reference;
   - Provide definitions of alternative private water supply and private water supply;
   - Provide a definition of the CWSP;
   - Distinguish the difference between public water systems and private water supply (well);
   - Include language that applicants must comply with provisions of the CWSP prior to director approval of private water supplies and new public water systems; and
   - Establish a public water denial form required for private water supply applications within public water system service areas.

9.6.2 Other Action Items

1. Whatcom County will continue to incorporate results from delineating wellhead recharge areas or vital source protection areas into the Whatcom County Comprehensive Plan with the goal of ensuring compliance with the intent of the state and federal mandate for water utilities to delineate time-of-travel zones and wellhead protection plans. The County will facilitate coordination of water resource information and protection efforts of water systems per Goal 11F, Policy 11F.3 of the Comprehensive Plan.

2. Per RCW 70.315.060, non-municipal corporations shall develop a description of their hydrant maintenance procedures and keep them on file to be eligible for liability protection for damages that may arise out of a fire event.

3. Whatcom County will notify those public water systems that are not required to comply with minimum fire flow standards that they are required to coordinate with the local fire control authorities to ensure that any hydrants on their system, if they can possibly be used in the
SECTION 9

course of fire suppression activities, do not create adverse pressure problems within the water system as a result of fire control actions (WAC 246-290-221).

4. Local fire control authorities may only use collapsible hoses for hydrant connections unless the utility informs the local fire control authority otherwise.

5. Water utilities are responsible for taking action to restrict free flow from hydrants to protect against back flow and siphoning when water is being used for fire-fighting.

6. Water supply facilities for new developments and for new or expanding public water systems shall be designed to meet the minimum fire flow requirements set forth in Table 5-3.

7. Water utilities must color-code red caps on all hydrants when:
   - The effects of supplying fire flow are unknown;
   - Fire flow is less than 500 gallons per minute; or
   - Fire flow would reduce system pressures to less than 20 pounds per square inch.

8. Utilities should, where practical, provide the Fire Marshal and fire district with the locations of hydrants with color-coded red caps so that these locations can be mapped for use by fire crews (Section 5.3.7).

9. Fire hydrants that are temporarily inoperative or unusable shall be wrapped or otherwise provided with indication of their condition, and shall be repaired as soon as possible by the water utility as required by WAC 246-293-650(7).

10. Fire hydrants that are permanently out of service should be removed by the utility as soon as possible.

11. Where appropriate, a written agreement that identifies responsibilities for maintenance and testing of fire hydrants should be negotiated between the fire control authority and the water utility (WAC 246-296-650(8)). Such agreements should establish operation, maintenance, and testing policies that are mutually beneficial to both the fire authority and the water utilities and would clarify each party’s respective roles and responsibilities. Communication is seen as being most important in the unincorporated areas and/or where County fire districts exist with dynamic boards of commissioners and local fire district chiefs. Fire hydrants that are permanently inoperative or unusable must be removed by the water utility. All testing should be done according to application American Water Works Association and National Fire Protection Association standards.

12. NEW ACTION ITEM. Public water systems identified in Section 3 as not having sufficient water rights to meet existing or anticipated future demands are encouraged to explore options for reducing their system demand and increasing their system supply including, where appropriate, consideration of interties with existing water systems with available water. As Whatcom County continues to develop and implement a strategy for overall water resources management in the County, it should continue to support the creation of interties and other infrastructure improvements among and between public water systems in an on-going attempt to provide secure and high-quality sustainable sources of water throughout the County.
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9.6.3 WUCC Items for Consideration by the Community

The items in the following list are not necessarily items that any single entity can successfully address or implement but are issues which were identified during the update of the CWSP and which, in the opinion of the WUCC, deserve acknowledgment as the community plans for the future.

- Water rights acquisition for current and future demand.
- Emergency intertie exploration.
- Permanent intertie exploration.
- Consolidation of water systems.
- Identify available inchoate water to be transferred to another municipal water supplier or integrated into a regional water supply system.
- Closely monitor any actions taken by the United States on behalf of the Lummi Nation and the Nooksack Tribe, and to become actively involved in any local efforts aimed at the resolution of these issues, which are beyond the scope of this CWSP update.
- Identify water systems at high risk based on their financial viability. Those systems should be encouraged to do the following:
  1. Develop an operating budget;
  2. Evaluate rates for adequacy;
  3. Create and fund an operating cash reserve;
  4. Create and fund an emergency reserve; and
  5. Create and fund reserves for capital improvements and equipment replacement. (Resources exist, DOH templates, programs, etc., but small troubled systems lack capacity and require coaching to follow through and gain financial viability).
- Continue discussions regarding issues and potential solutions related to the presence of nitrates in groundwater in the CWSSA.
- Plan for and encourage interlocal agreements between utilities to manage failing water associations that fall into receivership.
- Encourage and actively participate in forums, workshops, and other water-related planning activities.
Appendix 1 – Water Rights Capacity Map
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## Water Right Capacity Analysis Background Calculations

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### Water System Notes:
- **Multiple**: Indicates multiple water systems or multiple Cx Codes associated with a single water system.
- **Credit Code**: Indicates a credit code associated with the water system.
- **C/^C**: Indicates if the system is credit-coded or not.
- **Spur**: Indicates the spur number associated with the water system.
- **Capacity**: Indicates the maximum capacity of the water system.
- **Daily Use**: Indicates the daily use of the water system.
- **MV**: Indicates the maximum volume of the water system.
- **Store**: Indicates the storage capacity of the water system.
- **Water Rights Status**: Indicates the status of the water rights associated with the water system.
- **System Specific Notes**: Provides additional information or notes specific to the water system.
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Appendix 2 – Water Right Procedures
Appendix 2 – Water Right Procedures

Typical Water Rights Process
The following discussion identifies the typical steps involved in the processing of a water right application by Ecology.

1. Submittal of an application to Ecology, with the appropriate application fee.
2. Ecology preparation of a legal notice for the applicant to have published once a week for two consecutive weeks.
3. Ecology solicits comments on the proposed application from the Washington Department of Fish and Wildlife (WDFW), Nooksack Tribe, and Lummi Nation.
4. Applicant submits an Affidavit of Publication to Ecology.
5. There is a 30-day period after the last date of publication for submittal of protests to the proposed application to appropriate water.
6. Ecology conducts a field examination and evaluates comments from the WSFE, tribes, and any other protests, and reviews Chapter 173-501 WAC to determine if affected water bodies have minimum instream flows assigned, or if they are closed to future consumptive appropriation.
7. Ecology prepares a draft Report of Examination that is posted on its website for 30 days to allow for review by the public and collection of additional public comment.
8. If no substantive comments are received, Ecology prepares a final Report of Examination with copies to anyone who has protested the application, either approving, approving with conditions, or denying the application. If the application is approved, Ecology includes a request for submittal of the appropriate permit fee.
9. Appeals of the Ecology decision in the Report of Examination can be filed with the Pollution Control Hearings Board within 30 days of this decision.
10. Upon submittal of the permit fee, and after the 30-day period for appeals has expired, Ecology issues a permit containing the development schedule from the Report of Examination (ROE).
11. The development schedule in the permit contains dates for beginning of construction, completion of construction, and putting the water to beneficial use.
12. When the water authorized in the permit has been put to beneficial use, and the appropriate fees are received, Ecology issues a certificate of water right or a certificate of change.

Alternative Means of Water Rights Processing
As a means of addressing the water rights backlog, the legislature has established alternative means of water rights processing that can be employed under certain conditions. These alternative methods are discussed briefly below.
Cost Reimbursement

Cost reimbursement is a contract between a water right applicant and Ecology. Under this contract, applicants assume the full cost of processing their water right application, with some or all of the work performed by Ecology's consultant. Presently, Ecology has eight consulting firms pre-approved to perform this work.

The cost reimbursement option allows a private consultant to complete the work that Ecology hydrogeologists and permit writers would ordinarily perform. This process makes Ecology staff more available to work with other applicants on their water right applications.

The consultant conducts a site investigation, performs the environmental and hydrogeologic analyses, identifies whether the water is available or would impair other water users, prepares a report with his or her findings, and recommends whether to approve the application. Ecology posts the draft ROE on the internet to solicit comments. Once the comment period is closed, Ecology works with the consultant to make any needed changes. Ecology makes the final decision on the application and then posts the final ROE on the internet for a 30-day appeal period.

The cost reimbursement process consists of two phases. In Phase One, the application is evaluated to identify the boundaries of the water source. This is the area that could be affected by a proposed water withdrawal. In the case of groundwater applications, this phase requires a preliminary delineation of the affected body of public groundwater. A Phase One analysis includes looking at whether there are other prior applications requesting water from the same source of supply. It will also identify likely issues that require further evaluation, and may provide a scope and cost estimate for completing Phase Two.

In Phase Two, Ecology's consultant prepares a ROE for the application(s). The ROE consists of the background and technical analysis necessary for the particular water right or water right change requested.

If the applicant has an Ecology contract with a pre-approved consultant to conduct Phase One, a report will be provided to the applicant with a scope and cost estimate for Phase Two. If the applicant used his or her own consultant to prepare the Phase One report, the report will be forwarded to Ecology’s consultant (chosen by either the applicant or Ecology from Ecology’s pre-approved list) with a request to provide a scope of work and fee estimate for Phase Two.

Ecology recommends that any applicant considering the cost reimbursement process first consult with Ecology regional staff. Regional staff will be able to give an applicant an idea of how many other applications are in the same watershed, share their knowledge of watershed issues, and provide an initial impression of the likelihood that the application can be approved.

Ecology staff will also be able to discuss what type of costs the applicant must pay, such as:

- Consultant services;
- Ecology time spent reviewing the consultant’s work and managing the contract; and
- Certain legal costs.

(Source: Ecology FAQ: Cost Reimbursement)
Appendix 2 – Water Right Procedures

Water Conservancy Boards

Water conservancy boards (boards) allow for the processing of water right transfer applications by an independent branch of local county government. The boards are separate units of government that process water right change applications within an identified geographic area. A board can serve a single watershed, multiple watersheds, a county, or multiple counties. They can also issue reports of examination and record decisions. Boards were authorized by the 1997 Legislature, under Chapter 90.80 RCW, as an alternative to the conventional application process to assist Ecology with the backlog of pending water right change applications, and to provide timelier water right change decisions. All board decisions are ultimately reviewed and affirmed, reversed, or modified by Ecology.

Each board consists of three or five commissioners with up to two alternates. All board commissioners and alternates must initially receive 32 hours of training from Ecology, and maintain 8 hours per year of continuing education thereafter.

Whatcom County established a water conservancy board in December 1999, but it was dissolved by the Whatcom County Council in July 2008, due to the inability to recruit volunteer board members. The board approved two water right transfers in Water Year 2003, one for groundwater and one for surface water.

(Source: https://fortress.wa.gov/ecy/publications/publications/0811046.pdf.)

Certified Water Right Examiners (CWRE)

Historically, when a permit holder had completed their development, they filed a proof of appropriation form with Ecology attesting to the rate and (sometimes) volume of water that had been beneficially used. Ecology staff would then perform a proof examination, which consisted of a review of the water right file followed by a site visit, the extent the water right permit had been beneficially used. After this review, Ecology would issue the water right holder a water right certificate up to the limit of the beneficial use or the permit, whichever was lower, and this would conclude the development schedule of the permit.

In 2010, the legislature created RCW 90.03.665, which allowed Ecology to establish CWREs in the State of Washington, which they did in 2012, with the adoption of Chapter 173-165 WAC. CWREs are individuals that have been certified by Ecology as qualified to perform proof examinations and prepare a report necessary for Ecology to issue a water right certificate. A water right permit holder that is ready to advance to certificate stage contracts directly with a CWRE for preparation of the necessary report. Ecology reviews the document and, once in agreement, issues the water right certificate. Similar to cost reimbursement, this program pushes the responsibility and cost for completing work onto the entity that is interested in the work being performed.

Decision Making Process on Water Right Applications

Ecology adopted Chapter 173-152 WAC – Water Rights, in March 1998, which established a framework for processing water right applications and applications for change. This regulation contains the following pertinent provisions:

- The department will make decisions on water right applications and applications for change from the same water source in the order the application was received.
- Applications from more than one water source may be investigated at one time.
Appendix 2 – Water Right Procedures

- The department may conduct basin assessments to assemble and correlate information related to multiple applications from the same basin for decision-making purposes on all pending applications in the basin or the same water source.

- Multiple basin assessments may be conducted at the same time.

- Upon completion of the basin assessment and consultation with interested parties and agencies, the department will make decisions on the competing applications.

- Applications may be processed prior to competing applications if the department determines the application:
  o Meets certain criteria related to public health or safety,
  o Is a non-consumptive use,
  o Would substantially enhance the quality of the natural environment,
  o Would result in providing public water supplies to meet the general needs of the public, or
  o Is included in a pending adjudication of water rights.
Appendix 3 – Department of Ecology
Municipal Water Law Interpretive and Policy Statement
Appendix 3 – Department of Ecology Municipal Water Law Interpretive and Policy Statement

POL-2030 WATER RESOURCES PROGRAM POLICY

2003 Municipal Water Law Interpretive and Policy Statement

Contact: Program Development and Operations Support Section
Effective Date: February 5, 2007
Revised Date: May 7, 2012

References: Chapter 90.03 Revised Code of Washington

Purpose: To describe and provide interpretation of parts of the Municipal Water Law, and describe generally applicable procedures that the Department of Ecology (Ecology) will use in identifying and managing municipal water rights.

Application: This interpretive and policy statement is a review of the applicable sections of the state Water Code (Ch. 90.03 RCW) that were amended or added by the 2003 Municipal Water Law. The document describes how Ecology intends to apply the various sections of the law to municipal water rights and management.

The 2003 Municipal Water Law (SECOND ENGROSSED SECOND SUBSTITUTE HOUSE BILL 1338; Chapter 5, Laws of 2003; 58th Legislature; 2003 1st Special Session; MUNICIPAL WATER SUPPLY—EFFICIENCY REQUIREMENTS) clarifies municipal water rights.


Ecology has chosen to develop this Interpretive and Policy Statement (IPS) for carrying out the 2003 Municipal Water Law under the authority of the Administrative Procedure Act (RCW 34.05.230). This IPS clarifies the Department of Ecology's position and management approach for carrying out that law. This IPS supersedes earlier statements relating to the Municipal Water Law and has been issued subsequent to the Washington Supreme Court's decision in Lummi Indian Nation v. State of Washington, Washington Supreme Court No. 81809-6, which held that all sections of the Municipal Water Law are constitutional on their face, and thus valid and operative.

This document's primary audience is those interested in, and affected by, management of water rights for municipal supply purposes. It clarifies Ecology's approach in interpreting and implementing the law. It enables Ecology staff to have a common understanding and consistency of application.

Wherever possible, Ecology's goal is to be consistent in review and decisions on municipal water supply issues. While the following statements address many situations, exceptions based on case-by-case review may arise that do not conform to these statements. This interpretive and policy statement interprets the 2003 Municipal Water Law but is not a formal rule adopted through a rulemaking process. Thus, pursuant to RCW 34.05.230(1) this interpretive and policy statement is advisory only.

This document is organized by sections of the Water Code (Ch. 90.03 RCW) added or amended by SESSHB 1338. Each of the sections states what Ecology believes the section addresses, what it means, and how Ecology will apply that section.
RCW 90.03.015(3) & (4) DEFINITIONS of "Municipal Water Supplier" and "Municipal Water Supply Purposes." This section defines water rights that are for municipal water supply purposes.

1. Municipal water suppliers can hold water rights for municipal water supply purposes.

2. Municipal water suppliers can hold water rights that are not for municipal water supply purposes.

3. Ecology evaluates conformance with the definitions in this section on an individual water right basis. In reviewing individual water rights however, relationships between water rights must be identified and given consideration. Such relationships between water rights include but are not limited to "alternate" and other linkages (as more fully described in paragraph 9 below).

4. If one purpose of use on a water right is for a municipal water supply purpose, then another purpose of use under the same water right is for a municipal water supply purpose when it is a use generally associated with a munipality.

5. Beneficial purposes of use generally associated with a munipality include but are not limited to residential, governmental or governmental proprietary, commercial, industrial, irrigation of parks and open spaces, institutional, landscaping, fire flow, water system maintenance and repair, and the uses described in RCW 90.03.550.

6. If a municipal water supplier holds one water right that is for municipal water supply purposes, other water rights held by the municipal water supplier may or may not qualify as rights for municipal water supply purposes.

7. If a municipal water supplier holds or acquires a water right not for municipal water supply purposes, the purpose of use may be changed to municipal water supply purposes under RCW 90.03.380. The statutory tests for a change must be satisfied. Also, the beneficial use following the change must meet a definition in this section. Changes under RCW 90.03.380 require a tentative determination of the extent and validity of the water right proposed for transfer or change.

8. In general, agricultural irrigation purpose of use and dairy purpose of use water rights held or acquired by a municipal water supplier cannot be conformed as rights for municipal water supply purposes. These purposes are not generally associated with the use of water within a municipality. Water rights for other purposes of use may also fall into this exclusive group. These situations will be considered by Ecology on a case-by-case basis. [See "conformed water right" definition in the section concerning RCW 90.03.560, below.] Water rights for non-municipal purposes that cannot be conformed can still be changed to municipal purposes by filing and having approved an application for a water right change or amendment.

9. Ecology interprets the statute as requiring active compliance by conformance with the beneficial use definitions in RCW 90.03.015(4). Examples of conformance with the definitions include but are not limited to the following:

a. Conformance with the definition occurs where a water right holder uses water for one or more of the categories of beneficial use included in the definition of a water right for municipal water supply purposes (e.g. the residential connection or nonresident population thresholds under RCW 90.03.015).
b. If the water right holder is a public water system participating in the water system planning process, then conformance with the definition occurs when the water right is identified as being held for existing customers, future growth or supply needs, standby/reserve, backup or emergency, or other reasonable future use in a water system plan (WAC 246-290-100), project report (WAC 246-290-110), construction document (WAC 246-290-120), source approval (WAC 246-290-130), existing system as-built approval (WAC 246-290-140), or coordinated water system plan (WAC 246-293) as approved by the Department of Health, or a small water system management program (WAC 246-290-105) as required by the Department of Health.

c. A water right authorized for one or more of the categories of beneficial use included in the definition of municipal water supply purposes that has been integrated or consolidated through Ecology action(s) or statutory procedure(s) (e.g. new permit, change decision, replacement or new additional well, showing of compliance under RCW 90.44.100(3), consolidation of rights for exempt wells under RCW 90.44.105) such that two or more water rights or water sources have alternate, well field, non-additive (formerly "supplemental"), or other relationships will be recognized as in conformance with the definitions.

d. If a water right does not meet the definition of a water right for municipal water supply purposes for 5 or more years, or does not otherwise qualify for the relinquishment exception under RCW 90.14.140(2)(d), then the water right would be valid only to the extent it had been beneficially used during that period, with any non-use resulting in relinquishment of the right unless the non-use is excused by one of the other exemptions to relinquishment provided under RCW 90.14.140.

**RCW 90.03.015(4)(a) DEFINITIONS — Defines Required Number of Residential Connections and Non-Residential Population for Municipal Water Supply Rights.** The statutory definitions in this subsection do not exactly match the Department of Health rules for Group A water systems under WAC 246-290-020.

1. In this section, we provide examples of water systems that might or might not be considered municipal water suppliers holding water rights for municipal water supply purposes. Whether or not the particular system is considered municipal or not depends on the specific fact pattern.

2. RCW 90.03.015(4)(a) provides statutory definitions for municipal water suppliers holding water rights for municipal water supply purposes. These definitions overlap Department of Health rules for Group A water systems, but they are not exactly the same.

3. All municipal water suppliers under this section are Group A water systems. However, not all Group A water systems are municipal water suppliers.

4. One difference between the definition in this section and Department of Health rules for Group A water systems is the statute requires 15 or more residential connections. The Department of Health rules consider both residential and non-residential connections. Therefore, a water right serving 15 homes would be for municipal water supply purposes but a water right serving 14 homes and a business would not. It does not meet the "municipal" definition, because it does not meet the "residential" criterion. However, both would be Group A water systems.
5. The statute does not define the term *residential service connection*. Ecology considers this term to be as defined in Department of Health rules for Group A community water systems in WAC 246-290-020. The definition reads: "service connections used by year-round residents for one hundred eighty or more days within a calendar year". This is a subset of Department of Health's general definition of a service connection in WAC 246-290-010, i.e. a connection to a public water system serving both residential and non-residential populations. By contrast, the Municipal Water Law only considers residential service connections.

6. Ecology interprets the term "connection" in a manner consistent with Department of Health rules. This includes provisions for alternative means of calculating the number of connections for a Group A water system. This can include counting "equivalent residential units" within a building. The determination on number of residential units (connections) is done on a case-by-case basis.

7. In general, the following Group A water systems could be examples of municipal water suppliers because the statutory definitions are equivalent to those adopted in rule by the Department of Health: a city, subdivision, mobile home park, or water association. The decisions on whether systems hold water rights for municipal supply purposes depend on the particular factual situations.

8. Another difference between the statutory definition and Department of Health rules for Group A water systems is the statute does not include a definition for *residential* populations but Department of Health rules do.

   For example, under WAC 246-290-020, a water system can be classified as a Group A community system if it serves at least 25 residents for 180 or more days within a calendar year. This is regardless of the number of connections. A water right serving such a system would not be for municipal water supply purposes under this section because the statute does not contain an equivalent definition. There are stand-alone Group A community water systems that, under particular factual situations, may not be municipal water suppliers because of this difference. These types of systems could include some colleges, nursing homes, or other residential facilities.

9. The Municipal Water Law does not include a minimum service connection requirement for nonresidential connections. RCW 90.03.015(4)(a) defines a water right for municipal water supply purposes in terms of nonresidential populations (residential use of water for a nonresidential population of, on average, at least twenty-five people for at least sixty days a year). Therefore, this category includes some Group A non-community systems and excludes others, depending upon particular factual situations.

10. Ecology interprets the phrase "residential use of water for a nonresidential population" to mean that the full range of residential water uses (e.g. drinking, cooking, cleaning, sanitation) are provided under the water right. Further, such service is for temporary domiciles for non-residents (an average of 25 or more people living there for more than 60 days per year). Examples of Group A non-community systems that might hold water rights for municipal water supply purpose under this section under particular factual situations could include vacation homes and temporary farm worker housing.
11. The following Group A non-community systems would not typically hold rights under RCW 90.03.015(4)(a) for municipal water supply purposes under the residential water use for a non-resident population definition:

- schools,
- daycares,
- churches,
- campgrounds,
- fairgrounds,
- restaurants,
- businesses, and
- factories.

Actual determination of whether such systems hold water rights for municipal supply purposes will depend upon the particular factual situations.

12. Group B water systems are also defined in WAC 246-290-020 and are public water systems smaller than Group A systems, either in terms of connections or population. Water rights serving Group B water systems do not qualify as water rights for municipal water supply purposes under RCW 90.03.015(4)(a).

**RCW 90.03.015(4)(b) Governmental Entities and Governmental Purposes.** Defines water rights for municipal water supply purposes for a specific group of governmental entities.

1. The governmental entities listed in this subsection constitute an exclusive list. Those entities are:

- cities,
- towns,
- public utility districts,
- counties,
- sewer districts, or
- water districts.

If an entity is not on the list, it is not a municipal water supplier for the purpose of this subsection. For example, neither a port district nor an irrigation district qualify as municipal water suppliers under RCW 90.03.015(4)(b).

2. Governmental and governmental proprietary purposes generally refer to those purposes listed at the end of RCW 90.03.015(4), including, but not limited to:

- commercial,
- industrial,
- irrigation of parks and open spaces,
- institutional,
- landscaping,
- fire flow,
- water system maintenance and repair, or
- related purposes.
3. A governmental or non-governmental entity not qualifying as a municipal water supplier under this subsection (e.g., a port district or irrigation district) may qualify under another subsection of RCW 90.03.015. However, domestic use rights issued to or acquired by a city, town, public utility district, county, sewer district, or water district that do not qualify as municipal under the more specific requirements of RCW 90.03.015(4)(a) cannot qualify under the more general "governmental or governmental proprietary purposes" standard of RCW 90.03.015(b).

4. When considering whether a water right qualifies for a governmental purpose under this section (e.g., irrigation of parks), Ecology considers the entity that was originally issued the water right, as well as the current owner of the right.

   For example, if a water right was issued for irrigation of parks (or another governmental purpose) to a "governmental entity", then the right is for a municipal water supply purpose. However, if the same right were issued to a non-governmental entity (e.g., a private developer) and later acquired by a "governmental entity", then the right would need to be changed to municipal water supply purposes under RCW 90.03.380. The right as issued did not then qualify as a municipal water supply purpose water right.

5. Municipal water rights held by entities listed in RCW 90.03.015(4)(b) may include agricultural irrigation as a governmental purpose under an existing municipal water supply purpose water right, if such an entity has statutory authority to provide agricultural irrigation water and the entity has used the right, at least in part, for agricultural irrigation since the time the right was issued.

RCW 90.03.260(4) & (5) Applications – Numbers of Connections and Population. These subsections provide that the maximum population or number of connections specified on an application or any subsequent water right documents for a municipal water supply right is no longer a limitation of the water right. The municipal water supplier must have an approved water system plan or an approval from the Department of Health to serve a specified number of service connections to not be subject to this limit. These subsections do not relate to water rights documented by statements of water right claims.

1. If a water system serving 15 or more existing residential service connections has a water right for community or multiple domestic supply, and the number of connections has been authorized by the Department of Health, the water right is for municipal water supply purposes and any population or connection limitations that may appear in water right documents are not limiting. Rather, the maximum instantaneous quantity (Q,) and annual quantity (Q,) are the controlling numbers.

2. If a water system serving less than 15 existing residential service connections has a water right that issued for a project proposing more than 15 residential service connections, and any number of connections specified on the application or any subsequent water right documents is 15 or greater, then such a water right may be conformed as a right for municipal water supply purposes under RCW 90.03.560. This conformance must follow actual physical service to at least 15 residential service connections.

3. If a water system serving less than 15 existing residential service connections has a water right that issued for a project proposing fewer than 15 residential service connections, and any
number of connections specified on the application or any subsequent water right documents is 14 or less, then the number of connections specified on the application or any subsequent water right documents is a limitation on the water right\(^1\). Only a sufficient quantity of water necessary to serve those connections is authorized.

4. If a water system that qualifies as a municipal water supplier under RCW 90.03.015(3) physically consolidates another water system into its distribution system, or takes ownership of another water system and acquires a community or multiple domestic supply water right that was held by the acquired water system for a project proposing fewer than 15 residential service connections, then the number of connections specified on the application or any subsequent water right documents of the acquired system is not limiting, so long as the municipal water supplier receives a water system plan or other approval from the Department of Health to serve an authorized number of connections.

5. If a water system is providing water for residential use to a nonresidential population numbering less than an average of 25 people for sixty or more days per year, under a water right issued for a project proposing residential use of water to a nonresidential population for an average of greater than 25 people for sixty or more days per year, then such a water right may be confirmed as a right for municipal water supply purposes under RCW 90.03.560 following actual service to an average of 25 or more people for sixty or more days per year.

6. If a water system is providing water for residential use to a nonresidential population numbering less than an average of 25 people for sixty or more days per year, under a water right issued for a project proposing residential use to a nonresidential population for an average of less than 25 people for sixty or more days per year, then the population intended to be served by the water right is a limitation on the water right and only a sufficient quantity of water necessary to serve that population is authorized.

**RCW 90.03.330(2) Appropriation Procedure — Water Right Certificate: Exceptions to Prohibition of Revocation or Diminishment of a Municipal Water Supply Purpose Water Right.** This section provides that Ecology may not revoke or diminish a water right for municipal water supply purposes documented by a certificate covered under RCW 90.03.330(3) except:

- when issuing certificates under RCW 90.03.240,
- issuing certificates following changes, transfers, or amendments under RCW 90.03.380 or 90.44.100, or
- if Ecology determines a certificate was issued with ministerial errors or obtained through misrepresentation.

1. Apart from the exceptions listed in this section, Ecology cannot rescind or diminish a certificate for municipal water supply purposes and/or revert a certificate to permit status.

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\(^1\) "Such a water right does not qualify as a right for municipal supply purposes. Changing the purpose of use of such a water right to municipal supply purposes would require approval of an application to change the purpose of use of the right, which, under RCW 90.44.100, is not permissible for an unperfected inchoate groundwater right."
2. A certificate for municipal water supply purposes may be revoked or diminished if the revocation or diminishment results from a general adjudication of water rights in superior court conducted pursuant to RCW 90.03.110 - 245.

3. When processing an application for change, transfer, or amendment of a water right documented by a certificate covered under RCW 90.03.330(3), Ecology may revoke the certificate, or issue a certificate for a quantity less than that on the original certificate. Revocation or diminishment may occur based on:
   - the tentative determination of validity and extent of the water right,
   - to prevent impairment of other existing water rights, or
   - to prevent detriment to the public welfare (for ground water changes under RCW 90.44.100).

[See RCW 90.03.330(3), below, for discussion relating to tentative determination of validity and extent.]

4. Upon determining that a certificate for municipal water supply purposes has been issued with ministerial errors, Ecology may revoke the certificate and issue a superseding certificate containing modifications only to the extent necessary to correct the ministerial errors.

5. Upon determining that a certificate for municipal water supply purposes has been issued through misrepresentation, Ecology may revoke the certificate and issue a superseding certificate containing modifications only to the extent necessary to correct the misrepresentation.

RCW 90.03.330(3)  Appropriation Procedure – Water Right Certificates. This subsection provides that water rights for municipal water supply purposes documented by certificates issued prior to September 9, 2003 with maximum quantities based on system capacity (known as "pumps and pipes" certificates) are "rights in good standing."

1. "Pumps and pipes" certificates were issued based on the system capacity measure, rather than on the basis of actual beneficial use. These water rights include inchoate quantities that have not yet been exercised. See Department of Ecology v. Theodoratus, 135 Wn.2d 582, 957 P.2d 1241 (1998). Such rights may continue to be exercised to serve new growth. Ecology is not authorized to revoke or diminish water rights for municipal supply purposes documented by such "pumps and pipes" certificates, except under the circumstances set forth in RCW 90.03.330(2), discussed above.

2. RCW 90.44.100 authorizes changes of points of withdrawal and places of use for inchoate ground water rights. In the context of exceptions provided under RCW 90.03.330(2), such as when a conservancy board or Ecology evaluates an application for change or transfer of a water right documented by a "pumps and pipes" certificate and must perform a tentative determination of the validity and extent of the water right, an assessment must be performed to determine whether any of the inchoate quantity specified in the certificate remains valid. This requirement is based on the proposition that by including the term "in good standing" for such certificates, the Legislature intended that holders of such rights would still have to meet other water law principles, such as reasonable diligence in project development, to keep the rights in good standing.
Appendix 3 – Department of Ecology Municipal Water Law Interpretive and Policy Statement

In assessments under RCW 90.03.330(2), to determine if inchoate quantities remain in good standing, the conservancy boards and Ecology will consider at least the following parameters:

a. The original intent described in water right documents, including the nature of the project that the applicant sought to pursue through issuance of the permit;

b. Whether the water right holder has exercised reasonable diligence to complete the project sought to be developed through the water right\(^2\), and

c. Whether or not approval of the change would be contrary to the public interest. Public interest analysis can involve consideration of whether the proposed change or transfer is speculative in nature. As an example, evidence of speculation could be no continued involvement by the selling municipal water supplier in the water use served by the receiving entity. Additional evidence could be no discussion or rationale for the transfer indicated in planning documents, such as a water system plan.

Inchoate portions of water rights for municipal supply purposes found to be in good standing through this assessment (mentioned above), are eligible for change or transfer. This approach may, among other things, allow for the inchoate portion to be transferred to another municipal water supplier or integrated into a regional water system.

For inchoate surface water rights, the additional requirements in RCW 90.03.570 must be met before changes and transfers may be approved. Further, RCW 90.03.380 and 90.44.100 authorize changes and transfers of perfected surface and ground water rights for municipal supply purposes when the criteria of those statutes are met.

**RCW 90.03.330(4) Issuance of Certificates – Beneficial Use Requirement.** This section requires that for water rights represented by permits, after September 9, 2003, water right certificates may only be issued that document maximum quantities based on actual beneficial use of water.

1. Ecology will issue certificates, upon proof of appropriation by permit holders, based only on actual beneficial use of water, rather than system capacity. Such certificates will not include quantities of inchoate water.

2. Ecology will consider a permit holder’s request to split a partially developed permit by issuing a certificate for the developed portion and issuing a superseding permit for the inchoate portion with a development schedule. The permit holder must demonstrate reasonable diligence in working toward full development.

3. In reports of examination authorizing changes and transfers of water rights for municipal supply purposes, Ecology may specify development schedules. The schedule may include an estimated date of final development. Extensions may be granted as described in Ecology Policy POL-1050. Upon completion of development, Ecology will issue superseding water right certificates.

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\(^2\) RCW 90.03.320 provides guidance on factors to consider when evaluating whether a water right permittee has exercised reasonable diligence.
**Appendix 3 – Department of Ecology Municipal Water Law Interpretive and Policy Statement**

**RCW 90.03.386(1) Coordination between Department of Health and Department of Ecology.**
This section requires coordinated review and approval procedures to ensure compliance and consistency with water system plans/small water system management programs. Ecology and the Department of Health developed a Memorandum of Understanding (MOU) to outline the agencies' roles and responsibilities.


**RCW 90.03.386(2) Place of Use and Determinations of "Not Inconsistent" with Specified Local Plans.** This section provides that a municipal water supplier's authorized place of use on its water right or rights can change to its current service area, provided that:

- a planning or engineering document describing the service area has been approved by the Department of Health;
- the municipal water supplier is in compliance with the terms of its water system plan or small water system management program; and
- the alteration of the water right place of use is "not inconsistent" with other local planning documents (see section 5(2) of Municipal Water Law Agency Responsibilities Outline - June 23, 2006 created by DOH and Ecology relating to implementation of this section)


Ecology and the Department of Health included detailed implementation and coordination information from this document into an MOU that outlines the agencies' roles and tasks.


**RCW 90.03.386(3) Water Conservation as a Part of an Approved Water System Plan/Small Water System Management Program.** This section describes the responsibility for a municipal water supplier to implement a water use efficiency/water conservation program. It directs Ecology to consider such implementation when considering development schedules for municipal water supply rights.

1. Ecology supports the Department of Health's rule on water use efficiency/water conservation for municipal water suppliers. Ecology generally intends to be consistent with the Department of Health's water conservation requirements, but believes there may be exceptions when more stringent requirements may be necessary.

2. Ecology has statutory mandates to encourage conservation and eliminate waste. In some cases, Ecology may base water allocation decisions on conservation criteria more stringent than those in the Department of Health's rule. Such instances may include, but are not limited to:
   - evaluations of applications for water right permits under RCW 90.03.290,
   - waste of water determinations under RCW 90.03.005,
   - coordination with watershed planning efforts under Chapters 90.54 and 90.82 RCW,
   - drought permitting under Chapter 43.83B RCW,
   - general adjudications of water rights, or
   - settlements of administrative appeals and court cases.
Appendix 3 – Department of Ecology Municipal Water Law Interpretive and Policy Statement

Many factors could come into play when making the determination for more stringent conservation requirements. Ecology will address these instances on a case-by-case basis.

For example, Ecology could require more stringent conservation measures when issuing a new water right permit authorizing a withdrawal from a watershed with instream flows established by rule. In its decision, Ecology could determine that water is not available, or that it would impair other existing water rights or be contrary to the public interest, to allow water use at a level that would be allowed under the DOH rule. With proper mitigation and a requirement to conserve additional water over what the DOH rule might require, Ecology could be able to approve the application and issue a permit.

3. In its review of water system plans and related documents, Ecology might comment on those areas within its jurisdiction, including those listed above in number 2.

4. When Ecology believes it must be more stringent than DOH's water use efficiency rules, Ecology will consult with DOH before imposing more stringent conditions.

5. Ecology policy POL-1050 provides guidance on the agency's criteria for extending development schedules for all water rights, including those for municipal water supply purpose. Under this policy, Ecology may require additional conservation provisions and conditions at the time of a permit extension for a municipal, water supply purpose right. See the policy at: http://www.ecy.wa.gov/programs/wr/rules/images/pdf/pol1050r.pdf

**RCW 90.03.550  Municipal Water Supply Purposes – Beneficial Uses.**

1. Beneficial uses of water under a municipal water supply purposes water right may include water withdrawn or diverted under such a right and used for:
   - Uses that benefit fish and wildlife, water quality, or other instream resources or related habitat values;
   - Uses that are needed to implement environmental obligations called for by:
     - a watershed plan under Ch. 90.54 RCW or Ch. 90.82 RCW,
     - a federal habitat conservation plan,
     - a hydropower license of the federal energy regulatory commission, or
     - a comprehensive irrigation district management plan.

**RCW 90.03.560  Municipal Water Supply Purposes – Identification. "Conforming Documents" and Municipal Water Right Changes and Transfers.** Water rights meeting the definition under RCW 90.03.015 are for municipal water supply purposes. The water right documents can be conformed to correctly identify the purpose of use.

1. A "conformed water right" is one in which water right documents have been amended by the department to properly indicate it is for municipal water supply purposes. For a qualifying right, this can occur during the process of changing some other attribute of the water right under RCW 90.03.380 or 90.44.100. This can also occur when a municipal water supplier requests a correction of the listed purpose of use, pursuant to this section and not just during a change or transfer.
2. Purposes of use that can be conformed to a municipal water supply purpose generally include those identified in RCW 90.03.015 and RCW 90.03.550.

3. A municipal water supplier can hold or acquire water rights for non-municipal purposes (e.g. agricultural irrigation and daily purposes of use). However, these rights may not be conformed to a municipal water supply purpose of use under this section. They must undergo a purpose of use change under RCW 90.03.380 to become municipal purpose rights.

Maia Bellon  
Program Manager  
Water Resources Program

Special Note: These policies and procedures are used to guide and ensure consistency among water resources program staff in the administration of laws and regulations. These policies and procedures are not formal administrative regulations that have been adopted through a rule-making process. In some cases, the policies may not reflect subsequent changes in statutory law or judicial findings, but they are indicative of the department's practices and interpretations of laws and regulations at the time they are adopted. If you have any questions regarding a policy or procedure, please contact the department.
Appendix 4 – Excerpts from DOH Regulations Related to Public Water Systems
Appendix 4 – Excerpts from DOH Regulations Related to Public Water Systems

WAC 246-290-496

Metering requirements.

(1) Production:

(a) The volume of water produced or purchased must be measured using a source meter or other meter installed upstream of the distribution system.

(b) The requirements of this section do not alter any source metering regulations adopted by either the department of health or the department of ecology.

(c) The requirements of this section do not apply to volumes of water delivered to a public water system through an emergency intertie.

(2) Consumption:

(a) The requirements of this section apply to public water systems that supply water for municipal water supply purposes.

(b) Except as provided in (g) of this subsection, the volume of water delivered to consumers must be measured by meters installed on all direct service connections.

(c) Meters must be installed on all existing direct service connections and clustered entities as provided in (g) of this subsection within ten years of the effective date of this rule.

(d) Meters must be installed on all new direct service connections when the service connection is activated.

(e) Meters must be installed on all interties used as permanent or seasonal sources within ten years of the effective date of this rule.

(f) If a system is not fully metered, the municipal water supplier shall complete the following:

(i) Develop a meter installation schedule consistent with this section.

(A) For systems serving one thousand or more total connections, submit the schedule to the department by July 1, 2008.

(B) For systems serving less than one thousand total connections, submit the schedule to the department by July 1, 2009.

(C) The schedule must include milestones demonstrating steady and continuous progress toward compliance with the requirements of this section.

(ii) Implement activities to ensure distribution system leakage is minimized (e.g., periodic leak detection and repair) until the system is fully metered.

(iii) Report the status of meter installation and all actions taken to minimize leakage in annual performance reports developed under WAC 246-290-840 and water use efficiency programs developed under WAC 246-290-810.
Appendix 4 – Excerpts from DOH Regulations Related to Public Water Systems

(g) The volume of water may be measured through a single meter for the following clustered entities:

(i) A campground;
(ii) A recreational vehicle park;
(iii) A designated mobile home park;
(iv) A building with multiple units; and
(v) A complex with multiple buildings served as a single connection.

(3) Meters must be selected, installed, operated, calibrated, and maintained following generally accepted industry standards and information from the manufacturer.

[Statutory Authority: RCW 70.119A.180. WSR 07-02-025B, § 246-290-496, filed 12/22/06, effective 1/22/07.]

WAC 246-290-800
Purpose and applicability.

(1) The purpose of Part 8 is to:

(a) Define requirements for water use efficiency programs in water system plans developed under WAC 246-290-100 and small water systems management programs developed under WAC 246-290-105.

(b) Establish a water distribution system leakage standard.

(c) Define process requirements for water use efficiency goal setting.

(d) Establish water use efficiency performance reporting requirements.

(2) The requirements of Part 8 of this chapter apply to public water systems that supply water for municipal water supply purposes.

[Statutory Authority: RCW 70.119A.180. WSR 07-02-025B, § 246-290-800, filed 12/22/06, effective 1/22/07.]

WAC 246-290-810
Water use efficiency program.

(1) Water system plans and small water system management programs submitted for approval for the first year after the effective date of this rule, must describe the municipal water supplier's existing water use efficiency program. The municipal water supplier must continue existing levels of water use efficiency.

(2) Subsections (3) and (4) of this section apply to:

(a) Water system plans submitted to the department for approval under WAC 246-290-100 one year after the effective date of this rule.
Appendix 4 – Excerpts from DOH Regulations Related to Public Water Systems

(b) Small water system management programs developed and implemented or submitted to the department for approval one year after the effective date of this rule.

(3) Municipal water suppliers shall develop and implement a water use efficiency program which includes sufficient cost-effective water use efficiency measures to meet the water use efficiency goals developed under WAC 246-290-830.

(4) Municipal water suppliers shall complete the following items in the water use efficiency program:

(a) Describe the current water use efficiency program;

(b) For systems serving one thousand or more total connections, estimate the amount of water saved through implementation of the water use efficiency program over the last six years;

(c) Describe the chosen water use efficiency goals and document the goals were established in accordance with WAC 246-290-830;

(d) Evaluate water use efficiency measures to determine if they are cost-effective as follows:

(i) Evaluate or implement, at a minimum, the number of water use efficiency measures specified in Table 1 based on the system's total number of connections.

(ii) Evaluate or implement water use efficiency measures from the following categories of measures if they are applicable: Indoor residential, outdoor, and industrial/commercial/institutional.

(iii) For systems serving less than one thousand total connections, describe the evaluation process used to select water use efficiency measures.

(iv) For systems serving one thousand or more total connections, include the following criteria when evaluating water use efficiency measures:

(A) Quantitatively evaluate water use efficiency measures to determine if they are cost-effective from the system's perspective including the marginal costs of producing water.

(B) Address whether the water use efficiency measures are cost-effective if the costs are shared with other entities.

(C) Quantitatively or qualitatively evaluate water use efficiency measures to determine if they are cost-effective from the societal perspective.

| Table 1 |
| --- | --- | --- | --- | --- | --- |
| Number of connections | Less than 500 | 500-999 | 1,000-2,499 | 2,500-9,999 | 10,000-49,999 | 50,000 or more |
| Water use efficiency measures | 1 | 4 | 5 | 6 | 9 | 12 |

(e) Describe all water use efficiency measures to be implemented within the next six years including a schedule and a budget that demonstrates how the water use efficiency measures will be funded;
(f) Describe how consumers will be educated on water use efficiency practices;

(g) Estimate projected water savings from selected water use efficiency measures;

(h) Describe how the water use efficiency program will be evaluated for effectiveness;

(i) Evaluate water distribution system leakage as follows:

   (i) Include distribution system leakage totals in accordance with WAC 246-290-820 for the past six years.

   (ii) If necessary, include a copy of the water loss control action plan in accordance with WAC 246-290-820(4).

   (iii) If all or portions of transmission lines are excluded when determining distribution system leakage, estimate the amount of leakage from the excluded portion of the transmission mains and describe how it is maintained to minimize leakage.

[Statutory Authority: RCW 70.119A.180. WSR 07-02-025B, § 246-290-810, filed 12/22/06, effective 1/22/07.]

**WAC 246-290-820**

**Distribution system leakage standard.**

(1) Municipal water suppliers shall determine distribution system leakage annually under subsection (2) of this section or an alternative methodology under subsection (3) of this section.

   (a) Municipal water suppliers shall include (i), (ii), or (iii) of this subsection in water use efficiency performance reports developed under WAC 246-290-840 and water use efficiency programs developed under WAC 246-290-810:

   (i) Distribution system leakage totals calculated under subsection (2) of this section shall be recorded in annual percent and volume;

   (ii) Distribution system leakage totals calculated under subsection (3) of this section shall include annual figures and the approved alternative methodology's numerical standard(s); and

   (iii) For systems not fully metered, the status of meter installation and any actions taken to minimize leakage.

   (b) Municipal water suppliers will be considered in compliance with this section if any of the following conditions are satisfied:

   (i) Distribution system leakage calculated in accordance with subsection (2) of this section is ten percent or less for the last three-year average;

   (ii) Distribution system leakage calculated under subsection (3) of this section meets the numerical standards for the approved alternative methodology for the last three-year average;

   (iii) For systems serving less than five hundred total connections, distribution system leakage calculated in accordance with subsection (2) of this section is twenty percent or less for the last three-year average and the steps outlined in subsection (5) of this section are completed; or
(iv) A water loss control action plan has been developed and implemented under subsection (4) of this section and the system is meeting the implementation schedule.

(2) Calculate the percent of distribution system leakage annually using the following equation:

\[ DSL = \frac{([TP - AC]/[TP]) \times 100}{TP} \]

Where:

- DSL = Percent of Distribution System Leakage (%)
- TP = Total Water Produced and Purchased
- AC = Authorized Consumption

(a) Total water produced and purchased, and authorized consumption must be calculated using data from meters installed under WAC 246-290-496. Elements of authorized consumption that cannot be metered, such as fire flow, must be estimated.

(b) All or portions of transmission lines may be excluded when determining distribution system leakage.

(c) Any water that cannot be accounted for shall be considered distribution system leakage.

(3) Municipal water suppliers may use an alternative methodology to calculate distribution system leakage if both (a) and (b) of this subsection are satisfied.

(a) The alternative methodology is contained in published standards or specifications of the department, Environmental Protection Agency, American Water Works Association, American Public Works Association, or American Society of Civil Engineers.

(b) The alternative methodology is approved for statewide use by the department, to provide a better evaluation of distribution system leakage than percent of total water produced and purchased, is appropriate for the system requesting to use it, and uses numerical standards so that compliance and action levels can be determined.

(4) If the average distribution system leakage for the last three years does not meet the standard calculated under subsection (1)(b)(i), (ii), or (iii) of this section, the municipal water supplier shall develop and implement a water loss control action plan. Municipal water suppliers shall submit the water loss control action plan to the department as part of a water use efficiency program under WAC 246-290-810 and upon request by the department. The control methods described in a water loss control action plan shall be commensurate with the level of leakage reported. The following items shall be included in the water loss control action plan:

(a) The control methods necessary to achieve compliance with the distribution system leakage standard;

(b) An implementation schedule;

(c) A budget that demonstrates how the control methods will be funded;
Appendix 4 – Excerpts from DOH Regulations Related to Public Water Systems

(d) Any technical or economic concerns which may affect the system's ability to implement a program or comply with the standard including past efforts and investments to minimize leakage;

(e) If the average distribution system leakage calculated under subsection (2) of this section is greater than ten and less than twenty percent of total water produced and purchased, the water loss control action plan must assess data accuracy and data collection;

(f) If the average distribution system leakage calculated under subsection (2) of this section is between twenty and twenty-nine percent of total water produced and purchased, the water loss control action plan must include elements listed under (e) of this subsection and implementation of field activities such as actively repairing leaks or maintaining meters within twelve months of determining standard exceedance;

(g) If the average distribution system leakage calculated under subsection (2) of this section is at thirty percent or above the total water produced and purchased, the water loss control action plan must include elements listed under (e) and (f) of this subsection and include implementation of additional control methods to reduce leakage within six months of determining standard exceedance; and

(h) If the average distribution system leakage calculated under subsection (3) of this section is over the approved alternative methodology's numerical standard, the department will take appropriate compliance actions and work collaboratively with the municipal water supplier to ensure the control methods and level of activity are commensurate with the level of leakage.

(5) Systems serving less than five hundred total connections may submit a request to the department for approval of an average distribution system leakage up to twenty percent. The following information must be submitted to the department with the request:

(a) Production volume;
(b) Distribution system leakage volume;
(c) Evidence documenting that:
   (i) A leak detection survey using best available technologies has been completed on the system within the past six years;
   (ii) All leaks found have been repaired;
   (iii) The system is unable to locate additional leaks; and
   (iv) Ongoing efforts to minimize leakage are included as part of the system's water use efficiency program; and

(d) Any technical concerns or economic concerns, or other system characteristics justifying the higher distribution system leakage.

[Statutory Authority: RCW 70.119A.180 and 43.20.050. WSR 08-03-061, § 246-290-820, filed 1/14/08, effective 2/14/08. Statutory Authority: RCW 70.119A.180. WSR 07-02-025B, § 246-290-820, filed 12/22/06, effective 1/22/07.]

Reviser's note: The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency.
WAC 246-290-830

Water use efficiency goal setting.

(1) The elected governing board or governing body of the public water system shall establish water use efficiency goals within one year of the effective date of this rule for systems serving one thousand or more total connections, and within two years of the effective date of this rule for systems serving less than one thousand total connections.

(2) Water use efficiency goals must be designed to enhance the efficient use of water by the water system's consumers.

(3) If a municipal water supplier determines that further reductions over current consumption levels are not reasonably achievable, the municipal water supplier shall provide justification that considers historic water use efficiency performance and investment and any other factors that support that determination. Justification must be provided in water use efficiency programs developed under WAC 246-290-810 and in water use efficiency performance reports developed under WAC 246-290-840.

(4) Municipal water suppliers must provide documentation when requested by the department and in water use efficiency programs developed under WAC 246-290-810 that demonstrates the following goal setting requirements have been met:

(a) Goals shall be set in a public forum that provides opportunity for consumers and the public to participate and comment on the water use efficiency goals;

(b) Public notice must occur at least two weeks prior to the public forum. Public notice must include the purpose, date, time, and place of the forum, and where materials supporting the rationale for the proposed goals can be reviewed;

(c) The elected governing board or governing body of the public water system shall review and consider all comments received;

(d) The following must be made available to the public for the purpose of fully documenting the basis for each goal:

(i) The information listed under WAC 246-290-810(4);

(ii) Annual water use efficiency performance reports prepared under WAC 246-290-840;

(iii) Water supply characteristics description in accordance with WAC 246-290-100 (4)(f)(iii)(B) or source description in accordance with WAC 246-290-105 (4)(f); and

(iv) A summary of the comments received and how they were considered.

(5) Existing public processes may be used if all requirements listed under subsection (4) of this section are met.

(6) Water use efficiency goals must include:

(a) Consideration of the system's forecasted demand and water supply characteristics;

(b) Measurable outcomes in terms of reduced or maintained water production or usage. Outcomes may be expressed on a per capita, per connection, total system, or other basis as deemed appropriate by the municipal water supplier;
Appendix 4 – Excerpts from DOH Regulations Related to Public Water Systems

(c) A schedule for achieving the water use efficiency goals; and

(d) Implementation schedule for each water use efficiency measure selected under WAC 246-290-810(4).

(7) The elected governing board or governing body of the public water system shall evaluate and reestablish water use efficiency goals following the process identified in subsection (4) of this section at least every six years and as part of a water system plan approval under WAC 246-290-100 or small water system management program approval under WAC 246-290-105.

(8) Water use efficiency goals may be changed at any time in accordance with subsection (4) of this section. Changes to goals must be identified in the next performance report.

(9) Water use efficiency programs must be modified if any water use efficiency goal is not met. Program modifications must be designed to achieve the system’s water use efficiency goals.

[Statutory Authority: RCW 70.119A.180. WSR 08-12-019, § 246-290-830, filed 5/28/08, effective 7/1/08; WSR 07-02-025B, § 246-290-830, filed 12/22/06, effective 1/22/07.]

WAC 246-290-840

Water use efficiency performance reports.

(1) Municipal water suppliers shall develop an annual water use efficiency performance report and must:

(a) Send the water use efficiency performance reports to the department and the consumers by July 1st of each year for the previous year and make them available to the public;

(b) For systems serving one thousand or more total connections, develop the first water use efficiency performance report by July 1, 2008;

(c) For systems serving less than one thousand total connections, develop the first water use efficiency performance report by July 1, 2009; and

(d) Municipal water suppliers shall submit performance reports in a manner specified by the department.

(2) Water use efficiency performance reports shall include:

(a) Total annual production. Systems with multiple sources may provide aggregate data;

(b) Annual water distribution system leakage totals in accordance with WAC 246-290-820;

(c) A description of the system’s water use efficiency goals set in accordance with WAC 246-290-830;

(d) A schedule for achieving the goals;

(e) A narrative description of progress toward achieving the goals; and

(f) Report the status of meter installation and all actions taken to minimize leakage.

[Statutory Authority: RCW 70.119A.180. WSR 07-02-025B, § 246-290-840, filed 12/22/06, effective 1/22/07.]
Appendix 5 – SEPA Checklist
SEPA Distribution List
SEP2016-00044
Date of Issuance: May 12, 2016

Please review this determination. If you have further comments, questions or would like a copy of the SEPA checklist, phone the responsible official at (360) 778-5900. Please submit your response by the comment date noted on the attached notice of determination.

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Lummi Nation Natural Resources
Merle Jefferson, Sr. via email - merlej@lummi-nsn.gov
Tamela Smart - tamelas@lummi-nsn.gov

Nooksack Indian Tribe
George Swanset, JR via email - george.swansetzjr@nooksack-nsn.gov
Trevor Delgado via email - tdelgado@nooksack-nsn.gov

Terry J. Wechsler via email wechslerlaw@comcast.net

Applicant
Whatcom County Public Works – Gary Stoyka
SEPA Determination of Nonsignificance (DNS)

File: SEP2016-00044

Project Description:
Non-project action to adopt an updated Coordinated Water System Plan (CWSP) per RCW 70.116.030. Whatcom County has designated a critical water supply services area per RCW 70.116.030(2). The proposed CWSP updates prior planning efforts conducted in 1993 and 2000. A number of updates have been provided in the proposed CWSP, including the following: 1) identifies existing water systems within the study area, establishes services area boundaries of these water purveyors and analyzes projected future growth in connections and water rights capacities; 2) updates minimum design standards and review procedures for services to new customers; 3) addresses regional water resource issues such as tribal water issues, water rights, financial viability of small systems, existing and potential water quality problems, data management, lack of joint facilities and system interties, water use efficiency and reclaimed water; 4) provides an appeals process; and 5) identifies implementation measures.

Proponent: Whatcom County Public Works

Address and Parcel #: All of Whatcom County west of the Mount Baker-Snoqualmie National Forest boundary excluding certain portions of the Lummi and Nooksack reservations.

Lead Agency: Whatcom County Planning & Development Services

Zoning: County-wide  Comp Plan: County-wide  Shoreline Jurisdiction: County-wide

The lead agency for this proposal has determined that with proper mitigation, no significant adverse environmental impacts are likely. Pursuant to RCW 43.21C.030(2)(c), an environmental impact statement (EIS) is not required. This decision was made following review of a completed SEPA environmental checklist and other information on file with the lead agency. This information is available to the public on request.

There is no comment period for this DNS.

Pursuant to WAC 197-11-340(2), the lead agency will not act on this proposal for 14 days from the date of issuance indicated below. Comments must be received by 4:00 p.m. on May 26, 2016 and should be sent to: Mark Personius

Responsible Official: Mark Personius, mpersoni@whatcomcounty.us

Title: Assistant Director

Telephone: 360-778-5900

Address: 5280 Northwest Drive

Bellingham, WA 98226

Date of Issuance: May 12, 2016

Signature: ____________________________________________

SEPA Determination of Nonsignificance (DNS)  PL4-83-005E
An aggrieved agency or person may appeal this determination to the Whatcom County Hearing Examiner. Application for appeal must be filed on a form provided by and submitted to the Whatcom County Current Planning Division located at 5280 Northwest Drive, Bellingham, WA 98226, during the ten days following the comment period, concluding June 6, 2016.

You should be prepared to make a specific factual objection. Contact Whatcom County Current Planning Division for information about the procedures for SEPA appeals.
SEPA Determination of Nonsignificance (DNS)  
Legal Notice  

To be published one time only on: May 12, 2016  

CHARGE TO: Whatcom County Planning & Development Services  
5280 Northwest Drive  
Bellingham, Washington 98226  
Acct #451232  

WHATCOM COUNTY GIVES PUBLIC NOTICE THAT THE FOLLOWING SEPA THRESHOLD DETERMINATION OF NON-SIGNIFICANCE (DNS) HAS BEEN ISSUED TODAY SUBJECT TO THE 14 DAY COMMENT PERIOD CONCLUDING ON, May 26, 2016.  

File: SEP2016-00044  

Project Description:  
Non-project action to adopt an updated Coordinated Water System Plan (CWSP) per RCW 70.116.030. Whatcom County has designated a critical water supply services area per RCW 70.116.030(2). The proposed CWSP updates prior planning efforts conducted in 1993 and 2000. A number of updates have been provided in the proposed CWSP, including the following: 1) identifies existing water systems within the study area, establishes services area boundaries of these water purveyors and analyzes projected future growth in connections and water rights capacities; 2) updates minimum design standards and review procedures for services to new customers; 3) addresses regional water resource issues such as tribal water issues, water rights, financial viability of small systems, existing and potential water quality problems, data management, lack of joint facilities and system interties, water use efficiency and reclaimed water; 4) provides an appeals process; and 5) identifies implementation measures.  

Proponent: Whatcom County Public Works  

Address and Parcel #:  
All of Whatcom County west of the Mount Baker-Snoqualmie National Forest boundary excluding certain portions of the Lummi and Nooksack reservations.  

Lead Agency: Whatcom County Planning & Development Services  

Zoning: County-wide  
Comp Plan: County-wide  
Shoreline Jurisdiction: County-wide  

ANY PERSON OR AGENCY MAY APPEAL THE COUNTY’S COMPLIANCE WITH WAC 197-11 BY FILING AN APPEAL WITH THE WHATCOM COUNTY CURRENT PLANNING DIVISION LOCATED AT 5280 NORTHWEST DRIVE, BELLINGHAM, WA 98226. APPEALS MUST BE MADE WITHIN 10 DAYS AFTER THE END OF THE COMMENT PERIOD.
SEPA Environmental Checklist

Purpose of Checklist:

Governmental agencies use this checklist to help determine whether the environmental impacts of your proposal are significant. This information is also helpful to determine if available avoidance, minimization or compensatory mitigation measures will address the probable significant impacts or if an environmental impact statement will be prepared to further analyze the proposal.

Instructions for Applicants:

This environmental checklist asks you to describe some basic information about your proposal. Please answer each question accurately and carefully, to the best of your knowledge. You may need to consult with an agency specialist or private consultant for some questions. You may use “not applicable” or “does not apply” only when you can explain why it does not apply and not when the answer is unknown. You may also attach or incorporate by reference additional studies reports. Complete and accurate answers to these questions often avoid delays with the SEPA process as well as later in the decision-making process.

The checklist questions apply to all parts of your proposal, even if you plan to do them over a period of time or on different parcels of land. Attach any additional information that will help describe your proposal or its environmental effects. The agency to which you submit this checklist may ask you to explain your answers or provide additional information reasonably related to determining if there may be significant adverse impact.

Use of Checklist for Non-Project Proposals:

For non-project proposals (such as ordinances, regulations, plans and programs), complete the applicable parts of sections A and B plus the Supplemental Sheet for Non-project Actions (Part C). Please completely answer all questions that apply and note that the words “project”, “applicant”, and “property or site” should be read as “proposal”, “proponent” and “affected geographic area”, respectively. The lead agency may exclude (for non-projects) questions in Part B - Environmental Elements that do not contribute meaningfully to the analysis of the proposal.
A Background

1 Name of proposed project, if applicable:
   Whatcom County Coordinated Water System Plan (CWSP) Update

2 Name of applicant: Whatcom County Public Works Department
   Applicant phone number: 360-778-6218
   Applicant address: 322 North Commercial Street, Suite 210
   City, State, Zip or Postal Code: Bellingham, WA 98225
   Applicant Email address: gstoyka@whatcomcounty.us

3 Contact name: Gary Stoyka - Public Works Natural Resources Manager
   Contact phone number: 360-778-6218
   Contact address: 322 North Commercial Street, Suite 210
   City, State, Zip or Postal Code: Bellingham, WA 98225
   Contact Email address: gstoyka@whatcomcounty.us

4 Date checklist prepared: May 2016

5 Agency requesting checklist: Whatcom Co. Planning and Development Services

6 Proposed timing or schedule (including phasing, if applicable):
   Periodic updates

7 Do you have any plans for future additions, expansion, or further activity related to or connected with this proposal? Yes [ ] No [ ]
   If yes, explain:
   Yes, participating surveyors will update their respective comprehensive plans every five years. District plans will be updated for consistency with this CWSP. Individual utilities will add new wells, reservoirs, and piping to their systems.

8 List any environmental information you know about that has been prepared, or will be prepared, directly related to this proposal:
   Extensive background studies have been performed as well as individual utility water system plans.

9 Do you know whether applications are pending for governmental approvals of other proposals directly affecting the property covered by your proposal? Yes [ ] No [ ]
   If yes, explain.
   Approval of individual Water System Plans.
10 List any government approvals or permits that will be needed for your proposal, if known.

County Council determination that the CWSP is consistent with County land use plans.
Final approval by the Washington State Department of Health (DOH).

11 Give brief, complete description of your proposal, including the proposed uses and the size of the project and site. *There are several questions later in this checklist that ask you to describe certain aspects of your proposal. You do not need to repeat those answers on this page.* (Lead agencies may modify this form to include additional specific information on project description.)

This is a non-project action to adopt an updated Coordinated Water System Plan per RCW 70.116.030. Whatcom County has designated a critical water supply service area per RCW 70.116.030(2). The proposed CWSP updates prior planning efforts conducted in 1993 and 2000. A number of updates have been provided in the proposed CWSP, including the following: 1) identifies existing water systems within the study area, establishes service area boundaries of these water purveyors and analyzes projected future growth in connections and water rights capacities; 2) updates minimum design standards and review procedures for service to new customers; 3) addresses regional water resource issues such as tribal water issues, water rights, financial viability of small systems, existing and potential water quality problems, data management, lack of joint facilities and system interties, water use efficiency, and reclaimed water; 4) provides an appeals process; and 5) identifies implementation measures.

12 Location of the proposal. Give sufficient information for a person to understand the precise location of your proposed project, including a street address, if any, and section, township, and range, if known. If a proposal would occur over a range of area, provide the range or boundaries of the site(s). Provide a legal description, site plan, vicinity map, and topographic map, if reasonably available. While you should submit any plans required by the agency, you are not required to duplicate maps or detailed plans submitted with any permit applications related to this checklist.

All of Whatcom County west of the Mount Baker-Snoqualmie National Forest boundary excluding certain portions of the Lummi and Nooksack reservations. (See Figure 1-1 in the CWSP document)
B Environmental Elements

1 Earth

a. General description of the site: Varies
   - Flat
   - Rolling
   - Hilly
   - Steep Slopes
   - Mountainous
   - Other

b. What is the steepest slope on the site (approximate percent slope)?
   Varies

 c. What general types of soils are found on the site (for example, clay, sand, gravel, peat, muck)? If you know the classification of agricultural soils, specify them and note any agricultural land of long-term commercial significance and whether the proposal results in removing any of these soils.
   Varies

 d. Are there surface indications or history of unstable soils in the immediate vicinity? Yes □ No □

   If so, describe.
   N/A

 e. Describe the purpose, type, total area, approximate quantities and total affected area of any filling excavation or grading proposed.
   N/A

   Indicate source of fill.
   N/A

   Indicate where excavation material is going.
   N/A
f. Could erosion occur as a result of clearing, construction, or use?  
Yes ☐ No ☐
If so, generally describe.  
N/A ☑

g. About what percent of the site will be covered with impervious surfaces after project construction (for example, asphalt or buildings)?  
N/A ☑

h. Proposed measures to reduce or control erosion, or other impacts to the earth, if any:  
N/A ☑

2. Air
   a. What types of emissions to the air would result from the proposal during construction, operation and maintenance when the project is completed (i.e., dust, automobile, odors, or industrial wood smoke)?  
N/A ☑  
If any, generally describe and give approximate quantities if known.  
N/A ☑

   b. Are there any off-site sources of emissions or odor that may affect your proposal?  
Yes ☐ No ☐
If so, generally describe.  
N/A ☑

   c. Proposed measures to reduce or control emissions or other impacts to air, if any:  
N/A ☑
3. Water
   
a. Surface:

   (1) Is there any surface water body on or in the immediate vicinity of the site (including year-round and seasonal streams, saltwater, lakes, ponds, wetlands)? Yes ☐ No ☐
   
   If yes, describe type and provide names. If appropriate, state what stream or river it flows into.

   N/A

   (2) Will the project require any work over, in, or adjacent to (within 200 feet) the described waters? Yes ☐ No ☐
   
   If yes, please describe and attach available plans.

   N/A

   (3) Estimate the amount of fill and dredge material that would be placed in or removed from surface water or wetlands and indicate the area of the site that would be affected. N/A
   
   Indicate the source of fill material.

   N/A

   (4) Will the proposal require surface water withdrawals or diversions? Yes ☑ No ☐
   
   Not directly as a result of adoption of the CWSP.

   Give general description, purpose, and approximate quantities if known.

   Some existing purveyors currently divert surface water. Diversions may increase as population and need increases. However, any increased diversion would need to be consistent with the individual purveyor’s Water System Plan and regulations.

   Does the proposal lie within a 100-year floodplain? Yes ☐ No ☐
   
   If so, note location on the site plan.

   N/A
b. Ground Water:

(1) Will ground water be withdrawn from a well for drinking water or other purposes? Yes ☑ No ☐

If so, give a general description of the well, proposed uses and approximate quantities withdrawn from the well. Will water be discharged to groundwater? Give general description, purpose, and approximate quantities if known.

Some existing purveyors currently withdraw groundwater in the area. Groundwater withdrawal may increase as population and need increases. However, any increased withdrawal would need to be consistent with the individual purveyor's Water System Plan and applicable regulations.

(2) Describe waste material that will be discharged into the ground from septic tanks or other sources, if any (for example: Domestic sewage; industrial, containing the following chemicals...,; agricultural; etc.). Describe the general size of the system, the number of houses to be served (if applicable), or the number of animals or humans the system(s) are expected to serve.

N/A

c. Water runoff (including stormwater):

(1) Describe the source of runoff (including storm water) and method of collection and disposal, if any (include quantities, if known).

N/A

Reviewed by initials

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Rev October 2015
Where will this water flow? N/A  
Will this water flow into other waters? Yes ☐ No ☐
If so, describe.
N/A  

(2) Could waste materials enter ground or surface waters?
Yes ☐ No ☐
If so, generally describe.
N/A  

(3) Does the proposal alter or otherwise affect drainage patterns in the vicinity of the site: Yes ☐ No ☐
If so, describe.
N/A  

d. Proposed measures to reduce or control surface, ground, and runoff water impacts, if any:
N/A  

4 Plants
a. Check types of vegetation found on the site:
☑ Deciduous tree: alder, maple, aspen, other
☑ Evergreen tree: fir, cedar, pine, other
☑ Shrubs
☑ Grass
☑ Pasture
☑ Crop or grain
☑ Orchards, vineyards or other permanent crops
☑ Wet soil plants: cattail, buttercup, bulrush, skunk cabbage, other
☑ Water plants: water lily, eelgrass, milfoil, other
☑ Other types of vegetation
b. What kind and amount of vegetation will be removed or altered?
   N/A ✔

c. List threatened or endangered species known to be on or near the site.
   N/A ✔

d. Proposed landscaping, use of native plants, or other measures to preserve or enhance vegetation on the site, if any:
   N/A ✔

e. List all noxious weeds and invasive species known to be on or near the site.
   N/A ✔

5. Animals

   a. Check any birds and animals, which have been observed on or near the site or are known to be on or near the site:

      Birds:
      ✔ Hawk, ✔ Heron, ✔ Songbirds;
      ✔ Eagle, ✔
      ✔ Other:

      Mammals:
      ✔ Deer, ✔ Bear, ✔
      ✔ Elk, ✔ Beaver;
      ✔ Other:

      Fish:
      ✔ Bass, ✔ Salmon, ✔
      ✔ Trout, ✔ Herring, ✔
      ✔ Shellfish; ✔ Other:

   b. List any threatened or endangered species known to be on or near the site.
   N/A ✔
c. Is the site part of a migration route?  Yes ☐  No ☐
   If so, explain.
   N/A

d. Proposed measures to preserve or enhance wildlife, if any:
   N/A

e. List any invasive species known to be on or near site.
   N/A

6. Energy and Natural Resources
   a. What kinds of energy (electric, natural gas, oil, wood stove, solar) will be
      used to meet the completed project's energy needs? Describe whether it
      will be used for heating, manufacturing, etc.
      N/A

   b. Would your project affect the potential use of solar energy by adjacent
      properties?  Yes ☐  No ☐
      If so, generally describe.
      N/A

   c. What kinds of energy conservation features are included in the plans of
      this proposal? List other proposed measures to reduce or control energy
      impacts, if any:
      N/A

7. Environmental Health
   a. Are there any environmental health hazards, including exposure to toxic
      chemicals, risk of fire and explosion, spill, or hazardous waste that could
      occur as a result of this proposal?  Yes ☐  No ☐
      If so, describe.
      N/A

      (1) Describe any known or possible contamination at the site from
      present or past uses.
      N/A
(2) Describe existing hazardous chemicals/conditions that might affect project development and design. This includes underground hazardous liquid and gas transmission pipelines located within the project area and in the vicinity.
   N/A

(3) Describe any toxic or hazardous chemicals that might be stored, used, or produced during the projects development or construction, or at any time during the operating life of the project.
   N/A

(4) Describe special emergency services that might be required.
   N/A

(5) Proposed measure to reduce or control environmental health hazards, if any:
   N/A
   
   b. Noise
   
   (1) What types of noise exist in the area which may affect your project (for example: traffic, equipment, operation, other)?
   N/A
   
   (2) What types and levels of noise would be created by or associated with the project on a short-term or a long-term basis (for example: traffic, construction, operation, other)? Indicate what hours noise would come from the site.
   N/A
   
   (3) Proposed measures to reduce or control noise impacts, if any:
   N/A
8 Land and Shoreline Use

a. What is the current use of the site and adjacent properties?
   Varies
   Will the proposal affect current land uses on nearby or adjacent properties? Yes ☐ No ☐
   If so, describe.
   N/A

b. Has the project site been used as working farmlands or working forest lands? Yes ☑ No ☐
   If so, describe.
   N/A
   How much agriculture or forest land of long-term commercial significance will be converted to other uses as a result of the proposal, if any?
   N/A

   If resource lands have not been designated, how many acres in farmland or forest land tax status will be converted to non-farm or non-forest use?
   N/A
   (1) Will the proposal affect or be affected by surrounding working farm or forest land normal business operations, such as oversize equipment access, the application of pesticides, tilling and harvesting? Yes ☐ No ☐
      If so, how:
      N/A

c. Describe any structures on the site.
   Varies
d. Will any structures be demolished? Yes ☐ No ☐
   If so, what?
   N/A

e. What is the current zoning classification of the site?
   Varies

f. What is the current comprehensive plan designation of the site?
   Varies but the update of the CWSP has been coordinated with the County’s update of its
   Comprehensive Plan.

  Varies

  Varies

h. Has any part of the site been classified as a critical area by the city or county? Yes ☐ No ☐
   If so, specify.
   N/A

i. Approximately how many people would reside or work in the completed project?
   N/A

j. Approximately how many people would the completed project displace?
   N/A

k. Proposed measures to avoid or reduce displacement impacts, if any:
   N/A

l. Proposed measures to ensure the proposal is compatible with existing and
   projected land uses and plans, if any:
   Existing and projected land uses and plans will be followed and the CWSP update has been
   coordinated with the County’s update of its Comprehensive Plan.

m. Proposed measures to ensure the proposal is compatible with nearby
   agricultural and forest lands of long-term commercial significance, if any?
   N/A
9 Housing

a. Approximately how many units would be provided, if any? Indicate whether high, middle, or low-income housing.

- [ ] High
- [ ] Middle
- [x] Low-income

Number of Units: N/A

b. Approximately how many units, if any, would be eliminated? Indicate whether high, middle, or low-income housing.

- [ ] High
- [ ] Middle
- [x] Low-income

Number of Units: N/A

c. Proposed measures to reduce or control housing impacts, if any:

N/A

10 Aesthetics

a. What is the tallest height of any proposed structure(s), not including antennas; what is the principal exterior building material(s) proposed?

N/A

b. What views in the immediate vicinity would be altered or obstructed?

N/A

c. Proposed measures to reduce or control aesthetic impacts, if any:

N/A

11 Light and Glare

a. What type of light or glare will the proposal produce? What time of day would it mainly occur?

N/A

b. Could light or glare from the finished project be a safety hazard or interfere with views?

N/A
c. What existing off-site sources of light or glare may affect your proposal?  
N/A

d. Proposed measures to reduce or control light and glare impacts, if any:  
N/A

12 Recreation

a. What designated and informal recreational opportunities are in the immediate vicinity?  
N/A

b. Would the proposed project displace any existing recreational uses? If so, describe.  
N/A

c. Proposed measures to reduce or control impacts on recreation, including recreation opportunities to be provided by the project or applicant, if any:  
N/A

13 Historic and Cultural Preservation

a. Are there any buildings, structures, or sites, located on or near the site that are over 45 years old listed in or eligible for listing in national, state or local preservation registers located on or near the site? Yes □ No □  
If so, specifically describe.  
N/A

b. Are there any landmarks, features, or other evidence of Indian, historic use or occupation, this may include human burials or old cemeteries? Yes □ No □  
Are there any material evidence, artifacts, or areas of cultural importance on or near the site? Yes □ No □  
Please list any professional studies conducted at the site to identify such resources.  
N/A
c. Describe the methods used to assess the potential impacts to cultural and historic resources on or near the project site. Examples: Include consultation with tribes and the Department of Archeology and Historic Preservation, archaeological surveys, historic maps, GIS data, etc.
N/A

d. Proposed measures to avoid, minimize, or compensate for loss, changes to, and disturbance to resources. Please include plans for the above and any permits that may be required.
N/A

14 Transportation

a. Identify public streets and highways serving the site or affected geographic area and describe proposed access to the existing street system. Show on site plan, if any.
N/A

b. Is site or geographic area currently served by public transit?
Yes ☐ No ☐
If not, what is the approximate distance to the nearest transit stop?
N/A

c. How many parking spaces would the completed project have? How many would the project eliminate?
N/A

d. Will the proposal require any new or improvements to existing roads, streets, pedestrian, bicycle or state transportation facilities, not including driveways? Yes ☐ No ☐
If so, generally describe (indicate whether public or private).
N/A
e. Will the project use (or occur in the immediate vicinity of)
   Water, Rail, or Air transportation?
   If so, generally describe.
   N/A

f. How many vehicular trips per day would be generated by the completed project or proposal? If known, indicate when peak volumes would occur and what percentage of the volume would be trucks (such as commercial and non-passenger vehicles). What data or transportation models were used to make these estimates?
   N/A

  

g. Proposed measures to reduce or control transportation impacts, if any:
   N/A

15 Public Services

  a. Would the project result in an increased need for public services (for example: fire protection, police protection, health care, schools, other)?
     Yes No
     If so, generally describe.
     N/A

  

  b. Proposed measures to reduce or control direct impacts on public services, if any.
     N/A

16 Utilities

  a. Check utilities currently available at the site:
     ✓ Electricity, ✓ Natural gas,
     ✓ Water, ✓ Refuse service,
     ✓ Telephone, ✓ Sanitary sewer,
     ✓ Septic system, ✓ Other
b. Describe the utilities that are proposed for the project, the utility providing the service, and the general construction activities on the site or in the immediate vicinity which might be needed.

N/A

Signature

The above answers are true and complete to the best of my knowledge. I understand that the lead agency is relying on them to make its decision.

Signature: [Signature]

Date Submitted: 5/4/16

FOR OFFICE USE ONLY

Reviewed by Whatcom County Planning & Development Services Staff

Staff Signature

5/9/16

Date
C Supplemental Sheet for Non-project Actions

(It is not necessary to use this sheet for project actions)

Because these questions are very general, it may be helpful to read them in conjunction with the list of the elements of the environment. When answering these questions, be aware of the extent the proposal or the types of activities likely to result from the proposal, would affect the item at a greater intensity or at a faster rate than if the proposal were not implemented. Respond briefly and in general terms.

1. How would the proposal be likely to increase discharge to water; emissions to air; production, storage, or release of toxic or hazardous substances; or production of noise?
   N/A

   Proposed measures to avoid or reduce such increases are:
   N/A

2. How would the proposal be likely to affect plants, animals, fish, or marine life?
   Additional groundwater use authorized by the WDOH and WDOE to accommodate future growth may have an impact on surface water stream flows in continuity with groundwater that could affect fish and wildlife habitat in and along WRJA 1 streams and rivers.

   Proposed measures to protect or conserve plants, animals, fish, or marine life are:
   The 2005 WRJA 1 Watershed Management Plan (WMP), 2007 WRJA 1 WMP Detailed Implementation Plan, Whatcom County Comprehensive Plan Update (2016) and the WRJA 1 Nooksack River Instream Flow Rule all contain measures to protect fish and wildlife habitat.

3. How would the proposal be likely to deplete energy or natural resources?
   The proposal involves coordinated planning for public water system purveyors which may increase the use of groundwater. Increased population and employment growth in the county authorized by the County Comprehensive Plan will increase the rate of depletion of groundwater resources to accommodate that growth.

   Proposed measures to protect or conserve energy and natural resources are:
   Preparation of the CWSP Update included coordination with the Comprehensive Plan (CP) Update and multiple policies in the CP Update address strategies and measures to manage and protect groundwater resources in coordination with the WDOH and WDOE.
4. How would the proposal be likely to use or affect environmentally sensitive areas or areas designated (or eligible or under study) for governmental protection; such as parks, wilderness, wild and scenic rivers, threatened or endangered species habitat, historic or cultural sites, wetlands, floodplains, or prime farmlands?

Additional groundwater use authorized by the WDOH and WDOE for public water systems to accommodate future growth may have an impact on surface waters in continuity with groundwater that could affect fish and wildlife habitat and other critical areas in and along WRIA 1 streams and rivers.

Proposed measures to protect such resources or to avoid or reduce impacts are:

In addition to policies in the Whatcom County Comprehensive Plan Update that protect critical areas, the Critical Areas Regulations (WCC Title 16) also protect the functions and values of environmentally sensitive areas, as required by the GMA.

5. How would the proposal be likely to affect land and shoreline use, including whether it would allow or encourage land or shoreline uses incompatible with existing plans?

Preparation of the CWSP Update has been closely coordinated with the Whatcom County CP Update, as required by the GMA (RCW 36.70A) and the Public Water System Coordination Act of 1977 (RCW 70.116). The CWSP only serves to coordinate delivery of potable water to customers within both municipal and non-municipal (Group A) public water systems approved for service by the WDOH.

Proposed measures to avoid or reduce shoreline and land use impacts are:

The Whatcom County CP Update, proposed CWSP Update and Drinking Water Ordinance (WCC 24.11) all contain measures to ensure that legal potable water availability is required in order to facilitate future growth consistent with WDOH and WDOE requirements.

6. How would the proposal be likely to increase demands on transportation or public services and utilities?

Proposal allows planned growth to proceed consistent with the Growth Management Act, local zoning, and land use plans.

Proposed measures to reduce or respond to such demand(s) are:

Response to demand will be met with water supply planning and coordinated service responsibilities.

7. Identify, if possible, whether the proposal may conflict with local, state, or federal laws or requirements for the protection of the environment.

Proposal shall be approved by all applicable local, state, and federal governing agencies thus no conflict of laws is expected.
**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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<tr>
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<td>8/2/2016</td>
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<td>8/9/2016</td>
<td>SCOTW &amp; Council</td>
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<td>Division Head:</td>
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<tr>
<td>Dept. Head:</td>
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</table>

**TITLE OF DOCUMENT:**
Resolution amending 2016-027 regarding Comprehensive Plan and Zoning Amendments

**ATTACHMENTS:**

**SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:** (If this item is an ordinance or requires a public hearing, you must provide the language for use in the required public notice. Be specific and cite RCW or WCC as appropriate. Be clear in explaining the intent of the action.)
Resolution amending 2016-027 regarding Comprehensive Plan and Zoning Amendments

**COMMITTEE ACTION:**

**COUNCIL ACTION:**

**Please Note:** Once adopted and signed, ordinances and resolutions are available for viewing and printing on the County's website at: www.co.whatcom.wa.us/council.
RESOLUTION NO. ______

AMENDING RESOLUTION 2016-027, REGARDING COMPREHENSIVE PLAN AND ZONING AMENDMENTS

WHEREAS, on July 26, 2016, the Whatcom County Council passed Resolution 2016-027 amending Resolution 2016-09, initiating comprehensive plan; and

WHEREAS, the Growth Management Act (RCW 36.70A.130) requires that the County Council may consider amendments to the Whatcom County Comprehensive Plan no more frequently than once per year (with certain exceptions); and

WHEREAS, the provisions of WCC 2.160.050 indicate that Comprehensive Plan amendments are to be “initiated” for review by approval of a resolution by the County Council; and

WHEREAS, as part of the 2016 review of the Comprehensive Plan Update, the County Council has developed a docket of additional proposed Comprehensive Plan amendments for consideration by the Planning Commission and County Council;

NOW, THEREFORE, BE IT RESOLVED that the Whatcom County Council hereby adds Attachment 2 to the previously passed Resolution 2016-027 Exhibit A.

APPROVED this _____ day of ______________________ 2016.

ATTEST

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

Dana Brown-Davis, Clerk of the Council

Barry Buchanan, Council Chair

APPROVED AS TO FORM:

__________________________
Civil Deputy Prosecutor
<table>
<thead>
<tr>
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<tr>
<td>PLN2016-00012</td>
<td>Review the proposed amendments to the Cherry Point section of Chapter Two – Land Use of the Comprehensive Plan as shown in Attachment 1 and Attachment 2.</td>
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Major Industrial Urban Growth Area / Port Industrial

Cherry Point

The Cherry Point Urban Growth Area (UGA) contains approximately 7,000 acres of industrial land. The land has long been planned and designated by Whatcom County for industrial development and is currently the site of three major industrial facilities, including two oil refineries and an aluminum smelter. Together, these three existing industries own about 4,400 acres of the total Cherry Point industrial lands.

Because of the special characteristics of Cherry Point, including deep water port access, rail access, and proximity to Canada, this area has long had regional significance for the siting of large industrial or related facilities. The Phillips 66 Ferndale Refinery was constructed in 1954, the Alcoa Intalco Works Aluminum Smelter in 1966, and the BP Cherry Point Refinery in 1971.

Cherry Point is also important historically and culturally to the Coast Salish people, and part of the usual and accustomed fishing area for five treaty tribes, reserved under the Treaty of Point Elliot of 1855. The Lummi Nation and Western Washington University have identified an ancestral village dating back over 3,000 years ago in this area. The Cherry Point UGA contains sites of primary archeological and cultural significance.

Because of the large acreage demands of the types of industries likely to locate there, the remaining undeveloped acreage at Cherry Point will likely be absorbed during the 20 year planning period.

The Cherry Point shoreline also has great importance to the fisheries and ecology of Northern Puget Sound because it provides essential spawning habitat for what once was the largest herring stock in Washington State. This herring stock has supported important commercial fisheries in the past and provides forage for salmonids and other important marine species. In August 2000 and again in November 2010, the State Lands Commissioner ordered the Cherry Point tidelands and bedlands withdrawn from the state’s general leasing program, except for existing leases, and designated them as the “Cherry Point Aquatic Reserve.” In December 2010, the DNR recognized the need to “protect the significant environmental resource of aquatic lands at Cherry Point” (CPAR Management Plan p. 1), and completed the Cherry Point Environmental Aquatic Reserve Management Plan and designated the Cherry Point Aquatic Reserve to ensure long-term environmental protection of the area Aquatic Reserve. The Reserve extends from the southern boundary of Birch Bay State Park to the northern border of the Lummi Indian Nation Reservation.
site excludes three existing aquatic land leases (BP, Intalco, Phillips 66 shipping
piers) and one proposed aquatic land lease (Gateway-Pacific Terminal Site).

The overall purpose of the Cherry Point Aquatic Reserve (AR) is to ensure long-term
environmental protection for local habitats and species (CPAR MP p. 1). Specific
goals include protection and recovery (as applicable) of Cherry Point herring,
Nooksack Chinook salmon, ground fish, marine mammals, seabird/duck and
shorebird communities, Dungeness crab, and submerged native aquatic vegetation
(CPAR MP p. 2). Another goal is to cooperate with other stakeholders, “to minimize
and reduce identified impacts of human activities on the species and habitats within
the Reserve” (CPAR MP p. 2).

The Management Plan acknowledges that the existing industries, complying with
laws and regulations, do not conflict with the Aquatic Reserve although their
activities may pose risks for the Aquatic Reserve. Indeed, the industries’ need for
buffer space and their compliance with shoreline management requirements means
that much of the Aquatic Reserve shoreline is in substantially natural riparian
vegetation and bluff processes proceed without interference. Existing industries can
serve the Aquatic Reserve’s objectives so long as they are managed according to
the Plan and so long as the lessees actively work to further goals for the Reserve
(CPAR MP p. 2).

The County and industrial users have long recognized that the Cherry Point area
exhibits a unique set of characteristics that makes land there not only locally but
regionally important for the siting of major industrial developments, especially
where deep water access for shipping is a critical locational factor. These
characteristics were articulated in the Overall Economic Development Plan (OEDP)
for Whatcom County adopted by the Whatcom County Council of Governments in
May, 1993, in the 1997 Property Counselors Report on supply and demand for
industrial land in Whatcom County, and at Cherry Point, the 2002 Greater Whatcom
Comprehensive Economic Development Strategy, the 2003 Whatcom County
Industrial Land Study, and the 2015 Whatcom County Comprehensive Economic
Development Strategy.

The characteristics that make Cherry Point unique as a site major industrial
development include the following:

Port Access – The marine waters off Cherry Point provide deep water access for
shipping. Deep water access for shipping was a major siting consideration for the
three major industries currently located at Cherry Point— and for the
industrial/shipping facilities currently being proposed.
Rail Access – Cherry Point is served by a branch line of the Burlington Northern mainline serving western Washington from Blaine to Portland. Rail service is considered to be vital to statewide as well as local interests for the competitive movement of freight. Rail service is particularly important in relation to the waterborne commerce. The Cherry Point area has the rail access to support marine terminals and industrial users in the area. The BP refinery at Cherry Point uses the railroad to ship calcined coke to U.S. markets and to other port facilities for transshipment to foreign markets. Both the BP and Phillips 66 refineries receive crude oil shipments by rail.

Proximity to Canada, Alaska and Foreign Ports - Cherry Point occupies a unique location for the siting of industry because of its close proximity to Canada and because of its shorter travel distance than other regional port facilities for shipping to and from Alaska and to other Pacific Rim locations. The large acreage, good rail access and proximity to Washington State and Canadian ports makes the remaining upland area at Cherry Point suitable for major manufacturing, commercial or industrial uses. The Cherry Point industrial area benefits from proximity to Canada, as trade between the U.S. and Canada grows in response to the lifting of trade barriers under the Free Trade Agreement. Canadian exports to the U.S. are expected to increase and Canadian firms exporting to the U.S. are expected to seek locations in the U.S. as a way of improving access to U.S. markets. Additionally, just as other port facilities in Washington are constrained by lack of extensive upland areas to support major industrial development, Canadian port facilities are likewise constrained. There are limited expansion sites available at Roberts Banks and in the Vancouver Harbor, and development sites further up the Fraser River are constrained by limitations on vessel draft. Marine terminals at Cherry Point could serve a portion of the potential growth in Canadian marine cargo.

Presence of Necessary Utilities and Infrastructure

Cherry Point is a major industrial area in Whatcom County. The Phillips 66 Ferndale Refinery was constructed in 1954, the Alcoa Intalco Works Aluminum Smelter in 1966, and the BP Cherry Point Refinery in 1971. The infrastructure to support these industries and future industrial users at Cherry Point is in place and includes the following:

Electric Power: Electric Power is available from three providers in the Cherry Point area: Puget Sound Energy, Public Utility District #1 (PUD #1), and Bonneville Power Administration.

Puget Sound Energy owns two electrical generating facilities at Cherry Point. The electricity generated by these two facilities can be transmitted outside the region into the grid for supply to Puget’s customers or some of it can be consumed by...
Cherry Point customers through interties with the PUD #1. Puget Sound Energy also acquires power from outside the region and transmits it via its transmission grid into Cherry Point. The BP Cherry Point Refinery purchases electrical supply on the market and pays Puget Sound Energy to transmit the power and operate distribution systems to provide that power to the refinery.

PUD #1 purchases electricity from the Bonneville Power Administration and takes ownership of that power at the Bonneville substation in Bellingham and then transmits it over its transmission line to Cherry Point to serve the Phillips 66 Ferndale Refinery.

PUD #1 and Puget Sound Energy have interties at Cherry Point, allowing the transmission of power in and out of Cherry Point, depending on the amount of power generated and consumed at Cherry Point. The Bonneville Power Administration supplies power directly to the Alcoa Intalco Works aluminum production facility.

**Water:** Whatcom County Public Utility District #1 currently provides industrial process water to all major industrial facilities at Cherry Point and has additional water available contracts in place to provide process water to properties that are currently undeveloped. PUD #1 also operates a small system to provide potable water to one industry (Praxair). Birch Bay Water and Sewer District provides potable water to the BP Cherry Point Refinery. The other industries operate their own water treatment facilities to provide potable water for their facilities. **It is the County’s policy to work cooperatively with all businesses to support all efforts to reduce water consumption and quantity of discharges.**

**Sewer:** Sewer service is not typically required for large industrial developments. Most of the existing industrial users provide their own on-site sewage treatment and waste water treatment. Sewer service for domestic wastewater is provided to the BP Refinery by the Birch Bay Water and Sewer District. If and when sewer service should become necessary for other industries, service could be provided on a contractual basis with the Birch Bay Water and Sewer District, which borders the Cherry Point industrial area on the north.

**Natural Gas:** Natural gas is currently available at Cherry Point.

**All-weather Roads:** Grandview and Slater roads, the major east-west connectors between Cherry Point and Interstate-5, provide all-weather road access to Cherry Point.
The industries currently located at Cherry Point are a substantial part of the economic base of Whatcom County and the region and the economic welfare of the county is strongly tied to the health of these industries and their ability to flourish and expand appropriately as opportunities present themselves. These existing industries need to be protected from the inappropriate encroachment of incompatible uses; particularly residential uses that could affect their ability to expand. At the same time, the expansion of these industries needs to be done in ways that do not significantly impact the ecology of the Salish Sea or encourage expanded export of unrefined fossil fuels. The best means for protecting these industries from incompatible adjoining residential uses and to assure their continued regulatory conformity is to maintain the industrial land use designation of these lands and adjoining properties currently designated for industrial development. The Cherry Point industrial lands have been designated for industrial development, and as a direct result of the industrial designation, incompatible and inappropriate residential development has been curtailed.

**Goal 2CC:** Maintain Cherry Point as an unincorporated urban growth area based on its unique location, and characteristics, and its significant contribution to the overall industrial land supply and Whatcom County’s tax base.

**Policy 2CC-1:** Designate Cherry Point as a major industrial Urban Growth Area to accommodate major users that need to be located away from concentrated urban residential areas and that can manage their activities in such a way that they do not conflict with the goals of the Aquatic Reserve Management Plan.

**Policy 2CC-2:** Ensure that developments in the Cherry Point UGA maintain and operate under management plans that accomplish the goals of the Aquatic Reserve Management Plan. Work cooperatively with all businesses to increase environmental protection as they expand and/or upgrade refining operations at Cherry Point.

**Policy 2CC-3:** Assure that Cherry Point’s unique features of large parcelization, port access, and rail transportation availability are maintained and protected from incompatible development.

**Policy 2CC-4:** Require the master planning of each large parcel in advance of any development or subdivision at Cherry Point.
Policy 2CC-5: Require the designation and site plan for a major user (generally
40 acres or more) before the development of accessory or
supporting uses to assure that accessory or supporting uses are
compatible with and will not interfere with the major industrial
user.

Policy 2CC-6: Specify 160 acres as a minimum area for planning, prior to the
commitment of a parcel for a major user (40 acres or more,
singularity or as a cluster or group).

Policy 2CC-7: Permit support activities, warehousing, rail shipping,
machine repair and service, educational services, food service
and conveniences, to locate on a parcel only after the
completion of a master plan, and the identification and site plan
approval for the major user.

Policy 2CC-8: Exclude Cherry Point as part of any future incorporation of Birch
Bay:
- to protect interests of the property owner in terms of
taxation and urban regulations;
- to preclude urbanism near "smokestack" industries;
- to preserve county government tax base.

Policy 2CC-9: Continue to work with service providers that serve Cherry Point
to ensure the delivery of services and to allow it to develop to
its fullest potential, consistent with County policies supporting
energy and water conservation.

Policy 2CC-10: It is the policy of Whatcom County to limit
the number of piers at Cherry Point. Any moratorium shall not
affect, nor otherwise apply to, any proposed pier that Whatcom
County approved under its Shoreline Management Program prior
to adoption of the moratorium. It is also the policy of Whatcom
County to:

- Further public health and safety;
- Recognize federal actions upholding treaty rights;
- Protect traditional commercial and tribal fishing;
- Prevent conflicts with vessel shipment operations of existing
  refineries that could lead to catastrophic oil or fuel spills; and
- Adhere to best available science documenting species decline
  in the Salish Sea and at Cherry Point and enhance the
likelihood of reaching the recovery goals of the CPAR and the
Puget Sound Partnership’s recovery goals for Year 2035.

- Support environmental upgrades when expanding refining
operations.

by establishing a development moratorium. Notwithstanding the
above, this moratorium shall not affect, nor otherwise apply to,
any proposed pier that Whatcom County approved under its
Shoreline Management Program prior to adoption of the
moratorium.

Policy 2CC-11: RCW 36.70A.365 requires the implementation of Traffic Demand
Management (TDM) programs for the designating of a Major
Industrial Urban Growth Area. Any employer in the Cherry Point
Urban Growth Area that employs one hundred or more full-time
employees at a single worksite, who begin their regular work
day between 6:00 am and 9:00 am on weekdays for at least
twelve continuous months during the year, are required to meet
the TDM requirements of WCC 16.24.

Policy 2CC-12: Work with the Cherry Point industries to maximize public access
to the Cherry Point beaches without compromising industrial
security.

Policy 2CC-14: The County shall undertake a study to be completed by
December of 2017 to examine existing County laws, including
those related to public health, safety, development, building,
zoning, permitting, electrical, nuisance, and fire codes, and
develop recommendations for legal ways the County can work to
limit unrefined fossil fuel exports from the Cherry Point UGA
above levels in existence as of July 5, 2016. The study shall
review and analyze any legal advice freely submitted to the
County by legal experts on behalf of a variety of stakeholder
interests, and make that advice public as part of the study
report.

- Based on the above study, develop proposed Comprehensive
Plan amendments and associated code and rule amendments for
Council consideration as soon as possible.
- Cherry Point Urban Growth Area

Major Port/Industrial UGA
**TITLE OF DOCUMENT:** Adopt a resolution to sell surplus property

**ATTACHMENTS:** Resolutions & list of property to be declared surplus

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

The attached list of equipment has been determined to be surplus and available for disposal by public auction. The Council may find by resolution, following a public hearing that it is in the public interest to sell the property.

**COMMITTEE ACTION:**

7/26/2016: Introduced 6-0, Donovan absent

**COUNCIL ACTION:**

7/26/2016: Introduced 6-0, Donovan absent

**Related County Contract #:**

**Related File Numbers:**

**Ordinance or Resolution Number:**

Please Note: Once adopted and signed, ordinances and resolutions are available for viewing and printing on the County’s website at: www.co.whatcom.wa.us/council.
RESOLUTION NO. __________

A RESOLUTION AUTHORIZING
THE SALE OF WHATCOM COUNTY SURPLUS PROPERTY
PURSUANT TO WCC 1.10

WHEREAS, a public hearing was held on ________________, 2016 to discuss the sale of Whatcom County property; and

WHEREAS, it was determined to be in the best interest of Whatcom County to sell the property listed in Exhibit "A" and such property shall be sold by public auction after August 2016, subsequent to compliance with the notice requirements of WCC 1.10.200; and

NOW THEREFORE BE IT RESOLVED that the property listed in Exhibit "A" be sold at public auction after August 2016 pursuant to the notice requirements of WCC 1.10.200.

APPROVED this ___________ day of ____________, 2016

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

________________________
Barry Buchanan, Council Chair

ATTEST:

________________________
Dana Brown-Davis, Council Clerk

APPROVED AS TO FORM:

________________________
Civil Deputy Prosecuting Attorney
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**Capital Equipment Surplus Request – July 2016**

Eric L. Schlehuber, Division Manager
## PUBLIC WORKS – EQUIPMENT SERVICES

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## DESCRIPTION

- Miscellaneous broken and unusable tools, parts, and supplies
  - Spray equipment from vehicle #356 (Obsolete)
  - PTO generator (Obsolete)
  - 3 hydraulic tanks with pumps from old trash compactors (Obsolete)

- Used & unsalvageable bridge decks

- Miscellaneous inventory items (culvert, timbers, etc.)

- Miscellaneous mower items

## GENERAL FUND – SURPLUS EQUIPMENT

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## DESCRIPTION

- Miscellaneous worn or broken office equipment & furniture

- Miscellaneous worn or broken computer components
**WHATCOM COUNTY COUNCIL AGENDA BILL**

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<th>CLEARANCES</th>
<th>Initial</th>
<th>Date</th>
<th>Date Received in Council Office</th>
<th>Agenda Date</th>
<th>Assigned to:</th>
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<td>7/15/2016</td>
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<td>?J</td>
<td>7/18/16</td>
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**TITLE OF DOCUMENT:**

Ordinance adopting Whatcom County Comprehensive Plan amendments relating to the 2016 comprehensive plan periodic update and urban growth area review required by the Growth Management Act under RCW 36.70A.130.

**ATTACHMENT:**

1. Cover letter
2. Draft Ordinance and Exhibit

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

**Should Clerk schedule a hearing?** (X) 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.)

Under the Growth Management Act, Whatcom County and the seven cities within the County must complete the periodic update of their comprehensive plans and review urban growth areas (UGAs) in 2016 (RCW 36.70A.130). The Whatcom County Council will hold a public hearing and adopt amendments to the Whatcom County Comprehensive Plan, including UGA boundary changes, in order to complete the 2016 Comprehensive Plan Update and UGA Review.

**COMMITTEE ACTION:**

7/26/2016: Discussed

**COUNCIL ACTION:**

7/26/2016: Revised and Introduced 6-0, Donovan absent

**Related County Contract #:**

**Related File Numbers:**
AB2016-047n

**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
    The Honorable Whatcom County Council

FROM: Matt Aamot, Senior Planner

THROUGH: Mark Personius, Assistant Director

DATE: July 15, 2016

SUBJECT: Comp Plan Periodic Update/UGA Review – Draft Ordinance

As you know, several years ago Whatcom County initiated a multi-year project to update the Whatcom County Comprehensive Plan and conduct the urban growth area (UGA) review by 2016, as required by the Growth Management Act (RCW 36.70A.130). The Comprehensive Plan update and UGA review is being conducted in coordination with the seven cities in Whatcom County.

The County Council has reviewed the Comprehensive Plan, including UGA proposals, in a series of meetings from January to July 2016. This review included staff briefings, review of Planning Commission recommendations, city presentations, nine public hearings (with another hearing to come), and consideration of public input. It is anticipated that the Council will adopt an ordinance relating to the Comprehensive Plan update and UGA review this summer.

Staff would like to discuss the draft ordinance, including proposed findings of fact, at a Council Special Committee of the Whole meeting on July 26. It is anticipated that the ordinance will be introduced the evening of July 26 and that a public hearing will be scheduled for August 9.

Thank you for your consideration of this matter. We look forward to discussing it with you.
PROPOSED BY: 

INTRODUCTION DATE: 7/26/2016

ORDINANCE NO.______________

ADOPTING WHATCOM COUNTY COMPREHENSIVE PLAN
AMENDMENTS RELATING TO THE
2016 COMPREHENSIVE PLAN UPDATE AND
URBAN GROWTH AREA (UGA) REVIEW

WHEREAS, The Growth Management Act requires Whatcom County to periodically review and update the Comprehensive Plan; and

WHEREAS, The Growth Management Act requires Whatcom County to periodically review and update UGAs; and

WHEREAS, The Whatcom County Council reviewed and considered Growth Management Act requirements, Planning Commission recommendations, staff recommendations, city recommendations, advisory committee recommendations, Tribal government comments, and public comments on the Comprehensive Plan update and UGA review; and

WHEREAS, The County Council hereby adopts the following findings of fact:

FINDINGS OF FACT

1. The Washington State Growth Management Act (GMA) requires Whatcom County to periodically review and revise its comprehensive plan and development regulations under RCW 36.70A.130(1). Whatcom County must complete the update in 2016.

2. The GMA also requires Whatcom County to review urban growth areas (UGAs) under RCW 36.70A.130(3). The UGAs must be able to accommodate urban growth projected for the 20-year planning period, which extends through the year 2036. Whatcom County must complete the update in 2016.
3. A Draft Environmental Impact Statement (EIS) entitled "Whatcom County 2016 Comprehensive Plan and Development Regulations Update and Urban Growth Areas Review" was issued on March 10, 2015. A public hearing on the Draft EIS was held on April 13, 2015. The written comment period closed on May 15, 2015. A Final EIS was issued on November 12, 2015.

4. GMA Planning Goal 11, relating to citizen participation and coordination, is to "Encourage the involvement of citizens in the planning process and ensure coordination between communities and jurisdictions to reconcile conflicts."

5. The GMA requires the County to establish and broadly disseminate a public participation program identifying procedures providing for early and continuous public participation in the development and amendment of comprehensive land use plans (RCW 36.70A.140). Whatcom County developed a Public Participation Plan to guide the planning process and has followed that Plan.

6. Whatcom County Planning and Development Services Department staff reviewed the Comprehensive Plan and prepared initial recommended amendments based on the following objectives:

   a. Incorporate comments and recommendations from consultation with Council and Executive-appointed advisory committees, other county departments, cities and agencies;

   b. Update elements with current information, data or projections relevant to the new twenty-year planning period;

   c. Remove outdated narrative language regarding process and history of previous planning efforts;

   d. Update narrative and policies to address current issues and planning initiatives or to reflect new policy direction;

   e. Convert action items at the end of each chapter into policies or delete action items already accomplished or no longer needed;

   f. Amend or delete policies that are out of date or duplicative;
g. Update narrative and policies to achieve internal consistency; and

h. Achieve consistency with the GMA (incorporate changes based on state legislative updates).

7. The Whatcom County Planning Commission held a series of public meetings from March 2015 – January 2016 and a meeting in May 2016. The Planning Commission considered input from a variety of sources including staff recommendations, city recommendations, advisory committee recommendations, Tribal government comments, public comments, and agency comments.

8. Notice of proposed amendments was submitted to the Washington State Department of Commerce on April 28, 2016 pursuant to RCW 36.70A.106. WAC 365-196-630(2)(c) states “If the proposed amendment changes during the legislative process, counties and cities may submit supplemental materials to the department without initiating a new sixty-day notice period.” Pursuant to WAC 365-196-630(2)(c), Whatcom County submitted supplemental information to the Department of Commerce on July 22, 2016 showing the proposed amendments as modified during the County Council’s review process.

9. Proposed Comprehensive Plan amendments have been posted on the County website.

10. Notices of the Planning Commission hearings were sent to citizens, media, cities, Tribal governments and other groups on the County’s email list on November 25, 2015 and May 12, 2016.

11. Notices of the Planning Commission hearings for the subject amendments were published in the Bellingham Herald on November 25, 2015 and May 13, 2016.


14. The Whatcom County Council held public hearings on the subject amendments on January 26, March 22, April 5, April 19, May 3, May 17, May 31, June 14, June 28, and August 9, 2016.
15. The Whatcom County Council reviewed and considered Planning Commission recommendations, staff recommendations, city recommendations, advisory committee recommendations, Tribal government comments, and public comments on the Comprehensive Plan update.

Approval Criteria

Whatcom County Code

16. Pursuant to Whatcom County Code 2.160.080, in order to approve comprehensive plan amendments the County must find all of the following:

a. The amendment conforms to the requirements of the Growth Management Act, is internally consistent with the county-wide planning policies and is consistent with any interlocal planning agreements.

b. Further studies made or accepted by the Department of Planning and Development Services indicate changed conditions that show need for the amendment.

c. The public interest will be served by approving the amendment. In determining whether the public interest will be served, factors including but not limited to the following shall be considered:

i. The anticipated effect upon the rate or distribution of population growth, employment growth, development, and conversion of land as envisioned in the comprehensive plan.

ii. The anticipated effect on the ability of the county and/or other service providers, such as cities, schools, water and/or sewer purveyors, fire districts, and others as applicable, to provide adequate services and public facilities including transportation facilities.

iii. Anticipated impact upon designated agricultural, forest and mineral resource lands.

d. The amendment does not include or facilitate spot zoning.
e. Amendments that propose the expansion of an urban growth area boundary are required to acquire development rights from a designated Transfer of Development Rights sending area, with certain exceptions including UGA expansions initiated by a government agency.

**Re-Designating UGA Reserves to UGAs**

17. The Whatcom County Comprehensive Plan (Chapter 2) states that:

   ... Urban Growth Area Reserves means a land use designation that may be applied to those areas which are adjacent and contiguous to either incorporated or unincorporated Urban Growth Areas which appear to be suitable for future inclusion in the respective Urban Growth Area. ...

18. General criteria for transferring properties from the Urban Growth Area Reserve to the Urban Growth Area are set forth in the Comprehensive Plan (Chapter 2) and relate to:

   a. Need for Land Capacity;
   b. Adequate Public Facilities and Services;
   c. Land Use Plans;
   d. Natural Resource Lands;
   e. Environment; and
   f. Open Space Corridors.

19. Additional issues are set forth in the Comprehensive Plan (Chapter 2) to re-designate specific UGA Reserves to UGAs.

20. Ferndale and Lynden UGA Reserves are re-designated to UGAs.

**Re-Designating Agricultural Lands to UGAs**

21. The GMA required Whatcom County to designate agricultural lands of long-term commercial significance (hereinafter “designated Agricultural lands”) under RCW 36.70A.170(1), which the County accomplished in the 1990s.

22. Those lands designated as Agriculture in the Whatcom County Comprehensive Plan are designated Agricultural lands under the GMA.
23. Certain lands in UGA Reserves are currently zoned Agriculture. However, zoning does not determine which lands are designated Agricultural lands. Lands classified as UGA Reserve in the Comprehensive Plan are not designated Agricultural lands.

24. The GMA indicates that designated Agricultural lands are primarily devoted to agriculture and have "long-term commercial significance for agricultural production" (RCW 36.70A.030(2)). The GMA states that "Long-term commercial significance" includes the growing capacity, productivity, and soil composition of the land for long-term commercial production, in consideration with the land's proximity to population areas, and the possibility of more intense uses of the land (RCW 36.70A.030(10)). The "GMA does not dictate how much weight to assign each factor in determining which farmlands have long-term commercial significance" (Lewis County v. Western Washington Growth Management Hearings Board, 157 Wn.2d 488 (2006)).

25. The GMA requires counties to consider the guidelines established in WAC 365-190-050 when designating Agricultural lands (RCW 36.70A.170(2)).

26. Based upon the GMA, Washington courts have developed a three factor test for designating and de-designating Agricultural Lands of long term commercial significance. In order to de-designate agricultural lands of long term commercial significance, it must be demonstrated that one of these three factors exists.

a. The land is characterized by urban growth. The GMA states that "characterized by urban growth" refers to "... land having urban growth located on it, or to land located in relationship to an area with urban growth on it as to be appropriate for urban growth" (RCW 36.70A.030(19)).

b. The land is not primarily devoted to the commercial production of agricultural products enumerated in RCW 36.70A.030(2), including land in areas used or capable of being used for production based on land characteristics.

c. The land no longer has long-term commercial significance for agricultural production, as indicated by soil, growing capacity, productivity, and whether it is near population areas or vulnerable to more intense uses. Washington Administrative Code (WAC) 365-190-050 provides the following factors, which should be considered:

i. The classification of prime and unique farmland soils as mapped by the Natural Resources Conservation Service;
ii. The availability of public facilities, including roads used in transporting agricultural products;

iii. Tax status, including whether lands are enrolled under the current use tax assessment under chapter 84.34 RCW and whether the optional public benefit rating system is used locally, and whether there is the ability to purchase or transfer land development rights;

iv. The availability of public services;

v. Relationship or proximity to urban growth areas;

vi. Predominant parcel size;

vii. Land use settlement patterns and their compatibility with agricultural practices;

viii. Intensity of nearby land uses;

ix. History of land development permits issued nearby;

x. Land values under alternative uses; and

xi. Proximity to markets.

27. New Whatcom County Comprehensive Plan Policy 8A-3 sets forth the criteria for designating or de-designating Agriculture lands. This Policy states:

The criteria for designating or de-designating lands under the Agriculture land use designation shall be considered on an area-wide basis. When applying the following criteria, the process should result in designating an amount of agricultural resource lands sufficient to maintain and enhance the economic viability of the agricultural industry in the county over the long term, and to retain agricultural support businesses, such as processors, farm suppliers, and equipment maintenance and repair facilities. The criteria are as follows:

a. The land is not already characterized by urban growth. In determining this factor, the County should consider WAC 365-196-310 and RCW 36.70A.030(19).

b. The land is used or capable of being used for agricultural production. In making this determination, the County shall use the land-capability classification system of the U.S.
Department of Agriculture Natural Resources Conservation Service. These eight classes are incorporated into map units and are based on the growing capacity, productivity, and soil composition of the land.

c. The land has long term commercial significance for agriculture. In determining this factor, consider the following nonexclusive criteria:

i. The majority of the area contains Prime Farmland Soils as determined by the Natural Resource Conservation Service (NRCS).

ii. The area may contain 100-year floodplains as delineated by the Federal Emergency Management Agency (FEMA).

iii. Land use settlement patterns, the intensity of nearby uses, and the history of approved land development permits are generally compatible with agricultural practices.

iv. A majority of the area is composed of agricultural operations that were historically in agriculture prior to 1985.

v. The predominate parcel size in the area is large enough to adequately maintain agricultural operations.

vi. The availability of public services.

vii. The availability of public facilities such as roads used to transport agricultural products.

viii. Special purpose districts that are oriented to enhancing agricultural operations such as drainage improvement, watershed improvement, and flood control exist.

ix. The area has a pattern of landowner capital investment in agricultural operations improvements including irrigation, drainage, manure storage, the presence of barns and support buildings, enhanced livestock feeding techniques, agricultural worker housing, etc.
x. The area contains a predominance of parcels that have current use tax assessment derived from the Open Space Taxation Act.

xi. The area's proximity to urban growth areas.

xii. The area's proximity to agricultural markets.

xiii. Land value under alternative uses.

28. Whatcom County Comprehensive Plan Policy 8A-6 (formerly 8A-5) is to "Require all requests for re-designation from agriculture to demonstrate that changed site conditions or circumstances have occurred since the original designation to such an extent that the site no longer satisfies the designation criteria for agricultural lands."

29. Whatcom County has considered the provisions of the GMA, WAC 365-190-050, and the Whatcom County Comprehensive Plan in evaluating de-designation of Agricultural lands. Pursuant to this review, land is re-designated in the Whatcom County Comprehensive Plan from Agriculture to Lynden UGA and from Agriculture to Nooksack UGA.

**Growth Management Act**

30. The GMA establishes planning goals in RCW 36.70A.020 to guide adoption of comprehensive plans.

31. The GMA requires that a comprehensive plan must be an internally consistent document (RCW 36.70A.070).

32. The GMA establishes mandatory elements of a comprehensive plan in RCW 36.70A.070. Mandatory elements are: land use, housing, capital facilities, utilities, rural and transportation elements. These mandatory elements, along with other optional elements of the Comprehensive Plan, are addressed below.

**Chapter 1 – Introduction and Growth Projections**

33. The GMA requires that the comprehensive plan contain projections of future population growth (RCW 36.70A.070(1)) and future employment growth (RCW 36.70A.115).

34. Chapter 1 of the Whatcom County Comprehensive Plan contains GMA goals, background information, population projections, and employment projections.
35. Whatcom County and the cities hired a consulting firm, BERK, to develop a document entitled *Whatcom County Population and Employment Projections and Urban Growth Area Allocations - Phase I Technical Report*. This report, which was issued in July 2013 and revised in November 2013, analyzed historical growth and developed preliminary allocations to UGAs and the area outside UGAs primarily based upon historic growth trends and shares. This report represented a starting point for public input and discussions by planning commissions and elected officials.

36. BERK also issued a report entitled *Whatcom County Urban Growth Area Review - Background Research on Selected Economic, Demographic, and Housing Trends* in November 2013. This report addresses Canadian influence on Whatcom County real estate markets including the effect of the exchange rate on border crossings, Canadian shoppers, Canadian air travel through the Bellingham International Airport, real estate prices attracting Canadian investors, and long-term population growth in British Columbia. This report states that "... Canadian retail spending in the U.S. will lead to additional demand for commercial land and Canadian investors will contribute to residential demand in Whatcom County..." (p. 11). This report also looks at housing trends and preferences, including national trends, elderly housing preferences, and Whatcom County housing market trends.

37. The County and cities adopted interlocal agreements in 2012 to, among other things, conduct coordinated growth management planning.

38. The County and the cities developed preliminary population and employment allocation recommendations after considering the OFM population projections, BERK report, county goals, city goals, public input, infrastructure capacity, land availability, etc. These preliminary recommendations were presented in several meetings of the Whatcom County Planning Commission in late 2013. The County Planning Commission issued recommendations relating to preliminary population and employment allocations on January 9, 2014.

39. The Whatcom County Council approved a nonbinding multi-jurisdictional resolution relating to population and employment growth allocations on March 11, 2014. Based upon the County and cities’ preliminary recommendations, this resolution provided preliminary growth allocations for conducting environmental review, further analyzing land capacity, developing draft land use planning proposals, traffic modeling, and formulating draft capital facility plans.
40. Following further analysis, Whatcom County and the cities issued UGA proposals in the summer of 2015. These proposals included population allocations, employment allocations and any UGA boundary changes.

41. The County Council considered OFM population projections, the BERK reports, infrastructure capacity, land availability, County and city proposals, Whatcom County Planning Commission recommendations, and public input prior to adopting the Comprehensive Plan’s population and employment growth projections in 2016.

42. Whatcom County’s estimated 2013 population was 205,800. It is projected that the County as a whole will grow by 69,650 people over the planning period. Therefore, total Whatcom County population is projected to be 275,450 in the year 2036.

43. The county-wide total population projection of 275,450 for the year 2036 is within the range of State Office of Financial Management projections.

44. The population growth allocations to the UGAs total 58,433 additional people over the planning period (which equates to approximately 84% of countywide population growth). The population growth allocation to the remainder of the county, outside UGAs, totals 11,217 additional people (which equates to approximately 16% of the countywide population growth).

45. Whatcom County, in consultation with cities, adopts a twenty-year county-wide employment forecast. In selecting a county-wide employment forecast, the county-wide population forecast, and the resulting ratio of forecast jobs to persons, should be compared to past levels and to desired policy objectives (WAC 365-196-310(4)(a)(iv)).

46. Whatcom County’s historical employment rate since 1990 has fluctuated from a high of 52.4% in 2005 to a low of 45.6% in 2014 (Whatcom County Population and Employment Projections and Urban Growth Area Allocations - Phase I Technical Report (November 2013, p. 17) and Washington State Employment Security Department). State-wide employment rates have been in the range of approximately 47-50% since 1990 (Whatcom County Population and Employment Projections and Urban Growth Area Allocations - Phase I Technical Report (November 2013, p. 17).

47. Whatcom County policy objectives relating to employment include:

a. Promoting a healthy economy providing opportunity for family wage jobs;

b. Fostering a diverse, private-sector job base;
c. Fostering productive timber; agriculture, and fisheries industries in a sustainable manner;

d. Encouraging growth of tourism, and recreational activities;

e. Enhancing the economic trade, tourism, and industrial siting advantages of the county’s location adjacent to the Canadian border;

f. Support creation of job opportunities for local residents, especially family wage jobs to decrease unemployment and underemployment; and

g. Supporting long-term employment efforts in the unincorporated areas of the county, including Point Roberts, Birch Bay, and east County.

48. WAC 365-196-310(2)(d) recognizes that the employment forecast is developed by the county at its discretion.

49. Whatcom County has reviewed the OFM population projections, historical employment/population ratios, city recommendations and policy objectives, and selects a future county-wide employment growth projection of 37,052.

Chapter 2 – Land Use

50. GMA Planning Goal 1, relating to urban growth, is to “Encourage development in urban areas where adequate public facilities and services exist or can be provided in an efficient manner.”

51. GMA Planning Goal 2, relating to reducing sprawl, is to “Reduce the inappropriate conversion of undeveloped land into sprawling, low-density development.”

52. The GMA, at RCW 36.70A.070(1), requires that a comprehensive plan must include:

A land use element designating the proposed general distribution and general location and extent of the uses of land, where appropriate, for agriculture, timber production, housing, commerce, industry, recreation, open spaces, general aviation airports, public utilities, public facilities, and other land uses. The land use element shall include population densities, building intensities, and estimates of future population growth. The land use element shall provide for protection of the quality and quantity of groundwater used for public water supplies. Wherever possible, the land use
element should consider utilizing urban planning approaches that promote physical activity. Where applicable, the land use element shall review drainage, flooding, and storm water run-off in the area and nearby jurisdictions and provide guidance for corrective actions to mitigate or cleanse those discharges that pollute waters of the state, including Puget Sound or waters entering Puget Sound.

Urban Growth Areas (UGAs)

53. The GMA, at RCW 36.70A.110(1), requires that a comprehensive plan must include urban growth areas within which urban growth shall be encouraged and outside of which growth can occur only if it is not urban in nature.

54. The GMA, at RCW 36.70A.110(2), also requires that:

Based upon the growth management population projection made for the county by the office of financial management, the county and each city within the county shall include areas and densities sufficient to permit the urban growth that is projected to occur in the county or city for the succeeding twenty-year period. . . .

55. The GMA, at RCW 36.70A.115, states:

Counties and cities . . . shall ensure that, taken collectively, adoption of and amendments to their comprehensive plans and/or development regulations provide sufficient capacity of land suitable for development within their jurisdictions to accommodate their allocated housing and employment growth, including the accommodation of, as appropriate, the medical, governmental, educational, institutional, commercial, and industrial facilities related to such growth, as adopted in the applicable countywide planning policies and consistent with the twenty-year population forecast from the office of financial management.

56. Washington Administrative Code 365-196-310 addresses UGAs. Washington Administrative Code 365-196-310(3) states, when designating urban growth areas:

The designation process shall include consultation by the county with each city located within its boundaries. The adoption, review and amendment of the urban growth area should reflect a cooperative effort among jurisdictions to accomplish the requirements of the act on a regional basis, consistent with the county-wide planning policies. . .

57. There are a number of County-wide Planning Policies that apply to urban growth areas. County-wide Planning Policy C.2 states "The size
and location of Urban Growth Areas shall be consistent with adopted local policies and with the capital facilities plans.”

58. City and County staff presented UGA proposals to the Whatcom County Planning Commission in July through September 2015 and to the County Council in January through February 2016. The UGA proposals included population growth allocations, employment growth allocations, and any UGA boundary changes. These proposals were informed by local policies and plans.

59. County-wide Planning Policy C.3b states that “The County and Cities shall develop a consistent approach to calculating the land supply needed within an urban growth area. This approach shall consider limitations imposed by critical area regulations, infrastructure needs, open space, existing uses, local market factors and the ability of the jurisdiction to provide services. . .”

60. The County and cities jointly developed a land capacity analysis methodology to estimate the population and employment capacity of each UGA. The County and cities used Geographic Information System software to inventory available lands and spreadsheets to calculate capacity in accordance with the methodology. City and County UGA proposals were informed by the land capacity analysis.

61. On a county-wide basis, the 2016 Comprehensive Plan Update/UGA Review modifies UGA acres (including land within cities) as follows:

<table>
<thead>
<tr>
<th>UGA</th>
<th>Pre-2016 UGA Review Acres</th>
<th>Post-2016 UGA Review Acres</th>
<th>Change</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bellingham</td>
<td>23,172</td>
<td>23,172</td>
<td>0</td>
</tr>
<tr>
<td>Birch Bay</td>
<td>3,607</td>
<td>3,607</td>
<td>0</td>
</tr>
<tr>
<td>Blaine</td>
<td>4,071</td>
<td>4,071</td>
<td>0</td>
</tr>
<tr>
<td>Cherry Point</td>
<td>7,035</td>
<td>7,035</td>
<td>0</td>
</tr>
<tr>
<td>Columbia Valley</td>
<td>1,157</td>
<td>1,157</td>
<td>0</td>
</tr>
<tr>
<td>Everson</td>
<td>1,287</td>
<td>1,267</td>
<td>-20</td>
</tr>
<tr>
<td>Ferndale</td>
<td>5,869</td>
<td>5,986</td>
<td>117</td>
</tr>
<tr>
<td>Lynden</td>
<td>3,979</td>
<td>4,172</td>
<td>193</td>
</tr>
<tr>
<td>Nooksack</td>
<td>548</td>
<td>603</td>
<td>55</td>
</tr>
<tr>
<td>Sumas</td>
<td>959</td>
<td>959</td>
<td>0</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td><strong>51,684</strong></td>
<td><strong>52,029</strong></td>
<td><strong>345</strong></td>
</tr>
</tbody>
</table>

62. The County’s population is projected to grow by 33.8% over the 23-year planning period. Prior to the 2016 UGA review, there were a total 51,684 acres in UGAs (including within cities). A total of 345 acres are added to UGAs in the 2016 UGA review. This constitutes a 0.7% increase in the land in UGAs on a county-wide basis. Future city land
use for the lands added to the UGAs is as follows:

a. Residential: 155 acres (Lynden);
b. Commercial: 117 acres (Ferndale);
c. Industrial: 29 acres (Nooksack); and
d. Public use: 44 acres (Lynden and Nooksack).

**Bellingham UGA**

63. The Bellingham UGA was established in 1997. The Bellingham UGA was reduced in size in the 2009 UGA review, when the south Yew St area was re-designated from UGA to UGA Reserve.

64. The Bellingham UGA had an estimated 2013 population of 92,660.

65. City of Bellingham Resolution 2015-14, approved by the City Council on August 31, 2015, recommended a Bellingham UGA population growth allocation of 28,398 over the planning period. This is the medium allocation from *Whatcom County Population and Employment Projections and Urban Growth Area Allocations - Phase I Technical Report* (BERK, 2013).

66. City of Bellingham Resolution 2015-14 recommended a Bellingham UGA employment growth allocation of 22,641 over the planning period. This is the high allocation from *Whatcom County Population and Employment Projections and Urban Growth Area Allocations - Phase I Technical Report* (BERK, 2013).

67. City of Bellingham Resolution 2015-14 recommended no changes to the UGA boundary.

68. City of Bellingham Resolution 2015-14 recommended that the south Yew Street area should remain in the UGA Reserve.

69. City of Bellingham Resolution 2015-14 recommended that the south Cailtac area should be designated as a UGA Reserve.

70. The Whatcom County Planning Commission recommended increasing the population growth allocation for the Bellingham UGA to 35,918 people to allow more people to live near work, thereby decreasing impacts to the transportation system and the environment. This allocation was included in the City of Bellingham’s Resolution No. 2014-11 (which was later modified by Bellingham Resolution No. 2015-14) and Whatcom County Resolution 2014-013. This is the high allocation from *Whatcom County Population and Employment Projections and Urban Growth Area Allocations - Phase I Technical Report* (BERK, 2013).
71. The County Council determined that a population allocation of 31,050 is appropriate for the Bellingham UGA. This population allocation, which was studied in the Final EIS, is consistent with historical growth. On February 22, 2016, the Bellingham City Council directed City staff to use this population growth allocation in the update of the City of Bellingham Comprehensive Plan.

72. The land capacity analysis estimates that the existing Bellingham UGA can accommodate approximately 33,006 more people. The land capacity of the existing UGA is sufficient to accommodate the projected population growth over the planning period.

73. The Whatcom County Comprehensive Plan defines UGA Reserve as follows:

These are areas that are adjacent and contiguous to Urban Growth Areas which appear to be suitable for future inclusion of the respective Urban Growth Area. These lands are held in reserve until it is demonstrated that they are needed for urban growth, and that consideration is given to ensuring adequate public facilities and services, reduction of sprawl, economic development, open space corridors and natural resource conservation.

74. Approximately 339 acres north of the City of Bellingham meets the above definition and, therefore, is being designated as a UGA Reserve.

75. The employment growth allocation for the Bellingham UGA over the planning period is an additional 22,641 jobs. The UGA can accommodate approximately 27,302 more jobs.

76. The City of Bellingham Water System Plan (2009) and the City of Bellingham Water System Plan Update (2013) indicate that the City maintains a water system consisting of an intake from Lake Whatcom, water treatment plant, pump stations, water reservoirs, and water lines. The City of Bellingham has adequate water rights to meet projected demand over the 20-year planning period.

77. The City of Bellingham Comprehensive Sewer Plan (2009) indicates that the City maintains a wastewater collection and conveyance system comprised of gravity sewers, pump stations, and force mains. The City of Bellingham operates a wastewater treatment plant, which is also utilized by the Lake Whatcom Water and Sewer District. It is projected that the Wastewater Treatment Plant will be able to accommodate planned growth over the 20-year planning period.

78. The City of Bellingham’s Stormwater Comprehensive Plan was adopted in 2007.
79. The City of Bellingham Fire Department serves the area within the city limits and will serve the UGA upon annexation. Currently, the Bellingham Fire Department assists in providing service to the City's UGA through mutual aid response agreements with fire districts. The Draft Bellingham Comprehensive Plan Capital Facilities and Utilities Chapter (2016) addresses fire protection capital improvement projects.

80. The Bellingham School District serves the UGA and surrounding area. State figures show that, between 2007 and 2014, the student enrollment increased by a total of 3.4%. In November 2013, the voters of the District approved a $160 million bond to pay for capital facility improvements. The Bellingham School District No. 501 Capital Facilities Plan 2015-2021 was approved by the District in 2015.

81. The transportation chapter of the Bellingham Comprehensive Plan is currently being updated. The City adopted a Pedestrian Master Plan in 2012 and a Bicycle Master Plan in 2014.

82. The existing Bellingham UGA is sufficient to accommodate projected urban growth over the planning period. Therefore, the existing UGA boundary is retained. However, a 339 acre UGA Reserve is designated north of the city.

**Birch Bay UGA**

83. The Birch Bay UGA was established in 1997. The Birch Point area and land south of Point Whitehorn were removed from the UGA when the Birch Bay Community Plan was adopted in 2004. The Birch Bay UGA was reduced further in the 2009 UGA review, when lands in the eastern part of the UGA were removed.

84. The Birch Bay UGA had an estimated 2013 population of 7,540.

85. The population growth allocation for the Birch Bay UGA over the planning period is an additional 5,282 people. The land capacity analysis estimates that the existing UGA can accommodate 5,250 more people. The land in the existing UGA is sufficient to accommodate the population growth allocation over the planning period.

86. The employment growth allocation for the Birch Bay UGA over the planning period is an additional 545 jobs. The land capacity analysis estimates that the existing UGA can accommodate approximately 589 more jobs. Therefore, the commercial land capacity of the existing UGA is sufficient to accommodate job growth over the planning period.
87. Birch Bay Water and Sewer District provides water service to the UGA. The District’s *Comprehensive Water System Plan* was approved in 2009, amended in 2010 and currently in the process of being updated.

88. Birch Bay Water and Sewer District provides sewer service to the UGA. The District’s *Comprehensive Sewer System Plan* was approved in 2009 and is currently in the process of being updated.

89. The *Birch Bay Comprehensive Stormwater Plan* was approved in 2006 (Resolution 2006-070). Additionally, the *Birch Bay Central North Subwatershed Master Plan* was completed in 2013 and the *Birch Bay Central South Subwatershed Master Plan* was completed in 2015. These subwatershed master plans were prepared for Whatcom County Public Works Department Stormwater Division and Birch Bay Watershed and Aquatic Resources Management District (BBWARM) and function as updates to the 2006 Stormwater Plan. These plans include an inventory of existing stormwater systems and facilities (ditches, pipes, catch basins), modeling of stormwater flows, identification of stormwater problems and recommended solutions including maintenance and capital improvement projects.

90. North Whatcom Fire and Rescue (Fire District 21) provides fire protection and emergency medical services to the Birch Bay UGA and surrounding area. The *North Whatcom Fire & Rescue and Fire District # 4 Capital Facilities Plan* was approved by the District Commissioners in 2016.

91. The Blaine School District serves the majority of the Birch Bay UGA. State figures show that, between 2007 and 2014, the student enrollment dropped by a total of 5.5%, although enrollment has been steady between 2012 and 2014. In February 2015, the voters of the District approved a $45 million bond to pay for capital facility improvements. The *Blaine School District Capital Facilities Plan* was approved by the District in 2015.

92. Blaine Rd. (SR 548) runs from the City of Blaine south through the UGA and connects with Grandview Rd. (also SR 548), which provides access to I-5. Birch Bay-Lynden Rd. also provides access from Birch Bay to I-5. Birch Bay Dr. runs along the Bay and provides access to recreational opportunities, condos, RV parks, and businesses located along the water. The County is planning the “Birch Bay Drive & Pedestrian Facility,” which includes a berm to protect the roadway, improve pedestrian safety, and enhance shoreline access. Other near or medium term projects are included in the County’s Six-Year Transportation Improvement Program. Longer term projects over the 20-year planning period are set forth in the Whatcom County Comprehensive Plan.
93. The existing Birch Bay UGA is sufficient to accommodate projected urban growth over the planning period. Therefore, the existing UGA boundary is retained.

Blaine UGA

94. The Blaine UGA was established in 1997. The UGA was reduced in size in the 2009 UGA review.

95. The Blaine UGA had an estimated 2013 population of 5,171.

96. The population growth allocation for the Blaine UGA over the planning period is an additional 4,414 people. The land capacity analysis estimates that the existing UGA can accommodate 6,445 more people.

97. The employment growth allocation for the Blaine UGA over the planning period is an additional 2,097 jobs. The land capacity analysis estimates that the existing UGA can accommodate 2,687 more jobs.

98. In the mid-1990s, Blaine coordinated with a major development firm and local property owners to annex land in “East Blaine” under the intention of constructing a community similar to Semiahmoo. At that time, Semiahmoo was ten years old and was well underway to being the community it is today. The idea of a second residential resort community was highly attractive. Unfortunately, soon after the annexation, the development group moved on and the project dissolved. Since then various properties in East Blaine have changed hands multiple times, and development has been very slow to materialize. East Blaine represents a large share of the City’s potential residential capacity. In 2010, the City approved “East Maple Ridge” a residential development with over 350 units in a mix of traditional, small lot, cottage and multi-family units. In 2011, the City approved “Grandis Pond” a residential community of over 1,000 units in a similar mix of housing types and neighborhood commercial. Prior to the approval of these projects the City adopted the East Blaine Infrastructure Plan to coordinate water, sewer, electric, and stormwater service to the area. However, infrastructure service to the area is costly to construct and development of either project will require a robust housing market to support the cost of infrastructure. In the meantime, these properties inside the City limits sit idle, but contribute to the “land capacity” of the UGA.

99. Blaine has a shortage of serviced lots outside of Semiahmoo where properties are high priced, serving only a slim market segment. Outside of Semiahmoo, Blaine has less than two years of residential capacity with few opportunities for future subdivisions in the existing sanitary sewer service area. Blaine is on the verge of having no entry level market priced residential lots ready for construction. A solution
to the challenge has not been developed. Blaine has planned for service extension into East Blaine. Another option is expanding services into the UGA east of the City where topography and existing systems make provision of water and sewer service simple and cost-effective.

100. The City of Blaine is updating its Comprehensive Water System Plan and anticipates completion in 2016. The City of Blaine Comprehensive Water System Plan (2009) indicates that the City maintains a water system consisting of wells, a water treatment plant, booster pumps, water storage reservoirs, and water lines. The City provides service throughout the current City Limits, with the exception of a few parcels that are presently served by the Birch Bay Water and Sewer District. The City also serves the Pipeline Road UGA, but service to the Shipyard UGA is by Birch Bay Water and Sewer District. The City of Blaine has adequate water rights to meet projected demand over the 20-year planning period.

101. The City of Blaine General Sewer Plan (2004, revised 2005) and associated Technical Memorandum (2016) indicate that the City of Blaine maintains a wastewater collection and conveyance system comprised of gravity sewers, pump stations, and force mains. Blaine has made significant infrastructure investments in the last decade. The largest project has been the development of the Lighthouse Point Water Reclamation Facility. Lighthouse Point is a state of the art water reclamation facility delivering Class A water to customers when there is demand. This high-quality water is discharged to Semiahmoo Bay when demand for reclaimed water does not exist.

102. The City addresses stormwater on a project-by-project basis and coordinates upgrades to the municipal system with road improvement projects. The City’s budget does not allow updating the Stormwater Management Plan (1995) prior to the 2016 comprehensive plan update. It is projected to occur in the next 2-3 years. The City voluntarily uses the 2014 Department of Ecology Stormwater Manual, which is the highest standard for stormwater management. This coupled with a project level review ensures effective stormwater management.

103. North Whatcom Fire and Rescue (Fire District 21) provides fire protection and emergency medical services to the Blaine UGA and surrounding area. The North Whatcom Fire & Rescue and Fire District # 4 Capital Facilities Plan was approved by the District Commissioners in 2016.

104. The Blaine School District serves the UGA and surrounding area. State figures show that, between 2007 and 2014, the student enrollment dropped by a total of 5.5%, although enrollment has been steady.
between 2012 and 2014. In February 2015, the voters of the District approved a $45 million bond to pay for capital facility improvements. The Blaine School District Capital Facilities Plan was approved by the District in 2015.

105. The City of Blaine contracted with the Transpo Group LLC to assist with updating the City's transportation element, which was adopted as part of its Comprehensive Plan in 2016. The transportation analysis indicated that all City roadways and state highways within the UGA will operate at the City's adopted LOS D or better during the planning period. The analysis identified a number of improvement projects that could enhance system function, but not are mandatory based on the adopted LOS. The City's update includes a transportation concurrency ordinance to monitor the transportation system and the impacts of development.

106. The existing Blaine UGA can accommodate projected urban growth over the planning period. In light of the issues of servicing land in East Blaine, the existing UGA (which was significantly reduced in size in the 2009 UGA review) is retained.

Cherry Point UGA

107. The Cherry Point Major/Port Industrial UGA was established in 1997 when the Whatcom Comprehensive Plan was adopted. The Cherry Point UGA boundaries did not change in the 2009 UGA review.

108. The Cherry Point area has been developed with heavy industrial uses, including two oil refineries and an aluminum smelter. The Cherry Point area was designated for industrial uses on the 1970 Comprehensive Plan map and the 1981 Cherry Point/Ferndale Subarea Plan.

109. The Cherry Point UGA zoning generally does not allow residential development.

110. The employment growth allocation for the Cherry Point UGA over the planning period is an additional 890 jobs. The land capacity analysis estimates the existing UGA can accommodate 951 more jobs.

111. County-wide Planning Policy I-2 states that: "... Economic development that pays family wage rates should be encouraged. Industrial land designations must be sufficient to permit the concentration of industry in appropriate locations beyond 20 years..."

112. There is a degree of tension between the GMA provisions requiring a 20-year land supply to accommodate urban growth and the County-wide Planning Policy, which calls for land designations to accommodate
industrial growth beyond the 20-year planning period. The County is addressing this situation with the following approach. First, the County is proposing the high employment growth allocation for the Cherry Point UGA. The high employment growth projection is 890 new jobs over the planning period, compared to 689 new jobs under the medium projection (Whatcom County Population and Employment Projections and Urban Growth Area Allocations Phase I Technical Report, BERK, 2013). Second, the land capacity analysis estimates that the existing Cherry Point UGA can accommodate 61 more jobs than the high projection. This approach seeks to comply with the GMA, while still meeting the intent of the County-wide Planning Policies. While it is important to ensure that UGAs are not oversized in order to contain urban growth and prevent sprawl, it also must be acknowledged that it is difficult to plan for exactly a 20-year land supply. Therefore, land capacity that is a little under or over the 20-year growth projection is acceptable. In this case, the UGA’s land capacity is slightly over the 20-year urban growth projection. The County finds that this is a reasonable approach in light of County-wide Planning Policy I-2 and in the context of maintaining a UGA boundary that has existed for almost two decades (rather than expanding the UGA).

113. Public Utility District No. 1 of Whatcom County delivers industrial water supplies to existing major industrial facilities at Cherry Point. The PUD No. 1 Comprehensive Water Plan was approved in 2004 and is currently in the process of being updated. The Birch Bay Water and Sewer District provides potable water service to the BP Cherry Point Refinery by agreement. The District’s Water System Plan was approved in 2009, amended in 2010 and currently in the process of being updated. Phillips 66 and Intalco Aluminum have water systems to treat water received from PUD No. 1 to meet their potable water needs. It is anticipated that PUD No. 1 will have a surplus water supply throughout the 20-year planning period (Final EIS, Whatcom County 2016 Comprehensive Plan and Development Regulations Update and Urban Growth Area Review, November 2015, p. 3-26).

114. Birch Bay Water and Sewer District provides sewer service to the BP Cherry Point Refinery, in the northern portion of the UGA, by agreement. The District’s Comprehensive Sewer System Plan was approved in 2009. The District is currently updating the sewer plan.

115. The major industries at Cherry Point have National Pollutant Discharge Elimination System (NPDES) permits. According to the U.S. Environmental Protection Agency (EPA), NPDES permits are designed (among other things) to prevent stormwater runoff from washing harmful pollutants into surface waters such as streams, rivers, lakes and coastal waters. These permits are issued in compliance with both the Federal Clean Water Act and the State of Washington Water
Pollution Control Law (RCW 90.48). The Birch Bay Comprehensive Stormwater Plan was approved in 2006. This plan states "... A portion of the Cherry Point Refinery facility operated by BP Corporation lies within the Upper Terrell Creek sub-basin. Portions of the Cherry Point Refinery, including on-site ponds, discharge through a permitted deep water outfall into the salt water and not to Terrell Creek."  

116. Whatcom County Fire District # 7 provides fire protection and emergency medical services to the UGA. The Whatcom County Fire District No. 7 Capital Facilities Plan 2016-2036 was approved by the District Commissioners in 2016.  

117. The Cherry Point UGA is within the Blaine and Ferndale School Districts. However, it an industrial UGA that does not include residential zoning.  

118. Grandview (SR 548) and Slater roads, which are major east-west connectors between Cherry Point and I-5, provide all-weather road access to Cherry Point. According to the Washington State Department of Transportation, improvements are planned at the Grandview/Kickerville Rd. intersection in 2017 to reduce the potential for collisions. Whatcom County’s Six-Year Transportation Improvement Program includes preliminary engineering for intersection improvements at Slater and Northwest Dr.  

119. The existing Cherry Point UGA is sufficient to accommodate projected urban growth over the planning period. Therefore, the existing UGA boundary is retained.  

Columbia Valley UGA  

120. The Columbia Valley UGA was established in 1999. The UGA was reduced in size in the 2009 UGA review, when properties in the Kendall area were removed from the UGA.  

121. The Columbia Valley UGA had an estimated 2013 population of 3,103.  

122. The population growth allocation for the Columbia Valley UGA over the planning period is an additional 1,345 people. The land capacity analysis estimates that the existing UGA can accommodate 1,377 more people. Therefore, the land capacity is sufficient to accommodate the population growth allocation over the planning period.  

123. The employment growth allocation for the Columbia Valley UGA over the planning period is an additional 359 jobs. The land capacity analysis estimates the existing UGA can accommodate 376 more jobs. Therefore, the commercial and planned industrial land capacity is
sufficient to accommodate the job growth allocation over the planning period.

124. Water District 13 and the Columbia Valley Water District provide water service to the UGA. District 13’s service area encompasses the Peaceful Valley development, the East Whatcom Regional Resource Center and undeveloped land within the UGA. District 13 adopted a Small Water System Plan in 2012. The Columbia Valley Water District’s service area includes the Paradise Lakes development, Campers’ Paradise and the area north of Limestone Rd. The Columbia Valley Water District’s Water System Plan Update was approved by the District in 2013.

125. Water District 13 provides sewer service to a portion of the UGA. District 13’s service area encompasses the Peaceful Valley development, the East Whatcom Regional Resource Center and undeveloped land within the UGA. The Whatcom County Water District No. 13 Comprehensive Sewer Plan was approved by the District in 2012.

126. A Water Quantity and Quality Report - Foothills Subarea was prepared in 2008 in association with the Foothills Subarea Plan update and environmental impact statement (EIS). Regarding public stormwater facilities, this report states:

In the Columbia Valley/Kendall UGA coarse soils allow for ready infiltration of stormwater and there are no existing public stormwater flow control facilities (e.g., detention/retention or infiltration ponds) or water quality treatment facilities. Limited conveyance features (e.g., culverts and ditches) are present in the county and state road rights-of-way. Since most, if not all, proposed development in the subarea will be private, additional pressure on these existing features should be minimal. It is not anticipated that any programs or capital facility improvements will be needed in the subarea over the 6- and 20-year planning periods (pages 2-3).

127. Fire District 14 provides fire protection and emergency medical services to the Columbia Valley UGA and surrounding area. The Whatcom County Fire District # 14 Capital Facilities Plan was approved by the District Commissioners in 2015.

128. The Mount Baker School District serves the Columbia Valley UGA and surrounding area. Children in the UGA can attend the Kendall Elementary School, located south of the UGA. The Mount Baker Junior High School and High School are located in Deming. State figures show that, between 2007 and 2014, the student enrollment dropped by a total of 15.5%, although enrollment has experienced little change
been 2012 and 2014. The Mount Baker School District Capital Facilities Plan was approved by the District in 2013.

129. Kendall Road (SR 547) bisects the UGA and connects with Sumas to the northwest and Mount Baker Highway (SR 542) to the south. Limestone Rd., a County road, is located in the northern portion of the UGA. A roundabout at the SR 542/SR547 intersection, south the UGA, was constructed in 2015 to improve traffic flow and safety.

130. The existing Columbia Valley UGA is sufficient to accommodate projected urban growth over the planning period. Therefore, the existing UGA boundary is retained.

Everson UGA

131. The Everson UGA was established in 1997. The UGA was reduced in size in the 2009 UGA review, when portions of the UGA were re-designated to Rural and Agriculture and a UGA Reserve was established.

132. The Everson UGA had an estimated 2013 population of 2,665.

133. The City of Everson is proposing one change to its UGA. This change would shift approximately 20 acres, which includes two split-jurisdiction parcels, from the Everson UGA to the Nooksack UGA. This change would allow these properties to be developed for urban uses within a single municipality, while establishing a logical UGA boundary.

134. The population growth allocation for the Everson UGA over the planning period is an additional 1,242 people. The land capacity analysis estimates that the modified UGA can accommodate 1,305 more people.

135. The employment growth allocation for the Everson UGA over the planning period is an additional 602 jobs. The land capacity analysis estimates that the modified UGA can accommodate 758 more jobs.

136. The City of Everson Water System Comprehensive Plan (2013) and the City of Everson Water System Comprehensive Plan Amendment No. 1 (2015) indicate that the City of Everson maintains a water system consisting of a well field, water treatment facilities, booster pumps, water reservoirs, and water lines. The City of Everson’s water system has source capacity to meet the projected need over the 20-year planning period.

137. The City of Everson General Sewer Plan (2012) indicates that the City of Everson maintains a wastewater collection and conveyance system comprised of gravity sewers, pump stations, and force mains. The
City of Everson operates a wastewater treatment plant, which is also utilized by the City of Nooksack. The Everson Wastewater Treatment Plant is being upgraded in 2016 to increase capacity to accommodate projected growth for both cities over the 20-year planning period.


139. Fire District 1 provides fire protection and emergency medical services to the Everson UGA and the surrounding area. The *Whatcom County Fire District # 1 Capital Facilities Plan* was approved by the District Commissioners in 2015.

140. The Nooksack Valley School District serves the Everson UGA and surrounding area. State figures show that, between 2007 and 2014, the student enrollment dropped by a total of 4.3%, although enrollment has been relatively steady over the last several years. In February 2015, the voters of the District approved an almost $28 million bond to pay for capital facility improvements.

141. Capital facilities related to the City of Everson’s transportation system are addressed in the capital facilities and transportation elements of the City’s 2016 comprehensive plan update.

142. The Everson UGA is reduced in size by approximately 20 acres as proposed by the City of Everson. The land capacity of the modified UGA is sufficient to accommodate urban growth over the planning period.

**Ferndale UGA**

143. The Ferndale UGA was established in 1997. The Ferndale UGA was reduced in size in the 2009 UGA review.

144. The Ferndale UGA had an estimated 2013 population of 12,758.

145. The population growth allocation for the Ferndale UGA over the planning period is an additional 6,833 people. The land capacity analysis estimates that the existing UGA can accommodate 6,538 more people.

146. The employment growth allocation for the Ferndale UGA over the planning period is an additional 4,000 jobs. The land capacity analysis estimates that the existing UGA can accommodate 3,584 more jobs.
147. The City of Ferndale is proposing to expand the UGA into the UGA Reserve (in the I-5/Slater Rd. area) in order to provide additional land capacity to accommodate projected employment growth. The land capacity analysis estimates the proposed UGA, with the addition of the UGA Reserve, can accommodate approximately 3,807 more jobs. Therefore, the land capacity would be sufficient to accommodate employment growth over the planning period, if the UGA Reserve were added to the UGA.

148. Approximately 117 acres located southeast of the City is re-designated from UGA Reserve to UGA. The criteria for re-designation from UGA Reserve to UGA are addressed as follows:

a. Need for Land Capacity – As indicated above, lands in the City and existing UGA fall short of accommodating the employment growth allocation. Therefore, adding land to the UGA is appropriate.

b. Adequate Public Facilities and Services – As indicated below, the City of Ferndale and special districts have updated capital facility plans.

c. Land Use Plans – The County comprehensive plan designation is UGA. The City of Ferndale’s comprehensive plan designation will be Commercial.

d. Natural Resource Lands – There are no resource lands within or adjacent to the subject site.

e. Environment – Both the City of Ferndale and Whatcom County have critical areas ordinances and stormwater rules in place.

f. Open Space Corridors – The City of Ferndale’s UGA Proposal (August 2015), states:

... In accordance with RCW 36.70A.160, the City of Ferndale has contacted the City of Bellingham and the Lummi Nation. RCW 36.70A.160 states that jurisdictions planning pursuant to the Growth Management Act must identify open space corridors within and between UGA’s. Both the City of Ferndale and Bellingham have open space plans. In this area, the jurisdictions have discussed the fact that the existing Slater Road right of way, at 150′, is nearly twice as wide as will be required for current and projected future growth.

The large right of way will enable the two jurisdictions to establish trails and/or separated bicycle lanes together with unique landscaping elements that identify the separation between the two jurisdictions. While the specific design of these elements has
not been agreed to by the two cities, Ferndale believes that this open space corridor is more than sufficient to meet the requirements of the RCW . . .

149. The City of Ferndale Water System Plan (2016) indicates that the City maintains a water system consisting of wells, a water treatment plant, water reservoirs, pump stations, a pressure booster station, and water lines. In December 2011, Ferndale converted to a groundwater supply with greensand filtration for its drinking water. Previous to this, it purchased industrial grade water from PUD No.1 and treated the water at its own surface water treatment plant. In October 2014, Ferndale added a reverse osmosis system to treat its groundwater supply to reduce hardness. The city has adequate water rights to meet the needs of population growth over the 20 year period. Additionally, sufficient capacity exists to serve full buildout of the UGA expansion area. A 12” City of Ferndale water main has been extended to the southeast corner of properties within the City limits that abut the UGA expansion area.

150. The City of Ferndale Comprehensive Sewer Plan (2016) indicates that the City of Ferndale maintains a wastewater collection and conveyance system comprised of gravity sewers, pump stations, and force mains. The City of Ferndale also operates a wastewater treatment plant. The City of Ferndale plans a major sewer treatment plant upgrade by 2020. As planned, this upgrade will be sufficient to support growth forecast within the planning period and beyond. Within the UGA expansion area sufficient sewer capacity exists, or will exist at the time the properties are annexed into the City, because of the planned sewer treatment plant expansion to be completed by 2020. Sewer mains established to the northwest of the properties are sufficient to support expected sewer flows, and the City’s sewer comprehensive plan has modeled the area to verify that sewer flows can be conveyed to these lines without the need for pump stations.

151. All development, including land within the UGA expansion area upon annexation, will be required to meet the City’s stormwater standards and the 2014 Department of Ecology Stormwater Manual.

152. Whatcom County Fire District 7 serves the City of Ferndale and surrounding area. The Whatcom County Fire District No. 7 Capital Facilities Plan 2016-2036 was approved by the District Commissioners in 2016.
153. The Ferndale School District serves the UGA and surrounding area. State figures show that, between 2007 and 2014, the student enrollment dropped by a total of 1.9%, although enrollment has been relatively steady over the last several years. The *Ferndale Schools Capital Facilities Plan and School Impact Fee Ordinance* was approved by the District in 2013.

154. The City of Ferndale worked with a consultant to update the City’s Transportation Plan as part of its 2016 comprehensive plan update process. The City has modeled future development of the UGA expansion area and has concluded that transportation improvements necessary to support future growth are consistent with the City’s established Transportation Element. In July 2015, Washington State earmarked over $20 million for improvements to the interchange – improvements that become necessary as growth occurs. The City expects to work with other agency stakeholders to determine those projects necessary to serve future growth occurring during the planning period that may impact traffic at Exit 260.

155. The Ferndale UGA is expanded into the UGA Reserve southeast of the City to provide additional employment growth capacity. With this expansion, the UGA is sufficient to accommodate projected urban growth over the planning period.

**Lynden UGA**

156. The Lynden UGA was established in 1997. The Lynden UGA was expanded, and a UGA Reserve added, in the 2009 UGA review.

157. The Lynden UGA had an estimated 2013 population of 12,872.

158. The population growth allocation for the Lynden UGA over the planning period is an additional 6,403 people. The land capacity analysis estimates that the existing UGA can accommodate 5,385 more people. The residential land capacity falls short of accommodating the population growth allocation.

159. The City of Lynden is proposing to expand the UGA into the UGA Reserve (155 acres) in order to provide sufficient land supply to accommodate projected population growth. The land capacity analysis estimates the proposed UGA, with the addition of the UGA Reserve, can accommodate 6,472 more people. Therefore, the residential land capacity would be sufficient to accommodate population growth over the planning period, if the UGA Reserve were added to the UGA.
160. The City of Lynden is proposing three changes to its urban growth area UGA boundaries. These changes are:

a. Re-designating approximately 155 acres, located northwest of the City, from UGA Reserve to UGA.

b. Re-designating approximately 0.4 acres, south of the City, from Agriculture to UGA. The southern half of this parcel is within the 100-year flood-plain of the Nooksack River. Therefore, pursuant to RCW 36.70A.110(8)(b)(iii)(C), development rights will be extinguished and uses on this portion of the property will be limited to outdoor recreation, environmentally beneficial projects, storm water facilities, flood control facilities or underground conveyances. An Irrevocable Covenant must be recorded with the Whatcom County Auditor to accomplish these purposes.

c. Re-designating approximately 38 acres, located southwest of the City, from Agriculture to UGA. This parcel is owned by the City and used for regional stormwater detention. This parcel is located within the 100-year flood-plain of the Nooksack River. Therefore, pursuant to RCW 36.70A.110(8)(b)(iii)(C), uses of the property will be limited to outdoor recreation, environmentally beneficial projects, storm water facilities, flood control facilities or underground conveyances. An Irrevocable Covenant must be recorded with the Whatcom County Auditor to accomplish these purposes.

161. Approximately 155 acres located northwest of the City is re-designated from UGA Reserve to UGA. The criteria for re-designation from UGA Reserve to UGA are addressed as follows:

a. Need for Land Capacity – As indicated above, the lands in the City and existing UGA fall short of accommodating the population growth allocation. Therefore, adding land to the UGA is appropriate.

b. Adequate Public Facilities and Services – As indicated below, the City of Lynden and special districts have updated capital facility plans or supplemented these existing plans with technical memorandums.

c. Land Use Plans – The County comprehensive plan designation is UGA. The City of Lynden will likely designate the land for residential use.

d. Natural Resource Lands – There are designated Agricultural lands to the west and north of the subject property. An Interlocal Agreement Between the City of Lynden and Whatcom County
concerning Planning, Annexation and Development within the Lynden UGA was approved by both jurisdictions in 2012. Section 11 of the Interlocal Agreement addresses Agricultural Resource Lands.

Additionally, the City of Lynden’s UGA Proposal (July 2015) states that the City has “... adopted a ‘Right-to-Farm’ ordinance and continues to search for answers related to agricultural setbacks. The City will also be considering the establishment of minimum residential densities as it updates the comprehensive plan and zoning ordinance during this cycle ...”

e. Environment – Both the City of Lynden and Whatcom County have critical areas ordinances and stormwater rules in place.

f. Open Space Corridors – The City of Lynden’s UGA Proposal (July 2015), states:

... The addition of this area between Double Ditch Road and SR 539 makes sense for the City’s long term capital facilities planning. The development of Pepin Creek between Benson and Double Ditch Roads is a regional solution for habitat improvement, by moving fish bearing waters away from roadways; recreation, by including a trail along the new creek; and stormwater management by building flood storage capacity into the design of the creek. As a regional solution, the City must be able to plan for the area to be served. The improvements to Double Ditch Road that will be necessary to support the urban levels of development will require the City to be able to work with property owners on both sides of the road to design and finance the project...

162. The approximately 0.4 acre site located south of the City is re-designated from Agriculture to UGA. The Agriculture de-designation criteria are addressed as follows:

a. Characterized by Urban Growth – The GMA states that “characterized by urban growth” refers to “... land having urban growth located on it, or to land located in relationship to an area with urban growth on it as to be appropriate for urban growth” (RCW 36.70A.030(19)). The subject parcel, accessed from C Street and Kok Road, was formerly the site of the City’s waste water treatment plant and was recently declared as surplus and sold to an adjoining property owner for re-development. The majority of the parcel is already within the City limits. However, the 0.4 acre remnant of the parcel was not included in the legal description for the annexation in 1967. Residential development exists in the City of Lynden north and west of the subject parcel.
Within ¼ mile of the site, there are 124 single family residences, multi-family condos (containing 63 units), a duplex, the Fairgrounds, auto parking, and a retail/office site. Urban growth is located in the vicinity of the subject site.

b. Commercial Production of Agricultural Products – The subject site is not currently used for agriculture, but does contain agricultural soils.

c. Long Term Commercial Significance for Agriculture – The subject site is bounded by city limits on the west and UGA on the north. The site is not enrolled in the current use tax classification under RCW 84.34. Residential development exists in the City of Lynden north and west of the subject parcel. Within ¼ mile of the site, there are 124 single family residences, multi-family condos (containing 63 units), a duplex, the Fairgrounds, auto parking, and a retail/office site. Public water and sewer are located nearby in the city limits. Finally, the small size of the subject site does not lend itself to conducting commercial agricultural practices over the long term. Based upon these factors, the subject site is not of long-term commercial significance for agriculture.

163. The approximately 38 acre parcel located southwest of the City is redesignated from Agriculture to UGA. The Agriculture de-designation criteria are addressed as follows:

a. Characterized by Urban Growth – The GMA states that “characterized by urban growth” refers to “. . . land having urban growth located on it, or to land located in relationship to an area with urban growth on it as to be appropriate for urban growth” (RCW 36.70A.030(19)). The subject parcel, accessed from Flynn Rd., currently contains a City stormwater facility. Residential development exists in the UGA north of the subject parcel. Within ¼ mile of the site, there are 25 single family residences and a retail property. The primary condition that has changed for this parcel since it was designated as agricultural land, is the construction of a regional stormwater detention facility and the subsequent purchase of the property by the City of Lynden. The construction of the pond was permitted by Whatcom County in 2002 while the property was in private ownership. After the construction of the facility, the ownership was transferred to the City of Lynden and is being paid for by a local improvement district assessment. Urban growth is located on the subject site and nearby in the City of Lynden and UGA.

b. Commercial Production of Agricultural Products – The subject site currently has some agriculture use and contains agricultural soils.
c. Long Term Commercial Significance for Agriculture – The subject site is bounded on the north by the UGA, which is zoned Urban Residential. The site is not enrolled in the current use tax classification under RCW 84.34. A City of Lynden stormwater pond occupies a portion of the subject site, and the site is owned by the City. Residential development exists to the north in the UGA. Urban land uses exist to the northeast in the City of Lynden. Within ¼ mile of the site, there are 25 single family residences and a retail property. Based upon these factors, the subject site is no longer of long-term commercial significance for agriculture.

164. The employment growth allocation for the Lynden UGA over the planning period is an additional 2,157 jobs. The land capacity analysis estimates the existing UGA can accommodate approximately 1,694 more jobs. The City of Lynden’s UGA Proposal (2015) indicates that some larger employers are not located within areas of commercial or industrial zoning. Two new schools will be constructed in the near future. Additionally, assisted living and skilled nursing facilities also have a fairly high employment density. As the population ages, Lynden continues to be a site where many seniors are retiring and the demand for care based housing will increase.

165. The City of Lynden has a contract with a consultant to update its Water Comprehensive Plan and the work on this plan will be finished in 2016. Because the Water Comprehensive Plan update has not yet been completed, the City’s consultant issued a Technical Memorandum (June 2016) addressing capital facility planning for water service. The City of Lynden maintains a water system consisting of a Nooksack River water intake structure, water treatment plant, booster pumps, water reservoirs and water lines. The City’s new 8 million gallon per day Water Treatment Plant went online in September 2015. The new plant doubles treatment capacity includes grit removal and sedimentation basins equipped with plate settlers to handle the heavy sediment load from the Nooksack River. The facility also features high rate deep bed gravity filters, and a combination of UV disinfection and chlorine to disinfect the water. The City believes it has adequate water supply to meet the needs of population growth over the 20 year period. However, the City of Lynden and the Department of Ecology have different interpretations of Lynden’s water rights. Therefore, Lynden and Ecology entered into a Memorandum of Agreement in 2004 and agreed to work cooperatively toward water right solutions for the City.

166. The City of Lynden has a contract with a consultant to update its Sanitary Sewer Comprehensive Plan and the work on this plan will be finished in 2016. Because the Sewer Plan update has not yet been completed, the City’s consultant issued a Technical Memorandum (June 2016) addressing capital facility planning for sewer service.
The City of Lynden maintains a wastewater collection and conveyance system consisting of gravity sewers, pump stations, and force mains. The City of Lynden also operates a wastewater treatment plant that includes an influent pump station, headworks with screens and grit removal, anoxic selector tanks, oxidation ditches, secondary clarifiers, effluent cloth disc filters, UV disinfection system, effluent Parshall flume, effluent pump station, sludge thickening and digestion, sludge dewatering, and composting facilities. It is projected that the Wastewater Treatment Plant will be able to accommodate planned growth over the 20-year planning period.

167. The City of Lynden’s consultant issued a Technical Memorandum and an associated stormwater capital improvement plan in June 2016.

168. The City of Lynden Fire Department serves area within the city limits and will serve the UGA. Currently, the City of Lynden Fire Department assists in providing service to the City’s UGA through mutual aid and automatic aid agreements with North Whatcom Fire and Rescue. The City of Lynden Fire Department Capital Facilities Plan was approved by the Lynden City Council in 2016.

169. The Lynden School District serves the UGA and surrounding area. State figures show that, between 2007 and 2014, the student enrollment has remained relatively consistent. In April 2015, the voters of the District approved a $48 million bond to pay for capital facility improvements. The Lynden School District Capital Facilities Plan was approved by the District in 2016.

170. The City of Lynden has a contract with a consultant to update the Transportation Plan and the work on this plan will be completed in 2016. This plan will include the UGA and will reflect all infrastructure needs and a financing plan to complete those projects.

171. The Lynden UGA is expanded by approximately 193.4 acres as proposed by the City to provide additional population growth capacity and bring City owned property and infrastructure into the UGA. With this expansion, the UGA will be sufficient to accommodate projected urban growth over the planning period.

Nooksack UGA

172. The Nooksack UGA was established in 1997. The UGA was reduced in size in the 2009 UGA review, when a portion of the UGA was re-designated to UGA Reserve.

173. The Nooksack UGA had an estimated 2013 population of 1,435.
174. The population growth allocation for the Nooksack UGA over the planning period is an additional 990 people. The land capacity analysis estimates the existing UGA can accommodate 948 more people.

175. The employment growth allocation for the Nooksack UGA over the planning period is an additional 115 jobs. The land capacity analysis estimates the existing UGA can accommodate 62 more jobs. The land capacity analysis estimates that there are only 2.5 net developable acres of industrial land in the city and existing UGA. The land capacity of the existing UGA falls short of accommodating the employment growth allocation.

176. The City of Nooksack is proposing to expand the UGA in order to provide sufficient land capacity to accommodate projected urban growth. The land capacity analysis estimates the proposed UGA can accommodate 1,001 more people and 106 more employees. Therefore, the land capacity would be sufficient to accommodate population and employment growth over the planning period, if the UGA were expanded.

177. The City of Nooksack is proposing four changes to its UGA and UGA Reserve boundaries. These changes are:

a. Re-designating approximately 20 acres from Everson UGA to Nooksack UGA, south of the City.

b. Re-designating approximately 6 acres from Agriculture to UGA. This parcel, which abuts the Nooksack Valley Middle School, is owned by the Nooksack Valley School District and is planned for future ball fields. This parcel is located within the 100-year floodplain of the Nooksack River. Therefore, pursuant to RCW 36.70A.110(8)(b)(iii)(C), development rights must be extinguished and uses of the property must be limited to outdoor recreation, environmentally beneficial projects, storm water facilities, flood control facilities or underground conveyances. An Irrevocable Covenant must be recorded with the Whatcom County Auditor to accomplish these purposes.

c. Re-designating approximately 29 acres from Agriculture to UGA to accommodate future industrial growth. This area is located north of Tom Road adjacent to the State Highway. Less than 1 acre of this area is located within the 100-year floodplain of the Nooksack River. Therefore, pursuant to RCW 36.70A.110(8)(b)(iii)(C), development rights must be extinguished and uses of the portion of the property within the floodplain must be limited to outdoor recreation, environmentally beneficial projects, storm water facilities, flood control facilities or underground conveyances. An
Irrevocable Covenant must be recorded with the Whatcom County Auditor to accomplish these purposes.

d. Re-designating approximately 81 acres from UGA Reserve to Agriculture east of the city. In 2009, this area was shifted from UGA to UGA Reserve due to concerns related to potential impacts from naturally occurring asbestos contained in sediments from Swift Creek. It is acknowledged that the City of Nooksack UGA Proposal (August 2015) states:

... It is important to emphasize that the removal of land from the Nooksack UGA Reserve is being proposed in combination with and in exchange for the above described UGA expansions. Therefore, in the event the exchange described herein is found not to be acceptable to the County, then the proposed removal of land from the Nooksack UGA Reserve should be considered withdrawn. Under such a circumstance, the City of Nooksack would continue to work with the County to pursue a comprehensive solution to the Swift Creek sediment issue that would allow the Nooksack UGA Reserve to be safely developed. . . (p. 9).

178. Approximately 20 acres are re-designated from Everson UGA to Nooksack UGA, south of the City. This area includes two split-jurisdiction parcels. This change would allow these properties to be developed for urban uses within the City of Nooksack rather than in two jurisdictions.

179. The approximately 6-acre parcel owned by the School District is re-designated from Agriculture to UGA. The Agriculture de-designation criteria are addressed as follows:

a. Characterized by Urban Growth – The GMA states that "characterized by urban growth" refers to "... land having urban growth located on it, or to land located in relationship to an area with urban growth on it as to be appropriate for urban growth" (RCW 36.70A.030(19)). The subject parcel does not contain urban growth within its boundaries. However, the City of Nooksack is adjacent to the east and the City of Everson is adjacent to the south. The Nooksack Middle School is directly to the east of the site, single family residential development is located to the northeast, and residential development (which includes multi-family housing) is located to the south. Within ¼ mile of the site, there are 138 single family residences, a duplex, two fourplexes, condominiums (21 units), and a retail site. Urban growth is located adjacent to the subject site.
b. Commercial Production of Agricultural Products – The subject site contains agricultural soils. The subject site is used or capable of being used for agricultural production.

c. Long Term Commercial Significance for Agriculture – As previously mentioned, the subject site is bounded by city limits on the east and the south. The site is not enrolled in the current use tax classification under RCW 84.34. The cities of Everson and Nooksack have a history of issuing development permits nearby. The Nooksack Middle School is directly to the east of the site, single family residential development is located to the northeast, and residential development (which includes multi-family housing) is located to the south. Within ¼ mile of the site, there are 138 single family residences, a duplex, two fourplexes, condominiums (21 units), and a retail site. Public water and sewer are located nearby in the city limits. Based upon these factors, the subject site is no longer of long-term commercial significance for agriculture.

180. The approximately 29-acre area north of the City is re-designated from Agriculture to UGA. The Agriculture de-designation criteria are addressed as follows:

a. Characterized by Urban Growth – The GMA states that “characterized by urban growth” refers to “... land having urban growth located on it, or to land located in relationship to an area with urban growth on it as to be appropriate for urban growth” (RCW 36.70A.030(19)). The subject parcel does not contain urban growth within its boundaries. However, the City of Nooksack is adjacent to the east and to the south. A state highway, public utilities, single family residential development and railroad tracks exist immediately to the east. Land that is farmed (inside the city limits) and single family residential development is to the south. Within ¼ mile of the site, there are 59 single family residences, five duplexes, one fourplex, and a church. Urban growth is located adjacent to the subject site.

b. Commercial Production of Agricultural Products – The subject site contains agricultural soils. The subject site is used or capable of being used for agricultural production.

c. Long Term Commercial Significance for Agriculture – As previously mentioned, the subject site is bounded by city limits on the east and the south. State Route 9 abuts the eastern boundary of the site and Tom Rd. abuts the southern boundary of the site. Various city streets are in the surrounding area. The City of Nooksack Water System Plan (2012) shows existing City water lines in the area (Figures C4 and C5). In fact, two of the three parcels within the subject site are currently served by the City of Nooksack water
system. The City of Nooksack 2012 General Sewer Plan Elements Amendment (January 2016) indicates that there is a City of Nooksack sewer force main in place along State Route 9, which abuts the eastern boundary of the subject site. Pump Station 3 and two grinder pumps are located to the north and gravity mains are located to the south (Figure 3-1). Three-phase electrical power is available in the adjacent state highway right-or-way. Single family residential development and railroad tracks exist immediately to the east. Land that is farmed (inside the city limits) and single family residential development is to the south. The City of Nooksack has a long history of issuing residential building permits for the area within the City immediately across the highway from the subject site. Within ¼ mile of the site, there are 59 single family residences, five duplexes, one fourplex, and a church. Within ¼ mile of the site, approximately 28% of the parcels (representing approximately 75% of the acreage) are enrolled in the open space taxation program. More than 96% of the subject site is located outside the 100-year floodplain. According to the Census of Agriculture, the average farm size in Whatcom County was 68 acres in 2012. Average parcel size within the boundaries of the subject site is 9.6 acres (parcels range from 4.2 to 18 acres in this area). Based upon these factors, the subject site is no longer of long-term commercial significance for agriculture.

181. In conjunction with re-designation of land from Agriculture to UGA, approximately 81 acres are re-designated from UGA Reserve to Agriculture, east of the city. In 2009, this area was shifted from UGA to UGA Reserve due to concerns related to potential impacts from naturally occurring asbestos contained in sediments from Swift Creek. The Agriculture designation criteria are addressed as follows:

a. Not already characterized by Urban Growth – The GMA states that “characterized by urban growth” refers to “... land having urban growth located on it, or to land located in relationship to an area with urban growth on it as to be appropriate for urban growth” (RCW 36.70A.030(19)). The subject area is largely used for agriculture, but also contains some residences and wooded area. There is urban growth to the west, within the City limits of Nooksack.

b. Commercial Production of Agricultural Products – The subject site contains agricultural soils. Much of the subject site is currently used for agricultural production.

c. Long Term Commercial Significance for Agriculture – Based on the re-designation of 35 acres from designated Agricultural lands to Nooksack UGA, the City of Nooksack no longer sees a need for the UGA Reserve for future urban growth. The subject site is largely
used for agriculture at the present time. The majority of the land is enrolled in the current use tax classification under RCW 84.34. This area has several larger parcels and is separated from urban growth to the west by the Sumas River.

182. Although the Nooksack UGA proposal would de-designate a total of 35 acres of Agricultural land, it would also designate 81 acres of Agricultural land that is currently UGA Reserve. Therefore, the Nooksack UGA proposal results in a net gain of 46 acres of designated Agricultural land.

183. The City of Nooksack Water System Plan (2012) and the City of Nooksack Water System Plan Update (2016) indicate that the City of Nooksack maintains a water system consisting of booster pumps, water reservoirs shared with the Nooksack Valley Water Association, and water lines. The City of Nooksack obtains all its water from the City of Sumas. The City of Nooksack’s water system has capacity to meet the projected demand over the 20-year planning period.

184. The City of Nooksack 2012 General Sewer Plan Elements Amendment (January 2016) indicates that the City of Nooksack maintains a wastewater collection and conveyance system comprised of gravity sewers, pump stations, and force mains but does not operate a wastewater treatment plant. Wastewater from Nooksack is treated at the Everson Wastewater Treatment Plant. The Everson Wastewater Treatment Plant is being upgraded in 2016 to increase capacity to accommodate projected growth for both cities over the 20-year planning period.

185. Stormwater is addressed in the City of Nooksack Comprehensive Plan (2016). The City of Nooksack has also adopted the 2014 Department of Ecology Stormwater Manual.

186. Fire District 1 provides fire protection and emergency medical services to the Nooksack UGA and surrounding area. The Whatcom County Fire District # 1 Capital Facilities Plan was approved by the District Commissioners in 2015.

187. The Nooksack Valley School District serves the Nooksack UGA and surrounding areas. State figures show that, between 2007 and 2014, the student enrollment dropped a total of 4.3%, although enrollment has been steady over the last several years. In February 2015, the voters of the District approved an almost $28 million bond to pay for capital facility improvements.

188. Capital facilities related to the City’s transportation system are addressed in the capital facilities and transportation elements from the 2016 update of the City’s Comprehensive Plan.
189. The Nooksack UGA is expanded by approximately 55 acres as proposed by the City to provide sufficient population and employment growth capacity, and expansion of the Nooksack Valley School District ball fields. Additionally, in conjunction with the re-designation of designated Agricultural lands to UGA, approximately 81 acres of UGA Reserve are re-designated to Agriculture east of the city. With these changes, the UGA is sufficient to accommodate projected urban growth over the planning period.

Sumas UGA

190. The Sumas UGA was established in 1997. The UGA was reduced in size in the 2009 UGA review, when a portion of the UGA was re-designated to UGA Reserve and a portion of the UGA was re-designated to Agriculture.

191. The Sumas UGA had an estimated 2013 population of 1,449.

192. The population growth allocation for the Sumas UGA over the planning period is an additional 874 people. The land capacity analysis estimates that the existing UGA can accommodate 884 more people. Therefore, the land capacity is sufficient to accommodate the population growth allocation over the planning period.

193. The employment growth allocation for the Sumas UGA over the planning period is an additional 445 jobs. The land capacity analysis estimates that the existing UGA can accommodate 460 more jobs. Therefore, the commercial and industrial land capacity is sufficient to accommodate the job growth allocation over the planning period.

194. The City of Sumas prepared a Water System Comprehensive Plan (2011). The City of Sumas maintains a water system consisting of two well fields, booster pumps, a water reservoir (which is directly adjacent to, and tied into, a water association reservoir), and water lines. Based upon further analysis in the City of Sumas Comprehensive Plan (2016), it appears that the city will have sufficient source capacity to accommodate projected growth through 2036.

195. The City of Sumas owns and maintains a sewage collection and transmission system that includes gravity sewer lines, force mains, and a small number of sewer lift stations. The City of Sumas transmits wastewater to the City of Abbotsford, B.C. under a wastewater disposal contract. Based on analysis presented in the City of Sumas Comprehensive Plan (2016), Sumas has sufficient sewer service capacity to meet its needs through 2036.
196. Stormwater is addressed in the City of Sumas Comprehensive Plan (2016). The City of Sumas has also adopted the 2014 Department of Ecology Stormwater Manual.

197. Fire District 14 provides fire protection and emergency medical services to the Sumas UGA and surrounding area. The Whatcom County Fire District # 14 Capital Facilities Plan was approved by the District Commissioners in 2015.

198. The Nooksack Valley School District serves the Sumas UGA and surrounding area. State figures show that, between 2007 and 2014, the student enrollment dropped by a total of 4.3%, although enrollment has been steady over the last several years. In February 2015, the voters of the District approved an almost $28 million bond to pay for capital facility improvements.

199. Capital facilities related to the City’s transportation system are addressed in the capital facilities and transportation elements from the 2016 update of the City’s Comprehensive Plan.

200. The existing Sumas UGA is sufficient to accommodate projected urban growth over the planning period. Therefore, the existing UGA boundary will be retained.

Rural Element

201. The GMA, at RCW 36.70A.070(5), requires that a comprehensive plan must include a rural element that permits rural development, forestry and agriculture and protects rural character.

202. There are a number of County-wide Planning Policies that apply to rural areas. County-wide Planning Policy B.1 indicates “...The county shall work with citizens to define a variety of types of rural areas based on the characteristics and needs of different areas...”

203. County-wide Planning Policy B.2 states "The county shall discourage urban level development outside Urban Growth Areas...”

204. The rural element is contained within Chapter 2 of the Whatcom County Comprehensive Plan. The rural element addresses rural character and lifestyles, rural services, rural employment opportunities, land use, and limited areas of more intensive rural development (LAMIRDs).

205. Between 2011 and 2015, Whatcom County adopted a series of amendments to the Comprehensive Plan, development regulations and zoning map in response to Growth Management Hearings Board orders (GMHB Cases 05-2-0013 and 11-2-0010c). GMA compliance has been
achieved, although there is one remaining issue relating to rural water resources and that is pending before the Washington State Supreme Court (GMHB Case No. 12-3-0013 / Supreme Court Case No. 91475-3).

206. Whatcom County Comprehensive Plan Policy 2DD-2 adopts by reference various development regulations into the rural element (Chapter 2) of the Comprehensive Plan as measures to protect rural character required by RCW 36.70A.070(5)(c). On April 5, 2016, the County Council adopted Ordinance 2016-011, which contained several amendments to development regulations in Whatcom County Code. One such change amended Whatcom County Code 20.80.200, setback requirements. That zoning code section is adopted by reference in Comprehensive Plan Policy 2DD-2.B.3. This ordinance recognizes that approval of the amendment to that code section is also a Comprehensive Plan amendment.

Property Rights and Permits

207. GMA Planning Goal 6, relating to property rights, states “Private property shall not be taken for public use without just compensation having been made. The property rights of landowners shall be protected from arbitrary and discriminatory actions” (RCW 36.70A.020(6)). Whatcom County Comprehensive Plan Goal 2H and associated policies address this GMA Planning Goal.

208. GMA Planning Goal 7, relating to permits, states “Applications for both state and local government permits should be processed in a timely and fair manner to ensure predictability” (RCW 36.70A.020(7)). Whatcom County Comprehensive Plan Policies 2D-3 and 2D-4 address this GMA Planning Goal.

Historical Preservation

209. GMA Planning Goal 13, relating to historic preservation, is to “Identify and encourage the preservation of lands, sites, and structures, that have historical or archaeological significance” (RCW 36.70A.020(13)). Whatcom County Comprehensive Plan Goal ZZ2 and associated policies address this GMA Planning Goal.

Chapter 3 – Housing

210. GMA Planning Goal 4, relating to housing, is to:

Encourage the availability of affordable housing to all economic segments of the population of this state, promote a variety of residential densities and housing types, and encourage preservation of existing housing stock (RCW 36.70A.020(4)).
211. The GMA, at RCW 36.70A.070(2), requires that a comprehensive plan must include:

A housing element ensuring the vitality and character of established residential neighborhoods that: (a) includes an inventory and analysis of existing and projected housing needs that identifies the number of housing units necessary to manage projected growth; (b) includes a statement of goals, policies, objectives, and mandatory provisions for the preservation, improvement, and development of housing, including single-family residences; (c) identifies sufficient land for housing, including, but not limited to, government-assisted housing, housing for low-income families, manufactured housing, multifamily housing, and group homes and foster care facilities; and (d) makes adequate provisions for existing and projected needs of all economic segments of the community.

212. The County-wide Planning Policies contain a section relating to affordable housing. County-wide Planning Policy G-2 states “The county and the cities shall plan for a range of housing types and costs commensurate with their affordable housing needs.”

213. The Housing Chapter of the Whatcom County Comprehensive Plan provides background information, a market inventory and analysis, and an affordable housing vision statement. It also contains goals and policies relating to permitting process efficiency, mixed uses, access to housing, incentives, regulatory controls, preservation of existing housing stock and related issues. The chapter compares projected single- and multi-family dwelling unit needs based on population growth allocations with the estimated dwelling unit capacity of the urban growth areas and finds there is sufficient land to accommodate each type.

214. The Whatcom County Housing Analysis study was prepared in 2015 (and revised in 2016) in support of the Housing Chapter update and is referenced in the housing element. This study examines a number of factors including population trends, demographics, housing market trends, critical skills housing capability, housing cost burden by income group, publicly assisted housing, homelessness, national trends, and housing policy implications.

215. The Whatcom County Housing Advisory Committee reviewed Chapter 3 – Housing in a series of meetings held between December 2014 and March 2015. After considering staff input, the Housing Advisory Committee issued its recommendations.
216. The Housing Advisory Committee recommended adding a healthy housing goal with associated policies.

217. The Housing Advisory Committee recommended exploring various financial incentives and funds to support affordable housing.

218. The Whatcom County Planning Commission did not recommended including the healthy housing goal & policies or policies relating to the exploration of various financial incentives and funds to support affordable housing.

219. The County Council considered the Whatcom County Planning Commission recommendations, the staff proposal, recommendations from the Housing Advisory Committee, and public input on Chapter 3 – Housing.

220. The County Council inserted a policy regarding the exploration of various financial incentives and funds to support affordable housing.

221. The County Council added policies, suggested by staff, to coordinate with the cities to ensure efficient development in UGAs and to encourage adequate urban land supply to provide for a broad range of housing types commensurate with residential market demand.

222. Affordable Housing is addressed in Policies 3D-1, 3D-4, 3F-1 through 3F-8 in Chapter 3 - Housing.

223. Chapter 3 - Housing addresses the market inventory and analysis as required by GMA.

Chapter 4 – Capital Facilities

224. GMA Planning Goal 12, relating to public facilities and services, is to:

Ensure that those public facilities and services necessary to support development shall be adequate to serve the development at the time the development is available for occupancy and use without decreasing current service levels below locally established minimum standards (RCW 36.70A.020(12)).

225. The GMA, at RCW 36.70A.070(3), requires that a comprehensive plan must include a capital facilities plan element consisting of:

a. An inventory of existing capital facilities owned by public entities, showing the locations and capacities of the capital facilities.

b. A forecast of the future needs for such capital facilities.
c. The proposed locations and capacities of expanded or new capital facilities.

d. At least a six-year plan that will finance such capital facilities within projected funding capacities and clearly identifies sources of public money for such purposes.

e. A requirement to reassess the land use element if probable funding falls short of meeting existing needs and to ensure that the land use element, capital facilities plan element, and financing plan within the capital facilities plan element are coordinated and consistent.

226. County-wide Planning Policy K.1 states: "As part of the comprehensive planning process, the county and the cities shall identify appropriate land for public facilities which meets the needs of the community, such as schools, recreation, transportation and utility corridors, human service facilities . . . ."

227. The Whatcom County Comprehensive Plan’s capital facilities element contains several components: Chapter 4 - Capital Facilities, the Whatcom County 20-Year Capital Facilities Plan (Appendix E), and the Six-Year Capital Improvement Program for Whatcom County Facilities (Appendix F). Collectively, these components contain an inventory of existing facilities owned by public entities, a forecast of future needs, proposed expanded or new capital facilities, costs and funding sources.

228. Existing Comprehensive Plan Policy 4A-4 addresses the GMA requirement to reassess the land use element if probable capital facility funding falls short.

**Chapter 5 – Utilities**

229. The GMA, at RCW 36.70A.070(4), requires that a comprehensive plan must include "A utilities element consisting of the general location, proposed location, and capacity of all existing and proposed utilities, including, but not limited to, electrical lines, telecommunication lines, and natural gas lines."

230. There are a number of Countywide Planning Policies that address utilities, with which the Comprehensive Plan policy amendments are found to be consistent. These Countywide Planning Policies include:

   a. F.4 – "Within Urban Growth Areas, cities shall not extend water and sewer utilities without an adopted program for annexation and an adopted Capital Facilities Plan. . . ."

   b. F.5 – "In the areas where utilities presently extend beyond city
limits, but are within Urban Growth Areas, the city, county, and the existing water purveyors for the area should jointly plan with the county. The County shall adopt zoning which reflects this joint planning."

c. F.12 – "To encourage contiguous, orderly development and annexation in Urban Growth Areas around cities, the county shall designate Urban Residential zones limiting density to a maximum of one dwelling unit per five acres in undeveloped areas until urban level utilities are provided. . . ."

d. K.1 – "As part of the comprehensive planning process, the county and the cities shall identify appropriate land for public facilities which meets the needs of the community, such as . . . utility corridors . . ."


232. Review was sought by the major utility providers in Whatcom County, but no comments were received.

233. The County Council considered Whatcom County Planning Commission recommendations, staff recommendations, and public comments on Chapter 5 – Utilities.

Chapter 6 – Transportation

234. GMA Planning Goal 3, relating to transportation, is to "Encourage efficient multimodal transportation systems that are based on regional priorities and coordinated with county and city comprehensive plans" (RCW 36.70A.020(3)).

235. The GMA, at RCW 36.70A.070(6), requires that a comprehensive plan must contain a transportation element that includes an inventory of existing facilities, level of service (LOS) standards, traffic forecasts, actions needed to meet LOS standards, a financing plan to meet identified needs, intergovernmental coordination, demand management, pedestrian and bicycle components, and concurrency measures.

236. The County-wide Planning Policies contain a section relating to transportation facilities and strategies. County-wide Planning Policy J-
5 states: "Where the roadway level of service (LOS) adopted in local comprehensive plans cannot be maintained as a result of proposed new development, that development shall be denied, unless the proponents agree to pay a proportionate share of the cost of maintaining the LOS."

237. County-wide Planning Policy J-2 states that "Whatcom County jurisdictions shall encourage alternative modes of transportation . . ."

238. The Transportation Chapter of the Whatcom County Comprehensive Plan provides background information and addresses a number of issues including level of service standards, concurrency, planning & design of transportation improvements, arterial and collector improvements, coordination with land use, multimodal approach, bicycle & pedestrian facilities, intergovernmental coordination, environmental practices, congestion & emissions reduction, and funding.

239. In 2011, the County Executive requested the Whatcom County Bicycle Pedestrian Advisory Committee (BPAC) and the Whatcom Council of Governments’ Citizens Transportation Advisory Group (CTAG) to act as citizen advisory groups to help guide the revisions to Chapter 6 Transportation. Staff briefed both committees on GMA requirements for the transportation element prior to discussion of the specific amendments to the chapter.

240. The CTAG reviewed Chapter 6 – Transportation in July 2014. CTAG made no specific recommendations.

241. The BPAC reviewed Chapter 6 – Transportation in August and September 2014. The BPAC made recommendations to revise draft wording, which staff incorporated into the draft amendments to the chapter.

242. The County Council considered Whatcom County Planning Commission recommendations, staff recommendations, BPAC recommendations, and public input on Chapter 6 – Transportation.

Chapter 7 – Economics

243. GMA Planning Goal 5, relating to economic development, is to:

Encourage economic development throughout the state that is consistent with adopted comprehensive plans, promote economic opportunity for all citizens of this state, especially for unemployed and for disadvantaged persons, promote the retention and expansion of existing businesses and recruitment of new businesses, recognize regional differences impacting economic
development opportunities, and encourage growth in areas experiencing insufficient economic growth, all within the capacities of the state’s natural resources, public services, and public facilities (RCW 36.70A.020(5)).

244. GMA amendments were adopted by the state legislature in 2002, at RCW 36.70A.070(7) and (9), to require an economic development element in a comprehensive plan if “... funds sufficient to cover applicable local government costs are appropriated and distributed by the state at least two years before local government must update comprehensive plans...” (Second Substitute House Bill 2697). In an e-mail of July 6, 2015, the Washington State Department of Commerce indicated that the economic development element is considered optional because the state still has not provided funding.

245. The County-wide Planning Policies contain a section relating to economic development and employment. County-wide Planning Policy I-1 states “Whatcom County recognizes that a healthy economy, which provides opportunity for diverse segments of the community, is important to the quality of life in the area...”

246. County-wide Planning Policy I-4 is to “Encourage business location, retention, and expansion according to city and county comprehensive plans in order to meet current and future demand for diverse business and industry...”

247. The Economics Chapter of the Whatcom County Comprehensive Plan recognizes that a strong and diversified economy is essential to quality of life.

248. The Economics Chapter of the Whatcom County Comprehensive Plan provides background information and addresses a number of issues including the Comprehensive Economic Development Strategy, the Whatcom Futures report, current economic development activities, a diversified economy, coordination/cooperation between businesses, jurisdictions and other entities, infrastructure, regulations & permit processing, proximity to Canada, business retention & expansion, economic growth & environmental quality, natural resource based industries, unemployment & underemployment, geographic location of economic development, and the local food system.

**Chapter 8 – Resource Lands**

249. GMA Planning Goal 8, relating to natural resource industries, is to:

Maintain and enhance natural resource-based industries, including productive timber, agricultural, and fisheries industries. Encourage the conservation of productive forest lands and productive
agricultural lands, and discourage incompatible uses (RCW 36.70A.020(8)).

250. The GMA requires counties to designate and assure conservation of agricultural, forest and mineral resource lands of long-term commercial significance (RCW 37.70A.060, .070, and 170).

251. Additionally, RCW 36.70A.131 requires that, as part of the comprehensive plan update, the county must review its mineral resource lands designations and mineral resource lands development regulations taking into consideration: (a) New information made available since the adoption or last review of its designations or development regulations, including data available from the department of natural resources relating to mineral resource deposits; and (b) New or modified model development regulations for mineral resource lands prepared by the Department of Commerce, the Department of Natural Resources, the Washington state association of counties.

252. County-wide Planning Policy 1-9 states that "The County and the cities recognize the need for the protection and utilization of natural resources and resource lands including agricultural, mineral, forestry and fishing. . . ."


Agricultural Lands

254. The agricultural lands section of the Resource Lands Chapter provides background information and addresses a number of issues including the agricultural land base, agricultural products industry, cultural heritage, land use conflicts, fish & wildlife, and water for agriculture.

255. The Agricultural Advisory Committee reviewed the agricultural text, goals and policies of Chapter 8 – Resource Lands in a series of meetings held between October 2014 and May 2015. After considering staff input and public comments, the Agricultural Advisory Committee issued its recommendations.

256. The Agricultural Advisory Committee recommended that the agricultural designation criteria be included in a policy. The designation criteria had been originally adopted through Ordinance 92-013, but had not been incorporated into a policy in the Comprehensive Plan.
257. The Agricultural Advisory Committee recommended a policy that lists actions the County may explore to support Goal 8A: “Conserve and enhance Whatcom County’s agricultural land base for the continued production of food and fiber.” The Agricultural Advisory Committee recommended adding additional bullet points to Policy 8A-2 to support working farms and maintain the agricultural land base.

258. The Whatcom County Planning Commission recommended removing or editing several bullet points recommended by the Agricultural Advisory Committee under proposed Policy 8A-2. Specifically, the Planning Commission recommended striking exploration/development of a transfer of development rights program and a natural resource marketplace.

259. The County Council considered the Whatcom County Planning Commission recommendations, staff recommendations, Agricultural Advisory Committee recommendations and public input on Chapter 8 – Resource Lands.

260. The County Council is amending several bullet points under proposed Policy 8A-2 to add the exploration of a transfer of development rights program, developing a natural resource marketplace, tracking the acres lost due to agricultural conversion, and reviewing the Rural Study Areas for potential zoning changes.

261. New Policy 8A-3, relating to designation and de-designation of Agricultural lands, incorporates criteria in WAC 365-190-050 relating to “Agricultural Resource Lands.”

   Forest Resource Lands

262. The forest resource lands section of the Resource Lands Chapter provides background information and addresses a number of issues including the forest land base, forest products industry, land use conflicts, and fish & wildlife.

263. The Forestry Advisory Committee reviewed the forestry text, goals and policies of Chapter 8 – Resource Lands in a series of meetings held between July 2014 and November 2014. After considering staff input and public comments, the Forestry Advisory Committee issued its recommendations.

264. Policy 8F-9 discourages inappropriate conversion of designated forest land to incompatible non-forest uses. The existing Comprehensive Plan states that incompatible uses include those which permanently remove a significant portion of a parcel from productive forest uses. The Forestry Advisory Committee recommended amending the policy to identify a "significant portion" as 20%.
265. The Forestry Advisory Committee recommended a new Policy 8F-11 to recognize the difference between designated (mapped) forest lands and working forests.

266. The Forestry Advisory Committee recommended a new Policy 8F-12 to maintain a working forest land base sufficient to support a viable local forestry industry by considering the impacts of working forests as part of the legislative decision making process, including measures that may be taken to support working forests.

267. The County Council considered Whatcom County Planning Commission recommendations, staff recommendations, Forestry Advisory Committee recommendations, and public input on Chapter 8 – Resource Lands.

268. The County Council added language to Policy 8F-12 to track loss of forest land productivity due to conversion, implementation of critical areas ordinance, etc.

Mineral Resource Lands

269. The mineral resources section of the Resource Lands Chapter provides background information and addresses a number of issues including sustaining mineral resource industries, conserving mineral lands, rural & urban areas, agricultural areas, forestry areas, riverine areas, mineral resource land designations, and fish & wildlife.

270. Consistent with RCW 36.70A.131, Whatcom County has considered new information included in the "Aggregate Resource Inventory 2014 Study Update Whatcom County, Washington" authored by Element Solutions and dated December 22, 2014.

271. There are no new or modified model development regulations for mineral resource lands.

272. The Surface Mining Advisory Committee reviewed the mineral resource text, goals and policies of Chapter 8 – Resource Lands in a series of meetings held between July 2014 and December 2014. After considering staff input and public comments, the Surface Mining Advisory Committee issued its recommendations.

273. The Surface Mining Advisory Committee recommended deleting Policy 80-2 which states "Ensure that at least 50% of the total areas designated for construction aggregate is within ten miles from cities and urban growth areas where feasible." This recommendation was made because it may not be feasible, as resources are located based on geologic history, not human development patterns.
274. The Surface Mining Advisory Committee recommended amending Policy 8Q-1 to protect all potentially commercially significant construction aggregate supply to meet future demand, rather than just a 50-year supply.

275. The Surface Mining Advisory Committee recommended reducing the minimum amount of non-metallic mineral deposits per new Mineral Resource Land Designation from one million to 250,000 cubic yards.

276. The Surface Mining Advisory Committee recommended combining existing Policies 8R-5, 8R-6, and 8R-7 into a single policy that addresses in-stream gravel extraction to ensure that protected species, essential fish habitat, and other critical areas are not adversely impacted and that flooding or erosion in surrounding areas is not increased.

277. The County Council considered Whatcom County Planning Commission recommendations, staff recommendations, Surface Mining Advisory Committee recommendations and public input on Chapter 8 – Resource Lands.

278. Policy 8Q-1 is amended to identify and designate mineral resource lands through a county-led county-wide assessment. The intent of the assessment is to meet future mineral resource demand in a manner that is compatible with water resources, agricultural lands, forest lands, and GMA planning goals.

279. The minimum non-metallic mineral deposit of one million cubic yards per new Mineral Resource Land Designation is retained.

**Marine Resource Lands**

280. A new Marine Resource Lands section is added to the Resource Lands Chapter. This section contains new Goal 8S to "Conserve and enhance Whatcom County’s marine land base for the long-term and sustainable production of commercial and recreational economic activities."

281. Whatcom County will work with the Marine Resource Committee, the Shellfish Protection Advisory Committees, and other local marine land experts to develop policies supporting Goal 8S.

**Chapter 9 – Recreation**

282. GMA Planning Goal 9, relating to open space and recreation, is to: "Retain open space, enhance recreational opportunities, conserve fish and wildlife habitat, increase access to natural resource lands and
water, and develop parks and recreation facilities” (RCW 36.70A.020(9)).

283. GMA amendments were adopted by the state legislature in 2002, at RCW 36.70A.070(8) and (9), to require a park and recreation element in a comprehensive plan if “... funds sufficient to cover applicable local government costs are appropriated and distributed by the state at least two years before local government must update comprehensive plans...” (Second Substitute House Bill 2697). In an e-mail of July 6, 2015, the Washington State Department of Commerce indicated that the park and recreation element is considered optional because the state has not provided funding.

284. RCW 36.70A.080, entitled “Comprehensive Plans – Optional Elements,” provides that jurisdictions planning under the GMA may include additional elements in comprehensive plans that relate to physical development within the jurisdiction. Such optional elements may include a recreation element.

285. County-wide Planning Policy H-1 states: “The county, cities, Port of Bellingham, and other appropriate jurisdictions should coordinate protection of linked greenbelts, within and between Urban Growth Areas, parks, and open space to protect wildlife corridors and to enhance recreational opportunities, public access and trail development.”

286. Whatcom County has elected to adopt a recreation element in the Comprehensive Plan (Chapter 9) as provided in RCW 36.70A.080(1). This element is coordinated and consistent with other Whatcom County Comprehensive Plan elements. It is responsive to, informs, and relies on the Whatcom County Parks, Recreation, and Open Space Plan.

287. The Recreation Chapter of the Whatcom County Comprehensive Plan recognizes that recreation is essential to quality of life.

288. The Recreation Chapter of the Whatcom County Comprehensive Plan provides background information and addresses a number of issues including regional parks, multi-use camping parks, trail systems, specialized recreation areas, shoreline access areas, off road vehicle riding areas, activity centers, and park facilities.

289. The Whatcom County Parks & Recreation Commission reviewed Chapter 9 – Recreation in a series of meetings held between June 2014 and June 2015. After considering staff input and public comments, the Parks & Recreation Commission issued its recommendations.
290. The Parks & Recreation Commission recommended that instead of continuing to adopt by reference the Whatcom County Comprehensive Parks, Recreation and Open Space Plan and the Whatcom County Pedestrian & Bicycle Plan, which are separate functional documents, that these documents be referenced in the chapter as background documents.

291. The Parks & Recreation Commission also recommended that text, goals, policies and maps relating to Recreation Resource Management Areas (RRMAs) be removed from Chapter 9 – Recreation. This recommendation was based on public comment indicating that the County’s vision with respect to RRMAs may be outdated, and that relevant aspects of the RRMA vision may otherwise continue to be addressed in other Recreation Chapter 9 goals or policies.

292. The County Council considered Whatcom County Planning Commission recommendations, staff recommendations, Parks & Recreation Commission recommendations, and public input on Chapter 9 – Recreation.

293. The Comprehensive Parks, Recreation, and Open Space Plan and the Whatcom County Bicycle and Pedestrian Plan should no longer be incorporated by reference into the Comprehensive Plan. Rather, they should be referenced in Chapter 9 as background documents.

294. The Recreation Resource Management Areas text, goals, policies and map designations should also be removed from Chapter 9.

Chapter 10 - Design (Deleted)

295. A design chapter is not a required element in a comprehensive plan.

296. When Chapter 10 - Design was adopted in 1997, the County Council elected not to adopt policies that the Whatcom County Planning Commission had recommended in 1996. This reduced the chapter to a series of general goals without specific implementing policies (with the exception of the Historic and Cultural Resources section). Many of the general topics discussed in the chapter are addressed in greater detail in other chapters such as Land Use, Transportation, Resource Lands, Recreation, and Environment (for example, rural character, open space, clustering, and natural resources) or through development standards, incentives, or regulations that do not require a “Design” chapter of the Comprehensive Plan. Such issues may be better addressed through community or watershed specific planning approaches within the discretion of Whatcom County. Some design issues, such as rural clustering, have already been addressed as part of the County’s rural element GMA compliance efforts.
297. Historic and cultural resources are important topics that are addressed by GMA Planning Goal 13. Additionally, WAC 365-196-450 calls on counties to identify and encourage the preservation of historic and cultural resources. Therefore, the amendments retain and move the “Historic and Cultural Resources” section to Chapter 2, Land Use. The amendments delete the remaining portions of Chapter 10.

Chapter 11 – Environment (renumbered to Chapter 10)

298. GMA Planning Goal 10, relating to the environment, is to “Protect the environment and enhance the state’s high quality of life, including air and water quality, and the availability of water” (RCW 36.70A.020(10)).

299. There are a number of Countywide Planning Policies that address the environment, with which the Comprehensive Plan policy amendments are found to be consistent. These Countywide Planning Policies include:

a. H-2 – “The county and the cities shall plan for greenbelts and open space in their Comprehensive Planning processes and coordinate with each other. Open space systems should include lands which contain natural areas, habitat lands, natural drainage features, and/or other environmental, cultural and scenic resources. . .”

b. I-8 – “Economic development should be encouraged that . . . does not adversely impact the environment. . .”

c. N-1 – “The cities, and the county, in cooperation with other municipal corporations, tribal governments, federal and state agencies, and public and private utilities shall cooperate in the protection of water resources and in drawing upon said water to support growth.”

d. N-3 – “Jurisdictions shall cooperate to protect and restore water resources and fish habitat within UGA’s and across jurisdictional boundaries to maintain quality of life and economic health in Whatcom County.”

e. N-6 - “All jurisdictions shall maximize reduction of water pollutants from stormwater runoff and combined sewer overflows.”

300. The Environment Chapter of the Whatcom County Comprehensive Plan recognizes that the environment is essential to our well-being, health, safety, and economy.

301. The Environment Chapter of the Whatcom County Comprehensive Plan provides background information and addresses a number of issues including community & environmental protection, administration and
regulation, the environment & property rights, climate change, natural hazards, water resources, watershed planning & management, surface water & groundwater, stormwater & drainage, water conservation, Lake Whatcom Watershed, natural systems, fish & wildlife, wetlands, and marine habitat.

302. The Marine Resources Advisory Committee reviewed Chapter 11 – Environment in a series of meetings held between May and July 2014. After considering staff input and public comments, the Marine Resources Advisory Committee issued its recommendations, which were incorporated into the document that went to the Whatcom County Planning Commission.

303. The Critical Areas Ordinance Citizens Advisory Committee also reviewed Chapter 11 – Environment in a public meeting in September 2015, but could not come to consensus on recommendations.

304. The Wildlife Advisory Committee reviewed Chapter 11 – Environment in meetings held in April and May 2016 and issued recommendations.

305. The County Council considered Whatcom County Planning Commission recommendations, staff recommendations, Marine Resources Advisory Committee recommendations, Wildlife Advisory Committee recommendations, and public input on Chapter 11 – Environment.

Appendix A – Glossary of Terms

306. The amendments to Appendix A are intended to ensure the definitions are consistent with state law, state administrative code, County code, and a pertinent technical document.

Appendix B – Acronyms

307. The amendments to Appendix B add acronyms that were previously omitted. The amendments also remove some acronyms.

Appendix C – Countywide Planning Policies

308. Appendix C formerly contained the GMA Planning Goals, Countywide Planning Policies, and the Visioning Value Statements. Appendix C is amended to contain only the Countywide Planning Policies.

309. Comprehensive Plan Chapter 1 now contains the GMA Planning Goals.

310. The amendments delete the glossary to the Countywide Planning Policies to avoid duplication with the glossary in Appendix A. Terms from this glossary that were not already in Appendix A are moved to that appendix.
311. The Visioning Value Statements (also known as “community value statements”) were developed in 1994 to assist in creation of the original 1997 Comprehensive Plan. Today, Land Use Chapter 2 contains a vision statement. Additionally, there are advisory committees and commissions focused on many of these issues. Therefore, the 1994 community value statements are deleted from the Comprehensive Plan.

Appendix D – Bibliography

312. The amendments to Appendix D add references to reports the County used when preparing the Comprehensive Plan.

Appendix E – 20-Year CFP and Appendix F – Six-Year CIP

313. GMA planning goal # 12 is to “Ensure that those public facilities and services necessary to support development shall be adequate to serve the development at the time the development is available for occupancy and use without decreasing current service levels below locally established minimum standards” (RCW 36.70A.020(12)).

314. The GMA, at RCW 36.70A.070(3), requires that a comprehensive plan must include a capital facilities plan element consisting of:

a. An inventory of existing capital facilities owned by public entities, showing the locations and capacities of the capital facilities.

b. A forecast of the future needs for such capital facilities.

c. The proposed locations and capacities of expanded or new capital facilities.

d. At least a six-year plan that will finance such capital facilities within projected funding capacities and clearly identifies sources of public money for such purposes.

e. A requirement to reassess the land use element if probable funding falls short of meeting existing needs and to ensure that the land use element, capital facilities plan element, and financing plan within the capital facilities plan element are coordinated and consistent.

315. The updated Whatcom County 20-Year Capital Facilities Plan (CFP) and the updated Six-Year Capital Improvement Program (CIP) for Whatcom County Facilities contain inventories of existing facilities owned by public entities, a forecast of future needs, proposed expanded or new capital facilities, costs and funding sources. The existing 20-year CFP and existing Six-Year CIP will be repealed.
Appendix G – Transportation Impact Fee
Background Information

316. In 2005 the County added transportation impact fee background information to Appendix G. However, the County has not enacted impact fees. Therefore the existing appendix is not needed. The amendments delete the existing Appendix G in its entirety.

Appendix H – Airport Overlay and Appendix I – Airport Surfaces

317. RCW 36.70.547 requires “Every county, city, and town in which there is located a general aviation airport that is operated for the benefit of the general public, whether publicly owned or privately owned public use, shall, through its comprehensive plan and development regulations, discourage the siting of incompatible uses adjacent to such general aviation airport. Such plans and regulations may only be adopted or amended after formal consultation with: Airport owners and managers, private airport operators, general aviation pilots, ports, and the aviation division of the department of transportation. . .”

318. The Whatcom County Council created an Airport/Land Use Compatibility Advisory Committee in 2003 (Resolution 2003-058).

319. The Airport/Land Use Compatibility Advisory Committee issued final recommendations in 2004.

320. The County Council adopted Comprehensive Plan amendments relating to airport/land use compatibility in 2005 (Ordinance 2005-004). This ordinance included an “Airport Overlay Zones” map (relating to land use near an airport) in Appendix H for the Bellingham International Airport. It also included "Imaginary Surfaces" maps (relating to height of structures near an airport) in Appendix I for the Bellingham International Airport and the Blaine Municipal Airport.

321. The Blaine Municipal Airport closed in 2008. Therefore, the "Imaginary Surfaces” map for Blaine is deleted from Appendix I.

County-wide Planning Policies

322. The GMA requires counties to adopt county-wide planning policies in cooperation with cities. County-wide planning policies provide a framework from which county and city comprehensive plans are developed and facilitate consistency between comprehensive plans (RCW 36.70A.210). County-wide Planning Policies are contained in Appendix C of the Whatcom County Comprehensive Plan. The Comprehensive Plan amendments are consistent with the County-wide Planning Policies.
Interlocal Agreements

323. Inter-local agreements between Whatcom County and the cities were approved in 2012. These agreements, which are valid through 2022, address a number of growth management planning issues including inter-jurisdictional coordination, urban growth area review, land capacity analysis, population and employment projections, and capital facility planning.

Further Studies/Changed Conditions

324. The EIS and land capacity analysis are studies that indicate a need to amend the comprehensive plan in order to comply with the requirements of the GMA. Additionally, outdated information is eliminated and new policy direction is incorporated into the Comprehensive Plan.

Public Interest

325. The 2016 Comprehensive Plan Update and UGA Review establish new growth projections for the planning period through the year 2036 and plan UGAs that can accommodate projected urban growth, as required by the GMA. Resource lands will be conserved and rural character protected, as required by the GMA.

326. Capital facility planning by cities, special purpose districts, and the County will support the land use plan with planned public facilities and services.

327. In considering the public interest, it is recognized that Agriculture is a critical industry in Whatcom County. According to the Census of Agriculture, the market value of agricultural production was over $357 million in 2012.

328. Changes to Designated Agricultural Lands of Long-Term Commercial Significance must be reviewed in a county-wide review process.

329. Changes to Designated Agricultural Lands of Long-Term Commercial Significance are being undertaken as part of Whatcom County’s 2016 Comprehensive Plan update, in which all elements of the Plan have been reviewed including the Comprehensive Plan land use designation map and the Resource Lands chapter. These changes are made in the context of this county-wide review process, and are not based solely on a parcel-by-parcel review process.

330. The Final EIS address Designated Agricultural Lands of Long-Term Commercial Significance.
331. Whatcom County Council approved Resolution 2009-040 on July 7, 2009 in which the Council confirmed that 100,000 acres of land available for agricultural use is the minimum goal for ensuring a land base necessary to support a viable agricultural industry in Whatcom County.

332. Whatcom County currently has more than 85,900 acres of Designated Agricultural Lands of Long-Term Commercial Significance. Additionally, there are other areas in the County used for agriculture. The Census of Agriculture indicates that Whatcom County had more than 115,800 acres of land in farms in 2012.

333. Two UGA proposals would change designated Agricultural lands to UGA.

334. The Lynden UGA proposal would de-designate approximately 38.4 acres of Agricultural lands on the southern edges of the City.

335. The Nooksack UGA proposal would de-designate approximately 35 acres of Agricultural lands, but would result in designation of 81 acres for Agriculture that is currently UGA Reserve. The Nooksack proposal would result in a net gain of 46 acres of designated Agricultural lands.

336. On a county-wide basis, the following changes are made to the designated Agricultural lands of long-term commercial significance.

<table>
<thead>
<tr>
<th>UGA/UGA Reserve</th>
<th>Designated Agriculture Lands Changed to UGA (Acres)</th>
<th>UGA Reserve Changed to Designated Agriculture Lands (Acres)</th>
<th>Change in Designated Agriculture Lands (Acres)</th>
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<tbody>
<tr>
<td>Bellingham</td>
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<td>35.0</td>
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<td>46.0</td>
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<td><strong>73.4</strong></td>
<td><strong>81.0</strong></td>
<td><strong>7.6</strong></td>
</tr>
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</table>
337. In cumulative total, on a county-wide basis, there would not be a net loss of acreage designated as Agricultural lands of long-term commercial significance. In fact, Whatcom County’s designated Agricultural lands of long-term commercial significance would increase slightly (by approximately 7.6 acres). Additionally, the amendments will not cause the County to breach the 100,000 acre goal needed to support a viable agricultural industry. When considered in the context of the County’s designated Agricultural lands as a whole and the need to ensure the viability of resource-based industries, the amendments are consistent with GMA Planning Goal 8, which is to “Maintain and enhance natural resource-based industries . . .” (RCW 36.70A.020(8)) and Whatcom County Comprehensive Plan Goal 8A-3.

338. Whatcom County Charter Section 1.11 states, “The rights of the individual citizen shall be guaranteed under the Constitutions of the United States and the State of Washington. No regulation or ordinance shall be drafted and adopted without consideration of and provisions for compensation to those unduly burdened.” The Whatcom County Council concludes that this ordinance will not unduly burden a property owner by leaving him or her without a reasonable use of his or her property, or otherwise deprive him or her of legally recognized rights.

339. The Growth Management Act requires the state attorney general to establish “an orderly, consistent process, including a checklist if appropriate, that better enables state agencies and local governments to evaluate proposed regulatory or administrative actions to assure that such actions do not result in an unconstitutional taking of private property” (RCW 36.70A.370). The Whatcom County Council has been briefed by legal counsel on the Attorney General’s Advisory Memorandum and Recommended Process for Evaluating Proposed Regulatory or Administrative Actions to Avoid Unconstitutional Takings of Private Property (December 2015) and concludes that this ordinance will not result in unconstitutional taking of private property.

340. The goal of the 2016 Comprehensive Plan Update and UGA Review is to engage in growth management planning to serve the people of Whatcom County and comply with the GMA. Such planning in the public interest.
Spot Zoning

341. "Illegal spot zoning" means a zoning action by which a smaller area is singled out of a larger area or district and specially zoned for a use classification totally different from, and inconsistent with, the classification of surrounding land and not in accordance with the Comprehensive Plan. Spot zoning is zoning for private gain designed to favor or benefit a particular individual or group and not the welfare of the community as a whole (WCC 20.97.187).

342. The subject proposal does not involve nor facilitate illegal spot zoning.

Completion of Periodic Review

343. With adoption of this ordinance, Whatcom County has completed the periodic update of the Comprehensive Plan and the UGA review required under the GMA.

CONCLUSIONS

1. The subject amendments are consistent with and implement the GMA planning goals. The amendments conform to applicable requirements of the GMA.

2. The subject amendments satisfy the approval criteria of WCC 2.160.080.
NOW, THEREFORE, BE IT ORDAINED by the Whatcom County Council that:

Section 1. Amendments to the Whatcom County Comprehensive Plan are hereby adopted as shown on Exhibit A.

Section 2. Adjudication of invalidity of any of the sections, clauses, or provisions of this ordinance shall not affect or impair the validity of the ordinance as a whole or any part thereof other than the part so declared to be invalid.

ADOPTED this ________ day of ________________, 2016.

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

ATTEST:

_________________________  _____________________________
Dana Brown-Davis, Council Clerk          Barry Buchanan, Chairperson

APPROVED as to form:          ( ) Approved     ( ) Denied

_________________________
Civil Deputy Prosecutor

_________________________
Jack Louws, Executive

Date: ______________________

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WHATCOM COUNTY COUNCIL AGENDA BILL

CLEARANCES

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EXECUTIVE:

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TITLE OF DOCUMENT:


ATTACHMENT:

1. Staff Memorandum
2. Proposed Ordinance

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

Under the Growth Management Act, Whatcom County and the seven cities within the County must complete the periodic update of their comprehensive plans and review urban growth areas in 2016 (RCW 36.70A.130). The Planning and Development Services Department would like to discuss with Council amendments to the County's development regulations, official zoning map, and related changes to the Comprehensive Plan and its subsets, proposed as part of that review and described as follows:

Amendments to Whatcom County Code (WCC) Title 20 (Zoning), Title 21 (Land Division Regulations), Title 22 (Guide Meridian Improvement Plan), and the official zoning map. Title 20 amendments include amending WCC Chapter 20.36 to require reclamation plans for surface mining uses in the Rural zone, amending Chapter 20.43 revising the maximum percentage of lot area that can be removed from production of forest products in the Commercial Forestry zone, amendments to WCC Chapters 20.72, 20.80, 20.97 and the Point Roberts Character Plan involving sign regulations and permit review in the Point Roberts Special District, amending WCC Chapter 20.82 concerning new sewer lines and amendments to WCC Chapters 20.24, 20.65, 20.66, 20.68, and 20.80.210 to update references to the Urban Fringe Subarea Plan. WCC 20.80.210 is adopted by reference in the WCCP and amendments to that section are also a WCCP amendment. The Point Roberts Character Plan is a part of the Point Roberts Subarea Plan, which is a subset of the WCCP, therefore the amendment is an amendment to the WCCP. Title 21 amendments consist of amending WCC Chapters 21.03, 21.04, 21.06, and 21.08 to change standards for required disclosures for plats near significant pipelines. Title 22 amendments consist of repealing Title 22, the Guide Meridian Improvement Plan. The plan is a component of the Urban Fringe Subarea Plan, which is a subset of the WCCP, therefore the amendment is also an amendment to the WCCP. The changes to the zoning maps consist of amending the zoning maps for all urban growth areas to reflect changes to urban growth area and urban growth area reserve boundaries, and rescinding the short term planning area zoning.

COMMITTEE ACTION:

7/26/2016: Discussed

COUNCIL ACTION:

7/26/2016: Introduced 6-0, Donovan absent

Related County Contract #: AB2016-047

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
   The Honorable Whatcom County Council

FROM: Gary Davis, AICP, Senior Planner

THROUGH: Mark Personius, AICP, Assistant Director

DATE: July 13, 2016


In conjunction with the 2016 Comprehensive Plan periodic update required by RCW 36.70A.130, PDS proposes the attached amendments to provide for consistency within the Comprehensive Plan, and between the Plan and its implementing development regulations. On June 14 the County Council Special Committee of the Whole discussed a set of proposed amendments to development regulations and subsets of the Comprehensive Plan. On June 28 the County Council held a public hearing on the proposed amendments. The County Council has proposed no changes, and PDS is forwarding a draft ordinance to adopt these amendments. As before, these amendments include:

- Amendments to Whatcom County Code (WCC) Title 20 (Zoning), Title 21 (Land Division Regulations), Title 22 (Guide Meridian Improvement Plan), and the official zoning map.
  - Title 20 amendments include amending WCC Chapter 20.36 to require reclamation plans for surface mining uses in the Rural zone, amending Chapter 20.43 revising the maximum percentage of lot area that can be removed from production of forest products in the Commercial Forestry zone, amendments to WCC Chapters 20.72, 20.80. 20.97 and the Point Roberts Character Plan involving sign regulations and permit review in the Point Roberts Special District, amending WCC Chapter 20.82 concerning new sewer lines and amendments to WCC Chapters 20.24, 20.65, 20.66, 20.68, and 20.80.210 to update references to the Urban Fringe Subarea Plan. WCC 20.80.210 is adopted by reference in the WCCP and amendments to that section are also a WCCP amendment. The Point Roberts Character Plan is a part of the Point Roberts Subarea Plan, which is a subset of the WCCP, therefore the amendment is an amendment to the WCCP.
  - Title 21 amendments consist of amending WCC Chapters 21.03, 21.04, 21.06, and 21.08 to change standards for required disclosures for plats near significant pipelines.
Title 22 amendments consist of repealing Title 22, the Guide Meridian Improvement Plan. The plan is a component of the Urban Fringe Subarea Plan, which is a subset of the WCCP, therefore the amendment is also an amendment to the WCCP.

The changes to the zoning maps consist of amending the zoning maps for all urban growth areas to reflect changes to urban growth area and urban growth area reserve boundaries, and rescinding the short term planning area zoning.

The draft ordinance findings provide a discussion of each proposed amendment. Please contact me at extension 5931 if you have questions regarding the proposed ordinance.

Attachments:

Draft ordinance
ORDINANCE NO. ______________

ADOPTING DEVELOPMENT REGULATION AND COMPREHENSIVE PLAN
AMENDMENTS RELATING TO THE
2016 COMPREHENSIVE PLAN PERIODIC UPDATE

WHEREAS, The Growth Management Act requires Whatcom County to periodically review and update the Comprehensive Plan; and

WHEREAS, The Growth Management Act requires Whatcom County to periodically review and update UGAs; and

WHEREAS, The Whatcom County Council reviewed and considered Planning Commission recommendations, staff recommendations, city recommendations, advisory committee recommendations, Tribal government comments, and public comments on the Comprehensive Plan update; and

WHEREAS, The County Council hereby adopts the following findings of fact:

FINDINGS OF FACT

1. The Planning Commission held a public hearing regarding these amendments on May 26, 2016. Notification of the public hearing was published on May 13, 2016. The advertisement stated that amendments to WCC 20.80.210 and WCC Title 22 are also amendments to the WCCP.

2. A determination of non-significance (DNS) was issued under the State Environmental Policy Act (SEPA) on May 27, 2016

3. Notice of the proposed amendments was submitted to the Washington State Department of Commerce on April 28, 2016.
4. Pursuant to WCC 2.160.080, in order to approve the proposed comprehensive plan amendments the Planning Commission and County Council must find all of the following:
   A. The amendment conforms to the requirements of the Growth Management Act, is internally consistent with the county-wide planning policies and is consistent with any interlocal planning agreements.
   B. Further studies made or accepted by the Department of Planning and Development Services indicate changed conditions that show need for the amendment.
   C. The public interest will be served by approving the amendment. In determining whether the public interest will be served, factors including but not limited to the following shall be considered:
      1) The anticipated effect upon the rate or distribution of population growth, employment growth, development, and conversion of land as envisioned in the comprehensive plan.
      2) The anticipated effect on the ability of the county and/or other service providers, such as cities, schools, water and/or sewer purveyors, fire districts, and others as applicable, to provide adequate services and public facilities including transportation facilities.
      3) Anticipated impact upon designated agricultural, forest and mineral resource lands.
   D. The amendment does not include or facilitate spot zoning.
   E. Urban growth area amendments that propose the expansion of an urban growth area boundary are required to acquire development rights from a designated TDR sending area, with certain exceptions.

5. Consistency. The Growth Management Act (GMA), at RCW 36.70A.070, requires, "The comprehensive plan of a county or city...shall consist of a map or maps, and descriptive text covering objectives, principles, and standards used to develop the comprehensive plan. The plan shall be an internally consistent document and all elements shall be consistent with the future land use map." RCW 36.70A.040 requires that a "county and each city that is located within the county shall adopt a comprehensive plan and development regulations that are consistent with and implement the comprehensive plan..." The purpose of the proposed development regulation amendments is to maintain internal consistency within the WCCP, and to maintain consistency between the WCCP and the County development regulations (WCC)

6. WCC Chapter 20.36 Rural District – Surface Mining Reclamation Plans. WCC Policy 8K-4, as amended in the current periodic update, requires reclamation of mineral resource lands to other compatible uses on an ongoing basis, using best management practices. Consistent with this policy, the proposed amendments add requirements for surface mining reclamation plans in WCC 20.36.159.
7. **WCC Chapter 20.43 Commercial Forestry District - Lot Coverage.** WCCP Policy 8F-9, as amended in the current periodic update, discourages inappropriate conversion of designated forest land to incompatible uses. The policy states that incompatible uses include those that permanently alter or remove a significant portion of a parcel from forest product production, and defines a significant portion as greater than 20% of the lot. The proposed amendment to WCC 20.43.450 changes the maximum percentage of a lot area that can be removed from forest product production from 25% to 20%, consistent with WCCP Policy 8F-9.

8. **WCC Chapter 20.82 Public Utilities – Sewer Lines.** To aid capital facility planning near current and proposed urban growth area boundaries, the proposed amendments clarify language to WCC 20.82.030(4) stating that sewer lines may pass through areas outside urban growth areas provided they do not provide sewer service to any lot in the non-urban areas. This provision is consistent with WAC 365-196-425(4)(b).

9. **Point Roberts Character Plan – Signs and Review of Building Permits.** In accordance with the Point Roberts Character Plan Advisory Committee’s desire to have PDS administer sign permit review instead of the Committee, the proposed amendments delete Section 11, the “sign ordinance” portion of the Character Plan. Also at the suggestion of the Committee, the amendments would revise Section 3 to change the time limit for the Point Roberts Character Plan Advisory Committee to review building permit applications from 21 to 30 days, and add a link to the online version of the Character Plan.

10. **WCC Chapter 20.72 Point Roberts Special District, WCC Chapter 20.80 Supplementary Requirements, WCC Chapter 20.97 Definitions – Signs.** Concurrent with the proposal to remove the sign regulations from the Point Roberts Character Plan, the proposed amendments add new sign regulations to WCC 20.72.670. These regulations are generally consistent with those being deleted from the Character Plan, and have been reviewed and recommended by the Point Roberts Character Plan Advisory Committee. In addition, the amendments would delete a reference to the Point Roberts Character Plan’s sign regulations, and add a definition of internally illuminated sign, a term used in the proposed addition to 20.72.670.

11. **WCC Chapters 20.24 URMX District, 20.65 Gateway Industrial District, 20.66 Light Impact Industrial District, 20.68 Heavy Impact Industrial District, and 20.80 Supplementary Requirements – Urban Fringe Subarea Plan References.** The Urban Fringe Subarea Plan has several numbered reference maps, and the content and numerical order of many of those maps have changed as the plan has been amended over the years. WCC Title 20 currently contains outdated references to Urban Fringe Subarea Plan maps in sections 20.24.052, 20.24.132(3) and (4), 20.24.700, 20.65.055(1), 20.65.400, 20.65.450, 20.65.550, 20.66.131(3), 20.68.064, and 20.80.210(5)(b) Gateway Industrial
Setback Table. The proposed amendments update those references to maintain consistency between the zoning code and the Subarea Plan. Because Section 20.80.210 is adopted by reference in the WCCP (Policy 2DD-2.B.3), the amendment to that section is also a WCCP amendment.

12. **WCC Chapters 21.03 Exempt Land Divisions and Boundary Line Adjustments, Chapter 21.04 Short Subdivisions, Chapter 21.06 Final Long Subdivisions, and Chapter 21.08 General and Specific Binding Site Plans – Disclosures Near Significant Pipelines.** Currently WCCP Chapter 5 establishes a 660 foot notification area on each side of a natural gas and hazardous liquid transmission pipeline. The draft amendments to Chapter 5 revise that notification area to 500 feet (descriptive text under Natural Gas and Hazardous Liquid Transmission Pipelines, 3rd paragraph). WCC Title 21 currently requires disclosures when a significant pipeline is within 660 feet of a subdivision, binding site plan, exempt land division, or boundary line adjustment. The proposed amendments change that disclosure distance to 500 feet, consistent with the WCCP Chapter 5 and updating the map references to indicate WCCP Map 5-2.

13. **WCC Title 22 – Guide Meridian Improvement Plan.** The detailed provisions of the Guide Meridian Plan, WCC Title 22, have been replaced by more current code provisions, and all but about ten acres of that plan’s study area has been annexed by the City of Bellingham. Because there are no applicable requirements remaining in WCC Title 22, the proposed amendments would repeal it. According to its original cover page, the Guide Meridian Improvement Plan is both a component of the Urban Fringe Comprehensive Plan and an official control pursuant to Chapter 36.70.560 RCW. Therefore repeal of Title 22 is also an amendment to the Whatcom County Comprehensive Plan and its subset, the Urban Fringe Subarea Plan.

14. **Official County Zoning Map – Short Term Planning Areas.** The current periodic update deletes “Short Term Planning Area” zoning in urban growth areas. Short and long term planning areas were used in previous editions of the WCCP to differentiate between portions of urban growth areas that were more ready for urban development than others (based largely on availability of utilities). Long term planning areas were deleted from the WCCP in 2009. The proposed amendments update the zoning maps for all urban growth areas, noting that short term planning area zoning is rescinded.

**CONCLUSIONS**

1. The subject amendments are consistent with and implement the GMA planning goals. The amendments conform to applicable requirements of the Growth Management Act.

2. The subject amendments satisfy the approval criteria of WCC 2.160.080.
3. The proposed amendments to the development regulations are consistent with the comprehensive plan.

NOW, THEREFORE, BE IT ORDAINED by the Whatcom County Council that:

Section 1. Amendments to the Whatcom County Code are hereby adopted as shown on Exhibit A; and

Section 2. Amendments to the Whatcom County Comprehensive Plan are hereby adopted as shown on Exhibit B;

Section 3. Amendments to the Whatcom County Official Zoning Map are hereby adopted as shown on Exhibit C.

ADOPTED this _______ day of _______________, 2016.

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

ATTEST:

______________________________  ________________________________
Dana Brown-Davis, Council Clerk          Barry Buchanan, Chairperson

APPROVED as to form:

( ) Approved    ( ) Denied

______________________________
Jack Louws, Executive

Date: _________________________

Page 5 of 5
Exhibit A
Whatcom County Code Amendments
WCC Title 20 Zoning
WCC Title 21 Land Division Regulations
WCC Title 22 Guide Meridian Improvement Plan
Chapter 20.24

URBAN RESIDENTIAL - MIXED (UR-MX) DISTRICT

20.24.050 Permitted uses.

.052 Single-family attached dwellings; provided, that public sewer, water and, where identified by the appropriate Comprehensive Plan policies, stormwater collection and detention facilities serve the site, not more than four units are attached, and the number of dwelling units conforms to the density requirements of the district. However, additional multifamily development shall not be allowed within the UR-MX zones identified on Map 3-2 of the Urban Fringe Subarea Comprehensive Plan.

20.24.130 Administrative approval uses.
The following uses are permitted subject to administrative approval pursuant to WCC 20.84.235.

.132 Duplex and multifamily dwellings subject to the following limitations and the developer has conducted at least one neighborhood meeting prior to application for the purpose of hearing neighborhood concerns and suggestions regarding the proposal. Where being developed in an existing neighborhood characterized by residential development at densities of one dwelling per acre or greater, the uses listed in WCC 20.24.132 shall be administered as conditional uses rather than administrative approval uses; and are subject to the same criteria, requirements, bonuses and restrictions as if they were administrative approval uses:
(1) Duplex and multifamily dwelling units do not comprise more than 25 percent of the total dwelling units allowed for the entire site.

(2) Duplex and multifamily dwelling units are constructed at the same time as, or after, at least 50 percent of the single-family units in an approved development.

(3) Multifamily development shall not be allowed within the UR-MX Zones identified on Map 32, Bennett Drive Residential Area of the Urban Fringe Subarea Comprehensive Plan.

(4) Multifamily dwellings are prohibited in Area 1 and Area 4 on Map 3, Bennett Drive Residential Area, Urban Fringe Subarea Land Use Plan.

20.24.700 Transfer of residential development rights.
.710 Areas designated in the Comprehensive Plan and assigned a UR-MX zone district, with the exception of the Bennett Drive Residential Area designated on Map 3-2 of the Urban Fringe Subarea Plan, are considered receiving areas for transfer of development rights from any sending area or base zone which has been established as linked to these areas.

Chapter 20.36
RURAL (R) DISTRICT

20.36.150 Conditional Uses

.159 Surface mining and accessory washing and sorting outside of short-term planning areas; provided, that:

(1) The activity is not subject to Washington State’s Surface Mining Act (Chapter 78.44 RCW).

(2) The activity will not result in excavation or equipment within 50 feet of county road rights-of-way.
(3) The activity will not result in excavation or equipment within 50 feet of the exterior property lines of the site, except in the case of two contiguous operations in which case by mutual consent this setback can be zero.

(4) Reclaimed side slopes shall not be steeper than three feet horizontal to one foot vertical for unconsolidated materials.

(5) At minimum, the operations shall adhere to the development and performance standards of WCC 20.73.650 and 20.73.700.

(6) All topsoil remains on site for use in subsequent reclamation.

(7) No soil erosion or sedimentation will occur beyond the exterior property lines of the site.

(8) No excavation shall occur within the five-year zone of contribution for designated wellhead protection areas. Excavations may occur within the 10-year zone of contribution outside of the five-year zone of contribution if they are not within 10 vertical feet of the seasonal high water table. Wellhead protection boundaries may be adjusted in accordance with WCC 20.73.131(2).

(9) A cumulative maximum of three acres may be mined within the outer boundary of the parcel as it existed at the time of adoption of the amendment codified in this subsection. The intent of this provision is to prevent multiple conditional use permits for three-acre surface mines on a single parcel and prevent lots that were divided from a parent parcel after adoption of the amendment codified in this subsection from each having a three-acre surface mine.

(10) Owners and/or Operators shall submit a reclamation plan that is consistent with the requirements of RCW 78.44.141.

(11) Performance bonds or other monetary security as approved by the prosecuting attorney equal to the costs of completing the proposed reclamation plan, subsection (10) of this section, are submitted to the county, which shall be released within two years after completion of surface mining; provided, that reclamation has been completed according to the reclamation plan.

**********

Chapter 20.43

COMMERCIAL FORESTRY (CF) DISTRICT

**********

WCC 20.43.450 - Lot Coverage:
No more than 25-20 percent of the lot area shall be permanently altered or removed from production of forest products, excluding natural meadows, bogs, surface water and rock outcrops.

********

Chapter 20.65

GATEWAY INDUSTRIAL (GI) DISTRICT

********

20.65.050 Permitted uses.
The following permitted and accessory uses shall be allowed subject to an evaluation by the zoning administrator pursuant to the provisions of this chapter and Chapter 20.80 WCC. No permitted or conditional use shall be issued a building permit without provision of public sewer and water as defined in Chapter 20.97 WCC except as provided in WCC 20.65.058 and 20.65.654. Further, each permitted and accessory use shall be administered pursuant to the applicable provisions of the Whatcom County SEPA Ordinance, the Whatcom County Subdivision Ordinance and the Whatcom County Shoreline Management Program.

********

.055 The following uses within one-quarter mile of a freeway interchange; except, that where this boundary divides a single parcel up to 10 percent of the area of a parcel that lies outside of this boundary may be included within it for the purposes of lot coverage and open space provisions:

(1) Retail shops; provided, they do not exceed 10,000 square feet per shop in the Gateway Industrial District west of Interstate 5 and north of Airport Way, and west of Bennett Drive and south of Airport Way, shown on Map 3 of the Urban Fringe Subarea Plan (Planning Areas 1 and 2, identified on Map 6 of the 1997 Urban Fringe Subarea Plan), and as described in the text of the Urban Fringe Subarea Plan Map 6: West Bakerview/I-5 Interchange Area, as adopted May 19, 1998. Retail shops in other Gateway Industrial areas shown on that map may not exceed 35,000 square feet per retail shop.

********

20.65.400 Height limitations.
Maximum building height shall not exceed 35 feet; except, that an additional foot in height is allowed for each one-foot increase in setback in the yard adjoining the interstate highway up to 45 feet in the West Bakerview/I-5 Interchange
Gateway Industrial areas designated on Map 3 of the Urban Fringe Subarea. Height of structures, where applicable, shall also conform to the general requirements of WCC 20.80.675. (Ord. 2013-057 § 1 (Exh. A), 2013; Ord. 99-040 § 1, 1999; Ord. 99-033 § 1, 1999).

20.65.450 Site design.
Within the Gateway Industrial areas, designated on Map 6-3 of the Urban Fringe Subarea Plan, individual sites shall be designed in a clustered or concentrated form of development instead of lining the road frontage.

20.65.550 Buffer area.
When a parcel situated within this district adjoins an Urban Residential, Urban Residential Medium Density, Rural or Residential Rural District, side and rear yard setbacks shall be increased to 25 feet. In the Gateway Industrial District west of Interstate 5 and south of Airport Way, and west of Bennett Drive and less than 470 feet north of Airport Way, shown on Map 3 of the Urban Fringe Subarea Plan (Planning Areas 2 and 3, identified on Map 6 of the 1997 Urban Fringe Subarea Plan), buffer areas shall be increased to 100 feet for commercial or industrial projects which exceed 5,000 square feet of floor area in one building or complex or generate more than 50 vehicle trips per day. Said area shall be landscaped consistent with the requirements of WCC 20.80.345. Use of buffer areas and setbacks for bicycle and pedestrian trails is encouraged.

Chapter 20.66
LIGHT IMPACT INDUSTRIAL (LII) DISTRICT

20.66.130 Administrative approval uses.
The following uses are permitted with administrative approval pursuant to WCC 20.84.235:

.131 An adult business enclosed within a building, when located in a city’s urban growth area; provided, that:
(3) Adult businesses are prohibited within the Light Impact Industrial zone located southeast of the Bellingham International Airport and north of Alderwood Avenue, shown on Map 4-3 of the Urban Fringe Subarea Plan.

Chapter 20.68
HEAVY IMPACT INDUSTRIAL (HII) DISTRICT

20.68.050 Permitted Uses.

Uses allowed in the Light Impact Industrial zone as permitted uses, WCC 20.66.100, shall be permitted outright within Areas 1A, 1B, and 1C of the Shoreline industrial area designated the Heavy Impact Industrial District shown on Map 1 of the Urban Fringe Subarea Plan.

Chapter 20.72
POINT ROBERTS SPECIAL DISTRICT

20.72.650 Development Criteria.

20.72.651 Facility design. (Adopted by reference in WCCP Chapter 2.)
(1) All commercial and institutional use structures and appurtenant signs shall conform to the requirements of the Point Roberts Character Plan.

20.72.670 Signs.

Signs in the Small Town Commercial (STC), Rural General Commercial (RGC), Rural Industrial Manufacturing (RIM), and Resort Commercial (RC) zones are permitted subject to the provisions of 20.80.410 and 20.80.470 WCC, and subject to the following:

(1) Not more than one freestanding sign is permitted on a lot of record, and a freestanding sign shall have no more than two sign faces. Freestanding signs
shall not exceed 12 feet in height and shall not exceed 40 square feet in area per sign face.

(2) Not more than 10 square feet of sign area per sign face may be internally illuminated. Characters within the internally illuminated sign area shall be achromatic and no larger than six inches tall. Signs may be externally illuminated.

(3) Single-faced signs placed on walls or eaves of business establishments shall not exceed a total of 40 square feet per business establishment.

(4) Signs shall not rotate or otherwise be in motion, and copy or pictures on the sign shall not flash, scroll, or display a video or animated image.

(5) For purposes of this section, any sign erected or existing as of July 1, 2016 that has a valid permit from the department, but does not conform with the provisions of this section is a nonconforming sign. A nonconforming sign may be maintained only by painting or refinishing the surface of the sign face or sign structure so as to keep the appearance of the sign as it was when the prior permit was issued. Any structural or other substantial maintenance to a nonconforming sign shall render the prior permit void and shall result in the reclassification of such sign as an illegal sign. Where there are conflicts between this section and Chapter 20.83 WCC, the provisions of this section shall prevail.

Chapter 20.80
SUPPLEMENTARY REQUIREMENTS

20.80.210 Setback Requirements (Adopted by reference in WCCP Chapter 2)

(5) Setbacks. For the purposes of this chapter, the road classification used to determine setback requirements shall be as set forth in this section. In the event a particular road is not listed in this section, the department of public works shall determine the classification, which classification shall be based on the Whatcom County Development Standards or such other local, state or federal roadway standards as the department of public works deems appropriate. Dead-end or loop streets providing access to 16 or fewer lots shall be classified as minor access streets.
(b) Setbacks Table.

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1. Maximum building height shall not exceed 35 feet; except, that an additional foot in height is allowed for each one-foot increase in setback in the yard adjoining the interstate highway up to 45 feet in the West Bakerview/I-5 Interchange area, Map 3 of the Urban Fringe Subarea and up to 75 feet in the Birch Bay-Lynden Road area of the Blaine-Birch Bay Subarea. Height of structures, where applicable, shall also conform to the general requirements of WCC 20.80.675.

20.80.410 Signs – General Provisions – Applicable to all districts.

(1) No sign or any portion of a sign shall be located on or over public property, such as road rights-of-way and easements, transmission line corridors or utility easements. Standard building height limits and setbacks shall apply to all signs unless otherwise provided elsewhere in this title or on other county codes or regulations including the county’s Shoreline Management Program and the Point Roberts Character Plan. All freestanding signs advertising on-premise operations may be located within required landscaping areas, except that no such sign shall be closer than 10 feet to the road right-of-way. This distance shall be increased if it can be shown to present a traffic hazard.

Chapter 20.82

PUBLIC UTILITIES
20.82.030 Conditional Uses.

(4) New sewer lines with an inside diameter of six inches or greater and length of 150 feet or greater, except for new sewer lines located and installed within urban growth areas or limited areas of more intensive rural development (LAMIRDs), and in conformance with a state approved sewer and/or water comprehensive plan and consistent with the Whatcom County Comprehensive Plan, which shall be permitted outright. Sewer lines shall not be extended to serve lots in rural growth areas unless such extensions are shown to be necessary to protect basic public health and safety and the environment, and when such services are financially supportable at rural densities and do not permit urban development. Sewer lines may pass through areas outside urban growth areas provided they do not provide sewer service to any lot in the non-urban areas.

Chapter 20.97
DEFINITIONS

20.97.382 Sign, internally illuminated.
"Internally illuminated sign" means a sign or portion of a sign that is illuminated by a light source that is contained within the sign.
Chapter 21.03
EXEMPT LAND DIVISIONS AND BOUNDARY LINE ADJUSTMENTS

21.03.045 Required disclosures.
The following disclosures, if applicable, shall be recorded in the county auditor’s office and shall be filed concurrently with all conveyances of property subject to this title:

(1) Right to farm, right to practice forestry, or mineral resource disclosures.

(2) Boundary discrepancies.

(3) Protective covenants, conditions and restrictions.

(4) Latecomers’ agreements.

(5) Significant pipeline in vicinity disclosure when the subject property is within 660 500 feet of a pipeline shown on Map ±25-2, Chapter 5 of the Whatcom County Comprehensive Plan.

Chapter 21.04
SHORT SUBDIVISIONS

21.04.170 Disclosures and notes.
The following disclosures and notes, if applicable, shall be recorded in the county auditor’s office and a statement identifying the subject and the auditor’s file number, if applicable, for each such instrument shall be on the final short plat map prior to final approval by the county:

(1) Right to farm, right to practice forestry, mineral resource disclosures.
(2) Critical area notes and protective easement as required.

(3) Boundary discrepancies.

(4) Drainage maintenance agreement block.

(5) Road maintenance agreement block (private roads only).

(6) Significant pipeline in vicinity disclosure when the subject property is within 660 feet of a pipeline shown on Map 125-2, Chapter 5 of the Whatcom County Comprehensive Plan.

* * * * *

Chapter 21.06

FINAL LONG SUBDIVISIONS

* * * *

21.06.070 Disclosures and notes.
The following disclosures and notes, if applicable, shall be recorded in the county auditor’s office and a statement identifying the subject and the auditor’s file number for each such instrument shall be on the final plat map under surveyor’s notes prior to final approval by the county:

(1) Right to farm, right to practice forestry, or mineral resource disclosures.

(2) Critical area notes and protective easements as required.

(3) Boundary discrepancies.

(4) Drainage maintenance agreement block.

(5) Road maintenance agreement block (private roads only).

(6) Significant pipeline in vicinity disclosure when the subject property is within 660 feet of a pipeline shown on Map 125-2, Chapter 5 of the Whatcom County Comprehensive Plan.

* * * * *

Chapter 21.08

GENERAL AND SPECIFIC BINDING SITE PLANS
21.08.070 Disclosures and notes.
The following disclosures and notes, if applicable, shall be recorded in the county auditor's office and a statement identifying the subject and the auditor's file number for each such instrument shall be on the general binding site plan and each specific binding site plan, original drawing under surveyor's notes prior to final approval by the county:

- Right to farm, right to practice forestry, mineral resource disclosures.
- Critical area notes.
- Boundary discrepancies.
- Protective covenants, conditions and restrictions.
- Drainage maintenance agreement block.
- Road maintenance agreement block (private roads only).
- Latecomers' agreements.
- Significant pipeline in vicinity disclosure when the subject property is within 500 feet of a pipeline shown on Map 125-2, Chapter 5 of the Whatcom County Comprehensive Plan.
Whatcom County Code Title 22

AMENDMENTS

Chapter 20.22

GUIDE-MERIDIAN-IMPROVEMENT-PLAN

(Reserved)

Code reviser's note: Copies of the "Guide Meridian Improvement Plan Controls" can be found in the office of the clerk of the county council, Whatcom County Courthouse, 311 Grand Avenue, Suite 105, Bellingham, WA 98225.

[Note: According to its cover page, the Guide Meridian Improvement Plan is "both a component of the Urban Fringe Comprehensive Plan and an official control pursuant to Chapter 36.70.560 RCW." Repeal of Title 22 is also an amendment to the Whatcom County Comprehensive Plan, repealing a component of that plan.]
Exhibit B

Comprehensive Plan Amendments

Note: The Point Roberts Character Plan is a subset of the Whatcom County Comprehensive Plan. The Guide Meridian Improvement Plan (WCC Title 22) is both a subset of the Plan and a development regulation in the Whatcom County Code.
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SECTION 3-001. ADMINISTRATIVE REQUIREMENTS
AND REGULATIONS

SECTION 3-002. HOW THE PROCESS WORKS
1. Copies of the Point Roberts Character Plan are available from the Whatcom County Department of Planning and Development Services. http://www.co.whatcom.wa.us/1143/Point-Roberts-Subarea-Plan
2. Building Permit applications are also available at Planning and Development Services.
3. Prior to applying for a building permit, developers should familiarize themselves with the Character Plan document and seek professional assistance, where necessary. This will ensure a speedy and successful permit application.
4. In addition to the customary permit and servicing requirements of the County, any commercial or institutional use structure and/or sign permit application will be evaluated for “compliance” or “non-compliance” with the Point Roberts Character Plan. This will be reflected in the permit checklist.
5. The Point Roberts Character Plan Advisory Committee will examine applications within 24–30 days prior to the date of building permit application to indicate compliance with the Character Plan.
6. The Point Roberts Character Plan Advisory Committee is a local advisory body to Whatcom County administrative authority. It will examine applications with respect to compliance to the guidelines. The purpose of the Committee is to assist the County in making its determination of “compliance”. All decisions of the County will be final.
7. A successful applicant will be issued a building permit upon receipt of applicable County fees.

SECTION 3-003. PLANS AND OTHER INFORMATION REQUIRED
In order to assess compliance with the Character Plan, the Whatcom County Department of Planning and Development Services will require at the time of application the following:
1. A scale site plan indicating the street, all structures, landscaping, ingress / egress, parking facilities, freestanding sign locations, freestanding lighting facilities, waste facilities, pedestrian walkways, fencing, screening and other miscellaneous appurtenances (e.g. fire hydrants), if any. The plan must be to scale and indicate the dimensions of any structures, setbacks, and parking facilities.
2. A scale elevation which clearly indicates structural dimensions, heights, and roof lines, as well as any other exterior designs and finishes visible at ground level from any point on the compass. Diagrams must include specification for all doors, windows, porches and awnings. The types of roofing and siding materials(s) must be specified. Color chips for roofing, siding, and awning materials must be made available. All exterior lighting facilities must be clearly outlined and indicate style and finish. The locations and dimensions of signs on structures will be clearly indicated.
3. Sign Regulations: Refer to ordinances on signs and flags.

SECTION 3-004. PLAN INFORMATION
Developers and or architects are required to submit a written rationale.

Lighthouse Packing Co.
PART A - GENERAL

SECTION 11-001 - TITLE

This article shall be known as the SIGN ORDINANCE OF THE COMMUNITY OF POINT ROBERTS.

SECTION 11-002 - AUTHORITY

This article is adopted pursuant to the authority granted under Title 21, Special Districts, Zoning, and the Communities of Point Roberts Act, enacted by Whatcom County Council, May 1994.

SECTION 11-003 - PURPOSE

The purpose of this article is to:

1. Promote the safety of persons and property by providing that:
   a. Parking signs and traffic signs are clearly visible and do not obstruct vision for vehicles or pedestrians
   b. Street signs are clearly visible and do not obstruct vision for vehicles or pedestrians

2. To prevent the public from being exposed to illegal or immoral signs or decorations

3. To promote the public safety by regulating the posting, displaying, erection, use, and maintenance of signs

4. To protect the public welfare and enhance the overall appearance and economic value of the
   neighborhood and preserve the unique natural environment therein

PART B - DEFINITIONS

Abandoned sign: A sign, other than a public utility sign, which has been discontinued for a period of sixty (60) days or more due to non-payment for services rendered

Administrator: The person or persons designated by the County to enforce the provisions of this article

Back-to-back sign (Sandwich Board): A sign constructed on a structure or supports with messages visible on one side, provided that the double message boards are physically contiguous

Banner, pennants and balloons: Any animated, non-moving or flapping, or stationary device made of flexible material designed to attract attention

Billboard: Outdoor advertising sign containing a message, commercial or otherwise, unrelated to any retail activity on the property on which the sign is located, but not including directional signs as defined herein

Canopy: A structure constructed of metal, plastic, wood, cloth or other materials, which is attached to and supported by building or by columns or beams extended to the ground

Canopy sign: Any sign supported from attached or supported canopies from part of a canopy

Changeable copy sign: A sign on which message copy is changed manually or by the aid of machines through the replacement or attachment of letters, numbers, symbols, and other similar characters, that is not a permanent sign

POINT ROBERTS CHARACTER PLAN
9. Commercial or industrial center: Two or more separate occupied structures located within the same or adjacent parcels, buildings on the same commercial or industrial property.

10. Development sign: Any sign displayed at a non-street location that bears the project name or

11. Distilled-sign: Any sign which is constructed in such a manner as to be self-supporting or

12. Directional-sign:
   a. A sign which is located at a point where the direction of the road is changed or
      where the road is intersected. It is intended to direct the traffic or
      provide information to the public.
   b. A sign on a temporary basis which contains information regarding the time and
      place of regular meetings of civic or recreation groups.

13. Directory sign: A sign consisting of the names and - or use or location of more than one business
activity or professional office conducted within a building, group of buildings, or commercial center.

14. Double-faced sign: A sign with only two faces which are usually, but not necessarily, parallel.

15. Electrical sign: A self-illuminated sign or sign structure in which the electrical wiring, connections, and
   fixture are used as a part of the sign proper.

16. Existing sign: Any sign that was erected, mounted, or displayed prior to the adoption of this article.

17. Facade: The entire building wall, excluding signs, storefront, parapet, fence, window
   or architectural element.

18. Fixed projecting sign: A sign, other than a flat sign, which extends outwards for more than
   inches from the facade of any building and is regularly faced thereto.

19. Flashing sign: Any lighted or electrical sign which emits light in rotary bursts.

20. Flat sign: A sign erected parallel to and extending not more than twelve (12) inches from the facade
   of any building, to which it is attached and supported throughout its entire length by the facade
   of the building, and not extending above the building.

21. Free-standing sign: A sign supported by a sign structure secured to the ground and which is wholly
   independent of any building, fence, or vehicle or other support.

22. Frontage: The length of the property line of any one premises parcel serving as a public right of way
   line.

23. Frontage wall face: The building facade, excluding parapet, fenestration, mansard and roof, which
   extends a frontage of the premises.

24. Height of sign: The vertical distance measured from ground level to the top of the sign face or sign
   structure, whichever is greater.

25. Illuminated sign, external: Any sign which is directly lighted by an external source.

26. Illuminated sign, internal: Any sign which transmits light through its face or any part thereof.

27. Inflatable sign: A sign that is either expanded to its full dimension or supported by gases contained
   within the sign or sign part, at a pressure greater than atmospheric pressure.

28. Ingress-exit sign: A sign that indicates either the entrance or exit of a facility or vehicle area
   "ONE WAY" or "NO EXIT" or "NO EXIT.

29. Moving message board: Any electrical sign having a continuous motion or movement about the
   display, such as electrical impulses forming an image or a letter on a structure and
   incorporating light.
10. Non-conforming signs: Any sign which have a :-
11. Occupancy: Any structure upon the premises.
12. Off-premise sign: Any sign located or proposed to be located at any place outside the lot on which the specific business or activity being promoted or related is conducted. For purposes of this article, an off-premise sign shall be considered to be outside the property line of any structure in which a business is located in an exterior area that has been approved by the planning commission. Any exception to this definition shall be made by the planning commission.
13. On-premise sign: Any sign located to be located on the premises or any other activity identified in such a plan.
14. Painted wall sign: A sign painted directly on any exterior building wall or decorative element on a window and not a sign that extends from inside wall or roof above the line of any building.
15. Panel: The primary surface of a sign upon which the message of the sign is displayed.
16. Parapet: A vertical or horizontal wall extension above the roofline.
17. Pennant: Refer to definition of "hanger" pennant and balloon.
18. Permitted sign: A sign or signboard for which a valid permit has been issued.
19. Political sign: A sign erected in support of a candidate, group of candidates, or agent for the purpose of advertising a candidate or taking a position regarding an issue upon which the voters of the community shall vote. A political sign is classified as a Special Event sign.
20. Portable sign: Any sign which is not permanently affixed to a building, structure or the ground on which it is attached to a mobile vehicle.
21. Premises: The plat of record which is affectedarker directly by the content of this article.
22. Project sign: Any sign erected and maintained on the premises temporarily while under construction by an architect, contractor, developer, finance organization, sub-contractor, or materials vendor upon which individuals are furnishing labor, services, or materials.
23. Public right of way: The line where the property meets the public right of way, as a public street, or public ways, provided that this definition shall not include any improved alleys, driveways, or other similar dedicated uses.
24. Public way: Any street, highway, road, path, or right of way, whether privately or publicly owned, which is designated, intended for vehicular or pedestrian traffic, either by public right of way or by public dedication.
25. Real estate sign: Any temporary sign erected by the owner of the real estate or the real estate agent upon which the sign is located.
26. Roof: The external upper covering of the top of a building.
27. Roof sign: A sign erected on a roof and wholly or partially dependent upon the roof for support, attachment to the roof, or way.
28. Seasonal holiday sign: A sign used to celebrate an occasion of seasonal or holiday nature which is created and maintained only during such season or holiday.
29. Sidewalk sign: A sign erected on a sidewalk or a street and not mounted on a vehicle.
50. Sign— Any device or representation for visual communication that is used for the purpose of bringing the attention of the public to the premises on which it is located or to an adjacent premises. Any sign shall not include any supporting structure or frame.

51. Sign area of: The square inches enclosed by the perimeter of the sign face. When one or more signs are grouped at individual locations, the sum of the total areas of all sign faces on each lot or site may be treated as a single sign.

52. Sign face: The part of any sign that is used to identify, advertise, communicate information or attract attention of the public, and shall include the building, structure, wall or part thereof on which or upon which the sign is placed. The sign face shall not be included as a portion of the sign structure, or other non-identifying, non-attractive element or any other of the aforementioned sign face criteria are displayed on or designed or part of the sign structure.

53. Sign structure: A supporting structure, including a frame, or intended for the purpose of identification or attracting attention, whether or not a sign thereon, attached or attached to the premises upon which the sign may be fastened, affixed, displayed or applied, provided, however, that the term shall not include any building, fence, wall, or other element.

54. Swinging sign: A sign attached to an arm, mast or spar that is not, in addition, permanently fastened in an adjacent wall or upright pole.

55. Temporary sign: A sign or information transmitted structure intended to be erected or displayed for a limited period of time.

56. Time and temperature sign: An electrical or mechanical sign going on and off to transmit the current time and temperature in the community.

57. Traffic direction/safety sign: A sign which is used to direct the movement of vehicles and/or pedestrians and is designed and erected solely for the purpose of directing the movement of vehicles or pedestrians in the community.

58. Vehicle sign: A permanent or temporary sign affixed, painted or placed on or upon any parked vehicle, parked trailer or any parked device, regardless of whether or not the same be towed, which is displayed in a visible view which the same is intended to be displayed to attract the attention of the public rather than to serve the business or the owner thereof in the manner which is customary for said vehicle.

59. Window sign: Any sign which is painted on, imprinted or attached to or placed upon or within the external or interior of a building, structure or premises, or any other form of sign which is not visible other than as imprinted or attached to or placed upon the window or any other exterior structure or premises, or any other form of assisted visibility of the sign.

60. Window sign, temporary: Any window sign of a temporary nature used to direct attention to the salient mechanical or architectural features of the building, structure or premises, or any other form of sign which communicates information can be read or viewed by the public from a public right-of-way.
SECTION 11-002. LEGAL SIGNS

(a) An existing and permitted sign which complies with the provisions of this section and an subsequent amendment herein is hereby deemed to be a legal sign. Any proposed alterations to an existing legal sign and the permit for such an alteration shall be submitted to and approved by the Planning and Development Services Director in Section 11-014.

(b) A legal sign shall continue to comply with the provisions of this section until the effective date of any subsequent amendment herein. The effective date of these amendments shall occur at the end of the year in which the amendment is adopted.

c. No new signs or changes in the appearance of an existing sign required by the regulations of the Planning and Development Services Director shall be displayed until the effective date of such amendment. Such signs shall continue to comply with the provisions of Section 11-005.(f).

SECTION 11-006. NON-CONFORMING SIGNS

(a) Any sign not in compliance with the provisions of this section and prior to the effective date of this section shall be deemed to be a non-conforming sign. No non-conforming sign may be altered, except in accordance with the provisions of this section. Any alteration to a non-conforming sign shall be approved by the Planning and Development Services Director in accordance with Section 11-004.

(b) Any non-conforming sign that is not in compliance with the provisions of this section and prior to the effective date of this section shall be deemed to be a non-conforming sign. Any alteration to a non-conforming sign shall be approved by the Planning and Development Services Director in accordance with Section 11-004.

(c) Any existing non-conforming signs shall be brought into full compliance with the sign standards established by the Planning and Development Services Director in accordance with the provisions of this section.

SECTION 11-007. OFF-PREMISE SIGNS

All off-premise signage in any commercial, light industrial, resort commercial, or residential areas shall be prohibited except as permitted by the Planning and Development Services Director in accordance with this section.
PART D—PROHIBITED SIGNS

SECTION 11.008—PROHIBITED SIGNS

It shall be unlawful for any person to erect, place or maintain any sign in any public way or on any private property in such a manner as to create a hazard to any person or vehicle, or in such a manner as to be contrary to the public health, safety, and welfare. Such prohibited signs shall include, but not be limited to the following:

1. Billboards
2. Billboard-like signs
3. Any sign that is not of durable material or is not securely attached to a building or other permanent structure
4. Any sign that is not properly maintained and is not securely attached to a building or other permanent structure
5. Any sign that is not properly maintained and is not securely attached to a building or other permanent structure
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PART E—PERMISSIBLE SIGNS

SECTION 11.009—PERMIT REQUIRED

All signs shall be subject to the provisions of this section. No sign shall be erected, placed, altered, or removed without a permit issued by the Public Works Department. The permit shall be obtained from the Public Works Department and shall be in accordance with the requirements of this section.

SECTION 11.010—SIGNS EXEMPT FROM PERMIT REQUIREMENT

A permit is not required for the following types of signs, provided they are located in accordance with the Land Use Permit Section of the Planning and Development Services:

1. Any sign approved by the City Council or the Public Works Department
2. Any sign located on a public roadway
3. Any sign located on a public sidewalk
4. Any sign located on a public utility easement
5. Any sign located on a public right-of-way
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Point Roberts Character Plan

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SECTION 11.01. SIGN ALTERATIONS EXEMPT FROM PERMIT REQUIREMENTS
A permit is not required prior to engaging in sign alterations if such alterations involve only:
1. The changing of copy on a permitted changeable-copy sign;
2. The painting or refinishing of the surface of a sign face or sign structure of a permitted sign so as to keep the appearance of such sign as it existed on the date such sign received a permit of approval;
3. The illumination of a sign face of a permitted sign to reflect changes in land use, type of business or ownership; corporate identity; wording or color.

SECTION 11.02. SETBACK FROM RIGHT-OF-WAY
In order to provide room for future bicycle paths or sidewalks, all signs shall be required to be set back at least ten (10) feet from the street right-of-way.

SECTION 11.03. SIGN ILLUMINATION
Electrical requirements: Electrical requirements pertaining to signs shall be described as follows:
1. I lluminated signs shall be illuminated by a steady white light of reasonable intensity, shielded and directed solely at the sign;
2. Light sources to illuminate signs shall be shielded from all adjacent residential buildings and streets and shall not be of such brightness as to cause glare hazardous to pedestrians or vehicle drivers, or so as to create a nuisance to adjacent residential districts;
3. No sign shall be illuminated internally or with the use of neon filaments.

SECTION 11.04. MATERIAL AND STYLE
1. Signs shall not have light-reflecting backgrounds, but may use light-reflecting lettering;
2. The various parts of a sign shall be compatible;
3. Any multi-faced sign shall have the advertising information for only one business;
4. Signs shall not contain more than one commodity business;
5. All signs shall be of standard geometric shapes;
6. An historical or nautical design theme is recommended, with suggestions given in a style guide available from the Point Roberts Design Review Committee;
7. The use of Day-Glo (bright) colors is not permitted;
8. Wood carved or painted wood signs are the recommended signage material.

SECTION 11.05. ON PREMISES SIGN STANDARDS
a. Building and wall graphics signs shall not occupy more than ten (10) percent of the assignable space on any facade of a building with a maximum sign area of forty (40) square feet;

b. Window graphics, which otherwise comply with this article, may be displayed provided no more than twenty-five (25) percent of the area of a window may be occupied by signage;

2. Obstruction: An on-premise sign shall be erected so as not to obstruct or impair driver vision at business entrances, egress points and intersections.

SECTION 11.06. DIMENSIONS AND QUANTITY OF FREE STANDING SIGNS
a. Area and quantity: The area and quantity of any sign face shall conform with the following:
1. Major commercial development consisting of retail and public commercial uses, other exclusively or mixed with residential uses which contain more than one hundred thousand (100,000) square feet of heated floor space open to the public, shall be permitted one free-standing sign per entrance, but no more than two (2) identification signs for the development. Said signs shall not have more than two hundred forty (240) square feet of sign face per sign equally divided among not more than four (4) sign faces. No single sign face shall exceed one hundred twenty (120) square feet.

2. Secondary commercial development consisting of retail and public commercial uses, either exclusively or mixed with residential uses which contain one hundred thousand (100,000) square feet of heated floor space or less, but more than forty (40) thousand (40,000) square feet open to the public, shall be permitted one free-standing sign per entrance, but no more than two (2) identification signs for the development. Said signs shall not have more than one hundred sixty (160) square feet of sign face per sign equally divided among not more than four (4) sign faces. No single sign face shall exceed twenty (20) square feet, excepting that if the commercial use herein is mixed with residential use which exceeds two hundred (200) dwelling units, the provisions of sub-paragraph one shall apply to said development.

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3. Commercial development consisting of retail and public convenience facilities, including restaurants, retail establishments, and personal service establishments, shall be limited to a maximum of two thousand square feet per site. No single store shall exceed four thousand square feet. Any sign outside of the immediate curbed area of said development shall be limited to thirty square feet per site. No sign shall exceed twelve feet in height above the average elevation of the nearest forty-foot drop.

4. A commercial development consisting of retail and public convenience facilities, including restaurants, retail establishments, and personal service establishments, shall be limited to no more than two thousand square feet per site. No sign shall exceed twelve feet in height above the average elevation of the nearest forty-foot drop.

5. Height: The maximum height of any free-standing sign shall not exceed twelve (12) feet above the average elevation of the nearest forty-foot drop.

6. Width: The maximum width of the entire sign structure shall not exceed ten (10) feet.

7. Structure size: The size of the support structure for any free-standing sign shall not exceed the sign area by more than 10%.

8. Where possible, free-standing signs shall have adequate landscaping around the base of the structure.

SECTION 14.017, TEMPORARY SIGNS AND STANDARDS

1. Type: The following types of signs are classified as "temporary signs":
   a. Special event signs, such as "opening," "sale," "signs of business and services.
   c. Signs advertising the sale or lease of property upon which they are located.

2. Area: The total area of temporary signs shall not exceed forty (40) square feet and twenty (20) square feet per sign face, except for Retail signs, which shall not exceed the limitations of Section 14.017.

3. Height: The maximum height of temporary signs shall not exceed fifteen (15) feet, while the sign heads shall not exceed four (4) feet in height from the average grade.

4. Location:
   a. No temporary sign shall be located nearer than one hundred (100) feet to any public building, historic site, or highway.
   b. No temporary sign shall be located nearer than one hundred (100) feet to any church, cemetery, public building, historic site, or district, and intersection of two or more public streets or highways.
   c. Temporary signs are not to be located any closer than one hundred (100) feet from any other sign on the same premises.
sections:

**SECTION 11.018 - REAL ESTATE SIGNS**

One commercial real estate sign, not to exceed one (1) square feet in sign area per face, and of free-standing construction, not to exceed four (4) feet in height, shall be permitted. Property with two (2) or more off-premise businesses shall be permitted one additional sign per frontage.

**SECTION 11.019 - CANOPY SIGNS**

A commercial canopy shall be permitted one canopy sign per occupant, not to exceed seven (7) feet in length and eighteen (18) inches in height, placed directly under a canopy, marginal in front of said location and identifying the occupancy.

**SECTION 11.020 - MULTIPLE USE SHOPPING, BUSINESS, OFFICE AND PROFESSIONAL CENTERS, FREE STANDING DIRECTORY SIGNS**

An additional free standing directory sign shall be allowed to have not more than two (2) free-standing directory signs for individual businesses, provided they meet the following requirements:

1. Informational Signs shall be for directory information purposes only.
2. Location: Either the area of the directory sign shall be contained within the line of total signage area in center or mall, and the sign shall not be visible from any public way.
3. Face sign shall be on parcels that do not have direct street access to the adjacent road, and shall be permitted a sign at both the size authorized in Section 11.016.
4. Community directory signs are permitted subject to design approval.

**SECTION 11.021 - GASOLINE FILLING STATIONS**

Petroleum product pumps and dispensers, which are within twenty (20) feet of a public way, shall be permitted to display only information required by law and in addition the brand name and type of product being dispensed.

Pumps at which is dispense bulk petroleum products by pump shall be permitted one additional sign in the same front or rear, not to exceed four (4) feet in length and eighteen (18) inches in height and not more than one (1) square feet in area and the size authorized in Section 11.016. In addition, the sign shall not exceed twenty (20) feet in perimeter and be subject to the standards of both Section 11.013 and 11.014.
SECTION 11-023. FREE-STANDING SIGNS: LOCATION IDENTIFICATION

The location for any free-standing sign shall be clearly identified by a white letter or number around the site at each location at which a support pole will be embedded in the ground.

PART 14 - ADMINISTRATION

SECTION 14-023. APPLICATION FOR PERMIT

In addition to the permit application requirements of the Uniform Building Code and the Department of Planning and Development Services, the following items shall also be submitted for the purpose of design review by the Point Roberts Character Plan Advisory Committee:

a. Type of sign for which a permit is being sought.

b. Three (3) copies of a sketch, blueprint, blue line print or similar presentation drawn to scale and dimensioned showing elevations of the sign as proposed on a building facade, awning or canopy provided further the relationship to other existing adjacent signs shall also be shown. In the case of a free-standing sign, sketches shall include a site plan showing the sign location and any existing or proposed landscaping which is affected by such sign.

SECTION 14-024. MAINTENANCE (Code Enforcement)

To assist the County in code enforcement, the Character Plan Advisory Committee may advise the County of any violations to the Point Roberts Character Plan. Alleged violations shall be decided by a democratic vote of the Committee and submitted in writing to Whatcom County Code Enforcement via the Liaison Officer. (See Section 9-001).

The Point Roberts Character Plan Advisory Committee shall conduct a Special Meeting within 7 days of having received a formal written complaint of a purported violation. An advisory report shall be made to Code Enforcement within 7 days of the Special Meeting. If the complaint has been made in person at a regularly scheduled meeting, an advisory report shall be made to Code Enforcement within 7 days.

Any private individual(s) who believe the Character Plan Advisory Committee has acted in error may submit a formal complaint of a purported code violation to the County Code Enforcement Officer.

Formal code enforcement action, as deemed necessary and approved by Whatcom County Code Enforcement, shall only be conducted by the County Code Enforcement Officer(s).

SECTION 14-025. MINIMUM REQUIREMENTS

Whenever this article imposes a higher standard than required by Title 20, Whatcom County Zoning Ordinance, the provisions of this article shall govern. Whenever Title 20 requirements impose a higher standard than required by this article, Title 20 provisions shall govern.

SECTION 14-026. PRIVATE RESTRICTIONS

Whenever the article imposes a higher standard than required by covenants, agreements or restrictions the provisions of such covenant or restrictions shall govern.

SECTION 14-027. STATUTES

When the provisions of any applicable state or federal statute impose a higher standard than required by this article, the provisions of such statute shall govern.
FLAG ORDINANCE
Point Roberts, Washington

SECTION 11-001: FLAGS

11-001. FLAGS

a. Non-governmental flags are deemed to be signs and shall be subject to the following regulations, except that no flag shall exceed twenty-four (24) square feet per face.

b. Governmental flags must be displayed in a dignified, non-commercial manner and follow the established flag protocol in respect to times of flying, arrangements, locations, etc. No governmental flag shall exceed twenty-four (24) square feet per face.

c. The height of flagpoles shall not exceed twenty (20) feet.

d. Flagpoles on top of buildings shall not exceed forty (40) feet above the roof top.

Non-conforming flags, according to section 12-001.a., shall have no amortization period and shall conform immediately.
SUGGESTED SIGNAGE STYLES
INCLUDED ARE SOME SAMPLES OF POSSIBLE SIGNAGE FOR PT. ROBERTS

RUSTIC STYLES

NATURAL MATERIALS CONVEY A HISTORICAL/NAUTICAL FEELING.

USE OF WOOD IS PREFERABLE. SAND BLASTING OR PAINTING CREATES INTEREST.

NAUTICAL ELEMENTS (ROPE, HARDWARE) SUPPORT NAUTICAL THEME.

SIGNS CAN ALSO BE APPLIED DIRECTLY TO BUILDINGS.
MATERIALS USED SHOULD HAVE A NATURAL APPEARANCE, e.g., WOOD, STONE, BRICK, ETC.

STYLES OF LETTERING SHOULD BE SELECTED THAT REFLECT THOSE USED IN THE EARLY 1900'S, e.g., TIMES, BODONI, GOURY, FUTURA, EGYPTIAN

GAS STATION SIGN WITH LANDSCAPING

RELIEF WOODEN SIGNS HELP WITH THE HISTORICAL THEME

BUSINESS DIRECTIONAL SIGN WITH NAUTICAL APPEARANCE CAN HELP SHOPPERS.
DELETE

EXTENDED SIGNS FROM SIDES OF BUILDINGS CAN BE PERMANENT OR SWINGING

FAcia sign

NAUTICAL DESIGNS WOULD BE APPROPRIATE

SIGN ABOVE CANOPY PAINTED ON WOOD

BUItNESS DIRECTORY DONE IN NAUTICAL / HISTORICAL THEME
Exhibit C

Official Zoning Map Amendments
Bellingham UGA & Surrounding Area

- Incorporated City
- Urban Growth Area
- Urban Growth Area Reserve

Existing/Proposed Title 20 Zoning Boundary

Note: Short-Term Planning Area zoning is rescinded.
Birch Bay UGA & Title 20 Zoning

- Incorporated City
- Urban Growth Area
- Urban Growth Area Reserve
- Existing/Proposed Zoning

Note: Short-Term Planning Area zoning is rescinded.
Blaine UGA & Title 20 Zoning

- Incorporated City
- Urban Growth Area
- Existing/Proposed Zoning

Note: Short-Term Planning Area zoning is rescinded.
Cherry Point UGA & Title 20 Zoning

- Major Port/Industrial UGA
- Existing/Proposed Zoning

Note: Short-Term Planning Area zoning is rescinded.
Columbia Valley UGA & Title 20 Zoning

- Urban Growth Area
- Urban Growth Area Reserve
- Existing/Proposed Zoning

Note: Short-Term Planning Area zoning is rescinded.
Nooksack UGA & Title 20 Zoning

- [ ] Incorporated City
- [ ] Urban Growth Area
- [ ] Urban Growth Area Reserve
- [ ] Existing/Proposed Zoning

Note: Short-Term Planning Area zoning is rescinded.
Ferndale UGA & Title 20 Zoning

- Incorporated City
- Urban Growth Area
- Urban Growth Area Reserve

Note: Short-Term Planning Area zoning is rescinded.
Lynden UGA & Title 20 Zoning

- Incorporated City
- Urban Growth Area
- Existing/Proposed Zoning

Note: Short-Term Planning Area zoning is rescinded.
# WHATCOM COUNTY COUNCIL AGENDA BILL

<table>
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<th>CLEARANCES</th>
<th>Initial</th>
<th>Date</th>
<th>Date Received in Council Office</th>
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**TITLE OF DOCUMENT:**

Confirmation of Members to Serve on the Jail Stakeholder Workgroup

**ATTACHMENTS:**

**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.)

Confirmation of Members to Serve on the Jail Stakeholder Workgroup

**COMMITTEE ACTION:**

**COUNCIL ACTION:**

7/26/2016: Confirmed 6-0, Donovan absent

**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.
**Name:** Jail Stakeholder Workgroup  

**Membership:** See below.  

**Purpose:** The Jail Stakeholder Workgroup will provide a recommendation to the Council for the financial agreements required for development of a new jail, including the cost of the facility; the funding mechanism; and the allocation and funding of operating expenses between jurisdictions. The Workgroup will advise the County Council and the County Executive on the development of a new jail ballot measure to be put before the voters no later than November 2017.  

**Enabling Statute(s):** Whatcom County Resolutions 2016-021, 2016-025  

**Term Information:** Terms end when Workgroup is dissolved upon County Council adoption of a jail ballot measure.  

**Meeting Information:** TBD  

**Staff Contact:** TBD

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<thead>
<tr>
<th>Position #</th>
<th>Name/Address</th>
<th>Phone and Email</th>
</tr>
</thead>
</table>
| Whatcom County Council | **Barry Buchanan, Councilmember**  
Whatcom County Council  
311 Grand Avenue, Suite 105  
Bellingham, WA 98225 | 360-778-5010  
360-224-4330  
BBuchanan@co.whatcom.wa.us |
| Whatcom County Council | **Todd Donovan, Councilmember**  
Whatcom County Council  
311 Grand Avenue, Suite 105  
Bellingham, WA 98225 | 360-778-5010  
360-483-8474  
TDonovan@co.whatcom.wa.us |
| Bellingham City Council | **Pinky Vargas, Council Member**  
Bellingham City Council  
210 Lottie Street  
Bellingham, WA 98225 | 360-778-8210 (City Council)  
PTMVargas@cob.org |
| Bellingham City Council | **Gene Knutson, Council Member**  
Bellingham City Council  
210 Lottie Street  
Bellingham, WA 98225 | 360-778-8200 (City Council)  
360-733-1640 (home)  
360-734-4686 (Work: Bham Cold Storage)  
GKnutson@cob.org |
| Small City Council | **Vacant** | |
| LIBC | **Vacant**  
2665 Kwina Road  
Bellingham, WA 98226 | 360-312-2000 |
| Nooksack Tribal Council | **Vacant**  
P.O. Box 157  
Deming, WA 98244 | 360-592-5164 |
| County Executive | **Jack Louws**  
311 Grand Avenue, Suite 108  
Bellingham, WA 98225 | 360-778-5200  
JLouws@co.whatcom.wa.us |
| Bellingham Mayor | **Kelli Linville**  
Bellingham City Council  
210 Lottie Street  
Bellingham, WA 98225 | 360-778-8100  
Kelli Linville: mayorsoffice@cob.org  
Thru Mayor assistant: ecoogan@cob.org  
Copy to Peter Ruffatto: pruffatto@cob.org |
<p>| Small City Mayor | <strong>Jon Mutchler and/or Scott Korthuis</strong> | |</p>
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<td><a href="mailto:BEifo@co.whatcom.wa.us">BEifo@co.whatcom.wa.us</a></td>
</tr>
<tr>
<td></td>
<td></td>
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<td></td>
</tr>
<tr>
<td>Bellingham Police Chief</td>
<td>Cliff Cook</td>
<td>Bellingham Police Department</td>
<td>360-778-8800</td>
</tr>
<tr>
<td></td>
<td></td>
<td>505 Grand Avenue</td>
<td><a href="mailto:CRCook@cob.org">CRCook@cob.org</a></td>
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<tr>
<td></td>
<td></td>
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<tr>
<td>County Council Appointees:</td>
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</tr>
<tr>
<td>Bellingham Resident</td>
<td>Kelli Carroll</td>
<td>725 Racine Street</td>
<td>206-478-9242</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Bellingham, WA 98229</td>
<td><a href="mailto:KelliCarrollsea@comcast.net">KelliCarrollsea@comcast.net</a></td>
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<tr>
<td>County Resident</td>
<td>Harold Cummings</td>
<td>P.O. Box 1795</td>
<td>360-483-9398</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Ferndale, WA 98248</td>
<td><a href="mailto:HillCummings@live.com">HillCummings@live.com</a></td>
</tr>
<tr>
<td>IPRTF</td>
<td>Jack Hovenier</td>
<td>Mail: 702 Kentucky St.</td>
<td>360-734-0363</td>
</tr>
<tr>
<td></td>
<td></td>
<td>PMB 391</td>
<td>360-319-4442 (cell)</td>
</tr>
<tr>
<td></td>
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<td>Bellingham, WA 98225</td>
<td><a href="mailto:jack@nicetiger.com">jack@nicetiger.com</a></td>
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<tr>
<td>Corrections Officer</td>
<td>Mark Holst, Corrections</td>
<td>Public Safety Building</td>
<td>360-778-6500</td>
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<tr>
<td></td>
<td>Sergeant</td>
<td>311 Grand Avenue</td>
<td><a href="mailto:MHolst@co.whatcom.wa.us">MHolst@co.whatcom.wa.us</a></td>
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Updated: 07/28/2016
**WHATCOM COUNTY COUNCIL AGENDA BILL**

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**TITLE OF DOCUMENT:** 2016 Supplemental Budget Request #14

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

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

Supplemental #14 requests funding from the General Fund:

1. To appropriate $10,000 in Council to fund administrative assistance for the IPRTF.
2. To appropriate $150,000 in Council to fund criminal justice consultant for the IPRTF

   **From the Jail Fund:**

3. To appropriate $55,000 for additional funding for IPRTF admin support and contracted services.

   **From the Chemical Dependency / Mental Health Fund:**

4. To appropriate $80,000 to fund IPRTF admin support and contracted services.

---

**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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ORDINANCE NO.
AMENDMENT NO. 14 OF THE 2016 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 2016 budget included therein:

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<thead>
<tr>
<th>Fund</th>
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<th>Revenues</th>
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<tr>
<td>Council</td>
<td>160,000</td>
<td>(160,000)</td>
<td>-</td>
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<td>160,000</td>
<td>(160,000)</td>
<td>-</td>
</tr>
<tr>
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<tr>
<td>Chemical Dependency / Mental Health Fund</td>
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<td>-</td>
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<tr>
<td>Total Supplemental</td>
<td>295,000</td>
<td>(160,000)</td>
<td>135,000</td>
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ADOPTED this ___ day of ________________, 2016.

ATTEST:

Dana Brown-Davis, Council Clerk

Barry Buchanan, Chair of the Council

APPROVED AS TO FORM:

( ) Approved      ( ) Denied

Jack Louws, County Executive

Date: ____________________
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<th>Department/Fund</th>
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<th>(Increased) Decreased Revenue</th>
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<tr>
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<td>Total General Fund</td>
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<td>160,000</td>
<td>(160,000)</td>
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<tr>
<td>Jail Fund</td>
<td>To add additional funding for IPRTF admin support and contracted services.</td>
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<td>Chemical Dependency / Mental Health Fund</td>
<td>To fund IPRTF admin support and contracted services.</td>
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<td>-</td>
<td>80,000</td>
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<tr>
<td>Total Supplemental</td>
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<td>295,000</td>
<td>(160,000)</td>
<td>135,000</td>
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Supplemental Budget Request

Council

Expenditure Type: One-Time  Year: 2016  Add'l FTE  Add'l Space  Priority: 1

Name of Request: Administrative Assistance - IPRTF

Department Head Signature (Required on Hard Copy Submission)  Date: August 2, 2016

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</table>

1a. Description of request:

The Incarceration Prevention and Reduction Task Force (IPRTF) was established in June 2015. This group is charged with numerous tasks, as outlined in Ordinance 2015-037 (attached).

In October 2015 the County entered into a contract with the Whatcom Alliance for Health Advancement (WAHA) for facilitation services to support the IPRTF. On March 25, 2016, the County received a letter from WAHA suggesting that the contract between WAHA and the County be terminated for public The Council Office has received a request to take over many of the administrative responsibilities previously assigned to WAHA. It is anticipated that with some adjustments to current work assignments and approval of this supplemental budget request, our office can carry out the following tasks for the IPRTF:

1. Work with task force co-chairs and subcommittees chairs to set agendas and gather meeting materials.
2. Distribute agendas and packets.
3. Set up the task force website.
4. Post meeting-related materials and other documents to the task force website.
5. Attend and record all task force meetings and subcommittee meetings.
6. Prepare meeting summaries.
7. Prepare and post all meeting notices.

1b. Primary customers:

Whatcom County taxpayers, citizens, IPRTF members, and IPRTF subcommittee members.

2. Problem to be solved:

Approval of this request will ensure we have funds available in our budget to pay staff to carry out assigned administrative tasks for the IPRTF.

3a. Options / Advantages:

In order to provide the staffing necessary to carry out all anticipated administrative tasks for the IPRTF, approval of this request is our only option. We do not have funds available in our current budget to cover this additional expenditure.

3b. Cost savings:

Unknown at this time, but it is likely that there will be some cost savings to the County with approval of this request, versus including administrative tasks as part of a new facilitator contract.

Monday, August 01, 2016  Rpt: Rpt Suppl Regular
4a. Outcomes:
The Council Office will be able to assist the IPRTF in its mission to continually review Whatcom County's criminal justice and behavioral health programs and make specific recommendations to safely and effectively reduce incarceration of individuals struggling with mental illness and chemical dependency, and minimize jail utilization by pretrial defendants who can safely be released.

4b. Measures:
The initial work of the IPRTF, as outlined in Ordinance 2015-037, will be completed.

5a. Other Departments/Agencies:
Numerous departments in all three branches of County government, along with outside agencies, will be impacted by our ability to provide administrative support to the IPRTF.

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

6. Funding Source:
Cost Center 124410, Incarceration Task Force Prevention: $5,000
Cost Center 118198, New Jail Coordination: $5,000
ORDINANCE 2015-025

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 DEPENDENTS WHO CAN SAFELY BE RELEASED

WHEREAS, in 2012 the Jail Planning Task Force recommended that space be found for a behavioral health triage facility with sufficient capacity and capability to offer pre-booking diversion from jail; and

WHEREAS, the proposed countywide jail is currently designed to include needed space for expanded medical and mental health program space in that facility; and

WHEREAS, the Whatcom County Health Department has been planning toward an expanded and new crisis triage facility to provide an alternative to the jail or the hospital emergency room; and

WHEREAS, the Whatcom County Council and Whatcom County Executive are committed to these facilities and programs related to behavioral health issues and share the commitment to reduce jail populations and reduce recidivism through jail alternative programs and the County has the financial capacity and is committed to providing the capital necessary for a new or expanded crisis triage center; and

WHEREAS, the County currently provides behavioral health programs funded through the Behavioral Health Tax, at approximately $4.1 million annually, which include a continuum of behavioral health services designed to reduce criminal justice involvement of people struggling with mental illness and chemical dependency and has earmarked $3 million in Behavioral Health Tax revenue reserves for the expansion and/or relocation of a new triage center; and

WHEREAS, the County currently owns and operates a behavioral health crisis triage center and Interim Work Center on Division Street in Bellingham, which property the County may sell or transfer or repurpose for behavioral health uses, when the new countywide jail is completed and the County has agreed and ordained that if that property is sold or transferred, the resulting net value and proceeds from the transaction will be applied by the County to facilities and programs that support the goals of treating and diverting individuals with behavioral health problems from the criminal justice system, such as a new or expanded multi-purpose triage center; and

WHEREAS, these behavioral health facilities and programs are designed to achieve the following policy goals, 1) a reduction of the number of mentally ill and chemically dependent people using costly interventions like jail, emergency rooms, and hospitals; 2) a reduction of the number of people who recycle through the jail, returning repeatedly as a result of their mental illness or chemical dependency; 3) a reduction of the incidence and severity of chemical dependency and mental and emotional disorders in youth and adults; and 4) diversion of mentally ill and chemically dependent youth and adults from initial or further justice system involvement; and
WHEREAS, the County’s costs for current criminal justice and incarceration programs continue to rise every year; mental illness and chemical dependency problems have a significant impact on the utilization of these very expensive services; and successful diversion programs should result in substantial long term savings to the criminal justice system; and

WHEREAS, the County intends to construct and operate a new or expanded multi-purpose diversion crisis triage center, in parallel with the construction of the new county wide jail facility and intends to reduce long-term jail populations and reduce recidivism, by providing safe and effective medical, mental health and substance abuse services to individuals in need of such services.

NOW, THEREFORE, BE IT ORDAINED by the Whatcom County Council that Whatcom County Code Chapter 2.46 is hereby established, creating a Whatcom County Incarceration Prevention and Reduction Task Force as outlined in Exhibit A to this ordinance.

BE IT FURTHER ORDAINED that the initial tasks to be accomplished by the Task Force are as follows:

A. Develop plans for a new or expanded crisis triage center for individuals struggling with mental illness and chemical dependency, including:
   1. Substantive programming to be included and auxiliary services that would increase efficiency and effectiveness
   2. Location and space needs criteria
   3. Funding sources and recommendations for both construction and operations
   4. Specific timeframes for decision-making and completion
   5. Documentation of assumptions used to project the effectiveness and costs

B. Development recommendations for new, or enhancement of existing, programs designed along a continuum that effectively reduces incarceration of individuals struggling with mental illness and chemical dependency.

BE IT FURTHER ORDAINED that the initial work of the Task Force for the above tasks shall be accomplished and reported to the County Council in the following phases:

PHASE I - Review current practices and assigned resources, (facilities, programs, funding sources), and develop goals for new or modified programs, and projected operational objectives. Determine licensing requirements and program components. Provide general information on expenditures and sustainable revenue projections. Deliver the initial Phase 1 report by January 10, 2016.

PHASE II – As service facilities are identified in Phase I- develop facility specifications, identify possible facility options (either new or existing locations), analyze and recommend 1 or 2 options with projected short and medium term costs. Deliver the initial Phase 2 reports as completed, but no later than November 1, 2016.

PHASE III - Develop specific operational plans and budgets leading to implementation of appropriate crisis intervention, triage services and incarceration prevention and reduction programs. Include details on schedules, assignment of responsibilities, projected outcomes anticipated, possible cost allocations between the County and the cities, and a basic business plan for each selected initiative. Deliver the initial Phase 3 report with sufficient details to proceed with construction and programming of a new or expanded crisis triage center no later than March 2017.
BE IT FURTHER ORDAINED that the County Council, with the full support of the County Administration, will implement a continuum of alternatives to incarceration and jail diversion programs with the following expectations and commitments of assistance for the Incarceration Prevention and Reduction Task Force:

• Complete a preliminary plan for the new or expanded crisis triage center and alternatives to incarceration and diversion programs as soon as reasonably possible and provide quarterly reports to the Council and Administration on Task Force progress.

• Review national best practices for the before mentioned objectives and establish benchmarking of the County's performance against same.

• Complete detailed planning sufficient to proceed with construction and programming of a new or expanded crisis triage center to start no later than March 2017.

• Fund the support activities of the Task Force, including a robust and detailed planning process for the new or expanded crisis triage center and other recommended diversion programs. Initial funding for 2015 will be $75,000.

• Identify opportunities to acquire governmental and non-governmental funding to support financing for the construction and operation of the new crisis triage center.

• Commit to opening the new crisis triage center no later than the scheduled opening of the new countywide jail.

• Include, as part of the 2016-2017 budget, funds to focus on incarceration prevention and reduction programs, and work with the Task Force.

APPROVED the 9th day of June, 2015

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

Carl Welmer,
Chairman

ATTEST:

Dana Brown-Davis,
Clerk of the Council

APPROVED AS TO FORM:

WHATCOM COUNTY EXECUTIVE
WHATCOM COUNTY, WASHINGTON

Jack Louws, County Executive

( X) Approved ( ) Denied

Date Signed: 6/11/15
EXHIBIT A

Chapter 2.46

INCARCERATION PREVENTION AND REDUCTION TASK FORCE

Sections:
2.46.010 Established.
2.46.020 Purpose.
2.46.030 Function.
2.46.040 Permanent Members.
2.46.050 Additional Appointed Members.
2.46.060 Term of Office.
2.46.070 Organization – Meetings.
2.46.080 Staff and Funding Support.
2.46.090 Reporting.

2.46.010 Established.
There is hereby established a Whatcom County Incarceration Prevention and Reduction Task Force.

2.46.020 Purpose.
The purpose of the Incarceration Prevention and Reduction Task Force is to continually review Whatcom County's criminal justice and behavioral health programs and make specific recommendations to safely and effectively reduce incarceration of individuals struggling with mental illness and chemical dependency, and minimize jail utilization by pretrial defendants who can safely be released.

2.46.030 Function.
The Task Force will consider national best practices and report on and make recommendations to the County Council, Executive, and other appropriate officials regarding:

A. The construction and operation of a new or expanded multi-purpose crisis triage facility to assist with jail and hospital diversion of individuals struggling with mental illness and chemical dependency;

B. 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;

C. Effective pretrial service programs that assure that defendants appear for court proceedings while minimizing jail utilization by defendants who can safely be released;

D. Necessary and effective programs and services that can assist offenders with successful transition from both the jail and triage center back to the community to reduce rates of recidivism and improve public health and safety;

E. The ongoing staff support and funding for the Task Force;

F. Review of the diversion programs of the County and all cities, and establishment of benchmarks to measure the effectiveness of the programs in reducing incarceration.
2.46.040  Permanent Members.
The Incarceration Prevention and Reduction Task Force shall include the following 12 designated officials or their representative:

A. One Member of the Whatcom County Council;
B. Whatcom County Executive;
C. Whatcom County Sheriff;
D. Whatcom County Prosecuting Attorney;
E. Whatcom County Public Defender Director;
F. One Representative from the Whatcom County Superior Court or District Court;
G. One Representative of the Bellingham City Attorney or Municipal Court or Police;
H. One Representative from the Bellingham City Council;
I. One Representative from the small cities designated by the Small Cities Caucus;
J. One tribal representative from either the Lummi Nation or the Nooksack Tribe;
K. One representative from the Whatcom County Health Department Human Services;
L. North Sound Mental Health Administration Executive Director.

2.46.050  Additional Appointed Members.
In addition to the officials designated above the Incarceration Prevention and Reduction Task Force shall include the following 11 members appointed by the Whatcom County Council:

A. Whatcom Alliance for Health Advancement (WAHA) representative;
B. Peace Health St. Joseph’s Medical Center representative;
C. Community Health Center representative;
D. Emergency Medical Services (EMS) representative;
E. Representatives from a Community Action Agency, a Mental Health Provider, Substance Abuse Treatment Provider (3);
F. Consumer of Services or Family Member of Consumer (2);
G. Concerned Citizens (2).

2.46.060  Terms of office for appointed members.
The term of office for appointed members shall be four years; provided that the terms of those first appointed shall be staggered so that five will be appointed for two years, and six will be appointed for four years. Appointment of members shall comply with Chapter 2.03 WCC.

2.46.070  Organization – Meetings.
A. Meetings of the task force shall be open and accessible to the public and shall be subject to the Open Public Meetings Act.

B. At every meeting, the task force will schedule an open session to take public comment.

C. Written records of meetings, resolutions, research, findings and recommendations shall be kept and such records shall be submitted to county staff and shall be made public, including posting on the county website.

D. The task force shall adopt its own rules and procedures for the conduct of business.

E. The task force shall elect a chairperson from among its members who shall preside at its meetings.

F. The task force shall determine its meeting schedule and agenda, but shall meet at least quarterly.

G. The task force may form and appoint ad hoc committees to work on specific issues, so long as at least two committee members are also members of each ad hoc committee.
2.46.080  Staff and Funding Support.
The Task Force will have full support from the Council, the County Executive’s Office, Health Department staff, and locally delivered paid consultant assistance to conduct and complete its tasks in an efficient and effective manner.

2.46.090  Reporting.
At least annually, no later than June 30 of each year, the Task Force will provide a report and recommendations to the County Council and Executive on outcomes of existing incarceration prevention and reduction programs throughout Whatcom County, new innovative programs being used in other communities, and recommendations for changes or additional programs.
Supplemental Budget Request

Council

SupplID #: 2180

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Expenditure Type: One-Time
Year: 2015
Add'l FTE: [ ]
Add'l Space: [ ]
Priority: 2

Name of Request: Criminal Justice Consultant - IPRTF

X

Department Head Signature (Required on Hard Copy Submission)

Date: August 2, 2016

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1a. Description of request:
The Incarceration Prevention and Reduction Task Force (IPRTF) was established in June 2015. This group is charged with numerous tasks, as outlined in Ordinance 2015-037 (attached).

In October 2015 the County entered into a contract with the Whatcom Alliance for Health Advancement (WAHA) for facilitation services to support the IPRTF. On March 25, 2016, the County received a letter from WAHA suggesting that the contract between WAHA and the County be terminated for public convenience reasons.

The Incarceration Prevention and Reduction Task Force Steering Committee, with support from the County Council, is requesting funding for a Criminal Justice Consultant to:
• Research, analyze, and assess existing Whatcom County criminal justice policies, procedures, facilities, staffing, and outcomes, including those related to the Health Department, or any other agency, as they pertain to the criminal justice system;
• Provide analysis of criminal justice data from available resources to assist Task Force decision making and serve as baseline data for future benchmarking, as appropriate.
• Provide guidance, technical assistance and recommendations to the Task Force that will help achieve County goals; and
• Provide relevant and research-based resources to the Task Force to support discussion and recommendations of programs and services that provide safe and effective alternatives to incarceration. These services will support the Task Forces’s goal of reducing incarceration in Whatcom County.

1b. Primary customers:
Whatcom County taxpayers, citizens, IPRTF members, and IPRTF subcommittee members.

2. Problem to be solved:
There are insufficient funds remaining in the IPRTF budget to complete the new contract.

3a. Options / Advantages:
Other funding options may exist, however this option is consistent with Council direction regarding the use of these funds.

3b. Cost savings:
The cost savings cannot be quantified at this time, however, a successful effort by the Task Force may result in reduced costs for incarceration and other criminal justice related expenses.

4a. Outcomes:
The Criminal Justice Consultant will support the IPRTF in its mission to continually review Whatcom...
Supplemental Budget Request

Status: Pending

Council

| Supp'I ID # | Fund 1 | Cost Center | 1100 | Originator: | Forrest Longman |

County’s criminal justice and behavioral health programs and make specific recommendations to safely and effectively reduce incarceration of individuals struggling with mental illness and chemical dependency, and minimize jail utilization by pretrial defendants who can safely be released.

4b. Measures:
The Task Force will complete the reports required by Ordinance 2015-037 and continue to pursue reduced incarceration in Whatcom County.

5a. Other Departments/Agencies:
By supporting the efforts of the Task Force, this request could have positive impacts on the County's entire criminal justice system.

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

6. Funding Source:
Cost Center 124410, Incarceration Task Force Prevention: $75,000
Cost Center 118198, New Jail Coordination: $75,000
County’s criminal justice and behavioral health programs and make specific recommendations to safely and effectively reduce incarceration of individuals struggling with mental illness and chemical dependency, and minimize jail utilization by pretrial defendants who can safely be released.

4b. Measures:
The Task Force will complete the reports required by Ordinance 2015-037 and continue to pursue reduced incarceration in Whatcom County.

5a. Other Departments/Agencies:
By supporting the efforts of the Task Force, this request could have positive impacts on the County's entire criminal justice system.

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

6. Funding Source:
Cost Center 124410, Incarceration Task Force Prevention: $75,000
Cost Center 118198, New Jail Coordination: $75,000
Supplemental Budget Request

Status: Pending

Jail

Supp' ID # 2183  Fund 118  Cost Center 118198  Originator: M Caldwell/Wendy Jones

Expenditure Type: One-Time  Year 2 2016  Add'l FTE ☐  Add'l Space ☐  Priority 1

Name of Request: Jail Fund Funding of IPRTF support & contract

X

Department Head Signature (Required on Hard Copy Submission)  Date

Costs:  

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<tr>
<th>Object</th>
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<th>Amount Requested</th>
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<td>$55,000</td>
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<td>Request Total</td>
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</table>

1a. Description of request:

Funding for Behavioral Health portion of Council Supplemental Budget #2016-2152 of $10,000 for administrative support for IPRTF and Council Supplemental Budget #2016-2180 of $150,000 for Criminal Justice Consultant contract.

Jail and Behavioral Health Funds will each provide 50% of the funding to cover administrative support and consultant contract. 50% equals $80,000 for each fund.

The Jail currently has $25,000 available and needs an additional $55,000 of budget authority. Behavioral Health Fund will need the entire $80,000 of budget authority to fulfill its 50%.

1b. Primary customers:

2. Problem to be solved:

3a. Options / Advantages:

3b. Cost savings:

4a. Outcomes:

4b. Measures:

5a. Other Departments/Agencies:

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

6. Funding Source:

Jail Fund
Supplemental Budget Request

Health

Supp'l ID # 2182  Fund 124  Cost Center 124410  Originator: M Caldwell/Anne Deacon

Expenditure Type: One-Time  Year 2 2016  Add'l FTE □  Add'l Space □  Priority 1

Name of Request: Funding for Jail Incarceration Task Force

X [Signature]

Department Head Signature (Required on Hard Copy Submission) Date 8/1/16

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3b. Cost savings:

4a. Outcomes:

4b. Measures:

5a. Other Departments/Agencies:

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

6. Funding Source:

   Behavioral Health Fund