WHATCOM COUNTY COUNCIL AGENDA BILL

CLEARANCES

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<td>Division Head:</td>
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<td>Mark Personius</td>
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<td>Dept. Head:</td>
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<td>Sam Ryan</td>
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<td>Jack Louws</td>
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TITLE OF DOCUMENT:
2016 Critical Areas Ordinance Update
- Article 3—Geologically Hazardous Areas

ATTACHMENTS: (all current and past materials provided to the Council can be found at http://www.whatcomcounty.us/2417/County-Council-Review)
A. Staff memo to Council dated 2/8/2017
B. Best Available Science Report 2016 (previously distributed)
C. Chapter 16.16 Draft Critical Areas Ordinance - 2016-06-09, PC adopted (previously distributed)

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

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE: (If this item is an ordinance or requires a public hearing, you must provide the language for use in the required public notice. Be specific and cite RCW or WCC as appropriate. Be clear in explaining the intent of the action.)
This is another workshop (in a series of many) on the proposed ordinance to amend Whatcom County Critical Areas Ordinance (CAO) (WCC 16.16) pursuant to RCW 36.70A.130(1). The Growth Management Act (RCW 360.70A) defines critical areas as wetlands, frequently flooded areas, fish and wildlife habitat conservation areas (including streams), geologically hazardous areas, and critical aquifer recharge areas. The purpose of this periodic update is to ensure that the CAO meets the GMA requirements, including consistency with the Whatcom County Comprehensive Plan, best available science, and state agency guidance updates. Numerous amendments are being proposed, though most of them pertain to correcting grammar, updating references to other documents or laws, clarifying and updating administrative procedures, etc. The County is also required to integrate the CAO provisions with its Shoreline Master Program (SMP). Whatcom County has done so by adopting the CAO by reference within the SMP (WCC 23.10.060(A)). This reference is also proposed to be amended.

COMMITTEE ACTION:  

COUNCIL ACTION:  

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

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

TO: The Honorable County Council  
   Jack Louws, County Executive

FROM: Cliff Strong, Senior Planner

THROUGH: Mark Personius, Asst. Director

DATE: February 8, 2017

SUBJECT: 2016 Critical Areas Ordinance Update  
   County Council Review, Workshop 5, 21 February 2017

On February 21st the Council will continue its review of the 2016 Critical Areas Ordinance Update. Topics to be covered include:

Review of Certain Proposed Amendments to:

- Article 3 – Geologic Hazards (including lahars)

To prepare for this meeting, please review Article 3 of the draft code, the Best Available Science Addendum regarding that section (in your previous meeting packet materials), in which I point out the more substantive recommended amendments, and this memo, in which we describe how we got to this point and the options Council has.
Lahars in Whatcom County

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Why Staff is Presenting So Much Information, as Well as Other Options?

At the Council’s first public hearing on the Critical Areas Ordinance (CAO) the majority of the public testimony (22 of 28 people) was geared toward swaying the Council not to amend the lahar regulations, or more precisely to not have such regulations. Council made a motion for staff to develop lahar regulations based on our tsunami regulations. Staff has done this (see “Option 1: A Lahar Code Based on the Tsunami Code,” page 7). However, staff doesn’t believe that Council has had the opportunity to fully understand the context of geologic hazards at Mt. Baker or the risks posed to Whatcom County residents. While Council does have the authority to adopt whatever rules they want, it is only after having such a public discussion (see “What Tahoma Audubon Society v. Pierce County Tells Us,” page 12). Thus, staff feels it incumbent to first present what is known about lahrs prior to Council making such a decision.

It should also be noted that public testimony concerning the perception of risk posed by lahrs appears to be based on individually held beliefs of risk tolerance. Emerging risk assessment methodologies are available that quantify both community and individual risk posed by geologic hazards. Proposed development is commonly evaluated according to community risk tolerances, which are commonly treated more conservatively, whereas individual risk tolerance is more typically employed in scenarios such as home expansions where the increased risk exposure is assumed by the individual and not society. In considering revised regulations Council should consider the potential increase to community risk posed by the adoption of revised volcanic hazard regulations. Toward this end staff is prepared to update Council on to strides made toward improved geologic hazard characterization since the 2014 Natural Resources Committee briefing, as well as provide recommendations for future improvements; some of which would have the added benefit of informing the revision of volcanic hazard area regulations.

History (How We Got to Where We Are on the Draft Code)

Staff had not planned on updating the volcanic hazard area code when we first started the CAO update as it hadn’t been identified as a problem, nor had the CAC or the TAC identified any egregious issues requiring revision. However, after we had finished reviewing the code with the TAC and CAC, a handful of prospective applicants for marijuana processing facilities made inquiries about properties they had identified as potentially suitable locations. Staff identified that the properties fell within a lahar hazard areas and that the use wouldn’t be allowed based on staff’s interpretation of the code, which states that only single-family residences and duplexes are allowed in lahar hazard zones (see “Existing CAO Language,” page 14). Potential applicants then went to the BIAWC for help, who stepped in to lobby for a change in the code.

Most existing larger scale or more intensive development in the LHZ’s appear to have been in existence prior to adoption of the original CAO and are therefore considered nonconforming uses to the CAO. Staff was also aware that USGS-published maps depicting areas of potential lahar inundation—which had previously been adopted as best available science— were not prepared at a scale appropriate for parcel-level analysis and could only be considered approximate. Staff therefore reached out to the
USGS, who acknowledged that an updated hazard map and publication was needed for Mt. Baker and that this work is currently under production.

Based on these considerations staff was of the opinion that adoption of significantly revised volcanic hazard area standards—especially when updated hazard mapping was forthcoming—was not advisable. As a result, staff prepared amended volcanic hazard code language that allowed all uses per the underlying zoning, but with occupancy limits comparable to single-family residential uses as in the current code. The rationale of this approach was to accommodate additional uses in these areas but preclude sensitive uses or high concentrations of people until such time that updated hazard mapping and risk assessment could be used to propose more scientifically sound volcanic hazard area regulations, as explained below.

Development of the Proposed Lahar Hazard Zones
In response to the Planning Commission’s request for an amended volcanic hazard area code that would be less restrictive to uses in lahar hazard areas, staff was tasked with researching lahar regulations in other Washington State counties. Of counties potentially impacted by lahar hazards, Pierce County was found to have the most evolved, defensible ordinance.

The Pierce County ordinance is built around empirically-derived lahar travel-time estimates after the work of Pierson (1998)\(^1\). Regulations are established according to travel time zones based on increasing lahar arrival times with distance from Mt. Rainier. Additional use restrictions are then applied for designated volcanic hazard areas, which correlate to three distinct lahar designations of increasing hazard severity as well as pyroclastic flow hazard areas, each of which are interpreted by the USGS to have impacted, or to have the potential to impact areas within the respective travel time zones in the future.

Paramount to the Pierce County approach is the availability of accurate models published by the USGS of lahar inundation and pyroclastic hazard areas, which were used to delineate the respective volcanic hazard areas. In addition, Pierce County’s regulatory framework is benefited by the presence of a robust seismic network at Mt. Rainier that allows for early detection of increased magmatic activity, which may presage volcanic or lahar activity, as well as a lahar alert system triggered by acoustical flow monitors. The combination of monitoring, detection, and lahar alert justifies the establishment of Pierce County’s travel time zones.

In an attempt to devise regulations similar to Pierce County, staff generated travel-time estimates for potential lahar paths traveling down the Middle and North Fork Nooksack River valleys, respectively. A lahar traveling down the Middle Fork will arrive at the confluence of the Middle and the North Fork Valley sooner and arrival times downstream of the confluence are based on a Middle Fork lahar. Travel times were estimated by two methods. The first used commonly observed lahar velocities, which are noted to decrease from high velocity in confined, steep-gradient valleys near the volcanic source to lower velocity as the lahar reaches the lowlands and the river becomes unconfined and gradient

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decreases. Lahar velocities of 50, 25, and 15 miles per hour were used for this effort. In addition, staff reached out to Dr. Tom Pierson, Cascade Volcano Observatory Research Scientist and author of the above-referenced paper, and requested assistance applying his methodology to a lahar at Mt. Baker. Dr. Pierson graciously provided staff with estimated arrival times at specific locations such as Glacier, Deming, and other key geophysical locations along the respective, potential lahar paths. These data were used to validate the arrival times determined by the former methodology, which were found to correspond well.\(^2\)

In the North Fork Valley the town of Glacier lies well within Lahar Zone A, if delineated correlative to lahar zonation established in the Middle Fork Valley, where Lahar Zone A extends to the Mosquito Lake Bridge at the approximate 15 minute lahar arrival time. At the direction of the Planning Commission staff extended Lahar Zone B to the town of Glacier to allow for more uses within the established LAMIRD community and in recognition of the existing Resort-Commercial and Small Town Commercial zoning. This decision should be considered non-conservative, especially when compared to Pierce County regulations. In Pierce County the most proximal hazard zone extends to the 30 minute lahar arrival time in the Puyallup and Carbon River systems and the 60 minute lahar arrival time in the Nisqually and White River systems. Adoption of lahar hazard zonation as conservative as the Pierce County approach would extend the more restrictive regulations (Lahar Zone A) to Deming, or beyond.

In summary, it is Staff’s opinion that a number of key components are lacking in Whatcom County that make adoption of lahar regulations that mimic Pierce County’s currently inadvisable. While County Staff helped develop the Planning Commission’s proposed Volcanic Hazard code revision, staff is of the opinion that such an approach is problematic based on the following reasons:

a. **Absence of a lahar warning system or a reliable seismic network at Mt. Baker**
   In Pierce County and the Planning Commission’s proposed code revision, lahar regulations are applied with decreasing use restrictions according to increased lahar travel time. In the absence of detection and alert it cannot be assumed that evacuation will function as an effective means of hazard mitigation. This issue is further confounded by the need for a reliable seismic network that could offer early warning and allow for evacuation prior to initiation of a lahar.

b. **Non-conservative Lahar Hazard Zone Delineation**
   Were Whatcom County to adopt lahar hazard zones correlative to Pierce County the highest hazard zone (Lahar Hazard Zone A) should extend to Deming at the ~1 hour lahar arrival time. As proposed by the Planning Commission, Glacier is included in Lahar Hazard Zone B to allow for increased uses in an established community. This is highly non-conservative due to the very short lahar arrival time (<15 minutes) and the resulting inability to rely on evacuation as a form of mitigation, as well as the potential for smaller-volume, but higher frequency lahars impacts.

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\(^2\) It should be noted that Dr. Pierson’s travel times may be conservative as they are based on empirically-derived travel times for lahars averaging 10^7 million cubic meters in volume, which would be considered a very large, low recurrence event. Despite this conservative interpretation, Dr. Pierson urged caution with regard to the regulatory application of travel time zones in the absence of a lahar detection and alert system.
c. **Modeling and delineation of lahar hazards at Mt. Baker is currently outdated and generalized**. Pierce County regulations are benefited with accurate models of potential lahar inundation areas. In addition, lahar inundation models are available for lahars of varying magnitude and frequency, allowing further refinement of land use regulations. Such models for Mt. Baker are presently in production at the USGS and estimated to be available by 2019.

d. **Emergency preparedness and response plans rely on a robust Lahar Detection and Alert System**. Emergency planning, which could be considered a form of hazard mitigation, is severely hindered in the absence of the above-described lahar detection and alert system. While emergency plans are continually being updated and improved, until a detection and alert system is in place at Mt. Baker, response plans are effectively reactive measures. Furthermore, a lahar detection and alert system would likely only be effective in areas such as Deming, and downstream, where sufficient time (~1 hour) would be available to use evacuation routes.

Due to the non-conservative nature of the lahar hazard zones and the absence of a monitoring and alert system, staff recommended to the Planning Commission that any regulations based on *lahar hazard zones* maintain very low occupancy limits for any new permitted uses along the North and Middle Forks of the Nooksack River (Lahar Zones A and B). Once updated lahar mapping and risk assessment is completed more tenable occupancy limits could be considered. Despite staff’s recommendation, and following much debate, the Planning Commission ultimately elected to support the Pierce County-based volcanic hazard code language, yet with significantly increased occupancy limits and fewer restrictions on sensitive uses. It should also be pointed out that the occupancy limits recommended by the Planning Commission are such that, with the exception of Lahar Hazard Zone A, uses within the established communities would likely be more limited by other zoning regulations, such as the floor/area ratios of the LAMIRDS, than the proposed volcanic hazard area regulations.

**What Do We Know About Lahars in Whatcom County?**
Cynthia Gardner and Seth Moran with the USGS-Cascade Volcano Observatory (CVO) have graciously offered to attend the February 21 COTW workshop and present the geologic history and potential hazards at Mt. Baker. They will also review monitoring efforts currently being undertaken at other volcanic centers, both in the USA and abroad, and discuss paths forward at Mt. Baker for improved monitoring and hazard awareness. The CVO maintains on-line information about hazards at Mt. Baker, which can be found at the following url: [https://pubs.usgs.gov/fs/2000/fs059-00/](https://pubs.usgs.gov/fs/2000/fs059-00/).

**What State and/or Federal Emergency Response and Preparedness Efforts are Going On?**
Dr. Gardner and Mr. Moran will present this information at the February 21 COTW workshop.

**Local Emergency Response and Preparedness Measures**
Please see John Gargett’s “A Risk Based Planning Approach for Lahar and Volcanic Hazards in Whatcom County,” page 14.
Legal Requirements

Before we explore Council’s options, the legal requirements of WAC 365-190, Geologically hazardous areas, should be reviewed. Following are the pertinent sections; the entire text is found under “WAC 365-190-120 Geologically hazardous areas” on page 26.

(1) Geologically hazardous areas. Geologically hazardous areas include areas susceptible to erosion, sliding, earthquake, or other geological events. They pose a threat to the health and safety of citizens when incompatible commercial, residential, or industrial development is sited in areas of significant hazard.

Section (1) basically says that geohazards pose a threat when “incompatible” development is sited in areas of “significant” hazard. However, neither of these terms is defined. Is incompatible development that which puts someone in harm’s way, or that which worsens a risk, to either an individual property owner or to the larger community? And does Council consider lahars a significant risk? Or does Council find them an insignificant risk due to their low probability? Or are they significant due to the large consequences should one occur? Remember, lahar risk should be viewed on the basis of annual probability not an annual return period. The difference is that while they are infrequent events, the chances of one happening in any one year may be relatively small, but don’t change year to year.

Staff suggests that if Council wants to adopt minimal regulations, it would behoove you to find that lahars aren’t a significant hazard.

(2) Some geological hazards can be reduced or mitigated by engineering, design, or modified construction or mining practices so that risks to public health and safety are minimized. When technology cannot reduce risks to acceptable levels, building in geologically hazardous areas must be avoided. The distinction between avoidance and compensatory mitigation should be considered by counties and cities that do not currently classify geological hazards, as they develop their classification scheme.

Section (2) basically says that we must avoid development in geohazard areas if the risk can’t be mitigated. Staff suggests that if Council wants to adopt minimal regulations, it may be prudent to find that an early warning and evacuation plan is adequate mitigation. Of course, this presupposes that we have such a system in place, which may not be feasible for areas proximal to Mt. Baker such as Glacier.

(10) Other geological hazard areas:

(a) Volcanic hazard areas must include areas subject to pyroclastic flows, lava flows, debris avalanche, or inundation by debris flows, lahars, mudflows, or related flooding resulting from volcanic activity.

From section (10), it is clear that lahar hazard areas must be declared a volcanic hazard area, which the proposed code does. How we respond to that is up to Council.

Options for Council

Council has a variety of options, ranging from the least restrictive (allowing all new uses in Lahar Hazard Zones that could be permitted in accordance with the underlying zoning regulations) to the most
restrictive (restricting all new development except SFR). Something in between might be to allow most lower occupancy uses allowed by the zoning code, but regulate essential facilities, hazardous facilities, and higher occupancy uses, including special occupancies, and/or covered assemblies to some degree.

Staff has identified three options for Council to consider. Whichever option is chosen, Council would have to find that the risk posed to communities and future generations is acceptable in consideration of the potential hazards. Furthermore, a warning system, signed evacuation routes, and education could be added to any of these options, though would need to be funded.

As mentioned, pursuant to *Tahoma Audubon Society v. Pierce County* (page 12) Council has the sole authority to choose the level of risk our citizens are willing to accept, though it needs to be on the record as having had a thorough discussion and understanding of the potential risks of their decision.

**Option 1: A Lahar Code Based on the Tsunami Code (as per Council motion)**

At the public hearing, a motion was approved to “Request staff to bring forward a proposal to remove lahar language and insert language that says lahars will be treated like tsunami zones, with the same level of evacuation route planning and education.”

Thus, Council has asked for lahar regulations that mimic our tsunami regulations. In actuality, the existing tsunami hazard regulations direct the technical administrator to the volcanic hazard regulations. Adopting lahar regulations that mimic the tsunami regulations would just create a logic loop in the code. However, for this discussion, staff assumed the Council intended to let people build all allowed uses, and rely on emergency warning systems, emergency preparedness, and education, but with no other mitigation (e.g., building structures to withstand a lahar, which is considered unfeasible in areas subject to high velocity lahar flows as might be experienced as far down valley as Deming).

First there are a couple of differences between these types of hazards that we’d like to point out.

1. Geologic inference suggests that tsunamis have the potential to occur more frequently than lahars.
2. Tsunamis generated by large, Cascadia Subduction Zone earthquake would trigger early detection and alert systems currently in place.
3. A lahar warning system has not been established in Whatcom County.
4. We have signed evacuation routes for tsunamis but not for lahars.
5. Most development in tsunami hazard areas is single-family residential, which is allowed by current CAO geohazard regulations. Commercial or other uses would not be allowed without mitigation capable of reducing the risk posed to the proposed development.
6. We can mitigate for tsunamis. In tsunami hazard areas, we require that structures be built so that habitable spaces are above the expected height of the tsunami/flooding, that floodwater can pass through crawl spaces without significant structural damage, and that the foundation is designed to withstand the interpreted hydraulic and impact forces. No types of structural improvements are capable of mitigating or withstanding lahar impacts for much of the proximal lahar hazard area.
7. In the tsunami hazard areas land is available for development (i.e., located outside of tsunami hazard areas) within close proximity, allowing development to proceed largely unhindered by
using avoidance as required by WCC 16.16.320(A). This is generally not the case for lahar hazard areas, especially in the foothills region where lahar hazards are interpreted to extend across the valley floor.

(8) And lastly, there is evidence that we may expect to experience an increased frequency of debris flows (sometimes used interchangeably for lahar) at Mt. Baker related to glacial retreat, as similar effects have been noted at Mt. Rainier, Mt. Hood, and other glaciated mountain ranges. While these events may not be as large as lahars, there is the potential for them to impact development relatively near the mountain, and with increased frequency and no warning. If a warning system were developed, ideally it would encompass this hazard also.

It should also be pointed out that the existing tsunami alert system (warning system, evacuation signage, and education) is not a CAO regulation, but something inherited by our Emergency Management Division of the Sherriff’s Office, who is developing a comprehensive AHABR system. Thus, if this is an approach the Council wants to implement (and planning staff supports installation of such a system, especially if the Council chooses not to limit development by regulatory means), then funds would need to be appropriated and the system would need to be set up.

Council should also consider whether they want to regulate any sort of sensitive land uses, such as emergency services, hospitals, schools, hazardous facilities, etc., in the lahar hazard zones. Assuming not (for the purposes of this memo), then below is the tsunami code, followed by a lahar regulation that mimics it, as Council has requested.

**Tsunami Code**

16.16.365 Tsunami Hazard Areas – Standards.

The standards of WCC 16.16.320 and 16.16.350 shall apply. For development within tsunami hazard areas the proposed development shall be designed to provide protection for the tsunami hazard that meets the projected hazard on the Department of Natural Resources Tsunami Inundation Maps. For other low lying coastal areas not included on the inundation maps, development shall be designed to provide protection for debris impact and an inundation as determined by current Department of Natural Resource modeling unless other measures can be shown to provide equal or greater protection.

**Lahar Code Based on Tsunami Code**

16.16.350 Standards – Volcanic hazard areas.

The standards of WCC 16.16.320 shall apply.

(The rest of the tsunami code (above in underline) couldn’t apply, as it has to do with building above the predicted flood height, which wouldn’t apply to lahars.)

In a nutshell, WCC 16.16.320, states (the complete text is found in the Draft Code):

- That new development should be located, engineered, and constructed to as to reduce risks and not increase hazard potential;
- That impacts should be avoided;
- That new development must be directed toward portions of a parcel that are not subject to, or at risk from, geological hazards;
• That critical facilities shouldn’t be constructed or located in geologically hazardous areas if there’s a feasible alternative location outside geologically hazardous areas that would serve the intended service population;
• That a qualified professional must review development proposals that occur in potentially geologically hazardous areas to determine the potential risk;
• That proposed development should be sited far enough from erosion and landslide hazard areas to ensure at least 100 years of useful life;
• That agricultural activities are be allowed within geologically hazardous areas, and,
• That subdivisions aren’t allowed in most geohazard areas.

Option 2: Planning Commission Recommendation
As mentioned above (Development of the Proposed Lahar Hazard Zones, page 2), staff had recommended a simpler set of regulations to the Planning Commission, but with the caveat that we revisit this section after we have the newer USGS data. However, they were interested in looking at other options so staff helped developed the current proposal. One of the benefits of this scheme is that it sets up 4 different Lahar Hazard Zones based on estimated travel time of a lahar, allowing us to tailor regulations in each of those zones based on potential risk (see Table 1). In essence, it sets up a regulatory system similar to Piece County’s, though without the detailed data.

However, as you well know, a number of people testified against this language at your first public hearing. The heart of the public opposition had to do with the proposed occupancy limits (shown in Table 1), and a perception that certain businesses wouldn’t be able to expand. However, we don’t believe those testifying saw, or understood, footnote 2 of that table, which states, “Maximum occupancies listed here may be increased per WCC 16.16.350(D).”
<table>
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<th>Facility/Occupancy List</th>
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<td>Essential Facilities</td>
<td>Prohibited</td>
<td>Prohibited</td>
<td>Allowed, subject to underlying zoning, but shall meet the requirements of 16.16.260 and 265.</td>
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<td>Prohibited</td>
<td>Allowed, subject to underlying zoning, but shall meet the requirements of 16.16.260 and 265.</td>
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<td>Special Occupancies</td>
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<td>Allowed, subject to underlying zoning, with a maximum occupancy of 100.</td>
<td>Allowed, subject to underlying zoning, but shall meet the requirements of 16.16.260 and 265.</td>
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<td>Allowed, subject to underlying zoning, with a maximum occupancy of 100.</td>
<td>Allowed, subject to underlying zoning, but shall meet the requirements of 16.16.260 and 265.</td>
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| All other uses allowed by Title 20, Zoning | • Within the Glacier LAMIRD – All other uses allowed by Title 20, with a maximum occupancy of 25.  
• Outside the Glacier LAMIRD – Limited to single-family residences and their accessory structures | All other uses allowed by Title 20, with a maximum occupancy of 100. | Allowed, subject to underlying zoning, but shall meet the requirements of 16.16.260 and 265. | Allowed; subject to underlying zoning |

\(^1\) See Article 9 for definitions of these facilities.  
\(^2\) Maximum occupancies listed here may be increased per WCC 16.16.350(D).  

**16.16.350(D) Technical Assessment and Review.** In zones A & B\(^3\), any project proposing a maximum occupant load greater than 25 shall be required to have a volcanic hazards assessment prepared by a qualified professional that includes recommendations for siting of improvements intending to avoid volcanic hazards and a volcanic hazard management and evacuation plan. In addition, the technical administrator shall have the authority to require such assessment for any project deemed subject to an elevated risk from volcanic hazards.

This section basically says that any of the occupancy limits may be raised if the applicant has a report done by a “qualified professional that includes recommendations for siting of improvements intending to avoid volcanic hazards and a volcanic hazard management and evacuation plan.” It appears that the public testimony given against the Planning Commission’s proposal was based on misinterpretation, as the proposed language would generally allow all development per the underlying zoning. Thus, contrary

\(^3\) C & D not listed since occupancy limits aren’t listed for those LIZs.
to their testimony, any of those business, schools, fire stations, etc. could expand as long as they put together an evacuation plan to get people out of harm’s way were a lahar to occur (and meet the other parts of the zoning code).

In summary, staff believes that the Planning Commission’s recommended language would work as a framework for future regulations, once better data is available, but doesn’t believe that it works with the occupant loads proposed, especially without a warning system in place. Staff’s original recommendation using the Pierce County model would have maintained the existing lahar hazard area limits on occupancy and/or congregations of large numbers of people until the forthcoming USGS data could be used to adapt the proposed zonation based on a more accurate assessment of risk.

Option 3: A Lahar Code Based on the Existing Lahar Code, with Some Modifications

Given Council’s intent and staff’s concerns with Options 1 and 2, we have prepared a third alternative for consideration. The below language is based on our existing lahar code, but modified for clarity and brevity, to eliminate the concept of lahar hazard zones and occupancy limits, and to acknowledge existing, legal nonconforming uses, essential facilities, and cellular communication facilities. As you can see, it, too, would allow most uses but would require any land use of greater intensity or density than single-family residence and accessory structures to develop an emergency management and evacuation plan for their site, and for some uses to propose hazard mitigation measures.

16.16.350 Standards – Volcanic hazard areas.

A. The following uses may be allowed in volcanic hazard areas subject to WCC 16.16.320(A, B, and C) and the provisions below:

2. Accessory structures not involving human occupancy.
3. Sewer collection facilities, communication facilities, and other utilities that are not likely to cause harm to people or the environment if inundated by a lahar. Underground utilities such as pipelines shall be allowed if demonstrated through a Volcanic Hazard Assessment to not likely be damaged by scour caused by a lahar.
4. Expansion of legal nonconforming uses meeting criteria of WCC 16.16.270 and WCC 20.83, and subject to the submittal and approval of a Volcanic Hazard Assessment meeting the requirements of subsection B(1-3).
5. Essential facilities, subject to the submittal and approval of a Volcanic Hazard Assessment meeting the requirements of subsection B(1-3).
6. All other uses allowed per the property’s zoning district, subject to the submittal and approval of a Volcanic Hazard Assessment meeting the requirements of subsection B(1-4).

B. Volcanic Hazard Assessment Requirements. Where required by subsection A, a Volcanic Hazard Assessment shall be submitted for approval. Said assessment shall be prepared by a qualified professional or pertinent local, state, or federal agency and include the following elements:

1. A travel time analysis that determines the amount of time anticipated for a lahar to reach the proposed project site.
2. If available, a description of existing or proposed detection and notification systems installed and maintained by a public entity. Until detection and notification systems are available, provide information on available resources for volcanic hazard monitoring and emergency preparedness.

3. An emergency management plan for the facility that:
   a. Is consistent with and integrated into a community emergency plan maintained by the Sheriff's Office of Emergency Management.
   b. Includes an emergency evacuation plan showing that the proposed project is that is within walking distance to a legally accessible area outside of the lahar inundation zone in an amount of time less than the anticipated time that it takes a lahar to reach the site, ideally after the triggering of a lahar warning system.
   c. Is required to be updated and exercised every three years.

4. Hazard mitigation measures deemed capable of withstanding lahar impacts and ensure life safety.

Summary

- Staff does not believe adopting regulations similar to the tsunami regulations is appropriate as it fails to provide sufficient mitigation for the interpreted hazards and would pose increased risk to our mountain communities. However, if after having this public discussion of risk Council wants to adopt regulations that allows higher occupancies and/or congregations of large numbers of people, staff suggests it would be prudent to find:
  - that lahars are not a significant hazard,
  - that an early warning and evacuation plan is adequate mitigation; and,
  - that the risk is acceptable.
- Though the Planning Commission's recommended language provides a good framework for the future, once better data is available, staff does not believe that it works with respect to occupant loads proposed. Staff's original recommendation using the Pierce County model would have maintained the current limits on occupancy and/or congregations of large numbers of people until the forthcoming USGS data could be used to adapt the proposed zonation based on an accurate assessment of risk.
- Staff believes the 3rd option, a modified version of our current regulations, is the best interim approach to protecting people and property from potential volcanic hazards until a volcanic hazard monitoring system and emergency management plan is implemented and forthcoming hazard mapping can be included.
- Staff believes a robust volcanic hazard monitoring system and emergency management plan is warranted.
- Staff believes that the regulations should be revisited after we've received and analyzed the new lahar modeling data and volcanic hazard report we expect from the USGS within the next couple of years.
What Tahoma Audubon Society v. Pierce County Tells Us
(CPSGMHB Consolidated Case No. 05-3-0004c)
(The below text is verbatim from the decision.)

Tahoma Audubon Society challenged the provisions of Ordinance 2004-57s (Pierce County’s CAO) concerning “covered assemblies” in certain volcanic hazard zones. Park Junction Partners intervened on behalf of the County. Petitioner Tahoma Audubon argued that Pierce County failed to use the best available science in allowing 400-person occupancy in a lahar inundation zone that would be inundated within one hour of a lahar event, in a valley where no early warning system was feasible. Pierce County responded that risk assessment is a public policy choice which must be left to elected officials. Park Junction Partners asserted that Mount Rainier visitors “voluntarily choose to assume volcano-related risks” and that Pierce County was entitled to weigh the lahar risk against the economic goals of the County in encouraging tourism.

The Board found that the County had used best available science in mapping the lahar inundation zones and in calculating the time for lahars to reach locations within the inundation zones. The Board found that the GMA mandate to use best available science to protect the “functions and values” of critical areas – RCW 36.70A.172 – has no apparent application to volcanic hazard areas and that no other GMA provision appears to require the County to make human life and safety its paramount concern when adopting critical areas regulations. The Board determined that Petitioner Tahoma Audubon did not carry its burden of proving Pierce County’s action was non-compliant with the GMA. The Board agreed with the County that life-safety risk assessment is a public policy determination that rests with the moral conscience of elected officials, not with the Board. The Tahoma Audubon petition was dismissed.

This Board held that the state’s “minimum guidelines” (365-190 WAC) are not mandatory, only advisory. However, the Board also concluded, “If the county does not use [the minimum guidelines] ... it must explicitly identify those indicators it does use to satisfy the statutory analysis requirements.”

Pierce County’s regulations for volcanic hazard areas establish three sets of Lahar Inundation Zones based on the size of lahars as determined by the USGS – Case I, largest and least frequent, Case II, and Case III, most frequent but less destructive. Lahar travel times zones A, B, C, and D5 are based on the estimated time for a lahar flow to reach a specific area, adjusted for the availability of warning systems in the Puyallup River and Carbon River basins. No warning systems are practicable in the Upper Nisqually Valley because the likely source of lahars is too close to the population.

The County prohibits bonus densities in any of the volcano hazard areas. “Essential facilities” and “hazardous facilities” are also prohibited. (“Special Occupancy Structures” include schools, day care centers, nursing homes.)

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4 “Essential facilities” are necessary to maintain life and safety functions, such as police and fire stations, emergency medical facilities.
5 “Hazardous facilities” house or support toxic or explosive chemicals.
In a Case II Lahar Inundation Zone, Travel Time Zone A, the occupancy of a “covered assembly” is limited to 100 persons unless the project proponent satisfies certain requirements, in which case the occupancy may be increased to 400. The special conditions involve providing for evacuation of all occupants to a safe height out of the lahar inundation zone in the time appropriate to the lahar travel time zone.

Tahoma Audubon claims that the County’s “covered assembly” occupancy allowance in Lahar Inundation Zones violates RCW 36.70A.010 because the “safety” of the state’s residents is not protected. However, the Board must look to sections of the statute that impose specific requirements because the Board’s jurisdiction is limited to “the requirements of this chapter....” The Board concurs with the County. RCW 36.70A.010 – Legislative findings – indicates general legislative intent but does not create specific duties enforceable by this Board.

The Board is persuaded that Pierce County used best available science to designate its volcanic hazard areas. The County also incorporated best scientific analysis in its regulations by differentiating land use allowances based on current mapping of lahar inundation zones and, in particular, the lahar travel times from likely sources high on the flanks of Mount Rainier to populated areas in the lowlands. In addition, new lahar early warning systems were designed and installed in two drainages – Puyallup River and Carbon River – through close collaboration between Pierce County staff and USGS volcanologists.

The Board finds no direct requirement in the GMA that would allow it to substitute its judgment for that of the Pierce County elected officials on this matter. The GMA defines geologically hazardous areas as areas that “are not suited to siting of... development consistent with public health or safety concerns,” [RCW 36.70A.030(9)], but there is no affirmative mandate associated with this definition except “protect the functions and values.” Petitioners have not persuaded the Board that the requirement to protect the functions and values of critical areas has any meaning with respect to volcanic hazard areas or that the GMA contains any independent life-safety mandate.

The Board agrees with Pierce County that land use policy and responsibility with respect to Mount Rainier Case II lahars – “low probability, high consequence” events – is within the discretion of the elected officials; they bear the burden of deciding “How many people is it okay to sacrifice?”
A Risk Based Planning Approach for Lahar and Volcanic Hazards in Whatcom County

John Gargett, Deputy Director, Division of Emergency Management, Whatcom County Sheriff’s Office

Whatcom County faces the potential for a variety of risk, safety and security, and emergency/crisis events from its coastal waters on the Salish Sea to its eastern border in the North Cascades. The risks and threats have been well documented in the 2016 Whatcom County Natural Hazard Mitigation Plan. The Mitigation Plan is used to help guide both land use and emergency planning efforts. The 2016 Whatcom County Comprehensive Emergency Management Plan addresses how Whatcom County will respond to a catastrophic event that affects the entire county.

While many of the natural hazard risks have been known and existed for years, the density of population in these risk areas has grown, the nature of the responsibility of Whatcom County government to provide a response has grown, and residents and users of these areas are expecting more of government.

The Federal Emergency Management Agency has been conducting an update to the risk map (RiskMap) for Whatcom County since 2011. The primary goal of the Federal Emergency Management Agency RiskMap program is to reduce the loss of life and property through an integrated community approach of Risk Based Emergency Planning. The preliminary results of this work were presented in January 2017 and the information is a valuable tool in helping Whatcom County develop a resilience strategy to the risks facing Whatcom County.

One of the rationales for Risk Based Emergency Planning in Whatcom County is that we are a diverse geological environment that has continued, and will continue, to change over time. Landslides, volcanic eruptions, lahars, mud flows, floods, earthquakes, tsunamis, wild fires, wind storms and severe weather are part of living in Whatcom County. The Whatcom County Natural Hazard Mitigation Plan is a living and active document that addresses many of these hazards from a comprehensive planning perspective, the results of should be incorporated into land use regulations. Mitigation efforts and land use regulations do have a positive impact on the effects of many of these hazards but they do not eliminate the hazard and are only a part of Risk Based Planning.

The Whatcom County Sheriff’s Office Division of Emergency Management is responsible for the Whatcom County Natural Hazard Mitigation Plan and Comprehensive Emergency Management Plan. The Whatcom County Sheriff’s Office Division of Emergency Management recognizes that there also must be site, hazard, and threat specific planning that builds beyond the base provided by the Natural Hazard Mitigation Plan and Comprehensive Emergency Management Plan. You cannot eliminate all risk through land use planning and you cannot have comprehensive planning apply to every risk. We must live in harmony with our natural environment and build a resilient community that ensures that
property rights, environmental protection, economic development, land use planning, and emergency management are balanced, and that the risks are understood, reasonable strategies employed, and communities protected.

Risk Based Emergency Planning recognizes that some areas in Whatcom County have unique risks that may require this balanced approach, and that it is not possible to mitigate all effects of a hazardous event. Risk Based Emergency Planning views the sub segments of a community as an ecosystem comprised of the natural environment, existing and proposed land use policies, emergency detection, warning and action plans. (See Figure 1)

![Figure 1 - Risk Based Planning Methodology](image)

**Case 1: Risk Based Emergency Planning Applied to the Tsunami Threat in Coastal Whatcom County**

Tsunamis are a potential threat for our coastal communities here in Whatcom County, although arguably one of the lower threats. Winter Storms, Erosion, Severe Winds, and Tidal Overflow all occur regularly, have significant impact, and regularly cause damage to our coastal areas.

Beyond the Washington State Department of Natural Resources and National Oceanic and Atmospheric Administration Tsunami Hazard Map of the Bellingham Area⁶, there has been no published scientific

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information on the tsunami threat to Whatcom County. Even in the study one of the limitations is, "while the modeling can be a useful tool to guide evacuation planning, it is not of sufficient resolution to be useful for land-use planning."

Tsunamis are unquestionably a potential risk that must be planned for the coastal areas of Whatcom County. While there may be scientific debate about frequency, size, type, and other details related to the specific impacts, the Washington State Department of Natural Resources and National Oceanic and Atmospheric Administration Tsunami Hazard Map does suggest that the coastal areas of Whatcom County should plan for surge inundations of between three and five meters. There has been some additional modeling expected to be published in 2017 that suggests the planning for a surge in Whatcom County could be between five and seven meters. The Risk Based Emergency Planning approach is shown in Figure 2.

Figure 2 - Risk Based Planning for Tsunami's in Whatcom County

What we do know about tsunamis in Whatcom County is that:

- The risk of a tsunami is real based on the best available science;
- There is a potentially significant impact on our coastal communities;
- There is an international warning system for regional or distant tsunamis;

• The building code requires mitigation for structures built in tsunami threatened Coastal Communities;

When the risk of tsunamis is considered against what Whatcom County has done, the results are generally that Whatcom County is not prepared for a tsunami because it has:

• No comprehensive coastal warning system;
• No Coastal Community specific emergency response plans;
• Never exercised its Whatcom County Comprehensive Emergency Management Plan for a tsunami;
• Held minimal, if any, training with Whatcom County departments, local fire districts, or regional partners on a tsunami response in the Coastal Communities of Whatcom County.

If a formal audit were conducted on the state of readiness of Whatcom County following a tsunami today, the summary would probably say that while Whatcom County was aware of the risk and did undertake some building standards, but it did not have a comprehensive warning system, had not done Coastal Community Emergency Planning, and was generally unprepared as shown in Figure 3.

![Figure 3 - Possible Audit Outcome on Whatcom County Tsunami Preparedness](image)

The fact that the Whatcom County Sheriff's Office Division of Emergency Management has begun Risk Based Emergency Planning specifically for Tsunamis in 2017 would perhaps mitigate these shortcomings and be a positive factor in the final report since the work was underway.
Case 2: Jones Creek Landslide – A Risk Based Emergency Planning Success

Whatcom County has one of the largest landslide risk profiles in Washington State. The Jones Creek alluvial fan and associated deep-seated landslide in Acme is an example of effective Risk Based Emergency Planning. The 27-acre slide area in Jones Creek that is currently moving is not new or unique in the drainage. The town of Acme is built on the alluvial fan of Jones Creek, created by the outflow of previous slides over thousands of years. The Acme Elementary School is in the outflow area, as are most of the buildings (both commercial and residential) in the town of Acme. Jones Creek has had debris flows for thousands of years and will continue to experience them.

Because of the 2009 debris flow, as well as the work of Kerr Wood Leidal in 2003 on the slide, the community of Acme, along with Whatcom County, began a comprehensive look at how to live with the identified hazard. Whatcom County Public Works has engineered mitigation that should redirect potential flows away from Acme and is currently seeking funding to undertake additional work. Whatcom County Planning has incorporated the hazards into the process for new building permits. The Whatcom County Sheriff’s Office Division of Emergency Management has developed a response strategy in concert with Whatcom County Fire District #16, Whatcom County Public Works, Mt. Baker School District, and the Washington State Department of Natural Resources. The United States Geological Survey has placed a gauge on Jones Creek as a detection measure with funding from Whatcom County Public Works. Whatcom County Fire District #16 is responsible for early warning. The Whatcom County Sheriff’s Office Division of Emergency Management leads the ongoing review, update, exercising, and implementation of the emergency plan.

![Figure 4 - Jones Creek Risk Based Planning](image-url)
The Whatcom County Sheriff’s Office Division of Emergency Management has applied Risk Based Emergency Planning to Jones Creek; thus, Whatcom County is aware of the hazard and is addressing the hazard from all possible perspectives.

If a formal audit were conducted on the state of readiness of Whatcom County following a landslide at Jones Creek today, the summary would probably say that Whatcom County was aware of the hazard, had undertaken Risk Based Emergency Planning, incorporated the hazards into its land use planning, had a detection and warning system in place, had planned its response, and was undertaking mitigation activities. (See Figure 5.)

![Diagram](image)

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**Figure 5 – Possible Outcome on Whatcom Counties Preparedness for a Jones Creek Landslide**

**Case 3: Risk Based Emergency Planning Applied to the Volcanic and Lahar Threat in Whatcom County**

Mt. Baker is an active volcano and a threat for communities in Whatcom County, although, as with tsunamis, arguably one of the lower threats. Based on the Federal Emergency Management Agency RiskMap report, lahars are a clear risk in Whatcom County, "A lahar is a mudflow or debris flow from the slope of a volcano that originates from melted snow and ice. An eruption from Mount Baker could cause a lahar to follow the Nooksack River drainage and through portions of Ferndale. Mount Baker has erupted in the past and will erupt again. While the probability of an eruption is low, volcanic activity will cause massive destruction of property and probable loss of life. Volcanic activity that results in a debris flow could also cause flooding along the Nooksack River. There may be little warning for nearby populations to evacuate in the event of a lahar. An eruption could also trigger earthquakes and landslides (Whatcom County 2015)."
The United States Geological Survey, through the David A. Johnston Cascades Volcano Observatory, has studied and documented the potential hazards of Mt. Baker. These include Lava Flows, Pyroclastic Flows, Tephra, and Lahars. While all are potential threats to the general population of Whatcom County, Lahars present the largest threat to the Nooksack River communities, as shown in Figure 6.

Figure 6 - Lahar Hazard to Whatcom County

Lahars are a known documented hazard in Whatcom County and directly threaten communities along the Middle and North Forks of the Nooksack River, including the towns of Glacier, Maple Falls, and Deming. Lahars also could cause damage in the towns of Everson, Sumas, Lynden, and Ferndale. In the 2017 Federal Emergency Management Agency RiskMap Report, over 600 buildings in Ferndale are identified that may be at risk from Mt. Baker Lahars. According to the United States Geological Survey,

6800 years ago there was a lahar (not caused by a volcanic eruption but rather a landslide) that is described where: "deposits in the Middle Fork indicate that the debris flow was at least 100 m (325 ft) deep as it moved downvalley. Deposits from this event can be traced from the Middle Fork to the main Nooksack River and as far downstream as Deming. Beyond Deming, these deposits are buried by river sediments; however, on the basis of the behavior of similarly sized cohesive debris flows at Mount Rainier and Mount St. Helens, it is likely that this debris flow continued downstream to Puget Sound."

The lahar that occurred about 6800 years ago is not unique in the documented history of events from Mt. Baker. To ensure that the information on the hazards of Mt. Baker is well understood, the United States Geological Survey is in the process of updating the models for the potential effects of lahars from Mt. Baker. Other scientists have expressed their belief that the effects of lahars may be overstated, however, all agree that the threat does exist at least as far downstream as Deming.

Lahars are unquestionably a potential hazard with associated risks that must be planned for the Middle and North Fork of the Nooksack River drainages of Whatcom County. While there may be scientific debate about frequency, size, type, and other details related to the specific impacts, the United States Geological Survey, Washington State Department of Natural Resources, and both Whatcom County and Private Geologists do agree that Whatcom County should plan for lahars. In terms of the Risk Based Emergency Planning approach, this is shown in Figure 7.

![Figure 7 - Risk Based Planning for Lahar's in Whatcom County](image-url)
What we do know in Whatcom County about lahars is that:

- The hazards and risk of lahars is real based on the best available science;
- There is a potentially significant impact on our riverine and mountain communities;

When the risk of lahars is considered against what Whatcom County has done, the results are that Whatcom County is not prepared for a Lahar because it has:

- Very limited detection;
- No Warning System
- No Mountain or Riverine community specific emergency response plans;
- Never exercised its Whatcom County Comprehensive Emergency Management Plan for a lahar or eruption of Mt. Baker;
- Held minimal, if any, training with Whatcom County departments, local fire districts, or regional partners on a lahar response in Whatcom County.

If a formal audit were conducted on the state of readiness of Whatcom County following a lahar today, the summary would probably say that Whatcom County was aware of the hazards and potential risks, but due to a lack of detection equipment, warning systems, Risk Based Emergency Planning, clear land use requirements, and limited mitigation efforts, was woefully unprepared (Figure 8).

Figure 8 – Possible Audit Outcome on Whatcom County Lahar and Volcanic Preparedness

The fact that the Whatcom County Planning and Development Services has undertaken community based land use planning since at least 2005 and the Whatcom County Sheriff’s Office Division of
Emergency Management has begun planning for a 2018, lahar-based volcanic hazard full-scale exercise would perhaps mitigate for these short-comings and be a positive factor in the final report since the work was underway. It is critical for Whatcom County to demonstrate that it is aware of its hazards and potential risks and is addressing those risks from all possible perspectives.

Conclusion
Whatcom County needs to undertake Risk Based Emergency Planning for it volcanic and lahar hazards and associated risks as the density of population in these risk areas has grown, the nature of the responsibility of Whatcom County government to provide a response has grown, and the expectations of the residents and users of these areas are expecting more of government. Landslides, volcanic eruptions, lahars, and mud flows are realities of living in Whatcom County. You cannot eliminate all risk through land use planning alone and you cannot have comprehensive emergency planning that applies to every risk. We must live in harmony with our natural environment and build a resilient community that ensures that property rights, environmental protection, economic development, land use planning, and emergency management are balanced, that the risks are understood, reasonable strategies are employed, and communities are protected through Risk Based Emergency Planning.
Existing CAO Language

Article 3. Geologically Hazardous Areas

16.16.310 Designation, mapping and classification.
C. For purposes of this chapter, geologically hazardous areas shall include all of the following:
   4. Volcanic Hazard Areas. Volcanic hazard areas shall include areas subject to lava flows, pyroclastic flows, pyroclastic surges, mud flows, lahars, debris flows, debris avalanche, ash (tephra) clouds or ash (tephra) fall, lateral blast, ballistic debris, or flooding resulting from volcanic activity.

16.16.350 Standards – Volcanic hazard areas.
Development may be allowed in volcanic hazard areas; provided, that all reasonable measures have been taken to minimize risks and other adverse effects associated with volcanic hazards, and when the amount and degree of the alteration are limited to the minimum needed to accomplish the project purpose. For lahar inundation zones, the following activities shall be allowed as specified:
A. Developments that meet the reasonable use or variance standards and procedures as set forth in WCC 16.16.270.
B. Sewer collection facilities and other utilities that are located underground and not likely to cause harm to people or the environment if inundated by a lahar.
C. Critical facilities, as defined in subsection 1 of “critical facilities,” Article 8 of this chapter, of 50 or more persons may be permitted within lahar inundation zones subject to the conditional use permit requirements of Chapter 20.84 WCC; provided, that the following criteria are also met:
   1. The applicant demonstrates through submittal of a travel time analysis prepared by a qualified professional or local, state, or federal agency the amount of time that is anticipated for a lahar to reach the proposed project and evacuation route, together with a description of existing or proposed detection and notification systems to be installed and maintained by a public entity.
   2. The applicant has provided an emergency evacuation plan prepared by a qualified professional or local, state, or federal agency showing that the proposed project is located directly adjacent to a safety zone that is within walking distance in an amount of time less than the anticipated time that it takes a lahar to reach the site after the triggering of an alarm and notification.
D. Accessory structures not involving human occupancy shall be allowed.
E. Single-family developments and duplexes may be permitted in lahar hazard areas subject to WCC 16.16.320(A).

16.16.320 Geologically hazardous areas – General standards.
The following requirements shall apply to all activities in geologically hazardous areas:
A. Alterations shall be directed toward portions of parcels or parcels under contiguous ownership that are not subject to, or at risk from, geologic hazards and/or are outside any associated buffer established by this article.
16.16.800 Definitions.

"Critical facilities (essential facilities)" means buildings and other structures that are intended to remain operational in the event of extreme environmental loading from flood, wind, snow or earthquakes pursuant to the International Building Code (IBC), 2003 Edition. These include, but are not limited to:

1. Buildings and other structures that represent a substantial hazard to human life in the event of failure including, but not limited to:
   a. Buildings and other structures where more than 300 people congregate in one area;
   b. Buildings and other structures with elementary school, secondary school or day care facilities with an occupant load greater than 250;
   c. Buildings and other structures with an occupant load greater than 500 for colleges or adult education facilities;
   d. Health care facilities with an occupant load of 50 or more resident patients but not having surgery or emergency treatment facilities;
   e. Jails and detention facilities;
   f. Any other occupancy with an occupant load greater than 5,000;
   g. Power-generating stations, water treatment for potable water, wastewater treatment facilities and other public utility facilities not included in subsection 2 of this definition;
   h. Buildings and structures not included in subsection 2 of this definition containing sufficient quantities of toxic or explosive substances to be dangerous to the public if released.

2. Buildings and other structures designed as essential facilities including, but not limited to:
   a. Hospitals and other health care facilities having surgery or emergency treatment facilities;
   b. Fire, rescue, and police stations and emergency vehicle garages;
   c. Designated earthquake, hurricane or other emergency shelters;
   d. Designated emergency preparedness, communication, and operation centers and other facilities required for emergency response;
   e. Structures containing highly toxic materials as defined by IBC Section 307 where the quantity of the material exceeds the maximum allowable quantities of IBC Table 307.7(2);
   f. Aviation control towers, air traffic control centers and emergency air-craft hangars;
   g. Buildings and other structures having critical national defense functions;
   h. Water treatment facilities required to maintain water pressure for fire suppression;
   i. Power-generating stations and other public utility facilities required as emergency backup facilities for structures listed above.
Chapter 365-190 WAC Minimum Guidelines to Classify Agriculture, Forest, Mineral Lands, and Critical Areas

WAC 365-190-120 Geologically hazardous areas

(11) Geologically hazardous areas include areas susceptible to erosion, sliding, earthquake, or other geological events. They pose a threat to the health and safety of citizens when incompatible commercial, residential, or industrial development is sited in areas of significant hazard.

(12) Some geological hazards can be reduced or mitigated by engineering, design, or modified construction or mining practices so that risks to public health and safety are minimized. When technology cannot reduce risks to acceptable levels, building in geologically hazardous areas must be avoided. The distinction between avoidance and compensatory mitigation should be considered by counties and cities that do not currently classify geological hazards, as they develop their classification scheme.

(13) Areas that are susceptible to one or more of the following types of hazards shall be classified as a geologically hazardous area:

(a) Erosion hazard;
(b) Landslide hazard;
(c) Seismic hazard; or
(d) Areas subject to other geological events such as coal mine hazards and volcanic hazards including: Mass wasting, debris flows, rock falls, and differential settlement.

(14) Counties and cities should assess the risks and classify geologically hazardous areas as either:

(a) Known or suspected risk;
(b) No known risk; or
(c) Risk unknown – data are not available to determine the presence or absence of risk.

(15) Erosion hazard areas include areas likely to become unstable, such as bluffs, steep slopes, and areas with unconsolidated soils. Erosion hazard areas may also include coastal erosion areas: This information can be found in the Washington state coastal atlas available from the department of ecology. Counties and cities may consult with the United States Department of Agriculture Natural Resources Conservation Service for data to help identify erosion hazard areas.

(16) Landslide hazard areas include areas subject to landslides based on a combination of geologic, topographic, and hydrologic factors. They include any areas susceptible to landslide because of any combination of bedrock, soil, slope (gradient), slope aspect, structure, hydrology, or other factors, and include, at a minimum, the following:

(a) Areas of historic failures, such as:

(i) Those areas delineated by the United States Department of Agriculture Natural Resources Conservation Service as having a significant limitation for building site development;

(ii) Those coastal areas mapped as class u (unstable), uos (unstable old slides), and urs (unstable recent slides) in the department of ecology Washington coastal atlas; or
(iii) Areas designated as quaternary slumps, earthflows, mudflows, lahars, or landslides on maps published by the United States Geological Survey or Washington department of natural resources.

(b) Areas with all three of the following characteristics:
   (i) Slopes steeper than fifteen percent;
   (ii) Hillsides intersecting geologic contacts with a relatively permeable sediment overlying a relatively impermeable sediment or bedrock; and
   (iii) Springs or groundwater seepage.

(c) Areas that have shown movement during the Holocene epoch (from ten thousand years ago to the present) or which are underlain or covered by mass wastage debris of this epoch;

(d) Slopes that are parallel or subparallel to planes of weakness (such as bedding planes, joint systems, and fault planes) in subsurface materials;

(e) Slopes having gradients steeper than eighty percent subject to rockfall during seismic shaking;

(f) Areas potentially unstable as a result of rapid stream incision, stream bank erosion, and undercutting by wave action, including stream channel migration zones;

(g) Areas that show evidence of, or are at risk from snow avalanches;

(h) Areas located in a canyon or on an active alluvial fan, presently or potentially subject to inundation by debris flows or catastrophic flooding; and

(i) Any area with a slope of forty percent or steeper and with a vertical relief of ten or more feet except areas composed of bedrock. A slope is delineated by establishing its toe and top and measured by averaging the inclination over at least ten feet of vertical relief.

(17) Seismic hazard areas must include areas subject to severe risk of damage as a result of earthquake induced ground shaking, slope failure, settlement or subsidence, soil liquefaction, surface faulting, or tsunamis. Settlement and soil liquefaction conditions occur in areas underlain by cohesionless soils of low density, typically in association with a shallow groundwater table. One indicator of potential for future earthquake damage is a record of earthquake damage in the past. Ground shaking is the primary cause of earthquake damage in Washington, and ground settlement may occur with shaking. The strength of ground shaking is primarily affected by:

   (a) The magnitude of an earthquake;
   (b) The distance from the source of an earthquake;
   (c) The type or thickness of geologic materials at the surface; and
   (d) The type of subsurface geologic structure.

(18) Other geological hazard areas:

   (b) Volcanic hazard areas must include areas subject to pyroclastic flows, lava flows, debris avalanche, or inundation by debris flows, lahars, mudflows, or related flooding resulting from volcanic activity.

   (c) Mine hazard areas are those areas underlain by, adjacent to, or affected by mine workings such as adits, gangways, tunnels, drifts, or air shafts. Factors which should be considered include: Proximity to development, depth from ground surface to the mine working, and geologic material.
ARTICLE 3. GEOLOGICALLY HAZARDOUS AREAS

16.16.300 Purpose.
The purposes of this Article are to: minimize reduce risks to public health, human life and safety and reduce the risk of property damage by regulating development on or adjacent to geologically hazardous areas to structures and property from geologic hazards, to allow for natural geologic processes supportive of forming and maintaining fish and wildlife habitat, and to regulate and inform land use and planning decisions. It is recognized that the elimination of all risk from geologic hazards is not feasible to achieve but the purpose of this Article is to reduce the risk to acceptable levels.
A. Minimize risks to public health and safety and reduce the risk of property damage by regulating development on or adjacent to geologically hazardous areas.
B. Regulate land use so as to avoid the need for construction of flood control devices or channel modifications on alluvial fans and allow for natural hydrologic processes.
C. Protect aquatic habitats, wetlands, and fish and wildlife by avoiding or minimizing impacts that can result from landslides and erosion.
D. Maintain natural geological processes while protecting existing and new development.
E. Establish review procedures for development proposals in geologically hazardous areas.

16.16.310 Designation, mapping, and classification.
A. Designation. Lands determined to be landslide, seismic, alluvial fan, volcanic, erosion (including channel migration zones), tsunami, seiche and landslide generated waves, or mine hazard areas, are hereby designated as geologically hazardous areas. Geologically hazardous areas are areas susceptible to erosion, landslides, earthquakes, volcanic activity, and/or other geological processes and which pose a significant risk to people and property. Incompatible development in these geologic hazard areas can put human life, safety, health, and development at risk, alter geologic processes, adversely affect natural resources, threaten public health and safety, and put the development and surrounding developments and uses at risk.
B. **Mapping.** The approximate location and extent of known potential geologically hazardous areas are shown on maps maintained by the County. These maps are useful as a guide for project applicants and/or property owners, and County review of development proposals. However, they do not provide a conclusive or definitive indication of geologically hazardous area presence or extent. Potential geologically hazardous areas may exist that do not appear on the maps, and some potential geologically hazardous areas that appear on the maps may not meet the geologically hazardous areas designation criteria. Geologically hazardous areas are shown on the County’s critical areas maps. The County shall update the maps periodically as new hazard areas are identified and as new information becomes available and may require additional studies during the development review process to supplement and/or confirm the mapping. This chapter does not imply that land outside mapped geologically hazardous areas or uses permitted within such areas will be without risk. This chapter shall not create liability on the part of Whatcom County or any officer or employee thereof for any damages that result from reliance on this chapter or any administrative decision lawfully made hereunder.

C. **Classification.** For purposes of this chapter, geologically hazardous areas shall include all of the following:

1. **Landslide Hazard Areas.** Landslide hazard areas shall include areas potentially susceptible to landslides based on a combination of geologic, topographic, and hydrologic factors. They include any areas susceptible to mass movement due to any combination of bedrock, soil, slope (gradient), slope aspect, slope form (concave, convex, planar), geological structure, surface and subsurface hydrology, or other physical factors. Landslide hazard areas shall also include areas along which landslide material may be routed or which may be subject to deposition of landslide delivered materials. Potential landslide hazard areas include but are not limited to the following areas. Landslide hazard areas shall be further classified as follows:

   a. **Potential Landslide Hazard Areas.** Potential landslide hazard areas exhibit one or more of the following characteristics:

      i. Areas designated as quaternary slumps, earth-flows, mudflows, or landslides on maps published by the U.S. Geological Survey, Washington State Department of Natural Resources, or other reputable sources. Slopes between 15 and 35 percent that have a relatively permeable geologic unit overlying a relatively impermeable unit and have springs or groundwater seeps;

      ii. Areas with all three (3) of the following characteristics:
a. Slopes steeper than fifteen percent (15%);
b. Hillsides intersecting geologic contacts with a relatively permeable sediment overlying a relatively impermeable sediment or bedrock; and,
c. Springs or groundwater seepage;
   iii. Areas that have shown movement and/or are underlain or covered by mass wastage debris—Areas that are at risk of mass wasting due to seismic forces;
   iv. Potentially unstable slopes resulting from rapid river or stream incision, river or stream bank erosion or undercutting by wave erosion action. These include slopes exceeding 10 feet in height adjacent to streams, lakes and coastal shorelines and with more than a 35 percent gradient;
   v. Areas that have shown evidence of historic failure or instability, including, but not limited to, back-rotated benches on slopes; areas with structures that exhibit structural damage such as settling and racking of building foundations; and areas that have toppling, leaning, or bowed trees caused by ground surface movement;
   vi. Slopes having gradients steeper than eighty percent (80%) subject to rock fall during seismic shaking;
   vii. Areas that show past sloughing or calving of bluff sediments or rocks resulting in a steep slope that is poorly vegetated, resulting in a vertical or steep bluff-face slope that is poorly with little or no vegetation;
   viii. Slopes that are parallel or sub-parallel to planes of weakness (which may include but not be limited to bedding planes, soft clay layers, joint systems, such as bedding planes, joint systems, and fault planes) in subsurface materials;
    ix. Areas that show evidence of, or are at risk from snow avalanches—Slopes having gradients steeper than 80 percent subject to rock fall during seismic shaking;
   x. Deep-seated landslide areas characterized by one or more of the following features: scalloped ridge crests at the top of the slope, crescent shaped depressions, head scarp, side scarp, ponds or sag areas on mid slopes, benches and scarps on mid slope areas, hummocky ground, linear frac-
tures in the ground. These features may be evident in aerial images, topographic maps, LiDAR imagery or on the ground.

x. Areas below unstable slopes or that have been identified as landslide hazard areas that could be impacted by landslide run out.

xi. Areas above or adjacent to unstable slopes that could be impacted if the landslide area expands.

xii. Slopes exceeding 35 percent. Any area with a slope of forty percent (40%) or steeper and with a vertical relief of ten (10) or more feet except areas composed of competent bedrock or a properly engineered slopes designed and approved by a geotechnical engineer licensed in the state of Washington and experienced with the site.

xiii. Areas within which land use activities could affect the slope stability of a landslide hazard area, including but not limited to areas with subsurface hydrologic flow, groundwater recharge areas and surface water flow or:

xiv. Areas of historical landslide movement including coastal shoreline areas mapped by the Department of Ecology Coastal Zone Atlas or the Department of Natural Resources slope stability mapping as unstable ("U" or class 3), unstable old slides ("UOS" or class 4), or unstable recent slides ("URS" or class 5).

b. Active Landslide Hazard Areas. Active landslide hazard areas are areas that have been identified during a geological inspection as meeting the following criterion:

c. Areas that exhibit indicators noted in subsection (C)(1)(a) of this section that have been determined through geological assessment to be presently failing or very likely to fail in the near future.

2. Seismic Hazard Areas. Whatcom County is located in a seismically active area that will subject to ground motion during local and regional earthquakes. Seismic hazards and risk are partially addressed in the International Building Code (IBC) or International Residential Code (IRC). Additional seismic hazard areas for the purpose of this chapter include: Seismic hazard areas shall include areas subject to a severe risk of earthquake damage as a result of seismically induced ground shaking, differential settlement, slope failure, settlement, lateral spreading, mass wasting, surface faulting, or soil liquefaction.

Comment [TAC64]: The UBC should cover typical seismic hazards for structures based on the classification of the area. Liquefaction areas and surface faults are called out as separate areas due to the higher hazard at those locations.
3. Alluvial Fan Hazard Areas. Any area located at the base of a confined mountain channel and determined to be susceptible to clear-water flooding, debris-laden flows and floods, and erosional impacts shall be designated as an alluvial fan hazard area. Watershed hydrology, geology, slope conditions, topography, current and historic land uses, roads and road drainage, valley bottom conditions, and channel conditions upstream of an alluvial fan area are all fundamental to potential hazards and risks on alluvial fans. Alluvial fan hazard areas shall include those areas on alluvial fans potentially impacted by:
   a. Sediment laden flows (e.g., debris flows, and debris floods);
   b. Clear water floods;
   c. Have the potential to significantly damage or harm the health or welfare of the community. They include the area generally corresponding to the path of potential flooding. Stream channel changes, (including channel avulsion, incision, aggradation or lateral erosion and migration); and, sediment and debris deposition, or debris flow paths as determined by analysis of watershed hydrology and slope conditions, topography, valley bottom and channel conditions, potential for channel changes, and surface and subsurface geology.

4. Volcanic Hazard Areas. Volcanic hazard areas associated with Mount Baker shall include areas potentially subject to lava flows, pyroclastic flows, pyroclastic surges, mud flows, lahars, debris flows, debris avalanche, ash (tephra) clouds or ash (tephra) fall, lateral blast, ballistic debris, or flooding resulting from volcanic activity. Lahars, mud flows, and debris avalanches can also occur without volcanic activity. Volcanic hazard areas are those areas that have been affected, or have the potential to be affected, by pyroclastic flows, pyroclastic surges, lava flows, or ballistic projectiles, ash and tephra fall, volcanic gases, and volcanic landslides. Also included are areas that have been or have the potential to be affected by Case M, Case I, or...
Case II lahars, or by debris flows or sediment-laden events originating from the volcano or its associated deposits. In addition, volcanic hazards include secondary effects such as sedimentation and flooding due to the loss of flood conveyance as a result of river channel and flood plain aggradation. The implications of secondary effects may be observed at some distance from the initiating event, and may continue to impact affected drainages over many decades following the initiating event. Secondary effects may significantly alter existing stream and river channels, associated channel migration zones and floodplains due to stream and river bed aggradation and channel avulsion. Volcanic hazards include areas that have not been affected recently, but could be affected by future events. Volcanic hazard areas are classified into the following categories:

a. **Pyroclastic Flow Hazards Areas.** Areas that could be affected by pyroclastic flows, pyroclastic surges, lava flows, and ballistic projectiles in future eruptions. During any single eruption some drainages may be unaffected by any of these phenomena, while other drainages are affected by some or all phenomena. Recurrence interval is not known.

b. **Ash/Tephra fall Hazard Areas.** The location of ash/tephra fall hazards at Mt. Baker is predominantly controlled by the prevailing, westerly winds observed on the west coast of North America. However, easterly winds do occur in the region and direct ash/tephra fall impacts to Whatcom County population centers are certainly a possibility. Health hazards, power outages, negative impacts to machinery and aircraft, structural damage (e.g. roof collapse) and extensive disruption of daily activities are all potential hazards.

c. **Lateral Blast Hazard Areas.** Lateral blast hazards result from low-angle, explosive volcanic eruptions that emanate from the flank of a volcano. The occurrence of a lateral blast is largely unpredictable, both with respect to timing and direction, and does not appear to be a common feature of eruptive activity at Mt. Baker, or at other volcanoes globally. Extensive destruction is likely within the lateral blast zone, and mitigation is generally considered unachievable.

d. **Volcanic Landslide Hazard Areas.** Landslides are common on volcanoes due to their relative height, steepness, and weakness in both the underlying bedrock and the volcanic deposits due to magma movement and chemical weathering. Landslides size is highly variable depending on site conditions and
type, but may achieve high velocity and momentum which can carry a landslide across valleys and ridge-lines. Given the range of possible landslide types and sizes, specific hazards, risk zones and recurrence interval have not been delineated at Mount Baker. Volcanic landslide hazards are associated with lahar hazards as they pose the potential to generate small to large-scale cohesive lahars.

e. Lahar Hazard Areas.

i. Case M Lahar Hazard Areas. Areas that could be affected by cohesive lahars that originate as enormous avalanches of weak, chemically-altered rock from the volcano. Case M lahars can occur with or without eruptive activity. A single, post-glacial, Case M Lahar deposit is known to have traveled down the Middle Fork Nooksack River, and is postulated to have continued down the main stem of the Nooksack River, eventually reaching Bellingham Bay and to have also flowed north to Canada along the pre-historic path of the Nooksack River. Case M Lahars are thus interpreted to pose a threat to the Sumas River drainage due to the potential for bed aggradation and channel avulsion to overtop the low-lying drainage divide that exists between the Nooksack and Sumas River drainages. Case M Lahars are considered high consequence, low-probability events.

ii. Case I Lahar Hazard Areas. Areas that could be affected by relatively large non-cohesive lahars, which most commonly are caused by the melting of snow and glacier ice by magmatic activity and associated processes, but which can also have a non-eruptive origin. The average recurrence interval for Case I Lahars, based on deposits identified along the flanks of Mount Baker, is postulated to be 500 years, or greater. However, renewed magmatic activity at Mount Baker would be indicative of greatly increased potential for Case I Lahar generation; this may reduce the recurrence interval to approximate that of Case II Lahars.

iii. Case II Lahar Hazard Areas. Areas that could be affected by moderately large debris avalanches or small cohesive lahars, or other types of debris flow, generated on the east flank of Mount Baker at Sherman Crater or the upper Avalanche Gorge. Case II Lahars impact the Baker Laker basin and drainage, and are considered correlative to Case I Lahars that may impact the primary drainages on the west and north of Mount Baker, but with increased frequency and comparable volume. The postulated recurrence interval for Case II Lahars at Mount Baker is less than 100 years.
2-4. **Erosion Hazard Areas.** Erosion hazard areas shall include:

a. Channel migration zones, also known as riverine erosion areas, are defined as the areas along a river or stream within which the channel(s) can be reasonably predicted to migrate over time. This is a result of natural and normally occurring geomorphic, hydrological, and related processes when considered with the characteristics of the river or stream and its surroundings, and in consideration of river and stream management plans. Channel migration hazard areas shall include: potential channel migration, channel avulsion, bank erosion, and stability of slopes along the river or stream; Surface erosion areas, which are slopes greater than 15 percent with soils identified by the Natural Resources Conservation Service as having a “severe” or “very severe” rill and inter-rill erosion hazard because of natural characteristics, including vegetative cover, soil texture, slope, gradient, and rainfall patterns, or human-induced changes to natural characteristics; and

b. Coastal and riverine erosion areas that are subject to impacts from lateral erosion-related to moving water such as river channel migration and shoreline retreat from wind, wave, and tidal erosion.

This includes the channel migration zone (CMZ) and the anticipated slope/bank failures and landward retreat resulting from erosion and erosion along other features that concentrate surface water flows; provided, that channel migration zones apply only to those watercourses where detailed CMZ studies have been completed. Areas that are identified as potential channel migration hazards based on sound scientific evidence, but which are pending further study, may be designated by the County Council as interim channel migration zones until such studies are complete. Additional CMZs may be regulated as erosion hazard areas as new information becomes available, accepted and adopted by Whatcom County.

5. **Tsunami and Seiche Hazard Areas.** Tsunami and seiche hazard areas shall include coastal areas and lake shoreline areas susceptible to flooding, inundation, debris impact, and/or mass wasting as the result of a tsunami, coastal or inland wave action generated by seismic events.

6. **Seiche and Landslide Generated Wave Hazard Areas.** Seiche and landslide generated wave hazard areas include lake and marine shoreline areas susceptible to flooding, inundation, debris impact, and/or
4-7. **Mine Hazard Areas.** Mine hazard areas shall include those lands in proximity to abandoned coal mines and associated underground mine workings where mine workings are less than 200 feet below ground level. Mine workings include adits (mine entrances), gangways (haulage tunnels), rooms and chutes (large voids), drifts (water-level tunnels), pillars (coal-rock left for support) and air shafts. Mine hazards include subsidence, which is the uneven downward movement of the ground surface caused by underground workings caving in; sink holes; contamination of ground and surface water from tailings and underground workings; concentrations of lethal or noxious gases; and underground mine fires.

**16.16.320 Geologically hazardous areas – General standards.**

†In addition to the applicable general protective measures found in WWC 16.16.265, the following requirements shall apply to all activities in geologically hazardous areas:

A. **Generally.** New developments shall be located and/or engineered and/or constructed to reduce risks to life, health, and safety, and buildings, and not increase potential for landslides or erosion that could impact either other properties, public resources, or other critical areas. The County may impose conditions on development activity in a geologically hazardous area as needed to: and occupants from the hazard, and to avoid or compensate for impacts to other critical areas such as wetlands and habitat conservation areas.

1. Protect human life and safety; and
2. Minimize the potential for property damage related to seismic events, erosion and/or landslides;
3. Minimize the need for stream or river bank or coastal bluff stabilization in the future;
4. Reduce public liabilities for damages associated with geologic hazards,
5. Protect slope stability and minimize erosion, seismic, and/or landslide hazard risks;
6. Maintain natural sediment and erosion processes that are integral to the health and sustainability of freshwater and marine ecosystems as well as minimizing impacts to stream, river, and coastal processes such as channel infill, channel migration, sediment transport, or flooding;

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Comment [CAC70]: Split into 2 subsections.
Comment [TAC71]: Have rearranged and added new standards to this section making what's required more clear, though policies are not changing.
B. **Impact Avoidance.** Impact avoidance measures shall include, but not be limited to, locating the use/development outside of the hazard area, reducing the number, size or scale of buildings, driveways and other features; altering the configuration or layout of the proposed development; implementing special engineering methods for construction, drainage, runoff management etc.; foregoing construction of accessory structures; preserving native vegetation; and other feasible protective measures as determined by an alternatives analysis. For some geologic hazards, impact avoidance may mean no development will be permitted on a property.

C. **Location of Alterations.** New development shall be directed toward portions of a parcel or parcels under contiguous ownership that are not subject to, or at risk from, geological hazards and/or are outside any setback or buffer established by this Chapter.

D. **Critical Facilities Prohibited.** Critical facilities as defined in WCC 16.16.800 shall not be constructed or located in geologically hazardous areas if there is a feasible alternative location outside geologically hazardous areas that would serve the intended service population. If allowed, the critical facility shall be designed and operated to minimize the risk and danger to public health and safety to the maximum extent practicable.

E. **Review by Qualified Professional.** A qualified professional geologist or other qualified professional geotechnical engineer licensed in the State of Washington, shall review projects development proposals that occur in potentially geologically hazardous areas to ensure that they are properly designed and constructed as provided for in WCC 16.16.225 determine the potential risk. If development takes place within an identified geologically hazardous area requiring design or structural elements to mitigate the hazard, the design, mitigation shall be approved designed by a qualified professional geotechnical engineer licensed in the State of Washington with expertise in mitigation of geological hazards.

F. **Life of Structure.** Proposed development shall be sited far enough from erosion and landslide hazard areas to ensure at least one hundred (100) years of useful life for the proposed structure(s) or infrastructure. The location should be determined by a geologist or other qualified professional geologist, licensed in the State of Washington and be based on site specific evaluation of the landslide and/or erosion hazard.
G. Remodels and Additions. Any proposed remodel or addition to an existing permitted or non-conforming structure that exceeds a valuation of greater than 50% percent of the fair market value shall be required to ensure that the entire structure is improved in accordance with all Article 3 requirements.

A. Alterations shall be directed toward portions of parcels or parcels under contiguous ownership that are not subject to, or at risk from, geologic hazards and/or are outside any associated buffer established by this article.

B-H. Agricultural Activities. Agricultural activities \textit{uses and structures} may be allowed within geologically hazardous areas without a conservation farm plan \textit{as long as the activity does not increase the potential for landslides, channel migration, or alluvial fan hazards on or off the site}; except, that a conservation farm plan shall be required for agricultural activities within landslide hazard areas and associated buffers \textit{landslide hazard area setbacks (WCC 16.16.325(C))}.

C-L. Land Subdivision. Land that is located wholly within a landslide hazard area, riverine or coastal erosion hazard area, alluvial fan hazard area, lahar hazard area, or mine hazard area or its buffer may not be subdivided to create buildable parcels entirely within the hazardous area. Land that is located partially within a hazard area or its buffer \textit{setback} may be divided provided that each resulting lot has sufficient buildable area outside of the hazardous area with provision for drainage, erosion control and related features that will not adversely affect the hazard area or its buffer\textit{setback}.

D. Surface erosion hazards will be regulated under WCC 20.80.730, Land clearing.

16.16.325 Landslide Hazard Areas - Standards - Landslide hazard areas.

A. General Standards. The following activities may be allowed in active landslide hazard areas when all reasonable measures have been taken to minimize risks and other adverse effects associated with landslide hazards, and when the amount and degree of the alteration are limited to the minimum needed to accomplish the project purpose:

1. Developments that \textit{will have no threat to the health or safety of people and will not increase potential for landslides on or off the site and} meet the reasonable use standards as set forth in WCC 16.16.270.
2. Utility lines and pipes that are above-ground, properly anchored and/or designed so that they will continue to function in the event of a slope failure or movement of the underlying materials and will not increase the risk or consequences of static or seismic slope instability or result in a risk of mass wasting. Such utility lines may be permitted only when the applicant demonstrates that no other feasible alternative is available to serve the affected population.

3. Access roads and trails that are engineered and built to standards that avoid the need for major repair or reconstruction beyond that which would be required in non-hazard areas. Access roads and trails may be permitted only if the applicant demonstrates that no other feasible alternative exists, including through the provisions of Chapter 8.24 RCW. If such access through critical areas is granted, exceptions or deviations from technical standards for width or other dimensions and specific construction standards to minimize impacts, including drainage and drainage maintenance plans, may be required.

4. Stormwater conveyance through a properly designed stormwater pipe when no other stormwater conveyance alternative is available. The pipe shall be located above-ground and be properly anchored and/or designed so that it will continue to function in the event of a slope failure or movement of the underlying materials and will not increase the risk or consequences of static or seismic slope instability or result in increased risk of mass wasting activity.

B. 16.16.330 Standards—Landslide hazard Management Zone Standards. Alteration may be allowed within 300 feet of an active landslide hazard area when the technical administrator determines that the following standards are met:

1. The proposed alteration includes all appropriate measures to avoid, eliminate, reduce, or otherwise mitigate risks to health and safety.

2. The proposed alteration is located outside of an active landslide hazard area and any required setback buffer, as set forth in WCC 16.16.335.

3. The development will not decrease slope stability on adjacent properties. The development shall not increase the risk or frequency of landslide occurrences.

4. The removal and disturbance of vegetation, clearing, or grading shall be limited to the area of the approved development.
5. The development is outside of the area of potential upslope or downslope surface movement or potential deposition in the event of a slope failure.

6. The development will not increase or concentrate surface water discharge or sedimentation to adjacent properties beyond predevelopment conditions.

7. The proposed alterations will not adversely impact other critical areas.

8. Structures and improvements shall minimize alterations to the slope contour, and shall be designed to minimize impervious lot coverage unless such alterations or impervious surfaces are needed to maintain slope stability.

C. 16.16.335 Standards—Landslide Hazard Area Setbacks/buffers. In addition to the applicable general protective measures found in WWC 16.16.265, the technical administrator shall have the authority to require setbacks from the edges of any identified active landslide hazard area in accordance with the following:

1. The size of the setback buffer shall be based on the findings of a qualified professional and shall protect critical areas and minimize the risk of property damage, death, or injury resulting from landslides both on and off the property caused in whole or part by the development.

2. The setback buffer shall include consideration of the uphill hydrologic contribution area to the potential landslide area and/or the area subject to the potential for mass movement, and the downhill area subject to potential deposition.

3. The setback buffer shall include consideration of vegetation on the potential landslide area and in areas above and below the potential landslide area woody vegetation adequate to stabilize the soil and prevent soil movement. If the designated buffer area lacks adequate woody vegetation, the technical administrator shall have the authority to require vegetation or other measures to protect or improve slope stability and shall have the authority to require a mitigation plan developed in accordance with 16.16.260, and a conservation easement in accordance with WCC 16.16.265(C) to ensure appropriate vegetation improvements are installed, maintained, and preserved.

4. Developments on sites that are directly adjacent to a wetland, marine shoreline, or other habitat conservation area as defined in Article 7 of this chapter may be subject to additional buffer requirements and standards as set forth in the subsequent articles of this chapter.
16.16.340 Standards—Seismic Hazard Areas—Standards.

Development may be allowed in seismic hazard areas when all of the following apply:

A. Structures in seismic hazard areas shall conform to applicable analysis and design criteria of the International Building Code.

B. Public roads, bridges, utilities, and trails shall be allowed when there are no feasible alternative locations and geotechnical analysis and design are provided that ensure the roadway, bridge, and utility structures and facilities will not be susceptible to damage from seismically induced ground deformation. Mitigation measures shall be designed in accordance with the most recent version of the American Association of State Highway and Transportation Officials (AASHTO) Manual or other appropriate document.


The following activities may be allowed in alluvial fan hazard areas when all reasonable measures have been taken to minimize risks and other adverse effects associated with alluvial fan hazards, and when the amount and degree of alteration are limited to the minimum needed to accomplish the project purpose, and when the applicable protective measures found in WCC 16.16.265 have been applied:

A. Developments that will have no threat to the health or safety of people and will not increase the risks of alluvial fan hazards on or off the site and meet the reasonable use standards as set forth in WCC 16.16.270.

B. Roads, utilities, bridges, and other infrastructure when located and designed to prevent adverse impacts on critical areas and avoid the need for channel dredging or diking or other maintenance activities that have the potential to substantially degrade river and stream functions.

C. Permanent residential structures and commercial developments shall be allowed in alluvial fan hazard areas only if the fan has undergone a County-approved study to assess potential hazards, determine risks, and identify mitigation measures and is deemed suitable for development. The technical administrator shall make this determination based on a detailed assessment by a qualified professional that identifies the risks associated with a 500-year return period debris flow or the maximum credible event that could impact the alluvial fan.

D. Accessory structures not involving human occupancy shall be allowed as long as the structure will not increase the alluvial fan hazards on or off the site.
16.16.350 Standards—Volcanic hazard areas—Standards.

Development may be allowed in volcanic hazard areas, provided, that all reasonable measures have been taken to minimize risks and other adverse effects associated with volcanic hazards, and when the amount and degree of the alteration are limited to the minimum needed to accomplish the project purpose, and when the applicable general protective measures found in WWC 16.16.265 and the standards of 16.16.320 have been applied.

A. For lahar inundation zones, the following activities shall be allowed as specified under the conditions specified:

1. Developments permitted and administratively approved uses allowed in accordance with the zoning that will have no threat to the health or safety of people and that are designed to minimize the risk and not increase the risks of volcanic hazards at adjacent and downstream properties, provided that there are no more than six employees on site on or off the site and meet the reasonable use or variance standards and procedures as set forth in WCC 16.16.270. Sewer collection facilities and other utilities that are located underground and not likely to cause harm to people or the environment if inundated by a lahar.

2. Critical facilities, as defined in subsection 1 of "critical facilities," Article 8 of this chapter, of 50 or more fewer persons may be permitted within lahar inundation zones subject to the conditional use permit requirements of Chapter 20.84 WCC; provided, that the following criteria are also met:
   i. The applicant demonstrates through submittal of a travel time analysis prepared by a qualified professional or local, state, or federal agency the amount of time that is anticipated for a lahar to reach the proposed project and evacuation route, together with a description of existing or proposed detection and notification systems to be installed and maintained by a public entity.
   ii. The applicant has provided an emergency evacuation plan prepared by a qualified professional or local, state, or federal agency showing that the proposed project is located near, directly adjacent to a safety zone that is within walking distance in an amount of time less than the anticipated time that it takes a lahar to reach the site after the triggering of an alarm and notification.

3. Accessory structures not involving human occupancy shall be allowed.
4. Single family developments and duplexes may be permitted in lahar hazard areas subject to WCC 16.16.320(A).

A. Ash/Tephra Fall and Lateral Blast Hazard Areas. Development may be allowed in these areas; provided, that all reasonable measures have been taken to minimize risks and adverse effects, and when the amount and degree of the alteration is limited to the minimum needed to accomplish the project purpose, and when the applicable general protective measures found in WWC 16.16.265 and the standards of 16.16.320 have been applied.

B. Lahar Hazard Zones. Generally speaking, the severity of lahar hazards decrease with distance from the volcanic source, although consequences may increase due to greater development density farther from the mountain. Distance also allows additional time to implement evacuation procedures and other emergency preparedness measures. Some municipalities have tailored their volcanic hazard codes based on the ability to evacuate people from within a lahar hazard area, on distance from the source event (i.e., those areas closest to the event will have less time to evacuate than those areas farther away from the source of an event), and on the amount of time necessary to conduct evacuation following public notification (such as via an acoustical flow monitoring alarm system) that a lahar has occurred. In Whatcom County a lahar warning system does not exist, nor do detailed, peer-reviewed lahar inundation and velocity models or travel time analyses. For these reasons the following Lahar Hazard Zones, which also apply to pyroclastic flow hazards, have been devised for the purpose of enacting prudent development regulations. These Lahar Hazard Zones, also graphically shown on the County’s Geologic Hazards Map, are generally based on the assumption that detrimental impacts will decrease with distance from the source event, as well as in consideration of regional topography, published lahar recurrence intervals, and, to a lesser extent, conservative lahar travel-time estimates:

1. Lahar Hazard Zone A – Includes all areas immediately surrounding the base of Mount Baker that may be impacted by Case M and Case I Lahars as well as those areas potentially impacted by pyroclastic and lava flows. Also includes all areas impacted by Case II Lahars on the east side of the Mount Baker including the area immediately surrounding Baker Laker and Lake Shannon that may be impacted by debris flow-generated tsunamis or by the subsequent seiche. Lateral Blast hazards, while destructive, are considered to be rare events and are therefore regulated pursuant to WCC 16.16.350(A).
2. **Lahar Hazard Zone B** — Includes all areas impacted by Case M and Case I Lahars that are located within 1 hour travel time distance from the source event. Effectively this includes all areas upstream of the State Route 542 Bridge over the Nooksack River at Nugent’s Corner, extending up the Middle Fork Nooksack River to the Mosquito Lake Road Bridge and up the North Fork Nooksack River to, and including, the community of Glacier. Areas upstream of these locations are considered in Volcanic Hazard Zone A.

3. **Lahar Hazard Zone C** — Includes all areas that may be impacted by Case M and Case I Lahars downstream of the State Route 542 Bridge over the Nooksack River at Nugent’s Corner and extending downstream to Everson, as well as within the Sumas River Drainage for a correlative distance approximated by a 1.5 hour travel time distance from the source event.

4. **Lahar Hazard Zone D** — Includes all areas that may be impacted by Case M and Case I Lahars downstream of Everson and extending to Bellingham Bay, as well as the area beyond the 1.5 hour travel time distance in the Sumas Drainage and extending to the Canadian Border. Recognizing that hazards associated with a lahar, such as large volumes of debris and sediment, may differ substantially from that which is present during a clear-water flood, for the purposes of regulating development, the extent and severity of hazards in Zone D are considered commensurate with that of a 500-year flood, and development in these areas shall meet the requirements of Article 4, Frequently Flooded Areas.

C. **Lahar Hazard Zone Regulations.** The use regulations shown in Table 1 shall apply within the indicated Lahar Hazard Zones.

D. **Technical Assessment and Review.** In zones A & B, any project proposing a maximum occupant load greater than 25 shall be required to have a volcanic hazards assessment prepared by a qualified professional that includes recommendations for siting of improvements intending to avoid volcanic hazards and a volcanic hazard management and evacuation plan. In addition, the technical administrator shall have the authority to require such assessment for any project deemed subject to an elevated risk from volcanic hazards.
### Table 1. Volcanic Hazard Zone Standards

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<th>Facility/Occupancy List</th>
<th>Use Allowances and Maximum Occupancies&lt;sup&gt;2&lt;/sup&gt;</th>
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<td>Essential Facilities</td>
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<td>Hazardous Facilities</td>
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<tr>
<td>Covered Assemblies</td>
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| All other uses allowed by Title 20, Zoning | • Within the Glacier LAMIRD – All other uses allowed by Title 20, with a maximum occupancy of 25.  
• Outside the Glacier LAMIRD – Limited to single-family residences and their accessory structures | All other uses allowed by Title 20, with a maximum occupancy of 100. | Allowed, subject to underlying zoning, but shall meet the requirements of 16.16.260 and 265. | Allowed, subject to underlying zoning |

<sup>1</sup> See Article 9 for definitions of these facilities.

<sup>2</sup> Maximum occupancies listed here may be increased per WCC 16.16.350(D).
16.16.355 Standards—Erosion hazard areas—Standards.

A. General Standards. Development shall be allowed in erosion hazard areas; provided, that all reasonable measures have been taken to minimize risks and other adverse effects associated with erosion hazards, and when the amount and degree of the alteration are limited to the minimum needed to accomplish the project purpose. For coastal, and riverine, and stream erosion hazard areas, the following activities shall be allowed when the applicable general protective measures found in WCC 16.16.265 have been applied and as follows:

A-1. Developments that will have no threat to the health or safety of people and will not increase the risks of alluvial fan hazards on or off the site and meet the reasonable use or variance standards as set forth in WCC 16.16.270.

A-2. Discharge of surface water drainage into a coastal or riverine erosion hazard area, provided there are no other alternatives for discharge, and the drainage is collected upland of the top of the active erosion hazard area and directed downhill in an appropriately designed stormwater pipe that includes an energy dissipating device at the base of the hazard area. The pipe shall be located on the surface of the ground and be properly anchored so that it will continue to function under erosion conditions and not create or contribute to adverse effects on downslope critical areas. The number of pipes should be minimized along the slope frontage.

A-3. Stormwater retention and detention systems, such as dry wells and infiltration systems utilizing using buried pipe or French drains, provided they are located outside the identified channel migration zone, designed by a qualified professional and shall not affect the stability of the site.

A-4. Utility lines when no feasible conveyance alternative is available. The line shall be located above ground and properly anchored and/or designed so that it will not preclude or interfere with channel migration and will continue to function under erosion conditions; provided, that utility lines may be located within channel migration zones if they are buried below the scour depth for the entire width of the CMZ.

A-5. Public roads, bridges, and trails when no feasible alternative alignment is available. Facilities shall be designed such that the roadway prism and/or bridge structure will not be susceptible to damage from active erosion.
Access to private development sites may be allowed to provide access to portions of the site that are not critical areas, if there are no feasible alternative alignments. Alternative access shall be pursued to the maximum extent feasible, including through the provisions of Chapter 8.24 RCW. Exceptions or deviations from technical standards for width or other dimensions, and specific construction standards to minimize impacts may be specified.

Stream bank stabilization and shoreline protection may be permitted subject to all of the following standards:

1. Shoreline protection measures located within coastal or riverine erosion areas shall use soft armoring techniques (bioengineering erosion control measures as identified by the State Department of Ecology and the Department of Fish and Wildlife guidance) unless the applicant provides a geotechnical analysis demonstrating that bioengineering approaches will not adequately protect the property.

2. The armoring shall not increase erosion on adjacent properties and shall not eliminate or reduce sediment supply from feeder bluffs.

3. The armoring will not adversely affect critical areas including habitat conservation areas or mitigation will be provided to compensate for adverse effects where avoidance is not feasible.

4. The proposal shall comply with WCC Title 23.

5. Hard bank armoring is discouraged and may occur only when the property contains an existing permanent structure(s) that is in danger from shoreline erosion caused by wave action or riverine processes and not erosion caused by upland conditions, such as the alteration of natural vegetation or drainage, and the armoring shall not increase erosion on adjacent properties and shall not eliminate or reduce sediment supply.

6. The erosion is not being caused by upland conditions, such as the removal of vegetation or human alteration of existing drainage.

7. Nonstructural measures, such as placing or relocating the development further from the shoreline, planting vegetation, or installing on-site drainage improvements, are not feasible or not sufficient.

8. New residences shall be located outside identified channel migration hazard areas or marine shoreline retreat areas. Accessory structures not involving human occupancy with a footprint equal to or
less than 2,500 square feet shall be allowed; provided, that they are located at the outer edge of the migration zone as defined by this chapter; and provided, that the technical administrator may allow larger accessory structures where mitigating measures are feasible and provided for by the applicant.

§ 6. New public flood protection measures and expansion of existing ones may be permitted, subject to WCC Title 17, Article 4 of this chapter, and a state hydraulic project approval; provided, that bioengineering or soft armor techniques shall be used where feasible. Hard bank armoring may occur only in situations where soft approaches do not provide adequate protection.

§ B. 16.16.360 Standards — Erosion Hazard Area Setbacks buffers. In addition to the applicable general protective measures found in WCC 16.16.265, the technical administrator shall have the authority to require setbacks buffers from the edges of any coastal stream, or riverine hazard erosion area in accordance with the following:

A. 1. The size of the setback buffer shall be based on the findings of a qualified professional and shall protect critical areas and processes and minimize the risk of property damage, death or injury resulting from erosion caused in whole or in part by the development or that the development may be subject to over the life of the development, typically identified as 100 years.

B. 2. The buffer setback shall include the uphill area subject to potential erosion, the downhill area subject to potential deposition, and any area subject to landslides as a result of erosion.

C. 3. The setback buffer shall include woody vegetation adequate to stabilize the soil and prevent soil movement. If the designated setback buffer area lacks adequate woody vegetation, the technical administrator shall have the authority to require vegetation enhancement or other measures to improve slope stability.

D. 4. Developments on sites that are directly adjacent to a wetland or marine shoreline or other habitat conservation area as defined in Article 7 of this chapter may be subject to additional setback buffer requirements and standards as set forth in the subsequent articles of this chapter.
16.16.365 Standards—Tsunami and Seiche Hazard Areas—Standards.
The standards of WCC 16.16.320 and 16.16.350 shall apply. For development within tsunami hazard areas the proposed development shall be designed to provide protection for the tsunami hazard that meets the projected hazard on the Department of Natural Resources Tsunami Inundation Maps. For other low lying coastal areas not included on the inundation maps, development shall be designed to provide protection for debris impact and an inundation as determined by current Department of Natural Resource modeling of 10 feet above mean high tide unless other measures can be shown to provide equal or greater protection.

16.16.367 Seiche and Landslide Generated Wave Hazard Areas—Standards.
Standards for seiche and landslide generated wave hazards will only apply if the hazard area is mapped by the United States Geologic Survey or the Department of Natural Resources, Division of Geology and Earth Resources or other credible source approved by Whatcom County. If a mapped hazard is present, the standards of WCC 16.16.320 and 16.16.350 shall apply. For residential development within a mapped seiche and landslide generated wave hazard areas, the proposed development should be designed to withstand the mapped hazard. If the risk of the event is less than 0.1% on a yearly basis, development standards may not be required, but notice on property title will be required.

The standards of WCC 16.16.320 and 16.16.350(D) shall apply.

16.16.375 Review and reporting requirements.
A. When County critical area maps or other sources of credible information indicate that a site proposed for development or alteration is, or may be, located within an active or potential geologically hazardous area, the technical administrator shall have the authority to require the submittal of a geological assessment report.

B. A geologic hazards assessment report for a geologically hazardous area shall include a field investigation and contain an assessment of whether or not the type of potential geologic hazard identified is present or not present and if development of the site will increase the potential for landslides or erosion on or off the site. Geology hazard assessment reports shall be prepared, stamped, and signed by a qualified professional. The report...
should be an investigation process to evaluate the geologic characteristics of the subject property and adjacent areas. The geological assessment shall include field investigation and may include the analysis of historical aerial photographs, review of public records and documentation, and interviews with adjacent property owners. The report shall include the following: provided that the technical administrator may determine that any portion of these requirements is unnecessary given the scope and/or scale of the proposed development:

1. Be appropriate for the scale and scope of the project;
2. Include a discussion of all geologically hazardous areas on the site and any geologically hazardous areas off site potentially impacted by or which could impact the proposed project. If the affected area extends beyond the subject property, the geology hazard assessment may utilize existing data sources pertaining to that area;
3. Clearly state that the proposed project will not decrease slope stability or pose an unreasonable threat to persons or property either on or off site and provide a rationale as to those conclusions based on geologic conditions and interpretations specific to the project;
4. Provide adequate information to determine compliance with the requirements of this article;
5. Generally follow the guidelines set forth in the Washington State Department of Licensing Guidelines for Preparing Engineering Geology Reports in Washington (2006). In some cases, such as when it is determined that no landslide or erosion risk is present, a full report may not be necessary to determine compliance with this article, and in those cases a stamped letter or abbreviated report may be provided.
6. If a landslide or erosion hazard is identified, provide minimum setback recommendations for avoiding the landslide or erosion hazard, recommendations on stormwater management and vegetation management and plantings, other recommendations for site development so that the frequency or magnitude of landsliding or erosion on or off the site is not altered, and recommendations are consistent with this article.

1. A description of which areas on the site, surrounding areas that influence or could be influenced by the site, or areas within 300 feet of the site meet the criteria for geologically hazardous areas as set forth in WCC 16.16.330.
2. A scaled site plan showing:
a. The type and extent of geologic hazard areas, any other critical areas, and buffers on, adjacent to, or that are likely to impact or influence the proposal or be influenced by the proposal, including properties and critical areas upslope and downslope of the subject site;
b. The location of existing and proposed structures, fill, access roads, storage of materials, and drainage facilities, with dimensions indicating distances to the floodplain;
c. The existing site topography, preferably accurate to within two-foot contours; and
d. Clearing limits.

3. A description of the site features, including surface and subsurface geology, evidence of past or potential channel migration, hydrology, soils, and vegetation found in the project area and in all hazard areas addressed in the report. This may include surface exploration data such as borings, drill holes, test pits, wells, geologic reports, and other relevant reports or site investigations that may be useful in making conclusions or recommendations about the site under investigation.

4. A description of the processes affecting the property or affected by development of the property, including soil erosion, deposition, or accretion, and evidence of past channel migration.

5. A description of the vulnerability of the site to seismic and other geologic processes and a description of any potential hazards that could be created or exacerbated as a result of site development.

6. A description and analysis of the risk associated with development prohibitions and buffers associated with this chapter and the level of risk associated with alternative proposals for development within or with less setback from the area of geological hazard.

7. A description and analysis of the risk associated with the measures proposed to mitigate the hazards, ensure public safety, and protect property and other critical areas.

8. For projects in or affecting landslide hazard areas, the report shall also include:
   a. Assessments and conclusions regarding slope stability for both the existing and developed conditions, including the potential types of landslide failure mechanisms (e.g., debris flow, rotational slump, translational slip, etc.) that may affect the site. The stability evaluation shall also consider dynamic earthquake loading, and shall use a minimum horizontal acceleration as established by the current version of the International Building Code.
b. An analysis of slope recession rate shall be presented in those cases where stability is impacted or influenced by wave cutting, stream meandering, or other forces acting on the slope.

c. Description of the run-out hazard of landslide debris to the proposed development that starts upslope (whether part of the subject property or on a neighboring property) and/or the impacts of landslide run-out on downslope properties and critical areas.

9-7. For projects in seismic hazard areas, the report shall also include a detailed engineering evaluation of expected ground displacements, amplified seismic-shaking, or other liquefaction and/or dynamic settlement effects and proposed mitigation measures to ensure an acceptable level of risk for the proposed structure type or other development facilities such as access roads and utilities.

10-8. For projects in mine hazard areas, the report shall also include a description of historical data and remnant mine conditions, if available, dates of operation, years of abandonment, strength of overlying rock strata, and other information needed to assess stability of the site together with analysis of surface displacement or foundation stress from collapse of workings.

C. A geological assessment for a specific site may be valid for a period of up to five years when the proposed land use activity and site conditions affecting the site are unchanged. However, if any surface and subsurface conditions associated with the site change during that five-year period, the applicant may be required to submit an amendment to the geological assessment.
PROPOSED FINDINGS OF FACT

(AS ADOPTED BY THE PLANNING COMMISSION)
Proposed Findings of Fact (as adopted by the Planning Commission)

WHEREAS, the adopted Whatcom County Comprehensive Plan supports the protection of environmentally critical areas through the adoption of development regulations; and

WHEREAS, the State Growth Management Act (GMA) includes adopted goals and requirements to guide the development and adoption of comprehensive plans and development regulations including requirements to designate and protect environmentally critical areas; and

WHEREAS; the County has considered those adopted goals, policies, and requirements in development of the proposed Whatcom County Code Amendments related to critical areas, and, has considered other state requirements, law, rules, guidelines, and agency comments; and

WHEREAS, the County researched and assessed the experience of other jurisdictions in regard to standards and requirements for regulating critical areas, undertook a Best Available Science (BAS) review and public process in accordance with the requirements of the GMA, developed Whatcom County Code amendment drafts, prepared environmental documents in accordance with the requirements of the State Environmental Policy Act (SEPA), and held meetings and hearings throughout the code development process; and

WHEREAS, the County has been provided feedback on draft work products and guidance from members of the public, County staff, the Washington State Department of Fish and Wildlife, the Washington State Department of Ecology, the Washington State Department of Commerce, the Lummi Nation, the Nooksack Indian Tribe, other stakeholders and experts, the Whatcom Planning Commission, and elected and appointed officials during the development of the recommended code amendments; and

WHEREAS, in developing this ordinance, the County has followed the GMA’s requirements, including to provide “early and continuous public involvement” through a variety of mechanisms described in the public record; and

WHEREAS, the County has followed the State guidelines for the BAS process required by RCW 36.70A.172 and WAC 365-195-900 through 925, employing a variety of mechanisms described in the public record; and

WHEREAS, a notice of intent to adopt the proposed code amendments was sent to the State of Washington Department of Commerce and to other State agencies on February 2, 2016, for a 60-day review and comment period in accordance with State law; and

WHEREAS, an environmental review has been conducted in accordance with the requirements of State Environmental Policy Act (SEPA), and a SEPA threshold determination was issued, and published on March 17, 2016, in the Bellingham Herald; and

WHEREAS, the Planning Commission held a total of 7 public meetings to consider the proposed amendments, which included two public hearings, one on May 12 and one on June 9, 2016, with deliberations throughout these meetings; and

WHEREAS, the Planning Commission has provided a recommendation to the County Council related to the proposed amendments; and
WHEREAS, the County Council held X study sessions on the proposed amendments on X, 2016, and a public hearing on X, 2016 and continued public hearing on X, 2016; and

WHEREAS, the County Council has considered the recommendation of the County Planning Commission and the public comments received; and

WHEREAS, the County Council has reviewed and considered a variety of information sources including Best Available Science materials, informational documents in the public record, and public testimony submitted verbally and in writing to the Planning Commission and to the County Council; and

WHEREAS, the County Council desires the proposed amendments to be effective throughout the County including within shoreline jurisdiction, a subsequent Shoreline Master Program amendment should be prepared for submittal to the State Department of Ecology for approval; and

WHEREAS, based upon the foregoing process, the County Council has made the following
Findings of Facts and Conclusions:

**General Critical Areas Findings**

1. The Growth Management Act requires critical areas to be designated and protected and to include and be informed by BAS when developing critical areas regulations. [RCW 36.70A]

2. Critical areas include wetlands, fish and wildlife habitat conservation areas, geologically hazardous areas, critical aquifer recharge areas, and frequently flooded areas.

3. The Whatcom County has within its borders a variety of environmentally sensitive areas that require protection of important functions and values.

4. Unregulated development may result in cumulative impacts to those functions and values of critical areas that contribute to and are necessary for a healthy natural environment and perceived quality of life.

5. The unregulated development of residences, businesses, shopping areas and other structures, and the clearing of land for accommodation of livestock and for such development all have the potential of adversely and significantly impacting the functions and values of critical areas.

6. The unregulated development of resource lands or areas susceptible to natural hazards may lead to inefficient use of limited public resources, jeopardize environmental resource functions and values, subject persons and property to unsafe conditions, and affect the perceived quality of life.

7. It is more costly to remedy the loss of critical area functions and values than to conserve and protect them from loss or degradation.

8. In determining what critical areas are to be afforded a particular degree of protection, Whatcom County has evaluated a wide range of the best science available with respect to the critical areas to make informed decisions that meet the intent of the Growth Management Act and that are also reflective of local needs.

9. The sources of this best available science that were evaluated and included in this ordinance are contained in Exhibit B: *Whatcom County Critical Areas Ordinance 2016 Update – Best Available Science Review: Addendum to the 2005 BAS Report*. 
10. Protection standards for one critical area often provide protection for one or more other critical areas.

11. Critical areas may also be protected by other actions by the County, such as stormwater management standards, clearing and grading regulations, critical area restoration, and public education; and from other regulations, such as the Forest Practices Act, the Shoreline Management Act, the State Environmental Policy Act, and others.

12. The U.S. Constitution prohibits the taking of private property without just compensation.

13. The proposed regulations for critical areas are sufficient and appropriate to protect the functions and values of those areas consistent with the Whatcom Comprehensive Plan and Growth Management Act.

14. The amendments hereafter set forth address requirements related to development in and near environmentally critical areas including environmentally critical areas buffers, performance standards, mitigation requirements, exemptions and exceptions.

15. The amendments serve to further implement the Comprehensive Plan, and provide protection for critical areas that is consistent with BAS and with providing options and development flexibility, and are in the public interest.

16. The critical areas regulations continue to allow for reasonable use of property to ensure that such regulations do not infringe on constitutional private property rights.

17. The public record demonstrates that the amendments were developed through a review of the BAS literature available to the County for review and consideration.

18. The County has followed the GMA’s requirements for public involvement and for including and considering BAS in modification of the regulations for critical areas.

19. The public testimony provided to the County included both support for the proposed amendments and suggestions for modifications.

20. Based on the review of the testimony and public record, the amendments attached to this ordinance reflect the County’s requirement to protect critical areas and to consider the planning goals of the GMA, while recognizing public and private interests.

Wetlands

21. Wetlands and streams are environmentally sensitive and have numerous natural functions and values. These functions include: wildlife and fisheries habitat; water quality protection; flood protection; shoreline stabilization; stream flow; and ground water recharge and discharge. In many situations, these functions cannot be adequately replicated or replaced.

22. The scientific literature supports in the inclusion of protective buffers from wetlands to provide sediment control and nutrient inputs to wetlands, and to protect important wetland functions.

24. The scientific literature supports the inclusion of protective buffers of relatively intact native vegetation from wetlands to adequately protect wetland functions and values.


Critical Aquifer Recharge Areas
26. WAC 365-190-080 defines wellhead protection areas, sole source aquifers, special protection areas, and other areas that are susceptible or vulnerable to ground water contamination as areas with a critical recharging effect on aquifers used for potable water (also referred to as critical aquifer recharge areas).

27. Potable water is an essential life-sustaining element.

28. Much of the County’s drinking water in rural areas comes from groundwater supplies.

29. Once groundwater is contaminated it is difficult, costly, and sometimes impossible to clean up.

30. Preventing groundwater contamination is necessary to avoid exorbitant costs, hardships, and potential physical harm to people.


Frequently Flooded Areas
32. Flood hazard areas are subject to periodic inundation that results in loss of life and property, health, and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.

33. These flood losses are caused by development in areas prone to inundation that increase flood heights and velocities, and when inadequately anchored, damage uses in other areas. Uses that are inadequately floodproofed, elevated, or otherwise protected from flood damage also contribute to flood loss.

34. Floodplain and stream connectivity are major elements in maintaining healthy riparian habitat and off-channel habitats for the survival of fish species and conveyance of floodwaters. If river, floodplains, and other systems are not viewed holistically as biological, geomorphological units, this can lead to serious degradation of habitat and increase flood hazards, which in turn can contribute to listing of various fish species as threatened or endangered and result in extraordinary public expenditures for flood protection and relief.

35. Frequently flooded areas, including the 100-year floodplain and the floodway, are commonly mapped on flood insurance maps, often known as Flood Insurance Rate Maps, or FIRMs.
Geologically Hazardous Areas

36. Geologically hazardous areas are subject to periodic geological events that result in loss of life and property, health, and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.

37. Geologic hazards may be exacerbated by development and human activity in sensitive areas, and impacts resulting from geologic hazards may be reduced by limiting development and human activity within or adjacent to the geologic hazard.

38. Some geologic hazards may be intensified during periods of consistent or heavy rainfall that results in ground saturation or surface water drainage flows.

Fish and Wildlife Habitat Conservation Areas

39. Fish and wildlife habitat conservation areas perform many important physical and biological functions that benefit Whatcom County and its residents, including but not limited to: maintaining species diversity and genetic diversity; providing opportunities for food, cover, nesting, breeding and movement for fish and wildlife; serving as areas for recreation, education and scientific study and aesthetic appreciation; helping to maintain air and water quality; controlling erosion; and providing neighborhood separation and visual diversity within urban areas.

40. Wetlands and streams are environmentally sensitive and have numerous natural functions and values. These functions include: wildlife and fisheries habitat; water quality protection; flood protection; shoreline stabilization; stream flow; and ground water recharge and discharge. In many situations these functions cannot be adequately replicated or replaced.

41. The scientific literature supports the inclusion of protective buffers from streams to provide sediment control, nutrient inputs to downstream waters, large woody debris, and other functions important to riparian areas.

42. The Washington Department of Fish and Wildlife (WDFW) has prepared management recommendations for the preservation of priority habitat and species, which are based on the best available science, and include, in some instances, recommended protective buffer distances.

43. Kelp and eelgrass beds have been identified and mapped by the Washington State Department of Natural Resources (DNR) in some areas. Herring and smelt spawning times and locations are outlined in WAC 220-110-240 through 220-110-260. Locations for both may be found by referring to Critical Spawning Habitat for Herring, Surf Smelt, Sand Lance and Rock Sole in Puget Sound, Washington: A Guide for Local Governments and Interested Citizens, 2002, and the Puget Sound Environmental Atlas, Volumes 1 and 2.

44. Salmonid and anadromous fish may be more impacted by development and human activity during some times than others. Such times are referred to as "fish windows," which have been documented by WDFW.

45. DNR has classified watercourses according to two stream-typing systems based on channel width, fish use, and perennial or intermittent status.
46. WAC 365-190-080(5) grants [the jurisdiction] the flexibility to make decisions in the context of local circumstances, and specifically excuses local jurisdictions from being required to protect "all individuals of all species at all time."
**WHATCOM COUNTY COUNCIL AGENDA BILL**

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**TITLE OF DOCUMENT:** Flood Control Zone District and Subzones 2017 Supplemental Budget Request #1

**ATTACHMENTS:** Resolution, Memoranda and Budget Modification Requests

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

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

Supplemental #1 requests funding from the Flood Control Zone District Fund:

1. To appropriate $143,676 in Natural Resources to fund Phase IV Lynden-Everson-Nooksack-Sumas groundwater model.

**COMMITTEE ACTION:**

**BOARD OF SUPERVISORS ACTION:**

2/7/2017: Introduced

**Related County Contract #:**

**Related File Numbers:**

**Ordinance or Resolution Number:**

**Please Note:** Once adopted and signed, ordinances and resolutions are available for viewing and printing on the County’s website at: www.co.whatcom.wa.us/council.
RESOLUTION NO.  
(A resolution of the Whatcom County Flood Control Zone District Board of Supervisors)

AMENDMENT NO. 1 OF THE 2017 BUDGET

WHEREAS, the 2017 budget for the Whatcom County Flood Control Zone District and Subzones was adopted November 22, 2016; and,
WHEREAS, changing circumstances require modifications to the approved 2017 budget; and,
WHEREAS, the modifications to the budget have been assembled here for deliberation by the Board of Supervisors,
NOW, THEREFORE, BE IT RESOLVED by the Whatcom County Flood Control Zone District Board of Supervisors that the 2017 budget as approved in Resolution 2016-046 is hereby amended by adding the following additional amounts to the budgets included therein:

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ADOPTED this ___ day of ________________, 2017

ATTEST:

WHATCOM COUNTY FCZD
BOARD OF SUPERVISORS
WHATCOM COUNTY, WASHINGTON

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

APPROVED AS TO FORM:

Civil Deputy Prosecutor

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MEMORANDUM

TO: Jack Louws, County Executive

THROUGH: Jon Hutchings, Public Works Director

FROM: Gary Stoyka, Natural Resources Manager

DATE: January 19, 2017

RE: Supplemental Budget Request

Requested Action

The Public Works Natural Resources Division is requesting supplemental budget authority for FY 2017 to complete Phase 4 of a numerical groundwater modeling project for the Lynden-Everson-Nooksack-Sumas area of Whatcom County. The goal of the modeling project is to develop a model which will adequately assess the impacts to surface water flow from groundwater pumping. The model will be designed so that it can be expanded to include other WRIA 1 areas. The results of the modeling project will be used to inform the development of a water management plan that balances the needs of salmon and other aquatic resources with out-of-stream water needs. The funding included in this request is to complete Phase 4 of 4 which consists of development of the numerical computer model.

This request is for funding from the Flood Control Zone District fund and is partially offset by grant funding from the Puget Sound Partnership through in interlocal agreement with the Whatcom PUD.

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

Attachment
Supplemental Budget Request  

Status: Pending  

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Expenditure Type: One-Time  
Year 1 2017  
Add'l FTE ☐  
Add'l Space ☐  
Priority 1  

Name of Request: Phase IV LENS Groundwater Model  

[Signature]  
1-23-17  
Department Head Signature (Required on Hard Copy Submission)  

Date  

<table>
<thead>
<tr>
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<th>Object</th>
<th>Object Description</th>
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<td>6630</td>
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<td><strong>Request Total</strong></td>
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<td><strong>$43,676</strong></td>
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</table>

1a. Description of request:  
This SBR will provide funding for Phase IV of the Lynden-Everson-Nooksack-Sumas (LENS) groundwater modeling study. Phase IV consists of the construction of the numerical computer model and is the final phase of the project. The first three phases were funded by the WRIA 1 Joint Board. Following the dissolution of that Board in 2016, the County has agreed to provide the funding to complete the model. The LENS groundwater model will provide information that is vital to finding a solution to some of the County's water resources challenges including finding legal water for agriculture and in dealing with the recent Supreme Court Hirst decision regarding the use of exempt wells in the County. The $143,676 in this SBR will be combined with existing funding in 169121 in the amount of $175,000 for the total Phase IV cost of $318,676. $100,000 of the funding will come from the Whatcom PUD. Whatcom PUD has been awarded this federal EPA grant funding through a grant from the Puget Sound Partnership.  

1b. Primary customers:  
Residents and businesses in Whatcom County particularly including the agricultural community and rural landowners, but also including cities, water districts and associates, local tribes, and habitat restoration advocates.  

2. Problem to be solved:  
The people of Whatcom County face an array of challenges related to water resources including finding legal sources of water for agriculture, water for cities and water districts for development, rural landowners, and finding enough water to support fish. Some of these problems have been elevated to crisis levels with recent legal action by local tribes and several recent court decisions regarding water rights. Whatcom County elected officials have given direction to staff to support finding solutions to these water problems through cooperative engagement with other parties primarily including members of the WRIA 1 Joint Board. The LENS groundwater model will provide insight on the interaction between groundwater and surface water over much of the ag and rural lands of Whatcom County which is information that is crucial to finding solutions to these water problems. The first three phases of the modeling project have been completed and were funded by the WRIA 1 Joint Board. The WRIA 1 Joint Board dissolved in 2016 and thus, is no longer able to fund Phase 4. Completion of the groundwater modeling project is a high priority for many water interests in the County. This SBR provides the remaining funding necessary to complete the groundwater modeling project as soon as possible.  

3a. Options / Advantages:  
The WRIA 1 Joint Board funded the first three phases of the project; but has since dissolved. The Whatcom PUD was successful in securing a $100,000 grant to cover a significant portion of the remaining funding need. Other local agencies with an interest in water resources issues have been approached to provide the remaining funding, but no funding was identified. Consequently, this SBR seeks the remaining $43,676 from the Flood Fund in order to expedite the completion of the project.  

Wednesday, January 18, 2017  
Rpt: Rpt Suppl Regular  

68
3b. Cost savings:

4a. Outcomes:
   This project will provide information regarding the interaction of surface and groundwater in a large portion of the County facing water resources issues, which will aid in finding solutions to these problems. Phase IV is anticipated to take 12 to 18 months.

4b. Measures:
   Completion of the model. Use of the model to aid in finding solutions to water resources problems.

5a. Other Departments/Agencies:
   The County will be working closely with the City of Bellingham, Whatcom PUD, Lummi Nation, Nooksack Indian Tribe, Bertrand WID, and Department of Ecology on this project.

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

6. Funding Source:
   Flood Control Zone District Fund (169121)
**WHATCOM COUNTY COUNCIL AGENDA BILL**

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<th>Initial</th>
<th>Date</th>
<th>Date Received in Council Office</th>
<th>Agenda Date</th>
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<td>02/21/17</td>
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</table>

**TITLE OF DOCUMENT**: 2017 Supplemental Budget Request #2

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

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

Supplemental #2 requests funding from the General Fund:

1. To appropriate $150,000 in Assessor to fund Petrogas facility appeal defense.
2. To appropriate $7,000 in Health to fund youth tobacco prevention grant.
3. To re-appropriate $334,836 in Non Departmental to fund Opportunity Council’s Housing Rehab grant.
4. To appropriate $321,036 in the Sheriff’s Department to fund 2017 portion of FY16 Operation Stongarden grant program.
5. To appropriate $15,646 in the Sheriff’s Department to fund ballistic helmets from COB 2016 JAG program funds.
   From the Road Fund:
6. To appropriate $1,630,000 to fund Anderson Creek Bridge No. 249 replacement.
7. To appropriate $50,000 to fund Yacht Club Road RR Quiet Zone.
   From the Trial Court Improvement Fund:
8. To appropriate $9,946 to fund intercom and security system for Superior Court.

**COMMITTEE ACTION:**

**COUNCIL ACTION:**

<table>
<thead>
<tr>
<th>Related County Contract #:</th>
<th>Related File Numbers:</th>
<th>Ordinance or Resolution Number:</th>
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</thead>
</table>
ORDINANCE NO.
AMENDMENT NO. 2 OF THE 2017 BUDGET

WHEREAS, the 2017-2018 budget was adopted December 6, 2016; and,
WHEREAS, changing circumstances require modifications to the approved 2017-2018
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 2017-2018
Whatcom County Budget Ordinance #2016-068 is hereby amended by adding the following
additional amounts to the 2017 budget included therein:

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<th>Fund</th>
<th>Expenditures</th>
<th>Revenues</th>
<th>Net Effect</th>
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<td>-</td>
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<tr>
<td>Health</td>
<td>7,000</td>
<td>(7,000)</td>
<td>-</td>
</tr>
<tr>
<td>Non-Departmental</td>
<td>334,836</td>
<td>(334,836)</td>
<td>-</td>
</tr>
<tr>
<td>Sheriff</td>
<td>336,682</td>
<td>(336,682)</td>
<td>-</td>
</tr>
<tr>
<td>Total General Fund</td>
<td>828,518</td>
<td>(678,518)</td>
<td>150,000</td>
</tr>
<tr>
<td>Road Fund</td>
<td>1,680,000</td>
<td>(1,245,000)</td>
<td>435,000</td>
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<tr>
<td>Trial Court Improvement Fund</td>
<td>9,946</td>
<td>-</td>
<td>9,946</td>
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<tr>
<td>Total Supplemental</td>
<td>2,518,464</td>
<td>(1,923,518)</td>
<td>594,946</td>
</tr>
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</table>

ADOPTED this ___ day of __________________, 2017.

ATTEST:

Dana Brown-Davis, Council Clerk

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

Barry Buchanan, Chair of the Council

APPROVED AS TO FORM:

Jack Louws, County Executive

Date: ___________________

( ) Approved ( ) Denied
<table>
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<tr>
<th>Department/Fund</th>
<th>Description</th>
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<th>(Increased) Decreased Revenue</th>
<th>Net Effect to Fund Balance (Increase) Decrease</th>
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<tr>
<td>Assessor</td>
<td>To fund Petrogas facility appeal defense.</td>
<td>150,000</td>
<td>-</td>
<td>150,000</td>
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<tr>
<td>Health</td>
<td>To fund youth tobacco prevention grant.</td>
<td>7,000</td>
<td>(7,000)</td>
<td>-</td>
</tr>
<tr>
<td>Non-Departmental</td>
<td>To reappropriate funding of Opportunity Council's Housing Rehab grant.</td>
<td>334,836</td>
<td>(334,836)</td>
<td>-</td>
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<tr>
<td>Sheriff</td>
<td>To fund 2017 portion of FY16 Operation Stonegarden grant program.</td>
<td>321,036</td>
<td>(321,036)</td>
<td>-</td>
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<tr>
<td>Sheriff</td>
<td>To fund ballistic helmets from COB 2016 JAG program funds.</td>
<td>15,646</td>
<td>(15,646)</td>
<td>-</td>
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<tr>
<td></td>
<td></td>
<td>828,518</td>
<td>(678,518)</td>
<td>150,000</td>
</tr>
<tr>
<td>Road Fund</td>
<td>To fund Anderson Creek Bridge No. 249 replacement.</td>
<td>1,630,000</td>
<td>(1,245,000)</td>
<td>385,000</td>
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<tr>
<td>Road Fund</td>
<td>To fund Yacht Club Road RR Quiet Zone</td>
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<td>Total Road Fund</td>
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<td>1,680,000</td>
<td>(1,245,000)</td>
<td>435,000</td>
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<tr>
<td>Trial Court Improvement Fund</td>
<td>To fund intercom and security system for Superior Court.</td>
<td></td>
<td>9,946</td>
<td>-</td>
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<tr>
<td>Total Supplemental</td>
<td></td>
<td>2,518,464</td>
<td>(1,923,518)</td>
<td>594,946</td>
</tr>
</tbody>
</table>
1a. Description of request:
Petrogas has appealed their 2016 property valuations on two of their Cherry Point Properties. The appeals involve Petrogas's LPG Import/export Storage Facility and their deepwater Marine Pier (formerly owned by Intalco). They have placed over 245 Million dollars of valuation into controversy. The Washington State Board of Tax Appeals will hear the case. The Whatcom County Assessor's Office is responsible for the defense.

The Assessor's Office will contract professional services with specialty in this litigation arena to support the County's position.

1b. Primary customers:
The affected taxing districts including Washington State, Whatcom County, (including EMS), the Port of Bellingham, the Rural Library District, Fire District #7, Cemetery District #7, and the Ferndale School District.

2. Problem to be solved:
The Assessor's 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 effected by higher 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 $400,000.00 in direct taxing district budget revenue and an additional increase in property tax bills of $50.00 for a 250K (median valued) valuation for every Whatcom County property taxpayer.

4a. Outcomes:
The Washington state Board of Tax appeals will deliver it's decision following the cause's hearings conclusion. This is expected to happen in 2018.

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 will be required to provide Deputy Civil Prosecuting Attorney assistance.

5b. Name the person in charge of implementation and what they are responsible for:
The interim Assessor's Office assigned Deputy Civil Prosecuting Attorney is Daniel Gibson. He will be responsible for legal defense administrative support, strategic input, analysis, and document preparation.

6. **Funding Source:**

County Current Expense
Supplemental Budget Request

Status: Pending

Health |
| Fund 1 | Cost Center 677268 | Originator: Patty Proctor |

Expenditure Type: One-Time | Year 1 2017 | Add'l FTE □ | Add'l Space □ | Priority 1 |

Name of Request: Youth Tobacco Grant

X 📅 1/23/17

Department Head Signature (Required on Hard Copy Submission)

<table>
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<th>Object</th>
<th>Object Description</th>
<th>Amount Requested</th>
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<tr>
<td>Request Total</td>
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</table>

1a. Description of request:
This contract supports strategies that reduce risks for tobacco use. Preventing tobacco initiation in the younger years significantly reduces the likelihood that individuals will use tobacco as adults. The identified strategies will limit youth exposure to tobacco and vapor products, and educate about the harms of using tobacco.

1b. Primary customers:
Reduced exposure to tobacco is primarily targeted to Whatcom County youth, although public education, policy work, and retailer education strategies will benefit all residents of Whatcom County.

2. Problem to be solved:
Prevent tobacco initiation among youth and enhance community participation in youth tobacco prevention and control efforts.

3a. Options / Advantages:
This contract provides dedicated efforts for tobacco prevention and control and is able to address emerging concerns around e-cigarettes and vapor products, an area significantly impacting youth in the county.

3b. Cost savings:
Many models for calculating savings to individuals and taxpayers have been established, but are not estimated at the county level at this time.

4a. Outcomes:
The implementation of prevention strategies will reduce youth exposure to tobacco products, increase the awareness of the harms of tobacco use, and reduce the overall risk for using tobacco products.

4b. Measures:
Short-term measures will focus on rates of youth perceiving harm from tobacco use, and reduced exposure to tobacco products. Long-term measures will focus on actual tobacco use rates, as available in Healthy Youth Survey results.

5a. Other Departments/Agencies:
Health Department staff will deliver services in partnership with local prevention coalitions.

5b. Name the person in charge of implementation and what they are responsible for:
Joe Fuller and Amy Hockenberry, Program Specialists, will oversee the implementation of tobacco prevention programs and services.

6. Funding Source:
Washington State Department of Health

Friday, January 20, 2017
### Supplemental Budget Request

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<td>Cost Center</td>
<td>677268</td>
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<tr>
<td>Originator:</td>
<td>Patty Proctor</td>
</tr>
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</table>

Status: Pending
MEMORANDUM

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

From: Suzanne Mildner, Grant Coordinator

Subject: Budget Supplemental, Opportunity Council Grant

Date: January 23, 2017

The attached supplemental request for $334,836 is for the purposes of establishing budget authority in order to pass-through a current grant from the Washington State Department of Commerce to the Opportunity Council. This is for a 3-year grant contract and Subrecipient Agreement that commenced in 2015 and expires in 2017.

The County entered into this agreement in early 2015. Due to a number of delays in getting projects started, the Opportunity Council has only expended a third of this ($500,000) grant. They expect to complete the balance of the housing rehab projects (approximately 20) in 2017.

This project proposed the rehabilitation of up to a total of 30 low-income, owner-occupied housing units over the three-year period. This is a direct benefit project (100% LMI) serving households in greater Whatcom County, excluding the City of Bellingham, as well as households in San Juan and Island Counties.

Please contact me at extension 5211 should you have any questions.

Thank you.
Supplemental Budget Request

Executive

Suppl ID # 2241 Fund 1 Cost Center 4276 Originator: Suzanne Mildner
Expenditure Type: One-Time Year 1 2017 Add'l FTE □ Add'l Space □ Priority 1

Name of Request: Opportunity Council’s Housing Rehab Grant

X

Department Head Signature (Required on Hard Copy Submission) Date 1/30/17

Costs:

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<td>$334,836</td>
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Request Total $0

1a. Description of request:
This is an ongoing contract for a pass through grant from the Washington State Department of Commerce through their Community Development Block Grant Program. The grant supports the Opportunity Council’s Housing Rehabilitation Program for the benefit of low-income citizens in Whatcom, San Juan and Island Counties. We currently have a Subrecipient Agreement between the County and Opportunity Council.

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

2. Problem to be solved:
This state grant source is required to pass through the local jurisdiction. The County entered into this grant agreement in early 2015, and it is a 3-year grant contract period ending in June of 2017. Only one-third of the contract funds have been expended thus far, due to a number of delays in getting projects underway. The Opportunity Council expects to complete several more projects in the coming months which will expend the remainder of this funding.

3a. Options / Advantages:
N/A

3b. Cost savings:
N/A

4a. Outcomes:
The Opportunity Council’s program will provide a direct benefit to approximately 30 low- and moderate-income households over the course of the contract period. Weatherization and home repair projects will increase home value and energy costs to the customers.

4b. Measures:
Opportunity Council provides ongoing status reports of projects in process. Both the State and the county conduct on-site monitoring visits to Opportunity Council and to project locations to review outcomes.

5a. Other Departments/Agencies:
Opportunity Council and their partner community resource centers in San Juan and Island Counties.

5b. Name the person in charge of implementation and what they are responsible for:
Greg Winter is the Director of Opportunity Council, and Ryan Beld is the Manager of the Housing Rehab Program.

6. Funding Source:
HUD, through the WA State Department of Commerce’s CDBG Program

Wednesday, January 25, 2017
Memorandum

TO: Jack Louws, County Executive
FROM: Sheriff Bill Elfo
DATE: January 23, 2017
SUBJECT: Supplemental Budget ID# 2234
FY16 Operation Stonegarden – 2016

RECEIVED
JAN 23 2017
JACK LOUWS
COUNTY EXECUTIVE


Background and Purpose
The U.S. Department of Homeland Security (DHS) Homeland Security Grant Program (HSGP) authorized FY2016 Operation Stonegarden funds of $340,418 to Whatcom County to enhance law enforcement’s preparedness and operational readiness along the international borders of the United States: $120,272 for the Sheriff’s Office and $220,146 for other area law enforcement agencies (sub-recipients).

The Sheriff’s Office will use $19,382 of its allocation to conduct overtime patrols in 2016. The remaining $321,036 will be used in 2017.

Funding Amount and Source

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

Thank you.
Supplemental Budget Request

Sheriff Operations

<table>
<thead>
<tr>
<th>Fund</th>
<th>Cost Center</th>
<th>Originator</th>
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<td>Dawn Pierce</td>
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Expenditure Type: One-Time  Year: 2017  Add'l FTE □  Add'l Space □  Priority: 1

Name of Request: FY16 Operation Stonegarden - 2017

Department Head Signature (Required on Hard Copy Submission) /23/17

<table>
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<th>Object Description</th>
<th>Amount Requested</th>
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<td>($321,036)</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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1a. Description of request:
The U.S. Department of Homeland Security (DHS) Federal Emergency Management Agency (FEMA) awarded $340,418 to Whatcom County for Operation Stonegarden Grant Program (OPSG) FY2016 to enhance cooperation and coordination among local, tribal, territorial, state, and federal law enforcement agencies in a joint mission to secure the borders of the United States (W.C. Contract #201611036). The Sheriff's Office used $19,382 of the allocation to conduct overtime patrols in 2016 and anticipates using the remaining $321,036 in 2017.

The Whatcom County Sheriff's Office and other law enforcement agencies will utilize OPSG funding to provide enhanced patrols to increase law enforcement presence in maritime and land based border areas targeting illicit activity in Whatcom County, specifically the cross-border smuggling of aliens, weapons, currency, and narcotics.

1b. Primary customers:
Area law enforcement agencies and citizens of Whatcom County through increased capability of law enforcement to secure the international border.

2. Problem to be solved:
Budget authority is required to use remaining OPSG funds in 2017.

3a. Options / Advantages:
OPSG funds are awarded specifically for projects that improve border security.

3b. Cost savings:
Total award $340,418. The Sheriff's Office used $19,382 of the award in 2016 and anticipates using the remaining $321,036 in 2017 as follows: $46,375 for overtime, $6,407 for mileage, $48,108 for equipment, and $220,146 for sub-recipients.
Supplemental Budget Request

Sheriff Operations

| Suppl ID # | 2234 | Fund | 1 | Cost Center | 1003516005 | Originator: | Dawn Pierce |

4a. Outcomes:
Enhanced patrols will be conducted per contract specifications and timelines. Daily Activity Reports will be completed and sent to Border Patrol.

4b. Measures:
The Whatcom County Sheriff’s Office and U.S. Border Patrol will monitor projects and expenditures against contract deliverables.

5a. Other Departments/Agencies:

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

6. Funding Source:
Memorandum

TO: Jack Louws, County Executive
FROM: Sheriff Bill Elfo
DATE: January 23, 2017
SUBJECT: Supplemental Budget ID #2236
City of Bellingham 2016 Justice Assistance Grant – Ballistic Helmets

The attached Supplemental Budget requests budget authority to use Edward Byrne Memorial Justice Assistance Grant (JAG) funds from the City of Bellingham Edward Byrne Memorial Justice Assistance Grant (JAG) FY2016 to purchase replacement ballistic helmets for SWAT in 2017. Supplemental Budget ID #2160 was approved in 2016 with award of funds. Helmets will be purchased in 2017.

Background and Purpose
The continued trend of violent attacks on innocent citizens at schools and public venues around the country reaffirms that law enforcement personnel must be prepared and equipped to deal with armed suspects in order to effectively mitigate threats to the public. It is essential that all Whatcom County Sheriff’s Office uniformed personnel have sufficient ballistic protective equipment to protect them from gunfire. Sheriff’s Office SWAT uses specialized helmets that not only provide ballistic protection, but are modified to accommodate hearing protection and communications headgear. The new helmets provide that enhanced capability.

The City of Bellingham has agreed to provide the County $15,646 from the Edward Byrne Memorial JAG FY2016 award to purchase ballistic helmets.

Funding Amount and Source
Funding of $15,646 will be provided by the City of Bellingham. Funds originate from the U.S. Department of Justice Edward Byrne Memorial Justice Assistance Grant (JAG) Program FY2016, CFDA No. 16.738.

Please contact Undersheriff Jeff Parks at extension 6610 if you have any questions.
Thank you.
Supplemental Budget Request

Sheriff Operations

SuppID # 2236 Fund 1 Cost Center 1003515006 Originator: Dawn Pierce

Expenditure Type: One-Time Year 1 2017 Add'l FTE ☐ Add'l Space ☐ Priority 1

Name of Request: SO Grant COB 2016 JAG - Ballistic Helmets - 2017

Department Head Signature (Required on Hard Copy Submission) Date

\[\text{Signature} \quad /18/17\]

Costs:

<table>
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<td>4333.1973</td>
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<tr>
<td>6320.001</td>
<td>Office &amp; Op Supplies</td>
<td>$15,646</td>
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</table>

Request Total: $0

1a. Description of request:

The Sheriff's Office received 2016 Byrne Justice Assistance Grant (JAG) Program funds through the City of Bellingham to purchase and replace ballistic helmets that have exceeded the standard operational life (W.C. Contract #201606036). The helmets are NIJ certified and meet the current .06 Level IIIA standards of protection.

The continued trend of violent attacks on innocent citizens at schools and public venues around the country reaffirms that law enforcement personnel must be prepared and equipped to deal with armed suspects in order to effectively mitigate threats to the public. It is essential that all Whatcom county Sheriff's Office uniformed personnel have sufficient ballistic protective equipment to protect them from gunfire.

The Sheriff's Office is required to provide ballistic protective equipment to uniformed personnel who are subject to occupational hazards that include gunfire/ballistic threats and currently issues ballistic resistant vests and helmets to all deputy sheriffs. The SWAT helmets need to be replaced with specialized helmets that accommodate and integrate with hearing protection/communications gear which is necessary to carrying out their duties during critical missions.

The Sheriff's Office will utilize allocated funds to upgrade current ballistic helmets with specialized helmets for SWAT team members. The current SWAT helmets could be repurposed and issued to other members of the Sheriff's Office.

1b. Primary customers:

Whatcom County Sheriff's Office SWAT team members.

2. Problem to be solved:

Budget authority is needed to use grant funds to purchase ballistic helmets in 2017.

3a. Options / Advantages:

The Sheriff's Office will use grant funds rather than local funds to purchase this ballistic protective equipment.

3b. Cost savings:

Cost savings of $15,646.

4a. Outcomes:

SWAT members will receive specialized helmets designed for their assignment and operational needs.

4b. Measures:
5a. Other Departments/Agencies:
The City of Bellingham will administer the grant and provide $15,646 to Whatcom County Sheriff's Office to purchase ballistic helmets per the grant agreement.

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

6. Funding Source:
$15,646 from City of Bellingham. Funds originate from U.S. Department of Justice Edward Byrne Memorial Justice Assistance Grant (JAG) Program Fiscal Year (FY) 2016, CFDA No. 16.738
MEMORANDUM

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

Through: Jon Hutchings, Director

From: Joseph P. Rutan, P.E., County Engineer / Assistant Director

James E. Lee, P.E., Engineering Manager

Date: January 20, 2017

Subject: 2017 Supplemental Budget Request
Roberts Road/Anderson Creek Bridge No. 249 Replacement CRP #915020, Fed Aid No. BROS-2037(106)

Requested Action
Enclosed for your review and consideration is a supplemental budget request for 2017 (see attached Supplemental Budget Request #2239).

Background and Purpose
As included in the 2017-2022 Six-Year Transportation Improvement Program, construction of this project was originally scheduled for the summer of 2018 with the design and permitting work to be completed in 2016/2017. Design and permitting have been completed ahead of schedule, and final right of way certification is anticipated in early February which will allow for this project to be constructed in 2017. Therefore, this supplemental budget request authorizes $1,630,000 of additional expenditure authority (offset by $1,245,000 of grant funding) for replacement of the Roberts Road Bridge No. 249 over Anderson Creek this summer/fall.

Once right of way has been certified, a Local Agency Agreement (LAA) Supplement for obligating the federal construction funds will be submitted to Council for approval.

This project is listed as Item No. 25 on the approved 2017 Annual Construction Program (ACP). The current ACP has sufficient funds to finalize project design and permitting, however additional funds are needed for construction this summer.

Funding Amount and Source
The total project cost, including design and construction, is estimated at $1,936,200. The County has been awarded $1,387,170 in federal Bridge Replacement Advisory Committee (BRAC) Funding for this project with the remaining $549,030 will be from the County Road Fund.

Please contact James Lee at extension 6264 if you have any questions or concerns regarding this request.
Supplemental Budget Request

Public Works

Fund 108  Cost Center 915020  Originator: James Lee

Expenditure Type: One-Time  Year 1  2017  Add'l FTE  Add'l Space  Priority 1

Name of Request: Anderson Creek Bridge No. 249 Replacement

\[\text{\(\checkmark\)}\]

Department Head Signature (Required on Hard Copy Submission)  Date: 1-23-17

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1a. Description of request:

The project proposes to replace the existing 3-span concrete/timber Bridge No. 249 which carries Roberts Road over Anderson Creek with a prestressed concrete slab single span bridge with reinforced concrete substructure. Whatcom County was awarded federal 2014 Bridge Replacement Advisory Committee (BRAC) funds to replace the Anderson Creek Bridge No. 249 on Roberts Road.

This project is shown in the 2017 Annual Construction Program as line item 25. Construction of this project was originally scheduled for the summer of 2018 with the design and permitting work to be completed in 2016/2017. Design and permitting have been completed ahead of schedule, and final Right of Way certification is anticipated in early February which will allow for this project to be constructed in 2017. This request is to provide additional funding for construction of this project in 2017.

1b. Primary customers:

General public and local residents

2. Problem to be solved:

The existing bridge is structurally deficient and has advanced rot in several of the timber caps. This bridge is the only access road that serves several properties.

3a. Options / Advantages:

The advantage to completing the construction in 2017 is the more immediate removal of a structurally deficient bridge which provides the only access to several properties. The other option is to replace the bridge during the summer/fall of 2018 or 2019. This would result in increased construction costs due to inflation.

3b. Cost savings:

N/A

4a. Outcomes:

The project will be constructed in the summer/fall of 2017.

4b. Measures:

The project will be constructed and structural deficiency rating of the bridge will be removed.

5a. Other Departments/Agencies:

N/A

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

Friday, January 20, 2017
Supplemental Budget Request

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<td><strong>Originator:</strong> James Lee</td>
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N/A

6. **Funding Source:**
   Road Fund and federal BRAC funding
## Supplemental Budget Estimate

### Roberts Road/Anderson Creek Bridge No. 249 Replacement, CRP 915020

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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: February 7, 2017

Re: 2017 Supplemental Budget Request #2244
     Yacht Club Road Railroad Quiet Zone
     CRP No. 916008

Please find attached for your review and approval, a supplemental budget request amending CRP No. 916008 - Yacht Club Road Railroad Quiet Zone.

Requested Action
Public Works requests the addition of $50,000 in expenditure authority to proceed with the Yacht Club Road Railroad Quiet Zone capital project.

Project Background
Following direction from the Whatcom County Council on January 24, 2017, Public Works is moving forward with construction to establish a quiet zone railroad crossing at Yacht Club Road. The Yacht Club Road Railroad Quiet Zone appears as Item #15 on the 2017 Annual Construction Program with $5,000 for design. SBR #2244 supplements this project with $50,000 of construction funding.

Funding Amount and Source
The construction cost for the installation of the Additional Safety Measures is estimated at $42,615 for the current design. This request utilizes fund balance, offset by any additional revenues the county may receive for the project. It is likely that the Chuckanut Bay Community Association will be asked by the Whatcom County Council to fund the construction of the “Additional Safety Measures (ASM)” required for a Quiet Zone. An amount of $50,000 is used for the budget supplement due to unforeseen contingencies or minor changes to the current design.

Please contact Joe Rutan or Roland Middleton at extensions 6219 and 6212, respectively, if you have any questions or concerns regarding this topic.
Supplemental Budget Request

Public Works

Fund 108
Cost Center 916008
Originator: Jim Karcher

Engineering Design/Const

Expenditure Type: One-Time
Year 1 2017
Add'l FTE ☐ Add'l Space ☐ Priority 1

Name of Request: Yacht Club Road RR Quiet Zone

Department Head Signature (Required on Hard Copy Submission)

Date 1 - 26e - 17

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Request Total $50,000

1a. Description of request:
Installation of roadway channelization measures to produce a safer at grade crossing.

1b. Primary customers:
General motoring public, community, Burlington Northern Santa Fe

2. Problem to be solved:
Mitigate train horn to establish a quiet zone.

3a. Options / Advantages:
Full width railroad crossing arm gates have also been considered but were significantly more expensive.

3b. Cost savings:
Improved safety at the crossing translates to less potential for injury accidents.

4a. Outcomes:
A crossing that is safer than the current configuration will be available and used in consideration of a quiet zone designation from the railroad.

4b. Measures:
Additional safety measures will be recognized through a quiet zone designation by the railroad.

5a. Other Departments/Agencies:
Washington Utilities Transportation Commission, Burlington Northern Santa Fe, Federal Railroad Administration

5b. Name the person in charge of implementation and what they are responsible for:
Joe Rutan - County Engineer

6. Funding Source:
Road fund balance.
January 23rd, 2017

TO: Jack Louws, County Executive

FROM: David Reynolds, Director of Superior Court Administration

RE: Trial Court Improvement Fund Request

Superior Court is requesting a onetime withdrawal of $9,946.00 from the Trial Court Improvement Account for the purchase an installation of an intercom and security system for Superior Court Departments 1 and 3. The system will provide much needed security outside of the judicial officer’s chambers.

This system and installation have been selected and approved by Facilities Management.

Should you have any questions, please do not hesitate in contacting me at X 5565.
Supplemental Budget Request

Superior Court

Expenditure Type: One-Time  Year 1 2017  Add'l FTE  Add'l Space  Priority 1

Name of Request: Judges' Chambers Intercom System

Date: 1-23-17

Department Head Signature (Required on Hard Copy Submission)

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1a. Description of request:
Purchase and installation of an intercom system and securing entrance to judicial chambers for Superior Court Department's 1 and 3.

1b. Primary customers:
Department 1 and 3 or the Superior Court.

2. Problem to be solved:
Current access to the hallways outside the Judge's Chambers is unsecured. On more than one occasion, members of the public have been found loitering in those areas. This creates a significant security concern for the judicial officers and their staff.

3a. Options / Advantages:
We have considered locking the door to this area, however, it is the only access to the back stairwells and must remain accessible in case of an emergency. After consultation with Facilities Management, it has been determined this is the best option as it places the Judges in control of who has access, as well as will automatically unlock in case of an emergency.

3b. Cost savings:
There are no specific cost savings

4a. Outcomes:
Outcome will be delivered upon completion of the project.

4b. Measures:
Outcome will be achieved when this back hallway is secured from public access

5a. Other Departments/Agencies:
N/A

5b. Name the person in charge of implementation and what they are responsible for:
Mike Russell in Facilities Management will be the Project Manager

6. Funding Source:
Trial Court Improvement Funds

Monday, January 23, 2017

Rpt: Rpt Suppl Regular
**WHATCOM COUNTY COUNCIL AGENDA BILL**

<table>
<thead>
<tr>
<th>CLEARANCES</th>
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<th>Date</th>
<th>Date Received in Council Office</th>
<th>Agenda Date</th>
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<td>1/30/2017</td>
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<td>2/7/2017</td>
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<td>Executive:</td>
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</table>

**TITLE OF DOCUMENT:**
Ord amend WCC 2.03, 2.22, & 2.104 to Prohibit Appts. of Political Candidates

**ATTACHMENTS:**

<table>
<thead>
<tr>
<th>SEPA review required?</th>
<th>( ) Yes</th>
<th>( ) NO</th>
<th>Should Clerk schedule a hearing?</th>
<th>( ) Yes</th>
<th>( ) NO</th>
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**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 2.03, 2.22, and 2.104, to prohibit the appointment of declared political candidates to boards, committees and commissions and requiring resignation from the ethics commission and salary commission for members seeking an elected position within the County

**COMMITTEE ACTION:**

**COUNCIL ACTION:**
2/7/2017: Introduced

**Related County Contract #:**

**Related File Numbers:**

**Ordinance or Resolution Number:**

**Please Note:** Once adopted and signed, ordinances and resolutions are available for viewing and printing on the County’s website at: www.co.whatcom.wa.us/council.
ORDINANCE NO. _______

AMENDING WHATCOM COUNTY CODE 2.03, 2.22 AND 2.104, TO PROHIBIT THE
APPOINTMENT OF DECLARED POLITICAL CANDIDATES TO BOARDS, COMMITTEES
AND COMMISSIONS AND REQUIRING RESIGNATION FROM THE ETHICS
COMMISSION AND SALARY COMMISSION FOR MEMBERS SEEKING AN ELECTED
POSITION WITHIN THE COUNTY

WHEREAS, Whatcom County relies on dozens of boards, committees and
commissions to provide financial oversight, policy recommendations and technical advice; and

WHEREAS, many Whatcom County residents generously volunteer their time on
boards, committees and commissions, providing much needed expertise and community
input; and

WHEREAS, boards, committees and commissions can provide meaningful
government experience and may inspire individuals to serve their communities in elected
positions; and

WHEREAS, such experience can also be politically valuable for those seeking elected
office; and

WHEREAS, appointing declared candidates to boards, committees or commissions
could be construed as an endorsement by the County government of the candidate; and

WHEREAS, the County Council strives to abide by the intent and legal requirements
of RCW 42.17A.555 (Use of public office or agency facilities in campaigns); and

WHEREAS, the County Council does not want such appointments to be perceived as
an endorsement by the County government of any candidate for an elected office; and

WHEREAS, furthermore, members of Ethic Commission, which provide oversight of
elected officials, must not be in a position where they could be expected to provide ethical
oversight on themselves or their political opponents; and

WHEREAS, in addition, members of the Salary Commission, which decide
compensation for elected officials, should likewise not be in a position to influence their own
future compensation.
NOW, THEREFORE, BE IT ORDAINED by the Whatcom County Council that the
Whatcom County Code 2.03, 2.22 and 2.104 are amended as shown in Exhibit A.

ADOPTED this ____ day of __________, 20____.

ATTEST:

Dana Brown-Davis, Clerk of the Council

Barry Buchanan, Council Chair

APPROVED AS TO FORM:

__________________________

Jack Louws, County Executive

(  ) Approved   (  ) Denied

Date Signed: ____________________
EXHIBIT A
Whatcom County Code
AMENDMENTS

TITLE 2 ADMINISTRATION AND PERSONNEL

Chapter 2.03
BOARDS AND COMMISSIONS

2.03.080 Vacancies on citizen boards, committees and commissions.
A. The clerk of the council shall cause to be compiled and published annually a listing of vacancies and
anticipated vacancies on all citizen boards, committees and commissions, within the appointive
jurisdiction of both the council and the executive.

B. The listing shall state the title and term of office of each position, residency requirements (if any), the
appointing authority, and an address and telephone number for obtaining further information or for making
applications. The listing shall also include a brief description of the duties of each position and information
on when the regular meetings of the body in question are held.

C. The listing shall be posted in conspicuous places in the Courthouse, provided to all county
councilmembers, public libraries and city halls in the county, and be made available to the public and
news media at no charge.

D. Persons expressing an interest in applying for appointment to a council-appointed position on a board,
commission or committee shall be given an application form which they must complete and file with the
clerk, giving their name, address, telephone number, occupation and relevant qualifications. The
applications shall be kept on file in the clerk’s office.

E. Persons expressing an interest in applying for appointment to an executive-appointed position on a
board, commission or committee shall be given an application form which they must complete and file
with the executive’s office, giving their name, address, telephone number, occupation and relevant qualifications. The applications shall be kept on file in the executive’s office.

F. In fulfilling the obligations of this section, the clerk shall seek the cooperation of the executive and may accomplish his/her obligations through joint action with the executive’s office.

2.03.090 Qualifications.
To qualify for appointment by the council and/or executive to fill any vacancy on a board, committee or commission, a person shall be a qualified registered voter resident of the district, agency, or group he or she is appointed to represent on a specific board, committee or commission meeting all of the qualifications of Section 4.20 of the Whatcom County Charter. Individuals who have declared candidacy for a paid elected office within the county are not eligible for appointment while they are a candidate, but shall be eligible for reappointment to additional terms, as allowed by the Whatcom County Code, to the same board or committee they were on prior to their declaration of candidacy.

Chapter 2.22

WHATCOM COUNTY COMMISSION ON SALARIES FOR ELECTED OFFICIALS

2.22.040 Membership – Term of office.
A. The commission shall consist of 10 members. Six members shall be selected by lot and appointed and confirmed as provided in subsection B of this section. The remaining four members shall be appointed and confirmed as provided in subsection C of this section. The members of the commission may not include any officer, official, candidate for a paid elected office within the county, or employee of the county or any of their immediate family members. For the purposes of this section, “immediate family member” means parent, spouse, domestic partner, sibling, child, or dependent relative of an officer, official, or employee of the county, whether or not living in the same household.

B. Six of the 10 commission members shall be selected by lot by the county auditor from among those registered voters eligible to vote at the time persons are selected for appointment to full terms on the commission. The county auditor shall establish policies and procedures for conducting the selection by lot. The policies and procedures shall include, but not be limited to, those for notifying persons selected and for providing a new selection if a person declines appointment or if, following the person’s appointment, the person’s position on the commission becomes vacant before the end of the person’s term of office. The county auditor shall forward the names of persons selected under this subsection to the county executive who shall appoint those persons to the commission. Appointments made by the county executive shall be confirmed by the county council.

C. Four of the 10 commission members shall be selected and appointed by the county executive and confirmed by the county council. The members under this subsection shall be residents of the county and
shall all have experience in personnel management. Of these four members, one member shall be selected from each of the following fields of expertise: business, professional personnel management, legal profession, and organized labor. The county council may confirm or reject appointments made under this subsection. If the council rejects an appointment, the county executive shall promptly appoint another person meeting the requirements of this subsection.

D. The members of the commission shall serve two-year terms, with their terms ending on December 31, 2014. Thereafter, all members shall serve for two years. No person may be appointed to more than two terms. Members of the commission may be removed by the county executive, with the approval of the county council, only for cause of incapacity, incompetence, neglect of duty, malfeasance in office, or for a disqualifying change of eligibility. Upon a vacancy in any position on the commission, a successor shall be appointed and confirmed to fill the unexpired term. The appointment and confirmation shall be concluded within 30 days of the date the position becomes vacant and shall be conducted in the same manner as the original appointment. (Ord. 2016-026 Exh. A; Ord. 2012-008 Exh. A).

Chapter 2.104

CODE OF ETHICS

2.104.090 Membership – Term of office.
A. The term of each member shall be four years without compensation, except that two of the new members appointed shall serve an initial term of two years, as determined by the drawing of lots.

B. No person shall be eligible for appointment to more than two four-year terms, except as provided in subsection (C) of this section.

C. An individual appointed to fill a vacancy occurring other than by the expiration of a term of office shall be appointed for the unexpired term of the member he/she succeeds, but shall be eligible for appointment to two full four-year terms thereafter only if one year or less remains in the term he/she is appointed to fill. Any vacancy occurring on the commission shall be filled within 60 days in the manner in which that position was originally filled. A vacancy shall not impair the powers of the remaining members to exercise all the powers of the commission.

D. Any member who declares candidacy for elected county office must immediately resign their membership of the commission.
TITLE OF DOCUMENT: Resolution to set hearing to sell Tax-Title property by public auction Reg. #TR2017-01

ATTACHMENTS: Map

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:
The Property Management Committee recommends the sale by negotiation pursuant RCW 36.35.15(2), when the county legislative authority determines that it is not practical to build on the property due to the physical characteristics of the property or legal restrictions on construction activities on the property.

Parcel # 400527-318181-0000 / PID 143658
PARADISE LAKES COUNTRY CLUB DIVISION NO 1 TRACT A-EXCEPT THAT PORTION LYING EASTERLY OF LINE DESCRIBED AS FOLLOWS-BEGINNING AT NORTHWEST CORNER OF LOT 37 SAID PLAT-THEN CONTINING NORTH 02 DEGREES 02'00" WEST ALONG PROJECTED OF WEST LINE OF SAID LOT 37 30 FEET TO SOUTH LINE OF LOT 20 SAID PLAT-TERMINUS OF HEREIN DESCRIBED LINE TOWNSHIP 40 RANGE 05E SECTION 27

For no less than taxes, interest, penalties and foreclosure costs of $2,004.38

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.
WHEREAS, the following described property is now, and has been the property of the County of Whatcom, State of Washington since: as noted per parcel below and,

WHEREAS, the Whatcom County Council does deem it in the best interest of the County and the people thereof that said property be sold; and,

WHEREAS, the Whatcom County Property Management Committee recommends that the resolution be passed to effectively meet the legal requirement for the disposal;

NOW, THEREFORE, BE IT RESOLVED that it is in the best interest of the County to sell:

Parcel # 400527-318181-0000 / PID 143658
PARADISE LAKES COUNTRY CLUB DIVISION NO 1 TRACT A-EXCEPT THAT PORTION LYING EASTERLY OF LINE DESCRIBED AS Follows-BEGINNING AT NORTHWEST CORNER OF LOT 37 SAID PLAT-THEN CONTINUING NORTH 02 DEGREES 02'00" WEST ALONG PROJECTED OF WEST LINE OF SAID LOT 37 30 FEET TO SOUTH LINE OF LOT 20 SAID PLAT-TERMINUS OF HEREIN DESCRIBED LINE, TOWNSHIP 40 RANGE 05E SECTION 27

For no less than taxes, interest, penalties and foreclosure costs of $2,004.38 to the highest and best bidder; and,

BE IT FURTHER RESOLVED by the Whatcom County Council, that a public hearing on the matter of the sale of said property, under said terms, be held on the
22 day of _______ 2017, at _____ p.m., at the ____________________.
23 Whatcom County, Washington; and,
24 BE IT FURTHER RESOLVED that the Clerk of the Whatcom County Council
25 shall give notice of such hearing in the manner prescribed by law under RCW
26 36.34.030.
27 APPROVED this ______ day of _________ 2017.

28 ATTEST:                      WHATCOM COUNTY COUNCIL
29 WASHINGTON                        WHATCOM COUNTY,

31 Dana Brown-Davis, Council Clerk  Berry Buchanan, Chair
32
33 APPROVED AS TO FORM:
34
35 Civil Deputy Prosecuting Attorney
**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: Janell Wilson, Revenue Deputy</td>
<td>Jw</td>
<td>2/8/17</td>
<td></td>
<td>02/21/2017</td>
<td>Finance/Council</td>
</tr>
<tr>
<td>Division Head: Mark Bouthues, Deputy Treasurer</td>
<td>NB</td>
<td>2/8/17</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Dept. Head: Steven N. Oliver, Treasurer</td>
<td>Steve</td>
<td>2/8/17</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Prosecutor:</td>
<td></td>
<td>2/8/17</td>
<td></td>
<td></td>
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</tr>
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<td>Purchasing/Budget:</td>
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<td></td>
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<td></td>
<td></td>
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<tr>
<td>Executive:</td>
<td>TJS</td>
<td>2/13/17</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**TITLE OF DOCUMENT:**
Resolution cancelling uncollectible personal property taxes

**ATTACHMENTS:**
- Cover letter
- Resolution
- Resolution with Exhibit A

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

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

The County Treasurer is required by law (RCW 84.56.240) to present a list of uncollectible personal property to the Council for cancellation.

**COMMITTEE ACTION:**

**COUNCIL ACTION:**

**Related County Contract #:**

**Related File Numbers:**

**Ordinance or Resolution Number:**

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

TO: Jack Louws, Whatcom County Executive
FROM: Steven N. Oliver, Treasurer
DATE: February 8, 2017
RE: Resolution cancellation

We are presenting this resolution, consistent with RCW 84.56.240 and RCW 59.20.030, for cancellation of personal property taxes which are considered to be uncollectible, for delivery to the Whatcom County Council for consideration at its meeting on February 21, 2017. Council’s action is required to formally cancel the uncollectible personal property tax.

We certify that we have made diligent search and inquiry for goods and chattels to collect such tax and were unable to collect the same.
RESOLUTION NO. __________
CANCELLING UNCOLLECTIBLE PERSONAL PROPERTY TAXES

WHEREAS, RCW 84.56.240 requires that the treasurer shall file with the county legislative authority (county council) a list of uncollectible personal property taxes; and

WHEREAS, Council action is required to formally cancel the uncollectible personal property tax;

NOW, THEREFORE, BE IT RESOLVED by the Whatcom County Council that the uncollectible personal property tax, attached hereto as Exhibit A & B, is hereby cancelled.

APPROVED this _____ day of February, 2017.

ATTEST:  WHATCOM COUNTY COUNCIL
Dana Brown-Davis, Council Clerk  WHATCOM COUNTY, WASHINGTON
Barry Buchanan, Council Chair

APPROVED AS TO FORM:

[Signature]
Civil Deputy Pros. Atty.
### Exhibit A - Business

<table>
<thead>
<tr>
<th>PID</th>
<th>NAME AND ADDRESS</th>
<th>REASON</th>
<th>YR</th>
<th>AMOUNT</th>
<th>TOTAL</th>
</tr>
</thead>
<tbody>
<tr>
<td>13289</td>
<td>J &amp; G FASHION 1 BELLIS FAIR PKWY #370</td>
<td>DELETED PROP</td>
<td>2015</td>
<td>$57.83</td>
<td>$57.83</td>
</tr>
<tr>
<td></td>
<td>BELLINGHAM, WA 98226</td>
<td>GONE</td>
<td>2016</td>
<td>$114.84</td>
<td>$172.67</td>
</tr>
<tr>
<td></td>
<td></td>
<td>OUT OF BUS. NO ASSETS</td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>177768</td>
<td>MAIN STREET FINANCIAL LLC ROBERT ARESTAD</td>
<td>DELETED PROP</td>
<td>2015</td>
<td>$12.63</td>
<td>$12.63</td>
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<tr>
<td></td>
<td>2076 MAIN ST #3 FERNDALE, WA 98248</td>
<td>DECEASED</td>
<td>2016</td>
<td>$14.58</td>
<td>$27.21</td>
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<tr>
<td></td>
<td></td>
<td>OUT OF BUS. NO ASSETS</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2487</td>
<td>KRAUSE MANUFACTURING INC 6059 GUIDE MERIDIAN</td>
<td>DELETED PROP</td>
<td>2014</td>
<td>$5,522.44</td>
<td>$5,522.44</td>
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<tr>
<td></td>
<td>BELLINGHAM, WA 98226</td>
<td>GONE</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>OUT OF BUS. NO ASSETS</td>
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<tr>
<td></td>
<td></td>
<td>RTN MAIL</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>4771</td>
<td>NEXT MEDICAL PRODUCTS CO LLC ATTN: JULIA JACOBSON</td>
<td>DELETED PROP</td>
<td>2014</td>
<td>$2,884.56</td>
<td>$2,884.56</td>
</tr>
<tr>
<td></td>
<td>774 MARINE DR BELLINGHAM, WA 98225</td>
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<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>OUT OF BUS. NO ASSETS</td>
<td></td>
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<td></td>
</tr>
<tr>
<td>6076</td>
<td>NORTHWEST INSULATION CLARK &amp; BEVERLY CASEY</td>
<td>DELETED PROP</td>
<td>2011</td>
<td>$451.52</td>
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<tr>
<td></td>
<td>480 E LAUREL RD BELLINGHAM, WA 98226</td>
<td>GONE</td>
<td>2012</td>
<td>$515.70</td>
<td>$967.22</td>
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<td>OUT OF BUS. NO ASSETS</td>
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</tr>
<tr>
<td>PARCEL/PID</td>
<td>NAME and ADDRESS</td>
<td>REASON</td>
<td>YR</td>
<td>AMOUNT</td>
<td>TOTAL</td>
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<tr>
<td>89933</td>
<td>CHRISTINA D JOHNSON 7136 PORTAL WAY</td>
<td>DELETED 1971 BROOKWOOD TO RDS (DUMP)</td>
<td>2015</td>
<td>$120.54</td>
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<tr>
<td>120345</td>
<td>ROBERT KOSTERMAN 4801 BEACHCOMBER DR #22 BLAINE, WA 98230</td>
<td>DELETED 1969 DETROITER NO LONGER ON PROPERTY</td>
<td>2016</td>
<td>$9.95</td>
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$130.49
**WHATCOM COUNTY COUNCIL AGENDA BILL**

<table>
<thead>
<tr>
<th>CLEARANCES</th>
<th>Initial</th>
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<th>Agenda Date</th>
<th>Assigned to:</th>
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<tbody>
<tr>
<td>Originator:</td>
<td>DKS</td>
<td>01/20/17</td>
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<tr>
<td>Division Head:</td>
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<tr>
<td>Dept. Head:</td>
<td>✧</td>
<td>2/12/17</td>
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</tr>
<tr>
<td>Prosecutor:</td>
<td>✧️</td>
<td>2/13/17</td>
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<tr>
<td>Purchasing/Budget:</td>
<td>☐️</td>
<td>2/13/17</td>
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<td></td>
<td></td>
</tr>
<tr>
<td>Executive:</td>
<td>✧</td>
<td>2/13/17</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**RECEIVED**

FEB 14 2017
WHATCOM COUNTY COUNCIL

**TITLE OF DOCUMENT:** Contract for services with the Council on Aging for staffing and operations of the Bellingham Senior Activity Center.

**ATTACHMENTS:**

<table>
<thead>
<tr>
<th>SEPA review required?</th>
<th>Yes</th>
<th>No</th>
</tr>
</thead>
<tbody>
<tr>
<td>SEPA review completed?</td>
<td>Yes</td>
<td>No</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Should Clerk schedule a hearing?</th>
<th>Yes</th>
<th>No</th>
</tr>
</thead>
</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.)

To allow the County Executive to enter into a contract for services with the Council on Aging to provide staffing and operational support at the Bellingham Senior Activity Center.

**COMMITTEE ACTION:**

**COUNCIL ACTION:**

Related County Contract #: 201501023

Related File Numbers:  

Ordinance or Resolution Number:  

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

TO: Jack Louws, County Executive
FROM: Michael McFarlane, Director
DATE: January 20, 2017
RE: Contract for Services – Bellingham Senior Activity Center

Enclosed are two (2) Contract for Services Agreement originals between Whatcom County Parks & Recreation Department and the Council on Aging for your review and signature.

- **Background and Purpose**
  The renewal of this contract will provide funding to the Council on Aging to staff and operate the Bellingham Senior Activity Center. The Scope of Work for this agreement includes coordination of daily on-site operations, programming, enforcing safety procedures, and managing volunteer opportunities.

- **Funding Amount and Source**
  The contract will be funded by the General Fund in the amount of $120,144 for 2017 and 2018.
WHATCOM COUNTY CONTRACT INFORMATION SHEET

Originating Department: Parks & Recreation
Division/Program: (i.e. Dept. Division and Program)
Contract or Grant Administrator: Mike McFarlane
Contractor's / Agency Name: Council on Aging

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

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

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

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

Is this contract the result of a RFP or Bid process? Yes ☑ No ☐ If yes, RFP and Bid number(s): 11-07
Contract Cost Center: 6002

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):
$ 120,144

This Amendment Amount:
$ __________

Total Amended Amount:
$ 120,144

Council approval required for; all property leases, contracts or bid awards exceeding $40,000, and professional service contract amendments that have an increase greater than $10,000 or 10% of contract amount, whichever is greater, except when:
1. Exercising an option contained in a contract previously approved by the council.
2. Contract is for design, construction, r-o-w acquisition, professional services, or other capital costs approved by council in a capital budget appropriation ordinance.
3. Bid or award is for supplies or equipment included approved in the budget.
4. Contract is for manufacturer's technical support and hardware maintenance of electronic systems and/or technical support and software maintenance from the developer of proprietary software currently used by Whatcom County.

Summary of Scope: This contract provides the funding for the Council on Aging to staff and operate the Bellingham Senior Activity Center. The Scope of Work for this agreement includes coordination of daily on-site operations, programming, enforcing safety procedures, and managing volunteer opportunities.

Term of Contract: January 1, 2017 Expiration Date: December 21, 2018

Contract Routing: Date: 02/08/17
1. Prepared by: Darla Smith Date: 2/10/17
2. Attorney signoff: Date: 2/13/17
3. AS Finance reviewed:
4. IT reviewed (if IT related):
5. Contractor signed:
6. Submitted to Exec.:
7. Council approved (if necessary):
8. Executive signed:
9. Original to Council:

Last edited 10/31/16
Whatcom Council on Aging, hereinafter called Contractor, and Whatcom County, hereinafter referred to as County, agree and contract as set forth in this Agreement, including:

- General Conditions, pp. 2 to 7,
- Exhibit A (Scope of Work), pp. 8 to 9,
- Exhibit B (Compensation), pp. 10,
- Exhibit C (Certificate of Insurance).

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

The term of this Agreement shall commence on the 1st day of January 1, 2017, and shall, unless terminated or renewed as elsewhere provided in the Agreement, terminate on the 31st day of December, 2018.

The general purpose or objective of this Agreement is to: provide onsite staffing to assist in the operation of the Whatcom Council on Aging’s Bellingham Senior Activity Program housed in the County owned Bellingham Senior Activity Center facility, 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 $120,144. 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, 30.2 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 8 day of February, 2018.

CONTRACTOR:

COUNCIL ON AGING

Mary Carlson, Executive Director

STATE OF WASHINGTON )
) ss.
COUNTY OF WHATCOM )

On this 8 day of Feb, 2018, before me personally appeared Mary Carlson to me known to be the Executive Director of Council on Aging and who executed the above instrument and who acknowledged to me the act of signing and sealing thereof.

HEIDI KAY WILSON

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

My commission expires Feb 13 2017

Contract for Services Agreement
Bellingham Senior Activity Center Staffing and Operations

1 of 12
WHATCOM COUNTY:
Recommended for Approval:

[Signature]

Department Director Date

Approved as to form:

[Signature] 2/10/17

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:

Whatcom Council on Aging
Bellingham Senior Activity Address:
   315 Halleck Street
   Bellingham, Washington, 98225

Mailing Address:
   315 Halleck Street
   Bellingham, Washington 98225

Contact Name: Mary Carlson
Contact Phone: 360.360.733.4030 ext. 1026
Contact Email: mcarlson@wccoa.org
GENERAL CONDITIONS

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, beyond county supplied custodian and/or work crews, or facilities, other than the Bellingham Senior Activity Center building and grounds will be furnished by the County, unless otherwise provided for in the Agreement.

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.

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 thirty (30) days of the mailing of the notice, whichever occurs first. If the contract is terminated by default, the Contractor shall not be entitled to receive any further payments under the contract until all work called for has been fully performed.

11.2 Termination for Reduction in Funding:
In the event that funding from State, Federal or other sources is withdrawn, reduced, or limited in any way after the effective date of this Agreement, and prior to its normal completion, the County may summarily terminate this Agreement as to the funds withdrawn, reduced, or limited, notwithstanding any other termination provisions of this Agreement. If the level of funding withdrawn, reduced or limited is so great that the County deems continuation of the programs covered by this Agreement is no longer in the best interests of the County, the County may summarily terminate this Agreement in whole, notwithstanding any other termination provision of this Agreement. Termination under this section shall be effective upon written notice as specified herein, or within thirty (30) days of the mailing of the notice, whichever occurs first.

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 according to the Scope of Work in Exhibit A, and the total dollar payment requested, so as to comply with municipal auditing requirements.

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

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

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

22.1 Withholding Payment:
In the event of the County's Administrative Officer determines that the Contractor has failed to perform any obligations under this Agreement within the times set forth in this Agreement, then the County may withhold from amount otherwise due and payable to Contractor the amount determined by the County as necessary to cure the default, until the Administrative officer determines that such
failure to perform has been cured. Withholding under this clause shall not be deemed a breach entitling Contractor to termination or damages, provided that the County promptly gives notice in writing to the Contractor of the nature of the default or failure to perform, and in no case more than 10 days after it determines to withhold amount otherwise due. A determination of the Administrative Officer set forth in a notice to the Contractor of the action required and/or the amount required to cure any alleged failure to perform shall be deemed conclusive, except to the extent that the Contractor acts within the times and in strict accord with the provisions of the Dispute 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 the amounts due or to become due to the Contractor. In the event the Contractor obtains relief upon a claim under the Disputes clause, no penalty or damages shall accrue to the Contractor by reason of the good faith withholding by the County under this clause.

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 an IRS Form 990, 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.

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

33.1 Right to Review:
This contract is subject to review by any Federal, State or County auditor. The county or its designee shall have the right to review and monitor the financial and service components of this program by whatever means are deemed expedient by the Administrative Officer or by the County Auditor's Office. Such review may occur with or without notice and may include, but is not limited to, on-site inspection by County agents or employees, inspection of all records or other materials which the County deems pertinent to the Agreement and its performance, and any and all communications with or evaluations by service recipients under this Agreement. The Contractor shall preserve and maintain all financial records and records relating to the performance of work under this Agreement for three (3) years after the contract termination, and shall make them available for such review, within Whatcom County, State of Washington, upon request.

34.1 Proof of Insurance:
The Contractor is required to meet the following Insurance Requirements.

General Liability Insurance at $1,000,000 per occurrence
Professional Liability Insurance at $500,000 per occurrence

Workers Compensation Insurance and listed amounts for bodily injury by accident, bodily injury by disease, policy limits

Fraud Insurance covering employees

Comprehensive Automobile Liability $1,000,000 each accident

A certificate of such insurance, with attached endorsement providing proof of all required insurance provisions, including Contractor's insurance must name the County, officials, employees, and agents as additional insureds on this contract; Contractor's insurance is primary and County's insurance in non-contributory, and the Contractor waives all rights of subrogation; proof of said insurance is attached hereto as Exhibit "C." Contractor shall maintain in effect all insurance coverages required under this Agreement, at Contractor's sole expense and with insurance carriers licensed to do business in the State of Washington in which the Project is located and having a current A.M. Best rating of no less than A-, unless another A.M. Best rating is specifically accepted by the County in writing. The Contractor must provide a Certificate of Insurance and Endorsements which identifies clearly and readily proof of insurance as required under this Agreement, including the endorsements that the County, employees, agents and volunteers are named additional insureds on the Contractor's policy; the Contractor's insurance is primary and the County's insurance is non-contributory; and the waiver of subrogation.

The Contractor shall provide annual proof of insurance to the County. The County shall not be obligated to review such certificates, endorsements, or other evidence of insurance, or to advise Contractor of any deficiencies in such documents, and receipt thereof shall not relieve Contractor from, nor be deemed a waiver of the County's right to enforce, the terms of Contractor's obligations hereunder.

34.3 Indemnification by Contractor:
To the fullest extent permitted by law, the Contractor (also identified as Provider) 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 Provider, its employees, agents or volunteers or Provider'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 Provider's or its subcontractors' use of, presence upon or proximity to the property of the County, or 4) Provider's breach of this Agreement. This indemnification obligation of the Provider 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 Provider 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 Provider hereby expressly waives any immunity afforded by such acts. The foregoing indemnification obligations of the Provider are a material inducement to County to enter into this Agreement, are reflected in the Provider'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 Provider's indemnity obligations under this Agreement.

The Provider agrees all Provider's indemnity obligations shall survive the completion, expiration or termination of this Agreement.

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

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

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

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:

Michael McFarlane, Director

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 inability 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

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.

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

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

42.1 Disputes:

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

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

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

d. Arbitration:
Other than claims for injunctive relief brought by a party hereto (which may be brought either in court or pursuant to this arbitration provision), and consistent with the provisions hereinabove, any claim, dispute or controversy between the parties under, arising out of, or related to this Agreement or otherwise, including issues of specific performance, shall be determined by arbitration in Bellingham, Washington, under the applicable American Arbitration Association (AAA) rules in effect on the date hereof, as modified by this Agreement. There shall be one arbitrator selected by the parties within ten (10) days of the arbitration demand, or if not, by the AAA or any other group having similar credentials. Any issue about whether a claim is covered by this Agreement shall be determined by the arbitrator. The arbitrator shall apply substantive law and may award injunctive relief, equitable relief (including specific performance), but shall not have the power to award punitive damages. All costs, expenses and attorney's fees for arbitration shall be at each party's own expense, unless agreed otherwise in writing by both parties. 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. The parties shall equally share in the cost of the mediator or arbitrators fees and expenses.

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

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

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

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

Scope of Services:
The contractor agrees to provide to the County services and any materials as set forth in this project narrative identified as Exhibit "A", during this agreement period. No material, labor, beyond county supplied custodian and/or work crews, or facilities other than the Bellingham Senior Activity Center building, grounds, and parking lot maintenance will be furnished by the County, unless otherwise provided for in the agreement.
EXHIBIT "A"
SCOPE OF WORK

Contractor will be required to staff and open the Bellingham Senior Activity Center at a minimum of Monday through Friday 8:00 a.m. to 4:30 p.m., except for holidays and during inclement weather. Any change in these hours of operation will need to be coordinated with the County Parks & Recreation Department. Contractor will have building access on Mondays, Wednesdays, Thursdays and Fridays from 7:00 a.m. to 6:00 p.m. and on Tuesdays from 7:00 a.m. to 9:00 p.m. for programs that occur outside of normal operating hours. Contractor will also have building access on Saturdays from 5:00 a.m. to 3:00 p.m. for programs and activities. In addition Contractor may offer additional hours of operation and duties that they feel are necessary to effectively operate the Bellingham Senior Activity Center. Additional hours of operation will need to be coordinated with the County Parks & Recreation Department so as not to interfere with other scheduled events. Contractor will be expected to fulfill the following duties and responsibilities.

A. Daily On-site Operations during the hours of 8:00 a.m. to 4:30 p.m., Monday through Friday
   - Open, close and lock the facility
   - Schedule the use of the Center space for all programs
   - Perform set-up and take-down of furniture and equipment for daily programs and special events
   - Perform limited custodial duties when the county provided staff person is not available for up to 10 days of intermittent absences, and provide contracted custodial services (3 hours / Day) for up to four weeks for longer term custodial absences for vacation and sick leave
   - Immediately report in writing and verbally any building and grounds maintenance problems or unsafe conditions to the County Parks & Recreation Department
   - Oversee use of the building and ensure activities are conducted in a safe organized manner

B. Develop and conduct center programming
   - Develop a variety of healthy lifestyle and educational programs, along with other activities of interest to older adults
   - Develop a senior gardening program on Bellingham Senior Activity Center property with the program operation plan being approved annual by the Parks and Recreation Operations Manager
   - Provide daily dining room assistance for the Council on Aging Nutrition Program
   - Prepare and distribute a monthly schedule of center programs and activities that also promotes the Bellingham Senior Activity Center
   - Establish a process whereby participants provide input on desire programming and feedback regarding existing programming at the Bellingham Senior Activity Center

C. Implement and enforce safety procedures for:
   - Inclement weather
   - Unsafe conditions on the center grounds and parking lot
   - Closing the facility when necessary in conjunction with other Council on Aging Programs. Notify the County Parks & Recreation Department
   - Fire and emergency evacuation plans
   - Conducting evacuation drills as recommended by the Fire Department and in conjunction with other Council on Aging Programs.
   - A code of Conduct for the Center
   - Resolving participant behavior issues
   - Responding to accidents and medical emergencies
   - Reporting and documenting accidents and incidents and providing copies of such to the County Parks & Recreation Department

D. Coordinate volunteer activities in support of Center operations. This includes the following:
   - Maintaining existing and develop new volunteer programs as appropriate and actively involve participants in the operation of the Bellingham Senior Activity Center
   - Developing volunteer job descriptions to accommodate programming needs
   - Recruit, train, schedule and supervise volunteers
   - Conduct Criminal Background Checks on prospective volunteers using the State of Washington WATCH Program
   - Contractor shall arrange and provide for volunteer insurance coverage

E. Submit the following reports to the County Parks & Recreation Department:
   - Monthly attendance Reports
   - Monthly Volunteer Reports
• Annual Financial Reports documenting the expenditure of Whatcom County contracted funds
• Meet with the County Parks & Recreation Department on a semi-annual basis to evaluate how the service contract is working
• Regularly review and respond to any County incident reports regarding participants or Contractor staff
• Work cooperatively with County staff and report any staff behavior issues to the County Parks & Recreation Operations Manager.

F. Contractor is responsible for managing Contractor personnel and for:
• Paying employee payroll and benefits as well as maintaining proper records
• Ensuring that employees are properly screened through the State of Washington WATCH program and trained
• Resolving staff behavior issues.
• Comply with Federal, State and local laws

G. Contractor will maintain the insurance coverage required in section 34 Proof of Insurance and provide annually a Certificate of Insurance and Endorsements to the County Parks & Recreation Department covering the terms and requirements in this Agreement.
EXHIBIT "B"
COMPENSATION

Whatcom County Parks & Recreation Department will provide $60,072 for the twelve (12) month period January 1, 2017 through December 31, 2017, and $60,072 for the twelve (12) month period January 1, 2018 through December 31, 2018.

Whatcom Council on Aging shall invoice Whatcom County Parks & Recreation Department by the last working day of each month during the term of this Agreement for services rendered as outlined in Exhibit "A" Scope of Work. Whatcom County Parks & Recreation Department shall reimburse the Whatcom Council on Aging for twelve (12) equal payments in 2017 and twelve (12) equal payments in 2018. Reimbursements may be reduced on a pro-rated basis if the Senior Center programming is discontinued for an extended period due to emergencies or natural disasters.

EXHIBIT "C"
CERTIFICATE OF INSURANCE
Non Profit Insurance Program
CERTIFICATE OF COVERAGE

Issue Date: 12/19/2016

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONVEYS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF COVERAGE 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 coverage may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

<table>
<thead>
<tr>
<th>PRODUCER</th>
<th>COMPANIES AFFORDING COVERAGE</th>
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</table>
| Clear Risk Solutions  
451 Diamond Drive  
Ephrata, WA 98823 | GENERAL LIABILITY  
American Alternative Insurance Corporation  
AUTOMOBILE LIABILITY  
American Alternative Insurance Corporation  
PROPERTY  
American Alternative Insurance Corporation, et al.  
MISCELLANEOUS PROFESSIONAL LIABILITY |

<table>
<thead>
<tr>
<th>INSURED</th>
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| Whatcom Council on Aging  
315 Halleck St  
Bellingham, WA 98225 |                           |

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<td>THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE COVERAGE PERIOD INDICATED, NOT WITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF 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.</td>
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<th>POLICY EXP DATE</th>
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<td>PER CLAIM</td>
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Regarding the Contract for Services Agreement, Bellingham Senior Activity Center Staffing and Operations between Whatcom County Council on Aging and Whatcom County, Whatcom County, its officials, employees, agents, and volunteers are named as Additional Insured regarding this contract only and are subject to policy terms, conditions, and exclusions. Crime Coverage is included in the policy with a limit of $1,000,000. NPIP retained limit is primary and non-contributory. Auto Liability Coverage includes Hired/Non-Owned Auto. Additional Insured and Waiver of Subrogation endorsements are attached.

CANCELLATION

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

<table>
<thead>
<tr>
<th>CERTIFICATE HOLDER</th>
<th>AUTHORIZED REPRESENTATIVE</th>
</tr>
</thead>
</table>
| Attn: Michael McFarlane, Director  
Whatcom County  
311 Grand Avenue  
Bellingham, WA 98225 | |

3199595

122
AMERICAN ALTERNATIVE
INSURANCE COMPANY

ADDITIONAL INSURED – DESIGNATED PERSON OR ORGANIZATION
(GENERAL LIABILITY)

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<tr>
<th>Named Insured</th>
<th>Non Profit Insurance Program (NPIP)</th>
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<td>Policy Number</td>
<td>Endorsement Effective</td>
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<td>N1-A2-RL-0000013-08</td>
<td>6/1/2016</td>
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</table>

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY

This endorsement modifies insurance provided under the following:

GENERAL LIABILITY COVERAGE PART

This endorsement changes the policy effective on the inception date of the policy unless another date is indicated above.

Schedule

Person or Organization (Additional Insured): As Per Schedule on file with Clear Risk Solutions, Underwriting Administrator

Attn: Michael McFarlane, Director
Whatcom County
311 Grand Avenue
Bellingham, WA 98225

Regarding the Contract for Services Agreement, Bellingham Senior Activity Center Staffing and Operations between Whatcom County Council on Aging and Whatcom County. Whatcom County, its officials, employees, agents, and volunteers are named as Additional Insured regarding this contract only and are subject to policy terms, conditions, and exclusions. Crime Coverage is included in the policy with a limit of $1,000,000. NPIP retained limit is primary and non-contributory. Auto Liability Coverage includes Hired/Non-Owned Auto. Additional Insured and Waiver of Subrogation endorsements are attached.

A. With respects to the General Liability Coverage Part only, the definition of Insured in the Liability Conditions, Definitions and Exclusions section of this policy is amended to include as an Insured the Person or Organization shown in the above Schedule. Such Person or Organization is an Insured only with respect to liability for Bodily Injury, Property Damage, or Personal and Advertising Injury caused in whole or in part by your acts or omissions or the acts or omissions of those acting on your behalf:

1. In performance of your ongoing operations; or
2. In connection with your premises owned or rented to you.

B. The Limits of Insurance applicable to the additional Insured are those specified in either the:

1. Written contract or written agreement; or
2. Declarations for this policy,

whichever is less. These Limits of Insurance are inclusive and not in addition to the Limits Of Insurance shown in the Declarations.

All other terms and conditions remain unchanged.
AMERICAN ALTERNATIVE
INSURANCE CORPORATION

WAIVER OF TRANSFER OF RIGHTS AND RECOVERY AGAINST OTHERS TO US

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<tr>
<th>Named Insured Non Profit Insurance Program (NPIP)</th>
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<tr>
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This endorsement modifies insurance provided under the following:

GENERAL LIABILITY COVERAGE PART

This endorsement changes the policy effective on the inception date of the policy unless another date is indicated above.

Schedule

Name of Person or Organization: As Per Schedule on file with Clear Risk Solutions, Underwriting Administrator

The Our Right To Recovery Condition in the Liability Conditions, Definitions and Exclusions form is amended by addition of the following:

We waive any right of recovery we may have against the person or organization shown in the Schedule above because of payments we make for injury or damage arising out of your ongoing operations or Your Work done under contract with that person or organization. This waiver only applies to the person or organization shown in the Schedule above; however, this waiver does not apply if the injury or damage is due to the sole negligence of such scheduled person or organization.

All other terms and conditions remain unchanged.
TITLE OF DOCUMENT: Contract for services with the Jet Oldsters Association of Ferndale for the scheduling and supervision of public rentals at the Ferndale Senior Activity Center.

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

To allow the County Executive to enter into a contract for services with the Jet Oldsters Association of Ferndale to provide scheduling and oversight of public rentals at the Ferndale Senior Activity Center. This long standing partnership will provide custodial services and supervision of activities that take place at the center outside of the Senior Activity Center program and hours. In exchange for this service the Jet Oldsters Association of Ferndale will be reimbursed 75% of all receipts, minus County expenses.

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

TO: Jack Louws, County Executive

FROM: Michael McFarlane, Director

DATE: February 8, 2017

RE: Contract for Services – Ferndale Senior Activity Center

Enclosed are two (2) Contract for Services Agreement originals between Whatcom County Parks & Recreation Department and the Jet Oldsters Association of Ferndale for your review and signature.

- **Background and Purpose**
  The renewal of this contract will provide custodial services and supervision for public rentals at the Ferndale Senior Center.

- **Funding Amount and Source**
  In exchange for this service the Jet Oldsters Association of Ferndale will be reimbursed 75% of all receipts, minus County expenses.
### Whatcom County Contract Information Sheet

**Originating Department:** Parks & Recreation  
**Division/Program:** (i.e. Dept. Division and Program)  
**Contract or Grant Administrator:** Mike McFarlane  
**Contractor’s / Agency Name:** Jet Oldsters Association of Ferndale

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<tr>
<th>Question</th>
<th>Yes</th>
<th>No</th>
<th>Answer</th>
</tr>
</thead>
<tbody>
<tr>
<td>Is this a New Contract? If not, is this an Amendment or Renewal to an Existing Contract?</td>
<td>Yes</td>
<td>No</td>
<td>Yes</td>
</tr>
<tr>
<td>Does contract require Council Approval? If No, include WCC: (see Whatcom County Codes 3.06.010, 3.08.090 and 3.08.100)</td>
<td>Yes</td>
<td>No</td>
<td>No</td>
</tr>
<tr>
<td>Is this a grant agreement? If yes, grantor agency contract number(s):</td>
<td>Yes</td>
<td>No</td>
<td>Yes</td>
</tr>
<tr>
<td>Is this contract grant funded? If yes, Whatcom County grant contract number(s):</td>
<td>Yes</td>
<td>No</td>
<td>No</td>
</tr>
<tr>
<td>Is this the result of a RFP or Bid process? Contract</td>
<td>Yes</td>
<td>No</td>
<td>Yes</td>
</tr>
<tr>
<td>Cost Center:</td>
<td>6002</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Is this agreement excluded from E-Verify? If no, include Attachment D Contractor Declaration form.</td>
<td>Yes</td>
<td>No</td>
<td>Yes</td>
</tr>
</tbody>
</table>

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

**This Amendment Amount:**  
$ ____________  

**Total Amended Amount:**  
$ ____________  

**Summary of Scope:** This long standing partnership will provide custodial services and supervision of activities that take place at the center outside of the Senior Activity Center program and hours. In exchange for this service the Jet Oldsters Association of Ferndale will be reimbursed 75% of all receipts, minus County expenses.

**Term of Contract:** January 1, 2017  
**Expiration Date:** December 31, 2018  
**Date:** 02/08/17  
**Date:** 02/13/17  
**Date:** 1-3-17  
**Date:** 2-13-17  

**Council Approval Required for; all property leases, contracts or bid awards exceeding $40,000, and professional service contract amendments that have an increase greater than $10,000 or 10% of contract amount, whichever is greater, except when:**
1. Exercising an option contained in a contract previously approved by the council.
2. Contract is for design, construction, r-o-w acquisition, professional services, or other capital costs approved by council in a capital budget appropriation ordinance.
3. Bid or award is for supplies or equipment included approved in the budget.
4. Contract is for manufacturer’s technical support and hardware maintenance of electronic systems and/or technical support and software maintenance from the developer of proprietary software currently used by Whatcom County.

**Contract Routing:**

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

Last edited 10/31/16
PUBLIC USE SCHEDULING AGREEMENT
FERNADE SENIOR ACTIVITY CENTER

BETWEEN

JET OLDSTERS ASSOCIATION OF FERNADE

AND

WHATCOM COUNTY PARKS & RECREATION DEPARTMENT

This Agreement is entered into by Whatcom County Parks & Recreation Department (Parks / County) and the Jet Oldsters Association of Ferndale (Jet Oldsters) a not-for-profit organization operating in the State of Washington. Parks and Jet Oldsters have maintained a long standing partnership to jointly maintain and operate the Ferndale Senior Activity Center. The County owns the facility and covers major maintenance, repairs and most utility expenses. Jet Oldsters staff members and volunteers provide custodial services, supervise the reception desk and oversee program activities that take place at the Center separate from the Senior Activity Center Programs and hours. This Agreement is separate and distinct from the Whatcom County’s Park’s Contract for Services Agreement at the Ferndale Senior Activity Center for Senior Activities, staffing and operations.

1. PURPOSE
This Agreement outlines the responsibilities of both parties in regards to the scheduling and supervision of Public Rentals at Ferndale Senior Activity Center located at 1998 Cherry Street, Ferndale, WA 98264. These rentals may be scheduled when the facility is not used for senior citizen activities including evenings, weekends and occasional weekdays.

2. PARKS RESPONSIBILITIES
Parks will be responsible for the following functions related to Public Rentals of the Ferndale Senior Activity Center.

A. Establish fees & charges for the Ferndale Senior Activity Center for public use and rentals separate from the Senior Activity Center events and activities.
B. Post Ferndale Senior Activity Center rental information and room availability on the Whatcom County Parks & Recreation website online reservation system.
C. Manage and process all Ferndale Senior Activity Center public reservations and payments.
D. Account for all receipts and disbursements related to public rentals.
E. Reimburse the Ferndale Jet Oldsters on a quarterly basis at the rate of 75% of all receipts minus expenses including convenience fees, taxes, alarm response, and other charges to the County.

3. JET OLDSTERS RESPONSIBILITIES
Jet Oldsters will be responsible for the following duties related to the Public Rentals of the Ferndale Senior Activity Center.

A. Show prospective renters the facility and available equipment.
B. Check out and return keys prior to each rental. Maintain all keys in a secure location.
C. Provide orientation on open and closing procedures including deactivating and activating the alarm system.
D. If necessary set up the facility for each rental and make sure that the building is adequately cleaned after each event. All furniture and equipment is to be returned to its regular or assigned facility location or in facility storage.

Whatcom County Parks and Jet Oldsters Agreement
Page 1
E. Provide a current list of Jet Oldsters members and phone numbers to be on the After Hours Callout List to respond to Security Alarms. A copy of this Callout List will be provided to Parks and shall be kept current by the Jet Oldsters.

F. Cover the cost of any after hour’s false alarm response charges, not due to system failures, at the Ferndale Senior Activity Center. These charges will be deducted from the Parks reimbursements outlined in Section 2 E.

G. Immediately notify Parks and provide an incident report of any damage to the facility or equipment, alarm calls, accidents, incidents or injuries related to building rentals

H. Immediately report to Parks any structural, security or maintenance repairs needed to the Facility or on the premises.

4. TERM OF THE AGREEMENT
This agreement shall run from January 1, 2017 through December 31, 2018.

5. ADMINISTRATION
The following individuals are designated as representatives of the respective parties. The representative shall be responsible for the administration of this Agreement. In the event such representatives are changed, the party making the change shall notify the other party in writing. The Jet Oldsters representative shall be the Jet Oldsters Manager. The Parks representative shall be Darla Smith, Administrative Assistant.

6. INDEMNIFICATION BY JET OLDSTERS (identified herein as PROVIDER): To the fullest extent permitted by law, the Provider 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 Provider, its employees, agents or volunteers or Provider’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 Provider’s or its subcontractors’ use of, presence upon or proximity to the property of the County; or 4) By Provider’s breach of Agreement. This indemnification obligation of the Provider 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 Provider 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 Provider hereby expressly waives any immunity afforded by such acts. The foregoing indemnification obligations of the Provider are a material inducement to County to enter into this Agreement, are reflected in the Provider’s compensation, and have been mutually negotiated by the parties.

Provider’s/ Jet Oldsters initials acknowledging indemnity terms: [Signature]

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 Provider’s indemnity obligations under this Agreement.

The Provider agrees all Providers’ indemnity obligations shall survive the completion, expiration or termination of this Agreement.

The Jet Oldsters are required to provide proof of insurance for the following minimum coverage’s.

A. General Liability Coverage - $1,000,000 per occurrence.

B. Workers Compensation Coverage and listed amounts for bodily injury by accident, bodily injury by disease, policy limits.

C. Comprehensive Automobile Liability - $1,000,000 each accident.

D. Contractor shall maintain in effect all insurance coverages required under this Agreement, at Contractor’s sole expense and with insurance carriers licensed to do business in the State of Washington in which the Project is located and having a current A.M. Best rating of no less than A-, unless another A.M. Best rating is specifically accepted by the County in writing.
7. TERMINATION
Any party hereto may terminate this Agreement upon thirty (30) days notice in writing either personally delivered or mailed postage-prepaid by certified mail, return receipt requested, to the party's last known address for the purposes of giving notice under this paragraph. If this Agreement is so terminated, the parties shall be liable only for performance rendered or costs incurred in accordance with the terms of this Agreement prior to the effective date of termination.

8. NONDISCRIMINATION
During the term of this Agreement, the Jet Oldsters shall comply with all applicable Federal, State and local provisions with regard to hiring and employment practices, and providing program services. In the event of the Jet Oldsters noncompliance or refusal to comply with the above provisions, this Agreement may be rescinded, cancelled, or terminated in whole or in part without penalty to Parks. The Jet Oldsters shall, however, be given a reasonable time in which to cure such noncompliance.

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

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

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

IN WITNESS WHEREOR, the parties have executed this Agreement this 3rd day of January, 2016:

APPROVED

JET OLDSTERS ASSOCIATION OF FERNDALE

[Signature]
Ruth Bergman, President
Sr. Center phone no: 360-624-69
Personal Contact phone: 360-536-68

STATE OF WASHINGTON)
COUNTY OF WHATCOM

On this 3rd day of January, 2016, before me personally appeared President, authorized to sign for the Jet Oldsters Association of Ferndale and who executed the above instrument and acknowledged the fact of signing and sealing thereof.

[Signature]
Notary Public in and for the State of Washington, residing at Whatcom County

My Commission expires: 5-6-2019
WHATCOM COUNTY

Jack Louws, County Executive

STATE OF WASHINGTON) )ss

COUNTY OF WHATCOM

On this ____ day of __________, 2016. before me personally appeared Jack Louws, to be known to be County Executive of Whatcom County and who executed the above instrument and acknowledged to me the act of signing and sealing thereof.

Given under my hand and official seal this ____ day of __________ 2016.

_____________________________________________________

Notary Public in and for the State of Washington,

Residing in ________________

My Commission expires: ________________

WHATCOM COUNTY PARKS & RECREATION DEPARTMENT

Michael McCartane, Director

APPROVED AS TO FORM

Deputy Prosecuting Attorney
### TITLE OF DOCUMENT:
Contract for services with the Jet Oldsters Association of Ferndale for staffing and operations of the Ferndale Senior Activity Center.

### ATTACHMENTS:

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

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

To allow the County Executive to enter into a contract for services with the Jet Oldsters of Ferndale to provide staffing and operational support at the Ferndale Senior Activity Center.

### COMMITTEE ACTION:

### COUNCIL ACTION:

<table>
<thead>
<tr>
<th>Related County Contract #:</th>
<th>201501022</th>
</tr>
</thead>
<tbody>
<tr>
<td>Related File Numbers:</td>
<td></td>
</tr>
<tr>
<td>Ordinance or Resolution Number:</td>
<td></td>
</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](http://www.co.whatcom.wa.us/council).
MEMORANDUM

TO: Jack Louws, County Executive
FROM: Michael McFarlane, Director
DATE: February 8, 2017
RE: Contract for Services – Ferndale Senior Activity Center

Enclosed are two (2) Contract for Services Agreement originals between Whatcom County Parks & Recreation Department and the Jet Oldsters of Ferndale for your review and signature.

- **Background and Purpose**
  The renewal of this contract will provide funding to the Jet Oldsters of Ferndale to staff and operate the Ferndale Senior Activity Center. The Scope of Work for this agreement includes coordination of daily on-site operations, programming, enforcing safety procedures, and managing volunteer opportunities.

- **Funding Amount and Source**
  The contract will be funded by the General Fund in the amount of $120,144 for 2017 and 2018.
**WHATCOM COUNTY CONTRACT INFORMATION SHEET**

### Originating Department:
- **Parks & Recreation**

### Division/Program:
- **(i.e. Dept, Division and Program)**

### Contract or Grant Administrator:
- **Mike McFarlane**

### Contractor's / Agency Name:
- **Jet Oldsters Association of Ferndale**

---

**Is this a New Contract?**
- Yes [x]  No [ ]

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

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

**Does contract require Council Approval?**
- Yes [x]  No [ ]

*If No, include WCC: (see Whatcom County Codes 3.06.010, 3.08.090 and 3.08.100)* [ ]

**Is this a grant agreement?**
- Yes [ ]  No [x]

**If yes, grantor agency contract number(s):** [ ]

**CFDA#:** [ ]

---

**Is this contract grant funded?**
- Yes [ ]  No [x]

**If yes, Whatcom County grant contract number(s):** [ ]

---

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

**If yes, RFP and Bid number(s):** 11-07

**Contract** [ ]

**Cost Center:** 6002

---

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

*If no, include Attachment D Contractor Declaration form.* [ ]

---

**If YES, indicate exclusion(s) below:**
- [ ] Professional services agreement for certified/licensed professional.
- [ ] Contract work is for less than $100,000.
- [ ] Contract work is for less than 120 days.
- [ ] 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):**
- 

**$ 120,144**

**This Amendment Amount:**
- 

**$**

**Total Amended Amount:**
- 

**$ 120,144**

---

**Summary of Scope:** This contract provides the funding for the Jet Oldsters Association of Ferndale to staff and operate the Ferndale Senior Activity Center. The Scope of Work for this agreement includes coordination of daily on-site operations, programming, enforcing safety procedures, and managing volunteer opportunities.

---

**Term of Contract:** January 1, 2017  **Expiration Date:** December 21, 2018

---

**Contract Routing:**

1. Prepared by: Darla Smith  
   Date: 02/08/17

2. Attorney signoff:  
   Date: 2/10/17

3. AS Finance reviewed:  
   [ ]

4. IT reviewed (if IT related):  
   Date: 2/19/17

5. Contractor signed:  
   Date: 1-3-17

6. Submitted to Exec.:  
   Date: 2/13/17

7. Council approved (if necessary):  
   Date:  

8. Executive signed:  
   Date:  

9. Original to Council:  
   Date:  

---

**Last edited 10/31/16**
CONTRACT FOR SERVICES AGREEMENT
FERNDALE SENIOR ACTIVITY CENTER STAFFING AND OPERATIONS

Jet Oldsters Association of Ferndale, hereinafter called Contractor, and Whatcom County, hereinafter referred to as County, agree and contract as set forth in this Agreement, including:

General Conditions, pp.3 to 6,
Exhibit A (Scope of Work), pp. 7,
Exhibit B (Compensation), pp. 8,
Exhibit C (Certificate of Insurance).

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

The term of this Agreement shall commence on the 1st day of January, 2017, and shall, unless terminated or renewed as elsewhere provided in the Agreement, terminate on the 31st day of December, 2018.

The general purpose or objective of this Agreement is to: provide onsite staffing to assist in the operation of the Ferndale Senior Activity Center facility, 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 $120,144. 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, 30.2 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 3rd day of January, 2016.

CONTRACTOR:

JET OLDSTERS ASSOCIATION OF FERNDALE

Ruth Bergman, President

STATE OF WASHINGTON

COUNTY OF WHATCOM

On this 3rd day of January, 2016, before me personally appeared Ruth Bergman to me known to be the President of the Jet Oldsters Association of and who executed this Agreement and who acknowledged to me the act of signing and sealing thereof.

BEVERLY KUMBALL
NOTARY PUBLIC
COMM. EXPIRES MAY 08, 2019
STATE OF WASHINGTON

Contract for Services Agreement
Ferndale Senior Activity Center Staffing and Operations

1 of 9

135
WHATCOM COUNTY:
Recommended for Approval:

\[ \underline{\text{Signature}} \] 2-8-17
Department Director  Date

Approved as to form:

\[ \underline{\text{Signature}} \] 2/10/17
Prosecuting Attorney  Date

Approved:
Accepted for Whatcom County:

By: ______________________
Jack Louws, Whatcom County Executive

STATE OF WASHINGTON )
COUNTY OF WHATCOM ) ss

On this ____ day of _________, 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:
Jet Oldsters Association of Ferndale

Address:
1998 Cherry Street
Ferndale, WA 98248

Contact Name: Ruth Bergman, President

Contact Phone: (360) 384-5113

Contact FAX: (360) 384-5113

GENERAL CONDITIONS
Contract for Services Agreement
Ferndale Senior Activity Center Staffing and Operations
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.

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.

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 by default, the Contractor shall not be entitled to receive any further payments under the contract until all work called for has been fully performed.

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

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

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

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

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

22.1 **Withholding Payment:**
In the event of the County's Administrative Officer determines that the Contractor has failed to perform any obligations under this Agreement within the times set forth in this Agreement, then the County may withhold from amount otherwise due and payable to Contractor the amount determined by the County as necessary to cure the default, until the Administrative officer determines that such failure to perform has been cured. Withholding under this clause shall not be deemed a breach entitling Contractor to termination or
damages, provided that the County promptly gives notice in writing to the Contractor of the nature of the default or failure to perform, and in no case more than 10 days after it determines to withhold amount otherwise due. A determination of the Administrative Officer set forth in a notice to the Contractor of the action required and/or the amount required to cure any alleged failure to perform shall be deemed conclusive, except to the extent that the Contractor acts within the times and in strict accord with the provisions of the Dispute 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 the amounts due or to become due to the Contractor. In the event the Contractor obtains relief upon a claim under the Disputes clause, no penalty or damages shall accrue to the Contractor by reason of the good faith withholding by the County under this clause.

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 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.

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

33.1 Right to Review:
This contract is subject to review by any Federal, State or County auditor. The county or its designee shall have the right to review and monitor the financial and service components of this program by whatever means are deemed expedient by the Administrative Officer or by the County Auditor's Office. Such review may occur with or without notice and may include, but is not limited to, on-site inspection by County agents or employees, inspection of all records or other materials which the County deems pertinent to the Agreement and its performance, and any and all communications with or evaluations by service recipients under this Agreement. The Contractor shall preserve and maintain all financial records and records relating to the performance of work under this Agreement for three (3) years after the contract termination, and shall make them available for such review, within Whatcom County, State of Washington, upon request.

34.1 Proof of Insurance:
The Contractor is required to meet the following Insurance Requirements.

General Liability Insurance at $1,000,000 per occurrence
Professional Liability Insurance at $500,000 per occurrence

Workers Compensation Insurance and listed amounts for bodily injury by accident, bodily injury by disease, policy limits

Fraud Insurance covering employees

Comprehensive Automobile Liability at $1,000,000 each accident

A certificate of such insurance, with attached endorsement providing proof of all required insurance provisions, including Contractor’s insurance must name the County, officials, employees, agents and volunteers, as additional insureds on this contract; Contractor’s insurance is primary and County’s insurance in non-contributory, and the Contractor waives all rights of subrogation; proof of said insurance is attached hereto as Exhibit “C”. Contractor shall maintain in effect all insurance coverages required under this Agreement, at Contractor’s sole expense and with insurance carriers licensed to do business in the State of Washington in which the Project is located and having a current A.M. Best rating of no less than A-, unless another A.M. Best rating is specifically accepted by the County in writing. The Contractor must provide a Certificate of Insurance and Endorsements which identifies clearly and readily proof of insurance as required under this Agreement, including the endorsements that the County, employees, agents and volunteers are named additional insureds on the Contractor’s policy; the Contractor’s insurance is primary and the County’s insurance is non-contributory; and the waiver of subrogation.

The Contractor shall provide annual proof of insurance to the County. The County shall not be obligated to review such certificates, endorsements, or other evidence of insurance, or to advise Contractor of any deficiencies in such documents, and receipt thereof shall not relieve Contractor from, nor be deemed a waiver of the County’s right to enforce, the terms of Contractor’s obligations hereunder.

34.3 Indemnification by Contractor:
To the fullest extent permitted by law, the Contractor (also identified as Provider) 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 Provider, its employees, agents or volunteers or Provider’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 Provider’s or its subcontractors’ use of, presence upon or proximity to the property of the County, or 4) Provider’s breach of this Agreement. This indemnification obligation of the Provider 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 Provider 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 Provider hereby expressly waives any immunity afforded by such acts. The foregoing indemnification obligations of the Provider are a material inducement to County to enter into this Agreement, are reflected in the Provider’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 Provider’s indemnity obligations under this Agreement.

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

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

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

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

36.2 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:

Darla Smith, Administrative Assistant

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 eligibility 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

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.

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

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

42.1 Disputes:

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

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

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

d. Arbitration:
Other than claims for injunctive relief brought by a party hereto (which may be brought either in court or pursuant to this arbitration provision), and consistent with the provisions hereinabove, any claim, dispute or controversy between the parties under, arising out of, or related to this Agreement or otherwise, including issues of specific performance, shall be determined by arbitration in Bellingham, Washington, under the applicable American Arbitration Association (AAA) rules in effect on the date hereof, as modified by this Agreement. There shall be one arbitrator selected by the parties within ten (10) days of the arbitration demand, or if not, by the AAA or any other group having similar credentials. Any issue about whether a claim is covered by this Agreement shall be determined by the arbitrator. The arbitrator shall apply substantive law and may award injunctive relief, equitable relief (including specific performance), but shall not have the power to award punitive damages. All costs, expenses and attorney's fees for arbitration shall be at each party's own expense, unless agreed otherwise in writing by both parties. 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. The parties shall equally share in the cost of the mediator or arbitrators fees and expenses.

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

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

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

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

Contractor will be required to staff the Ferndale Senior Activity Center at a minimum of Monday through Friday 8:00 a.m. to 4:00p.m. Any change in these hours of operation will need to be coordinated with the County Parks & Recreation Department.

Contractor may offer additional hours of operation and duties that they feel are necessary to effectively operate the Ferndale Senior Activity Center. Additional hours of operation will need to be coordinated with the County Parks & Recreation Department so as not to interfere with other scheduled events.

Contractor will be expected to fulfill the following duties and responsibilities.

A. Daily On-site Operations
   - Open, close and lock the facility
   - Schedule the use of the Center space for all programs
   - Set-up and take-down of furniture and equipment for daily programs and special events
   - Perform custodial duties when the county provided staff person is not available
   - Immediately report in writing and verbally any building and grounds maintenance problems or unsafe conditions to the County Parks & Recreation Department
   - Overseer use of the building and ensure activities are conducted in a safe organized manner

B. Assist with Center programming in the following areas
   - Develop a variety of healthy lifestyle and educational programs, along with other activities of interest to older adults
   - Help with creating, and running fund raising events used to cover Center operating costs
   - Provide daily dining room assistance for the Council on Aging Nutrition Program
   - Prepare and distribute a monthly Schedule of Center Programs and Activities that also promotes the Ferndale Senior Activity Center
   - Establish a process whereby participants provide input on desire programming and feedback regarding existing programming at the Ferndale Senior Activity Center

C. Implement and enforce safety procedures for:
   - Inclement weather
   - Unsafe conditions on the center grounds and parking lot
   - Closing the facility when necessary in conjunction with the County Parks & Recreation Department
   - Fire Department evacuation plans
   - Conducting evacuation drills as recommended by the Fire Department A code of Conduct for the Center
   - Resolving staff and participant behavior issues
   - Responding to accidents and medical emergencies

D. Coordinate volunteer activities in support of Center operations. This includes the following:
   - Maintaining existing volunteer programs and actively involve participants in the operation of the Ferndale Senior Activity Center
   - Developing volunteer job descriptions to accommodate programming needs
   - Recruit, train, schedule and supervise volunteers
   - Conduct Criminal Background Checks on prospective volunteers using the State of Washington WATCH Program
   - Contractor shall arrange and provide for volunteer insurance coverage

E. Submit the following reports to the County Parks & Recreation Department:
   - Monthly attendance Reports
   - Monthly Volunteer Reports
   - Annual Financial Reports documenting the expenditure of Whatcom county contracted funds
   - Meet with the County Parks & Recreation Department on a quarterly basis to evaluate how the service contract is working

F. Contractor is responsible for paying their employee payroll and benefits as well as maintaining proper records. The contractor is also responsible for payment of State Labor & Industries cost for volunteers

G. Contractor will maintain the insurance coverage required in section 34 Proof of Insurance and provide annually a Certificate of Insurance and Endorsements to the County Parks & Recreation Department covering the terms and requirements in this Agreement.
EXHIBIT "B"
COMPENSATION

Whatcom County Parks & Recreation Department will provide $60,072 for the twelve (12) month period January 1, 2017 through December 31, 2017 and $60,072 for the twelve (12) month period January 1, 2018 through December 31, 2018.

Jet Oldsters Association of Ferndale shall invoice Whatcom County Parks & Recreation Department by the last working day of each month during the term of this Agreement for services rendered as outlined in Exhibit “A” Scope of Work. Whatcom County Parks & Recreation Department shall reimburse the Ferndale Jet Oldsters for twelve (12) equal payments in 2017 and 2018. Reimbursements may be reduced on a pro-rated basis if the Senior Center programming is discontinued for an extended period due to emergencies or natural disasters.

EXHIBIT "C"
CERTIFICATE OF INSURANCE
Non Profit Insurance Program

CERTIFICATE OF COVERAGE

This certificate is issued as a matter of information only and confers no rights upon the certificate holder. This certificate does not amend, extend or alter the coverage afforded by the policies below. This certificate of coverage 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 coverage may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER
Clear Risk Solutions
451 Diamond Drive
Ephrata, WA 98823

COMPANIES AFFORDING COVERAGE
GENERAL LIABILITY
American Alternative Insurance Corporation

AUTOMOBILE LIABILITY
American Alternative Insurance Corporation

PROPERTY
American Alternative Insurance Corporation, et al.

MISCELLANEOUS PROFESSIONAL LIABILITY

COVERAGE
This is to certify that the policies of insurance listed below have been issued to the insured named above for the coverage period indicated, notwithstanding any requirement, term or condition of 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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<th>POLICY EXP DATE</th>
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<td>DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / SPECIAL ITEMS</td>
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Regarding onsite staffing to assist in operation of the Ferndale Senior Activity Center, Whatcom County, its officials, employees, agents and volunteers are named as Additional Insured regarding this staffing only and are subject to policy terms, conditions and exclusions. NPII's retained limit is primary and non contributory. Waiver of Subrogation is attached.

CANCELLATION
Should any of the above described policies be cancelled before the expiration date thereof, notice will be delivered in accordance with the policy provisions.

CERTIFICATE HOLDER
Whatcom County Parks and Recreation Department
3373 Mt. Baker Hwy
Bellingham, WA 98226

AUTHORIZED REPRESENTATIVE

3103294
AMERICAN ALTERNATIVE
INSURANCE COMPANY

ADDITIONAL INSURED – DESIGNATED PERSON OR ORGANIZATION
(GENERAL LIABILITY)

<table>
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<tr>
<td>Policy Number</td>
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<td>Endorsement Effective</td>
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<td>6/1/2016</td>
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THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY

This endorsement modifies insurance provided under the following:

GENERAL LIABILITY COVERAGE PART

This endorsement changes the policy effective on the inception date of the policy unless another date is indicated above.

Schedule

Person or Organization (Additional Insured): As Per Schedule on file with Clear Risk Solutions, Underwriting Administrator

Whatcom County Parks and Recreation Department
3273 Mt. Baker Hwy
Bellingham, WA 98226

Regarding onsite staffing to assist in operation of the Ferndale Senior Activity Center. Whatcom County, its officials, employees, agents and volunteers are named as Additional Insured regarding this staffing only and are subject to policy terms, conditions and exclusions. NPiP’s retained limit is primary and non contributory. Waiver of Subrogation is attached.

A. With respects to the General Liability Coverage Part only, the definition of Insured in the Liability Conditions, Definitions and Exclusions section of this policy is amended to include as an Insured the Person or Organization shown in the above Schedule. Such Person or Organization is an Insured only with respect to liability for Bodily Injury, Property Damage, or Personal and Advertising Injury caused in whole or in part by your acts or omissions or the acts or omissions of those acting on your behalf:

1. In performance of your ongoing operations; or
2. In connection with your premises owned or rented to you.

B. The Limits of Insurance applicable to the additional Insured are those specified in either the:

1. Written contract or written agreement; or
2. Declarations for this policy,

whichever is less. These Limits of Insurance are inclusive and not in addition to the Limits Of Insurance shown in the Declarations.

All other terms and conditions remain unchanged.

Includes copyrighted material of the Insurance Services Office, Inc., with its permission.

RL 2163 12/12
3103295

Page 1 of 1
WAIVER OF TRANSFER OF RIGHTS AND RECOVERY AGAINST OTHERS TO US

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GENERAL LIABILITY COVERAGE PART

This endorsement changes the policy effective on the inception date of the policy unless another date is indicated above.

Schedule

Name of Person or Organization:  As Per Schedule on file with Clear Risk Solutions, Underwriting Administrator

The Our Right To Recovery Condition in the Liability Conditions, Definitions and Exclusions form is amended by addition of the following:

We waive any right of recovery we may have against the person or organization shown in the Schedule above because of payments we make for injury or damage arising out of your ongoing operations or Your Work done under contract with that person or organization. This waiver only applies to the person or organization shown in the Schedule above; however, this waiver does not apply if the injury or damage is due to the sole negligence of such scheduled person or organization.

All other terms and conditions remain unchanged.
**WHATCOM COUNTY COUNCIL AGENDA BILL**

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<tr>
<th>CLEARANCES</th>
<th>Initial</th>
<th>Date</th>
<th>Date Received in Council Office</th>
<th>Agenda Date</th>
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**TITLE OF DOCUMENT:** Contract for services with the City of Lynden for staffing and operations of the Lynden Senior Activity Center.

**ATTACHMENTS:**

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

To allow the County Executive to enter into a contract for services with the City of Lynden to provide staffing and operational support at the Lynden Senior Activity Center.

**COMMITTEE ACTION:**

**COUNCIL ACTION:**

<table>
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<tr>
<th>Related County Contract #:</th>
<th>Related File Numbers:</th>
<th>Ordinance or Resolution Number:</th>
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**Please Note:** Once adopted and signed, ordinances and resolutions are available for viewing and printing on the County's website at: www.co.whatcom.wa.us/council.
MEMORANDUM

TO: Jack Louws, County Executive
FROM: Michael McFarlane, Director
DATE: February 8, 2017
RE: Contract for Services – Lynden Senior Activity Center

Enclosed are two (2) Contract for Services Agreement originals between Whatcom County Parks & Recreation Department and the City of Lynden for your review and signature.

- Background and Purpose
  The renewal of this contract will provide funding to the City of Lynden to staff and operate the Lynden Senior Activity Center. The Scope of Work for this agreement includes coordination of daily on-site operations, programming, enforcing safety procedures, and managing volunteer opportunities.

- Funding Amount and Source
  The contract will be funded by the General Fund in the amount of $120,144 for 2017 and 2018.
WHATCOM COUNTY CONTRACT INFORMATION SHEET

Originating Department: Parks & Recreation
Division/Program: (i.e. Dept. Division and Program)
Contract or Grant Administrator: Mike McFarlane
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 ☒
If Amendment or Renewal, (per WCC 3.08.100 (a)) Original Contract #: __________
Does contract require Council Approval? Yes ☒ No ☐
If No, include WCC: ____________________ (see Whatcom County Codes 3.06.010, 3.08.090 and 3.08.100)

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

Is this contract the result of a RFP or Bid process? Yes ☒ No ☐
If yes, RFP and Bid number(s): 11-07
Contract Cost Center: 6002

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):
$ 120,144
This Amendment Amount: __________________________
Total Amended Amount: $ 120,144

Council approval required for: all property leases, contracts or bid awards exceeding $40,000, and professional service contract amendments that have an increase greater than $10,000 or 10% of contract amount, whichever is greater, except when:
1. Exercising an option contained in a contract previously approved by the council.
2. Contract is for design, construction, r-o-w acquisition, professional services, or other capital costs approved by council in a capital budget appropriation ordinance.
3. Bid or award is for supplies or equipment included approved in the budget.
4. Contract is for manufacturer’s technical support and hardware maintenance of electronic systems and/or technical support and software maintenance from the developer of proprietary software currently used by Whatcom County.

Summary of Scope: This contract provides funding for the City of Lynden to staff and operate the Lynden Senior Activity Center. The Scope of Work for this agreement includes coordination of daily on-site operations, programming, enforcing safety procedures, and managing volunteer opportunities.

Term of Contract: January 1, 2017 Expiration Date: December 31, 2018
Contract Routing: 1. Prepared by: Darla Smith Date: 02/08/17
2. Attorney signoff: Date: 02/08/17
3. AS Finance reviewed: Date: 02/08/17
4. IT reviewed (if IT related): Date: 02/08/17
5. Contractor signed: Date: 02/08/17
6. Submitted to Exec.: Date: 02/08/17
7. Council approved (if necessary): Date: 02/08/17
8. Executive signed: Date:
9. Original to Council: Date:

Last edited 10/31/16
INTERLOCAL COOPERATIVE AGREEMENT BETWEEN CITY OF LYNDEN AND WHATCOM COUNTY PARKS & RECREATION

THIS AGREEMENT is made and entered into by Whatcom County Parks & Recreation Department (County) and the City of Lynden, Washington (City or Provider) pursuant to the authority granted by chapter 39.34 RCW, INTERLOCAL COOPERATION ACT.

1. PURPOSE:
The County will provide funding to the City to assist with the provision of Senior Services at the Lynden Community Center. This funding is intended to provide on-site staffing to assist with the operation of the Lynden Community Center. Individual(s) hired may be employed by the Lynden Council on Aging, a local not-for profit organization that is currently under contract with the City.

2. RESPONSIBILITIES:
WHATCOM COUNTY PARKS & RECREATION RESPONSIBILITIES
The County will provide funding in 2017 and 2018 for the City to contract with the Lynden Council on Aging for provision of staff assigned to the Lynden Community Center. This funding is intended to provide staffing and operational support for Senior Services at the Lynden Senior Center ("Senior Center").

CITY OF LYNDEN RESPONSIBILITIES
The City contracts by separate agreement with the Lynden Council on Aging to operate and maintain the Lynden Senior Center and its programs at the Lynden Community Center. "Senior Center management", "Senior Center employees", or "Senior Center staff" referred to herein are employees of the Lynden Council on Aging. The City will utilize the funds provided for in this Agreement to contract with the Lynden Council on Aging to continue to provide Senior Services Monday through Friday of each week from 8:00 a.m. to 4:30 p.m. at the Lynden Community Center, except holidays. At a minimum, the City and/or the Lynden Council on Aging will be expected to provide the following services:

A. Daily On-Site Operations
B. Assistance to Senior Center management and staff in order to provide a variety of healthy lifestyle programs and activities of interest to older adults
C. Develop safety policies and monitor procedures
D. Employee and volunteer opportunities to support Senior Center operations.
E. Progress reports to the County

In addition the City will continue to provide support to the Senior Center including use of the City owned facility located at 401 Grover Street, Lynden, Washington, 98264 and/or continued funding to cover programming and utilities expenses at the facility.

3. TERM OF AGREEMENT:

The term of this Agreement shall be from January 1, 2017 through December 31, 2018.
4. AVAILABLE FUNDING AND MANNER OF FINANCING:
The County will provide a total of $60,072 for the twelve (12) month period of January 1, 2017 through December 31, 2017, and $60,072 for the twelve (12) month period of January 1, 2018 through December 31, 2018. The City shall invoice the County by the last working day of each month during the term of this Agreement for services rendered as outlined in Section 2. The County shall reimburse the City for twelve (12) equal payments in 2017 and twelve (12) equal payments in 2018.

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

A. The City of Lynden representative shall be the City Administrator
B. Whatcom County’s representative shall be Darla Smith

6. Indemnification by Provider. To the fullest extent permitted by law, the Provider 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 by any act or omission, negligent or otherwise, of the Provider, its employees, agents or volunteers or Provider’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. This indemnification obligation of the Provider shall not apply in the limited circumstance where the claim, damage, loss or expense is caused by the sole negligence of the County. In the event of liability for damages arising out of bodily injury to persons or damages to property caused by or resulting from the concurrent negligence of the County and the City, its officers, officials, employees, and volunteers, the City's liability, including the duty and cost to defend, hereunder shall be only to the extent of the City's negligence. This indemnification obligation of the Provider 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 Provider hereby expressly waives any immunity afforded by such acts. The foregoing indemnification obligations of the Provider are a material inducement to County to enter into this Agreement, are reflected in the Provider's compensation, and have been mutually negotiated by the parties.

Provider's initials acknowledging indemnity terms: [signature]

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 Provider's indemnity obligations under this Agreement. The Provider agrees all
Provider's indemnity obligations shall survive the completion, expiration or termination of this Agreement.

7. In the event the Provider enters into subcontracts to the extent allowed under this Agreement, the Provider's subcontractors shall indemnify the County on a basis equal to or exceeding Provider's indemnity obligations to the County.

The City is required to provide proof of insurance for the following minimum coverage:

A. General Liability coverage @ $1,000,000 per occurrence
B. Workers Compensation Coverage and listed amounts for bodily injury by accident, bodily injury by disease, policy limits.
C. Directors and Officers coverage if applicable.
D. Fraud coverage for employees.

The City waives all rights of Subrogation against the County. The City’s insurance is primary and the County's insurance is non-contributory except as required under the terms of Indemnification.

8. TERMINATION:
This Agreement may be terminated by either party upon one-hundred and twenty (120) days written notice, mailed postage-prepaid by certified mail, return receipt requested, to the other party’s last known address for the purposes of giving notice under this paragraph. If this Agreement is so terminated, the parties shall be liable only for performance rendered or costs incurred in accordance with the terms of this Agreement prior to the effective date of termination.

9. INDEPENDENCE OF PARTIES AND EMPLOYEES:
The CITY shall be deemed to be the sole operator of the Lynden Community Center. All employees and volunteers engaged with or serving in the operation of the Lynden Community Center shall not by this Agreement be construed to be employees, agents or volunteers serving the County.

10. NONDISCRIMINATION:
During the term of the Agreement, the City, or designated contractor, shall comply with all applicable Federal, State and local provisions with regard to hiring and employment practices, and providing program services.

In the event of the City’s noncompliance or refusal to comply with the above provisions, this Agreement may be rescinded, cancelled, or terminated in whole or in part without penalty to the County. The City shall, however, be given a reasonable time in which to cure such noncompliance.

11. NEW CONTRACTOR
Nothing herein shall prevent the City from entering into a contract with a different qualified contractor to perform the services described herein by the Lynden Council on Aging, or from performing said services itself.
12. CHANGES, MODIFICATIONS, AMENDMENTS AND WAIVERS:
This Agreement may be changed, modified, amended or waived only by written agreement executed by the parties hereto. Waiver or breach of any term or condition of the Agreement shall not be considered a waiver of any prior or subsequent breach.

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

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

IN WITNESS WHEREOF, the parties have executed this Agreement this 17th day of January, 2017.

APPROVED:

CITY OF LYNDEN

Dated this 17th day of January, 2017

Scott Korthuis
By: Scott Korthuis, Mayor

STATE OF WASHINGTON )
COUNTY OF WHATCOM ) SS.

On this 17th day of January, 2017, before me personally appeared Scott Korthuis to me known to be the Mayor of the CITY OF LYNDEN and who executed the above instrument and acknowledged to me the act of signing and sealing thereof.

Given under my hand and official seal this 17th day of January, 2017.

Pamela D. Brown
NOTARY PUBLIC in and for the State of Washington

Residing in Whatcom County
My Commission expires: 9-4-2017
WHATCOM COUNTY

Jack Louws, County Executive

STATE OF WASHINGTON

COUNTY OF WHATCOM

On this ___ day of _________________, 2017, before me personally appeared Jack Louws to me known to be County Executive of WHATCOM COUNTY and who executed the above instrument and acknowledged to me the act of signing and sealing thereof.

Given under my hand and official seal this ______ day of _________________, 2017

NOTARY PUBLIC in and for the State of Washington

Residing in ______________________

My Commission expires: ________________

WHATCOM COUNTY PARKS & RECREATION DEPARTMENT

__________________________
Michael McFarlane, Director

APPROVED AS TO FORM:

__________________________
Deputy Prosecuting Attorney
**WHATCOM COUNTY COUNCIL AGENDA BILL**

**TITLE OF DOCUMENT:** Contract for services with the City of Blaine for staffing and operations of the Blaine Senior Activity Center.

**ATTACHMENTS:**

- **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.)

To allow the County Executive to enter into a contract for services with the City of Blaine to provide staffing and operational support at the Blaine Senior Activity Center.

**COMMITTEE ACTION:**

**COUNCIL ACTION:**

**Related County Contract #:**
201501025

**Related File Numbers:**

**Ordinance or Resolution Number:**

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

TO: Jack Louws, County Executive
FROM: Michael McFarlane, Director
DATE: February 8, 2017
RE: Contract for Services – Blaine Senior Activity Center

Enclosed are two (2) Contract for Services Agreement originals between Whatcom County Parks & Recreation Department and the City of Blaine for your review and signature.

- **Background and Purpose**
  The renewal of this contract will provide funding to the City of Blaine to staff and operate the Blaine Senior Activity Center. The Scope of Work for this agreement includes coordination of daily on-site operations, programming, enforcing safety procedures, and managing volunteer opportunities.

- **Funding Amount and Source**
  The contract will be funded by the General Fund in the amount of $120,144 for 2017 and 2018.
<table>
<thead>
<tr>
<th>Originating Department:</th>
<th>Parks &amp; Recreation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Division/Program: (i.e. Dept. Division and Program)</td>
<td></td>
</tr>
<tr>
<td>Contract or Grant Administrator:</td>
<td>Mike McFarlane</td>
</tr>
<tr>
<td>Contractor's / Agency Name:</td>
<td>City of Blaine</td>
</tr>
<tr>
<td>Is this a New Contract? Yes ☐ No ☐</td>
<td>If not, is this an Amendment or Renewal to an Existing Contract? Yes ☒ No ☐</td>
</tr>
<tr>
<td>Original Contract #:</td>
<td></td>
</tr>
<tr>
<td>Does contract require Council Approval? Yes ☐ No ☐</td>
<td>If No, include WCC:</td>
</tr>
<tr>
<td>(see Whatcom County Codes 3.06.010, 3.06.090 and 3.08.100)</td>
<td></td>
</tr>
<tr>
<td>Is this a grant agreement? Yes ☐ No ☒</td>
<td>If yes, grantor agency contract number(s):</td>
</tr>
<tr>
<td>CFDA#:</td>
<td></td>
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<tr>
<td>Is this contract grant funded? Yes ☐ No ☒</td>
<td>If yes, Whatcom County grant contract number(s):</td>
</tr>
<tr>
<td>Is this contract the result of a RFP or Bid process? Yes ☐ No ☒</td>
<td>If yes, RFP and Bid number(s): 11-07</td>
</tr>
<tr>
<td>Contract Cost Center: 6002</td>
<td></td>
</tr>
<tr>
<td>Is this agreement excluded from E-Verify? No ☐ Yes ☒</td>
<td>If no, include Attachment D Contractor Declaration form.</td>
</tr>
<tr>
<td>If YES, indicate exclusion(s) below:</td>
<td></td>
</tr>
<tr>
<td>☐ Professional services agreement for certified/licensed professional.</td>
<td>☐ Contract for Commercial off the shelf items (COTS).</td>
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<td>☐ Contract work is for less than $100,000.</td>
<td>☐ Work related subcontract less than $25,000.</td>
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<tr>
<td>☒ Interlocal Agreement (between Governments).</td>
<td>☐ Public Works - Local Agency/Federally Funded FHWA.</td>
</tr>
<tr>
<td>Contract Amount:(sum of original contract amount and any prior amendments): $ 120,144</td>
<td>Council approval required for; all property leases, contracts or bid awards exceeding $40,000, and professional service contract amendments that have an increase greater than $10,000 or 10% of contract amount, whichever is greater, except when:</td>
</tr>
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<td>This Amendment Amount:</td>
<td>1. Exercising an option contained in a contract previously approved by the council.</td>
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<td>$</td>
<td>2. Contract is for design, construction, r-o-w acquisition, professional services, or other capital costs approved by council in a capital budget appropriation ordinance.</td>
</tr>
<tr>
<td>Total Amended Amount:</td>
<td>3. Bid or award is for supplies or equipment included approved in the budget.</td>
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<tr>
<td>$ 120,144</td>
<td>4. Contract is for manufacturer's technical support and hardware maintenance of electronic systems and/or technical support and software maintenance from the developer of proprietary software currently used by Whatcom County.</td>
</tr>
</tbody>
</table>

Summary of Scope: This contract provides funding for the City of Blaine to staff and operate the Blaine Senior Activity Center. The Scope of Work for this agreement includes coordination of daily on-site operations, programming, enforcing safety procedures, and managing volunteer opportunities.

<table>
<thead>
<tr>
<th>Term of Contract: January 1, 2017</th>
<th>Expiration Date: December 31, 2018</th>
</tr>
</thead>
<tbody>
<tr>
<td>Contract Routing:</td>
<td>Date: 02/10/17</td>
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<tr>
<td>Date: 2/10/17</td>
<td></td>
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<tr>
<td>Date: 1-9-17</td>
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<tr>
<td>Date: 2-13-17</td>
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<td>Date:</td>
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<td>Date:</td>
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<td>Date:</td>
<td></td>
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<tr>
<td>Last edited 10/31/16</td>
<td>157</td>
</tr>
</tbody>
</table>
INTERLOCAL COOPERATIVE AGREEMENT

BETWEEN

CITY OF BLAINE

AND

WHATCOM COUNTY PARKS & RECREATION

THIS AGREEMENT is made and entered into by Whatcom County Parks & Recreation Department (County) and the City of Blaine, Washington (City or Provider) pursuant to the authority granted by chapter 39.34 RCW, INTERLOCAL COOPERATION ACT.

1. DEFINITION / REFERENCES:

1.1 The Blaine Senior Center, a not-for-profit organization, is referred to as "local not-for-profit organization" for the purposes of this agreement.

1.2 The Blaine Facilities, located at 763 G Street, Blaine, WA, is referred to as "Blaine Community/Senior Center" for the purposes of this agreement.

2. PURPOSE:

The County will provide funding to the City to assist with the provision of Senior Services at the Blaine Community/Senior Center. This funding is intended to provide on-site staffing to assist with the operation of senior activities by the local not-for-profit organization.

3. RESPONSIBILITIES:

WHATCOM COUNTY PARKS & RECREATION RESPONSIBILITIES

The County will provide funding in 2017 and 2018 for the City to provide staffing and operational support at the Blaine Senior Center.

CITY OF BLAINE RESPONSIBILITIES

The City will contract with the local not-for-profit organization to provide senior services Monday through Saturday of each week at the Blaine Community/Senior Center. At a minimum, the City will be expected to insure that the local not-for-profit organization provides the following services:

A. Daily On-Site Operations
B. Assistance to the local not-for-profit organization management and staff in order to provide a variety of healthy lifestyle programs and activities of interest to older adults
C. Develop safety policies and monitor procedures
D. Employee and volunteer opportunities to support Senior Center operations.
E. Provide progress reports to the County

The City will provide the local not-for-profit organization with the use of the City owned facility located at 763 G Street, Blaine Washington 98230 and pay utilities expenses at the facility, subject to availability of funds.

4. TERM OF AGREEMENT:
   The term of this Agreement shall be from January 1, 2017 through December 31, 2018.

5. AVAILABLE FUNDING AND MANNER OF FINANCING:
   Whatcom County Parks & Recreation will provide a total of $60,072 for the twelve (12) month period of January 1, 2017 through December 31, 2017, and $60,072 for the twelve (12) month period of January 1, 2018 through December 31, 2018.

   The City shall invoice the County by the last working day of each month during the term of this agreement for services rendered as outlined in Section 2. The County shall reimburse the City for twelve (12) equal payments in 2017 and twelve (12) equal payments in 2018.

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

   A. The City representative shall be Jeffrey Lazenby, or successor
   B. The County representative shall be Darla Smith, or successor

7. Indemnification by Provider: To the fullest extent permitted by law, the Provider 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 Provider, its employees, agents or volunteers or Provider’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 Provider’s or its subcontractors’ use of, presence upon or proximity to the property of the County. This indemnification obligation of the Provider 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 Provider 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 Provider hereby expressly waives any immunity afforded by such acts. The foregoing indemnification obligations of the Provider are a material inducement to County to enter into this Agreement, are reflected in the Provider’s compensation, and have been mutually negotiated by the parties.

Provider’s initials acknowledging indemnity terms: [Signature]

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 Provider’s indemnity obligations under this Agreement.

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

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

The City is required to provide proof of insurance for the following minimum coverage:

A. General Liability coverage @ $1,000,000 per occurrence
B. Workers Compensation Coverage and listed amounts for bodily injury by accident, bodily injury by disease, policy limits.
C. Directors and Officers coverage if applicable.
D. Fraud coverage for employees.

The City waives all rights of Subrogation against the County. The City’s insurance is primary and the County’s insurance is non-contributory except as required under the terms of Indemnification.
9. TERMINATION:
This Agreement may be terminated by either party upon one-hundred and twenty (120) days written notice, mailed postage-prepaid by certified mail, return receipt requested, to the party's last known address for the purposes of giving notice under this paragraph. If this Agreement is so terminated, the parties shall be liable only for performance rendered or costs incurred in accordance with the terms of this Agreement prior to the effective date of termination.

10. INDEPENDENCE OF PARTIES AND EMPLOYEES:
The CITY shall be deemed to be the sole operator of the Blaine Community/Senior Center. All employees and volunteers engaged with or serving in the operation of the Blaine Community/Senior Center shall not by this Agreement be construed to be employees, agents or volunteers serving the COUNTY.

11. NONDISCRIMINATION:
During the term of the Agreement, the CITY, or designated contractor, shall comply with all applicable Federal, State and local provisions with regard to hiring and employment practices, and providing program services.

In the event of the CITY’S noncompliance or refusal to comply with the above provisions, this Agreement may be rescinded, cancelled, or terminated in whole or in part without penalty to the COUNTY. The CITY shall, however, be given a reasonable time in which to cure such noncompliance.

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

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

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

4 City of Blaine - Interlocal Agreement
IN WITNESS WHEREOF, the parties have executed this Agreement this _th_ day of January, 2016.

APPROVED:

CITY OF BLAINE

David Wilbrecht, City Manager

ATTEST:

Sheri Sanchez, City Clerk

DEPARTMENTAL APPROVAL:

Jeffrey Lazanby, Finance Director

Executed as of the date first written above.

STATE OF WASHINGTON

COUNTY OF WHATCOM

On this _th_ day of January, 2016, before me personally appeared David Wilbrecht to me known to be City Manager of CITY OF BLAINE and who executed the above instrument and acknowledged to me the act of signing and sealing thereof.

Given under my hand and official seal this _th_ day of January, 2016.

[Signature]

NOTARY PUBLIC in and for the State of Washington
Residing in Burlington, WA
My Commission expires: February 24, 2020

City of Blaine, Interlocal Agreement
WHATCOM COUNTY

_____________________
Jack Louws, County Executive

STATE OF WASHINGTON) ss.
COUNTY OF WHATCOM)

On this ___ day of __________, 2016, before me personally appeared Jack Louws to me known to be County Executive of WHATCOM COUNTY and who executed the above instrument and acknowledged to me the act of signing and sealing thereof.

Given under my hand and official seal this ___ day of __________, _____.

______________________________
NOTARY PUBLIC in and for the State of Washington
Residing in Bellingham.
My Commission expires: __________

WHATCOM COUNTY PARKS & RECREATION DEPARTMENT

_____________________
Michael McFarlane, Director

APPROVED AS TO FORM:

_____________________
Deputy Prosecuting Attorney

6 City of Blaine - Interlocal Agreement
WHATCOM COUNTY COUNCIL AGENDA BILL

CLEARANCES | Initial | Date | Date Received in Council Office | Agenda Date | Assigned to:
---|---|---|---|---|---
Originator: | SK | 2/8/17 | | | Public Works, Health & Safety
Division Head: |
Dept. Head: |
Prosecutor: |
Purchasing/Budget: |
Executive: | TPS | 2/13/17 |

TITLE OF DOCUMENT:
Public Works will present its quarterly report to Council

ATTACHMENTS:

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.)

Public Works will present its quarterly report to Council

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**

<table>
<thead>
<tr>
<th>CLEARANCES</th>
<th>Initial</th>
<th>Date</th>
<th>Date Received in Council Office</th>
<th>Agenda Date</th>
<th>Assigned to:</th>
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<tbody>
<tr>
<td>Originator:</td>
<td>JH</td>
<td>2/9/17</td>
<td></td>
<td>2/21/2017</td>
<td>Public Works Committee</td>
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<tr>
<td>Division Head:</td>
<td></td>
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<tr>
<td>Dept. Head:</td>
<td>2/9/17</td>
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<td>Prosecutor:</td>
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<tr>
<td>Executive:</td>
<td>YES</td>
<td>2/13/17</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**RECEIVED**

**FEB 14 2017**

**WHATCOM COUNTY COUNCIL**

**TITLE OF DOCUMENT:**
Project Update - design and construction of the Birch Bay Drive and Pedestrian Facility

**ATTACHMENTS:**
None

**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.)

**COMMITTEE ACTION:**

**COUNCIL ACTION:**

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

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**TITLE OF DOCUMENT:**
Amendment to WCC 24.05 On-site Sewage System Regulations, Section 160 – Operation and Maintenance.

**ATTACHMENTS:**
- Staff Memorandum
- Draft Ordinance
- Exhibit A: Proposed WCC 24.05 amendment

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

Whatcom County Code 24.05 On-site Sewage System Regulations require an amendment to section .160 – Operation and maintenance. The amendment requires evaluations be completed by a licensed operation and maintenance specialist. WCC 24.05 is adopted by reference in the County Comprehensive Plan; therefore an amendment to WCC 24.05 is also an amendment to the Comprehensive Plan.

**COMMITTEE ACTION:**
1/24/2017: Held in Committee
2/7/2017: Discussed and held in committee

**COUNCIL ACTION:**
1/24/2017: Held in Committee

**Related County Contract #:**

**Related File Numbers:**

**Ordinance or Resolution Number:**

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Memorandum

TO: Jack Louws, County Executive

FROM: Regina Delahunt, Director
Health Department

SUBJECT: Amendment to WCC 24.05 On-Site Sewage Regulations

DATE: January 10, 2017

Whatcom County Health Department (WCHD) is proposing an amendment to WCC 24.05. The proposed amendment will require on-site sewage system operation and maintenance evaluations to be performed only by operation and maintenance professionals licensed by the Health Department. The current regulations allow homeowners the ability to become certified and perform their own evaluations.

On October 6, 2016 the Washington State Supreme Court issued a ruling in the case of Whatcom County, Hirst vs. Western Washington Growth Management Hearings Board. The Court ruled that the “County’s comprehensive plan does not satisfy GMA requirements to protect water availability or water quality”. Elements of the County’s Comprehensive Plan are implemented through WCC 24.05. WCC 24.05 allows homeowners in rural areas to inspect their own septic system. The Court found the “County’s current inspection system policies were flawed and that continuing to rely on this flawed system would not protect water quality in the future”, and further ruled that “the County’s rural element fails to comply with the requirement to protect water quality”.

The proposed amendment is in response to the Supreme Court’s decision in order to comply with GMA requirements. WCC 24.05 is adopted by reference in the County’s Comprehensive Plan; therefore this change would also be a Comprehensive Plan amendment.

If you have any questions, please call Mike Kim, Environmental Health Supervisor, at extension 6032.

Attachments:
Draft Ordinance
Exhibit A: Proposed WCC 24.05 Amendment
ORDINANCE NO.______

AMENDMENT TO WHATCOM COUNTY CODE 24.05 ON-SITE SEWAGE SYSTEM REGULATIONS

WHEREAS, an October 6, 2016 Washington State Supreme Court decision (Whatcom County, Hirst vs. Western Washington Growth Management Hearings Board, No 91475) has found that Whatcom County's Comprehensive Plan does not comply with the Growth Management Act (GMA) requirements to protect water quality; and

WHEREAS, RCW 36.70A.070(5)(c)(iv) requires that the rural element of a county comprehensive plan "shall include measures that apply to rural development and protect the rural character of the area, as established by the county, by: ... protecting critical areas...and surface water and groundwater resources.""; and

WHEREAS, on March 25, 2008, the Whatcom County Board of Health adopted amendments to WCC 24.05 providing the ability for homeowners to perform their own on-site sewage system evaluations; and

WHEREAS, Whatcom County adopted Ordinance 2012-032, amending its Comprehensive Plan to adopt by reference existing regulations to protect critical areas and surface water and groundwater resources, adding Policy 2DD-2.C.2, which adopts by reference WCC 24.05; and

WHEREAS, because Comprehensive Plan Policy 2DD-2.C.2 adopts by reference WCC 24.05, any amendment to WCC 24.05 is also an amendment to the Comprehensive Plan; and

WHEREAS, the Growth Management Hearings Board (Board) found the amended Comprehensive Plan lacked the required measures to protect surface and groundwater quality (GMHB Case No. 12-2-0013); and

WHEREAS, on October 6, 2016, the State Supreme Court (Court), in reversing a Court of Appeals decision, upheld the Board’s decision that the County’s Comprehensive Plan does not satisfy the GMA requirements to protect water quality, and stated, "In essence, the Board ruled that the County’s current inspection system policies were flawed and that continuing to rely on this flawed system would not protect water quality in the future. ...We therefore reverse the Court of Appeals and hold that the Board applied proper legal standard and analysis in concluding that the County’s rural element policy does not comply with the GMA.""; and

WHEREAS, in response to the Court’s decision, on-site sewage system evaluations will only be performed by operation and maintenance professionals licensed by the Health Department; and
WHEREAS, the proposed amendment to WCC 24.05.160 as outlined in exhibit A of this ordinance, provide necessary language to implement this; and

NOW, THEREFORE, BE IT ORDAINED by the Whatcom County Board of Health, that the WCC 24.05 and the Whatcom County Comprehensive Plan are hereby amended as outlined in Exhibit A.

ADOPTED this _____ day of __________, 20__.

ATTEST:

Dana Brown-Davis, Clerk of the Council

WHATCOM COUNTY EXECUTIVE

APPROVED AS TO FORM:

Royce Buckingham, Civil Deputy Prosecutor

WHATCOM BOARD OF HEALTH
WHATCOM COUNTY, WASHINGTON

Barry Buchanan, Chair

WHATCOM COUNTY, WASHINGTON

Jack Louws, County Executive

(  ) Approved   (  ) Denied

Date Signed: ______________________
EXHIBIT A

TITLE 24 HEALTH CODE

Chapter 24.05
On-Site Sewage System Regulations

24.05.160 Operation and maintenance.
       A. The OSS owner is responsible for properly operating, monitoring and maintaining the OSS to
          minimize the risk of failure, and to accomplish this purpose shall:

          1. Obtain approval from the health officer before repairing, altering or expanding an OSS;
             a. All systems which were legally permitted at time of installation and which are not
                currently functional due to failing and/or broken component parts will be allowed to be
                repaired to functionality. Also see WCC 24.05.090(C);

          2. Secure and renew contracts for periodic maintenance where required by the WCHD;

          3. Obtain and renew operation permits if required by the WCHD;

          4. Assure a complete evaluation of the system components and/or property by a licensed
             operation and maintenance specialist to determine functionality, maintenance needs and
             compliance with this chapter and any permits. A report of system status shall be completed
             at the time of the evaluation and submitted to the WCHD in a timely manner;

          5. Assure subsequent evaluations of the system components and/or property are completed
             as follows:
             a. At least once every three years for all systems consisting solely of a septic tank and
                gravity SSAS;
             b. Annually for all other systems unless more frequent inspections are specified by the
                health officer;

          6. Employ an approved pumper to remove the septage from the tank when the level of
             solids and scum indicates that removal is necessary;

          7. Provide maintenance and needed repairs to promptly return the system to a proper
             operating condition. A maintenance report shall be completed and submitted to the WCHD
             in a timely manner;

          8. Protect the OSS area and the reserve area from:
             a. Cover by structures or impervious material;
             b. Surface drainage and direct drains, such as footing or roof drains. The drainage must
                be directed away from the area where the OSS is located;
             c. Soil compaction, for example by vehicular traffic or livestock; and
             d. Damage by soil removal and grade alteration;
9. Keep the flow of sewage to the OSS at or below the approved operating capacity and sewage quality;

10. Operate and maintain systems as directed by the health officer;

11. Request assistance from the health officer upon occurrence of a system failure or suspected system failure;

12. Ensure that a current report of system status by a licensed O&M specialist is on file with WCHD when a property with an OSS is offered for sale;

13. At the time of property transfer, provide to the buyer a copy of the current report of system status on file with the Whatcom County health department, and any available maintenance records, in addition to the completed seller disclosure statement in accordance with Chapter 64.06 RCW for residential real property transfers.

B. OSS owners may perform their own OSS evaluation in accordance with subsection C of this section except for the following:

1. OSS technologies that are listed as proprietary on the Washington State DOH list of registered on-site treatment and distribution products where the contract with the private proprietary manufacturer prohibits homeowner evaluations;

2. Community drainfields;

3. Nonconforming replacement systems that do not meet vertical and horizontal separation installed as a result of a system failure;

4. OSS serving food service establishments.

C. OSS owners who choose to perform their own evaluations shall complete O&M homeowner training as approved by the health officer. Upon completion of training, OSS owners may perform their own evaluations until property transfer. In cases of hardship, the health officer may approve the homeowner’s selection of a designee who has completed the appropriate class to perform the evaluation. If OSS owners are discovered to be noncompliant with this section, the health officer may proceed with legal remedies in accordance with Chapter 24.07 WCC.

DB. Persons shall not:

1. Use or introduce strong bases, acids or chlorinated organic solvents into an OSS for the purpose of system cleaning;

2. Use a sewage system additive unless it is specifically approved by WDOH; or

3. Use an OSS to dispose of waste components atypical of residential wastewater.

EC. The health officer shall require annual inspections of OSS serving food service establishments and may require pumping as needed. (Ord. 2010-009 Exh. A; Ord. 2008-015 Exh. A; Ord. 2006-056 Exh. A).

D. Reports submitted by licensed O&M specialists will be verified by the health officer for timeliness, accuracy, and completeness in accordance with administrative policies.
EXHIBIT A
TITLE 24 HEALTH CODE

Chapter 24.05
On-Site Sewage System Regulations

24.05.160 Operation and maintenance

A. The OSS owner is responsible for properly operating, monitoring and maintaining the OSS to minimize the risk of failure, and to accomplish this purpose shall:

1. Obtain approval from the health officer before repairing, altering or expanding an OSS;
   a. All systems which were legally permitted at time of installation and which are not currently functional due to failing and/or broken component parts will be allowed to be repaired to functionality. Also see WCC 24.05.090(C);

2. Secure and renew contracts for periodic maintenance where required by the WCHD;

3. Obtain and renew operation permits if required by the WCHD;

4. Assure a complete evaluation of the system components and/or property to determine functionality, maintenance needs and compliance with this chapter and any permits. A report of system status shall be completed at the time of the evaluation and submitted to the WCHD;

5. Assure subsequent evaluations of the system components and/or property are completed as follows:
   a. At least once every three years for all systems consisting solely of a septic tank and gravity SSAS;
   b. Annually for all other systems unless more frequent inspections are specified by the health officer;

6. Employ an approved pumper to remove the septage from the tank when the level of solids and scum indicates that removal is necessary;

7. Provide maintenance and needed repairs to promptly return the system to a proper operating condition;

8. Protect the OSS area and the reserve area from:
   a. Cover by structures or impervious material;
   b. Surface drainage and direct drains, such as footing or roof drains. The drainage must be directed away from the area where the OSS is located;
   c. Soil compaction, for example by vehicular traffic or livestock; and
   d. Damage by soil removal and grade alteration;
9. Keep the flow of sewage to the OSS at or below the approved operating capacity and sewage quality;

10. Operate and maintain systems as directed by the health officer;

11. Request assistance from the health officer upon occurrence of a system failure or suspected system failure;

12. Ensure that a current report of system status by a licensed O&M specialist is on file with WCHD when a property with an OSS is offered for sale;

13. At the time of property transfer, provide to the buyer a copy of the current report of system status on file with the Whatcom County health department, and any available maintenance records, in addition to the completed seller disclosure statement in accordance with Chapter 64.06 RCW for residential real property transfers.

B. OSS owners may perform their own OSS evaluation in accordance with subsections C and D of this section except for the following:

1. OSS technologies that are listed as proprietary on the Washington State DOH list of registered on-site treatment and distribution products where the contract with the private proprietary manufacturer prohibits homeowner evaluations;

2. Community drainfields;

3. Nonconforming replacement systems that do not meet vertical and horizontal separation installed as a result of a system failure;

4. OSS serving food service establishments.

C. OSS owners who choose to perform their own evaluations shall complete O&M homeowner training as approved by the health officer. Upon completion of training, OSS owners may perform their own evaluations until property transfer. In cases of hardship, the health officer may approve the homeowner’s selection of a designee who has completed the appropriate class to perform the evaluation. If OSS owners are discovered to be noncompliant with this section, the health officer may proceed with legal remedies in accordance with Chapter 24.07 WCC.

D. Any OSS owner found to have a failing system after filing a successful self-evaluation must have all subsequent inspections performed by a licensed O&M specialist.

E. WCHD will perform random audits of self-evaluations to ensure compliance.

DF. Persons shall not:

1. Use or introduce strong bases, acids or chlorinated organic solvents into an OSS for the purpose of system cleaning;

2. Use a sewage system additive unless it is specifically approved by WDOH; or

3. Use an OSS to dispose of waste components atypical of residential wastewater.

EG. The health officer shall require annual inspections of OSS serving food service establishments and may require pumping as needed. (Ord. 2010-009 Exh. A; Ord. 2008-015 Exh. A; Ord. 2006-056 Exh. A).
Proposed Amendment to WCC 24.05
On-Site Sewage System Regulations

County Council
January 24, 2016

Outline

• Legal Background
• Regulatory Background
• Proposed Amendment to WCC 24.05.160
Supreme Court ("Hirst") Decision

CONCLUSION

“We reverse the Court of Appeals and hold that the County’s comprehensive plan does not satisfy the GMA requirements to protect water availability or quality”

Supreme Court ("Hirst") Decision

- "The Board noted significant disparity in reported failure rates and compliance rates between homeowners who self-inspect versus professional inspections, as well as studies showing water quality contamination from faulty septic systems."
- "In essence, the Board ruled that the County’s current inspection system policies were flawed and that continuing to rely on this flawed system would not protect water quality in the future."

WHATCOM COUNTY HEALTH DEPARTMENT
Supreme Court ("Hirst") Decision

• "Therefore, we reverse the Court of Appeals’ holding that the Board’s decision improperly imposed a duty on the County to "enhance" water quality rather than merely "protect" water quality and affirm the Board’s ruling that the County's rural element fails to comply with the requirement to protect water quality."

Regulatory Background

• November 21, 2006: Adopted Chapter 246-272A WAC by reference
• March 25, 2008: Amendment to WCC 24.05.160 to allow periodic homeowner evaluation. O&M Specialist required for initial evaluation and every 6 years
• March 25, 2008: OSS Local Management Plan approved
• February 23, 2010: Amendment to allow homeowner evaluations at all times (current form)
• February 2, 2016: OSS Local Management Plan Update approved
Regulatory Background

RCW 36.70A.070(5)(c)(iv)
"The rural element shall include measures that apply to rural development and protect the rural character of the area, as established by the county, by: ...Protecting critical areas, as provided in RCW 36.70A.060, and surface and ground water resources;"

Regulatory Background

Ordinance 2012-032 added:
Policy 2DD-2.C.2 Minimize the adverse effects of discharges from on-site sewage systems on ground and surface waters through WCC 24.05, adopted herein by reference.
Proposed Amendment

WCC 24.05.160 A
4. Assure a complete evaluation of the system components and/or property by a licensed operation and maintenance specialist to determine functionality, maintenance needs and compliance with this chapter and any permits. A report of system status shall be completed at the time of the evaluation and submitted to the WCHD in a timely manner;

Proposed Amendment

WCC 24.05.160 A
7. Provide maintenance and needed repairs to promptly return the system to a proper operating condition. A maintenance report shall be completed and submitted to the WCHD in a timely manner;
Proposed Amendment

Remove section WCC 24.05.160 B and C:

B. OSS owners may perform their own OSS evaluation in accordance with subsection C of this section except for the following:
   1. OSS technologies that are listed as proprietary on the Washington State DOH list of registered on-site treatment and distribution products where the contract with the private proprietary manufacturer prohibits homeowner evaluations;
   2. Community drainfields;
   3. Nonconforming replacement systems that do not meet vertical and horizontal separation installed as a result of a system failure;
   4. OSS serving food service establishments.
C. OSS owners who choose to perform their own evaluations shall complete O&M homeowner training as approved by the health officer. Upon completion of training, OSS owners may perform their own evaluations until property transfer. In cases of hardship, the health officer may approve the homeowner’s selection of a designee who has completed the appropriate class to perform the evaluation. If OSS owners are discovered to be noncompliant with this section, the health officer may proceed with legal remedies in accordance with Chapter 24.07 WCC.

Proposed Amendment

WCC 24.05.160

D. Reports submitted by licensed O&M Specialists will be verified by the health officer for timeliness, accuracy, and completeness in accordance with administrative policies.
Proposed Amendment

- Amendment to WCC 24.05.160 is also an amendment to the Comprehensive Plan

- Implement Comprehensive Plan policy 2DD-2.C.2 in a manner that is in compliance with the GMA requirement to protect water quality
**WHATCOM COUNTY COUNCIL AGENDA BILL**

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**TITLE OF DOCUMENT:**
Marine Drive/Marietta Area traffic patterns and speed limit presentation

**ATTACHMENTS:**

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<th>SEPA review required?</th>
<th>( ) Yes</th>
<th>( x ) NO</th>
<th>Should Clerk schedule a hearing?</th>
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**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 Department requests that a Public Works, Health and Safety Subcommittee worksession be scheduled for a presentation and discussion regarding traffic patterns and posted speed limits in the Marine Drive/Marietta Area.

**COMMITTEE ACTION:**
2/7/2017: Postponed until March 7

**COUNCIL ACTION:**

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### Resolution Authorizing the Use of Parks Property For Road Purposes

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

Request authorization by resolution for use of Park property along Birch Bay Drive to be included in the construction of the Birch Bay Drive and Pedestrian Project.

---

**Related County Contract #:**

**Related File Numbers:**

**Ordinance or Resolution Number:**

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MEMORANDUM

TO: Honorable Members of the County Council and Executive Jack Louws
FROM: Michael McFarlane, Director
DATE: February 6th, 2017
RE: Resolution Authorizing the Use of Parks Property for Road Purposes

I am requesting approval of the attached resolution authorizing the use of parklands in the construction of the Birch Bay Drive and Pedestrian project. This will allow the construction of the pedestrian walk, flood berm, beach restoration and necessary storm water improvements on and across properties under the custodianship of the Parks & Recreation Department.

Please contact me at 5855 if you have any questions or require additional information.
RESOLUTION NO. ________

A RESOLUTION AUTHORIZING THE USE OF PARKS PROPERTY FOR ROAD PURPOSES

WHEREAS, Whatcom County is the owner of property along Birch Bay Drive described in Exhibit A; and,

WHEREAS, the Whatcom County Parks Department is the custodian for said property which is a general government fund asset; and,

WHEREAS, the Whatcom County Public Works Department needs to utilize portions of said property for the Birch Bay Drive and Pedestrian Facility Project as shown in Exhibit B; and,

WHEREAS, the Whatcom County Parks Department is supportive of the project and the use of the property for the construction, alteration, operation, maintenance, and reconstruction of a shore protection facility, drainage facilities including but not limited to swales and a stormwater outfall pipe and for public beach access; and,

WHEREAS, the property would remain under the custodianship of the Whatcom County Parks Department and would remain a general government fund asset;

NOW, THEREFORE, BE IT RESOLVED that the Whatcom County Council approves the use of general government fund asset for road purposes as they are addressed by the Birch Bay Drive and Pedestrian Facility Project, which is set forth in Exhibit B.

APPROVED this _____ day of _____________, 2017

ATTEST: WHATCOM COUNTY COUNCIL
WASHINGTON

Dana Brown-Davis, County Clerk

Barry Buchanan, Council Chair

APPROVED AS TO FORM:

[Signature]
Chief Civil Deputy Prosecutor

184
Parcel 4051243331250000

A tract of land in Government Lot 3, and adjacent tidelands, if any, described as follows:

Beginning 50 feet North 59°27’00” West of the intersection of the southerly line of Beach Way Drive and the easterly line of County Road No. 22-46 (Birch Bay Drive); thence North 59°27’00” West 50 feet; thence South 30°33’00” West 60 feet to the westerly side of said road, to the True Point of Beginning; thence South 30°33’00” West 100 feet; thence North 59°27’00” West 100 feet; thence North 30°33’00” East 100.00 feet to the westerly line of said road; thence along said road line South 59°27’00” East 100 feet to the Point of Beginning. All in Section 24, Township 40 North, Range 1 West.

Situate in Whatcom County, Washington.

Parcel 400130903260000

That portion of Government Lot 2, Section 30, Township 40 North, Range 1 East of W.M., more particularly described as follows:

Beginning at the Northerly Line of said Government Lot 2, 1935.2 feet west of the Northeast corner of the Southeast Quarter of the Northwest Quarter; thence South 21°02’ East 1043 feet to the true point of beginning; thence North 21°02’ West 360 feet; thence South 83° West 253.78 feet; thence South 71°29’52” West 143.31 feet to the northerly right-of-way line of Birch Bay Drive; thence southeasterly along said northeasterly line to a point that bears South 71°28’ West of the Point of Beginning; thence North 71°28’ East 415 feet, more or less, to the Point of Beginning; together with that portion extending to the meander line; together with Second Class Tidelands lying within the northerly and southerly extensions of the above described property lines.

Together with the following tract abutting tract as described above:

That portion of lots 7-22, Plat of Sea Links at Birch Bay, Phase I, according to the plat thereof, recorded in Volume 15 of Plats, Pages 58 through 64, inclusive, under Auditor’s File No. 1475323, records of Whatcom County, Washington, all being situate in Government Lot 2, Section 30, Township 40 North, Range 1 East of W.M., being more particularly described as follows:

Beginning at a point on the north line of said Government Lot 2, 1935.20 feet North 87°51’04” West of the northeast corner of the Southeast Quarter of the Northwest Quarter of said Section 30; thence South 18°53’04” East along the westerly boundary of said plat, 1043.00 feet; thence North 73°36’56” East, 4.00 feet; thence North 18°53’04” West, 4.00 feet distance from and parallel to said westerly boundary, 1041.64 feet to a point on said north line of Government Lot 2; thence North 87°51’04” West along said north line, 4.29 feet to the Point of Beginning.
Situate in Whatcom County, Washington.

Parcel 4051255315440000

All tidelands of the Second Class, as conveyed by the State of Washington by deed recorded under Whatcom County Auditor’s File No. 156625, lying in front of and abutting upon the following described real property:

That portion of Government Lot 1, Section 25, Township 40 North, Range 1 West of W.M., lying northeasterly of the following described portion of the Government Meander Line:

Beginning at a point on the Meander Line 361.8 feet southeasterly of the Meander Corner between Sections 24 and 25 of said Township and Range, and running thence southeasterly along the Meander Corner 80 feet.

Parcel 4051244590270000

That part of Government Lot Four (4), Section Twenty-Four (24), Township Forty (40) North, Range One (1) West of W.M., lying between the southwesterly line of County Road No. 46 and the Government meander line, adjoining and lying immediately southeasterly from that certain tract marked “Reserve” on the Plat of Cottonwood Beach, according to the official Plat thereof on file in the office of the Auditor of Whatcom County, Washington, and extending southeasterly to the northwesterly line of Lot B, Block Two (2), or Morgan Cottonwood Beach Plat, as per the Map thereof on file and of record in the office of the Auditor of Whatcom County, Washington, extended southeasterly.

No parcel number platted reserve tract

Tract of land labeled “Public Reserve” within the Plat of Cottonwood Beach, according to the official Plat thereof on file in the office of the Auditor of Whatcom County, Washington.

Parcel 4051243231120000 & 4051243081380000

Lots 8 to 22 inclusive, Block 2, and Lot 13 and the North half of Lots 14 to 17 inclusive, Block 3 of the Plat of Cottonwood Beach Park, and also all that portion of the NW ¼ of the SE ¼ of Sec. 24, Twp. 40, N.R.1. West of W.M., lying South of the County Road. Also a tract of land as follows, to-wit: Beginning at a point on the Government Meander line as the same is now laid out in Section Twenty-four, Township 40 North, Range 1 West, W.M., which bears North 62° 27 ½’ West 1909.26 feet distant from the stone marking the corner of fractional Sec. 24 and 25 in said Township; thence North 27°22 ½’ East 522.80 feet; thence running North 89°44’ West 540.76 feet; thence South 311.08 feet; thence South 62° 37 ½’ East 338.18 feet to place of beginning, less a tract previously deeded to A.M. Halvorson and less the County Road. The said last tract having excepted therefrom a tract of land 100’ by 100’ located in Lot 3, Section 24, Twn. 40 N. R.1. West, W.M., more particularly described as follows: Beginning at a point fifty
feet (50) North 59°27' East from the monument at the intersection of the southerly line of Beachway Drive, Plat of Cottonwood Beach Park and the Easterly line of County Road Nos. 22-46, thence N. 57°27' West 50 feet; thence South 32° 33' West 60 feet to the Westerly side of said County Road, to the point of beginning of said tract; thence South 30° 35' West 100.0 feet; thence N. 59°27' West 100.0 feet; thence North 32°33’ East 100.0 feet to the Westerly line of said County Road; thence along the Westerly line of County Road South 59°27’ East 100.0 feet to point of beginning, title to the said last tract remaining in Grantors.

All of said property being situated in the county of Whatcom, State of Washington.

Parcel 4001300620680000

Tidelands in front and abutting that portion of Government Lot 3 described as follows: Beginning at a point in the North line of Government Lot 3 in said Section 24, which is 225.37 feet west of the Northeast corner of said Lot 3 and running thence South 27°22'30” west 778.85 feet to the meander line; thence North 62°37’30” West 50 feet; thence North 27°22’30” East to the North line of Government Lot 3; thence East to the point of beginning.
TITLE OF DOCUMENT:
Criminal Justice Treatment Account Planning

ATTACHMENTS:
Criminal Justice Treatment Account Planning Report

SEPA review required? ( ) Yes ( ) No
SEPA review completed? ( ) Yes ( ) No

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

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

RCW 71.24.580 establishes the Criminal Justice Treatment Account (CJTA). The purpose of the law is to provide treatment alternatives to incarceration for non-violent drug offenders. The law establishes a local panel to oversee priorities for funding which are then referred to the County Authority for approval. The Criminal Justice Treatment Account Planning Report summarizes the process used by the Health Department to conduct community stakeholder needs assessments for offenders with substance use disorders over the last four years. The report also describes CJTA funding, the local history of utilization of CJTA funding, and the panel’s recommendations to the County Council.

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
FROM: Jackie Mitchell, Behavioral Health Specialist
DATE: February 21, 2017
RE: Criminal Justice Treatment Account

In 2002, Washington State established the Criminal Justice Treatment Account (CJTA) (RCW 71.24.80). The purpose of the law was to create treatment alternatives to incarceration in the state prison system for non-violent drug offenders. The fund and the incarceration alternatives were part of an overall vision related to minimum sentencing reforms. The law designates a local panel to provide recommendations for priority services and directs the administration of the funds by the Behavioral Health Organizations (BHO). When North Sound BHO began administering the funds in April, 2016, a decision was made to continue the use of local panels to vet the recommendations for service priorities. A written plan and service expenditures must be approved by the County legislative authority.

Attached is the Criminal Justice Treatment Account Planning Report which summarizes the Health Department’s numerous planning efforts over the last four years. During that time, Health Department staff conducted planning on behalf of offenders and non-offenders with substance use disorders (SUD) which resulted in an overall redesign for a new SUD system of care.

The Planning Report also discusses the need for specialized services for offenders with SUD and makes recommendations as to the best match of services for the limited amount of CJTA funding available. The recommendations also take into account the State’s restrictions on CJTA funding.

The Panel met on April 15, 2016, to hear information and make recommendations for CJTA offender service priorities. The following were the service recommendations:

**Jail Recovery Care Coordination** - This is an outreach service to the Jail which will bring SUD services such as assessment and care coordination to the jail population.
This position will function as an additional resource within the Jail Behavioral Health Team in a re-entry function.

**Outpatient Treatment**- Although fewer funds are needed for SUD outpatient treatment since the Affordable Care Act was enacted, there may be instances where a person needing treatment has no insurance. The panel’s recommendation is to dedicate limited funding for those instances where a person has no other available source of funding to access care.

**Co-occurring Residential Program (CORP)**-CORP is the only SUD inpatient provider on the west side of the state which serves people with serious mental illness and SUD. This inpatient program is staffed by a psychiatrist and by mental health and SUD clinicians. Both Mental Health Court and Drug Court have found CORP treatment services helpful for initiating certain clients into early recovery.

**Transportation**- Funding transportation helps get clients to inpatient treatment programs throughout the state when needed.
Whatcom County
Criminal Justice
Treatment Account

Substance Use Disorder Planning Report

Jackie Mitchell, MA, LMHC, CDP
Whatcom County Behavioral Health Program Specialist
February 21, 2017
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Executive Summary

The Criminal Justice Treatment Account (CJTA) was established by the Washington State Legislature in 2002 to provide alternatives to incarceration for newly adopted minimum sentencing guidelines. The Whatcom County CJTA Panel, embedded in the law, was designed to ensure a local voice in the allocation of county-administered CJTA funding. After the Affordable Care Act and other Health Care Reform measures were enacted, North Sound Behavioral Health Organization (North Sound) began to administer both public mental health and substance use disorder (SUD) treatment funds. North Sound opted to continue utilizing the local panels for advisement of CJTA service priorities.

Historically, 70% of CJTA funds were provided directly to the counties by funding formula. The remaining 30% of funding was intended for best practice/evidence-based/innovative (BP/EB/I) projects. CJTA restrictions limited funding to an expansion of the current treatment system for people who had no insurance and who were ineligible for Medicaid. However, since the advent of the Affordable Care Act (ACA) and the expansion of Medicaid, most people have insurance coverage which leaves more CJTA funds to be used for other programs and services.

Whatcom County chose BP/EB/I practices which sought rapid or improved access to treatment or which engaged participants better. These projects included: rapid access to inpatient treatment for Drug Court participants, jail outreach and coordination of services, The Change Companies journaling system to impact treatment engagement, and rapid access to inpatient for people entering treatment from detox. All of these projects had successful outcomes for the populations that were served.

Over the last four years, the Health Department engaged in extensive planning regarding the needs of people with SUD and gaps in the SUD service system; these planning efforts resulted in an entire system of care for people needing SUD treatment and recovery. The Whatcom County Incarceration Prevention and Reduction Task Force was designed to reduce the number of people entering the criminal justice system. The Behavioral Health Subcommittee of the Task Force further developed the list of available services and needs for offenders with SUD.

Taking into account the restrictions placed on CJTA funds along with identified needs and gaps, available research, and current data the CJTA Panel was able to determine the best utilization of CJTA funds for offenders with SUD. Their recommendations were to provide:

- A Jail Recovery Care Coordinator (RCC) position for re-entry services, including assessments,
- Access for specialty therapeutic court program participants to the Co-Occurring Disorder Program (CORP), a program for people with co-occurring mental health and substance use disorders,
- SUD outpatient treatment for people with financial hardship and no other insurance, and
- Funding for transporting people admitted to inpatient treatment.

The RCC position also qualifies as the “Innovative Practice” required by the statute. Most importantly, key evidence suggests that skilled practitioners working to engage and support special populations such as offenders with SUD can be a critical component of an overall plan to reduce both incarceration and readmission to treatment.
1. **Introduction and Purpose of this Report:**

This report details the Health Department's multiple planning processes used in the development of a newly designed substance use disorder (SUD) treatment system. This information was used to assist the local CJTA panel with making recommendations on CJTA expenditures for the period of 2016-2022. The report includes the following:

- Background on CJTA and its implementation
- A summary of recent SUD planning, including the *Whatcom County Behavioral Health Facility Planning Report*
- A discussion of recent changes to the SUD Treatment System
- A brief narrative of the special needs of offenders with SUD
- A discussion of the local CJTA panel’s purpose and limitations of CJTA
- A summary of Whatcom County’s CJTA Utilization History
- Description of the CJTA panel and their recommendations to the County Council

The Whatcom County CJTA Panel met on April 15, 2016 to discuss the information contained in this document. The panel’s presence is mandated by the Revised Code of Washington (RCW) and the recommendations must be brought to the County Council for final approval.

2. **CJTA Background**

In 2002, the state adopted a statute (RCW 70.96.350, remodeled as RCW 71.24.580) which established the CJTA. This law was designed to reduce sentencing guidelines and create alternatives to treat nonviolent offenders with SUD.

Key provisions of this law included the:

- Establishment of the CJTA, which is funded by savings accrued by the Department of Corrections for reducing non-violent drug offenders’ sentences.
- Allocation of funding to counties for treatment and support services on behalf of offenders with SUD.
- Development of a local criminal justice panel to approve the disposition of funds.

The state requires the development of a local CJTA panel to advise the County about the prioritization of needs for the SUD offender population. The County is required to submit a plan to the North Sound BHO for CJTA expenditures as recommended by the local CJTA panel and approved by the County Council. Whatcom County assesses behavioral health needs and gaps in our community through various stakeholders and community partners on an ongoing basis.

3. **Whatcom County SUD Planning & System Design**

   **A. Brief Summary of Planning Efforts and System Changes**

Whatcom County Health Department (WCHD)'s, Human Services Division has organized numerous planning activities concerning SUD issues over the last four years. This planning included public forums, subcommittee meetings, stakeholders meetings, and surveys. Planning information helped determine the extent of the SUD
problem and gaps in criminal justice, prevention, treatment, law enforcement, health care and other human services. A detailed list of stakeholder planning meetings and forums is described in the "Whatcom County Behavioral Health Facility Planning Report: Envisioning a New Substance Use Disorder Continuum of Care" (referred to as the Facility Plan.) The Facility Plan can be located at the following link: http://wa-whatcomcounty.civicplus.com/DocumentCenter/View/13067 and the stakeholder list is attached in Appendix I of this document.

A summary of community stakeholder input revealed that there were numerous gaps and unmet needs in the SUD system, specifically for offenders with SUD. Gaps in the SUD treatment system were exacerbated by the State’s resistance to increase both Medicaid and non-Medicaid rates of reimbursement. The low rates of reimbursement created business challenges for many SUD providers and led two local providers to go out of business between 2012 and 2014.

The Affordable Care Act passed, was signed into law, and rolled out at the state level beginning in 2013. Washington State’s new health care system included a “phased in” approach to integrated behavioral health care for mental health and SUD treatment in 2016. The State’s ultimate destination, by 2020, is to achieve fully integrated primary and behavioral health care.

B. The Impetus for Planning a New System of SUD Care

In April of 2016, the newly implemented regional North Sound BHO took over the administration of both public funded mental health and SUD services. The BHO administers services throughout five counties: Island, San Juan, Skagit, Snohomish, and Whatcom. The BHO decided to continue using the local county CJTA panels as a vehicle for input regarding the utilization of CJTA funding. The BHO required the counties to conduct planning to determine the need for SUD services relative to replacing beds at the Pioneer Center North (PCN) facility in Sedro-Woolley. PCN beds will be relocated by June of 2018, since the property upon which the facility resides, was recently sold and will be repurposed; the BHO is taking the opportunity to embed inpatient SUD services into local communities. SUD inpatient treatment has been identified as a local need multiple times throughout the past 15 years. The needs assessment, the data, and our vision of a new system are detailed in the Facility Plan.

The results of Whatcom County’s needs assessments and gap analysis are summarized in the following list:

1. We need a comprehensive, robust, and effective SUD system of care which is oriented towards principles of long term recovery.

2. We need to develop effective options to divert people with SUD from hospitals and the local justice system.

3. There is a lack of effective residential treatment service options in the community, especially services for complicated populations such as people with co-occurring disorders, people with intractable and challenging addictions (opiates), and people with criminogenic and antisocial thinking and attitudes.

4. There is a lack of services and programs to assist people who are waiting for treatment admission, including interim housing for those waiting to enter residential treatment.
5. Our community lacks Care Coordination services for specialized populations, such as criminal offenders with SUD. "Care Coordination" or assertive professional linkage to services, especially for the offender population, is critical for ensuring success with criminal justice diversion programming.

6. There are inadequate outpatient treatment options to transition people with SUD upon discharge from residential services or as a primary intervention in lieu of a higher level of care.

7. There is a lack of recovery housing, and a similar lack of stable, supported housing. People who cannot function independently risk losing their housing if there is no stable support and daily structure. This lack of housing includes “Clean and Sober Housing,” which many think should be regulated. There is inadequate housing available for people who are not ready to commit to SUD treatment or who need non-traditional approaches to SUD treatment services.

8. The eight (8) detox beds at the triage facility are insufficient for the community’s need.

9. There is a lack of mental health crisis stabilization beds in Whatcom County.

10. The SUD workforce capacity in the county is inadequate and professionals lack the training necessary for the complexity of the population.

11. There are insufficient medication assisted treatment (MAT) options. There is inadequate supply of prescribers and little case management support to ensure coordinated care. There is no centralized infrastructure for MAT treatment. Physicians have little incentive to become certified as buprenorphine providers and those who are certified are reluctant to engage this population without more training and support within the community.

C. Proposed Vision

The goal of the Facility Plan was to develop a new SUD service system and to provide a robust continuum of care for people with SUDs. However, the same system must ultimately serve offenders re-entering the community from jail. Effective treatment of SUDs can prevent people from having contact with the criminal justice system.

The proposed model of services is depicted below with red highlights for North Sound BHO supported treatment and black for conceivable County supported services, such as services for special populations, aftercare services, and post-treatment services. The following graphic is intended to show the full Whatcom County continuum of care from withdrawal management (formerly detoxification) services to ongoing recovery with community supports. Since people with SUD have very individual needs, not all people with SUDs will utilize each service along the continuum.

Each program description indicates the type of service: the number of beds if known, the expected length of stay, and the American Society of Addiction Medicine (ASAM) level, if known.
Whatcom County Continuum of Care

**Recovery Stabilization Facility**

- **Crisis Triage Program**
  Mental health crisis stabilization.
  (16 beds)

- **Acute Stabilization Center (formerly detox)**
  Includes medication assisted withdrawal and start of treatment. (16 beds)
  ASAM 3.7D

- **Intensive Inpatient & Long Term Residential**
  (30-45 day stay)
  Co-occurring SUD treatment for people with SMI.
  (16 Beds)
  ASAM 3.3 & 3.5

- **Intensive Inpatient**
  (15-20 day stay)
  Traditional SUD, mental health capable.
  (16 beds)
  ASAM 3.5

- **Enhanced Outpatient & Medication Assisted Treatment (MAT)**
  Additional MAT and COD services.
  ASAM 1.8 & 2.1

- **Recovery House**
  24/7 Staff Supported Housing (60-90 days)
  (16 beds)
  ASAM 3.1

**Housing and Recovery System of Care**
- Recovery Care Coordination
- Clean and Sober Housing
- Housing with BH Staff Support
- Recovery Support Peers

All roads lead back to full recovery.

**Community Supports**
- Independent Housing
- Support groups
- Faith-based organizations
- Employment
- Other Successful Recovery Supports

**Key**
- *BHO Funded
- ASAM—American Society of Addiction Medicine (See Appendix IV)
- COD—Co-occurring Mental Health and Substance Use Disorders
Community professionals hope that additional services will help prevent jail bookings and stabilize inmates with SUDs when re-entering the community. Although the offender population with SUD has many of the same needs as the general population with SUD, system enhancements to adapt for criminogenic issues are recommended. In preparation for the specialized needs of offenders with SUD, we reviewed data and research related to offenders with SUD.

4. Planning for the Specialized Needs of Offenders with SUD

A. Sequential Intercept Model (SIM):

Addressing behavioral health issues early is the most effective way to keep people out of the criminal justice system. Offenders, who grew up in environments where neglect, trauma, and antisocial behavior are a normal part of everyday living, encounter great odds in their efforts to overcome criminogenic and cultural roots. Since substance use is a major driver in criminal behavior, overcoming SUDs can help certain individuals begin the successful transition to a prosocial lifestyle.

There are several points throughout the criminal justice system in which we attempt to prevent SUDs, intervene with the development of SUDs, treat SUDs, or ensure smooth re-entry to community treatment and recovery services. Those intervention points were described in the Sequential Intercept Model (SIM) in 2006. The SIM was developed by Mark R. Munetz, M.D. and Patricia A. Griffin, Ph.D. to describe intervention points in the criminal justice system where loading services can provide an effective diversion or transition for people with behavioral health issues. The intervention points are called “intercepts” and the services are often evidence based/ best practice or innovative programs which are uniquely designed to a community’s needs.

Services identified in the Whatcom County SIM are critical for intervening or preventing offender recidivism which would result in a return to the County jail. The detail of the graphic below is included as Appendix II with larger print for easier reading. There is also a more detailed list of services, including descriptions of each service, of the Whatcom County SIM in the “Phase One Report” of the Whatcom County Incarceration Prevention and Reduction Task Force - http://wa-whatcomcounty.civicplus.com/DocumentCenter/View/17752. The Task Force is described later in this document.
Whatcom County Behavioral Health Sequential Intercept Model

In the magnified area of the SIM to the left, “Jail Re-entry Services” are one area where there is a moderate gap in resources. Currently, re-entry services provided for offenders leaving the jail include a needs assessment, individual service planning, and community resource connection. However, the people with issues resources are dedicated to people with serious mental illness and co-occurring disorders. Identification and assessment of offenders with SUD is still a gap in our service system. Providing additional SUD services would greatly enhance each offender’s chances for entering stable recovery.

B. Incarceration Prevention and Reduction Task Force (IPR)

The IPR Task Force, which is listed and detailed in the Facility Plan, has completed significant work towards identifying barriers to behavioral health services for offenders. The Task Force, one of the most significant committees we work with to assess the needs and gaps for offenders with SUD, is comprised of members of the community, a County Council member, County staff, law enforcement, criminal justice, human services, and health and prevention partners in the community. The Task Force’s goals are to prevent incarceration and reduce the incidence of people in the jail, where possible. (For more details on this Task Force, please visit the County website at: http://wa-whatcomcounty.civicplus.com/2052/Incarceration-Prevention-and-Reduction-T)

After months of committee meetings, the “Phase One Report” was completed and broad recommendations, which are relevant to offenders with SUD, were made by the Behavioral Health Subcommittee of the Task Force.

Recommendations from the Task Force can be summarized in the following way:

- Identify the needs, gaps, and profile of offenders in need of behavioral health services
- Expand and enhance the continuum of services to ensure robust alternatives, diversion, and re-entry services
- Benchmark Whatcom County Programs against national best practices

The Task Force’s Subcommittee relied heavily on information provided by the Health Department’s 2014 Addiction Forum. A full list of the needs and gaps in the criminal justice system is provided in Appendix III of this document. Unfortunately, many of the recommendations made so far are ineligible for CJTA funds. CJTA funds are limited to SUD treatment, and a few other support services for legally involved individuals. However, taking into account available data on the jail, prior history and utilization of CJTA, and CJTA funding restrictions, a picture of the best future utilization of CJTA funds emerges.
C. DATA

One very important data point that emerged from a recent report by Department of Social and Health Services (DSHS) showed a high cross-over between jail bookings and Medicaid services for people with behavioral health service needs. This report compared Medicaid behavioral health recipients with jail bookings and cross-referenced the SUD, mental health (MH) and co-occurring disorders (COD) needs of jail inmates who received previous Medicaid services over a five year period ending in 2013 (DSHS, January 2016). See the figures below for the results. (1A)

In 2013, 68% of people on Medicaid had an SUD treatment need and 44% had a co-occurring mental health treatment need. Offenders often have some of the most complex health and behavioral health conditions in addition to ingrained criminal attitudes. Previous data also indicates that nearly 60% of the jail population has had acquired brain injuries (ABIs) which are often undiagnosed. ABI is a broad term used to include both traumatic injuries (accident, assault) and non-traumatic brain issues (fetal alcohol spectrum disorders, seizures).

A recent report from RDA indicates the incidence of SUD in the Whatcom County Jail Medicaid population for 2013 was 68%. The percentage of inmates with co-occurring SUD and mental health disorders is 44%. Since the data was constructed around those inmates who had any DSHS service in the last 5 years (86% of all inmates had such services), the actual incidence of SUD and COD is likely to be higher.

(*821 people have SUD, of those 521 people have COD, 290 have SUD only, 170 have MH only.)

In 2013, approximately 1/3 of all DSHS clients who were booked into jail had Medicaid services in the last 5 years. Since 2013 was the same year the State rolled out expanded Medicaid coverage under the ACA, more people have entered onto Medicaid. Medicaid expansion included providing Medicaid coverage for people with SUD who previously would have been eligible under the old “Alcohol and Drug Abuse Treatment and Support Act” (ADATSA).

ADATSA included people who were considered to be disabled by their addiction to alcohol or other drugs, but Washington State only recognized it as a temporary disability and provided only treatment and minimal supportive benefits. Currently the vast majority of people released from jail who have a behavioral health disorder are re-enrolled or newly enrolled onto Medicaid coverage.
The inference of both the DSHS report and of the additional research is that inmates in the County jail have a complex set of biopsychosocial circumstances which impact their ability to be successful. Further complicating the issue is that more than 68% of people being released from the jail probably have an SUD and many of those people have received prior treatment.

**D. Readmission/ Recidivism and Effective Treatment for Offenders**

One of North Sound’s goals is to reduce readmissions to SUD treatment. In the past year (April 2015-March 2016) people attending treatment on a court order had rates of readmission (74%) which were only slightly lower than for people who volunteer for treatment at 77% (SCOPE, 2016). The high rate of recidivism suggests the need for closer contact with people who are referred to treatment.

It is critical to ensure that professionals are well-trained and use every skill at their disposal in order to create and maintain the therapeutic alliance.

Given higher rates of relapse and recidivism, traditional SUD treatment should not be considered an “end point” for offenders with SUD. The Substance Abuse and Mental Health Administration (SAMHSA) indicates that 35-43% of people admitted into SUD treatment have a co-occurring mental health disorder. Offenders with SUD are clearly at the high end of the range for relapse and recidivism. In addition, relapse and the co-occurrence of SUD with mental health disorders are highly correlated across several studies (see the Whatcom County Behavioral Health Facility Plan, 2016). There are great challenges in treating incarcerated people with SUD which require skilled “differential diagnostic” ability and knowledge of developmental issues, as well as knowledge of deficits incurred as a result of trauma such as in acquired brain injuries.

**E. Recommendations for Enhancing Offender SUD Services**

In conclusion, offenders with SUD have more struggles with life as a result of cultural, economic, genetic, and psychosocial issues than the general population. The professional working with the offender population will need to understand criminogenic risk factors, mental health issues, as well as the other complex factors in each individual’s development. Offenders with SUD require more sophisticated services and supports than traditional SUD treatment provides in order to prevent relapse and guard against recidivism.

To the extent possible, people with SUD who have had treatment can readjust and become productive members of society. However, CJTA funding has limited utility in helping to reduce readmissions and prevent recidivism because of the limitations placed on those funds by Washington State. General CJTA funding requirements and limitations are described below along with Whatcom County’s prior utilization.
5. Whatcom County CJTA History & Utilization

A. CJTA Requirements & Funding Restrictions

Washington State suffused CJTA funds with specific requirements and restrictions, including the following:

- The criteria for eligibility are that the person must have a criminal charge filed on him or her in the State of Washington; and have a “substance abuse problem” (outdated terminology) that if not treated is likely to result in addiction.
- Funding was restricted to paying for treatment and a few support services such as outreach, detox, childcare and transportation.
- A requirement to provide best practice, evidence-based practices, or innovative practice with 30% of the funding allocated to the County.
- A restriction on the amount of funding which could be dedicated to support services, including childcare and transportation, up to 10%.
- The requirement of a 10% match of County funds placed into SUD services.

From 2005, when Whatcom County received the first allocation of CJTA funds, up until 2013, funding was primarily dedicated to ensuring outpatient treatment for DUI offenders, access to inpatient treatment for Whatcom County Drug Court participants, and transportation of Drug Court participants to treatment.

As required by the state, 30% of funds were used to implement one or more innovative practices which included funding Drug Court’s access to inpatient treatment and transportation, SUD Outreach in the Jail, a best practice from “The Change Companies” to improve engagement in an outpatient program, and access to inpatient care from Whatcom Community Detox. All of these innovative programs were successful in helping numerous offenders with SUD.

The County used the Chemical Dependency and Mental Health Sales and Use Tax Fund to cover Drug Court expenses for the past several years. Drug Court expenditures from local funding constituted the 10% match requirement required by the state and the BHO.

Health Department staff tracked service utilization of CJTA funds over the last year through the State’s information system and reported outcomes to the State for both the innovative practices described below.

B. Past Year Expenditures & Data

Until April 2016, treatment agencies reported data through the Treatment and Assessment Report Generation Tool (TARGET). This data was collected and summarized in reports on SCOPE-WA, an internet-based program. Treatment utilization reports from SCOPE-WA (funded by the Division of Behavioral Health and Recovery) were collected for 2015 and are reported below.

The 2015 TARGET report of Whatcom County admissions to treatment showed the number of people served by CJTA funds to be 58 in outpatient treatment and 9 in inpatient treatment (TARGET, 2015). These numbers fluctuated very little over time and admissions to treatment on CJTA funds were often restricted by the amount of CJTA funding available. Offenders could also receive treatment with non-CJTA funds, such as Medicaid. Last year approximately 220 admissions to treatment of people on probation or parole were served under other fund sources.
Offender Utilization of SUD Treatment (2015)

<table>
<thead>
<tr>
<th></th>
<th>People on Probation/Parole Served in Treatment</th>
</tr>
</thead>
<tbody>
<tr>
<td>2015</td>
<td></td>
</tr>
<tr>
<td>CJTA</td>
<td>67</td>
</tr>
<tr>
<td>Other Funds</td>
<td>212</td>
</tr>
</tbody>
</table>

Nearly one and half years after the Affordable Care Act, the BHO began administering contracts for SUD services and implemented a new system of care on April 1, 2016. The county’s expenditures from July 1, 2015 to March 31, 2016 during the final contract period with the State are described below.

The Drug Courts program provided rapid access to inpatient treatment as our “Innovative Project” for several years. Although Drug Court outcomes were consistently high (90% retention of participants in treatment), Drug Court usage of CJTA funds slowed in 2014 because more Drug Court participants were enrolled onto Medicaid than in previous years.

Our community quickly devised a new “Innovative Project” to assist Whatcom Community Detox with access to inpatient care for clients who needed a bridge to treatment. Our goal was to ensure that people who were admitted to detox had better access to the SUD continuum of care from inpatient to outpatient treatment. A comparison between detoxification discharges and treatment admissions showed an increase of 24% in admissions over a period of 20 months prior to and 20 months after implementation of the CJTA innovative practice. All of this information was presented to the local CJTA Panel for their review.

C. The Local Panel

The local CJTA panel was established in 2004, according to RCW 71.24.580 (formerly RCW 70.96A.350). The state CJTA panel oversees CJTA and tracks funding, expenditures and outcomes from all of the counties throughout the state. The local panel was designed to ensure collaboration between departments within the county for how CJTA funds could best be utilized in the community and to make recommendations to the County Council on proposed expenditures. The existence of the local panel allows community variance in service priorities within limitations as described.

The local CJTA panel consists of the following members and positions:

- The local County Coordinator
- A Drug Court Representative
- The Superior Court Administrator
- The Prosecuting Attorney
- The County Sheriff
- A treatment provider
- A representative of the Public Defender

The names for the positions listed in the last two bullets (Chris Watras and Jon Komorowski) were approved by the County Council on February 23, 2016.
a. **Summary of Panel Meeting on April 15, 2016**

Panel members met on April 15, 2016, and were provided with the information on the history and background of CJTA funds, the BHO reorganization, and the Whatcom County Facility Plan with the vision for future SUD services. We discussed the nexus with the Incarceration Prevention and Reduction Task Force and the Phase I report. In addition, Health Department staff discussed the limitations of CJTA funding: informal needs assessments with members of the panel, past expenditures, and recommendations from the WCHD. These are all described in this document.

b. **Recommended Expenditures**

There are four considerations for understanding the way in which the recommended priorities are presented.

1. CJTA funding is variable from year to year because it’s dependent on a funding formula. However, the total amount of funding is approximately $161,000 per year.
2. County staff asked the panel to approve a range of expenditures in order to allow variance for new program startup time. In addition, a range of expenditures would ensure flexibility, for example, where workforce is lacking and the inability to hire creates a gap in services.
3. The County asked the panel to discuss initial recommendations provided by staff. Those recommendations were revised and the panel is making the following recommendations to the County Council.
4. Drug Court expenditures from the local sales tax fund will continue to provide the 10% local match requirement.

The services and range of expenditures for services proposed are as follows:

### RECOMMENDED CJTA EXPENDITURES

<table>
<thead>
<tr>
<th>Priority</th>
<th>Allocable CJTA Services</th>
<th>County Recommendations</th>
<th>Commentary</th>
<th>Estimated number of People to be Served</th>
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<tr>
<td>1</td>
<td>Jail SUD Care Coordination (Innovative)</td>
<td>Approx. 55-65%</td>
<td>Innovative/Promising Practice. Direct Services hours.</td>
<td>100-200</td>
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<tr>
<td>2</td>
<td>Access to Pioneer Human Services (PHS), Co-occurring Disorder Residential Program (CORP).</td>
<td>Approx. 22-30%</td>
<td>Access for Drug Court and Mental Health Court CORP for approx. 5 people. CORP is an inpatient program for people with SUD who also have a serious mental illness and SUD.</td>
<td>5</td>
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<tr>
<td>3</td>
<td>Outpatient Treatment</td>
<td>Approx. 15-20%</td>
<td>Fewer dollars needed since Medicaid expansion. BHO pays for treatment out of other state and federal funds (non-CJTA).</td>
<td>10-16</td>
</tr>
<tr>
<td>4</td>
<td>Transportation (10%)</td>
<td>&lt;1%-3%</td>
<td>To get people to and from SUD inpatient treatment.</td>
<td>N/A</td>
</tr>
</tbody>
</table>
c. **Explanation of Expenditures**

The panel discussed placing less funding into outpatient treatment and opted for an investment in a Jail SUD Care Coordination position. Members of the panel felt that such a position should provide services for each individual for as long as necessary. Panel members felt that having access to the sole treatment provider who specializes in services for people with co-occurring mental health and SUD (CORP) on this side of the state was critical.

**Jail Recovery Care Coordination** - This is an outreach service which will bring needed SUD services to the jail population and an additional resource to the Jail/Juvenile Behavioral Health Team for reentry services. This position will provide SUD assessments, care coordination, and case management for offenders with SUD who are leaving the jail.

**Outpatient Treatment** – The bulk of our funds typically went to outpatient treatment, however since the ACA, most of the people served on CJTA qualify for Medicaid. In addition, the BHO has other funds which can be used for outpatient services.

**CORP** - CORP is the only SUD inpatient provider on the west side of the state which serves people with serious mental illnesses. This inpatient program is staffed with a psychiatrist as well as mental health and chemical dependency professionals. While services at CORP are costly, both Mental Health Court and Drug Court have found their services helpful for specific clients.

**Transportation** - Funding in transportation helps get clients into inpatient programs throughout the state.

The CJTA Panel’s recommendations will be forwarded to the County Council for final approval early in 2017. The Health Department and the CJTA Panel request approval of the plan and the services expenditures.
BIBLIOGRAPHY

1. National Survey on Drug Use and Health (NSDUH), Substance Abuse and Mental Health Administration (SAMHSA), Co-occurring Mental and Substance Use Disorders, 2014.


6. Chi, .FW., Parthasarathy, S., Mertens, J.R., Weisner, C.M., Continuing Care and Long Term Substance Use Outcomes in Managed Care: Early Evidence for a Primary Care Based Model, Psychiatric Services, Oct. 62(10):1194-200, 2011.


Specific Citations for the Importance of the Therapeutic Alliance


Appendix I

The following are short descriptions of needs assessments completed by the County or one of its community partners and recommendations from stakeholder meetings conducted, in the last two to three years. The key findings are summarized below.

1. After hearing major concerns within the community over the lack of SUD services, the Whatcom County Health Department (WCHD) held a one day “Community Forum on Addiction” in November of 2014. The forum was attended by over 90 people from various disciplines, including law enforcement, criminal justice, human services, medical, school, and other professionals.

2. A partnership between PeaceHealth, WCHD, the Chuckanut Foundation, and the Whatcom Community Foundation addressed initial concerns stemming from the Community Forum on Addiction. Their combined efforts resulted in the Whatcom County Community Health Assessment (CHA) and Community Health Improvement Plan (CHIP). Both the CHA and CHIP identified significant concerns regarding behavioral health service gaps and made recommendations about enhancements for SUD care (Whatcom County Community Health Assessment and the Community Health Improvement Plan, 2012 – 2016).

3. The Incarceration Prevention and Reduction Task Force (IPRTF) was formed in 2015 by the Whatcom County Council to:
   - alleviate problems with overcrowding in the Whatcom County jail,
   - develop the triage facility, and to
   - develop more effective behavioral health treatment in the community as an alternative to jail.

This Task Force includes over 30 members from every sector of criminal justice (CJ), law enforcement and provider communities, as well as members who have been personally impacted by the criminal justice system. The Task Force has three (3) ad-hoc committees: Triage, Behavioral Health Alternatives to Jail, and Justice Alternatives to Jail. Recently, the Task Force produced a “Phase One Report” with recommendations regarding behavioral health services and Whatcom County triage facility. (February 2016, Phase 1 Report, “Phase 2 Report” due November, 2016.)

4. The Behavioral Health Advisory Board (BHAB) is comprised of advocates of mental health, substance use disorders, and professionals with knowledge of behavioral health issues. BHAB provides advice on general policy issues and service priorities. This board meets to offer input on a bi-monthly basis.

5. The Behavioral Health Revenue Advisory Committee (BHRAC) has a similar arrangement as the BHAB, but guides budget and service priorities for the local 1/10th of 1% sales tax funding. This board meets and makes recommendations on a quarterly basis.

6. The Whatcom County Substance Abuse Program developed a “Substance Use Disorder Needs Assessment Plan”. The plan was submitted to the state for the two year period of 2014-2016 and clearly identifies the need for residential services in the county. The plan included a survey of gaps and community needs. This plan focused on the lack of a SUD workforce and the inadequate compensation provided by the state for SUD outpatient services. (Final Report, 2014.)

7. Whatcom Alliance for Health Advancement (WAHA) completed a Needs Assessment in 2016 which focused on the entire Prevention, Intervention, Treatment, and Aftercare (PITA) continuum. The PITA
Appendix I -Continued

continuum was created and promoted several years ago by the Institute of Medicine (IOM) as the model for SUD continuum of care. (Substance Abuse Treatment Project, Phase I Report, December 2015)

8. The Local Crisis Oversight Committee is a group of community stakeholders and treatment service providers who meet regularly to identify and address crisis service system issues, gaps, and needs. The focus of this committee is on behavioral health services, housing, homelessness, and SUD treatment.

9. The local Homeless Coalition is a group of housing and community service partners, as well as homeless advocates who meet on a regular basis. This group regularly provides feedback regarding gaps in the SUD service system where the gaps pertain to homelessness.

10. Employees and Board Members of the Chuckanut Health Foundation, which invests resources to advance community health, engaged the County in assessing the need for small or short term SUD related projects for potential funding. (Final report has been finalized, but not yet distributed.)
Appendix III

Addiction Forum Stakeholder Feedback
Law Enforcement & Criminal Justice Needs and Gaps

This feedback came from community members and professionals who participated in the Addiction Forum held on December 4, 2014 and feedback from the “Criminal Justice Subcommittee” which was formed after the forum. The subcommittee was discontinued later and ceded to the Countywide Incarceration Prevention and Reduction Task Force.

- More CDP programs in community by WWU & WCC
- Coordination of services
- Parent navigators
- Database of services
- Web page/website with central database of resources; a “hub,” community navigators
- Community dashboard with # of beds, TX slots, Suboxone providers, NAS, OD, arrests, prescriptions
- Guide local healthcare workforce through pipeline & incentives – WICHE – Partner with WWU & WCC for recruitment/loan forgiveness
- CIT mobile response team of community providers
- Work with fire & medical to establish Narcan program with local law enforcement
- Post-conviction bridge to training & work
- New jail building
- Prison – reentry supervision
- Collaborations or coordination with DVSAS, YWCA, courts, DSMS, DCFS
- Universal provider use of S-BIRT for intervention (voluntary & mandated)
- Increased care coordination/case management in schools, housing and mental health
- Community Map Exercise: the “system.” Goal: close education gap of services
- Legislative advocacy on high insurance deductibles
- Drop-off/assessment/detox/treatment options in one place with lots of beds
- Community needs to be aware of the value of the work of prevention staff in regard to training and pay scale.
- CD Assessments and outreach in jail
- Targeted program needs to be developed for local CDP training
- Incentivize MHCS to get CDP training to help address co-occurring disorders
- DOH looking at legislation for faster track for people with Master’s and Bachelor’s degrees for CDP/MHC designation.
- Moving in health care reform to health homes encompassing medical and behavioral health services via BHOS.
- Pursuing residential CD facility in Whatcom County.
- Need more capacity in OP services
- Inpatient detoxification programs are not as prevalent as they used to be due to insurance reimbursement.
- Probation caseload for monitoring treatment has decreased.
- Shift in payment levels impacts number of providers
- Enhancement of current Triage Facility
Appendix IV

KEY TO DIAGRAM FOR SUD LEVELS OF CARE:

The American Society of Addiction Medicine (ASAM) is a physician organization which developed standard criteria for placement of people with SUDs called the “ASAM Patient Placement Criteria”. Theoretically, a person with SUD is placed the level of care which necessary for beginning successful recovery and progresses through the continuum of care based upon individual clinical needs. Certain people will progress quickly through levels of care and other people may skip levels of care, when deemed unnecessary. Clinicians at each level of care help determine the next level of care based on current clinical indicators.

Acute Stabilization Center (3.7D)
24 hour structured medically monitored intensive inpatient detoxification program for people in severe SUD withdrawal from alcohol or other drugs. The proposed “Center” is identified by the American Society for Addition Medicine (ASAM) as a level 3.7D, indicating that that there is full time medical staff at the facility.

0.5 - Early Intervention (Prevention)
Assessment and education for at risk individuals who do not meet diagnostic criteria for Substance-Related Disorder.

1.0 — Outpatient Services (Standard/Traditional Outpatient)
Less than 9 hours of service/week (adults) for recovery or motivational enhancement therapies/strategies.

2.1 — Intensive Outpatient (IOP)
9 or more hours of service/week; to treat multidimensional instability.

2.5 — Partial Hospitalization (PHP)
20 or more hours of service/week for multidimensional instability not requiring 24 hour care.

3.1 — Clinically-Managed Low-Intensity Residential (Halfway House)
24 hour structure with available trained personnel, at least 5 hours of clinical service/week.

3.3 — Clinically Managed High Intensity Residential
24 hour care with trained counselors to stabilize multidimensional imminent danger. Less intense milieu and group treatment for those with cognitive or other impairments who are unable to use full active milieu or therapeutic community.

3.5 — Clinically-Managed High-Intensity Residential (Long Term Residential)
24 hour care with trained counselors to stabilize multidimensional imminent danger and prepare for outpatient treatment. Able to tolerate and use full active milieu or therapeutic community.

3.7 — Medically-Monitored Intensive Inpatient (Short Term Residential)
24 hour nursing care with physician availability for significant problems in Dimensions 1, 2 or 3. Sixteen hour/day counselor ability.

4.0 — Medically Managed Intensive Inpatient
24 hour nursing care and daily physician care for severe, unstable problems relating to withdrawal, biomedical conditions, or psychiatric or cognitive complications.
WHATCOM COUNTY COUNCIL AGENDA BILL

TITLE OF DOCUMENT:
Establishing a new level of service for the Lummi Island Ferry System

ATTACHMENTS:
- Proposed resolution
- Proposed Level of Service goals and alternatives analysis action plan

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

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

The Lummi Island Ferry Advisory Committee is recommending the Whatcom County Council adopt the proposed resolution with exhibit A to establish a new level of service for the Lummi Island Ferry System.

COMMITTEE ACTION: 

COUNCIL ACTION:

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

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

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

Through: Jon Hutchings, Director

From: Roland Middleton, Special Programs Manager

Date: February 8, 2017

RE: LIFAC proposed resolution for a new level of service for the Lummi Island Ferry System

The Whatcom County Council created the Lummi Island Ferry Advisory Committee (LIFAC) in part to provide recommendations on proposed changes to ferry operations, ferry replacement, and long-term planning for the level of service of the Lummi Island Ferry System (WCC 2.145; WC Ord # 2012-005).

Whatcom County Public Works Department was asked to assist LIFAC with their proposed new level of service for the Lummi Island Ferry System. LIFAC is requesting the Whatcom County Council adopt the attached resolution and exhibit A. Whatcom County Public Work submits the Agenda Bill on LIFAC’s behalf.

The resolution:
- Establishes goals for the new level of service for the Lummi Island Ferry Service.
- Establishes a time line for the replacement of the current ferry vessel.
- Outlines the scope of work for the feasibility study required under Policy 6C-9 of the Whatcom County Comprehensive Plan.

Whatcom County Comprehensive Plan
Policy 6C-9

Conduct a ferry feasibility study to inform the next annual Comprehensive Plan update so that sufficient planning, engineering, design and cost detail is available to use in competing for grants and other sources of funding for a replacement ferry. LIFAC should provide input on the scope of work and any consultants or vendors retained, as well as reviewing and providing input on key milestones.
RESOLUTION NO. ______

ESTABLISHING A NEW LEVEL OF SERVICE
FOR THE LUMMI ISLAND FERRY SYSTEM

WHEREAS, the Lummi Island Ferry Advisory Committee was established to review and provide recommendations on proposed changes to ferry operations and fares; and,

WHEREAS, the Lummi Island Ferry Advisory Committee was established to assist the county in collecting information from ferry riders on actual and desired ferry services, concerns, and ideas for improved service; and,

WHEREAS, the Lummi Island Ferry Advisory Committee was established to analyze and develop recommendations to continue and improve the cost-effective operation of ferry service to Lummi Island; and,

WHEREAS, the Lummi Island Ferry Advisory Committee was established to research, review, and make recommendations regarding ferry replacement, long-term planning, parking, transportation to and from ferry docks, alternative docking locations, alternative funding sources, and other major capital and operational issues regarding ferry service to Lummi Island; and,

WHEREAS, the Lummi Island Ferry Advisory Committee continues to work with Whatcom County Public Works to establish a quantified measurement for Level of Service; and,

WHEREAS, the Whatcom Chief now approaches 60 years in service, the expected life span of a ferry as set by the Washington State Ferries; and,

WHEREAS, components of the Gooseberry Point approach span are reaching the end of their design life, which may result in the current weight restrictions on the system being increased, resulting in lowering the allowed vehicle weight; and,
WHEREAS, a completion target date will assist the Whatcom County Public Works Department in scheduling capital improvements and maintenance; and,

WHEREAS, the Lummi Island Ferry Advisory Committee continues to work with Whatcom County Public Works to propose an action plan to accomplish the new Level of Service; and,

WHEREAS, Policy 6C-9 of the Whatcom County Comprehensive Plan identifies the need for a ferry feasibility study to prepare planning, engineering, design and cost details for a replacement ferry, and also provides context for the resolution; and,

WHEREAS, the Lummi Island Ferry Advisory Committee has recommended new goals for the Level of Service for the Lummi Island Ferry System to include, but not be limited to those identified in Exhibit A.

NOW, THEREFORE, BE IT RESOLVED the Whatcom County Council approves the Level of Service for the Lummi Island Ferry Service as shown on the attachment hereto (Exhibit A).

BE IT FURTHER RESOLVED that putting the replacement vessel into service and completion of other needed improvements to meet the new Level of Service are to be accomplished by December 31, 2026.

APPROVED this ____ day of __________, 20__. 

ATTEST: 

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

Barry Buchanan, Council Chair

Dana Brown-Davis, Clerk of the Council

APPROVED AS TO FORM:

Daniel L. Gibson, Chief Civil Deputy Prosecutor
1. **The Level of Service (LOS) goals for the Lummi Island Ferry System are to:**
   a. Provide a vessel that will:
      i. Continue to meet and comply with current US Coast Guard safety standards.
      ii. Comply with the Americans with Disabilities Act (ADA).
      iii. Accommodate legal loads of vehicles per the Washington State Commercial Vehicle Guide.
      iv. Balance capacity against operating costs (fuel, personnel, etc.) to ensure affordable fares over the long run, including needs based fares.
      v. Optimize vehicle demand, deck space, and trip frequency to minimize wait times.
      vi. Accommodate all walk-on passengers during typical peak times.
      vii. To the greatest extent possible, provide a carbon neutral vessel.
   b. Provide parking spaces at both landings to accommodate dry dock times as well as peak walk-on commuters.
   c. Provide an alternative location on Gooseberry Point for the current landing site.
   d. Build and maintain all infrastructures to accommodate 100-year sea level rise prediction by NOAA.

2. **Draft an LOS Ferry System Action Plan for the Whatcom County Council:**
   a. The plan is to be completed prior to June 30, 2018.
   b. The action plan will include:
      i. Quantifiable measurements for the adopted LOS, e.g., Volume/Capacity and no more than two boat wait times as measured during weekday peak periods.
      ii. Specific recommendations for service facilities to include but not be limited to:
         a. Restrooms
         b. Off-ferry ticketing kiosks
         c. Parking area security
      iii. Preliminary estimated costs to complete the improvements for the adopted LOS.
      iv. Preliminary alternatives in funding the necessary improvements.
v. Give direction and draft Scope of Work for a consultant to prepare the
Ferry Feasibility Study to include but not be limited to:
   a. Alternatives analysis for a Gooseberry Landing location.
   b. Analysis of the impact of climate change on the ferry system.
   c. Alternatives analysis for preliminary design of vessel to meet the
      LOS.
   d. Alternatives analysis for the addition of a second vehicle vessel for
      use during dry dock or as a back-up during emergencies.
   e. Cost analysis for all alternatives
   f. Funding alternatives to meet the LOS
**WHATCOM COUNTY COUNCIL AGENDA BILL**

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<th>Initial</th>
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**TITLE OF DOCUMENT:**
Discussion regarding potential property acquisition

**ATTACHMENTS:**

None

**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.)

Discussion regarding a potential property acquisition with Public Works staff. (Discussion of this item may take place in executive session (closed to the public pursuant to RCW 42.30.110 (1) (b)(i))

**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).
WHATCOM COUNTY COUNCIL
Special Committee Of The Whole

January 10, 2017

CALL TO ORDER

Council Chair Barry Buchanan called the meeting to order at 9:32 a.m. in the Council Conference Room, 311 Grand Avenue, Bellingham, Washington.

ROLL CALL

Present: Barbara Brenner, Satpal Sidhu, Rud Browne, Barry Buchanan, Ken Mann, Todd Donovan and Carl Weimer

Absent: None

COMMITTEE DISCUSSION

1. DISCUSSION WITH SENIOR DEPUTY PROSECUTOR ELIZABETH GALLERY REGARDING PENDING LITIGATION (AB2017-018)
   Attorney Present: Elizabeth Gallery

2. DISCUSSION WITH SENIOR DEPUTY PROSECUTOR KAREN FRAKES REGARDING PENDING LITIGATION, HIRST ET AL V. WHATCOM COUNTY, GMHB CASE NO. 12-20013 (AB2017-018)
   Attorney Present: Karen Frakes and Tadas Kisielius

   Buchanan stated that discussion of agenda item one may take place in executive session pursuant to RCW 42.30.110(2)(a)(i)(ii)(iii) and discussion of agenda item two may take place in executive session pursuant to RCW42.30.110 (1) (i). Executive session will conclude no later than 10:00 a.m. If the meeting extends beyond the stated conclusion time, he will step out of the meeting to make a public announcement.

   **Mann moved** to go into executive session until no later than 10:00 a.m. to discuss the agenda items pursuant to RCW citations as announced by the Council Chair. The motion was seconded.

   The motion carried by the following vote:
   Ayes: Sidhu, Brenner, Buchanan, Mann, Donovan and Weimer (6)
   Nays: None (0)
   Absent: Browne (out of the room) (1)

   At 10:00 a.m., Buchanan announced that executive session is extended to 10:40 a.m.

   At 10:40 a.m., Buchanan announced that executive session is extended to 11:00 a.m.
OTHER BUSINESS

ADJOURN

The meeting adjourned at 10:58 a.m.

The Council approved these minutes on ______ 2017.

ATTEST:      WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

______________________________  ______________________________
Dana Brown-Davis, Council Clerk   Barry Buchanan, Council Chair

______________________________
Jill Nixon, Minutes Transcription
WHATCOM COUNTY COUNCIL  
Special Committee of the Whole  
January 24, 2017  

CALL TO ORDER  

Council Chair Barry Buchanan called the meeting to order at 9:35 a.m. in the Council Chambers, 311 Grand Avenue, Bellingham, Washington.  

ROLL CALL  

Present:  Barbara Brenner, Ken Mann, Satpal Sidhu, Carl Weimer, Todd Donovan, Rud Browne and Barry Buchanan.  

Absent:  None.  

COMMITTEE DISCUSSION – CRITICAL AREAS ORDINANCE UPDATE  

1. CONTINUATION OF COUNCIL’S REVIEW OF THE 2016 CRITICAL AREAS ORDINANCE UPDATE – TOPICS SCHEDULED FOR DISCUSSION:  

Article 4 – Frequently Flooded Areas (AB2016-276D)  

Cliff Strong, Planning and Development Services Department, submitted and introduced a presentation (on file) on Article 4. He answered questions about local issues with frequently flooded areas (FFA).  

Ryan Ericson, Planning and Development Services Department, answered questions on the habitat, which may or may not go beyond the flood plain for a species. To get the lower flood insurance premiums, they must protect Chinook.  

Article 7 – Habitat Conservation Area (AB2016-276H)  

Strong continued the presentation on habitat conservation areas. He answered questions about ditches that have to be treated like streams; changes to the definitions for streams, ditches, and drainage ditches; applying the same standards to ditches that eventually drain into streams; the Technical Advisory Committee (TAC) recommendation to regulate landscape ponds; determining the difference between natural ponds and manmade ponds; allowing the local jurisdiction to identify specific species that are at risk; ensuring the County’s regulations are the same as the other jurisdictions and agencies; regulations and processes for removing beaver dams; whether any residential development will incur a critical areas assessment; the administrative discretion of the technical administrator; restoring the exemption for single family development of less than a half-acre in section 16.16.750(A); the reasons for all the changes from “may” to “shall” and the perception that staff has been too lenient; whether definitions in the CAO will match the definitions from the Department of Fish and Wildlife (WDFW); and creating baseline information.
The following staff answered questions:

- Joel Ingram, Technical Advisory Committee and State Department of Fish and Wildlife
- Erin Page, Planning and Development Services Department
- Diane Hennessey, Technical Advisory Committee and Department of Ecology
- Chris Elder, Planning and Development Services Department

Staff answered questions on historic conditions of streams before farming and development and how to differentiate between historic streams and ditches; how private ponds are regulated; the discussion and recommendations from the Wildlife Advisory Committee and Planning Commission; whether repair to an existing private boat launch is allowed; and whether beavers are relocated.

Linda Twitchell, Building Industry Association, referenced section 16.16.720(O) regarding onsite sewage disposal systems and stated there is a change from minimizing to disallowing completely adverse effects on water quality and slope stability. Someone will have to prove there is not even one molecule of negative impact. Be specific about who has the perception that staff is too lenient. Others believe staff isn’t lenient enough.

OTHER BUSINESS

There was no other business.

ADJOURN

The meeting adjourned at 11:00 a.m.

The Council approved these minutes on _____________, 2017.

ATTEST: WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

______________________________ ______________________________
Dana Brown-Davis, Council Clerk Barry Buchanan, Council Chair

______________________________
Jill Nixon, Minutes Transcription
WHATCOM COUNTY COUNCIL
Regular County Council Meeting

January 24, 2017

CALL TO ORDER

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

ROLL CALL

Present:  Barbara Brenner, Ken Mann, Satpal Sidhu, Carl Weimer, Todd Donovan, Rud Browne and Barry Buchanan.

Absent:  None.

FLAG SALUTE

ANNOUNCEMENTS

MINUTES CONSENT

Brenner moved to approve Minutes Consent items one through seven.

The motion was seconded.

The motion carried by the following vote:

Ayes:  Brenner, Mann, Sidhu, Browne, Buchanan, Weimer and Donovan (7)

Nays:  None (0)

1. SPECIAL COMMITTEE OF THE WHOLE FOR JULY 5, 2016
2. SPECIAL COMMITTEE OF THE WHOLE FOR JULY 12, 2016
3. SPECIAL COMMITTEE OF THE WHOLE FOR JULY 14, 2016
4. SURFACE WATER WORK SESSION FOR JULY 19, 2016
5. SPECIAL COMMITTEE OF THE WHOLE FOR JULY 26, 2016
6. SPECIAL COMMITTEE OF THE WHOLE (P.M.) FOR NOVEMBER 22, 2016
7. SPECIAL COMMITTEE OF THE WHOLE (EXECUTIVE SESSION) FOR DECEMBER 6, 2016
PUBLIC HEARINGS

1. ORDINANCE ADOPTING AMENDMENTS TO WHATCOM COUNTY CODE TITLE 20 ZONING, PERMITTING KENNELS IN THE AGRICULTURE ZONE AS A CONDITIONAL USE (AB2017-038)

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

Don LaPlant described his experience operating a permitted kennel at the south end of Whidbey Island. He supports the ordinance and the Rover Stay Over kennel.

William Zuidmeer stated this request is a spot zone for a future retail space. He is opposed to the ordinance. His property values must be protected. There is room in the rural zone for dog kennels. There will be a high demand for water supply for fire suppression, but County water resources are already strained.

Denise Zuidmeer stated she is opposed to the ordinance. Most counties that allow dog kennels in the agricultural zone are in Eastern Washington and have much more agricultural land. The kennel in question hasn’t ever had a permit. If this use is allowed, many kennels will pop up around the county.

Vicki Hawley stated she is a member of the Agricultural Advisory Committee. She supports the ordinance. This ordinance will eliminate complaints about kennels in the rural zones.

Wes Kentch stated he is a member of the Agricultural Advisory Committee. He supports the ordinance. It is small animal husbandry on a small scale, which is an agricultural use. The agricultural zone is more appropriate for the use than the rural zone.

Kevin Sterk stated he supports the ordinance. He farms some of the land near the existing kennel. It’s more appropriate in the agricultural zone than the rural zone. He’s the closest neighbor to the west of the kennel. He supports the ordinance.

Jamie White stated only four counties in the State don’t allow commercial kennels in the agricultural zone. Three counties don’t have the definition listed anywhere in the zoning code.

Dannon Traxler, attorney, stated this is a legislative zoning text amendment that is not focused on a particular piece of property. The two people who commented live in a rural zone more than 1,500 feet away from kennel. The conditional use process is not an easy process to go through, so there won’t be many kennels that pop up. The proposal is appropriate for many reasons.

Verna Kentch stated she’s lived near a kennel before. In the rural area, it’s expected to hear animals. This is small animal husbandry. She supports the ordinance. There is a permitting process that will address concerns about impacts.

Leroy Tideman stated he is a member of the Agricultural Advisory Committee. He supports the ordinance. It is an appropriate use in the agricultural zone.
Hearing no one else, Buchanan closed the public hearing.

*Brenner moved* to adopt the ordinance.

The motion was seconded.

Charmae Scheffer, Rover Stay Over Owner, answered questions about how long the business has been operating, if the property has a well, what type of fire suppression system is in place, health and safety standards and requirements, and constructing a building without a building permit and without fire safety systems.

Jamie White answered questions about the kennel going through the conditional use permit and building permit processes that include fire flow and suppression requirements and whether the Border Patrol knows that the building housing their kennels doesn’t have fire suppression.

Councilmembers discussed considering the text amendment that is applied countywide versus the specific kennel that is trying to achieve compliance, whether this use is detrimental to the agriculture zone, the agricultural community’s approval of this use in the agricultural zone, ensuring safety for ingress and egress, avoiding the message to the community that ignoring the permitting rules will be forgiven, how this use will impact water and animal waste, and to what standards the buildings will be permitted as agricultural buildings.

The following staff answered questions:
- Gary Davis, Planning and Development Services Department
- Wain Harrison, Planning and Development Services Department

Staff answered questions about building code requirements to kennels, fire flow requirements applied to kennels, and whether kennels in the agricultural zone will be required to have a farm plan.

The motion carried by the following vote:

Ayes: Brenner, Mann, Sidhu, Browne, Buchanan, Weimer and Donovan (7)

Nays: None (0)

2. **ORDINANCE PROVIDING LOCAL PROCEDURES TO PROCESS DEVELOPMENT PERMIT APPLICATIONS EFFICIENTLY AND TO PROMOTE FINALITY OF DECISIONS (AB2017-041)**

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

Abe Jacobson stated he approves of the ordinance to save taxpayer money.

Amy Glasser stated she supports the ordinance.

Michael Kirshenbaum stated he supports the ordinance for the efficiency of staff and taxpayer dollars and also for clarity of the process.
Carol Jacobson stated she approves the ordinance.

Hearing no one else, Buchanan closed the public hearing.

**Weimer moved** to adopt the ordinance.

The motion was seconded.

Councilmembers discussed who would benefit, when this process would apply, and saving the County some money if this processes is ever enacted.

Browne suggested a friendly amendment to remove language about the early notice of a likelihood of a determination of significance.

Tyler Schroeder, Executive’s Office, answered questions and stated he can research the questions and the early notice process in the next two weeks. According to the Ecology State Environmental Policy Act (SEPA) handbook, there is an early notice process. Applicants can request an early notice.

**Brenner moved** to hold in Council for two weeks.

The motion was seconded.

The motion to hold carried by the following vote:

**Ayes:** Brenner, Sidhu, Browne, and Buchanan (4)

**Nays:** Mann, Weimer and Donovan (3)


Wain Harrison, Planning and Development Services Department, gave a staff report.

Buchanan opened the public hearing, and hearing no one, closed the public hearing.

**Browne moved** to adopt the ordinance.

The motion was seconded.

Councilmembers discussed flexibility in rural areas for manufacturing or warehouse buildings, sacrificing affordability to make the county ‘fireproof,’ and the expense of requiring very wide road easements to allow fire truck turnaround.

The motion carried by the following vote:

**Ayes:** Sidhu, Browne, Buchanan, Weimer and Donovan (5)

**Nays:** Brenner and Mann (2)
The following people spoke:

- Galina Yarovoy spoke about the impacts to her property of the interim amendments to the Whatcom County Comprehensive Plan and Whatcom County Code Title 15 (Buildings and Construction), Title 20 (Zoning), Title 21 (Land Division Regulations), and Title 24 (Health Code) relating to water resources.
- Bill Lafreniere spoke about Consent Agenda items regarding the jail and work center, the Washington State University (WSU) Extension, the remodel of the Health Department building, and the proposed amendments regarding onsite sewage regulations.
- Vern Yaden spoke about a proposed trail in the East County area for safety reasons.
- Amy Glasser spoke about the process for complying with State and federal environmental laws and the Consent Agenda item for autobody repair.
- Shorty Bjornstead spoke about a proposed trail in the East County area for safety reasons.
- Carole Perry spoke about Council discussions regarding fire flow, septic systems, and the critical areas ordinance update.
- Penelope Contompasis spoke about proposed regulations on septic systems.
- Shannon Shilt spoke about regulations on septic systems.

CONSENT AGENDA

Browne reported for the Finance and Administrative Services Committee and moved to approve Introduction Items two through six. He withdrew item one.

Brenner withdrew item five.

The motion to approve Consent Agenda items two through four and six carried by the following vote:

- **Ayes:** Brenner, Mann, Sidhu, Browne, Buchanan, Weimer and Donovan (7)
- **Nays:** None (0)

1. REQUEST AUTHORIZATION FOR THE COUNTY EXECUTIVE TO ENTER INTO AN INTERLOCAL AGREEMENT BETWEEN WHATCOM COUNTY AND THE WHATCOM CONSERVATION DISTRICT FOR NON-DAIRY AGRICULTURE TECHNICAL ASSISTANCE, IN THE AMOUNT OF $100,000 (AB2017-045)

Browne reported for the Finance and Administrative Services Committee and moved to approve the request. He will abstain from the vote.

The motion carried by the following vote:

- **Ayes:** Brenner, Mann, Sidhu, Buchanan, Weimer and Donovan (6)
- **Nays:** None (0)
- **Abstains:** Browne (1)

2. REQUEST AUTHORIZATION FOR THE COUNTY EXECUTIVE TO ENTER INTO A CONTRACT AMENDMENT BETWEEN WHATCOM COUNTY AND NORTHWEST REGIONAL COUNCIL TO PROVIDE NURSING SERVICES TO OFFENDERS AT

Regular County Council Meeting, 1/24/2017, Page 5
THE DOWNTOWN JAIL, THE WORK CENTER AND JUVENILE DETENTION, IN
THE AMOUNT OF $33,045, FOR A TOTAL AMENDED AMOUNT OF $1,247,947
(AB2017-046)

3. REQUEST AUTHORIZATION FOR THE COUNTY EXECUTIVE TO ENTER INTO A
CONTRACT AMENDMENT BETWEEN WHATCOM COUNTY AND DESIGN2LAST,
INC. TO PROVIDE BUILDING ASSESSMENT STUDIES AND COST ESTIMATES
FOR CAPITAL IMPROVEMENTS AT THE JAIL AND WORK CENTER, IN THE
AMOUNT OF $218,404.26, FOR A TOTAL AMENDED AMOUNT OF $370,287.20
(AB2017-047)

4. REQUEST AUTHORIZATION FOR THE COUNTY EXECUTIVE TO ENTER INTO A
CONTRACT AMENDMENT BETWEEN WHATCOM COUNTY AND WASHINGTON
STATE UNIVERSITY TO CONTINUE THE SHARE AGENT COSTS FOR THE WSU
WHATCOM COUNTY EXTENSION FOR 2017, IN THE AMOUNT OF $161,437,
FOR A TOTAL AMENDED AMOUNT OF $1,570,535.90 (AB2017-048)

5. REQUEST APPROVAL FOR THE COUNTY EXECUTIVE TO AWARD BID #16-53
AND AUTHORIZE THE EXECUTIVE TO ENTER INTO A CONTRACT WITH
JENSEN LEE CONSTRUCTION FOR THE HEALTH DEPARTMENT CREEKSIDE
OFFICES PROJECT, IN AN AMOUNT NOT TO EXCEED $54,094.55 (AB2017-
049)

Browne reported for the Finance and Administrative Services Committee and
moved to approve the request.

Jack Louws, County Executive, answered questions about whether funds are
intended for programs, not building repairs or restoration, even if the offices are necessary
to run the program; getting legal clarification on using behavioral health funds on a triage
center, and; changing the budget appropriation to general funds.

Brenner moved to hold in Council.

The motion was seconded.

Councilmembers discussed using general fund funds. Louws stated he will research
the use of the mental health/chemical dependency funds and use the general fund in the
budget appropriation item later in the meeting.

Brenner withdrew the motion to hold in Council.

The motion carried by the following vote:
Ayes: Mann, Browne, Sidhu, Buchanan, Weimer and Donovan (6)
Nays: Brenner (1)

6. REQUEST APPROVAL FOR THE COUNTY EXECUTIVE TO AUTHORIZE THE
PURCHASE OF AUTO BODY REPAIR SERVICES FROM VENDORS CEI GROUP
AND GITT’S AUTOBODY, USING WASHINGTON STATE CONTRACT #05015, IN
AN AMOUNT NOT TO EXCEED $70,000 (AB2017-050)
OTHER ITEMS

1. ORDINANCE AMENDING THE 2017 WHATCOM COUNTY BUDGET, FIRST REQUEST, IN THE AMOUNT OF $170,302 (AB2017-039)

Browne reported for the Finance and Administrative Services Committee and moved to adopt the ordinance.

Brenner moved to amend to change the funding source for the Health Department building renovations from the chemical dependency/mental health fund to the general fund:

- Amend Council packet page 68, item six regarding the funding source, to change the object code to be consistent with the general fund.
- Amend Council packet pages 62 and 63, change the chemical dependency/mental health fund to the general fund.

The motion was seconded.

Councilmembers discussed the total amount being appropriated.

The motion to amend carried by the following vote:
Ayes: Brenner, Mann, Sidhu, Browne, Buchanan, Weimer and Donovan (7)
Nays: None (0)

The motion to adopt as amended carried by the following vote:
Ayes: Brenner, Mann, Sidhu, Browne, Buchanan, Weimer and Donovan (7)
Nays: None (0)

2. ORDINANCE AMENDING ORDINANCE 2015-037, WHICH AMENDED ORDINANCE 2015-025 (ESTABLISHMENT OF THE WHATCOM COUNTY INCARCERATION PREVENTION AND REDUCTION TASK FORCE) TO EXTEND DUE DATES FOR DELIVERY OF THE INITIAL AND FINAL PHASE III REPORTS (AB2017-040)

Browne reported for the Finance and Administrative Services Committee and moved to adopt the ordinance.

The motion carried by the following vote:
Ayes: Brenner, Mann, Sidhu, Browne, Buchanan, Weimer and Donovan (7)
Nays: None (0)

3. REQUEST AUTHORIZATION FOR THE COUNTY EXECUTIVE TO ENTER INTO A CONTRACT BETWEEN THE WHATCOM COUNTY FLOOD CONTROL ZONE DISTRICT AND APPLIED GEOMORPHOLOGY FOR THE PREPARATION OF A DETAILED GEOMORPHIC ASSESSMENT OF THE LOWER NOOKSACK RIVER IN SUPPORT OF AN UPDATE TO THE COMPREHENSIVE FLOOD HAZARD MANAGEMENT PLAN, IN THE AMOUNT OF $150,000 (AB2017-044)

(Council Acting as the Whatcom County Flood Control Zone District Board of Supervisors.)
Browne reported for the Finance and Administrative Services Committee and moved to adopt the ordinance.

The motion carried by the following vote:
Ayes: Brenner, Mann, Sidhu, Browne, Buchanan, Weimer and Donovan (7)
Nays: None (0)

4. RESOLUTION ADOPTING AN UPDATE TO THE WHATCOM COUNTY COMPREHENSIVE SOLID AND HAZARDOUS WASTE MANAGEMENT PLAN (AB2016-302)

Brenner reported for the Public Works, Health, and Safety Committee and moved to approve the resolution.

The motion carried by the following vote:
Ayes: Brenner, Mann, Sidhu, Browne, Buchanan, Weimer and Donovan (7)
Nays: None (0)

5. RESOLUTION IN THE MATTER OF CONSIDERING A VACATION OF A PORTION OF CHETS ROAD (AB2017-051)

Brenner reported for the Public Works, Health, and Safety Committee and moved to approve the resolution.

The motion carried by the following vote:
Ayes: Brenner, Mann, Sidhu, Browne, Buchanan, Weimer and Donovan (7)
Nays: None (0)

6. RESOLUTION DECLARING FORMATION OF THE COLUMBIA VALLEY PARK AND RECREATION DISTRICT (AB2016-218C)

Brenner moved to approve the resolution.

The motion was seconded.

The motion carried by the following vote:
Ayes: Brenner, Mann, Sidhu, Browne, Buchanan, Weimer and Donovan (7)
Nays: None (0)

COUNCIL APPOINTMENTS TO BOARDS, COMMISSIONS, AND COMMITTEES

1. ANNUAL APPOINTMENTS TO COUNCIL-APPOINTED POSITIONS ON CITIZEN BOARDS, COMMISSIONS, AND COMMITTEES (AB2017-031)

Brenner moved to accept the late applications.

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

The motion carried by the following vote:

**Ayes:** Brenner, Mann, Sidhu, Browne, Buchanan, Weimer and Donovan (7)

**Nays:** None (0)

Drayton Harbor Shellfish Protection District Advisory Committee

*Brenner moved* to appoint Charles Hawkins by acclamation.

The motion was seconded.

The motion carried by the following vote:

**Ayes:** Brenner, Mann, Sidhu, Browne, Buchanan, Weimer and Donovan (7)

**Nays:** None (0)

Forestry Advisory Committee

*Brenner moved* to appoint Sharon Westergreen, Scott Thompson, and Greg Zender by acclamation.

The motion was seconded.

The motion carried by the following vote:

**Ayes:** Brenner, Mann, Sidhu, Browne, Buchanan, Weimer and Donovan (7)

**Nays:** None (0)

Planning Commission

*Browne moved* to nominate and appoint Kate Blystone by acclamation.

The motion was seconded.

The motion carried by the following vote:

**Ayes:** Brenner, Mann, Sidhu, Browne, Buchanan, and Donovan (6)

**Nays:** None (0)

**Abstains:** Weimer (1)

Solid Waste Advisory Committee

*Brenner moved* to appoint Riley Grant by acclamation.

The motion was seconded.

The motion carried by the following vote:

**Ayes:** Brenner, Mann, Sidhu, Browne, Buchanan, Weimer and Donovan (7)

**Nays:** None (0)

2. **ANNUAL APPOINTMENTS TO FLOOD CONTROL ZONE DISTRICT BOARD OF SUPERVISORS–APPOINTED POSITIONS ON CITIZEN ADVISORY COMMITTEES (AB2017-032) (AB2017-032)**
Brenner moved to appoint John Perry by acclamation.

The motion was seconded.

The motion carried by the following vote:
Ayes: Brenner, Mann, Sidhu, Browne, Buchanan, Weimer and Donovan (7)
Nays: None (0)

EXECUTIVE APPOINTMENTS TO BOARDS, COMMISSIONS, AND COMMITTEES

1. ANNUAL APPOINTMENTS TO EXECUTIVE-APPOINTED POSITIONS ON BOARDS, COMMISSIONS, AND COMMITTEES (AB2017-052)

Brenner moved to defer the appointment of the Developmental Disabilities Advisory Board until after the November general election. The applicant is a candidate for office, and she doesn’t want to provide undue advantage in the election.

The motion was seconded.

Councilmembers discussed whether candidates for office need to resign from their volunteer boards and commissions.

The motion to defer carried by the following vote:
Ayes: Brenner, Mann, Sidhu, Browne, Buchanan, and Donovan (6)
Nays: Weimer (1)

Councilmembers discussed the possibility of amending the County Code for people who have indicated they plan to become a candidate for office.

Brenner moved to confirm the appointments, except the Developmental Disabilities Advisory Board appointment, by acclamation.

The motion was seconded.

The motion carried by the following vote:
Ayes: Brenner, Mann, Sidhu, Browne, Buchanan, Weimer and Donovan (7)
Nays: None (0)

INTRODUCTION ITEMS

1. ORDINANCE AMENDING WHATCOM COUNTY CODE 24.05 ON-SITE SEWAGE SYSTEM REGULATIONS (AB2017-053)

Buchanan stated this item is held in Committee.
COMMITTEE REPORTS, OTHER ITEMS, AND COUNCILMEMBER UPDATES

Councilmembers gave updates on recent activities and upcoming events.

ADJOURN

The meeting adjourned at 9:15 p.m.

The County Council approved these minutes on ______, 2017.

ATTEST:

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

______________________________  ___________________________
Dana Brown-Davis, Council Clerk   Barry Buchanan, Council Chair

______________________________
Jill Nixon, Minutes Transcription
CALL TO ORDER

Council Chair Barry Buchanan called the meeting to order at 10:30 a.m. in the Civic Center Garden Level Conference Room, 322 Commercial Avenue, Bellingham, Washington.

ROLL CALL

Present: Barbara Brenner, Satpal Sidhu, Barry Buchanan, Ken Mann, Todd Donovan and Carl Weimer

Absent: Rud Browne

SURFACE WATER WORK SESSION (AB2017-024)

WATER PLANNING UPDATE

Gary Stoyka, Public Works Department, updated the Council on the February Planning Unit meeting; the Joint Board and Salmon Recovery Board, which no longer exist and have been replaced by the new Watershed Management Board; funding the new board, including projects and facilitation; staff work on the Whatcom local integrating organization (LIO) recovery plan, which is required by the Puget Sound Partnership to cover all recovery efforts in this region; and a supplemental budget request to pay for completion of the groundwater model project.

Council members discussed including watershed improvement district (WID) members and exempt well representatives on the LIO.

WATER RESOURCE INVENTORY AREA (WRIA) 1 PLANNING UNIT UPDATE

Dick Whitmore, Planning Unit Member, submitted and presented information on the March 2005 watershed management plan and the detailed implementation plan (DIP) summary (on file).

Ann Russell, Planning Unit Member, submitted (on file) and described the caucus members’ concerns and shared priorities.

Staff and Planning Unit members answered questions about inactive Planning Unit members, whether the number of representatives in the governance process is too big to be efficient, the hurdles that have prevented implementation of plans since 1995, the need for funding and a strong focused leadership to work toward a common goal, and the growing population.
Robin Dexter, Planning Unit Member, answered questions about how water law is different from land use law, figuring out who does and does not have water rights, and the ultimate need to adjudicate water rights.

SWIFT CREEK REPOSITORY REPORT and CURRENT STATUS OF SWIFT CREEK MANAGEMENT

Roland Middleton, Public Works, submitted and read from a presentation on the conceptual site screening report (on file). He answered questions about how long a repository would last; diverting the water flow through a culvert and away from the area; fish suffocating in the creek; whether the material is a threat to people’s health; other negative impacts to agriculture land due to the problems with the type of material and the amount of material coming off the landslide annually; whether any of the heavy metals are not naturally-occurring; if there is an industrial use for the material, such as impermeable concrete; and whether the landslides can be prevented.

Middleton continued and concluded his presentation on the Oat Coles Bridge removal project and continued to answer questions on collaborating with Environment Canada, area wells that are not showing problems from the material, the need to build a concrete structure to protect the Williams pipeline that runs through the area, whether there are federal funds for solving the Swift Creek problem, and how supportive are the State representatives.

ADJOURN

The meeting adjourned at 11:50 a.m.

The Council approved these minutes on _____________, 2017.

ATTEST: Whatcom County Council
Whatcom County, Washington

______________________________   ______________________________
Dana Brown-Davis, Council Clerk          Barry Buchanan, Council Chair

______________________________
Jill Nixon, Minutes Transcription
Appointee to Noxious Weed Control Board - Applicant: Dale Yoder

This Board promotes education of the public concerning management of noxious weeds such as tansy ragwort, knapweed, purple loosestrife, knotweed and their impacts on natural resources. Dale Yoder was nominated to represent the Whatcom County Noxious weed Board, District 1.
APPLICATION FOR APPOINTMENT TO WHATCOM COUNTY BOARDS AND COMMISSIONS

PLEASE PRINT LEGIBLY and COMPLETE ALL ITEMS

Name: Dale Yoder
Street Address: 9279 WeidKamp Rd
City: Lynden, Wa.
Mailing Address (if different from street address):
Day Telephone: __________________ Evening Telephone: __________________ Cell Phone: 360-303-4940
E-mail address: __________________

1. Name of board or committee—please see reverse: Noxious Weed Control Board

2. You must specify which position you are applying for. Please refer to vacancy list.

3. Do you meet the residency, employment, and/or affiliation requirements of the position for which you're applying? (If applicable, please refer to vacancy list.) (X) yes ( ) no

4. Which Council district do you live in? ( ) One ( ) Two ( ) Three (X) Four ( ) Five

5. Are you a US citizen? (X) yes ( ) no

6. Are you registered to vote in Whatcom County? (X) yes ( ) no

7. Have you ever been a member of this Board/Commission? (X) yes ( ) no

If yes, dates: 2000 to current

8. Do you or your spouse have a financial interest in or are you an employee or officer of any business or agency that does business with Whatcom County? ( ) yes (X) no

If yes, please explain:

You may attach a résumé or detailed summary of experience, qualifications, & interest in response to the following questions.

9. Please describe your occupation (or former occupation if retired), qualifications, professional and/or community activities, and education.

Farmer

10. Please describe why you're interested in serving on this board or commission:

To help in the control of noxious weeds in the county

References (please include daytime telephone number):

Signature of applicant: Dale Yoder

THIS IS A PUBLIC DOCUMENT: As a candidate for a public board or commission, the above information will be available to the County Council, County Executive, and the public. All board and commission members are expected to be fair, impartial, and respectful of the public, County staff, and each other. Failure to abide by these expectations may result in revocation of appointment and removal from the appointive position.
DATE: 1/27/17

APPLICATION FOR APPOINTMENT TO WHATCOM COUNTY BOARDS AND COMMISSION

WHATCOM COUNTY NOXIOUS WEED BOARD

I, [Name], seek the nomination of District 1 for the term of four years to the WHATCOM COUNTY NOXIOUS WEED BOARD.

THE UNDERSIGNED NOMINATE [Name] TO REPRESENT THE WHATCOM COUNTY NOXIOUS WEED BOARD, DISTRICT 1, FOR THE TERM OF FOUR YEARS.

<table>
<thead>
<tr>
<th>NAME</th>
<th>ADDRESS</th>
<th>CITY</th>
<th>STATE</th>
<th>ZIP</th>
</tr>
</thead>
<tbody>
<tr>
<td>Tammy Yoder</td>
<td>9279 Weid Kamp Rd Lynden, WA 98264</td>
<td></td>
<td></td>
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<tr>
<td>Melissa Vanlou</td>
<td>350 S Park St. Lynden WA 98264</td>
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<tr>
<td>Gary A. Viz</td>
<td>8844 Bender Rd Lynden WA 98264</td>
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<tr>
<td>Sandra Schoenfeld</td>
<td>2308 Greenview Ln Lynden WA 98264</td>
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<tr>
<td>SARREN VAN LOO</td>
<td>350 S PARK ST Lynden WA 98264</td>
<td></td>
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<tr>
<td>Wendy Kramme</td>
<td>707 Woodview Ct Lynden WA 98264</td>
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<tr>
<td>Marcy Hershey</td>
<td>772 Bentgrass Way Lynden WA 98264</td>
<td></td>
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<td></td>
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<tr>
<td>JU juice CLIFT</td>
<td>202 N Maberry Dr. #281 Lynden WA 98264</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Steve McKinley</td>
<td>302 Parkside Ct Lynden WA 98264</td>
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</tr>
<tr>
<td>COLLEEN MCKINLEY</td>
<td>302 PARKSIDE CT LYNDEN WA 98264</td>
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</table>
WHATCOM COUNTY COUNCIL AGENDA BILL

TITLE OF DOCUMENT:
Ordinance to increase ALS Transport Fees consistent with BLS rate increase and annual CPI.

ATTACHMENTS:

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.)

Executive Louws requests Council approval of the proposed fee increases for ALS Ambulance Transport fees.

COMMITTEE ACTION:

COUNCIL ACTION:

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

Please Note: Once adopted and signed, ordinances and resolutions are available for viewing and printing on the County’s website at: www.co.whatcom.wa.us/council.
ORDINANCE NO. ________

Ordinance Establishing charges/fees for providing Advanced Life Support (ALS) Ambulance Transport Services in Whatcom County

WHEREAS, in June 2012, the Whatcom County Council and the Bellingham City Council passed a Joint Resolution of the City of Bellingham and Whatcom County Adopting the Jointly Recommended Business Model for County Wide Emergency Medical (EMS); and

WHEREAS, the June 2012 Joint Resolution called for establishment of an EMS Oversight Board ("EOB") and a Technical Advisory Board ("TAB"); and

WHEREAS, RCW 52.12.131 conveys the authority for any fire protection district which provides emergency medical services, to establish and collect reasonable charges/fees for these services in order to reimburse the district for its costs of providing emergency medical services; and

WHEREAS, Whatcom County contracts with the City of Bellingham and Fire Protection District No. 7 for the provision of Advanced Life Support (ALS) transport and emergency medical services; and

WHEREAS, the City of Bellingham has increased their Basic Life Support Transport Fees consistent with an annual CPI rate increase; and

WHEREAS, Whatcom County is responsible for setting the ALS Fees; and

WHEREAS, the EOB approved for recommendation to County Council the ALS fees outlined in Exhibit A including the inclusion of an annual rate adjustment based on the CPI-U for greater Seattle area and consistent with the rate adjustment used for BLS rates; and
NOW, THEREFORE, BE IT ORDAINED by the Whatcom County Council that the
Advanced Life Support (ALS) Ambulance Transport Services Fees to be charged by agencies
under contract with Whatcom County are increased from the current amounts shown in
Exhibit A, to the amounts recommended by EOB as shown in the right-hand column of
Exhibit A; and

BE IT FURTHER ORDAINED these changes will be deemed operative within ten
(10) calendar days from the signing of this Ordinance.

ADOPTED this ____ day of March, 2017.

ATTEST:

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

Dana Brown-Davis, Clerk of the Council

Barry Buchanan, Council Chair

WHATCOM COUNTY EXECUTIVE
WHATCOM COUNTY, WASHINGTON

APPROVED AS TO FORM:

Daniel L. Gibson

Civil Deputy Prosecutor

Jack Louws, County Executive

( ) Approved    ( ) Denied

Date Signed: ____________________________
Exhibit A

EMS MEDIC TRANSPORT FEES
Proposed Increases

<table>
<thead>
<tr>
<th>Service</th>
<th>District 7 Current Fee</th>
<th>Bellingham Fire Current Fee</th>
<th>Recommended By EOB</th>
</tr>
</thead>
<tbody>
<tr>
<td>ALS 1</td>
<td>$750.</td>
<td>$750.</td>
<td>$766.</td>
</tr>
<tr>
<td>ALS 2</td>
<td>$950.</td>
<td>$950.</td>
<td>$970.</td>
</tr>
</tbody>
</table>

ALS ambulance fees will be adjusted annually, on January 01, based on the previous 12 month average October to October CPI-U for greater Seattle area, but shall not be decreased. Rates will be rounded to the nearest whole dollar.

Service Description

**Advanced Life Support (ALS) 1:** An ALS1 level of service is defined as including an ALS assessment OR the provision of at least one ALS intervention. Must be staffed with at least one paramedic or AEMT.

**Advanced Life Support (ALS) 2:** An ALS2 level of service is defined to include an ALS assessment AND the administration of at least three medications OR three administrations of the same qualifying medication OR the provision of at least one of the following procedures: manual defib/cardioversion; endotracheal intubation; central venous line; cardiac pacing; chest decompression; surgical airway; intraosseous line.

Service description and delivery for this document will be concurrent with:
CMS Manual System, Publication 100-02 Medicare Benefit Policy. Effective date: January 1, 2011
## Exhibit A

### EMS MEDIC TRANSPORT FEES

#### Proposed Increases

<table>
<thead>
<tr>
<th>Service</th>
<th>District 7 Current Fee</th>
<th>Bellingham Fire Current Fee</th>
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<tr>
<td>ALS 2</td>
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ALS ambulance fees will be adjusted annually, on January 01, based on the previous 12 month average October to October CPI-U for greater Seattle area, but shall not be decreased. Rates will be rounded to the nearest whole dollar.

### Service Description

**Advanced Life Support (ALS) 1:** An ALS1 level of service is defined as including an ALS assessment OR the provision of at least one ALS intervention. Must be staffed with at least one paramedic or AEMT.

**Advanced Life Support (ALS) 2:** An ALS2 level of service is defined to include an ALS assessment AND the administration of at least three medications OR three administrations of the same qualifying medication OR the provision of at least one of the following procedures: manual defib/cardioversion; endotracheal intubation; central venous line; cardiac pacing; chest decompression; surgical airway; intraosseous line.

---

Service description and delivery for this document will be concurrent with:

CMS Manual System, Publication 100-02 Medicare Benefit Policy. Effective date: January 3, 2017
TITLE OF DOCUMENT: Resolution to sell Tax-Title property by public auction Req. #TR2017-01

ATTACHMENTS: Map

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

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

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:
The Property Management Committee recommends the sale by negotiation pursuant RCW 36.35.15(2), when the county legislative authority determines that it is not practical to build on the property due to the physical characteristics of the property or legal restrictions on construction activities on the property. Subject to a covenant to bind.

Parcel # 400527-318181-0000 / PID 143658
PARADISE LAKES COUNTRY CLUB DIVISION NO 1 TRACT A-EXCEPT THAT PORTION LYING EASTERLY OF LINE DESCRIBED AS FOLLOWS-BEGINNING AT NORTHWEST CORNER OF LOT 37 SAID PLAT-THEN CONTINUING NORTH 02 DEGREES 02'00" WEST ALONG PROJECTED OF WEST LINE OF SAID LOT 37 30 FEET TO SOUTH LINE OF LOT 20 SAID PLAT-TERMINUS OF HEREIN DESCRIBED LINE TOWNSHIP 40 RANGE 05 E SECTION 27

For no less than taxes, interest, penalties and foreclosure costs of $2,004.38

COMMITTEE ACTION:

COUNCIL ACTION:

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

Please Note: Once adopted and signed, ordinances and resolutions are available for viewing and printing on the County's website at: www.co.whatcom.wa.us/council,
RESOLUTION NO.

TO SELL COUNTY TAX TITLE PROPERTY

REQUEST NO. TR2017-01

WHEREAS, RCW 36.35.120 allows the County to sell real estate acquired by tax foreclosure where it is found to be in the best interest of Whatcom County to sell the same; and,

WHEREAS, the Whatcom County Property Management Committee recommends that the resolution be passed to effectively meet the legal requirement for the disposal; and,

WHEREAS, RCW 36.35.120 requires the Council to establish the minimum price for said unit of property and to determine whether or not a contract will be allowed, or if it will be a cash price; and,

WHEREAS, the Whatcom County Code as well as the state law allows the County to reserve from the sale coal, oil, gas, gravel, mineral, ores, fossils, timber or other resources if the Council finds that it is in the best interest to reserve these;

NOW, THEREFORE, BE IT RESOLVED that it is in the best interest of the County to sell:

Parcel # 400527-318181-0000 / PID 143658
PARADISE LAKES COUNTRY CLUB DIVISION NO 1 TRACT A-EXCEPT THAT PORTION LYING EASTERLY OF LINE DESCRIBED AS FOLLOWS-BEGINNING AT NORTHWEST CORNER OF LOT 37 SAID PLAT-THEN CONTINING NORTH 02 DEGREES 02'00" WEST ALONG PROJECTED OF WEST LINE OF SAID LOT 37 30 FEET TO SOUTH LINE OF LOT 20 SAID PLAT-TERMINUS OF HEREIN DESCRIBED LINE TOWNSHIP 40 RANGE 05E SECTION 27

For no less than taxes, interest, penalties and foreclosure costs of $2,004.38 to the highest and best bidder;

BE IT FURTHER RESOLVED that said price shall not be allowed under contract and shall be paid in either cash, certified check, or money order to the Whatcom County Treasurer at the time of sale; and,
BE IT FURTHER RESOLVED that said parcels shall be sold subject to restrictive
covenants allowing for imposition of Community Association fees, if any, as set forth in
Whatcom County Resolution No. 88-37; and,

BE IT FURTHER RESOLVED that this sale transfer to the owners all coal, oil,
gas, gravel, minerals, ores, fossils, timber or other resources on or in said land and the
right to mine for and remove the same in conformity with zoning regulations in force and
effect; and,

BE IT FURTHER RESOLVED that the Whatcom County Treasurer is hereby
directed to sell such property at not less than a certified price and said sale shall take
place in accordance with the duties as established in RCW 36.35.120.

APPROVED this ______ day of _____________________, 2017.

ATTEST:

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

______________________________
Dana Brown-Davis, Council Clerk

______________________________
Berry Buchanan, Chair

APPROVED AS TO FORM:

______________________________
Civil Deputy Prosecuting Attorney
### WHATCOM COUNTY COUNCIL AGENDA BILL

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### TITLE OF DOCUMENT:
Appointment Portage Bay Shellfish Protection District  Applicant Michael Shepard

### ATTACHMENTS:
Application

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

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

### SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:
(If this item is an ordinance or requires a public hearing, you must provide the language for use in the required public notice. Be specific and cite RCW or WCC as appropriate. Be clear in explaining the intent of the action.)
The Portage Bay Shellfish Protection District Advisory Board advise the County Council on the proposed actions and operations relating to the restoration of water quality in the Porage Bay watershed. Applicant: Michael Shepard

### 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.
Board and Commission Application

Step 1

Application for Appointment to Whatcom County Boards and Commissions

Public Statement

THIS IS A PUBLIC DOCUMENT: As a candidate for a public board or commission, the information provided will be available to the County Council, County Executive, and the public. All board and commission members are expected to be fair, impartial, and respectful of the public, County staff, and each other. Failure to abide by these expectations may result in revocation of appointment and removal from the appointive position.

First Name	Michael
Last Name	Shepard
Date	2/8/2017
Street Address	2516 Kulshan Street
City	Bellingham
Zip	98225

Do you live in & are you registered to vote in Whatcom County? Yes

Do you have a different mailing address? Field not completed.

Primary Telephone	3605941784
Secondary Telephone	Field not completed.

Email Address	michaelshepard@gmail.com

Step 2
1. Name of Board or Committee: Portage Bay Shellfish Protection District Advisory Committee

2. Do you meet the residency, employment, and/or affiliation requirements of the position for which you’re applying? Yes

3. Which Council district do you live in? District 2

4. Are you a US citizen? Yes

5. Are you registered to vote in Whatcom County? Yes

6. Have you ever been a member of this Board/Commission? No

7. Do you or your spouse have a financial interest in or are you an employee or officer of any business or agency that does business with Whatcom County? No

You may attach a resume or detailed summary of experience, qualifications, & interest in response to the following questions

8. Please describe your occupation (or former occupation if retired), qualifications, professional and/or community activities, and education

I am a faculty member of two mostly online graduate programs at Goucher College. The first is a Master's in Environmental Studies and the second is a Master's in Cultural Sustainability. I teach courses on Environmental Governance, Environmental Science, Environment and Community and Anthropology. I am also a Research Associate at Western Washington University's Center for Pacific Northwest Studies. I have a BA in Environmental and Indigenous Studies, and an MA and PhD in Anthropology. I specialize in intersections between environmental and cultural sustainability. I have particular expertise in Salish Sea water quality, habitat restoration, PNW treaty rights, natural resource management and Native language preservation. I currently serve on the Board of Directors for the Kulshan Community Land Trust.

Michael Alvarez Shepard CV.pdf
9. Please describe why you’re interested in serving on this board or commission

I have lived in Bellingham since 1997. While public understanding of water quality issues has increased over the years, it is clear that substantial work is still needed to improve regional marine ecological sustainability. I am interested in working to improve the water quality and habitat of the Salish Sea. Doing this supports vital marine fisheries industry in our County and maintains treaty based rights of tribal communities. The health of shellfish harvesting sites like, Portage Bay, are indicators of larger water quality metrics in both the Salish Sea and the Nooksack River. I believe that my background in environmental governance and cultural sustainability are applicable to this advisory council. My extensive connections in local government and current board of directors experience makes me able to quickly assume the responsibilities of this committee.

References (please include daytime telephone number):

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<tr>
<th>Name</th>
<th>Title and Contact Information</th>
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<tbody>
<tr>
<td>Dean Fearing</td>
<td>Executive Director Kulshan Community Land Trust 360.671.5600</td>
</tr>
<tr>
<td>Tom Walker</td>
<td>Academic Director Goucher College Master’s in Environmental Studies Program 410.337.6447</td>
</tr>
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Signature of applicant: Michael A Shepard

Place Signed / Submitted: Bellingham, WA

(Section Break)

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**WHATCOM COUNTY COUNCIL AGENDA BILL**

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**TITLE OF DOCUMENT:**
Second Interim Ordinance adopting amendments to the Whatcom County Comprehensive Plan and Whatcom County Code Title 15 Buildings and Construction, Title 20 Zoning, Title 21 Land Division Regulations, and Title 24 Health Code, relating to water resources.

**ATTACHMENTS:**
- Memorandum
- Draft Ordinance

**SEPA review required?** (x) Yes ( ) NO  
**SEPA review completed?** (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.)
Second Interim Ordinance adopting amendments to the Whatcom County Comprehensive Plan and Whatcom County Code Title 15 Buildings and Construction, Title 20 Zoning, Title 21 Land Division Regulations, and Title 24 Health Code, relating to water resources.

**COMMITTEE ACTION:**

**COUNCIL ACTION:**

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

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

258
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: February 14, 2017

SUBJECT: Second Interim Ordinance – Water Resources

A second interim ordinance relating to development permits and water resources is scheduled for introduction on February 21, 2017, and for public hearing on March 7. The first interim ordinance, adopted in December 2016, is set to expire March 18.

The attached draft interim ordinance is similar to the first (see the November 23, 2016 memorandum for a description of that ordinance). As with the first interim ordinance, this ordinance would require Whatcom County to verify the existence of adequate water supply in terms of water quality, quantity, and legal availability prior to accepting applications for project permits that require potable water, and applicants would be required to prove legal availability through one of several options, including a water right permit, letter from a public water purveyor stating the ability to provide water, documentation of an adequate rainwater catchment system, a study showing no impairment of senior water rights, a mitigation plan, or proof that the permit-exempt withdrawal would be in the Samish River watershed, or in Point Roberts, Eliza Island, or Lummi Island.

The second interim ordinance makes a few wording changes from the first ordinance. In WCC 24.11.060(A), which describes ways to prove legal availability of water, the revised subsections (A)(4) and (A)(5) replace the term “permit-exempt well” with “permit-exempt groundwater withdrawal” to more accurately match the wording of RCW 90.44.050, and the term “new” to clarify when the provision applies to new withdrawals. Also, the second interim ordinance includes a formatting change in the manner in which it depicts regulations governing permit-exempt withdrawals by moving the regulations into a new subsection (B) to better
differentiate the regulations governing those specific withdrawals from more general regulations governing other water sources.

The County is actively working with the Washington Association of Counties and state legislators in this legislative session to remedy the challenges the Supreme Court's Hirst decision has placed on property owners and counties across the state. Adoption of a second interim ordinance will allow the County needed time to continue working with the legislature to enact laws that give counties and the Department of Ecology adequate tools to permanently protect instream flows and accommodate responsible growth. County government is supportive of state enabling legislation that would:

- Allow counties to rely on state-adopted instream flow rules to determine legal water availability
- Establish a Department of Ecology mitigation program for permit-exempt wells in closed basins based on cumulative impact analyses to identify the instream flow impairment significance of permit-exempt withdrawals – with a fee-in-lieu mitigation payment option for affected permit applicants, which would allow permits to proceed while state and counties provide for the actual instream flow mitigation
- Allow counties to condition local permits to limit daily use of state permit exempt groundwater withdrawals to less than 5,000 gpd
- Provide financial assistance for developing public rural water supplies, mitigation projects and/or water banks
- Allow use of unexercised municipal water rights for mitigation purposes
- Allow for "out-of-kind" instream flow impairment mitigation option that provides an overall net ecological benefit

Attachments:
Draft Ordinance, Proposed Amendments
AN INTERIM ORDINANCE ADOPTING AMENDMENTS TO THE WHATCOM COUNTY COMPREHENSIVE PLAN AND THE WHATCOM COUNTY CODE TITLE 15 BUILDINGS AND CONSTRUCTION, TITLE 20 ZONING, TITLE 21 LAND DIVISION REGULATIONS, AND TITLE 24 HEALTH CODE, RELATING TO WATER RESOURCES

WHEREAS, an October 6, 2016 Washington State Supreme Court decision (Whatcom County, Hirst vs. Western Washington Growth Management Hearings Board, No. 91475) has found that Whatcom County’s Comprehensive Plan does not comply with the Growth Management Act (GMA) requirements for protecting water resources; and

WHEREAS, RCW 36.70A.070(1), requires that the land use element of a county comprehensive plan “shall provide for protection of the quality and quantity of groundwater used for public water supplies.”; and

WHEREAS, RCW 36.70A.070(5)(c)(iv) requires that the rural element of a county comprehensive plan “shall include measures that apply to rural development and protect the rural character of the area, as established by the county, by: ... protecting critical areas...and surface water and groundwater resources.”; and

WHEREAS, RCW 19.27.097(1) states: “Each applicant for a building permit of a building necessitating potable water shall provide evidence of an adequate water supply for the intended use of the building. Evidence may be in the form of a water right permit from the department of ecology, a letter from an approved water purveyor stating the ability to provide water, or another form sufficient to verify the existence of an adequate water supply. In addition to other authorities, the county or city may impose conditions on building permits requiring connection to an existing public water system where the existing system is willing and able to provide safe and reliable potable water to the applicant with reasonable economy and efficiency. An
application for a water right shall not be sufficient proof of an adequate water supply.”; and

 WHEREAS, RCW 19.27.095(1) states: “A valid and fully complete building permit application for a structure, that is permitted under the zoning or other land use control ordinances in effect on the date of the application shall be considered under the building permit ordinance in effect at the time of application, and the zoning or other land use control ordinances in effect on the date of application.”; and

 WHEREAS, RCW 58.17.110(2) requires that “A proposed subdivision and dedication shall not be approved unless the...county legislative body makes written findings that...appropriate provisions are made for...potable water supplies...”; and

 WHEREAS, RCW 58.17.170(2) states that lots in a long subdivision “shall be a valid land use notwithstanding any change in zoning laws for a period of seven years from the date of filing if the date of filing is on or before December 31, 2014, and for a period of five years from the date of filing if the date of filing is on or after January 1, 2015,” and, “Any lots in a final plat filed for record shall be a valid land use notwithstanding any change in zoning laws for a period of ten years from the date of filing if the project is not subject to requirements adopted under chapter 90.58 RCW and the date of filing is on or before December 31, 2007.”; and

 WHEREAS, Whatcom County Code (WCC) Chapter 15.04 specifies information required for a complete building permit application; and

 WHEREAS, WCC Chapter 20.97 provides definitions of terms used in the code; and

 WHEREAS, WCC Chapters 21.04 and 21.05 contain requirements for water supply in short subdivisions and long subdivisions, respectively; and

 WHEREAS, WCC Chapter 24.11 contains requirements for drinking water; and

 WHEREAS, Whatcom County adopted Ordinance 2012-032, amending its Comprehensive Plan to adopt by reference existing development regulations regulating ground water withdrawals, adding Policy 2DD-2.C.3.6, which adopts by reference WCC 21.04.090 and 21.05.080, and Policy 2DD-
2.C.3.7, which adopts by reference WCC 24.11.050 and 24.11.060; and

WHEREAS, because Comprehensive Plan Policy 2DD-2.C.3.6 adopts by reference WCC 21.04.090 and 21.05.080, and Policy 2DD-2.C.3.7 adopts by reference WCC 24.11.050 and 24.11.060, any amendments to these WCC provisions are also amendments to the Comprehensive Plan; and

WHEREAS, the Growth Management Hearings Board (Board) found the amended Comprehensive Plan lacked the required measures to protect water resources (GMHB Case No. 12-2-0013); and

WHEREAS, on October 6, 2016, the State Supreme Court (Court), in reversing a Court of Appeals decision, upheld the Board’s decision that the County’s Comprehensive Plan does not satisfy the GMA requirements to protect water availability, and stated, “We hold that the Board properly concluded that the GMA requires counties to make determinations of water availability.”; and

WHEREAS, the Court stated, “...the GMA places the burden on counties to protect groundwater resources, and requires counties to assure that water is both factually and legally available before issuing building permits.”; and

WHEREAS, the Court stated, “...The county’s policies incorporate WCC provisions that do not allow water to be withdrawn from ‘an area where [the Department of Ecology] has determined by rule that water for development does not exist.’ ...these ordinances further provide that an application for a permit-exempt appropriation will be approved without any analysis of that withdrawal’s impact on instream flows. The Board found that these provisions result in water withdrawals from closed basins and senior instream flows—flows that the record indicated drop below the minimum levels 100 days out of the year. The Board properly held that this conflicts with the requirement placed on counties to protect water availability under the GMA...”; and

WHEREAS, Chapter 173-501 WAC Instream Resources Protection Program – Nooksack Water Resource Inventory Area (WRIA) 1 identifies water bodies in Whatcom County that are closed or partially closed to further appropriation, by listing their status as “closure,” “partial year closure,” “low flow,” or “minimum flow,”; and
WHEREAS, on October 25, 2016 Whatcom County adopted Ordinance 2016-048, an emergency moratorium on the filing, acceptance, and processing of new applications for project permits for uses that rely on permit-exempt groundwater withdrawals within a closed or partially closed basin, to allow the County time to review its Comprehensive Plan and development regulations in light of the Supreme Court ruling, and to draft and enact the necessary amendments as soon as feasible; and

WHEREAS, RCW 36.70.790 and RCW 36.70.795 allow for adoption of interim official controls as long as a public hearing is held within 60 days of adoption; and

WHEREAS, on December 6, 2016 the County Council adopted Ordinance 2016-066, an interim ordinance adopting amendments to the Whatcom County Comprehensive Plan and WCC Title 15, Title 20, Title 21, and Title 24 relating to water resources, which is effective until March 18, 2017, and the County has applied the provisions of the ordinance to project permit applications relying on new permit-exempt groundwater withdrawals; and

WHEREAS, a second interim ordinance is required to allow the County time to pursue a permanent legislative solution to the issues raised by the Court decision, and to provide clarity to project permit applicants in the meantime; and

WHEREAS, in accordance with RCW 36.70A.106 Whatcom County Planning and Development Services notified the Department of Commerce of the proposed interim amendment; and

WHEREAS, this ordinance shall be effective for not longer than six months following its effective date, but may be renewed for one or more six month periods if subsequent public hearings are held and findings of fact are made prior to each renewal.

WHEREAS, the County Council is scheduled to hold a public hearing on this issue on March 7, 2017;

NOW, THEREFORE, BE IT ORDAINED that the Whatcom County Council adopts the above "WHEREAS" recitals as findings of fact in support of its action as required by RCW 36.70A.390
BE IT FURTHER ORDAINED by the Whatcom County Council that the Whatcom County Comprehensive Plan and the Whatcom County Code are hereby amended, on an interim basis, as shown in Exhibit A; and

BE IT FURTHER ORDAINED that this ordinance shall be effective for not longer than six months following its effective date.

ADOPTED this _______ day of ______________, 2017.

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

ATTEST:

________________________________________  __________________________________
Dana Brown-Davis, Council Clerk                Barry Buchanan, Chairperson

APPROVED as to form:

________________________________________  __________________________________
Civil Deputy Prosecutor                        Jack Louws, Executive

( ) Approved    ( ) Denied

Date: __________________________

Page 5 of 5
15.04.020 Amendments to the International Building Code.
A. The IBC is amended as follows:

4. Section 105.3, Application for Permit, is amended to include the following:

To obtain the permit, the applicant shall first file an application therefor in writing on a form furnished by the department of building safety for that purpose. Such application shall:

1. Identify and describe the work to be covered by the permit for which application is made.

2. Describe the land on which the proposed work is to be done by legal description, street address or similar description that will readily identify and definitely locate the proposed building or work.

3. Indicate the use and occupancy for which the proposed work is intended.

4. Be accompanied by construction documents and other information as required in Section 107.

5. State the valuation of the proposed work,
6. Be signed by the applicant, or the applicant’s authorized agent.

7. Include signature by the applicant or the applicant’s authorized agent of a statement for guarantee of fee payment. The statement must be signed in the presence of County staff or staff will provide a statement which includes verification of signature by a licensed notary public.

8. Provide verification of approval to connect to a public sewer system or a septic system installation permit issued by the Whatcom County Environmental Health Department for any permit application that requires sewage disposal. The approval to connect or issued septic system permit shall be specific to the project application.

9. For a building necessitating potable water, provide evidence of an adequate water supply for the intended use of the building, as defined in 20.97.451 WCC.

10. Provide additional data and information in the designated sequence, as required by the Building Official.

-----

15.04.030 Amendments to the International Residential Code.

-----

C. Section R105.3, Application for permit, is amended to include the following:

To obtain the permit, the applicant shall first file an application therefor in writing on a form furnished by the department of building safety for that purpose. Such application shall:

1. Identify and describe the work to be covered by the permit for which application is made.

2. Describe the land on which the proposed work is to be done by legal description, street address or similar description that will readily identify and definitely locate the proposed building or work.

3. Indicate the use and occupancy for which the proposed work is intended.

4. Be accompanied by construction documents and other information as required in Section 107.

5. State the valuation of the proposed work.
6. Be signed by the applicant, or the applicant’s authorized agent.

7. Include signature by the applicant or the applicant’s authorized agent of a statement for guarantee of fee payment. The statement must be signed in the presence of County staff or staff will provide a statement which includes verification of signature by a licensed notary public.

8. Provide verification of approval to connect to a public sewer system or a septic system installation permit issued by the Whatcom County Environmental Health Department for any permit application that requires sewage disposal. The approval to connect or issued system permit shall be specific to the project application.

9. For a building necessitating potable water, provide evidence of an adequate water supply for the intended use of the building, as defined in 20.97.451 WCC.

10. Provide additional data and information in the designated sequence, as required by the Building Official.

*****

TITLE 20 ZONING

*****

Chapter 20.84

VARIANCES, CONDITIONAL USES, ADMINISTRATIVE APPROVAL USES AND APPEALS

*****

20.84.200 Conditional uses.

*****

20.84.220 Criteria.
Before approving an application for a conditional use permit, the hearing examiner shall ensure that any specific standards of the use district defining the conditional use are fulfilled, and shall find adequate evidence showing that the proposed conditional use at the proposed location:

*****
(5) Will be serviced adequately by necessary public facilities such as highways, streets, police and fire protection, drainage structures, refuse disposal, adequate water supply as defined in WCC 20.97.451, and sewers, and schools; or that the persons or agencies responsible for the establishment of the proposed use shall be able to provide adequately any such services.

Chapter 20.97
DEFINITIONS

20.97.451 Water Supply, Adequate
“Adequate water supply” means a supply of potable water adequate to serve a land use associated with a project permit in terms of quality, quantity, and legal availability, as documented by a water availability notification signed by the director of the Whatcom County Health Department, per WCC 24.11.060.

TITLE 21 LAND DIVISION REGULATIONS

Chapter 21.04
SHORT SUBDIVISIONS

21.04.090 Water supply.
(1) Water from a public water system(s) shall be provided to serve each lot in a short plat, except as specified in subsection (2) of this section.

(2) For a residential short subdivision, private water supplies may be utilized under the following circumstances:

(a) All lots served by the private water supplies are five acres or larger, unless smaller because of clustering. If the lots are smaller because of clustering, the gross density of the short subdivision shall not exceed one dwelling per five acres; and

(b) The withdrawal is not from a defined portion of an aquifer of known regional ground water contamination that exceeds state standards and that
has been identified by the director of the health department and confirmed by the board of health; and

(c) The water source is ground water and not surface water; and

(d) The applicant demonstrates that adequate water supply exists to serve the subdivision, as defined in 20.97.451 WCC; and

(e) The short subdivision is not located within the designated water service area of a public water purveyor that is shown on the coordinated water system plan map or within one-half mile of an existing water purveyor’s water line; or

(fd) If the short subdivision is located within the designated water service area of a public water purveyor that is shown on the coordinated water system plan map or within one-half mile of an existing water purveyor’s water lines and:

(i) The purveyor water cannot be provided water service to the applicant within 120 calendar days of submitting a written request and applicable fees to the purveyor unless specified otherwise by the hearing examiner or county council; or

(ii) The purveyor states in writing that it is unable or unwilling to provide the service; or

(iii) The purveyor and applicant are unable to achieve an agreement on the schedule and terms of provision of service within 120 calendar days.

(3) If a public water supply is required, all the requirements of Chapter 246-290 WAC, Group A Public Water Systems, or Chapter 246-291 WAC, Group B Public Water Systems, must be met prior to final plat approval.

CHAPTER 21.05
PRELIMINARY LONG SUBDIVISIONS

21.05.080 Water supply.
(1) Water from a public water system(s) shall be provided to serve each lot in a subdivision, except as specified in subsection (2) of this section.

(2) For a residential subdivision with six or fewer residences, private water supplies may be utilized under the following circumstances:

(a) All lots served by the private water supplies are five acres or larger, unless smaller because of clustering. If the lots are smaller because of clustering, the gross density of the subdivision shall not exceed one dwelling per five acres and the number of clustered lots shall not exceed four; and
(b) The withdrawal is not from a defined portion of an aquifer of known regional ground water contamination that exceeds state standards and that has been identified by the director of the health department and confirmed by the board of health; and

(c) The water source is ground water and not surface water; and

(d) If the subdivision is within the designated water service area of a public water purveyor that is shown on the coordinated water system plan map or within one-half mile of an existing water purveyor’s water lines:

(i) The water cannot be provided to the applicant within 120 calendar days of submitting a written request and applicable fees to the purveyor unless specified otherwise by the hearing examiner or county council; or

(ii) The purveyor states in writing that it is unable or unwilling to provide the service; or

(iii) The purveyor and applicant are unable to achieve an agreement on the schedule and terms of provision of service within 120 calendar days.

(3) The applicant shall demonstrate that adequate water right(s) supply exists to serve the subdivision, as defined in 20.97.451 WCC, except when water withdrawal is exempt from obtaining a water right permit under RCW 90.44.050.

(4) If a Group B public water system is created to serve the subdivision, the number of wells shall be limited to the minimum needed to serve the water needs of the subdivision as determined by the health department.

(5) If a public water supply is required, all the requirements of Chapter 246-290 WAC, Group A Public Water Systems, or Chapter 246-291 WAC, Group B Public Water Systems, must be met prior to final plat approval.

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TITLE 24 HEALTH CODE

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Chapter 24.11

DRINKING WATER

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24.11.050 General requirements.
A. Applicants must submit all required forms, letters and documents to the director.
B. The director will consider applications for water availability proposing to use groundwater, spring water, surface water, sea water or rainwater.

C. The director shall evaluate the availability of a public water system prior to approving the use of a private water system. If it is determined that a public water system is available and willing to provide water, the applicant must connect to that public water system when:

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 short subdivision or long subdivision that Whatcom County 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(4); or

4. The existing public water system has defined a “service area boundary” in accordance with the Whatcom County Coordinated Water System Plan which includes the property of the applicant.

D. The director will only approve a private or Non Group B 2 party well for proposed short subdivisions or long subdivisions when analytical results of untreated water samples for primary inorganic or organic contaminants do not exceed a maximum contaminant level (MCL) adopted by Washington State Department of Health.

E. Purveyors of public water systems and private water system applicants must comply with Washington State Department of Ecology water right requirements and must demonstrate that they have an adequate water supply for their proposed service per WCC 24.11.060. Compliance will include at a minimum, possession of a water right permit or certificate for:
1. All surface water sources excluding seawater.
2. All groundwater sources using more than 5,000 gallons per day.
3. Irrigating more than one-half acre of lawn or noncommercial garden.

24.11.060 Water availability required.
Prior to issuance of a building permit or other project permits, the applicant must provide Whatcom County planning and development services evidence of adequate water supply as documented by a water availability notification signed by the director, except as described in subsection B. evidence of an adequate water supply to Whatcom County planning and development services (PDS) except when: The water availability notification shall document a supply of potable water adequate to serve a land use associated with a project permit in terms of quality, quantity, and legal availability.

A. The applicant must provide evidence of legal availability in the form of:

1. A water right permit from the Department of Ecology, or
2. A letter from an approved public water purveyor with sufficient water rights, stating the ability to provide water, or

3. Documentation that water can be supplied by a rainwater catchment system approved by the Whatcom County Health Department, per Department of Ecology Policy 1017.

B. Notwithstanding the provisions of subsection A, for a new permit-exempt groundwater withdrawal per RCW 90.44.050 the applicant must provide evidence of legal availability in the form of:

1. Documentation that the well site is located in the Samish River watershed, or in Point Roberts, Eliza Island, or Lummi Island, as shown in Figure 24.11.060; or

2. A study prepared by a qualified hydrogeologist licensed in the State of Washington demonstrating a proposed groundwater withdrawal would not impair a senior water right, including instream flows established in Chapter 173-501 WAC where applicable, in accordance with current statutes and case law. Such documentation must be verified by the county either through consultation with the Department of Ecology, or a qualified technical review team appointed by the county. The county may require a third party review by an independent qualified hydrogeologist if the county determines additional technical expertise is needed. The cost of the third party review shall be the permit applicant’s responsibility; or

3. A mitigation plan prepared by a qualified hydrogeologist licensed in the State of Washington, and approved by Whatcom County. The plan shall include:

   a. Evidence that the proposed withdrawal with mitigation in place will not impair a senior water right, including instream flows established in Chapter 173-501 WAC where applicable, in accordance with current statutes and case law. Such documentation must be verified by the county either through consultation with the Department of Ecology, or a qualified technical review team appointed by the county. The county may require a third party review by an independent qualified hydrogeologist if the county determines additional technical expertise is needed. The cost of the third party review shall be the permit applicant’s responsibility.

   b. A monitoring and reporting plan, including a quality assurance/quality control plan.
c. Financial assurance to ensure mitigation measures for the duration of the water use, and prohibit water provided for the purpose of mitigation from appropriation for any other purpose.

C. A water availability notification is not required for:

A. 1. A building-A project permit that does not require potable water.

B. 2. A project permit relying on a permit-exempt groundwater withdrawal per RCW 90.44.050, and proposing (a) a remodel of an existing building or (b) replacement of a demolished or removed building, but not proposing a change of use; however, such permits shall require current documentation of water quality and quantity, as approved by the director. A residential remodeling does not add additional bedrooms or result in an increase of floor space of more than 50 percent.

C. 3. A project permit relying on surface water withdrawal for potable water, and proposing (a) a remodel of an existing building or (b) replacement of a demolished or removed building, either of which would increase the floor area by no more than 50 percent over that of the existing building; however, such permits shall require current documentation of water quality and quantity, as approved by the director. PDS determines that the building will replace a demolished or removed building and the building will not have more bedrooms or more than 50 percent greater floor space than the previous building.
24.11.070 Determining adequacy of water supply for building permit applications proposing to use an existing public water system.  
A. Prior to director approval of evidence of an adequate water supply where the applicant proposes to obtain water from an existing public water system the applicant must:

1. Submit to the director, an Availability Notification for Public Water form (as amended) signed by an authorized representative of the water system proposing to serve water to the building. The authorized representative:

   a. Must indicate on the form that the water system will provide water to the proposed building.

   b. Must sign a statement that they have reviewed the system records and ensures that the water system complies with Chapters 246-290 and 246-291 WAC and department requirements.

B. The director will review the completed Availability Notification For Public Water (form) for approval. The director will approve the completed form if:

   1. The applicant and the authorized representative met all the criteria listed on the form.

   2. The purveyor of the water system has the approval from DOH or the department to provide water to the building.

   3. The applicant has provided evidence of legal availability of water for the proposed project per WCC 24.11.060.

24.11.080 Determining adequacy of water supply for of building permit applications proposing to create a new public water system.  
Prior to director approval of evidence of an adequate water supply, an applicant proposing to create a new public water system must comply with:

A. Provisions of the Whatcom County Coordinated Water System Plan.

B. Chapters 246-290 and 246-291 WAC, and all other applicable local and state regulations for public water supplies.

C. The applicable sections of this chapter pertaining to public water supplies and water availability.

24.11.090 Determining adequacy of water supply for building permit applications proposing to use a well to serve one single-family dwelling or one single-family living unit.  
A. Prior to director approval of evidence of an adequate water supply where the applicant proposes to use a private well, the applicant must:

   1. Notify the director of the intent to use a well.
2. Request that the director conduct a site inspection and approve the proposed well site.

B. Upon request from the applicant, the director will conduct a site inspection for the purpose of approving the location. If the director cannot approve a well location the director will deny the application and give the reasons for denial.

C. If the director approves the well location the applicant shall submit a completed Water Availability Notification Private – 1 Home Well form (as amended) and all required documents to the director for approval.

A. Prior to director approval of evidence of an adequate water supply where the applicant proposes to use a private well, the applicant must submit a completed Water Availability Notification Private – 1 Home Well form (as amended) and all required documents to the director for approval.

BD. The director will review the completed form and required documents submitted by the applicant for approval. The director will approve the form if:

1. The applicant met all the criteria listed on the form.

2. The applicant submitted all of the required documents.

3. The applicant has provided evidence of legal availability of water for the proposed project per WCC 24.11.060, well site proposed by the applicant does not fall within the boundaries of an area where DOE has determined by rule that water for development does not exist.

24.11.100 Determining adequacy of water supply for building permit applications proposing to use a well to serve two single-family dwellings or two single-family living units.

A. Prior to director approval of evidence of an adequate water supply where the applicant proposes to use a well to serve two single-family dwellings or two single-family living units, the applicant must:

1. Notify the director of the intent to use a well or wells.

2. Request that the director conduct a site inspection and approve the proposed well sites.

B. Upon request from the applicant, the director will conduct a site inspection for the purpose of approving the location. If the director cannot approve a well location the director will deny the application and give the reasons for denial.

C. If the director approves the well locations the applicant shall submit a completed Water Availability Notification Non-Group B – 2 Home Well form (as amended) and all required documents for each well to the director for approval.
D. The director will review the completed form and required documents submitted by the applicant for approval. The director will approve the form if:

1. The applicant met all the criteria listed on the form.

2. The applicant submitted all of the required documents.

3. The applicant has provided evidence of legal availability of water for the proposed project per WCC 24.11.060. The well-site proposed by the applicant does not fall within the boundaries of an area where DOE has determined by rule that water for development does not exist.

24.11.110 Determining adequacy of water supply for building permit applications proposing to use a spring to serve one single-family dwelling unit or one single-family living unit.
A. Prior to director approval of evidence of an adequate water supply where the applicant proposes to use a spring source, the applicant must:

1. Notify the director of the intent to use a spring.

2. Provide information to the director showing that they cannot drill an adequate well on their property.

3. Request that the director conduct a site inspection and approve the proposed location of the spring.

B. Upon request from the applicant, the director will conduct a site inspection for the purpose of approving the location. If the director does not approve the location the director will deny the application and give the reason for denial.

C. If the director approves the location of the spring the applicant must submit a completed Water Availability Notification Private - 1 Home Spring form (as amended) and all required documents for approval by the director.

D. The director will review the completed form and required documents for approval. The director will approve the application if:

1. The applicant met all the criteria listed on the form.

2. The applicant submitted all of the required documents.

3. The applicant has provided evidence of legal availability of water for the proposed project per WCC 24.11.060. The spring-site proposed by the applicant does not fall within the boundaries of an area where DOE has determined by rule that water for development does not exist.
24.11.120 Determining adequacy of water supply for building permit applications proposing to use a spring to serve two single-family dwelling units or two single-family living units.
A. Prior to director approval of evidence of an adequate water supply where the applicant proposes to use a spring source, the applicant must:

1. Notify the director of the intent to use a spring.
2. Provide information to the director showing that an adequate well cannot be drilled on their property.
3. Request that the director conduct a site inspection and approve the proposed location of the spring.

B. Upon request from the applicant, the director will conduct a site inspection for the purpose of approving the location. If the director does not approve the location, the director will deny the application and give the reasons for denial.

C. If the director approves the location of the spring the applicant must submit a completed Water Availability Notification – 2 Home Spring form (as amended) and all required documents for approval by the director.

D. The director will review the completed form and required documents for approval. The director will approve the application if:

1. The applicant met all the criteria listed on the form.
2. The applicant submitted all of the required documents.
3. The applicant has provided evidence of legal availability of water for the proposed project per WCC 24.11.060. The spring or spring sites proposed by the applicant does not fall within the boundaries of an area where DOE has determined by rule that water for development does not exist.

24.11.130 Determining adequacy of water supply for building permit applications proposing to use surface water, sea water or rainwater for one or two single-family dwelling units or two single-family living units.
A. The director shall not approve use of surface water, sea water, or rainwater as evidence of an adequate water source unless the applicant:

1. Cannot obtain water from an existing public water supply.
2. Cannot use an approved source of groundwater from a well.
3. Could only use contaminated groundwater.

B. Prior to director approval of evidence of adequate water supply the applicant must:
1. Meet all applicable requirements for surface water, sea water or rainwater treatment design, maintenance and operation contained in Whatcom County health and human services Water Availability for a Private Surface Water Source (as amended) Notification as determined by the director.

2. Provide evidence of legal availability of water for the proposed project per WCC 24.11.060. The surface water site proposed by the applicant does not fall within the boundaries of an area where DOE has determined by rule that water for development does not exist.

3. Meet all other state and local regulations.

4. Sign and have recorded with the Whatcom County auditor’s office the following documents:

   a. A document stating which contaminate the untreated source water exceeded.

   b. A document stating that the applicant has had a water treatment system designed that meets Whatcom County health and human services Water Availability Approval for a Surface Water Source (as amended), and secures a potable water supply for the building.

   c. A document stating that the applicant has installed a treatment system according to the design reviewed by the director and treated water sample results that verify system performance.

   d. A document stating that the applicant agrees to adhere to the operation, maintenance, and monitoring plan for the designed treatment system.

   e. A document stating that the applicant understands that the obligation to comply with treatment system design, installation, operation and monitoring lies with the applicant and not Whatcom County.

   f. When the public system is available, any person obtaining water from contaminated source must provide current test results showing water treatment is adequately maintaining water quality below maximum contaminant levels (MCL). If the quality does not meet the MCL, the applicant is required to hook up to a public system.

24.11.140 Determining adequacy of water supply for short subdivisions, long subdivisions or binding site plans proposing to use an existing public water system.

   A. Prior to director approval of availability of an adequate water supply where the applicant proposes to obtain water from an existing public water supply to service lots of a short subdivision, long subdivision, or a binding site plan the applicant must:
1. Provide to the director an Availability Notification for Public Water (as amended) form or a letter signed by an authorized representative of the water system proposing to serve water to each lot. The authorized representative of the public water system:

   a. Must indicate that the water system will provide water to each proposed lot.

   b. Must sign a statement that they have reviewed the system records and ensures that the water system is in compliance with Chapters 246-290 and 246-291 WAC and department requirements.

B. The director will review the completed form or letter to determine the availability of adequate water. The director will make a determination of adequate water when:

   1. The applicant and the authorized representative meet all the criteria listed on the form.

   2. The purveyor of the water system has the approval from DOH or the department to provide water to the short subdivision, long subdivision or binding site plan, except for Group A water systems the following conditions also apply:

      a. DOH has issued a green operating permit to the purveyor; or

      b. DOH has determined that the purveyor significantly complies with Chapter 246-290 WAC

3. The applicant has provided evidence of legal availability of water for the proposed project per WCC 24.11.060.

24.11.150 Determining adequacy of water supply for short subdivisions, long subdivisions or binding site plans proposing to use a new public water system.

Prior to director approval of availability of an adequate water supply where the applicant proposes to create a new public water supply to service lots of a short subdivision, long subdivision, or a binding site plan the applicant must comply with:

A. Provisions of the Whatcom County Coordinated Water System Plan.

B. Chapters 246-290 and 246-291 WAC, and all other applicable local and state regulations for public water supplies.

C. The applicable sections of this chapter pertaining to public water supplies and water availability.

24.11.160 Determining adequacy of water supply for short subdivisions or long subdivisions proposing to use a private well or private wells to serve one single-family dwelling or one single-family living unit.
A. Prior to director approval of availability of an adequate water supply where the applicant proposes to use a private well or private wells to service lots of a short subdivision or long subdivision the applicant must:

1. Notify the director of the intent to use a private well or wells.

2. Request that the director conduct a site inspection and approve the proposed well sites.

B. Upon request from the applicant, the director will conduct a site inspection for the purpose of approving the location. If the director cannot approve a well location the director will deny the application and give the reasons for denial.

C. If the director approves the well locations the applicant shall submit a completed Subdivision Water Availability form (as amended) and all required documents for each well to the director for approval.

D. The director will review each completed form and required documents for approval. The director will approve the availability of adequate water when:

1. The applicant met all the criteria listed on the form.

2. The applicant submitted all of the required documents.

3. The applicant has provided evidence of legal availability of water for the proposed project per WCC 24.11.060. The well site or well sites proposed by the applicant does not fall within the boundaries of an area where DOE has determined by rule that water for development does not exist.

24.11.170 Determining adequacy of water supply for short subdivisions or long subdivisions proposing to use a well to serve two single-family dwellings or two single-family living units.

A. The applicant shall create a Group B Public water supply as defined in Chapter 246-291 WAC when WCC Title 21 requires the applicant to provide public water service to each lot. This includes a water system where one well services two lots.

B. Prior to director approval of availability of an adequate water supply where the applicant proposes to use one well to service two lots of a short subdivision or long subdivision when public water is not required the applicant must:

1. Notify the director of the intent to use a well or wells.

2. Request that the director conduct a site inspection and approve the proposed well sites.

C. Upon request from the applicant, the director will conduct a site inspection for the purpose of approving the location. If the director cannot approve a well location the director will deny the application and give the reasons for denial.
D. If the director approves the well locations the applicant shall submit a completed Subdivision Water Availability form (as amended) and all required documents for each well to the director for approval.

E. The director will review each completed form and required documents for approval. The director will approve the availability of adequate water when:

1. The applicant met all the criteria listed on each of the forms.

2. The applicant submitted all of the required documents.

3. The applicant has provided evidence of legal availability of water for the proposed project per WCC 24.11.060. The well site or well sites proposed by the applicant does not fall within the boundaries of an area where DOE has determined by rule that water for development does not exist.

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