TITLE OF DOCUMENT:
The Washington State University Extension will present its annual report to Council.

ATTACHMENTS:

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

The Washington State University Extension will present its annual report 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

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<th>CLEARANCES</th>
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<td>3/01/2018</td>
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<td>Jack Loues</td>
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**TITLE OF DOCUMENT:**
Briefing of Mineral Resource Lands (MRL) County-wide Designation Process

**ATTACHMENTS:**
1. Cover Letter
2. Map of Potential Resource Area Overlay

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

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

**Should Clerk schedule a hearing?**
- Yes
- (X) NO

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

Policy 8R-1 of the Comprehensive Plan states "Through a county-led-countywide assessment, seek to identify and designated potential commercially significant mineral resource lands, to meet future demand, compatible with water resources, agricultural lands, forest lands and other GMA goals." Support for this process was further displayed through the docketing process in 2017 and again in 2018.

The purpose of the attached memo is to discuss the impending countywide review of potential resource lands for inclusion as designated mineral resource lands. Prior to convening the Surface Mining Advisory Committee, staff hopes to receive feedback/direction from the County Council Natural Resources Committee on potential alternatives as well as other considerations.

**COMMITTEE ACTION:**
3/13/2018: Held in committee

**COUNCIL ACTION:**

**Related County Contract #:**

**Related File Numbers:**

**Ordinance or Resolution Number:**

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Memorandum

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

FROM: Joshua Fleischmann, Planner

THROUGH: Mark Personius, Interim Director

DATE: March 1, 2018

SUBJECT: Briefing of Mineral Resource Lands (MRL) County-wide Designation Process

The purpose of this memo is to discuss the impending countywide review of potential resource areas for inclusion in the Whatcom County Comprehensive Plan as designated mineral resource lands.

BACKGROUND

A Whatcom County led review of potential resource areas for designation was first recommended by the Planning Commission during their review of surface mining rules under PLN2013-00008. The County Council subsequently voiced support for this review through the 2016 Comprehensive Plan update:

- Policy 8R-1: Through a county-led countywide assessment, seek to identify and designate potential commercially significant mineral resource lands, to meet future demand, compatible with water resources, agricultural lands, forest lands and other GMA goals.

Support for this process was further displayed through the docketing process in 2017 (PLN2017-00004) and again on February 27, 2018.

As a Level 3 issue identified in the Public Participation Plan, PDS staff will generate alternative approaches this issue prior to review and comment by the Surface Mining Advisory Committee and further outreach to the public through town hall meetings.

Prior to convening the Surface Mining Advisory Committee, staff hopes to receive feedback/direction from the County Council Natural Resources Committee on potential alternatives as well as other considerations.

ALTERNATIVES

- Designate all Potential Resource Areas (PRAs)

    This approach would designate all PRAs as shown in the attached map. Nothing other than the geologic resource is considered when identifying what areas in Whatcom
County will be designated MRL. This approach would result in designation of certain areas that may not be compatible with long-term mineral extraction, such as agriculturally zoned lands, Limited Areas of More Intensive Rural Development (LAMIRDS), wildlife areas managed by the Washington Department of Fish & Wildlife (WDFW), park and other public recreation areas, Urban Growth Areas (UGAs), and developed areas. Designation of these areas may not be consistent with GMA.

- Designate PRAs with Exclusions

This approach would remove certain areas from the PRAs so that they do not become designated MRLs. Skagit County and Snohomish County used this approach in designating mineral resource lands. Whatcom County currently has 17 Designation Criteria for Non-Metallic Mineral Deposits. Due to their current application at the localized, landowner-initiated process, some of these criteria apply seamlessly to a county-wide review while others do not.

Further, even when areas are excluded from PRAs, additional considerations on what to include are necessary. In the table below, the permissive approach outlines considerations that would result in a larger designated area, while the restrictive approach skews towards a smaller mineral resource lands designation.

<table>
<thead>
<tr>
<th>Permissive</th>
<th>Restrictive</th>
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<tr>
<td>Include parcels that do not meet primary designation criteria to prevent irregular designation boundaries (picture including a bay of non-PRA)</td>
<td>Exclude parcels that meet primary designation criteria to prevent irregular designation boundaries (picture excluding a peninsula of PRA)</td>
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<tr>
<td>Include parcels that are only partially within PRAs, even if within other designation (AG) wellhead protection area, or other excluding criteria; Snohomish County designated any parcel showing any amount within PRA</td>
<td>Parcels must be completely within PRAs</td>
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<tr>
<td>Include 5-acre parcels surrounded by 20-acre parcels.</td>
<td>Do not create non-conforming parcels; i.e. subdivision cannot create lots smaller than 20 acres, so all parcels must be larger than 20 acres.</td>
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<tr>
<td></td>
<td>Forestry and AG &quot;protect the resource&quot;. No need for additional designation</td>
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<tr>
<td></td>
<td>Dual designation similar to Skagit's &quot;Rural Resource&quot; designation</td>
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</tbody>
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Staff is open to suggestions on which criteria to use, avoid, modify, or create.

- Designate no new PRAs

The No Action Alternative would not designate additional areas as MRL. Any new MRL designations would continue to be done through the landowner initiated approach as is done now.

DEVELOPMENT REGULATIONS

While RCW 36.70A.170 directs counties to designate mineral resource lands of long-term commercial significance in order to protect the resource from incompatible uses, the designation itself does not protect the resource. Rather, it is the development regulations adopted consistent with RCW 36.70A.060 (Zoning Overlay in Whatcom County) that protects the resource through the limitations on subdivision, as shown in the table below.

4
<table>
<thead>
<tr>
<th>Comprehensive Plan Designation</th>
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<td>- 20 acre minimum lot size on</td>
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<td>- Minimum lot size on</td>
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<td>subdivisions based on zoning;</td>
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<td>Only AG, CF, and RF have</td>
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<td>minimum lot sizes of 20+</td>
<td>and RF have minimum lot sizes</td>
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<tr>
<td>acres to protect resource from</td>
<td>of 20+ acres to protect resource</td>
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<td>incompatible uses (people)</td>
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Throughout Whatcom County, there are Designated Mineral Resource Lands (MRL) where the primary zoning may be Agriculture, R10, R5, Commercial Forestry, or Rural Forestry, depending upon the location of the MRL. Each of these designations also has a Mineral Resource Lands zoning overlay, which allows for the application of permits for activities subject to the Washington State Surface Mining Act, as well as limiting the subdivision of property to a 20-acre minimum lot size.

Importantly, as discussed above, limitations on subdivisions (20 acre minimum lot size) are presently the only mechanism used to protect the resource. If a property is less than 40 acres in size and designated MRL with an MRL Zoning Overlay, subdivision would not be allowed. If the limitation on subdivisions is removed, other mechanisms to protect the resource from incompatible uses would be necessary.
Comprehensive Plan Designations with Potential Resource Area Overlay
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**TITLE OF DOCUMENT:**
Resolution Creating the Lake Whatcom Stormwater Utility Advisory Committee

**ATTACHMENTS:**
Resolution Creating the Lake Whatcom Stormwater Utility Advisory Committee
Memo

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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 staff will introduce for discussion and potential adoption a proposed resolution to establish a Lake Whatcom Stormwater Utility advisory committee to assist the Council in establishing rates and charges for the Lake Whatcom Stormwater Utility.

**COMMITTEE ACTION:**

**COUNCIL ACTION:**

<table>
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<th>Related County Contract #:</th>
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<th>Ordinance or Resolution Number:</th>
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MEMORANDUM

DATE: March 8, 2018
TO: The Honorable Members of the Whatcom County Council, and
   The Honorable Jack Louws, Whatcom County Executive
THROUGH: Jon Hutchings, Public Works Director
FROM: Gary S. Stoyka, Natural Resources Manager
RE: Resolution Creating the Lake Whatcom Stormwater Utility Advisory Committee

At the March 27, 2018 Natural Resources Committee meeting, Public Works staff will introduce for discussion and potential adoption a proposed resolution to establish a Lake Whatcom Stormwater Utility advisory committee to assist the Council in establishing rates and charges for the Lake Whatcom Stormwater Utility.

Background
On December 5, 2017, the Council adopted an ordinance establishing a Lake Whatcom Stormwater Utility Service Area to provide partial funding to implement the Lake Whatcom Management Program. The ordinance established the service area boundaries, but did not establish a schedule of fees and charges. Public Works has contracted with a consultant to engage in a process, including public outreach and continued discussions with Council, to establish the fees and charges in 2018. This resolution establishes an advisory committee to provide stakeholder input on the development of those fees and charges. The advisory committee would dissolve upon establishment of those fees and charges.

Requested Action
Public Works is requesting adoption of the proposed resolution by County Council.

Please contact Gary Stoyka at extension 6218 if you have any questions regarding this information.

Attachment
RESOLUTION NO. ______

ESTABLISHING THE LAKE WHATCOM STORMWATER UTILITY ADVISORY COMMITTEE

WHEREAS, the Whatcom County Council passed Resolution 2017-041 on September 26, 2017 calling for the development of a special funding district in the unincorporated portion of the Lake Whatcom watershed to provide local fees to be used in conjunction with other funding to address stormwater concerns specific to Lake Whatcom; and

WHEREAS, RCW 36.89 authorizes counties to establish stormwater utilities to fund the cost and expense of maintaining and operating stormwater control facilities and the cost and expense of planning, designing, establishing, acquiring, developing, constructing and improving any of such facilities in all or portions of a county; and

WHEREAS, the Whatcom County Council established the Lake Whatcom Stormwater Utility Service Area on December 5, 2017 through Ordinance 2017-076 with the intent of authorizing an assessment for the collection of revenue to fulfill the Total Maximum Daily Load (TMDL) implementation plan including the Lake Whatcom Comprehensive Stormwater Plan; and

WHEREAS, Whatcom County Public Works has initiated a study to evaluate funding and rate structure options for a Lake Whatcom Stormwater Utility Service Area funding mechanism; and

WHEREAS, stakeholder input and recommendations through a citizen advisory committee are necessary for the analysis of alternative funding solutions and the development of a recommended rate structure.

NOW, THEREFORE, BE IT RESOLVED by the Whatcom County Council that the Lake Whatcom Stormwater Utility Advisory Committee is hereby established as described in Exhibit A, attached hereto and incorporated by reference.

APPROVED this _____ day of __________, 2018.

WHATCOM COUNTY COUNCIL
ATTEST: WHATCOM COUNTY, WASHINGTON

__________________________________________
Dana Brown-Davis, Clerk of the Council

__________________________________________
Rud Browne, Council Chair

APPROVED AS TO FORM:

__________________________________________
Daniel Gibson, Chief Civil Deputy Prosecutor
EXHIBIT A

Committee Established.
The Lake Whatcom Stormwater Utility Advisory Committee is hereby established.

Purpose.
The committee will represent rate payers in the Lake Whatcom Stormwater Utility Service Area and advise Whatcom County Public Works staff and the Whatcom County Council on recommended rate structure options and a funding mechanism.

Qualifications.
To qualify for County Council appointment to fill any vacancy on a board, committee, or commission, a person shall be a qualified registered voter and be a member or employee of the agency of group he or she is appointed to represent. Lake Whatcom Stormwater Utility Advisory Committee voting members must maintain a primary residence within the service area.

Membership.
The advisory committee shall consist of five voting members as follows:
   A. Four members of the committee will be geographically representative of a broad spectrum of stakeholders from within the Lake Whatcom Stormwater Utility Service Area.
   B. One member of the committee will represent the Sudden Valley Community Association.

All voting members of the advisory committee shall be appointed by the Whatcom County Council. The advisory committee shall also include a non-voting representative of the Whatcom County Council.

Term of Office.
The term of office for all committee members will last until the Lake Whatcom Stormwater Utility rate structure is established.

Organization – Meetings.
   A. Open Public Meetings. Advisory Committee meetings shall be open to the public and shall be subject to the Washington State Open Public Meetings Act, Chapter 42.30 RCW.
   B. Quorum. Three members of the advisory committee shall constitute a quorum for the transaction of business.
   C. Meeting schedule. The committee will generally meet on a monthly basis at a location to be determined until a recommendation from the committee is forwarded to the County Council.
   D. Meeting Notes. Minutes of the meetings will be prepared by Whatcom County Public Works Department staff.
E. Public Records. Written and audio recordings of meetings, findings, and recommendations shall be kept and available as a public record.

F. Code Compliance. The committee shall comply with Whatcom County Code 2.03.

G. Meeting Rules. The committee shall adopt its own rules and procedures for the conduct of business.

H. Officers. The committee shall elect a chairperson from among its members who shall preside at its meetings.

Committee Staffing.
Whatcom County Public Works will provide general staffing support commensurate with the level of support provided to similar committees.

Sunset.
The committee shall dissolve upon Whatcom County Council adoption of a rate structure.
Deputy Executive is to provide an update on the expansion of the Crisis Triage Center

MEMO
Public Meeting Notice
Ron Wright & Associates – conceptual plans

County Executive Jack Louws requests the County Council confirm and agree with the Executive’s recommendation to move forward with the Expanded Crisis Triage Facility as Option 2, the new stand-alone facility, subject to the land-use building, zoning and permitting requirements of the City of Bellingham and Washington State Dept. of Health, and requests the Administration to develop the next phase of Architectural/Engineering services needed to accomplish the project.

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MEMORANDUM

TO: Whatcom County Council Members

THROUGH: Whatcom County Executive Louws

FROM: Tyler Schroeder, Deputy Executive

DATE: March 16, 2018

SUBJECT: Expanded Crisis Triage Center

Over the last few weeks several meetings and interactions with stakeholders have taken place regarding the planning of the expanded Crisis Triage Center. As this very important project begins to unfold, I want to benchmark some of the recent activity demonstrating our progress and decision points as we determine the design option for the Crisis Triage Center expansion.

Recent activity:

**December, 2017** - County enters into agreement with Architectural Design Consultant, Ron Wright & Associates/Architects to provide programming and conceptual design phases of the project along with a detailed project schedule and overall project budget.

**January, 2018** - Washington State Capital Budget allocates $7 million towards the construction of an expanded Crisis Triage Center. This contribution is in addition to the $2.5 million already allocated from the North Sound Behavioral Health Organization.

**February, 2018** - The Architectural Design Consultant submits to the county the conceptual design for preliminary feasibility of two options for providing two separate Residential Treatment Facilities at the existing Whatcom County Jail Work Center site.

Option 1: Build a new 14,125 sq. ft. addition and renovate the existing 5,765 sq. ft. to accommodate two 16-bed triage treatment facility and support spaces. This option is completed in two phases with additional weeks for transitions and relocations for a total timeframe of 62 weeks.

Preliminary Cost Estimate: $9,214,916

Option 2: Build a new 21,100 sq. ft. building that includes two separate 16 bed residential treatment facilities without interruption to the detox facility. The construction process is anticipated to be 32 weeks.

Preliminary Cost Estimate: $9,222,961
March 6, 2018 – Whatcom County hosts a public meeting to unveil the plans and feasibility of the two plans to seek public input on the expansion of the County’s Crisis Triage Center. The County presented the options as discussed above as well as an overview of the anticipated services that will be provided in the facility. The public meeting was well attended and public feedback was received and was in general very supportive of the expanded facility and the needed services.

March 15, 2018 – Incarceration Prevention and Reduction Task Force (IPRTF) Triage Facility Subcommittee meets to review design options and feedback. The Subcommittee votes unanimously to support the project based worksheet (architectural/cost estimate information) for option 2, the new stand-alone facility.

Based off of the preliminary architectural/cost estimate information, supportive public input, and recommendation from the IPRTF Triage Facility subcommittee, the Administration recommends moving forward with the next phase of the Architectural Design plan from Ron Wright and Associates and recommends Option 2, the stand-alone facility. Option 2 makes the most sense to move forward with for a number of reasons including:

- Similar in price, however, is a considerably shorter timeline
- Operational efficiencies for building a new facility
- Less disruption to existing facility
- Opportunity to repurpose existing TRIAGE facility.

REQUESTED ACTION:

The Whatcom County Council confirms and agrees with County Executive Jack Louws recommendation to move forward with the Expanded Crisis Triage Facility as Option 2, the new stand-alone facility, subject to the building, zoning and permitting requirements of the City of Bellingham and Washington State Dept. of Health, and requests the Administration to develop the next phase of Architectural/Engineering services needed to accomplish the project.

I thank you in advance for the opportunity to present to you the progress of this important work as we move to the next phase to see the expanded Crisis Triage Facility become a reality.
FOR IMMEDIATE RELEASE

Media Contact: Tyler Schroeder
Phone: 360-778-5207
E-mail address: tschroeder@co.whatcom.wa.us

County to Host Public Meeting on Expanded Crisis Triage Center

BELLINGHAM, WA — The County will host a public meeting on March 6, 2018 at 5:30pm to unveil plans and seek public input on the upcoming expansion of the County’s Crisis Triage Center. With $9.5 million in state funding, this project will more than double the capacity of the facility’s behavioral health services for those experiencing mental health and substance use disorder crises.

Currently the Crisis Triage Center has five beds to serve clients facing acute mental health concerns and eight beds for substance use detox services. The expanded Center will have 16 beds for mental health services and 16 beds for detox services. In addition to the increased physical space, the Center will also provide a greater range of behavioral health treatment, including medically monitored, acute detox services for clients with potential complications associated with withdrawal.

“The community has identified this project as a big step toward diverting individuals from the jail and into treatment services. This expansion of the current Triage Facility increases our capacity to do that. It will also provide an alternative to the hospital’s emergency department for those who don’t require that higher level of care”, states County Executive, Jack Louws.

Expanding the current Crisis Triage Center was identified as a key priority of the Whatcom County Incarceration Prevention and Reduction Task Force. The increased capacity at the facility will enable law enforcement and healthcare personnel to offer more options to individuals they encounter who have acute behavioral health concerns, providing a better alternative than incarceration and linking those individuals to appropriate care. It will also reduce the number of individuals in crisis who seek treatment at PeaceHealth St. Joseph Medical Center’s emergency department.

Construction of the expanded facility has been made possible by a $7 million allocation from the Washington State capital budget. The North Sound Behavioral Health Organization which oversees behavioral health crisis services in the Northwest Washington region, contributed an additional $2.5M from their state allocation to the project.

The Crisis Triage Center offers services to adult individuals experiencing acute behavioral health symptoms and helps them restore and stabilize their health. All patients enter the Center on a voluntary basis. In addition to managing immediate crises, the Center also offers other behavioral health services and is often a first step into the coordinated continuum of care provided by local agencies to those whose needs are greater than what can be met by a single intervention.

The March 6 meeting is open to the public and will be held at the Whatcom Transportation Authority’s administrative offices at 4011 Bakerview Spur.

###

Office 360 778 5200 Fax 360 778 5201 TDD 711
WHATCOM COUNTY CRISIS TRIAGE FACILITY
WHATCOM COUNTY FACILITIES MANAGEMENT
Conceptual Design

Executive Summary

This report provides the feasibility of two options for providing two separate Residential Treatment Facilities at the existing Whatcom County Jail Work Center site.

Option 1 – Build a new 14,125 square foot addition to accommodate a 16-bed Residential Treatment Facility and support spaces, including an area dedicated to triage and intake processing for both facilities, and a commercial kitchen. Upon completion of the addition, the existing facility would temporarily occupy the new facility to allow for renovation of the existing 5,765 square foot facility. After completion of the renovations, the detox facility would relocate back to the newly renovated area, and the new facility would be opened to accommodate the mental health program.

The project would be structured to have two phases. The first phase is the completion of the construction of the addition, the second is the completion of the renovations. The overall construction process is anticipated to be 56 weeks, with approximately 8 additional weeks for transitions and relocations, for a total project timeframe of 62 weeks.

The total anticipated budget cost for Option 1 is $9,214,916.

Option 2 – Build a new 21,100 square foot building adjacent to the existing Whatcom County Jail Work Center. The new building includes two separate 16-bed Residential Treatment Facilities, including an area dedicated to triage and intake processing for both facilities, and a commercial kitchen. The existing detox facility would remain in operation without interruption for the duration of the construction process, and would then relocate to the new building upon completion of construction.

The construction process is anticipated to be 32 weeks.

The total anticipated budget cost for Option 2 is $9,222,961.

The detailed budget breakdowns are attached for each option.

Conceptual plans for each option are provided
### Whatcom County Crisis Triage Center
#### PROJECT BUDGET WORKSHEET - OPTION ONE

**Ron Wright and Associates / Architects, P.S.**

**ADDITION AND RENOVATION**

2/28/18

## SITE AND BUILDING CONSTRUCTION COSTS
### FIXED BUDGET COSTS

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<td>Insurance</td>
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</tr>
<tr>
<td>Geotechnical &amp; Misc. Reports</td>
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<tr>
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<td></td>
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<tbody>
<tr>
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### TOTAL ESTIMATED PROJECT COSTS

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<tr>
<td><strong>TOTAL ESTIMATED PROJECT COSTS</strong></td>
<td><strong>$9,214,916</strong></td>
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### Whatcom County Crisis Triage Center
#### PROJECT BUDGET WORKSHEET - OPTION TWO

**NEW BUILDING**

Ron Wright and Associates / Architects, P.S.

2/28/18

### SITE AND BUILDING CONSTRUCTION COSTS

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<thead>
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### PERMITS, FEES, TAXES, INSURANCE, BONDS

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### EQUIPMENT/FURNISHINGS

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<td>Furniture</td>
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### TEMPORARY DETOX LOCATION

<table>
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<tr>
<td>Allowance for temporary relocation</td>
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### INFLATION/CONTINGENCY

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<tr>
<td>Escallation to June 2019</td>
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### TOTAL ESTIMATED PROJECT COSTS

<p>| | | |</p>
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<tr>
<td><strong>Subtotal</strong></td>
<td>$444,205</td>
<td>$9,222,961</td>
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</table>
Construction of a new building is planned in order to increase bed capacity and enhance the service delivery to adults who are experiencing a behavioral health crisis. The current Crisis Triage facility houses 13 beds and cannot meet the community’s demand for these services. The new facility will house two residential treatment programs in two separate units, to include a total of 32 beds. The two units will offer the following services:

**Certified Voluntary Crisis Triage ~ 16-bed Unit**
- Mental Health stabilization
- Counseling
- Psychotropic medications
- Basic Nursing care
- Coordination of care with current community providers
- Connection to ongoing treatment in the community
- Discharge Planning
- Case Management
- Transportation to and from the facility
- Drop-off referrals from Law Enforcement and Emergency Medical Units
- Admissions referred by treatment providers, family and friends, and self

**Acute Detox Facility ~ 16 bed Unit**
- Medically monitored substance withdrawal treatment
- Medication-assisted withdrawal and/or tapering
- Sobering care
- Counseling
- Basic Nursing care
- Coordination of care with current community providers
- Connection to ongoing treatment in the community or inpatient facilities
- Discharge Planning
- Case Management
- Transportation to and from the facility
- Drop-off referral from Law Enforcement and Emergency Medical Units
- Admissions referred by treatment providers, family and friends, and self

Construction support is provided by state funds of approximately $9.5 million. Ongoing costs of operation will be covered by Medicaid, State dollars, and Insurance plans. The new Treatment Programs are expected to open in 2019.
TITLE OF DOCUMENT: Flood Control Zone District and Subzones 2018 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 $50,000 in Natural Resources to fund ESSB 6091 process support.

COMMITTEE ACTION:

BOARD OF SUPERVISORS ACTION:
3/13/2018: Introduced 6-0, Sidhu absent, (Council acting as the FCZDBS)

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 2018 BUDGET

WHEREAS, the 2018 budget for the Whatcom County Flood Control Zone District and Subzones was adopted December 5, 2017; and,

WHEREAS, changing circumstances require modifications to the approved 2018 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 2018 budget as approved in Resolution 2017-065 is hereby amended by adding the following additional amounts to the budgets included therein:

<table>
<thead>
<tr>
<th>Budget Category</th>
<th>Expenditures</th>
<th>Revenues</th>
<th>Net Effect</th>
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<td>-</td>
<td>50,000</td>
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<tr>
<td>Total Supplemental</td>
<td>50,000</td>
<td>-</td>
<td>50,000</td>
</tr>
</tbody>
</table>

ADOPTED this ___ day of ______________________, 2018

WHATCOM COUNTY FCZD
BOARD OF SUPERVISORS
WHATCOM COUNTY, WASHINGTON

ATTEST:

Dana Brown-Davis, Council Clerk
Rud Browne, Chair of the Board of Supervisors

APPROVED AS TO FORM:

[Signature]
Civil Deputy Prosecutor
<table>
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<tr>
<th>Fund Control Zone District and Subzones Budgets Amendment #1</th>
<th>Expenditures</th>
<th>Revenues</th>
<th>Fund Balance</th>
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<td>Flood Control Zone District Fund - Natural Resources</td>
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<td>-</td>
<td>50,000</td>
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<tr>
<td>Total Supplemental</td>
<td>50,000</td>
<td>-</td>
<td>50,000</td>
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</table>
MEMORANDUM

TO: Jack Louws, County Executive for the Flood Control Zone District

THROUGH: Jon Hutchings, Public Works Director

FROM: Gary Stoyka, Natural Resources Manager

DATE: February 26, 2018

RE: Supplemental Budget Request

Requested Action

The Public Works Natural Resources Division is requesting supplemental budget authority for FY 2018 for administrative support services for the County's implementation of Engrossed Substitute Senate Bill (ESSB) 6091.

In response to the Washington Supreme Court's ruling in the "Hirst Decision", the Washington State Legislature adopted ESSB 6091 to provide a mechanism for residents to use exempt wells for domestic purposes. ESSB 6091 allows Whatcom County to issue building and land division permits for landowners relying on exempt wells for their potable water supply with restrictions. The new law requires that Watershed Management Plans be updated to include recommendations for projects and actions that will measure, protect, and enhance instream resources and improve watershed functions that support the recovery of threatened and endangered salmonids to offset the effects of the consumptive use of water from these new groundwater uses. The plan update must be completed by February 1, 2019. If not completed by that date, the Department of Ecology takes over the update. The WRIA Watershed Management Board (consisting of Whatcom County, Whatcom PUD, all cities in the county, Nooksack Tribe, Lummi Nation, and WDFW) has chosen to utilize the Watershed Staff Team as the technical team for the update process. This staff team needs contracted administrative support services to complete this task. Furthermore, the WRIA 1 Planning Unit needs to approve any update. The Planning Unit currently only has minimal administrative support from County staff. It is anticipated that the Planning Unit will also require administrative and possibly facilitation support to achieve this goal. This supplemental budget request provides $50,000 for these and related purposes.

This request for funding is from the Flood Control Zone District fund balance.
Please contact Gary Stoyka at extension 6218, if you have any questions or concerns regarding this request.

Attachment
Supplemental Budget Request

Public Works  Natural Resources

<table>
<thead>
<tr>
<th>Suppl ID #</th>
<th>Fund</th>
<th>Cost Center</th>
<th>Originator</th>
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<tr>
<td>2551</td>
<td>169</td>
<td>169121</td>
<td>Gary Stoyka</td>
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Expenditure Type: One-Time  Year 2 2018  Add'l FTE [ ]  Add'l Space [ ]  Priority 1

**Name of Request:** ESSB 6091 Process Support

**Department Head Signature (Required on Hard Copy Submission):**

\[Signature\] 2/24/18

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<tr>
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<tr>
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**Request Total:** $50,000

**1a. Description of request:**

Provide contracted professional coordination and facilitation services to support the WRIA 1 staff team and Planning Unit as they update the WRIA 1 Watershed Management Plan in accordance with ESSB 6091, adopted into law on January 19, 2018.

**1b. Primary customers:**

Citizens of Whatcom County

**2. Problem to be solved:**

The Washington State Supreme Court issued a ruling in October 2016 in Whatcom County v. Western Washington Growth Management Hearings Board that placed limits on the use of private domestic wells by development permit applicants as a potable water source. In response to that ruling, the Washington legislature adopted ESSB 6091, which provides a mechanism for residents to use exempt wells for domestic purposes. ESSB 6091 allows Whatcom County to issue building and land division permits for landowners relying on exempt wells for their potable water supply with restrictions. The new law requires that Watershed Management Plans be updated to include recommendations for projects and actions that will measure, protect, and enhance instream resources and improve watershed functions that support the recovery of threatened and endangered salmonids to offset the effects of the consumptive use of water from these new groundwater uses. The plan update must be completed by February 1, 2019. If not completed by that date, the Department of Ecology takes over the update. The WRIA Watershed Management Board (consisting of Whatcom County, Whatcom PUD, all cities in the county, Nooksack Tribe, Lummi Nation, and WDFW) has chosen to utilize the Watershed Staff Team as the technical team for the update process. This staff team needs contracted administrative support services to complete this task. Furthermore, the WRIA 1 Planning Unit needs to approve any update. The Planning Unit currently only has minimal administrative support from County staff. It is anticipated that the Planning Unit will also require administrative and possibly facilitation support to achieve this goal. The County intends to provide this contracted support to both of these groups.

**3a. Options / Advantages:**

The County could not provide the support; however, it is unlikely that the plan update would be accomplished by February 1, 2019 and therefore, the Department of Ecology would take over the update process without the input from our established local process.

**3b. Cost savings:**

**4a. Outcomes:**

An updated WRIA 1 Watershed Management Plan that meets the requirements of ESSB 6091 by February 1, 2019.

**4b. Measures:**

Monday, February 26, 2018
The updated plan will be completed. Success will be measured by getting the Department of Ecology's approval of the plan update.

5a. Other Departments/Agencies:

PDS staff will participate in the update process. The process will also include participation by Whatcom PUD, all cities in the county, both tribes in the county, WDFW, and the Department of Ecology.

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

Mark Personius for PDS. Kasey Cykler for the Department of Ecology. Representatives on the WRIA 1 Watershed Management Board for other agencies.

6. Funding Source:

Flood Control Zone District Fund. It is anticipated that all or a portion of these costs may be reimbursed by the Department of Ecology.
**WHATCOM COUNTY COUNCIL AGENDA BILL**

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<th>CLEARANCES</th>
<th>Initial</th>
<th>Date</th>
<th>Date Received in Council Office</th>
<th>Agenda Date</th>
<th>Assigned to:</th>
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**TITLE OF DOCUMENT:**
Amendment No. 1 to Ordinance No. 2014-078 Establishing the 2015 Lighthouse Marine Park Improvement Fund and Establishing a Project Based Budget for Lighthouse Marine Park Improvements

**ATTACHMENTS:**
1. Ordinance
2. Exhibit A
3. Memorandum
4. Supplemental Budget Request

**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.)

Requesting Council approval for additional budget authority of $24,500 to be added to the project budget for Fund 362 – 2015 Lighthouse Marine Park Improvement Fund. Budget will be used to finish repairs to the boardwalk.

**COMMITTEE ACTION:**

**COUNCIL ACTION:**
3/13/2018: Introduced 6-0, Sidhu absent

**Related County Contract #:**

**Related File Numbers:**

**Ordinance or Resolution Number:**

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

AMENDMENT NO. 1 TO ORDINANCE NO. 2014-078 ESTABLISHING THE 2015 LIGHTHOUSE MARINE PARK IMPROVEMENT FUND AND ESTABLISHING A PROJECT BASED BUDGET FOR LIGHTHOUSE MARINE PARK IMPROVEMENTS

WHEREAS, Ordinance No. 2014-078 established the project budget for the 2015 Lighthouse Marine Park Improvement Fund; and

WHEREAS, initial funding was used to replace a failing deck and install a new playground, and

WHEREAS, hidden structural deficiencies in the boardwalk framing were not apparent until the entire deck surface was removed; and

WHEREAS, additional funding is needed to complete the project, and

WHEREAS, continued funding for this project is available by transfer from Real Estate Excise Tax Fund II,

NOW, THEREFORE, BE IT ORDAINED by the Whatcom County Council that Ordinance 2014-078 is hereby amended by adding $24,500 of expenditure authority, as described in Exhibit A, to the original project budget of $250,000, for a total amended project budget of $274,500.

ADOPTED this ___ day of ____________________, 2018.

ATTEST:

Dana Brown-Davis, Council Clerk

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

Rud Browne, Chair of the Council

APPROVED AS TO FORM:

Civil Deputy Prosecutor

( ) Approved ( ) Denied

Jack Louws, County Executive
Date: ____________________
EXHIBIT A

LIGHTHOUSE MARINE PARK IMPROVEMENT FUND - 362

<table>
<thead>
<tr>
<th>Account</th>
<th>Description</th>
<th>Original Project Budget</th>
<th>Amendment #1 to Ord. 2014-078</th>
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<td>7380 Other Improvements</td>
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<td>$250,000</td>
<td>$24,500</td>
<td>$274,500</td>
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</table>

Revenues

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<tr>
<th>Account</th>
<th>Description</th>
<th>Original Project Budget</th>
<th>Amendment #1 to Ord. 2014-078</th>
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<tr>
<td>8301.324 Operating Transfer In - REET II</td>
<td></td>
<td>$250,000</td>
<td>$24,500</td>
<td>$274,500</td>
</tr>
</tbody>
</table>

|                               |                               | $250,000 | $24,500  | $274,500  |

|                               |                               | $250,000 | $24,500  | $274,500  |
MEMORANDUM

TO: Executive Louws
FROM: Michael McFarlane, Director
DATE: February 27th, 2018
RE: Lighthouse Marine Park Boardwalk Improvement- Supplemental Request No. 2554

Enclosed is a budget supplemental request for additional funding for repairs and renovation to the Lighthouse Marine Park boardwalk and playground. Additional damage was discovered in the decks pier supports and fasteners once the decking was removed. These repairs are required before the decking can be replaced.

This supplemental requests $24,500 in additional REET II funding to complete the project.

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

Parks & Recreation

Supplemental ID #: 2554
Fund: 362  Cost Center: 362100
Originator: Rod Lamb

Expenditure Type: One-Time  Year: 2018
Add'l FTE: □  Add'l Space: □  Priority: 1

Name of Request: Lighthouse Marine Park Boardwalk Improvement Proj.

Department Head Signature (Required on Hard Copy Submission)

Date: 2-28-18

<table>
<thead>
<tr>
<th>Costs</th>
<th>Object</th>
<th>Object Description</th>
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<tbody>
<tr>
<td>7380</td>
<td>Other Improvements</td>
<td></td>
<td>$24,500</td>
</tr>
<tr>
<td>8301.324</td>
<td>Operating Transfer In</td>
<td></td>
<td>($24,500)</td>
</tr>
<tr>
<td>Request Total</td>
<td></td>
<td></td>
<td>$0</td>
</tr>
</tbody>
</table>

1a. Description of request:
This project completes necessary repairs and improvements to the Lighthouse Marine Park boardwalk and playground. Council approved $250,000 in 2014 for the necessary repairs, but current project costs exceed available funding. This is largely due to hidden structural deficiencies in the boardwalk framing that were not apparent until the entire deck surface was removed. The structure is more than 45 years old, and has had a series of repairs over the years, but each one only addressed a small portion of the boardwalk structure. The current repairs are comprehensive and completely replace all of the boardwalk framing from the concrete pile foundations to the newly installed composite decking. This approach will increase the lifespan of the structure for several decades.

1b. Primary customers:
Whatcom County residents and park visitors are the primary customers who will benefit from this improvement project.

2. Problem to be solved:
The boardwalk was in dire need of repairs. The original structure was made exclusively of wood, and not all framing members were chemically treated to withstand the harsh coastal conditions. The condition of the structure also posed safety concerns with exposed nails and split deck boards. A large section of the boardwalk was removed in 2015 because of its deteriorating condition, and concerns for public safety. Part of the improvement project will also relocate and make improvements to the children's play structure. The current location is outside of the primary use area, and may pose some safety concerns. The existing equipment will be restored, and moved to be in close proximity to the renovated boardwalk.

3a. Options / Advantages:
The current work on the boardwalk could be stopped, and the boardwalk could be reconfigured to reduce the size, and thereby reduce project costs. However, the project scope was already reduced to what is considered the smallest functional size. The current layout reduces on going maintenance while still providing ample picnic areas and access to the park restroom building.

3b. Cost savings:
In order to control project costs the total area of the boardwalk was reduced, and new playground equipment was eliminated from the project in favor of renovating the existing play structure. The renovated boardwalk also reduces potential liability, by eliminating several potential safety concerns.

4a. Outcomes:
The boardwalk and playground at Lighthouse Marine Park will be completed, and open to the public.

4b. Measures:
The project's success will be achieved once the needed repairs are completed and the boardwalk...
structure is again open to the public.

5a. **Other Departments/Agencies:**

Planning & Development Services is responsible for making the renovated structure is built to meet code requirements.

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

Gina Nicolaas, Public Service Inspector

6. **Funding Source:**

REET II
TITLE OF DOCUMENT: 2018 Supplemental Budget Request #5

ATTACHMENTS: Ordinance, Memoranda & Budget Modification Requests

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

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

Supplemental #5 requests funding from the General Fund:
1. To appropriate $5,600 in Sheriff to fund traffic safety equipment from grant proceeds.
2. To re-appropriate $176,125 in Sheriff to fund Federal Fiscal Years 16 and 15 Operation Stonegarden programs from grant proceeds.
3. To appropriate $460,911 in Sheriff to fund 2018 Guild wage and benefit settlement.
4. To reduce appropriation by ($460,911) in Non Departmental to transfer wage reserve to Sheriff for Guild settlement.
5. To appropriate $77,420 in Non Departmental to add additional funding for Medical Examiner’s renewal contract.

From the Countywide Emergency Medical Services Fund:
6. To appropriate $100,000 to transfer funding in support of building alterations at the Whatcom Unified Emergency Coordination Center (WUECC).

From the Real Estate Excise Tax Fund I:
7. To appropriate $150,000 to fund building alterations at the WUECC to create space for the EMS manager.

From the Real Estate Excise Tax Fund II:
8. To re-appropriate $24,173 in Parks to fund Maple Creek Bridge project completion.
9. To appropriate $24,500 in Parks to fund the Lighthouse Marine Park Project Budget Amendment.

COMMITTEE ACTION:

COUNCIL ACTION:
3/13/2018: Introduced 6-0, Sidhu absent

Related County Contract #: Related File Numbers: Ordinance or Resolution Number: 37
ORDINANCE NO.  
AMENDMENT NO. 5 OF THE 2018 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 2018 budget included therein:

<table>
<thead>
<tr>
<th>Fund</th>
<th>Expenditures</th>
<th>Revenues</th>
<th>Net Effect</th>
</tr>
</thead>
<tbody>
<tr>
<td>General Fund</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Sheriff</td>
<td>642,636</td>
<td>(181,725)</td>
<td>460,911</td>
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<tr>
<td>Non Departmental</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>(383,491)</td>
<td></td>
<td>(383,491)</td>
</tr>
<tr>
<td>Total General Fund</td>
<td>259,145</td>
<td>(181,725)</td>
<td>77,420</td>
</tr>
<tr>
<td>Countywide Emergency Medical Services Fund</td>
<td>100,000</td>
<td></td>
<td>100,000</td>
</tr>
<tr>
<td>Real Estate Excise Tax Fund I</td>
<td>150,000</td>
<td>(100,000)</td>
<td>50,000</td>
</tr>
<tr>
<td>Real Estate Excise Tax Fund II</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>48,673</td>
<td></td>
<td>48,673</td>
</tr>
<tr>
<td>Total Supplemental</td>
<td>557,818</td>
<td>(281,725)</td>
<td>276,093</td>
</tr>
</tbody>
</table>

ADOPTED this ___ day of ____________________, 2018.

ATTEST:

Dana Brown-Davis, Council Clerk

Rud Browne, Chair of the Council

APPROVED AS TO FORM:

Civil Deputy Prosecutor

( ) Approved         ( ) Denied

Jack Louws, County Executive

Date: ____________________

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON
## WHATCOM COUNTY

### Summary of the 2018 Supplemental Budget Ordinance No. 5

<table>
<thead>
<tr>
<th>Department/Fund</th>
<th>Description</th>
<th>Increased (Decreased) Expenditure</th>
<th>(Increased) Decreased Revenue</th>
<th>Net Effect to Fund Balance (Increase) Decrease</th>
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<tbody>
<tr>
<td><strong>General Fund</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Sheriff</td>
<td>To fund traffic safety equipment from grant proceeds.</td>
<td>5,600</td>
<td>(5,600)</td>
<td></td>
</tr>
<tr>
<td>Sheriff</td>
<td>To re-appropriate funding for Federal Fiscal Year 16 Operation Stonegarden program from grant proceeds.</td>
<td>88,546</td>
<td>(88,546)</td>
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</tr>
<tr>
<td>Sheriff</td>
<td>To re-appropriate funding for Federal Fiscal Year 15 Operation Stonegarden program from grant proceeds.</td>
<td>87,579</td>
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<tr>
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<td>To fund 2016 Sheriff Guild wage &amp; benefit settlement.</td>
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<tr>
<td>Non Departmental</td>
<td>Transfer wage reserve for Sheriff Guild wage &amp; benefit settlement.</td>
<td>(460,911)</td>
<td></td>
<td>(460,911)</td>
</tr>
<tr>
<td>Non Departmental</td>
<td>To add additional funding for Medical Examiner’s renewal contract.</td>
<td>77,420</td>
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<tr>
<td><strong>Total General Fund</strong></td>
<td></td>
<td>259,145</td>
<td>(181,725)</td>
<td>77,420</td>
</tr>
<tr>
<td>Countywide Emergency Medical Services Fund</td>
<td>Transfer to partially fund building alterations at the Whatcom Unified Emergency Coordination Center (WUECC).</td>
<td>100,000</td>
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<tr>
<td>Real Estate Excise Tax Fund I</td>
<td>To fund building alterations at the WUECC to create space for the EMS manager.</td>
<td>150,000</td>
<td>(100,000)</td>
<td>50,000</td>
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<tr>
<td>Real Estate Excise Tax Fund II</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Parks</td>
<td>To re-appropriate funding for Maple Creek Bridge project.</td>
<td>24,173</td>
<td></td>
<td>24,173</td>
</tr>
<tr>
<td>Parks</td>
<td>Transfer to fund Lighthouse Marine Park Project Budget Amendment.</td>
<td>24,500</td>
<td></td>
<td>24,500</td>
</tr>
<tr>
<td><strong>Total Real Estate Excise Tax Fund II</strong></td>
<td></td>
<td>48,673</td>
<td></td>
<td>48,673</td>
</tr>
<tr>
<td><strong>Total Supplemental</strong></td>
<td></td>
<td>557,818</td>
<td>(281,725)</td>
<td>276,093</td>
</tr>
</tbody>
</table>
MEMORANDUM

TO:       Jack Louws, County Executive
FROM:      Sheriff Bill Elfo
DATE:      February 23, 2018
SUBJECT:   Supplemental Budget ID# 2547
           WASPC Traffic Safety Equipment Grant 2018

The attached supplemental budget requests revenue and expenditure authority to purchase traffic safety equipment with grant funds from Washington Association of Sheriffs & Police Chiefs.

Background and Purpose
The Washington Association of Sheriffs & Police Chiefs (WASPC) approved a Traffic Safety Equipment Grant of $5,600 to purchase traffic safety equipment: $4,000 for four radars and $1,600 for four rear antennas.

Equipment purchased will be used to support statewide traffic safety initiatives and will allow patrol units to increase their ability to enforce traffic violations.

Funding Amount and Source
Total estimated cost for purchase of this equipment is $6,769. The Washington Association of Sheriffs & Police Chiefs will provide federal Traffic Safety Equipment Grant funds of $5,600, and the additional $1,169 required for purchase of this equipment will come from existing Sheriff’s Office budget.

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

Thank you.
Supplemental Budget Request

Status: Pending

Sheriff Operations

Suppl ID # 2547 Fund 1 Cost Center 1003512001 Originator: Dawn Pierce

Expenditure Type: One-Time Year 2 2018 Add'l FTE □ Add'l Space □ Priority 1

Name of Request: WASPC Traffic Safety Equipment Grant 2018

Department Head Signature (Required on Hard Copy Submission) Date

X

2/23/18

<table>
<thead>
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<th>Object</th>
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<td></td>
<td>6510</td>
<td>Tools &amp; Equip</td>
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<tr>
<td>Request Total</td>
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<td></td>
<td>$0</td>
</tr>
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</table>

1a. Description of request:
The Washington Association of Sheriffs & Police Chiefs (WASPC) approved a Traffic Safety Equipment Grant in the amount of $5,600 to purchase traffic safety equipment: $4,000 for radars and $1,600 for rear antennas.

1b. Primary customers:
The Sheriff’s Office and citizens of Whatcom County

2. Problem to be solved:
Budget authority is needed to purchase traffic safety equipment authorized by WASPC with Traffic Safety Equipment Grant funds.

3a. Options / Advantages:
Grant was awarded to purchase the specific listed in the description of this request. Funds may not be used for any other purpose.

3b. Cost savings:
Cost savings of $5,600.

4a. Outcomes:
Equipment purchased will be used to support statewide traffic safety initiatives and will allow patrol units to increase their ability to enforce traffic violations.

4b. Measures:
Reports describing the use of the equipment and related enforcement activities will be submitted to WASPC by October 15, 2018.

5a. Other Departments/Agencies:
N/A

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

6. Funding Source:
The Washington Association of Sheriffs & Police Chiefs will provide $5,600. These federal grant funds originate from the U.S. Department of Transportation, State and Community Highway Safety Program, CFDA No. 20,600.

Thursday, February 22, 2018

Rpt: Rpt Suppl Regular

41
February 5, 2018

Traffic Sergeant Kevin
Whatcom County Sheriff’s Office
311 Grand Avenue
Bellingham, WA 98225

Dear Traffic Sergeant Kevin,

Thank you for applying for a WASPC Traffic Safety Equipment Grant. We are pleased to inform you that your agency has been approved to receive $ 5600.00 to purchase the following equipment: (4) Radars $1000.00 ea.; (4) Rear Antennas $400.00 ea.

The Federal Identification number for this grant is **CFDA# 20.600**. Invoices must be submitted to WASPC no later than May 4, 2018. Any invoices not received by the deadline will not be reimbursed and the award money will be forfeited. Please note: WASPC is responsible for the amount of your grant award only. Any expense in excess of the grant award must be paid by your agency.

A report is required for the Traffic Safety Equipment Grant funds awarded to your department. The 2017-2018 Traffic Safety Equipment Grant reports are due by October 15, 2018. **Failure to report will result in denial of 2018 – 2019 grant funds.** Your agency is responsible for subscribing to the following commitments:

- Support statewide/national traffic safety initiatives, projects, and programs
- Report grant results to WASPC in a timely manner
- Subscribe and commit to aggressive traffic enforcement

Online report forms and A-19 reimbursement forms can be found at [www.waspc.org/traffic-safety](http://www.waspc.org/traffic-safety).

Thank you for your dedication to traffic safety in the State of Washington. If you have any questions, please contact Anastasia Raybon at (360) 486-2387 or araybon@waspc.org. If you would like more information regarding state or federal traffic safety grant funding, please contact the Washington Traffic Safety Commission at (360) 725-9896.

Sincerely,

Steve Strachan
Executive Director
MEMORANDUM

TO: Jack Louws, County Executive
FROM: Sheriff Bill Elfo
DATE: February 26, 2017
SUBJECT: Supplemental Budget ID# 2549
FY16 Operation Stonegarden – 2018


Background and Purpose
The U.S. Department of Homeland Security (DHS) Homeland Security Grant Program (HSGP) awarded 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. Grant funds will be used by the Sheriff’s Office and area law enforcement agencies (sub-recipients) to conduct overtime patrols and purchase equipment in support of Operation Stonegarden.

Total OPSG FY16 award was $340,418. The Sheriff’s Office used $19,382 in 2016 and $54,659 in 2017. The Sheriff’s Office will use the remaining $266,377 in 2018 as follows: $88,546 for overtime, mileage, and equipment and $177,831 for sub-recipients. The allocation for sub-recipients was added to the 2018 budget through approved continuing appropriations.

Funding Amount and Source

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

Thank you.
Supplemental Budget Request

Sheriff

Operations

Supp'd ID # 2549 Fund 1 Cost Center 1003516005 Originator: Dawn Pierce

Expenditure Type: One-Time Year 2 2018 Add'l FTE ☐ Add'l Space ☐ Priority 1

Name of Request: FY16 Operation Stonegarden - 2018

X

Department Head Signature (Required on Hard Copy Submission) Date

<table>
<thead>
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<th>Costs</th>
<th>Object</th>
<th>Object Description</th>
<th>Amount Requested</th>
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<td>6140</td>
<td>St Homeland Sec Grt Prg</td>
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<td>Social Security</td>
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<td>$601</td>
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<td>6269</td>
<td>Unemployment-Interfund</td>
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<td>$29</td>
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<tr>
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<tr>
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<td>Travel-Other</td>
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</tr>
<tr>
<td>Request Total</td>
<td></td>
<td></td>
<td>$0</td>
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</tbody>
</table>

1a. Description of request:
The U.S. Department of Homeland Security (DHS) Federal Emergency Management Agency (FEMA) awarded $340,418 to Whatcom County for FY16 Operation Stonegarden Grant Program 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 and other law enforcement agencies in the area will use 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 needed to use remaining OPSG FY16 funds in 2018.

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

3b. Cost savings:
Total OPSG FY16 award was $340,418. The Sheriff’s Office used $19,382 in 2016 and $54,659 in 2017. The Sheriff's Office will use the remaining $266,377 in 2018 as follows: $88,546 for overtime, mileage, and equipment and $177,831 for sub-recipients.

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

4b. Measures:
The Whatcom County Sheriff's Office and U.S. Border Patrol Blaine Sector will monitor projects and expenditures against contract deliverables.
Supplemental Budget Request

<table>
<thead>
<tr>
<th>Sheriff</th>
<th>Operations</th>
</tr>
</thead>
<tbody>
<tr>
<td>Suppl ID # 2549</td>
<td>Fund 1 Cost Center 1003516005 Originator: Dawn Pierce</td>
</tr>
</tbody>
</table>

5a. Other Departments/Agencies:
Agencies participating in FY16 Operation Stonegarden in Whatcom County are: U.S. Border Patrol Blaine Sector, Whatcom County Sheriff's Office, Washington Department of Fish & Wildlife, and the Blaine, Everson, Ferndale, Lynden, and Sumas Police Departments.

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: February 26, 2017
SUBJECT: Supplemental Budget ID# 2550
FY15 Operation Stonegarden – 2018


Background and Purpose
The U.S. Department of Homeland Security (DHS) Homeland Security Grant Program (HSGP) awarded FY2016 Operation Stonegarden funds of $367,771 to Whatcom County to enhance law enforcement’s preparedness and operational readiness along the international borders of the United States. Grant funds will be used by the Sheriff’s Office and area law enforcement agencies (sub-recipients) to conduct overtime patrols and purchase equipment in support of Operation Stonegarden.

Total OPSG FY15 award was $367,771. The Sheriff’s Office used $14,306 in 2015; $161,327 in 2016; and $104,559 in 2017. The Sheriff’s Office will use the remaining $87,579 in 2018 as follows: $27,042 for overtime, mileage, and equipment and $60,537 for sub-recipients.

Funding Amount and Source

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

Thank you.
Supplemental Budget Request

Status: Pending

Sheriff Operations

Supp't ID # 2550 Fund 1 Cost Center 1003515005 Originator: Dawn Pierce

Expenditure Type: One-Time Year 2 2018 Add'l FTE □ Add'l Space □ Priority 1

Name of Request: FY15 Operation Stonegarden - 2018

X

Department Head Signature (Required on Hard Copy Submission) Date

2/26/18

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<th>Object</th>
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<td>St Homeland Sec Grt Prg</td>
<td>($87,579)</td>
<td></td>
</tr>
<tr>
<td>6140</td>
<td>Overtime</td>
<td>$8,649</td>
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<tr>
<td>6210</td>
<td>Retirement</td>
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<td>Social Security</td>
<td>$662</td>
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<td>6259</td>
<td>Worker's Comp-Interfund</td>
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<tr>
<td>6269</td>
<td>Unemployment-Interfund</td>
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<tr>
<td>6510</td>
<td>Tools &amp; Equip</td>
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<td>Travel-Other</td>
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<td>7220</td>
<td>Intergov Subsidies</td>
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</tr>
<tr>
<td>Request Total</td>
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<td>$0</td>
<td></td>
</tr>
</tbody>
</table>

1a. Description of request:
The U.S. Department of Homeland Security (DHS) Federal Emergency Management Agency (FEMA) awarded $367,771 to Whatcom County for FY15 Operation Stonegarden Grant Program 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 #201603004). The Sheriff's Office and other law enforcement agencies in the area will use 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 needed to use remaining OPSG FY15 funds in 2018.

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

3b. Cost savings:
Total OPSG FY15 award was $367,771. The Sheriff's Office used $14,306 in 2015; $161,327 in 2016; and $104,559 in 2017. The Sheriff's Office will use the remaining $87,579 in 2018 as follows: $27,042 for overtime, mileage, and equipment and $60,537 for sub-recipients.

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

4b. Measures:
The Whatcom County Sheriff's Office and U.S. Border Patrol Blaine Sector 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:
Supplemental Budget Request

Sheriff

Administration

Status: Pending

Expenditure Type: One-Time

Year 2 2018

Add'l FTE ☐ Add'l Space ☐ Priority 1

Name of Request: Record 2018 Guild Settlement

X

Department Head Signature (Required on Hard Copy Submission)  Date

<table>
<thead>
<tr>
<th>Costs:</th>
<th>Object</th>
<th>Object Description</th>
<th>Amount Requested</th>
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<td>$460,911</td>
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1a. Description of request:

Add additional budget authority to the Sheriff's Office as a result of the 2018 Deputy Sheriff Guild Settlement. $196,710 for medical insurance was added during the mid-biennium adjustments. This supplemental adds an additional $164,694 for medical and $284,051 for wages and other benefits. It also includes an additional $12,166 to cover the effect of the Guild Settlement on Sheriff's Binding Arbitration unrepresented employees.

1b. Primary customers:

Deputy Guild members and Sheriff's Binding Arbitration Unrep employees

2. Problem to be solved:

Adequate budget authority is needed to fulfill the County's contractual obligations to its employees.

3a. Options / Advantages:

N/A - the contract has already been adopted

3b. Cost savings:

None

4a. Outcomes:

The outcomes are paid wages and benefits which occur 26 times per year.

4b. Measures:

Adequate budget will exist for all payroll and benefit costs as contracted for.

5a. Other Departments/Agencies:

AS- Finance - Payroll

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

Brad Bennett - Finance Manager ensures payroll and benefits are correctly paid and accounted for.

6. Funding Source:

General Fund - Non Departmental wage reserve

Wednesday, February 28, 2018
Supplemental Budget Request

Non-Departmental

Suppl ID #: 2553  Fund 1  Cost Center 4075  Originator: M Caldwell

Expenditure Type: One-Time  Year 2018  Add'l FTE □  Add'l Space □  Priority 1

Name of Request: Trf Reserve to Sheriff's Office-Guild Settlement

X

Department Head Signature (Required on Hard Copy Submission)

Date

<table>
<thead>
<tr>
<th>Costs:</th>
<th>Object</th>
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<th>Amount Requested</th>
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<tbody>
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</table>

1a. Description of request:
Companion supplemental to Suppl ID 2552 to transfer budget authority from Non Departmental wage reserve to the Sheriff's Office for the 2018 Guild Settlement. Guild Settlement occurred after the mid biennium budget process.

1b. Primary customers:

2. Problem to be solved:

3a. Options / Advantages:

3b. Cost savings:

4a. Outcomes:

4b. Measures:

5a. Other Departments/Agencies:

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

6. Funding Source:
   General Fund
MEMO:

TO: Whatcom County Council

DATE: February 28, 2018

FROM: Tawni Helms, Administrative Coordinator

RE: Bayside Pathology, Inc. – Medical Examiner Services

Background and Purpose:

The Whatcom County Executive Office has contracted with the Bayside Pathology for Medical Examiner Services since 1992. Over the years, the contract has typically increased by 1-3% annually.

Upon negotiating this new agreement the Medical Examiner requested a 20% increase in compensation. Whatcom County reviewed the compensation amounts for Medical Examiner and/or Coroner services provided other comparable counties and determined an increased could be justified. After further negotiation, the Parties agreed to a 15% increase with an annual CPI-U increase. Additionally, either party may terminate the Agreement at any time by giving 90 days’ written notice to the other party of the intent to terminate.

Funding Amount and Source:

The funding increase is in the amount of $77,420. Fund source is the General Fund.
Supplemental Budget Request

Non-Departmental

Expenditure Type: One-Time  Year: 2018  Add'l FTE  Add'l Space  Priority 1

Name of Request: Medical Examiner Services

Department Head Signature (Required on Hard Copy Submission)  Date

Costs:

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<td><strong>Request Total</strong></td>
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<td><strong>$77,420</strong></td>
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1a. Description of request:

Dr. Goldfogel was appointed Medical Examiner (ME) for Whatcom County on June 23, 1992. He has served in this capacity since that time. This is a 3 year agreement for Dr. Goldfogel to continue providing Medical Examiner services to Whatcom County.

The Medical Examiner is a physician certified in anatomic pathology who is authorized to investigate sudden, unexpected, violent, suspicious or unnatural deaths. The purpose of the ME is to bring trained medical evaluation into the investigation of those deaths that are a concern to the public health, safety and welfare.

1b. Primary customers:

Whatcom County and its citizens.

2. Problem to be solved:

The Medical Examiner has requested increased compensation for the provision of ME services. After a long negotiation and research into other comparable counties for compensation of Medical Examiner and/or Coroner services the parties agreed to a 15% increase in compensation with an annual CPI increase. Also included is an increase of $4,500 for lab x-rays and phones.

3a. Options / Advantages:

Whatcom County researched comparable counties to determine cost comparisons. The increased compensation places the Whatcom County Medical Examiner compensation in the middle of the comparable counties.

3b. Cost savings:

N/A

4a. Outcomes:

This budget supplemental supports a three year agreement between Whatcom County and the Medical Examiner. Either party may terminate this Agreement at any time by giving 90 days’ written notice to the other party of the intent to terminate.

4b. Measures:

Whatcom County will fulfill its obligation to provide ME services.

5a. Other Departments/Agencies:

N/A

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

Wednesday, February 28, 2018
# Supplemental Budget Request

**Non-Departmental**

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<td>2530</td>
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<td>T. Helms</td>
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N/A

6. **Funding Source:**
   
   General Fund

*Wednesday, February 28, 2018*
Supplemental Budget Request

Non-Departmental

Supp ID # 2560  Fund 130  Cost Center 130100  Originator: T. Schroeder

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

Name of Request: Transfer to fund bldg improvements at WUECC

[X]  3/1/18

Department Head Signature (Required on Hard Copy Submission)  Date

<table>
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1a. Description of request:
Companion supplemental to provide funding for Supplemental ID #2556 Bldg. alterations to creat space for EMS Manager

1b. Primary customers:

2. Problem to be solved:
See Supplemental #2556

3a. Options / Advantages:

3b. Cost savings:

4a. Outcomes:

4b. Measures:

5a. Other Departments/Agencies:

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

6. Funding Source:
EMS Fund
MEMO:

TO: Whatcom County Council

DATE: February 28, 2018

FROM: Tyler Schroeder, Deputy Executive

RE: Whatcom Unified Emergency Coordination Center (WUECC)
Space improvements for new office

Background and Purpose:
On March 5th a new EMS Manager begins work with Whatcom County. This position will administer and oversee the countywide EMS system and be the Executive and legislative point of contact as outlined in the EMS Funding Work Group Recommendations. The Recommendations also included $250K/annually beginning in 2017 for EMS Administration.

The wage savings will offset the cost to create office space for the new position in the Whatcom Unified Emergency Coordination Center (WUECC). The WUECC provides a synergistic opportunity for Emergency Response agencies to be co-located. To accommodate new personnel, space alterations are necessary. In addition, electrical upgrades are also necessary to bring the building up to code.

Funding Amount and Source:
The Fund Source is the EMS Fund I the amount of $100,000 and REET I in the amount of $50,000 for a total of $150,000.
Supplemental Budget Request

Non-Departmental

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**Name of Request:** Bldg. improvements to create space for EMS Manager

[X] 3/1/18

Department Head Signature (Required on Hard Copy Submission)

<table>
<thead>
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<th>Costs:</th>
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<tr>
<td>Request Total</td>
<td></td>
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<td>$50,000</td>
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</table>

**1a. Description of request:**
Funding for Tenant Improvement work at the WUECC. Tenant Improvements include new/remodeled office and storage area on the mezzanine level of the building, new reception area counters and casework for the main floor, demolition to accomplish the new tenant improvement work, and rewire a substantial portion of the existing electrical.

**1b. Primary customers:**
Whatcom County and citizens of Whatcom County that utilize the services of Emergency Management, Emergency Medical and EMS Service providers. EMS

**2. Problem to be solved:**
Creating an office and support areas for the new EMS Manager. At the same time the remodel of WUECC building will correct code issues, and make the space efficient for future users of the building.

**3a. Options / Advantages:**
This is an economical option to locate the new EMS Manager that will create necessary space in an underutilized building while also encouraging synergy between emergency management agencies.

**3b. Cost savings:**
This is the most cost effective option to solve space planning for the new position. The location is also beneficial as it will provide many efficiencies between emergency management and EMS services.

**4a. Outcomes:**
Necessary office space/work area will be created in a currently underutilized County facility.

**4b. Measures:**
New office space will be available and used to house the new EMS Manager. Additionally, existing building code issues will be addressed and resolved improving the space for current and future users.

**5a. Other Departments/Agencies:**
Executive Office

**5b. Name the person in charge of implementation and what they are responsible for:**
The EMS Manager begins work on Monday, March 5th and will be temporarily housed in the Executive Office.

**6. Funding Source:**
EMS Fund
MEMORANDUM

TO: Executive Louws
FROM: Michael McFarlane, Director
DATE: February 27th, 2018
RE: Maple Creek Bridge Supplemental Request No. 2548

Enclosed is a budget supplemental request for installation of a pedestrian bridge over Maple Creek on the Maple Falls to Wamick trail segment. This project could not be fully completed in the 2017 season.

This supplemental requests the remaining balance of $24,173 to complete the project as approved and does not exceed the $115,000 total budget approved for the project.

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

Parks & Recreation

Status: Pending

Suppl #: 2549  Fund 324  Cost Center 17002  Originator: Rod Lamb

Expenditure Type: One-Time  Year: 2018  Add'l FTE  Add'l Space  Priority: 1

Name of Request: Maple Creek Park Bridge Replacement

X

Department Head Signature (Required on Hard Copy Submission)

Date: 3-2-18

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<td>$24,173</td>
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</table>

1a. Description of request:
This project involves the installation of a new 61 foot pedestrian and bicycle over Maple Creek at Maple Creek Park. This bridge replaces a log stringer bridge that was destroyed in 2015 when a tree fell on it.

1b. Primary customers:
This bridge will serve Whatcom County residents and visitors to Whatcom County.

2. Problem to be solved:
The Whatcom County Council approved $115,000 for this project in 2017. Due to design and permitting delays, the project was not completed within the 2017 calendar year. However, significant progress has been made, Parks has contracted with a bridge manufacturer to fabricate and deliver the bridge in May 2018, permit approvals are nearly complete, and Parks is prepared to complete the bridge installation in the spring of 2018. Completing the installation will require construction of concrete abutments, minor trail realignment and other site work is required. Reauthorization of these funds will not result in an increase of the original council approved budget authority.

3a. Options / Advantages:
Parks could opt to not install the new pedestrian bridge, but that option would severely limit access to the recreational trail system at Maple Creek Park, and may cause a safety concern as visitors may attempt wading Maple Creek to access the trail system.

3b. Cost savings:
Installing the bridge this spring will likely save the county money as construction costs have been steadily rising each year.

4a. Outcomes:
Maple Creek Bridge will be installed and available for public use following installation scheduled for May 2018.

4b. Measures:
A completed bridge provide recreational access to trail system at Maple Creek Park will be the measure of success.

5a. Other Departments/Agencies:
Planning & Development Services (currently completing permit review)
Washington Department of Fish & Wildlife (currently completing permit review)

5b. Name the person in charge of implementation and what they are responsible for:
Kyla Walters, Shoreline Planner (Planning & Development Services)
Joel Ingram, Area Habitat Biologist (WDFW)

6. Funding Source:

Friday, March 02, 2018
Supplemental Budget Request

Parks & Recreation

Supp'ld # 2548  Fund 324  Cost Center 17002  Originator: Rod Lamb

REET II Fund Balance
Supplemental Budget Request

Non-Departmental

<table>
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<td>32400</td>
<td>M Caldwell</td>
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Expenditure Type: One-Time  Year 2 2018  Add'l FTE ☐  Add'l Space ☐  Priority 1

Name of Request: Transfer to fund Lighthouse Marine Park Project

| X |

Department Head Signature (Required on Hard Copy Submission)  Date

<table>
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<tr>
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<th>Object Description</th>
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Request Total $24,500

1a. Description of request:
Companion supplemental to provide funding for Parks Suppl ID #2554 Lighthouse Marine Park Boardwalk Improvement Project

1b. Primary customers:

2. Problem to be solved:

3a. Options / Advantages:

3b. Cost savings:

4. Outcomes:

4b. Measures:

5a. Other Departments/Agencies:

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

6. Funding Source:
REET II
### Title of Document:

Ordinance Amendment for Whatcom County Code Chapter 2.130

### Attachments:

Memorandum, Ordinance Amendment

### SEPA Review:

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<th>SEPA review required?</th>
<th>Yes</th>
<th>NO</th>
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</thead>
<tbody>
<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.)

County Executive Jack Louws requests the adoption of an Ordinance Amendment for Whatcom County Code Chapter 2.130

### Committee Action:

COUNCIL ACTION:

3/13/2018: Introduced 6-0, Sidhu absent

### Related County Contract #:

Related File Numbers:

Ordinance or Resolution Number:

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

TO: Whatcom County Council members
FROM: Jack Louws, County Executive
RE: Whatcom County Code amendment to revise membership of Economic Development Investment (EDI) Board
DATE: March 1, 2018

Please find attached an Ordinance amendment regarding Whatcom County Code Chapter 2.130. This amendment is being proposed as a basic housekeeping matter to correct the wording in Whatcom County Code Chapter 2.130, revising the EDI Board membership roster.

Membership of this board originally included a member representing “Bellingham/Whatcom County economic development council.” Since that group no longer exists, we are proposing a text amendment to reflect an equivalent position (Associate Development Organization (ADO)). Please refer to the redlined text in Exhibit A to the Ordinance amendment.

If you should have any questions, please feel free to contact me at 778-5200.
ORDINANCE NO. ________

Amending Whatcom County Code Chapter 2.130
To Revise Economic Development Investment Board Membership

WHEREAS, Whatcom County Code Section 2.130 sets forth the establishment, purpose, function and membership of the Whatcom County Economic Development Investment Board; and

WHEREAS, an amendment to the Whatcom County Code Section 2.130.040 is necessary to clarify membership of the board due to a change in one of the designated positions; and

NOW, THEREFORE, BE IT ORDAINED by the Whatcom County Council that Whatcom County Code Section 2.130.040 is hereby amended as indicated in Exhibit A to this Ordinance.

ADOPTED this ____ day of __________, 2018.

ATTEST: WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

Dana Brown-Davis, Clerk of the Council
Rud Browne, Council Chair

APPROVED AS TO FORM: WHATCOM COUNTY EXECUTIVE
WHATCOM COUNTY, WASHINGTON

Daniel J. Gibson, Civil Deputy Prosecutor
Jack Louws, County Executive

( ) Approved        ( ) Denied
Date Signed: ____________________
EXHIBIT A

2.130.040 Membership – Term of office.

A. The EDI board will consist of 14 members, which include:

1. The county executive;
2. The mayor of Bellingham;
3. Two mayors of small cities, designated by the Small Cities Caucus;
4. Chair of the county council;
5. County department head or official appointed by the County Executive;
6. One member at large, appointed by the county executive;
7. One member of the agricultural community, appointed by the county executive;
8. One member of the timber community, appointed by the county executive;
9. One member of the fishing community, appointed by the county executive;
10. One member representing each of the following:
    a. Bellingham/Whatcom County Chamber of Commerce;
    b. Bellingham/Whatcom-County-economic-development-council/Associate Development
       Organization (ADO);
    c. Port of Bellingham;
    d. Public utility district.

B. The chairperson of the board shall be the Whatcom County executive.

C. Due to the composition of this board, it is not subject to Charter Section 3.23. (Ord. 2003-046 Exh. A; Ord. 2000-022).
TITLE OF DOCUMENT: Claim for State Reimbursement for SSB5472 Ballot Drop Boxes

ATTACHMENTS:
Resolution Authoring Filing Claim, Memo from Pros Atty Office, State Reimb Voucher, Spreadsheet of Costs Incurred

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.)

In 2017, the Legislature adopted SSB5472 which expanded the number of ballot drop boxes each county is required to install in its jurisdiction and the Legislature did not appropriate any financial resources to implement the bill. This resolution supporting efforts to make voting more accessible to voters in the county also sees the need for reimbursement for the additional costs incurred pursuant to RCW 43.135.060 (unfunded mandates).

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._______

AUTHORIZING THE FILING OF A CLAIM WITH THE STATE OF WASHINGTON SEEKING REIMBURSEMENT FOR UNFUNDED BALLOT BOX MANDATE

Whereas, a fundamental feature of a democracy is a citizen's right to vote. The right to vote has been described by the United States Supreme Court as "preservative of all rights." In order for the right to vote to be meaningful, citizens must have reasonable ballot access; and

Whereas, in 2017, in an effort to increase voter access, the Washington State Legislature adopted SSB 5472. Laws of 2017, ch. 327, codified as RCW 29A.40.160(15). The bill significantly expands the number of ballot drop boxes each county is required to install in its jurisdiction; and

Whereas, the Legislature recognized that the initial statewide capital cost to implement SSB 5472 would be approximately $1,028,000, with ongoing annual costs estimated at $257,000; and

Whereas, despite recognizing the significant additional cost imposed on counties by passage of SB 5472, the Legislature did not appropriate any financial resources to implement the bill; and

Whereas, Whatcom County supports efforts to make voting more accessible so that citizens have a voice in local, state, and federal elections. In response to SSB 5472, in 2017, Whatcom County purchased and installed three (3) additional drop boxes at a cost of $8,012.92. The cost to operate these additional drop boxes in 2017 was $706.21; and

Whereas, the ongoing annual cost to operate these additional drop boxes is estimated to be approximately $1,758.00; and

Whereas, pursuant to RCW 43.135.060, the Legislature may not impose responsibility for new programs or increased levels of service on the County unless it reimburses the County by specific appropriation for the costs of the new program or increased level of service; and

Whereas, recognizing the benefit to the public, the County dedicated its limited financial resources to fund the required additional ballot boxes. These costs, however, should be borne by the State of Washington.
NOW, THEREFORE, BE IT RESOLVED by the Whatcom County Council that the Whatcom County Prosecuting Attorney is authorized to file a claim with the State of Washington, pursuant to chapter 4.92 RCW, requesting an appropriation of funds to cover the initial capital and ongoing costs resulting from implementation of SSB 5472.

Passed this ____ day of ______, 2018.

ATTEST:

Dana Brown-Davis, Clerk of the Council

APPROVED AS TO FORM:

Royce Buckingham, Civil Deputy Prosecutor

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

Rud Browne, Council Chair
March 14, 2018

To: Department of Enterprise Services  
Office of Risk Management  
1500 Jefferson St. S.E.  
PO Box 41466  
Olympia, WA 98504-1466

From: Royce Buckingham, Civil Deputy Prosecuting Attorney for Whatcom County


Dear Staff,

In 2017, the Washington State Legislature adopted SSB 5472, codified as RCW 29A.40.160(15), which mandates each county significantly increase the number of ballot boxes in its jurisdiction. The Legislature, however, failed to provide any funding to buy the additional ballot boxes or operate them, in violation of RCW 43.135.060.

In order to comply with SSB 5472, Whatcom County has dedicated its limited financial resources to buy and operate additional ballot boxes. In 2017, the County purchased and installed three (3) additional ballot boxes, one each in the towns of Acme, Custer, and Point Roberts, at a cost of $8,012.92. The 2017 cost to operate these additional ballot boxes was approximately $706.21. See attached documentation “2017 SBS 5472 Expenses.” In 2018 it is anticipated $1,758.00 will be necessary to operate the additional ballot boxes. The cost to operate the ballot boxes is recurring and will impact the County in each subsequent fiscal year. The operating cost will also increase as labor costs and inflation in the region rise.
RCW 43.135.060 prohibits the Legislature from imposing responsibility for new programs, or increased levels of service under existing programs, on any political subdivision unless the subdivision is fully reimbursed. The Legislature has failed to fund SSB 5472 by making the necessary appropriations or distributions to Whatcom County as required by RCW 43.135.060(1).

Whatcom County is demanding reimbursement for all costs associated with the purchase and operation of the ballot boxes required by SSB 5472. Whatcom County expensed $8,719.13 in 2017, and anticipates expending $1,758.00 in 2018.

Significantly, SSB 5472 will continue to impose an annual cost of approximately $1,758.00, not accounting for inflation or rising labor costs.

If you would like to meet to discuss the County’s claim or if you need additional information, you may contact me at (360) 778-5765.

Sincerely,

[Signature]

Royce Buckingham
Civil Deputy Prosecuting Attorney for Whatcom County
**AGENCY NAME**

Department of Enterprise Services/Office of Risk Mgmt  
PO Box 41466  
Olympia WA 98504-1466

**VENDOR OR CLAIMANT (Warrant is to be payable to)**

Whatcom County Auditor  
Attn: Debbie Adelstein  
311 Grand Ave Suite #103  
Bellingham, WA 98225

**FEDERAL I.D. NO. OR SOCIAL SECURITY NO. (For reporting Personal Services Contract Payments to I.R.S.)**

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<th>DESCRIPTION</th>
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</table>

(see attached)

**PAY BY:**

PREPARED BY  
Debbie Adelstein  
360-778-5105  
03/14/18

**AGENCY APPROVAL**

DATE

**INSTRUCTIONS TO VENDOR OR CLAIMANT:** Submit this form to claim payment for materials, merchandise or services. Show complete detail for each item.

Vendor’s Certificate: I hereby certify under penalty of perjury that the items and totals listed herein are proper charges for materials, merchandise or services furnished to the State of Washington, and that all goods furnished and/or services rendered have been provided without discrimination because of age, sex, marital status, race, creed, color, national origin, handicap, religion, or Vietnam era or disabled veterans status.

BY

(SIGN IN INK)  
(TITLE)  
(DATE)

**RECEIVED BY**  
DATE RECEIVED

**ACCOUNTING APPROVAL FOR PAYMENT**

DATE

WARRANT TOTAL  
WARRANT NUMBER
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<td>November Closing Team Pay</td>
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**Operational Costs**

**Purchase Orders**

- Purchase Orders 21333, Purchased Order 65918
- Purchase Orders 21333, Purchased Order 65918

**Whitman County Elections**

2017 SS1 9412 expenses
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<td>120 mins</td>
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<td>Google Maps to Customer and Acme Site Tip</td>
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</tbody>
</table>
Resolution Authorizing Whatcom County Executive to sign agreement with Washington State Recreation and Conservation Office to receive matching funds to support acquisition of PDR conservation easements

ATTACHMENTS:
Memo, Resolution, Draft grant agreements for projects 16-1942A Anderson Creek Area (Grubbs, Carbee, Greenwood) and 16-1939A Cougar Creek Ranch

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.)

Washington State Recreation and Conservation Office has awarded Whatcom County $693,120 to apply to the costs of purchasing conservation easements on PDR applications Grubbs, Carbee, Greenwood, and Cougar Creek Ranch. These four applications have already been approved for purchase through Resolution 2016-029 and Resolution 2017-042. Whatcom County PDR Program Administrator requests authorization for the Whatcom County Executive to sign two agreements with Washington State Recreation and Conservation Office to receive funds to support acquisition of conservation easements on properties listed above.

COMMITTEE ACTION:

COUNCIL ACTION:

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

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

TO: Honorable Whatcom County Councilmembers
Honorable Jack Louws, Whatcom County Executive

THROUGH: Mark Personius, Interim Director, PDS

FROM: Chris Elder, PDR Program Administrator

DATE: March 12, 2018

SUBJECT: Request approval to sign agreement with Washington State Recreation and Conservation Office Washington Wildlife and Recreation Program Farmland Preservation grant program to provide matching funds for the acquisition of agricultural conservation easements on Grubbs, Carbee, Greenwood, and Cougar Creek Ranch through the Purchase of Development Rights (PDR) Program.

Whatcom County PDR Program staff applied to the Washington State Recreation and Conservation Office (RCO) Washington Wildlife and Recreation Program (WWRP) Farmland Preservation grant program in 2016 for several of the Purchase of Development Rights Program applications. Several of the Whatcom County applications ranked well and upon passage of the Washington State Capital Budget in 2018, two of the applications have been awarded matching funds to contribute towards the purchase of agricultural conservation easements on the project areas. The two selected projects are named Cougar Creek Ranch and Anderson Creek Area.

Cougar Creek Ranch applied to the PDR Program in February of 2015 and was selected for 50% matching funds through the Natural Resource Conservation Service (NRCS) Agricultural Conservation Easement Program – Agricultural Land Easement (ACEP-ALE) in 2016. Purchase of an agricultural conservation easement on Cougar Creek Ranch was approved by Whatcom County Council on August 9, 2016 through Resolution 2016-029. Receipt of these matching funds through the RCO WWRP will result in Whatcom County receiving 100% of funds to purchase the easement. Whatcom County will still be responsible for paying closing costs and associated easement monitoring fees.

The Anderson Creek Area application consists of three (3) PDR applicants: Grubbs, Carbee, and Greenwood. All three of these applications have been awarded 50% matching funds received through the NRCS ACEP-ALE program. Grubbs applied to the PDR Program in December, 2014 and selected for matching funds through the NRCS ACEP-ALE program in 2016. Purchase of an agricultural conservation easement on Grubbs was approved by Whatcom County Council on August 9, 2016 through Resolution 2016-029. Carbee applied to the PDR Program in October, 2015 and Greenwood applied to the PDR Program in February, 2016. Carbee and Greenwood were both selected for matching funds through the NRCS ACEP-ALE program in 2017. Purchase of an agricultural conservation easement on Carbee and Greenwood was approved by Whatcom County Council on September 26, 2017 through Resolution 2017-042. Receipt of these matching funds through the RCO WWRP will
result in Whatcom County receiving 100% of funds to purchase all three easements (Grubbs, Carbee, Greenwood). Whatcom County will still be responsible for paying closing costs and associated easement monitoring fees.

**Request Summary**
PDR Program Staff request approval for the Executive to sign the Funding Board Project Agreement for project numbers 16-1942A (Anderson Creek Area) & 16-1939A (Cougar Creek Ranch) to receive matching funds to support acquisition of agricultural conservation easements on Grubbs, Carbee, Greenwood, and Cougar Creek Ranch.

Please contact PDR Program Administrator Chris Elder at (360)778-5932 with any questions.
RESOLUTION #

AUTHORIZING WHATCOM COUNTY EXECUTIVE TO SIGN AGREEMENT WITH WASHINGTON STATE RECREATION OFFICE TO RECEIVE MATCHING FUNDS TO SUPPORT ACQUISITION OF PDR CONSERVATION EASEMENTS

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

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

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

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

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

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

WHEREAS, Council passed Resolution 2016-029 and Resolution 2017-042 authorizing the PDR Administrator to proceed with the acquisition of conservation easements on properties including Grubbs, Carbee, Greenwood, and Cougar Creek Ranch, and
WHEREAS, The Washington State Recreation and Conservation Office Washington Wildlife and Recreation Farmland Preservation grant program has awarded matching funds to support the acquisition of conservation easements on PDR applicants Grubbs, Carbee, Greenwood, and Cougar Creek Ranch, and

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

1. The Executive is authorized to sign two (2) grant agreements for projects 16-1942A and 16-1939A to receive matching funds in the amount of $693,120.00 to support acquisition of conservation easements on PDR applications Grubbs, Carbee, Greenwood, and Cougar Creek Ranch.

APPROVED this ________ day of ________, 2018

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

ATTEST:

Dana Brown-Davis, Council Clerk

Rud Browne, Chairperson

APPROVED as to form:

[Signature]

Civil Deputy Prosecutor
## WHATCOM COUNTY CONTRACT INFORMATION SHEET

<table>
<thead>
<tr>
<th>Originating Department:</th>
<th>Planning &amp; Development Services</th>
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</thead>
<tbody>
<tr>
<td>Division/Program: (i.e. Dept. Division and Program)</td>
<td>Planning &amp; Dev/Purchase of Dev Rights/PDR</td>
</tr>
<tr>
<td>Contract or Grant Administrator:</td>
<td>Chris Elder</td>
</tr>
<tr>
<td>Contractor's / Agency Name:</td>
<td>Washington State Recreation and Conservation Office</td>
</tr>
</tbody>
</table>

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

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

**Is this a grant agreement?**
- Yes [X] No [ ]
- If yes, grantor agency contract number(s): [ ]

**Is this contract grant funded?**
- Yes [ ] No [X]
- If yes, Whatcom County grant contract number(s): [ ]

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

**Is this agreement excluded from E-Verify?**
- No [ ] Yes [X]
- If no, include Attachment D Contractor Declaration form.

If YES, indicate exclusion(s) below:
- [ ] Professional services agreement for certified/licensed professional.
- [ ] Contract work is for less than $100,000.
- [ ] Contract work is for less than 120 days.
- [X] Interlocal Agreement (between Governments).
- [ ] Contract for Commercial off the shelf items (COTS).
- [ ] Work related subcontract less than $25,000.
- [ ] Public Works - Local Agency/Federally Funded FHWA.

**Contract Amount:(sum of original contract amount and any prior amendments):**
- $693,120 Revenue

**This Amendment Amount:**
- $

**Total Amended Amount:**
- $693,120

**Summary of Scope:** Matching funds provided in this grant agreement are to apply to the purchase of agricultural conservation easements on applications Grubbs, Carbee, Greenwood, and Cougar Creek Ranch through the Purchase of Development Rights Program. Purchase of these easements authorized under Res. 2016-029 and Res. 2017-042

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<th>Expiration Date:</th>
<th>February 28, 2019</th>
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**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, prof. services, or other capital costs approved by council in a capital budget appropriation ordinance.
3. Bid or award is for supplies.
4. Equipment is included in Exhibit “B” of the Budget Ordinance
5. 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: CE [ ]
- 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: [ ]

**Date:**
- 1. 03/14/2018
- 2. 3/14/18
- 3. 03/14/2018
- 4. Date:
- 5. Date:
- 6. Date:
- 7. Date:
- 8. Date:
- 9. Date:

| Last edited | 02/15/18 | 80 |
Funding Board Project Agreement

Project Sponsor: Whatcom County  
Project Title: Whatcom County - Anderson Creek Area Acquisitions  
Project Number: 16-1942A  
Approval Date: 2/1/2018

A. PARTIES OF THE AGREEMENT

This Funding Board Project Agreement (Agreement) is entered into between the State of Washington by and through the Recreation and Conservation Funding Board (RCFB or funding board) and the Recreation and Conservation Office (RCO), P.O. Box 40917, Olympia, Washington 98504-0917 and Whatcom County (Sponsor, and primary Sponsor), 322 N Commercial Suite 210, Bellingham, WA 98225, Whatcom Land Trust (Sponsor, and secondary Sponsor), 412 N Commercial St, Bellingham, WA 98225, and shall be binding on the agents and all persons acting by or through the parties. The Sponsor's Data Universal Numbering System (DUNS) Number is 06-004-4641.

All Sponsors are equally and independently subject to all the conditions of this Agreement except those conditions that expressly apply only to the primary Sponsor.

Per the Applicant Resolution/Authorizations submitted by all sponsors (and on file with the RCO), the identified Authorized Representative(s)/Agent(s) have full authority to legally bind the Sponsor(s) regarding all matters related to the project, including but not limited to, full authority to: (1) sign an application to the funding board for grant assistance, (2) enter into this project agreement on behalf of the Sponsor(s) (including indemnification and waiver of sovereign immunity as provided therein), (3) enter any amendments thereto on behalf of the Sponsors, and (4) make any decisions and submissions required with respect to the project. Agreements and amendments must be signed by the Authorized Representative of all sponsors.

If a Sponsor wishes to change its Authorized Representative/Agent as identified on the original signed Applicant Resolution/Authorization, the Sponsor has the obligation to provide to RCO in writing a new Applicant Resolution/Authorization signed by its governing body. Unless a new Applicant Resolution/Authorization has been provided, RCO will be entitled to rely upon the fact that the current Authorized Representative/Agent has the authority to bind the Sponsor to the Agreement (including any amendments thereto) and decisions related to implementation of the Agreement.

For the purposes of this Agreement, as well as for grant management purposes with RCO, only the primary Sponsor may act as a fiscal agent to obtain reimbursements (see Section 11. PROJECT REIMBURSEMENTS).

B. PURPOSE OF AGREEMENT

This Agreement sets out the terms and conditions by which a grant is made from the Farm and Forest Account of the State of Washington. The grant is administered by the Recreation and Conservation Office (RCO) to the Sponsor for the project named above per the director's authority granted in RCW 79A.25.020.

C. DESCRIPTION OF PROJECT

Whatcom County will use this grant to acquire and permanently extinguish 32 development rights on three adjacent farms which border Anderson Creek within central Whatcom County. The combined acreage is approximately 180 acres of active farmland which will be placed under an agricultural easement in perpetuity.

D. PERIOD OF PERFORMANCE

The period of performance begins on March 1, 2018 (project start date) and ends on February 28, 2019 (project end date). No allowable cost incurred before or after this period is eligible for reimbursement unless specifically provided for by written amendment or addendum to this Agreement or specifically provided for by WAC Titles 286, 420; or RCFB and/or SRFB policies published in RCO manuals as of the effective date of this agreement.

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

The Sponsor has obligations beyond this period of performance as described in Section F. Long-Term Obligations.

E. STANDARD TERMS AND CONDITIONS INCORPORATED

The Standard Terms and Conditions of the Project Agreement are hereby incorporated by reference as part of this Agreement.

F. LONG-TERM OBLIGATIONS
For this acquisition project, the sponsor’s on-going obligations shall be in perpetuity and shall survive the completion/termination of this Project Agreement unless otherwise identified in the Agreement or as approved by the funding board. It is the intent of the funding board’s conversion policy (see Section 25: Long-Term Obligations Of The Project Sponsors) that all lands acquired and/or facilities and areas developed, renovated, or restored with funding assistance remain in the public domain in perpetuity.

G. PROJECT FUNDING
The total grant award provided by the funding board for this project shall not exceed $377,120.00. The funding board shall not pay any amount beyond that approved for grant funding of the project and within the funding board’s percentage as identified below. The Sponsor shall be responsible for all total project costs that exceed this amount. The minimum matching share provided by the Sponsor shall be as indicated below:

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<td>54.25%</td>
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<tr>
<td>Total Project Cost</td>
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<td>$824,240.00</td>
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H. FEDERAL FUND INFORMATION
This Agreement is not a federal subaward. This Agreement is funded with a grant from the State of Washington.

I. RIGHTS AND OBLIGATIONS INTERPRETED IN LIGHT OF RELATED DOCUMENTS
All rights and obligations of the parties under this Agreement are further specified in and shall be interpreted in light of the Sponsor’s application and the project summary and eligible scope activities under which the Agreement has been approved as well as documents produced in the course of administering the Agreement, including the eligible scope activities, the milestones report, progress reports, and the final report. Provided, to the extent that information contained in such documents is irreconcilably in conflict with this Agreement, it shall not be used to vary the terms of the Agreement, unless those terms are shown to be subject to an unintended error or omission. This “Agreement” as used here and elsewhere in this document, unless otherwise specifically stated, has the meaning set forth in the definitions of the Standard Terms and Conditions.

J. AMENDMENTS TO AGREEMENT
Except as provided herein, no amendment (including without limitation, deletions) of any of the terms or conditions of this Agreement will be effective unless provided in writing signed by all parties. Extensions of the period of performance and minor scope adjustments consented to in writing (including email) by the Sponsor need only be signed by RCO’s director or designee, unless otherwise provided for in another agreement a Sponsor has with the RCO. This exception does not apply to a federal government Sponsor or a Sponsor that requests and enters into a formal amendment for extensions or minor scope adjustments.

It is the responsibility of a Sponsor to ensure that any person who signs an amendment on its behalf is duly authorized to do so, and such signature shall be binding on the Sponsor if the representative/agent signing has been authorized to do so by Applicant Resolution/Authorization provided to the RCO and such Applicant Resolution/Authorization has not been withdrawn by the governing body in a subsequent resolution.

Any amendment to this Agreement, unless otherwise expressly stated, shall be deemed to include all current federal, state, and local government laws and rules, and funding board policies applicable and active and published in RCO manuals or on the RCO Website in effect as of the effective date of the amendment, without limitation to the subject matter of the amendment. Provided, any update in law, rule, policy or a manual that is incorporated as a result of an amendment shall apply only prospectively and shall not require that an act previously done in compliance with existing requirements be redone.

K. COMPLIANCE WITH APPLICABLE STATUTES, RULES, AND RCFB-SRFB POLICIES
This agreement is governed by, and the Sponsor shall comply with, all applicable state and federal laws and regulations, including any applicable RCFB and/or SRFB policies published in RCO manuals or on the RCO Website as exist on the effective date of this Agreement and any amendments to this Agreement. Provided, any update in law, rule, policy or a manual that is incorporated as a result of an amendment shall apply only prospectively and shall not require that an act previously done in compliance with existing requirements be redone.

L. SPECIAL CONDITIONS
None
M. AGREEMENT CONTACTS
The parties will provide all written communications and notices under this Agreement to the mail address or the email address listed below if not both:

**Project Contact**
- Name: Chris Elder
- Title: Planner
- Address: 5280 Northwest Drive
  Bellingham, WA 98226
- Email: celder@co.whatcom.wa.us

**RCO - RCFB**
- Kim Sellers
- Natural Resources Building
- PO Box 40917
- Olympia, Washington 98504-0917
- kim.sellers@rcw.wa.gov

These addresses and contacts shall be effective until receipt by one party from the other of a written notice of any change. Decisions relating to the Agreement must be made by the Authorized Representative/Agent, who may or may not be the Project Contact for purposes of notices and communications.

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

O. EFFECTIVE DATE
This Agreement, for project 16-1942A, shall be subject to the written approval of the RCO's authorized representative and shall not be effective and binding until the date signed by both the Sponsor and the RCO, whichever is later (effective date). Reimbursements for eligible and allowable costs incurred within the period of performance identified in Section D: PERIOD OF PERFORMANCE are allowed only when this Agreement is fully executed and an original is received by RCO.

The Sponsor has read, fully understands, and agrees to be bound by all terms and conditions as set forth in this Agreement and the STANDARD TERMS AND CONDITIONS OF THE PROJECT AGREEMENT. The signatories listed below represent and warrant their authority to bind the parties to this Agreement.

**Whatcom County**
- By: ________________
- Name: (printed) ________________
- Title: ________________
- Date: ________________

Approved as to form:

Royce Buckingham Deputy Prosecuting Attorney

**Whatcom Land Trust**
- By: ________________
- Name: (printed) ________________
- Title: ________________
- Date: ________________
State of Washington, Recreation Conservation Office  
On behalf of the Recreation and Conservation Funding Board (RCFB or funding board)

By: _______________________________                Date: _______________________________

Kaleen Cottingham  
Director  
Recreation and Conservation Office

Pre-approved as to form: _______________________________

By: _______________________________                Date: October 6, 2017

Assistant Attorney General
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SECTION 46. SEVERABILITY
SECTION 1. CITATIONS, HEADINGS AND DEFINITIONS

A. Any citations referencing specific documents refer to the current version on the effective date of this Agreement or the effective date of any amendment thereto.

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

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

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

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

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

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

Authorized Representative/Agent – A Sponsor's agent (employee, political appointee, elected person, etc.) authorized to be the signatory of this Agreement and any amendments requiring a Sponsor signature. This person has the signature authority to bind the Sponsor to this Agreement, grant, and project.

Boating Infrastructure Grant (BIG) – A program administered through the United States Fish and Wildlife Service.

C.F.R. – Code of Federal Regulations

contractor – An entity that receives a contract from a Sponsor related to performance of work or another obligation under this Agreement.

conversion – A conversion occurs 1) when facilities acquired, developed, renovated or restored within the project area are changed to a use other than that for which funds were approved, without obtaining prior written formal RCO or board approval, 2) when property interests are conveyed to a third party not otherwise eligible to receive grants in the program from which funding was approved without obtaining prior written formal RCO or board approval, or 3) when obligations to operate and maintain the funded property are not complied with after reasonable opportunity to cure.
development project – A project that results in the construction of, or work resulting in, new elements, including but not limited to structures, facilities, and/or materials to enhance outdoor recreation resources.

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

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

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

effective date – The date when the signatures of all parties to this agreement are present in the agreement.

enhancement project – 1) A project that brings a site back to its historic function as part of a natural ecosystem or that improves the ecological functionality of a site, or 2) a project that (i) supports hatchery reform to improve hatchery effectiveness to minimize impacts to wild fish populations, (ii) ensures compatibility between hatchery production and salmon recovery programs, or (iii) supports sustainable fisheries (WAC 420.04.010).

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

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

grant program – The source of the grant funds received. May be an account in the state treasury, or a grant category within a larger grant program, or a federal source.

indirect cost – Costs incurred for a common or joint purpose benefitting more than one cost objective, and not readily assignable to the cost objectives specifically benefitted, without effort disproportionate to the results achieved (2 C.F.R. § 200.56 (2013)).

long-term compliance period – The period of time after the project end date or end of the period of performance (depending on the project types and grant program). During this period, the Sponsor has continuing obligations under the Agreement. This period may have a nonspecific end date (in perpetuity) or an expressly specified number of years.

long-term obligations – Sponsor’s obligations after the project end date, as specified in the Agreement and applicable regulations and policies.

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

maintenance – A project that maintains existing areas and facilities through repairs and upkeep for the benefit of outdoor recreation or salmon recovery.

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

match or matching share – The portion of the total project cost provided by the Sponsor.
milestone – An important event with a defined date to track an activity related to implementation of a funded project and monitor significant stages of project accomplishment.

monitoring project – Means a project that tracks the effectiveness of salmon recovery restoration actions, or provides data on salmon populations or their habitat conditions.

monitoring and research project – Means a project that tracks the effectiveness of salmon recovery restoration actions, or provides data on salmon populations or their habitat conditions.

Office – Means the Recreation and Conservation Office or RCO.

notice of grant – As required by RCO or another authority, a document that has been legally recorded in the county or counties where the project property is located that describes the grant funded project located on the property, the funding sources, and agencies responsible for awarding the grant.

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

period of performance – The period beginning on the project start date and ending on the project end date.

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

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

pre-agreement cost – A project cost incurred before the period of performance.

primary Sponsor – The Sponsor who is not a secondary Sponsor and who is specifically identified in the Agreement as the entity to which RCO grants funds to and authorizes and requires to administer the grant. This administration includes but is not limited to acting as the fiscal agent for the grant (e.g. requesting and accepting reimbursements, submitting reports). Primary Sponsor includes its officers, employees, agents and successors.

project – An undertaking that is, or may be, funded in whole or in part with funds administered by RCO on behalf of the funding board.

project area, RCFB – A geographic area that delineates a grant assisted site which is subject to project agreement requirements (WAC 286.04.010).

project area, SRFB – The area consistent with the geographic limits of the scope of work of the project and subject to project agreement requirements. For restoration projects, the project area must include the physical limits of the project's final site plans or final design plans. For acquisition projects, the project area must include the area described by the legal description of the properties acquired for or committed to the project (WAC 420.04.010).

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

project end date – The specific date identified in the Agreement on which the period of performance ends, as may be changed by amendment. This date is not the end date for any long-term obligations.
project start date – The specific date identified in the Agreement on which the period of performance starts.

research project – Means a project that studies salmon and the effectiveness of recovery restoration efforts on the population or habitat condition.

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

reimbursement – RCO’s payment of funds from eligible and allowable costs that have already been paid by the Sponsor per the terms of the Agreement.

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

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

restoration and enhancement project – A project that brings a site back to its historic function as part of a natural ecosystem or that improves the ecological functionality of a site or a larger ecosystem which improvement may include benefiting fish stocks.

RCFB – Recreation and Conservation Funding Board

RCW – Revised Code of Washington

Recreational Trails Program (RTP) – A Federal Highways Administration grant program.

secondary Sponsor – One of two or more Sponsors who is not a primary Sponsor. Only the primary Sponsor may be the fiscal agent for the project.

Sponsor – A Sponsor is an organization that is listed in and has signed this Agreement.

Sponsor Authorized Representative/Agent – A Sponsor’s agent (employee, political appointee, elected person, etc.) authorized to be the signatory of this Agreement and any amendments requiring a Sponsor signature. This person has the signature authority to bind the Sponsor to this Agreement, grant, and project.

SRFB – Salmon Recovery Funding Board

subaward – Funds allocated to the RCO from another organization, for which RCO makes available to or assigns to another organization via this Agreement. Also, a subaward may be an award provided by a pass-through entity to a subrecipient for the subrecipient to carry out part of any award received by the pass-through entity. It does not include payments to a contractor or payments to an individual that is a beneficiary of a federal or other program. A subaward may be provided through any form of legal agreement, including an agreement that the pass-through entity considers a contract. Also see 2 C.F.R. § 200.92 (2013). For federal subawards, a subaward is for the purpose of carrying out a portion of a Federal award and creates a federal assistance relationship with the subrecipient (2 C.F.R. § 200.330 (2013)). If this Agreement is a federal subaward, the subaward amount is the grant program amount in Section G: Project Funding.
**subrecipient** – Subrecipient means an entity that receives a subaward. For non-federal entities receiving federal funds, a subrecipient is an entity that receives a subaward from a pass-through entity to carry out part of a federal program; but does not include an individual that is a beneficiary of such program. A subrecipient may also be a recipient of other federal awards directly from a federal awarding agency (2 C.F.R. § 200.93 (2013)). If this Agreement is a federal subaward, the Sponsor is the subrecipient.

**useful service life** – Period during which an asset or property is expected to be useable for the purpose it was acquired, developed, renovated, and/or restored per this Agreement.

**WAC** – Washington Administrative Code.

**SECTION 2. PERFORMANCE BY THE SPONSOR**

The Sponsor shall undertake the project as described in this Agreement, and in accordance with the Sponsor’s proposed goals and objectives described in the application or documents submitted with the application, all as finally approved by the funding board. All submitted documents are incorporated by this reference as if fully set forth herein.

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

**SECTION 3. ASSIGNMENT**

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

**SECTION 4. RESPONSIBILITY FOR PROJECT**

While the funding board undertakes to assist the Sponsor with the project by providing a grant pursuant to this Agreement, the project itself remains the sole responsibility of the Sponsor. The funding board undertakes no responsibilities to the Sponsor, or to any third party, other than as is expressly set out in this Agreement. The responsibility for the implementation of the project is solely that of the Sponsor, as is the responsibility for any claim or suit of any nature by any third party related in any way to the project. When a project is Sponsored by more than one entity, any and all Sponsors are equally responsible for the project and all post-completion stewardship responsibilities and long-term obligations unless otherwise stated in this Agreement.

The RCO has no responsibility for reviewing, approving, overseeing or supervising design or construction of the project and leaves such review, approval, oversight and supervision exclusively to the Sponsor and others with expertise or authority. In this respect, the RCO will act only to confirm at a general, lay, and nontechnical level, solely for the purpose of compliance and payment and not for safety or suitability, that the project has apparently been completed as per the Agreement.

**SECTION 5. INDEMNIFICATION**

The Sponsor shall defend, indemnify, and hold the State and its officers and employees harmless from all claims, demands, or suits at law or equity arising in whole or in part from the actual or alleged acts, errors, omissions or negligence in connection with this Agreement (including without limitation all work or activities thereunder), or the breach of any obligation under this Agreement by the Sponsor or the Sponsor’s agents, employees, contractors, subcontractors, or vendors, of any tier, or any other persons for whom the Sponsor may be legally liable.

Provided that nothing herein shall require a Sponsor to defend or indemnify the State against and hold harmless the State from claims, demands or suits based solely upon the negligence of the State, its employees and/or agents for whom the State is vicariously liable.
Provided further that if the claims or suits are caused by or result from the concurrent negligence of (a) the Sponsor or the Sponsor’s agents, employees, contractors, subcontractors or vendors, of any tier, or any other persons for whom the Sponsor is legally liable, and (b) the State its employees and agents for whom it is vicariously liable, the indemnity obligation shall be valid and enforceable only to the extent of the Sponsor’s negligence or the negligence of the Sponsor’s agents, employees, contractors, subcontractors or vendors, of any tier, or any other persons for whom the Sponsor may be legally liable.

This provision shall be included in any agreement between Sponsor and any contractors, subcontractor and vendor, of any tier.

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

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

The funding board and RCO are included within the term State, as are all other agencies, departments, boards, councils, committees, divisions, bureaus, offices, societies, or other entities of state government.

SECTION 6. INDEPENDENT CAPACITY OF THE SPONSOR

The Sponsor and its employees or agents performing under this Agreement are not officers, employees or agents of the funding board or RCO. The Sponsor will not hold itself out as nor claim to be an officer, employee or agent of RCO, a funding board or of the state of Washington, nor will the Sponsor make any claim of right, privilege or benefit which would accrue to an employee under RCW 41.06 or Section 30B.

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

SECTION 7. CONFLICT OF INTEREST

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

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

SECTION 8. COMPLIANCE WITH APPLICABLE LAW
In implementing the Agreement, the Sponsor shall comply with all applicable federal, state, and local laws (including without limitation all applicable ordinances, codes, rules, and regulations). Such compliance includes, without any limitation as to other applicable laws, the following laws:

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

B. **Secular Use of Funds.** No funds awarded under this grant may be used to pay for any religious activities, worship, or instruction, or for lands and facilities for religious activities, worship, or instruction. Religious activities, worship, or instruction may be a minor use of the grant supported recreation and conservation land or facility.

C. **Wages and Job Safety.** The Sponsor agrees to comply with all applicable laws, regulations, and policies of the United States and the State of Washington or other jurisdiction which affect wages and job safety. The Sponsor agrees when state prevailing wage laws (RCW 39.12) are applicable, to comply with such laws, to pay the prevailing rate of wage to all workers, laborers, or mechanics employed in the performance of any part of this contract, and to file a statement of intent to pay prevailing wage with the Washington State Department of Labor and Industries as required by RCW 39.12.040. The Sponsor also agrees to comply with the provisions of the rules and regulations of the Washington State Department of Labor and Industries.

1. **Exception, Service Organizations of Trail and Environmental Projects (RCW 79A.35.130).** If allowed by state and federal law and rules, participants in conservation corps programs offered by a nonprofit organization affiliated with a national service organization established under the authority of the national and community service trust act of 1993, P.L. 103-82, are exempt from provisions related to rates of compensation while performing environmental and trail maintenance work provided: (1) The nonprofit organization must be registered as a nonprofit corporation pursuant to RCW 24.03; (2) The nonprofit organization’s management and administrative headquarters must be located in Washington; (3) Participants in the program must spend at least fifteen percent of their time in the program on education and training activities; and (4) Participants in the program must receive a stipend or living allowance as authorized by federal or state law. Participants are exempt from provisions related to rates of compensation only for environmental and trail maintenance work conducted pursuant to the conservation corps program.

D. **Archaeological and Cultural Resources.** RCO facilitates the review of applicable projects for potential impacts to archaeological sites and state cultural resources. The Sponsor must assist RCO in compliance with Governor’s Executive Order 05-05 or the National Historic Preservation Act before and after initiating ground-disturbing activity or construction, repair, installation, rehabilitation, renovation, or maintenance work on lands, natural resources, or structures. The funding board requires documented compliance with Executive Order 05-05 or Section 106 of the National Historic Preservation Act, whichever is applicable to the project. If a federal agency declines to consult, the Sponsor shall comply with the requirements of Executive Order 05-05. In the event that archaeological or historic materials are discovered during project activities, work in the location of discovery and immediate vicinity must stop instantly, the area must be secured, and notification must be provided to the following: concerned Tribes’ cultural staff and cultural committees, RCO, and the State Department of Archaeology and Historic Preservation. If human remains are discovered during project activity, work in the location of discovery and immediate vicinity must stop instantly, the area must be secured, and notification provided to the concerned Tribe’s cultural staff and cultural committee, RCO, State Department of Archaeology, the coroner and local law enforcement in the most expeditious manner possible according to RCW 68.50.
E. Restrictions on Grant Use. No part of any funds provided under this grant shall be used, other than for normal and recognized executive-legislative relationships, for publicity or propaganda purposes, or for the preparation, distribution, or use of any kit, pamphlet, booklet, publication, radio, television, or video presentation designed to support or defeat legislation pending before the U.S. Congress or any state legislature.

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

F. Debarment and Certification. By signing the Agreement with RCO, the Sponsor certifies that neither it nor its principals nor any other lower tier participant are presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in this transaction by Washington State Labor and Industries. Further, the Sponsor agrees not to enter into any arrangements or contracts related to this Agreement with any party that is on Washington State Department of Labor and Industries “Debarred Contractor List.”

SECTION 9. RECORDS

A. Digital Records. If requested by RCO, the Sponsor must provide a digital file(s) of the project property and funded project site in a format specified by the RCO.

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

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

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

SECTION 10. PROJECT FUNDING
A. **Authority.** This Agreement is funded through a grant award from the recreation and conservation funding board per WAC 286 and/or the salmon recovery funding board per WAC 420. The director of RCO enters into this Agreement per delegated authority in RCW 79A.25.020 and 77.85.120.

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

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

D. **Requirements for Federal Subawards.** Pre-Agreement costs before the federal award date in Section H: FEDERAL FUND INFORMATION are ineligible unless approved by the federal award agency (2 C.F.R § 200.458 (2013)).

E. **After the Period of Performance.** No expenditure made, or obligation incurred, following the period of performance shall be eligible, in whole or in part, for grant funds hereunder. In addition to any remedy the funding board may have under this Agreement, the grant amounts identified in this Agreement shall be reduced to exclude any such expenditure from participation.

**SECTION 11. PROJECT REIMBURSEMENTS**

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

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

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

D. **Retainage Held Until Project Complete.** RCO reserves the right to withhold disbursement of the total amount of the grant to the Sponsor until the project has been completed. A project is considered "complete" when:

1. All approved or required activities outlined in the Agreement are done;
2. On-site signs are in place (if applicable);
3. A final project report is submitted to and accepted by RCO;
4. Any other required documents and media are complete and submitted to RCO;
5. A final reimbursement request is submitted to RCO;

6. The completed project has been accepted by RCO;

7. Final amendments have been processed;

8. Fiscal transactions are complete, and

9. RCO has accepted a final boundary map, if requested by RCO, for which the Agreement terms will apply in the future.

10. Notice of Grant (if applicable) filed with the county lands records office and a stamped copy received by RCO

E. Requirements for Federal Subawards: Match. The Sponsor’s matching share must comply with 2 C.F.R. § 200.306 (2013). Any shared costs or matching funds and all contributions, including cash and third party in-kind contributions, can be accepted as part of the Sponsor’s matching share when such contributions meet all of the following criteria:

1. Are verifiable from the non-Federal entity’s (Sponsor’s) records;

2. Are not included as contributions for any other Federal award;

3. Are necessary and reasonable for accomplishment of project or program objectives;


5. Are not paid by the Federal Government under another Federal award, except where the Federal statute authorizing a program specifically provides that Federal funds made available for such program can be applied to matching or cost sharing requirements of other Federal programs;

6. Are provided for in the approved budget when required by the Federal awarding agency identified in Section H: FEDERAL FUND INFORMATION of this Agreement; and

7. Conform to other provisions of 2 C.F.R. Part 200, Subpart D—Post Federal Award Requirements (2013), as applicable.

F. Requirements for Federal Subawards: Close out. Per 2 C.F.R § 200.343 (2013), the non-Federal entity (Sponsor) must:

1. Submit, no later than 90 calendar days after the end date of the period of performance, all financial, performance, and other reports as required by the terms and conditions of the Federal award. The Federal awarding agency or pass-through entity (RCO) may approve extensions when requested by the Sponsor.

2. Liquidate all obligations incurred under the Federal award not later than 90 calendar days after the end date of the period of performance as specified in the terms and conditions of the Federal award.

3. Refund any balances of unobligated cash that the Federal awarding agency or pass-through entity (RCO) paid in advance or paid and that are not authorized to be retained by the non-Federal entity (Sponsor) for use in other projects. See OMB Circular A-129 and see 2 C.F.R § 200.345 Collection of amounts due (2013), for requirements regarding unreturned amounts that become delinquent debts.
4. Account for any real and personal property acquired with Federal funds or received from the
Federal Government in accordance with 2 C.F.R §§ 200.310 Insurance coverage through

SECTION 12. ADVANCE PAYMENTS

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

SECTION 13. RECOVERY OF PAYMENTS

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

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

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

SECTION 14. COVENANT AGAINST CONTINGENT FEES

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

SECTION 15. INCOME (AND FEES) AND USE OF INCOME

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

A. Income.

1. Farm and Forest Account (Farmland and Forestland Preservation Grants). Excepted from
this section is income generated and fees paid on/for properties which received funds from the
Farm and Forest Account (RCW 79A.15.130).

2. Firearms and Archery Range Recreation Projects. Excepted from this section are safety
classes (firearm and/or hunter) for which a facility/range fee must not be charged (RCW
79A.25.210).

3. Compatible source. The source of any income generated in a funded project or project area
must be compatible with the funding source and the Agreement and any policies adopted by
the RCFB or SRFB.
B. **Use of Income.** Subject to any limitations contained in applicable state or federal law and applicable rules and policies, income or fees generated at a project work site (including entrance, utility corridor permit, cattle grazing, timber harvesting, farming, etc.) during or after the reimbursement period cited in the Agreement, must be set aside to offset:

1. The Sponsor's matching resources;
2. The project's total cost;
3. The expense of operation, maintenance, stewardship, monitoring, and/or repair of the facility or program assisted by the funding board grant;
4. The expense of operation, maintenance, stewardship, monitoring, and/or repair of other similar units in the Sponsor's system;
5. Capital expenses for similar acquisition and/or development and renovation; and/or
6. Other purposes explicitly approved by RCO

C. **Fees.** User and/or other fees may be charged in connection with land acquired or facilities developed, maintained, renovated, or restored with funding board grants if the fees are consistent with the:

1. Grant program laws, rules, policies, and funding board policies;
2. Value of any service(s) furnished;
3. Value of any opportunities furnished; and
4. Prevailing range of public fees in the state for the activity involved.


**SECTION 16. PROCUREMENT REQUIREMENTS**

A. **Procurement Requirements.** If the Sponsor has, or is required to have, a procurement process that follows applicable state and/or federal law or procurement rules and principles, it must be followed, documented, and retained. If no such process exists the Sponsor must follow these minimum procedures:

1. Publish a notice to the public requesting bids/proposals for the project;
2. Specify in the notice the date for submittal of bids/proposals;
3. Specify in the notice the general procedure and criteria for selection; and
4. Sponsor must contract or hire from within its bid pool. If bids are unacceptable the process needs to be repeated until a suitable bid is selected.
5. Comply with the same legal standards regarding unlawful discrimination based upon race, gender, ethnicity, sex, or sex-orientation that are applicable to state agencies in selecting a bidder or proposer.

Alternatively, Sponsor may choose a bid from a bidding cooperative if authorized to do so.
This procedure creates no rights for the benefit of third parties, including any proposers, and may not be enforced or subject to review of any kind or manner by any entity other than the RCO. Sponsors may be required to certify to the RCO that they have followed any applicable state and/or federal procedures or the above minimum procedure where state or federal procedures do not apply.

B. Requirements for Federal Subawards.


2. For RTP subawards, Sponsors follow such policies and procedures allowed by the State when procuring property and services under a Federal award (2 C.F.R § 1201.317 (2013)). State procurement policies are in subsection A of this section.

SECTION 17.   TREATMENT OF EQUIPMENT AND ASSETS

Equipment shall be used and managed only for the purpose of this Agreement, unless otherwise provided herein or in published funding board policies, or approved by RCO in writing.

A. Discontinued Use. Equipment obtained under this Agreement shall remain in the possession of the Sponsor for the duration of the project, or RULES of applicable grant assisted program. When the Sponsor discontinues use of the equipment for the purpose for which it was funded, RCO may require the Sponsor to deliver the equipment to RCO, or to dispose of the equipment according to RCO published policies.

B. Loss or Damage. The Sponsor shall be responsible for any loss or damage to equipment.

C. Requirements for Federal Subawards. Except in the RTP, procedures for managing equipment (including replacement equipment), whether acquired in whole or in part under a Federal award or match for the award, until disposition takes place will, at a minimum, meet the following requirements (2 C.F.R § 200.313 (2013)):

1. Property records must be maintained that include a description of the property, a serial number or other identification number, the source of funding for the property (including the Federal Award Identification Number), who holds title, the acquisition date, and cost of the property, percentage of Federal participation in the project costs for the Federal award under which the property was acquired, the location, use and condition of the property, and any ultimate disposition data including the date of disposal and sale price of the property.

2. A physical inventory of the property must be taken and the results reconciled with the property records at least once every two years.

3. A control system must be developed to ensure adequate safeguards to prevent loss, damage, or theft of the property. Any loss, damage, or theft must be investigated.

4. Adequate maintenance procedures must be developed to keep the property in good condition.

5. If the non-Federal entity is authorized or required to sell the property, proper sales procedures must be established to ensure the highest possible return.

D. Requirements for RTP Subawards.

1. The subrecipient (Sponsor) shall follow such policies and procedures prescribed by and allowed by the State, as well as federal law and federal rules issued by the Federal Highways Administration and 2 CFR 200.
2. Sponsor may be required to pay prevailing wage rates as required by the Davis Bacon Act as amended.

SECTION 18. RIGHT OF INSPECTION

The Sponsor shall provide right of access to the project to RCO, or any of its officers, or to any other authorized agent or official of the state of Washington or the federal government, at all reasonable times, in order to monitor and evaluate performance, long-term obligations, compliance, and/or quality assurance under this Agreement.

If a landowner agreement or other form of control and tenure as described in Section 23.C: Control and Tenure has been executed, it will further stipulate and define the funding board and RCO’s right to inspect and access lands acquired or developed with funding board assistance.

SECTION 19. STEWARDSHIP AND MONITORING

Sponsor agrees to perform monitoring and stewardship functions as stated in funding board policy, this Agreement, or as otherwise directed by RCO consistent with existing policies. Sponsor further agrees to utilize, where applicable and financially feasible, any monitoring protocols recommended by the funding board.

SECTION 20. PREFERENCES FOR RESIDENTS

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

SECTION 21. ACKNOWLEDGMENT AND SIGNS

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

B. Signs.

1. During the period of performance through the period of long-term obligation, the Sponsor shall post openly visible signs or other appropriate media at entrances and other locations on the project area that acknowledge the applicable grant program’s funding contribution, unless exempted in funding board policy or waived by the director; and

2. During the period of long-term obligation, the Sponsor shall post openly visible signs or other appropriate media at entrances and other locations to notify the public of the availability of the site for reasonable public access.

C. Ceremonies. The Sponsor shall notify RCO no later than two weeks before a dedication ceremony for this project. The Sponsor shall verbally acknowledge the applicable grant program’s funding contribution at all dedication ceremonies.

D. Federally Funded Projects. When issuing statements, press releases, requests for proposals, bid solicitations, and other documents describing a project funded in whole or in part with federal money provided for in this grant, Sponsors shall clearly state:

1. The fund source;

2. The percentage of the total costs of the project that is financed with federal money;
3. The dollar amount of federal funds for the project; and

4. The percentage and dollar amount of the total costs of the project that is financed by nongovernmental sources.

SECTION 22. PROVISIONS FOR BOATING PROJECT GRANTS

If requested by RCO, or required per state or federal law or rule with respect to any project or project element that supports recreational boating, Sponsor shall manage the project or project element per federal rules to include 2 C.F.R. Part 200, and place a United States Coast Guard (or other federal agency) logo and funding program information at the project site.

SECTION 23. PROVISIONS APPLYING TO DEVELOPMENT, MAINTENANCE, RENOVATION, AND RESTORATION PROJECTS

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

A. Operations and Maintenance. Properties, structures, and facilities developed, maintained, or operated with the assistance of money granted by the board and within the project area shall be built, operated, and maintained according to applicable regulations, laws, building codes, and health and public safety standards to assure a reasonably safe condition and to prevent premature deterioration (WAC 286-13-130). It is the Sponsor’s sole responsibility to ensure the same are operated and maintained in a safe and operable condition. The RCO does not conduct safety inspections or employ or train staff for that purpose.

B. Document Review and Approval. Prior to commencing construction or finalizing the design, the Sponsor agrees to submit one copy of all construction and restoration plans and specifications to RCO for review solely for compliance with the scope of work to be identified in the Agreement. RCO does not review for, and disclaims any responsibility to review for safety, suitability, engineering, compliance with code, or any matters other than the scope so identified. Although RCO staff may provide tentative guidance to a Sponsor on matters related to site accessibility by persons with a disability, it is the Sponsor’s responsibility to confirm that all legal requirements for accessibility are met even if the RCO guidance would not meet such requirements.

1. Change orders that impact the amount of funding or changes to the scope of the project as described to and approved by the funding board or RCO must receive prior written approval of the board or RCO.

C. Control and Tenure. The Sponsor must provide documentation that shows appropriate tenure (such as landowner agreement, long-term lease, easement, or fee simple ownership) for the land proposed for construction. The documentation must meet current RCO requirements identified in the appropriate grant program policy manual as of the effective date of this Agreement and determines the long-term compliance period unless otherwise approved by the board.

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

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

SECTION 24. PROVISIONS APPLYING TO ACQUISITION PROJECTS

The following provisions shall be in force only if the project described in this Agreement is an acquisition project (including projects with any acquisition component):

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

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

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

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

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

2. Assignment of Rights. The Assignment of Rights document transfers certain rights to RCO and the state such as public access, access for compliance, and enforcement. Sponsors shall use this document when an easement or lease is being acquired under this Agreement. The Assignment of Rights requires the signature of the underlying landowner and must be incorporated by reference in the easement document.

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

1. Federal Acquisition Policies. When federal funds are part of this Agreement, the Sponsor agrees to comply with the terms and conditions of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, 84 Stat. 1894 (1970)—Public Law 91-646, as amended, and applicable regulations and procedures of the federal agency implementing that Act.

2. State Acquisition Policies. When state funds are part of this Agreement, the Sponsor agrees to comply with the terms and conditions of the Uniform Relocation Assistance and Real Property Acquisition Policy of the State of Washington, Chapter 8.26 RCW, and Chapter 468-100 WAC.

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

F. Buildings and Structures. In general, grant funds are to be used for outdoor recreation, conservation, or salmon recovery. Sponsors agree to remove or demolish ineligible structures. Sponsor must consult with RCO regarding treatment of such structures and compliance with Section 8.D Archeological and Cultural Resources.

G. Hazardous Substances.

1. Certification. The Sponsor shall inspect, investigate, and conduct an environmental audit of the proposed acquisition site for the presence of hazardous substances, as defined in RCW 70.105D.020(13), and certify:

   a. No hazardous substances were found on the site, or

   b. Any hazardous substances found have been treated and/or disposed of in compliance with applicable state and federal laws, and the site deemed “clean.”

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

3. Hold Harmless. The Sponsor will defend, protect and hold harmless the State and any and all of its employees and/or agents, from and against any and all liability, cost (including but not limited to all costs of defense and attorneys’ fees) and any and all loss of any nature from any and all claims or suits resulting from the presence of, or the release or threatened release of, hazardous substances on the property the Sponsor is acquiring, except to the extent, if any, that the State, its officers and agents caused or contributed to the release. The funding board and RCO are included within the term State, as are all other agencies, departments, boards, councils, committees, divisions, bureaus, offices, societies, or other entities of state government.

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

SECTION 25. LONG-TERM OBLIGATIONS OF THE PROJECTS AND SPONSORS

B. Long-Term Obligations of SRFB Projects. Sponsor shall comply with WAC 420.

C. Perpetuity. For acquisition, development, and restoration projects, or a combination thereof, unless otherwise allowed by policy, program rules, or this Agreement, or approved in writing by RCO or the funding board, RCO requires that the project area continue to function as intended after the period of performance in perpetuity.

D. Conversion. The Sponsor shall not at any time convert any real property (including any interest therein) or facility acquired, developed, renovated, and/or restored pursuant to this Agreement, unless provided for in applicable statutes, rules, and policies. Conversion includes, but is not limited to, putting such property to uses other than those purposes for which funds were approved or transferring such property to another entity without prior approval via a written amendment to the Agreement. Also see WAC Title 286 or 420 and applicable policies. All real property or facilities acquired, developed, renovated, and/or restored with funding assistance shall remain in the same ownership and in public use/access status in perpetuity unless otherwise expressly provided in the Agreement or applicable policy or unless a transfer or change in use is approved by the funding board through an amendment. Failure to comply with these obligations is a conversion. Further, if the project is subject to operation and or maintenance obligations, the failure to comply with such obligations, without cure after a reasonable period as determined by the RCO, is a conversion. Determination of whether a conversion has occurred shall be based upon this Agreement, applicable law and RCFB/SRFB policies.

For acquisition projects that are expressly term limited in the Agreement, such as one involving a lease or a term-limited restoration, renovation or development project or easement, the restriction on conversion shall apply only for the length of the term, unless otherwise provided in this Agreement, by funding board policy, other RCO approved written documents, or required by applicable state or federal law.

When a conversion has been determined to have occurred, the Sponsor is required to remedy the conversion per established funding board policies, and the board or RCO may pursue such remedies as are allowed by law and board policies, and/or this Agreement.

SECTION 26. CONSTRUCTION, OPERATION, USE AND MAINTENANCE OF ASSISTED PROJECTS

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

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

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

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

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

4. In compliance with all federal and state nondiscrimination laws, regulations and policies.

B. Open to the public. Unless otherwise specifically provided for in the Agreement of funding board policies, and in compliance with applicable statutes, rules, and funding board policies, facilities must be open and accessible to the general public, and must:
1. Be constructed, maintained, and operated to meet or exceed the minimum requirements of the most current guidelines or rules, local or state codes, Uniform Federal Accessibility Standards, guidelines, or rules, including but not limited to: the International Building Code, the Americans with Disabilities Act, and the Architectural Barriers Act, as amended and updated.

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

3. Be available for appropriate use by the general public at reasonable hours and times of the year, according to the type of area or facility, unless otherwise stated in RCO manuals, by a decision of the board, or by RCO in writing. Sponsor shall notify the public of the availability for use by posting and updating that information on its website and by maintaining at entrances and/or other locations openly visible signs with such information.

SECTION 27. RECORDED NOTICE OF GRANT

At the request of RCO, Sponsor shall record a notice of grant on the property and shall submit to the RCO a recorded and registry stamped copy of such notice. The purpose of the notice of grant is to ensure that the present and future use of the facility is and shall remain subject to the terms and conditions described in this Agreement. The notice of grant shall be in a format specified by RCO.

SECTION 28. PROVISIONS RELATED TO CORPORATE (INCLUDING NONPROFIT) SPONSORS

A corporate Sponsor, including any nonprofit Sponsor, shall:

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

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

C. Maintain sites or facilities open to the public and may not limit access to members.

SECTION 29. PROVISIONS FOR FEDERAL SUBAWARDS ONLY

The following provisions shall be in force only if the project described in this Agreement is funded with a federal subaward as identified in Section H: FEDERAL FUND Information:

A. **Sub-Recipient** (Sponsor) must comply with the cost principles of 2 C.F.R. Part 200 Subpart E (2013). Unless otherwise indicated, the cost principles apply to the use of funds provided under this Agreement to include match and any in-kind matching donations. The applicability of the cost principles depends on the type of organization incurring the costs.

B. **Binding Official.** Per 2 CFR 200.415, Sponsor certifies through its actions or those of authorized staff, at the time of a request for reimbursement, the following: "To the best of my knowledge and belief that the report is true, complete, and accurate, and the expenditures, disbursements and cash receipts are for the purposes and objectives set forth in the terms and conditions of the Federal award. I am aware that any false, fictitious, or fraudulent information, or the omission of any material fact, may subject me to criminal, civil or administrative penalties for fraud, false statements, false claims or otherwise. (U.S. Code Title 18, Section 1001 and Title 31, Sections 3729-3730 and 3801-3812)."

1. **Federally Assisted Construction Contract.** The regulation at 41 C.F.R. § 60-1.3 defines a “federally assisted construction contract” as any agreement or modification thereof between any applicant and a person for construction work which is paid for in whole or in part with funds obtained from the Government or borrowed on the credit of the Government pursuant to any Federal program involving a grant, contract, loan, insurance, or guarantee, or undertaken pursuant to any Federal program involving such grant, contract, loan, insurance, or guarantee, or any application or modification thereof approved by the Government for a grant, contract, loan, insurance, or guarantee under which the applicant itself participates in the construction work.

2. **Construction Work.** The regulation at 41 C.F.R. § 60-1.3 defines “construction work” as the construction, rehabilitation, alteration, conversion, extension, demolition or repair of buildings, highways, or other changes or improvements to real property, including facilities providing utility services. The term also includes the supervision, inspection, and other onsite functions incidental to the actual construction.

D. **Davis-Bacon Act, as amended (40 U.S.C. 3141-3148).** When required by federal program legislation, all prime construction contracts in excess of $2,000 awarded by non-federal entities (Sponsors) must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 3141-3148) as supplemented by Department of Labor regulations (29 C.F.R. § 5, “Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction”).

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

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

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

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

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

H. Byrd Anti-Lobbying Amendment (31 U.S.C. 1352). By signing this Agreement, the Sponsor certifies (per the certification requirements of 31 U.S.C.) that none of the funds that the Sponsor has (directly or indirectly) received or will receive for this project from the United States or any agency thereof, have been used or shall be used to engage in the lobbying of the Federal Government or in litigation against the United States. Such lobbying includes any influence or attempt to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this project. Contractors that apply or bid for an award exceeding $100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-federal funds that takes place in connection with obtaining any federal award. Such disclosures are forwarded from tier to tier up to the non-federal award.
I. **Procurement of Recovered Materials.** A non-federal entity (Sponsor) that is a state agency or agency of a political subdivision of a state and its contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 C.F.R part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds $10,000 or the value of the quantity acquired during the preceding fiscal year exceeded $10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

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

K. **Debarment and Suspension (Executive Orders 12549 and 12689).** The Sponsor must not award a contract to parties listed on the government-wide exclusions in the System for Award Management (SAM), in accordance with the Office of Management and Budget (OMB) guidelines at 2 C.F.R § 180 that implement Executive Orders 12549 (3 C.F.R part 1986 Comp., p. 189) and 12689 (3 C.F.R part 1989 Comp., p. 235), "Debarment and Suspension." SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

L. **Conflict of Interest.** Sponsor agrees to abide by the conflict of interest policy and requirements of the federal funding agency established pursuant to 2 C.F.R 200.

**SECTION 30. PROVISIONS FOR BOATING INFRASTRUCTURE GRANTS**

A. **Use of Sport Fish Restoration Logo.** Per 50 CFR 86 Sec 75 and 76, the user of the logo must indemnify and defend the United States and hold it harmless from any claims, suits, losses, and damages from: any allegedly unauthorized use of any patent, process, idea, method, or device by the user in connection with its use of the logo, or any other alleged action of the user; and any claims, suits, losses, and damages arising from alleged defects in the articles or services associated with the logo. No one may use any part of the logo in any other manner unless the United States Fish and Wildlife Service’s Assistant Director for Wildlife and Sport Fish Restoration or Regional Director approves in writing.

**SECTION 31. PROVISIONS FOR FIREARMS AND ARCHERY RANGE RECREATION PROJECTS ONLY**

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

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

B. **Insurance Endorsement.** The liability insurance policy, including any endorsement or addition, shall name Washington State, the funding board, and RCO as additional insured and shall be in a form approved by the funding board or director.
C. **Length of Insurance.** The policy, endorsement or other addition, or a similar liability insurance policy meeting the requirements of this section, shall be kept in force throughout the Sponsor's obligation to the project as identified in this Agreement in Section F. LONG-TERM OBLIGATIONS.

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

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

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

**SECTION 32. PROVISIONS FOR LAND AND WATER CONSERVATION FUND PROJECTS ONLY**

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

**SECTION 33. PROVISIONS FOR FARM AND FOREST ACCOUNT PROJECTS (FARMLAND AND FORESTLAND PRESERVATION PROJECTS ONLY)**

The following sections will not apply to Farmland and Forestland Preservation Projects if covered separately in a recorded RCO approved Agricultural Conservation Easement, or Forest Conservation Easement (or other method):

A. Section 15 - Income and Income Use;
B. Section 19 - Stewardship and Monitoring;
C. Section 21 - Acknowledgement and Signs;
D. Section 24 -- Provisions Applying To Acquisition Projects, Sub-sections D, F, and G;
E. Section 25C -Perpetuity; and
F. Section 26 -- Construction, Operation, Use and Maintenance of Assisted Projects.

**SECTION 34. PROVISIONS FOR SALMON RECOVERY FUNDING BOARD PROJECTS ONLY**

For habitat restoration projects funded in part or whole with federal funds administered by the SRFB the Sponsor shall not commence with clearing of riparian trees or in-water work unless either the Sponsor has complied with 50 C.F.R. § 223.203 (b)(8) (2000), limit 8 or until an Endangered Species Act consultation is finalized in writing by the National Oceanic and Atmospheric Administration. Violation of this requirement may be grounds for terminating this Agreement. This section shall not be the basis for any enforcement responsibility by RCO.
SECTION 35. PROVISIONS FOR PUGET SOUND ACQUISITION AND RESTORATION PROJECTS ONLY

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

The Sponsor agrees to the following terms and conditions:

A. Cost Principles/Indirect Costs For State Agencies. GRANT RECIPIENT agrees to comply with the cost principles of 2 CFR 200 Subpart E as appropriate to the award. In addition to the US Environmental Protection Agency’s General Terms and Conditions “Indirect Cost Rate Agreements,” if the recipient does not have a previously established indirect cost rate, it agrees to prepare and submit its indirect cost rate proposal in accordance with 2 CFR 200 Appendix VII.

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

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

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

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

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

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

The sub-recipient (Sponsor), and all sub-awardees of sub-recipient (Sponsor) must inform RCO immediately of any information you receive from any source alleging a violation of this prohibition during the award term.
The federal agency funding this Agreement may unilaterally terminate, without penalty, the funding award if this prohibition is violated, Section 106 of the Trafficking Victims Protection Act of 2000, as amended.

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

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

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

All contracts awarded by Sponsor shall contain, when applicable, the anti-lobbying provisions as stipulated in the Appendix at 40 C.F.R. Part 30.

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

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

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

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

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

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

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

1. Include qualified minority and women's businesses on solicitation lists.
2. Assure that qualified minority and women's business are solicited whenever they are potential sources of services or supplies.
3. Divide the total requirements, when economically feasible, into smaller tasks or quantities, to permit maximum participation by qualified minority and women’s businesses.

4. Establish delivery schedules, where work requirements permit, which will encourage participation of qualified minority and women’s businesses.

5. Use the services and assistance of the State Office of Minority and Women’s Business Enterprises (OMWBE) and the Office of Minority Business Enterprises of the U.S. Department of Commerce, as appropriate.

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

1. There are any funds budgeted in the contractual/services, equipment or construction lines of the award;

2. $3,000 or more is included for supplies; or

3. There are funds budgeted for subawards or loans in which the expected budget(s) meet the conditions as

4. Described in items (a) and (b).

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

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

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

Final MBE/WBE reports must be submitted within 90 days after the project period of the grant ends. To be in compliance with regulations, the Sponsor must submit a final MBE/WBE report. Non-compliance may impact future competitive grant proposals. The current EPA Form 5700-52A can be found at the EPA Office of Small Business Program’s Home Page at http://www.epa.gov/osbp/dbe_reporting.htm.

L. Procurement involving an EPA Financial Assistance Agreement. Pursuant to 40 C.F.R. § 33.301, the Sponsor agrees to make the following six good faith efforts whenever procuring construction, equipment, services and supplies under an EPA financial assistance agreement, and to require that sub-recipients (Sponsors), and prime contractors also comply. Records documenting compliance with the six good faith efforts shall be retained:

1. Ensure Disadvantaged Business Enterprise (DBEs) are made aware of contracting opportunities to the fullest extent practicable through outreach and recruitment activities. For Indian Tribal, State and Local and Government Sponsors, this will include placing DBEs on solicitation lists and soliciting them whenever they are potential sources.
2. Make information on forthcoming opportunities available to DBEs and arrange time frames for contracts and establish delivery schedules, where the requirements permit, in a way that encourages and facilitates participation by DBEs in the competitive process. This includes, whenever possible, posting solicitations for bids or proposals for a minimum of 30 calendar days before the bid or proposal closing date.

3. Consider in the contracting process whether firms competing for large contracts could subcontract with DBEs. For Indian Tribal, State and local Government Sponsors, this will include dividing total requirements when economically feasible into smaller tasks or quantities to permit maximum participation by DBEs in the competitive process.

4. Encourage contracting with a consortium of DBEs when an agreement is too large for one of these firms to handle individually.

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

6. If the Sponsor awards subcontracts, require the Sponsor to take the steps in paragraphs (a) through (e) of this section.

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

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

For subawards exceeding $100,000, EPA requires the following certification and disclosure forms:


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

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

Subagreements with firms for services that are awarded using the procurement requirements in 40 C.F.R. Parts 30 or 31, are not affected by this limitation unless the terms of the contract provide the recipient (Sponsor) with responsibility for the selection, direction and control of the individual who will be providing services under the contract at an hourly or daily rate of compensation. See 40 C.F.R. § 30.27(b) or 40 C.F.R. § 31.369(j), as applicable, for additional information.

As of January 1, 2014, the limit is $602.24 per day $75.28 per hour.
O. **Peer Review.** Where appropriate, prior to finalizing any significant technical products the Principal Investigator (PI) of this project must solicit advice, review, and feedback from a technical review or advisory group consisting of relevant subject matter specialists. A record of comments and a brief description of how respective comments are addressed by the PI will be provided to the Project Monitor prior to releasing any final reports or products resulting from the funded study.

P. **International Travel (Including Canada).** All International Travel must be approved by the US Environmental Protection Agency’s Office of International and Tribal Affairs (OITA) BEFORE travel occurs. Even a brief trip to a foreign country, for example to attend a conference, requires OITA approval. Please contact your Partnership Project manager as soon as possible if travel is planned out of the country, including Canada and/or Mexico, so that they can submit a request to the EPA Project Officer if they approve of such travel.

Q. **Unliquidated Obligations (ULO).** Sub-recipients, and all sub-awardees of Sub-Recipients, if any, should manage their agreement and subaward funding in ways that reduce the length of time that federal funds obligated and committed to subaward projects are unspent (not yet drawn down through disbursements to sub-recipients and sub-awardees).

**SECTION 36. ORDER OF PRECEDENCE**

This Agreement is entered into, pursuant to, and under the authority granted by applicable federal and state laws. The provisions of the Agreement shall be construed to conform to those laws. In the event of a direct and irreconcilable conflict between the terms of this Agreement and any applicable statute, rule, or policy or procedure, the conflict shall be resolved by giving precedence in the following order:

1. Federal law and binding executive orders;

2. Code of federal regulations;

3. Terms and conditions of a grant award to the state from the federal government;

4. Federal grant program policies and procedures adopted by a federal agency that are required to be applied by federal law;

5. State law (constitution, statute);

6. Washington Administrative Code;

7. Funding board or RCO policies.

**SECTION 37. LIMITATION OF AUTHORITY**

Only RCO’s Director or RCO’s delegate by writing (delegation to be made prior to action) shall have the authority to alter, amend, modify, or waive any clause or condition of this Agreement; provided that any such alteration, amendment, modification, or waiver of any clause or condition of this Agreement is not effective or binding unless made as a written amendment to this Agreement and signed by the RCO Director or delegate.

**SECTION 38. WAIVER OF DEFAULT**

Waiver of any default shall not be deemed to be a waiver of any subsequent default. Waiver or breach of any provision of the Agreement shall not be deemed to be a waiver of any other or subsequent breach and shall not be construed to be a modification of the terms of the Agreement unless stated to be such in writing, signed by the director, or the director’s designee, and attached as an amendment to the original Agreement.

**SECTION 39. APPLICATION REPRESENTATIONS – MISREPRESENTATIONS OR INACCURACY OR BREACH**
The funding board and RCO rely on the Sponsor’s application in making its determinations as to eligibility for, selection for, and scope of, funding grants. Any misrepresentation, error or inaccuracy in any part of the application may be deemed a breach of this Agreement.

SECTION 40. SPECIFIC PERFORMANCE

The funding board and RCO may enforce this Agreement by the remedy of specific performance, which usually will mean completion of the project as described in this Agreement and/or enforcement of long-term obligations. However, the remedy of specific performance shall not be the sole or exclusive remedy available to RCO. No remedy available to the funding board or RCO shall be deemed exclusive. The funding board or RCO may elect to exercise any, a combination of, or all of the remedies available to it under this Agreement, or under any provision of law, common law, or equity, including but not limited to seeking full or partial repayment of the grant amount paid and damages.

SECTION 41. TERMINATION AND SUSPENSION

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

A. For Cause.

1. The funding board or the director may suspend or terminate the obligation to provide funding to the Sponsor under this Agreement:
   a. If the Sponsor breaches any of the Sponsor’s obligations under this Agreement;
   b. If the Sponsor fails to make progress satisfactory to the funding board or director toward completion of the project by the completion date set out in this Agreement. Included in progress is adherence to milestones and other defined deadlines; or
   c. If the primary and secondary Sponsor(s) cannot mutually agree on the process and actions needed to implement the project;

2. Prior to termination, the RCO or the funding board shall notify the Sponsor in writing of the opportunity to cure. If corrective action is not taken within 30 days or such other time period that the director or board approves in writing, the Agreement may be terminated. In the event of termination, the Sponsor shall be liable for damages or other relief as authorized by law and/or this Agreement.

3. RCO reserves the right to suspend all or part of the Agreement, withhold further payments, or prohibit the Sponsor from incurring additional obligations of funds during the investigation of any alleged breach and pending corrective action by the Sponsor, or a decision by the RCO to terminate the Contract.

B. For Convenience. Except as otherwise provided in this Agreement, RCO may, by ten (10) days written notice, beginning on the second day after the mailing, terminate this Agreement, in whole or in part when it is in the best interest of the state. If this Agreement is so terminated, RCO shall be liable only for payment required under the terms of this Agreement prior to the effective date of termination. A claimed termination for cause shall be deemed to be a "Termination for Convenience" if it is determined that:

1. The Sponsor was not in default; or
2. Failure to perform was outside Sponsor’s control, fault or negligence.
C. Rights of Remedies of the RCO.

1. The rights and remedies of RCO provided in this Agreement are not exclusive and are in addition to any other rights and remedies provided by law.

2. In the event this Agreement is terminated by the funding board or director, after any portion of the grant amount has been paid to the Sponsor under this Agreement, the funding board or director may require that any amount paid be repaid to RCO for redeposit into the account from which the funds were derived. However, any repayment shall be limited to the extent it would be inequitable and represent a manifest injustice in circumstances where the project will fulfill its fundamental purpose for substantially the entire period of performance and of long-term obligation.

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

1. Suspension: The obligation of the RCO to manage contract terms and make payments is contingent upon the state appropriating state and federal funding each biennium. In the event the state is unable to appropriate such funds by the first day of each new biennium RCO reserves the right to suspend the Agreement, with ten (10) days written notice, until such time funds are appropriated. Suspension will mean all work related to the contract must cease until such time funds are obligated to RCO and the RCO provides notice to continue work.

SECTION 42. DISPUTE HEARING

Except as may otherwise be provided in this Agreement, when a dispute arises between the Sponsor and the funding board, which cannot be resolved, either party may request a dispute hearing according to the process set out in this section. Either party’s request for a dispute hearing must be in writing and clearly state:

A. The disputed issues;

B. The relative positions of the parties;

C. The Sponsor’s name, address, project title, and the assigned project number;

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

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

The parties shall be bound by the decision of the disputes panel, unless the remedy directed by that panel shall be without the authority of either or both parties to perform, as necessary, or is otherwise unlawful.
Request for a dispute hearing under this section by either party shall be delivered or mailed to the other party. The request shall be delivered or mailed within thirty (30) days of the date the requesting party has received notice of the action or position of the other party which it wishes to dispute. The written agreement to use the process under this section for resolution of those issues shall be delivered or mailed by the receiving party to the requesting party within thirty (30) days of receipt by the receiving party of the request.

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

SECTION 43. ATTORNEYS' FEES

In the event of litigation or other action brought to enforce contract terms, each party agrees to bear its own attorney fees and costs.

SECTION 44. GOVERNING LAW/VENUE

This Agreement shall be construed and interpreted in accordance with the laws of the State of Washington. In the event of a lawsuit involving this Agreement, venue shall be in Thurston County Superior Court if legally proper; otherwise venue shall be in a county where the project is situated, if venue there is legally proper, and if not, in a county where venue is legally proper. The Sponsor, by execution of this Agreement acknowledges the jurisdiction of the courts of the State of Washington.

SECTION 45. PROVISIONS APPLICABLE ONLY IF FEDERALLY RECOGNIZED INDIAN TRIBE IS THE SPONSOR

In the cases where this Agreement is between the funding board (which includes the State of Washington for purposes of this Agreement) and a federally recognized Indian Tribe, the following terms and conditions apply, but only between those parties:

A. Notwithstanding the above venue provision, if the State of Washington intends to initiate legal action against a federally recognized Indian tribe relating to the performance, breach, or enforcement of this Agreement, it shall so notify the Tribe. If the Tribe believes that a good faith basis exists for subject matter jurisdiction of such an action in federal court, the Tribe shall so notify the State within five days of receipt of such notice and state the basis for such jurisdiction. If the Tribe so notifies the State, the State shall bring such action in federal court; otherwise the State may sue the Tribe in the Thurston County Superior Court, or such other superior court where venue is proper, if not proper in Thurston County. Interpretation of the Agreement shall be according to applicable State law, except to the extent preempted by federal law. In the event suit is brought in federal court and the federal court determines that it lacks subject matter jurisdiction to resolve the dispute between the State and Tribal Party, then the State may bring suit in Thurston County Superior Court or such other superior court where venue is proper, if not proper in Thurston County.

B. Any judicial award, determination, order, decree or other relief, whether in law or equity or otherwise, resulting from such actions under subsection A above, shall be binding and enforceable on the parties. Any money judgment or award against a Tribe, tribal officers, or employees, or the State of Washington, its agencies, or its officers and employees may exceed the amount of funding awarded under this Agreement.

C. As requested by RCO, the Tribe shall provide to RCO its governing requirements and procedures for entering into Agreement with RCO and waiving its sovereign immunity. In addition, the tribe shall provide to RCO all authorizations the Tribe requires to authorize the person(s) signing the Agreement on the Tribe’s behalf to bind the Tribe and waive the Tribe’s sovereign immunity as provided herein.
D. The Tribe hereby waives its sovereign immunity for suit in federal and state court for the limited purposes of allowing the State to bring and prosecute to completion such actions relating to the performance, breach, or enforcement of this Agreement as provided in subsection A above, and to bring actions to enforce any judgment arising from such actions. This waiver is not for the benefit of any third party and shall not be enforceable by any third party or by any assignee of the parties. In any enforcement action, the parties shall bear their own enforcement costs, including attorneys' fees.

For purposes of this provision, the State includes the funding board, the RCO, and any other state agencies as the term "agency" is broadly understood to include, but not be limited to, departments, commissions, boards, divisions, bureaus, committees, offices, councils, societies, etc.

SECTION 46. SEVERABILITY

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

Project Sponsor: Whatcom County
Project Title: Whatcom County - Anderson Creek Area Acquisitions
Program: WWRP - Farmland Preservation
Project Number: 16-1942
Project Type: Acquisition
Approval: 2/1/2018

Project Metrics

Project Planning
Site Stewardship Plan (yes/no): Yes

Acquisition Metrics

Property: Carbee (Worksite #1, Whatcom County)

Real Property Acquisition
Farmland easement
Acres by Acreage Type (Farmland):
Lake 0.00
Riparian 0.00
Tidelands 0.00
Wetlands 1.00
Uplands 45.37
Number of development rights acquired: 13
This number could be lowered to 6-7 depending on residential water availability.
Number of development rights retained: 1
Number of building envelopes within the easement area: 2
Structures that lie within the building envelopes: Barn, Residence, Shed, Shop
Percent of impervious surface: 2.70
Select the water rights associated with this property: Claim, Well

Incidentals
Appraisal
Appraisal Review
Baseline Documentation
Closing, Recording, Taxes, Title
Survey (Acq)

Administrative Costs (Acq)
Administrative costs (Acq)

Property: Greenwood (Worksite #1, Whatcom County)
Eligible Scope Activities

Real Property Acquisition

Farmland easement

Acres by Acreage Type (Farmland):
Lake
Tidelands
Riparian
Wetlands
Uplands
Number of development rights acquired:

Number of development rights retained:
Number of building envelopes within the easement area:
Structures that lie within the building envelopes:
Percent of impervious surface:
Select the water rights associated with this property:

Incidentals

Appraisal
Appraisal Review
Baseline Documentation
Closing, Recording, Taxes, Title
Survey (Acq)

Administrative Costs (Acq)
Administrative costs (Acq)

Property: Grubbs (Worksite #1, Whatcom County)

Real Property Acquisition

Farmland easement

Acres by Acreage Type (Farmland):
Lake
Tidelands
Riparian
Wetlands
Uplands
Number of development rights acquired:
Number of development rights retained:
Number of building envelopes within the easement area:
Structures that lie within the building envelopes:
Percent of impervious surface:
Select the water rights associated with this property:

Incidentals

Appraisal
Appraisal Review
Baseline Documentation
Closing, Recording, Taxes, Title
Survey (Acq)

Administrative Costs (Acq)
Administrative costs (Acq)
### Milestone Report By Project

**Project Number:** 16-1942 A  
**Project Name:** Whatcom County - Anderson Creek Area Acquisitions  
**Sponsor:** Whatcom County of  
**Project Manager:** Kim Sellers

<table>
<thead>
<tr>
<th>X</th>
<th>Milestone</th>
<th>Target Date</th>
<th>Comments/Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>X</td>
<td>Cultural Resources Complete</td>
<td>10/31/2016</td>
<td>NRCS federal review</td>
</tr>
<tr>
<td>X</td>
<td>Order Appraisal(s)</td>
<td>03/25/2017</td>
<td></td>
</tr>
<tr>
<td>X</td>
<td>Submit Draft Easement to RCO</td>
<td>02/28/2018</td>
<td></td>
</tr>
<tr>
<td>X</td>
<td>Baseline Documentation to RCO</td>
<td>02/28/2018</td>
<td></td>
</tr>
<tr>
<td>X</td>
<td>Stewardship Plan to RCO</td>
<td>02/28/2018</td>
<td></td>
</tr>
<tr>
<td>X</td>
<td>Project Start</td>
<td>03/01/2018</td>
<td></td>
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<tr>
<td></td>
<td>Order Appraisal Review(s)</td>
<td>03/31/2018</td>
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<tr>
<td></td>
<td>Purchase Agreement Signed</td>
<td>03/31/2018</td>
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<td></td>
<td>Acquisition Closing</td>
<td>05/31/2018</td>
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<td>Progress Report Due</td>
<td>07/31/2018</td>
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<tr>
<td></td>
<td>Annual Project Billing Due</td>
<td>07/31/2018</td>
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<tr>
<td></td>
<td>Progress Report Due</td>
<td>12/03/2018</td>
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<tr>
<td></td>
<td>Recorded Acq Documents to RCO</td>
<td>12/31/2018</td>
<td></td>
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<td></td>
<td>Recorded Land Survey to RCO</td>
<td>12/31/2018</td>
<td></td>
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<tr>
<td></td>
<td>Final Report Due</td>
<td>02/28/2019</td>
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</tr>
<tr>
<td></td>
<td>Agreement End Date</td>
<td>02/28/2019</td>
<td></td>
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<tr>
<td></td>
<td>RCO Final Inspection</td>
<td>02/28/2019</td>
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<tr>
<td></td>
<td>Final Billing Due</td>
<td>03/31/2019</td>
<td></td>
</tr>
</tbody>
</table>

X = Milestone Complete  
! = Critical Milestone
**TITLE OF DOCUMENT:**
Contract Amendment: Whatcom County Enhanced PIC Program

**ATTACHMENTS:**
Grant Amendment, Memo, Contract Information Sheet

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

This amendment to the interagency agreement between the Washington State Department of Health and the Whatcom County Flood Control Zone District, provides additional funds and a time extension to support the Pollution Identification and Correction (PIC) Program through an additional farm planner at the Whatcom Conservation District (through a separate agreement), incentive programs (septic maintenance rebate and small farm workshop rebate), community outreach materials, a pilot social marketing campaign for routine septic system evaluations and maintenance, and a time extension of other grant supported PIC Program staff.
TO: The Honorable Jack Louws, Whatcom County Executive, and Honorable Members of the Flood Control Zone District Board of Supervisors

THROUGH: Jon Hutchings, Public Works Director

FROM: Gary Stoyka, Natural Resources Manager
       Erika Douglas, Senior Planner

DATE: March 7, 2018

RE: Grant Amendment between Washington State Department of Health and Whatcom County Flood Control Zone District for Pollution Identification and Correction (PIC) Program

Please find enclosed for your review and signature two (2) originals of an amendment to grant agreement #N22509 (WCC #201705027) between the State of Washington Department of Health and Whatcom County Flood Control Zone District to support implementation of the Pollution Identification and Correction (PIC) Program.

Requested Action
Public Works respectfully requests that the Flood Control Zone District Board of Supervisors authorize the County Executive to sign the amendment to the interagency agreement to support the PIC Program.

Background and Purpose
This amendment to the interagency agreement between the Washington State Department of Health and the Whatcom County Flood Control Zone District provides additional funds and a time extension to support the Pollution Identification and Correction (PIC) Program. Amendment funds support an additional farm planner at the Whatcom Conservation District (through a separate agreement), incentive programs (septic maintenance rebate and small farm workshop rebate), community outreach materials, a pilot social marketing campaign for routine septic system evaluations and maintenance, and a time extension of other grant supported PIC Program staff.

Funding Amount and Source
This amendment to the interagency agreement with the Washington State Department of Health provides an additional $300,000 for a total budget of $1,015,000 to complete tasks as outlined in the scope of work. Please contact Gary Stoyka at extension 6218 or Erika Douglas at 6294 if you have any questions or concerns regarding the terms of this agreement.

Encl.
[Table]

<table>
<thead>
<tr>
<th>Originating Department:</th>
<th>Public Works</th>
</tr>
</thead>
<tbody>
<tr>
<td>Division/Program:</td>
<td>Natural Resources/ PIC Program 950530</td>
</tr>
<tr>
<td>Contract or Grant Administrator:</td>
<td>Erika Douglas</td>
</tr>
<tr>
<td>Contractor's / Agency Name:</td>
<td>Washington State Department of Health</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Question</th>
<th>Yes</th>
<th>No</th>
</tr>
</thead>
<tbody>
<tr>
<td>Is this a New Contract?</td>
<td></td>
<td></td>
</tr>
<tr>
<td>If not, is this an Amendment or Renewal to an Existing Contract?</td>
<td>Yes X</td>
<td>No</td>
</tr>
<tr>
<td>Does contract require Council Approval?</td>
<td>Yes X</td>
<td>No</td>
</tr>
<tr>
<td>Is this a grant agreement?</td>
<td>Yes X</td>
<td>No</td>
</tr>
<tr>
<td>If yes, grantor agency contract number(s):</td>
<td>N22509</td>
<td>CFDA#: 66.123</td>
</tr>
<tr>
<td>Is this contract grant funded?</td>
<td></td>
<td></td>
</tr>
<tr>
<td>If yes, Whatcom County grant contract number(s):</td>
<td></td>
<td></td>
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<tr>
<td>Is this the result of a RFP or Bid process?</td>
<td>Yes</td>
<td>No X</td>
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<td>If yes, RFP and Bid number(s):</td>
<td>Contract</td>
<td>Cost Center: 813002</td>
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</tbody>
</table>

| Is this agreement excluded from E-Verify?   | No | Yes X |

If YES, indicate exclusion(s) below:
- [ ] Professional services agreement for certified/licensed professional.
- [ ] Contract work is for less than $100,000.
- [ ] Contract work is for less than 120 days.
- [X] Interlocal Agreement (between Governments).
- [ ] Contract for Commercial off the shelf items (COTS).
- [ ] Work related subcontract less than $25,000.
- [ ] Public Works - Local Agency/Federally Funded FHWA.

| Contract Amount: (sum of original contract amount and any prior amendments): | $ 715,000 |
| This Amendment Amount: | $ 300,000 |
| Total Amended Amount: | $ 1,015,000 |

<table>
<thead>
<tr>
<th>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:</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Exercising an option contained in a contract previously approved by the council.</td>
</tr>
<tr>
<td>2. Contract is for design, construction, r-o-w acquisition, prof. services, or other capital costs approved by council in a capital budget appropriation ordinance.</td>
</tr>
<tr>
<td>3. Bid or award is for supplies.</td>
</tr>
<tr>
<td>4. Equipment is included in Exhibit “B” of the Budget Ordinance</td>
</tr>
<tr>
<td>5. 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 grant amendment provides support the Pollution Identification and Correction (PIC) Program through an additional farm planner at the Whatcom Conservation District (through a separate agreement), incentive programs (septic maintenance rebate and small farm workshop rebate), community outreach materials, a pilot social marketing campaign for routine septic system evaluations and maintenance, and a time extension of other grant supported PIC Program staff.

<table>
<thead>
<tr>
<th>Term of Contract:</th>
<th>Expiration Date:</th>
<th>March 31, 2020</th>
</tr>
</thead>
<tbody>
<tr>
<td>Contract Routing:</td>
<td>Date: 3/7/18</td>
<td></td>
</tr>
<tr>
<td>1. Prepared by:</td>
<td>Date: 03/08/18</td>
<td></td>
</tr>
<tr>
<td>ED</td>
<td>Date: 3/7/18</td>
<td></td>
</tr>
<tr>
<td>2. Attorney signoff: Daniel L. Gibson</td>
<td></td>
<td></td>
</tr>
<tr>
<td>M Caldwell</td>
<td>Date: 3/16-18</td>
<td></td>
</tr>
<tr>
<td>3. AS Finance reviewed:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>4. IT reviewed (if IT related):</td>
<td></td>
<td></td>
</tr>
<tr>
<td>5. Contractor signed:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>6. Submitted to Exec.:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>7. Council approved (if necessary):</td>
<td></td>
<td></td>
</tr>
<tr>
<td>8. Executive signed:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>9. Original to Council:</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
# CONTRACT AMENDMENT

1. **NAME OF CONTRACTOR**
   Whatcom County Flood Control Zone District

1a. **ADDRESS OF CONTRACTOR (STREET)**
   322 North Commercial, Suite 110

1b. **CITY, STATE, ZIP CODE**
   Bellingham, WA 98225

2. **CONTRACT NUMBER**
   N22509 (Changed to GVL22509)
   Whatcom County Contract No. 201705027

2a. **AMENDMENT NUMBER**
   1

3. **THIS ITEM APPLIES ONLY TO BILATERAL AMENDMENTS.**
   The Contract identified herein, including any previous amendments thereto, is hereby amended as set forth in Item 5 below by mutual consent of all parties hereto.

4. **THIS ITEM APPLIES ONLY TO UNILATERAL AMENDMENTS.**
   The Contract identified herein, including any previous amendments thereto, is hereby unilaterally amended as set forth in Item 5 below pursuant to that changes and modifications clause as contained therein.

5. **DESCRIPTION OF AMENDMENT:**
   The purpose of this amendment is to change the contract number, to add to the Statement of Work, to add additional funding and to extend the Period of Performance. These activities will allow for continued implementation of water quality Closure Response Plans (CRP) associated with established Shellfish Protection Districts (SPD) and Clean Water Districts (CWD) in Whatcom County.

   5.a **Contract Number:** The contract number is changed from N22509 to GVL22509. Any reference to N22509 in any exhibit or attachment to this contract shall be changed to GVL22509.

   5.b **Statement of Work:** Exhibit A is revised in accordance with Exhibit A-1, attached hereto and incorporated herein.

   5.c **Consideration:** This amendment increases the Contract Consideration by $300,000; therefore, the revised maximum consideration of this contract and all amendments shall not exceed $1,015,000.

   **Source of Funds for this Amendment:** (FED) $300,000; (ST) $0.; (Other) $0.; Total $300,000

   Contractor agrees to comply with applicable rules and regulations associated with these federal funds.

   5.d **Period of Performance:** is extended, through March 31, 2020.

   5.e **The Effective Date of this Amendment:** is the Date of Execution.

6. All other terms and conditions of the original contract and any subsequent amendments thereto remain in full force and effect.

7. ☑ This is a unilateral amendment. Signature of contractor is not required below.
   ☑ Contractor hereby acknowledges and accepts the terms and conditions of this amendment. Signature is required below.

8. **CONTRACTOR SIGNATURE (also, please print/type your name) **
   
   **DATE**

9. **DOH CONTRACTING OFFICER SIGNATURE**
   
   **DATE**

This document has been approved as to form only by the Assistant Attorney General.
WHATCOM COUNTY:
Recommended for Approval:

Jon Hutchings, Public Works Director
Date

Approved as to form:

Daniel L. Gibson
Chief Civil Deputy Prosecuting Attorney
Date

Approved:
Accepted for Whatcom County on behalf of the Whatcom County Flood Control Zone District:

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 ___________________
## Federal Grant Information Sheet

<table>
<thead>
<tr>
<th>Subrecipient/Contractor (Title)</th>
<th>WHATCOM COUNTY PUBLIC WORKS</th>
<th>DOH Contract Manager</th>
<th>Contact Information</th>
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<tbody>
<tr>
<td>Contract #</td>
<td>GVL22509-1</td>
<td>Kirsten Weinmeister</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td><a href="mailto:Kirsten.Weinmeister@doh.wa.gov">Kirsten.Weinmeister@doh.wa.gov</a></td>
<td>Tracy Farrell</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(360) 236-3307</td>
<td><a href="mailto:Tracy.Farrell@doh.wa.gov">Tracy.Farrell@doh.wa.gov</a></td>
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<td>DUNS #</td>
<td>060044841</td>
<td>Approved Indirect Rate</td>
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<td>Period of Performance</td>
<td>DOE— March 31, 2020</td>
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<tr>
<td>Project Description</td>
<td>NTA # 2016-0054</td>
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<table>
<thead>
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<th>Federal Award Date</th>
<th>Federal Agency Name</th>
<th>Total Amount of the Federal Award to DOH</th>
<th>CFDA #</th>
<th>CFDA Program Title</th>
<th>Name of Pass Through Agency</th>
<th>Amount of Federal Funds Obligated by This Action</th>
<th>Total Amount of Federal Funds Obligated for This Funding Source</th>
<th>Research and Development</th>
<th>Limiting Indirect Cost Rate</th>
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<td>PC01J18001-0</td>
<td>8/2/2016</td>
<td>United States Environmental Protection Agency</td>
<td>$5,000,000</td>
<td>66.123</td>
<td>Puget Sound Action Agenda: Technical Investigations and Implementation Assistance Program</td>
<td>WA Dept. of Health</td>
<td>$300,000</td>
<td>1,015,000</td>
<td>No</td>
<td>N/A</td>
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</tbody>
</table>
OVERVIEW
This project comprises Whatcom County's component of the Whatcom Clean Water Program (WCWP). The WCWP is a partnership of local, state, and federal agencies and tribes working together to reduce bacteria pollution affecting shellfish growing areas in Whatcom County. Through the "Whatcom County Enhanced Pollution Identification and Correction (PIC) Program" Near Term Action (NTA), Whatcom County Public Works (WCPW) will expand the scope of the PIC program's geographic coverage, improve data management and coordination, further interagency coordination, expand partnerships, and address emerging issues. The goal of this enhanced program is to meet water quality standards for fecal coliform in the focus area creeks, protect recently upgraded shellfish acreage in Drayton Harbor, upgrade 128 acres of shellfish growing areas in Birch Bay by 2018, and reduce bacteria levels in Portage Bay to support a shellfish area upgrade of 500 acres by 2020.

PIC program coordination and the coordinator's community engagement and landowner contact work, in addition to water quality monitoring components of the PIC program, receive local Whatcom County Flood Control Zone District Fund support and are not included as tasks in this agreement. Similarly, Whatcom County Health Department (WCHD) is funded through a local fee to implement an on-site sewage system (OSS) program of regulatory oversight and homeowner education and notification regarding proper OSS operation and maintenance. Local funding also supports tasks for WCHD staff to respond to referrals/complaints and conduct investigations regarding potential OSS pollution sources. This agreement describes and includes only the components of the PIC program that will be supported through National Estuary Program (NEP) funds.

The project builds upon the current PIC program strategy to engage community members for long-term stewardship practices rather than quick, temporary fixes. WCPW initiated the successful current PIC program strategy in late 2014 in the Drayton Harbor watershed. Proposed enhancements include expanding the geographic coverage area in the Nooksack River watershed, adapting landowner contact strategies to address potential bacteria sources and barriers, enhancing and expanding the community outreach program throughout Whatcom County coastal drainages, expanding incentive programs to engage more landowners in long-term stewardship, and increasing the measurable outcomes.

WCPW and will coordinate data management with the Whatcom Conservation District (WCD) to analyze data and prioritize focus areas for bacterial reduction efforts. WCPW will determine expansion into new geographic areas based on staff capacity to provide technical assistance to landowners, operators, and/or residents. Source tracking work will continue in existing focus areas until bacterial reduction goals are met. With Whatcom Clean Water Program partners, WCPW and WCD will conduct field surveys in focus areas/hot spots to identify potential bacteria sources. WCPW and WCD will pursue contacts with landowners, operators and/or residents through established and new processes (developed...
to address identified barriers) tailored to the potential bacteria sources. WCPW will track PIC program landowner/operator/resident contacts and parcel status. Regular field staff meetings will be held with local and state agency representatives to increase effectiveness and coordination of contacts and follow up actions throughout Whatcom County. Barriers that cannot be addressed at the field staff level will be forwarded to the PIC Managers Team that will meet on a regular basis. The PIC Managers will review barriers and provide solutions through policy guidance to the field staff, assisting with the development of new policies where feasible, or forwarding to the WCWP Core Group.

GOALS & MEASURABLE OBJECTIVES
This simply summarizes key deliverables and measures called out in the tasks below. This table is a component of the FEATS report.

<table>
<thead>
<tr>
<th>Description</th>
<th>Units</th>
<th>Targets</th>
</tr>
</thead>
<tbody>
<tr>
<td>Maintain Drayton Harbor Upgrade of 810 acres</td>
<td>Acres</td>
<td>810</td>
</tr>
<tr>
<td>Upgrade 128 acres from Prohibited to Approved in Birch Bay</td>
<td>Acres</td>
<td>128</td>
</tr>
<tr>
<td>Move status of 5 stations from failing to “threatened” or “of concern” in Portage Bay shellfish growing areas</td>
<td>Stations</td>
<td>5</td>
</tr>
<tr>
<td>Improve water quality in at least four focus areas to meet FC standards in 30% of routine stations by December 2018</td>
<td>% stations</td>
<td>30%</td>
</tr>
<tr>
<td>Weekly/biweekly field staff meetings to coordinate property contacts and tracking potential sources</td>
<td>Meetings</td>
<td>26</td>
</tr>
<tr>
<td>Recon studies of four focus areas per year. Information will be summarized through tables and maps</td>
<td>Studies</td>
<td>6</td>
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<tr>
<td>Number of direct landowner contacts in Drayton Harbor watershed (fecal coliform bacteria related)</td>
<td>Contacts</td>
<td>150/year</td>
</tr>
<tr>
<td>Description</td>
<td>Contacts</td>
<td>Value</td>
</tr>
<tr>
<td>------------------------------------------------------------------------------</td>
<td>----------</td>
<td>--------</td>
</tr>
<tr>
<td>Number of direct landowner contacts in Nooksack watershed (fecal coliform</td>
<td></td>
<td>150/year</td>
</tr>
<tr>
<td>bacteria related)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Number of incentives provided (OSS rebates, small farm workshop rebates,</td>
<td></td>
<td>400</td>
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<tr>
<td>community event and technical assistance incentives)</td>
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<td></td>
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<tr>
<td>Number of landowner/operator/residents with potential non-dairy agriculture</td>
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<td>75/yr.</td>
</tr>
<tr>
<td>in the Drayton Harbor watershed directly contacted each year.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Number of landowner/operator/residents with potential non-dairy agriculture</td>
<td></td>
<td>75/yr.</td>
</tr>
<tr>
<td>in the Lower Nooksack River watershed directly contacted each year.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Percent of contacted parcels with potential non-dairy agricultural activities</td>
<td></td>
<td>50%</td>
</tr>
<tr>
<td>in the Drayton Harbor watershed with level of risk reduced</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Percent of contacted parcels with potential non-dairy agricultural activities</td>
<td></td>
<td>50%</td>
</tr>
<tr>
<td>in the Nooksack River watershed with level of risk reduced</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Number of referrals to regulatory agency</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Percentage of referrals (to PDS, ECY, WSDA, or WC Health) with level of</td>
<td></td>
<td></td>
</tr>
<tr>
<td>risk reduced</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Number of community events participated in by Whatcom County</td>
<td></td>
<td>5</td>
</tr>
</tbody>
</table>
EXHIBIT A-1 STATEMENT OF WORK
DOH Contract #GVL.22509-1
WHATCOM COUNTY – ENHANCED PIC PROGRAM
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<table>
<thead>
<tr>
<th>Number of newsletters distributed</th>
<th>Newsletters</th>
<th>3000</th>
</tr>
</thead>
<tbody>
<tr>
<td>Number of seasonal newspaper ads published</td>
<td>Ads</td>
<td>2</td>
</tr>
<tr>
<td>Number of small farm technical assistance workshops</td>
<td>Workshops</td>
<td>4</td>
</tr>
<tr>
<td>Number of audiences and messages created for septic system campaign</td>
<td>Personal/Messages</td>
<td>3</td>
</tr>
<tr>
<td>Number of landowners with septic systems contacted through outreach campaign</td>
<td>Septic system owner contacts</td>
<td>3000</td>
</tr>
</tbody>
</table>

TASKS & DELIVERABLES
The following are the tasks, deliverables, and deadlines associated with this subaward:

**TASK 0. Project development**
This task must be completed before initiating any other work under this subaward. Work completed prior to the completion of Task 0 will be ineligible for reimbursement under this subaward.

0.1 Project Spatial Data and Climate Change assessment
In the tasks below subrecipients will create a detailed project outline and timeline to describe project expectations and outcomes. The detailed project plan will also identify how the objectives of the project will be evaluated, including quantifiable performance measures and targets. DOH will review project to see if actions may have climate change intersections. If there is a strong climate change interconnection, DOH will work with the subrecipient on how the project may be developed to be climate resilient. DOH will work with the subrecipient on the plan and establish mutual expectations.

Projects should provide relevant spatial data for their project and this should be identified in the detailed project plan. Projects should consult with technical staff and spatial analysts where appropriate to determine the spatial data, associated metadata, and data storage location that are relevant for the project. All projects should submit project coordinates (latitude, longitude) in decimal degrees.
0.2 Quality Assurance Project Plan (QAPP) Development
Sub-recipient will submit a Quality Assurance Project Plan (QAPP) Waiver form using after reviewing the Washington State Department of Ecology’s NEP Quality Assurance web page: [https://ecology.wa.gov/About-us/How-we-operate/Scientific-services/Quality-assurance/]. If a QAPP is required, sub-recipients will work with Ecology’s NEP Quality Coordinator -NEP QC to develop and approve the QAPP.

Work related to collecting or using environmental data may not begin until the QAPP waiver and QAPP are completed and approved. The detailed project plan (Task 1.1) may be appended to the QAPP waiver form in lieu of completing page 2.

0.3 Evaluation Plan (DOH template):
Complete short one page planning document describing your program’s plans for evaluation including data collection methods. Following project, used to discuss what the outcome results tell you about the impact and success of your program activities.

0.4 Effectiveness Consultation (if necessary)
Consult via telephone call with PSP effectiveness team regarding data you are gathering (30 mins). PSP effectiveness team will provide an analysis approach for the NTAs, about a paragraph per project. PSP effectiveness team will analyze NTA effectiveness and will present results to the SIAT.

<table>
<thead>
<tr>
<th>Number</th>
<th>Deliverable</th>
<th>Reimbursement</th>
<th>Completion date</th>
</tr>
</thead>
<tbody>
<tr>
<td>0.1</td>
<td>Project Spatial Data and Climate Assessment</td>
<td>Reimbursement up to $0</td>
<td>July 15, 2017</td>
</tr>
<tr>
<td>0.2</td>
<td>QAPP or QAPP Waiver</td>
<td>$0 based on actual costs.</td>
<td>Within 30 days of agreement start date</td>
</tr>
<tr>
<td>0.3</td>
<td>Effectiveness consultation (if necessary)</td>
<td></td>
<td>March 31, 2019</td>
</tr>
</tbody>
</table>

Task 1. Project Management and Reporting
This task describes the data collection and reporting requirements associated with this subaward. Maintenance of project records, submittal of payment vouchers, fiscal forms, and progress reports; compliance with applicable procurement, contracting and interlocal agreement requirements; application for, receipt of, and compliance with all required permits, licenses, easements, or property rights necessary for the project and submittal of required performance items. Carry out project in accordance with any completion dates outlined in the agreement.
1.0 Interlocal agreements
Complete interlocal agreement with Whatcom Conservation District (WCD). Complete amendment to sub-recipient agreement with WCD.

1.1 Project Factsheet
Create a project factsheet (using provided template) and submit it in MS Word with the first quarterly progress report.

1.2 Quarterly Invoicing and Progress Summary
The sub-recipient will email quarterly progress reports, deliverables and invoices with all applicable forms included with the A19-1A, to the Department of Health Contract Administrator. Invoices must be submitted at least quarterly but not more often than monthly. Invoices will be reviewed for consistency with progress. Local or County Health subrecipients will submit invoices through the con-con process, and will send progress reports and deliverables to the Contract Manager.

The reporting periods are synced to inform the Grant Program’s EPA reporting schedule; therefore, it is critical that the Project Sponsor submit according to the following schedule. A template is provided. Progress reports shall include, at a minimum:

- A description of the work completed in the last quarter, including total spending by the project sponsor and any partners and any completed deliverables.
- The status and completion date for the project activities and near-term deliverables.
- Description of any problem or circumstances affecting the completion date, scope of work, or costs.
- Evidence that you have satisfactorily completed all the reporting requirements (see below).

<table>
<thead>
<tr>
<th>Quarter Period</th>
<th>Start Date</th>
<th>End Date</th>
<th>Additional Information</th>
</tr>
</thead>
<tbody>
<tr>
<td>First Quarter Period,</td>
<td>January 1</td>
<td>March 31</td>
<td>FEATS will serve as project summary (see Task 1.2.1)</td>
</tr>
<tr>
<td>Second Quarter Period,</td>
<td>April 1</td>
<td>June 30</td>
<td>Summary due by July 15</td>
</tr>
<tr>
<td>Third Quarter Period,</td>
<td>July 1</td>
<td>September 30</td>
<td>FEATS will serve as project summary (see Task 1.2.1)</td>
</tr>
<tr>
<td>Fourth Quarter Period,</td>
<td>October 1</td>
<td>December 31</td>
<td>Summary due by January 15</td>
</tr>
</tbody>
</table>
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Reporting requirements:

1.2.1 FEATS
Complete bi-annual FEATS (Financial and Ecosystem Accounting Tracking System) progress reports, as well as a final FEATS report. The final FEATS report, reflecting the final project billing, will be provided during project closeout, after the end of the grant, and will describe the entire project, highlighting project outcomes and discussing lessons learned.

FEATs Reporting must be completed by:

April 1
October 1

Final FEATs report completed by:
Upon contract completion

1.2.2 Puget Sound Partnership Required NTA Reporting
NTA owners are required to report on the following:
• Implementation status of their actions on a semiannual basis
• Financial status of their actions on an annual basis

NTA reporting completed between:

April, 2018
November 2018
April, 2018 and 2019
Upon contract/NTA project completion or November 2019

NTA financial reporting completed between:

August 15, 2018
August 15, 2019
Upon contract/NTA project completion or August 2019

1.2.3 STORAGE and RETrieval and Water Quality eXchange (STORET) Data Reporting
STORET refers to an electronic data system for water quality monitoring data developed by EPA. If sub-recipients collect any physical, chemical or environmental data (e.g. dissolved oxygen, water temperature, salinity, turbidity, pH, phosphorous, total nitrogen, E. coli or Enterococci, and other biological and habitat data) than STORET reporting will be required. Data for an entire calendar year (Jan 1 – Dec.
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31) should be submitted annually. To assist in tracking in STORET, name your project as follows: NEP_2016_{insert organization name}; the unique project ID needs to be 35 characters or less. Include the STORET ID in the quarterly progress reports.

STORET reporting completed by: Quarterly, if applicable
Final STORET entry completed by: Upon contract completion

1.2.4 Women/Minority-Owned Business (MBE/WBE) Reports
MBE/WBE reporting is required annually. This federal reporting is required for assistance agreements where there are funds budgeted for procuring construction, equipment, services and supplies, including funds budgeted for direct procurement by the recipient or procurement under subawards or loans in the “Other” category that exceed the threshold amount of $150,000., including amendments and/or modifications.

MBE/WBE reporting completed by: October 15, annually, and
Upon contract completion

1.3 Final Project Report
The subrecipient will write a final report that describes the methods, results, lessons learned and recommendations for future work. The final report will evaluate the success of achieving the performance measures identified in the detailed project plan. Included with the final project report will be an updated Project Factsheet (see 1.1).

<table>
<thead>
<tr>
<th>Number</th>
<th>Deliverable</th>
<th>Reimbursement</th>
<th>Completion date</th>
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</thead>
<tbody>
<tr>
<td>1.0</td>
<td>Complete Interlocal agreement with Whatcom Conservation District (WCD). Complete amendment to sub-recipient agreement with WCD.</td>
<td>Reimbursement up to $0 based on actual costs</td>
<td>April 30, 2018</td>
</tr>
<tr>
<td>1.1</td>
<td>Project Fact Sheet</td>
<td></td>
<td>July 15, 2018</td>
</tr>
</tbody>
</table>
### EXHIBIT A-1 STATEMENT OF WORK
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<table>
<thead>
<tr>
<th>1.2</th>
<th>Quarterly invoice and Project Summaries</th>
<th>July and January 15, annually</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.2.1</td>
<td>Semi-annual FEATS reports</td>
<td>April and October 1 (annually), and upon contract completion</td>
</tr>
<tr>
<td>1.2.2</td>
<td>PSP Required NTA Reporting</td>
<td>March 31 - April 28, 2019</td>
</tr>
<tr>
<td></td>
<td></td>
<td>November 1 - 30, 2018</td>
</tr>
<tr>
<td></td>
<td></td>
<td>May 1 - 31, 2018</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Upon contract/NTA project completion or January 30, 2019</td>
</tr>
<tr>
<td></td>
<td></td>
<td>June 30 - August 15, 2018</td>
</tr>
<tr>
<td></td>
<td></td>
<td>June 29 - August 13, 2019</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Upon contract/NTA project completion or August 2019</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Per FEATS schedule</td>
</tr>
<tr>
<td>1.2.3</td>
<td>STORET (if required)</td>
<td></td>
</tr>
<tr>
<td>1.2.4</td>
<td>MBE/WBE Reporting</td>
<td>October 15, annually and upon contract completion</td>
</tr>
<tr>
<td>1.3</td>
<td>Final report and updated Fact Sheet</td>
<td>Upon contract completion</td>
</tr>
</tbody>
</table>

**TASK 2. Pollution Identification and Correction (Bacterial Monitoring and Reduction)**

Whatcom County Public Works (WCPW) coordinates with state agencies, tribal and local partners (WCD, Watershed Improvement Districts (WIDs), Tenmile Clean Water project, etc.) through the Whatcom Clean Water Program (WCWP) and shellfish protection districts to implement a program to reduce bacteria levels in creeks, the Nooksack River, and marine waters. The program is data-driven and involves coordination of water quality monitoring; data management and analysis; identification of focus areas and hot spots; landowner contacts within focus areas/hot...
spots to offer technical assistance for site evaluation and structural and management improvements; and a regulatory backstop for egregious violations. This process is described more fully under Task 3. Activities and staff associated with PIC program coordination and water quality monitoring are funded locally and will be reported through the WCWP and NTA.

2.1 Data Management
WCPW will coordinate and manage county-wide water quality data through coordinated sampling dates, participation in existing monitoring workgroups and through support of a water quality data coordinator located at the WCD office. Water quality data from WCWP local, state, and tribal partners will be entered and stored in a comprehensive water quality database. The improved data management scope builds upon the previous PIC grant agreement that established a data coordinator position to identify, develop, and implement a preferred option to create an effective and efficient database to house all water quality data collected by WCWP partners. Quarterly progress reports will be provided to summarize progress on the water quality database, data entered, and how data queries and reports are being used for community outreach and source tracking.

2.2 Strategic Planning/Sustainable Funding Efforts
Through the WCWP structure, the County and partner agencies review and adapt collective bacteria reduction efforts on a regular basis. Currently, Whatcom County funding supports county water quality monitoring and community outreach materials, 2.5 FTE in Public Works and Planning-Development Services, a 0.5FTE for community outreach at the WCD, and a small farm cost-share program. A local fee fully supports Whatcom County Health Department staff to implement an OSS O&M Program and to respond to referrals regarding potential OSS pollution sources identified through the PIC program. NEP support will supplement local funds to enable the PIC program to cover a broader geographic area in a more rapid timeframe. Whatcom County will work with the WCD to identify sustainable funding for WCD farm planners.

<table>
<thead>
<tr>
<th>Number</th>
<th>Deliverable</th>
<th>Reimbursement</th>
<th>Completion date</th>
</tr>
</thead>
<tbody>
<tr>
<td>2.1</td>
<td>Water quality data collected to support the WCWP entered and stored in a comprehensive database. A data coordinator is housed at the WCD.</td>
<td>Reimbursement up to $155,366 based on actual costs</td>
<td>Quarterly reports, June 2019</td>
</tr>
<tr>
<td>2.2</td>
<td>Strategic Planning/Sustainable Funding Efforts</td>
<td></td>
<td>March 2019</td>
</tr>
</tbody>
</table>
TASK 3. Property Contact to Correct Fecal Coliform Bacteria Pollution Sources

Through locally funded activities, WCPW will use an annual water quality review of routine sampling sites to identify focus areas and routine monitoring throughout the year to identify hot spots for water quality improvement activities. Annual review criteria were previously established and are used to evaluate the status of current and new potential focus areas. Hot spots are determined through the previously established tiered system for individual sampling results (Tier 1 is greater than 1000 cfu/100mL). Areas are evaluated for number of potential landowner contacts and staff resources available to determine the number of focus areas and hot spots that can be covered each year.

As the PIC Program moves into new focus areas, WCPW with partners will conduct a reconnaissance survey to identify drainage boundaries and patterns, parcels within the boundaries, general land use, and parcels with potential non-dairy agriculture activities, and parcels with other potential bacteria sources. Subsets of additional drainages may be identified as annexed focus areas (hot spots) through a response to highly elevated (>1000 cfu/100mL) or consistently elevated bacteria levels observed during routine sampling runs. Within the focus areas WCPW and WCD will contact landowners/operators/residents with potential non-dairy agricultural activities to offer technical assistance to identify and address potential pollution sources and reduce the level of risk to water quality. If voluntary corrective action is not achieved, WCPW will follow its regulatory enforcement referral process. WCPW will refer parcels with identified pollution sources that have not participated in the incentive-based program to the appropriate regulatory backstop agency (PDS, ECY or WSDA) as needed, depending on facility type.

Non-dairy agricultural property contacts will involve a strong partnership between WCPW and the WCD to implement a voluntary and incentive-based approach to providing technical assistance and implementing improvements to correct identified bacteria pollution sources.

3.1 Non-dairy agricultural operations landowner contact

Conduct reconnaissance surveys of focus areas/hot spots, initiate landowner/operator/resident contacts, offer education and technical and financial assistance, and ensure site conditions improve to reduce risk level for bacteria pollution sources. Landowner contacts are accomplished through methods that may include a series of letters, focused workshops, cooperation with watershed improvement district leadership, working with realtors to contact new landowners, and/or other methods developed to overcome specific barriers. Outreach efforts from WCPW and WCD will encourage participation in the voluntary, incentive-based opportunity. WCPW will refer properties with identified pollution sources that choose not to participate in voluntary compliance opportunities to the appropriate regulatory agency to ensure compliance with Critical Areas Ordinance (Whatcom County Planning & Development Services (PDS) and/or state Water Pollution Control Act (ECY).

WCPW and WCD will continue to improve upon the current work with the North Lynden Watershed Improvement District (WID) to engage landowners in identifying and correcting pollution sources. Expanded PIC program work in WID areas will seek partnership with the WID leadership to support monitoring coordination, community outreach, and contact with landowners not responding to county/WCD requests to
engage in the incentive-based program. In WID areas where landowner contact will occur through a joint WCPW/WCD/WID process, clear expectations will be developed from the outset with WID leadership regarding property contact, timelines, feedback about source identification and correction, and course of action if agreed to expectations are not adhered to. An agreement between the County, WCD and WID will be developed and provided to DOH for review.

Landowners with non-dairy agricultural operations within PIC areas are encouraged to work with the WCD through PIC landowner contacts, WID landowner contacts, PDS or Department of Ecology technical assistance or compliance recommendations. Voluntary walk-ins are also eligible to receive WCD technical assistance through this program to improve and protect water quality.

3.2 Non-dairy agricultural operations- Critical Areas Ordinance (CAO) Compliance

PDS staff will respond to referrals from WCPW for landowners with non-dairy agricultural operations out of compliance with the Critical Areas Ordinance. Referrals will follow the process described in Task 3.1. PDS staff will respond to Environmental Report Tracking System (ERTS) complaints in Whatcom County coastal drainages relating to applicable non-dairy agricultural operations with a potential impact to water quality. Additionally, PDS will educate landowners applying for land use permits about requirements to protect critical areas and minimize potential water quality impacts. PDS will require permit seekers to complete and file farm plans where needed, and to implement BMPs identified in the farm plans. Progress and water quality risk reduction for referrals and ERTS will be tracked in coordination with WCPW.

<table>
<thead>
<tr>
<th>Number</th>
<th>Deliverable</th>
<th>Reimbursement</th>
<th>Completion date</th>
</tr>
</thead>
<tbody>
<tr>
<td>3.1.0</td>
<td>WID process for landowner contacts</td>
<td>Reimbursement up to $387,700 based on actual costs</td>
<td>As needed</td>
</tr>
<tr>
<td>3.1.1</td>
<td>Windshield surveys of four focus areas per year identifying parcels with potential non-dairy agricultural operations.</td>
<td></td>
<td>March 2018</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>June 2019</td>
</tr>
<tr>
<td>3.1.2</td>
<td>Contact 150 landowners with potential livestock or manure use in the Drayton Harbor, Portage Bay, and Lummi Bay focus areas during the first year and 250 in the second year of the two-year project (400 total)</td>
<td></td>
<td>March 2018</td>
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<td></td>
<td></td>
<td></td>
<td>June 2019</td>
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</tbody>
</table>
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| 3.1.3 | 50% of contacted landowners will receive site risk assessments and technical assistance to evaluate site conditions and initiate actions to reduce risk level within 6 months (implement BMPs). | March 2018  
June 2019 |
|-------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------|
| 3.2   | Refer parcels to PDS and ECY for regulatory backstop. 100% of PDS referrals will complete a farm plan or implement standard buffers and reduce risk level within six months. All qualifying land use permits (CAO) will complete and file a farm plan or use standard buffers and implement actions to protect water quality or reduce risk level. | Reimbursement up to $180,534 based on actual costs  
March 2018  
June 2019 |

#### TASK 4. Education, Outreach, and Incentives

To address fecal coliform bacteria concentrations exceeding water quality standards throughout the county and shellfish harvest restrictions in three SPDs, this task will expand and enhance community outreach efforts. The previous PIC grant agreement partially funded a FTE for community outreach activities. This agreement provides funding for a full FTE at WCPW to expand comprehensive community outreach and engagement efforts throughout Whatcom County coastal drainages (including Birch Bay) and assist with landowner contacts and engagement in PIC focus areas. WCWP will develop a long-term education and outreach plan and begin implementation. Topics will include basic watershed and water quality definitions and characterizations, the diverse sources of bacterial pollution, and the diverse array of community solutions to improve and protect water quality. Through this task, educational materials will be created to include with landowner contacts, at community events, and on a WCWP website; displays will be created and shared at community events; newsletters will be distributed to landowners in focus areas; and seasonal newspaper ads will be published. Partnerships with the WIs will provide critical connections with the agricultural community. New partnerships and community outreach tools will be pursued to adapt to emerging issues (e.g., Canadian sources, manure solid applications, berry field management, etc.). Incentives will be used to encourage community participation in workshop and other technical assistance programs. These incentives will include but not be limited to OSS O&M rebates, small farm workshop rebates, tarps for covering manure piles, and dog waste pick up kits.
Based upon previous success with the Portage Bay shellfish growing area, as water quality improvements are observed in the watershed and marine waters, a transition to the long-term engagement of community members in behavior changes becomes critical. A pilot social marketing campaign will be developed and implemented to assist with this transition.

4.1 2-Year Community Outreach Plan
Whatcom County Public Works will develop and implement a 2-Year community outreach plan that will include outreach materials, website, community events, newsletters, and newspaper seasonal ads. Outreach staff will participate in at least one class to further enhance community outreach skill sets.

4.2 Non-dairy Incentives (OSS, Ag, and Urban Sources)
Provide financial incentives for on-site sewage system (OSS) operation and maintenance (O&M) activities through a successful rebate program. Landowners will complete an online or in-person workshop on OSS to be eligible for the rebate program. Provide financial incentives for attending small farm technical assistance workshops and implementing seasonal best management practices through a small farm workshop rebate program. Landowners will complete a technical workshop hosted by the Whatcom Conservation District to be eligible for the rebate program. Provide incentives such as tarps (to cover manure storage) and dog waste pick up kits for landowners participating in workshops, community events, and seasonal technical assistance programs to encourage practices to reduce bacterial pollution sources. Incentives included in this program have been successful in engaging community members and have been developed through landowner surveys, work with community groups, and review and adaptations of the current program.

4.3 Pilot Social Marketing Campaign
Develop and implement an educational campaign for routine septic system evaluations and maintenance using social marketing techniques to encourage long-term behavior changes. This campaign will be a pilot project building upon the February 2017 Community outreach Workshop presented by Environmental Finance Center (EFC) West. The project will be used to develop future outreach campaigns around other sources of bacteria. Outreach staff will have a follow up workshop with EFC West to further define pre-and post-evaluation tools (e.g. surveys, focus groups, etc.), target audiences, barriers, messages, and promotional tools. Following the planning process, the septic outreach campaign will be implemented and evaluated. A contractor will be hired to assist with the development and implementation of the campaign. Draft outreach materials will be provided to DOH for review.

Additionally, social marketing techniques will be used to develop and advertise focus small farm workshops to offer technical assistance to landowners in PIC focus areas or hot spots. Messages will be developed to resonate with values identified by landowners in previous focus groups as well as to address identified barriers. The WCD will develop and host these workshops.
<table>
<thead>
<tr>
<th>Number</th>
<th>Deliverable</th>
<th>Reimbursement</th>
<th>Completion date</th>
</tr>
</thead>
</table>
| 4.1    | Develop and implement 2-year community outreach plan. Participate in trainings for enhancement of community outreach skills. The plan will include:  
- Develop outreach materials for letters  
- Develop outreach materials for field staff  
- Maintain WCPW website  
- Participate in 5 community events.  
- Distribute 3,000 newsletters.  
- Run 2 sets of seasonal newspaper ads.  
Draft outreach materials will be provided to DOH for a 1 week review period. | Reimbursement up to $192,400 based on actual costs | Plan completed June 1, 2017  
March 2018  
June 2019 |
| 4.1.1  | Participate in 5 community events annually                                 |                                        | June 2018  
June 2019 |
| 4.1.2  | Distribute 3,000 newsletters and submit copy to DOH with EPA and DOH acknowledgement |                                        | December 2018 |
| 4.1.3  | Run 2 newspaper ads per year (seasonal) and submit copy to DOH with EPA and DOH acknowledgement |                                        | May 2018  
June 2019 |
| 4.2.1  | Incentives: Provide rebates to landowners                                 | Reimbursement up to $37,000 based on actual costs ($27,000 OSS rebates, $10,000 small farm rebates) | June 2018 |
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| 4.2.2 | Incentives: Provide 200 incentives to landowners/residents  
- Workshop/Technical Assistance/Community Event Incentives (e.g. tarps for covering manure, dog waste pick up kits, etc.) | Reimbursement up to $2,000 based on actual costs | June 2018 | June 2019 |
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<tr>
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</thead>
<tbody>
<tr>
<td>4.3</td>
<td>Develop and implement a social marketing campaign for routine septic system evaluations and maintenance.</td>
<td>Reimbursement up to $60,000 based on actual costs ($50,000 septic campaign, $10,000 small farm workshops)</td>
<td>June 2019</td>
<td></td>
</tr>
</tbody>
</table>
## TASK 5. Broader Impacts and Communication

Whatcom County and Whatcom Conservation District Staff will provide a presentation on the Whatcom County PIC Program at a regional conference or workshop.

### 5.1 Presentation of Whatcom County PIC Program

- Participate in and present project outcomes at a knowledge exchange event relevant to the project topic (PIC Regional Workshop and Annual Whatcom County Council Meeting)
- Submit high-quality project photos or video clips of the project (process, progress, etc.). Ensure anyone in the photos or video has signed a release in case photos or videos are used for future publications.
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<thead>
<tr>
<th>Number</th>
<th>Deliverable</th>
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<tbody>
<tr>
<td>5.1</td>
<td>Whatcom County PIC Program Presentation</td>
<td>Reimbursement up to $0 based on actual costs</td>
<td>June 2019</td>
</tr>
<tr>
<td>5.2</td>
<td>Photos</td>
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### BUDGET

<table>
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<tr>
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<tr>
<td>Personnel/Salaries</td>
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<td>Fringe Benefits</td>
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<td>Travel</td>
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<td>Equipment (federal definition)</td>
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<td>Supplies</td>
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<td>Contracts</td>
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<td>Whatcom Conservation District</td>
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<td>Other (anything that doesn’t fit in the other categories, e.g. training)</td>
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<td>Describe:</td>
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<td>• Printing and Mailing</td>
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<td>• Newspaper Ads</td>
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**EXHIBIT A-1 STATEMENT OF WORK**
DOH Contract #GVL22509-1
WHATCOM COUNTY – ENHANCED PIC PROGRAM
Date of Execution – March 31, 2020

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<td>Small Farm Rebates</td>
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<td><strong>TOTAL</strong></td>
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Federal Terms and Administrative Conditions

1. General Terms and Conditions - Updated 4-27-2017
The subrecipient agrees to comply with the current EPA general terms and conditions available at: https://www.epa.gov/grants/epa-general-terms-and-conditions-effective-april-27-2017-or-later. These terms and conditions are in addition to the assurances and certifications made as a part of the award and the terms, conditions, or restrictions cited throughout the award, and are added to the end of this document.

The EPA repository for the general terms and conditions by year can be found at http://www.epa.gov/grants/grant-terms-and-conditions.

2. General Terms and Conditions - Consultant Cap - Additional Information
In addition to the General Terms and Conditions #6 "Consultant Cap", as of January 1, 2017, the limit is $622.72 per day $77.84 per hour.

NOTE: For future years' limits, the subrecipient may find the annual salary for Level IV of the Executive Schedule on the following Internet site: http://www.opm.gov/oca. Select "Salary and Wages", and select "Rates of Pay for the Executive Schedule". The annual salary is divided by 2087 hours to determine the maximum hourly rate, which is then multiplied by 8 to determine the maximum daily rate.

3. General Terms and Conditions – Cybersecurity
The subrecipient agrees to comply with the current EPA general terms and conditions “Cybersecurity”. The terms and conditions can be found on the EPA Grants Terms and Conditions Website.

For STATES:
http://www2.epa.gov/sites/production/files/2015-07/documents/stategrantcybersecuritycondition.pdf,

For TRIBES:
http://www2.epa.gov/sites/production/files/2015-07/documents/tribalgrantcybersecuritycondition.pdf,

For Other Recipients:

4. General Terms and Conditions - Indirect Costs for States and Tribal
The cost principles of 2 CFR 200 Subpart E are applicable, as appropriate, to this award.

In addition to the General Terms and Conditions “Indirect Cost Rate Agreements", if the subrecipient does not have a previously established indirect cost rate, it agrees to prepare and submit its indirect cost rate proposal in accordance with 2 CFR 200 Appendix VII.
5. UTILIZATION OF SMALL, MINORITY AND WOMEN'S BUSINESS ENTERPRISES (MBE/WBE)

GENERAL COMPLIANCE, 40 CFR, Part 33

The subrecipient agrees to comply with the requirements of EPA's Disadvantaged Business Enterprise (DBE) Program for procurement activities under assistance agreements, contained in 40 CFR, Part 33.

MBE/WBE REPORTING, 40 CFR, Part 33, Subpart E

The subrecipient agrees to complete and submit a "MBE/WBE Utilization Under Federal Grants, Cooperative Agreements and Interagency Agreements" report (EPA Form 5700-52A) on an annual basis. All procurement actions are reportable, not just that portion which exceeds $150,000. When completing the annual report, subrecipients are instructed to check the box titled "annual" in section 1B of the form. For the final report, subrecipients are instructed to check the box indicated for the "last report" of the project in section 1B of the form. Annual reports are due by October 30th of each year. Final reports are due by October 30th or 90 days after the end of the project period, whichever comes first.

The reporting requirement is based on total procurements. Subrecipients with expended and/or budgeted funds for procurement are required to report annually whether the planned procurements take place during the reporting period or not. If no budgeted procurements take place during the reporting period, the subrecipient should check the box in section 5B when completing the form.

The current EPA Form 5700-52A can be found at the EPA Office of Small Business Programs' Home Page at http://www.epa.gov/osbp/dberouting.htm.

This provision represents an approved deviation from the MBE/WBE reporting requirements as described in 40 CFR, Part 33, Section 33.502; however, the other requirements outlined in 40 CFR Part 33 remain in effect, including the Good Faith Effort requirements as described in 40 CFR Part 33 Subpart C, and Fair Share Objectives negotiation as described in 40 CFR Part 33 Subpart D and explained below.

SIX GOOD FAITH EFFORTS, 40 CFR, Part 33, Subpart C

Pursuant to 40 CFR, Section 33.301, the subrecipient agrees to make the following good faith efforts whenever procuring construction, equipment, services and supplies under an EPA financial assistance agreement, and to require that sub-recipients, loan recipients, and prime contractors also comply. Records documenting compliance with the six good faith efforts shall be retained:

(a) Ensure DBEs are made aware of contracting opportunities to the fullest extent practicable through outreach and recruitment activities. For Indian Tribal, State and Local and Government subrecipients, this will include placing DBEs on solicitation lists and soliciting them whenever they are potential sources.
(b) Make information on forthcoming opportunities available to DBEs and arrange time frames for contracts and establish delivery schedules, where the requirements permit, in a way that encourages and facilitates participation by DBEs in the competitive process. This includes, whenever possible, posting solicitations for bids or proposals for a minimum of 30 calendar days before the bid or proposal closing date.

(c) Consider in the contracting process whether firms competing for large contracts could subcontract with DBEs. For Indian Tribal, State and local Government subrecipients, this will include dividing total requirements when economically feasible into smaller tasks or quantities to permit maximum participation by DBEs in the competitive process.

(d) Encourage contracting with a consortium of DBEs when a contract is too large for one of these firms to handle individually.


(f) If the prime contractor awards subcontracts, require the prime contractor to take the steps in paragraphs (a) through (e) of this section.

CONTRACT ADMINISTRATION PROVISIONS, 40 CFR, Section 33.302

The subrecipient agrees to comply with the contract administration provisions of 40 CFR, Section 33.302.

BIDDERS LIST, 40 CFR, Section 33.501(b) and (c)

Subrecipients of a Continuing Environmental Program Grant or other annual reporting grant, agree to create and maintain a bidders list. Subrecipients of an EPA financial assistance agreement to capitalize a revolving loan fund also agree to require entities receiving identified loans to create and maintain a bidders list if the recipient of the loan is subject to, or chooses to follow, competitive bidding requirements. Please see 40 CFR, Section 33.501 (b) and (c) for specific requirements and exemptions.

FAIR SHARE OBJECTIVES, 40 CFR, Part 33, Subpart D

1. For Grant Awards $250,000 or Less

This assistance agreement is a Technical Assistance Grant (TAG); or the award amount is $250,000 or less; or the total dollar amount of all of the subrecipient's financial assistance agreements from EPA in the current Federal fiscal year is $250,000 or less. Therefore, the subrecipient of this assistance agreement is exempt from the fair share objective requirements of 40 CFR, Part 33, Subpart D, and is not required to negotiate fair share objectives/goals for the utilization of MBE/WBEs in its procurements.

2. For Subrecipients Accepting Goals
A subrecipient must negotiate with the appropriate EPA award official, or his/her designee, fair share objectives for MBE and WBE participation in procurement under the financial assistance agreements.

In accordance with 40 CFR, Section 33.411 some subrecipients may be exempt from the fair share objectives requirements as described in 40 CFR, Part 33, Subpart D. Subrecipients should work with their DBE coordinator, if they think their organization may qualify for an exemption.

**Accepting the Fair Share Objectives/Goals of Another Recipient**

The dollar amount of this assistance agreement, or the total dollar amount of all of the subrecipient’s financial assistance agreements in the current federal fiscal year from EPA is $250,000, or more. The subrecipient accepts the applicable MBE/WBE fair share objectives/goals negotiated with EPA. The Region 10 fair share objectives/goals can be found: [http://www.epa.gov/osbp/pdfs/r10fairsharegoals.pdf](http://www.epa.gov/osbp/pdfs/r10fairsharegoals.pdf).

By signing this financial assistance agreement, the subrecipient is accepting the fair share objectives/goals and attests to the fact that it is purchasing the same or similar construction, supplies, services and equipment, in the same or similar relevant geographic buying market.

**Negotiating Fair Share Objectives/Goals, 40 CFR, Section 33.404**

The subrecipient has the option to negotiate its own MBE/WBE fair share objectives/goals. If the subrecipient wishes to negotiate its own MBE/WBE fair share objectives/goals, the subrecipient agrees to submit proposed MBE/WBE objectives/goals based on an availability analysis, or disparity study, of qualified MBEs and WBEs in their relevant geographic buying market for construction, services, supplies and equipment.

The submission of proposed fair share goals with the supporting analysis or disparity study means that the subrecipient is not accepting the fair share objectives/goals of another subrecipient. The subrecipient agrees to submit proposed fair share objectives/goals, together with the supporting availability analysis or disparity study, to the Regional MBE/WBE Coordinator within 120 days of its acceptance of the financial assistance award. EPA will respond to the proposed fair share objective/goals within 30 days of receiving the submission. If proposed fair share objective/goals are not received within the 120 day time frame, the subrecipient may not expend its EPA funds for procurements until the proposed fair share objective/goals are submitted.

3. **For Subrecipients with Established Goals**

The subrecipient must negotiate with the appropriate EPA award official, or his/her designee, fair share objectives for MBE and WBE participation in procurement under the financial assistance agreements.

In accordance with 40 CFR, Section 33.411 some subrecipients may be exempt from the fair share objectives requirements described in 40 CFR, Part 33, Subpart D. Subrecipients should work with their DBE coordinator, if they think their organization may qualify for an exemption.

**Current Fair Share Objective/Goal**
EXHIBIT A-1 STATEMENT OF WORK
DOH Contract #GVL22509-1
WHATCOM COUNTY – ENHANCED PIC PROGRAM
Date of Execution – March 31, 2020

The dollar amount of this assistance agreement or the total dollar amount of all of the subrecipient’s financial assistance agreements in the current federal fiscal year from EPA is $250,000, or more. The Region 10 fair share objectives/goals can be found: http://www.epa.gov/osbp/pdfs/r10fairsharegoals.pdf.

Negotiating Fair Share Objectives/Goals

In accordance with 40 CFR, Part 33, Subpart D, established goals/objectives remain in effect for three fiscal years unless there are significant changes to the data supporting the fair share objectives. The subrecipient is required to follow requirements as outlined in 40 CFR Part 33, Subpart D when renegotiating the fair share objectives/goals.

4. For DWSRF, CWSRF and BROWNFIELDS RLF Recipients ONLY

Objective/Goals of Loan Recipients

As a subrecipient of an EPA financial assistance agreement to capitalize revolving loan funds, the subrecipient agrees to either apply its own fair share objectives negotiated with EPA to identified loans using a substantially similar relevant geographic market, or negotiate separate fair share objectives with its identified loan recipients. These separate objectives/goals must be based on demonstrable evidence of the availability of MBES and WBEs in accordance with 40 CFR, Part 33, Subpart D.

The subrecipient agrees that if procurements will occur over more than one year, the subrecipient may choose to apply the fair share objective in place either for the year in which the identified loan is awarded or for the year in which the procurement action occurs. The subrecipient must specify this choice in the financial assistance agreement, or incorporate it by reference therein.
EXHIBIT A-1 STATEMENT OF WORK
DOH Contract #GVL22509-1
WHATCOM COUNTY – ENHANCED PIC PROGRAM
Date of Execution – March 31, 2020

Programmatic Conditions

1. Semi-Annual Performance Reports

The subrecipient shall submit performance reports every six (6) months during the life of the project. Reports are due 30 calendar days after the end of each reporting period. Reports shall be submitted to the EPA Project Officer and may be provided electronically.

In accordance with 2 CFR 200.328, as appropriate, the subrecipient agrees to submit performance reports that include brief information on each of the following areas:

a. a comparison of actual accomplishments to the outputs/outcomes established in the assistance agreement work plan for the period;
b. the reasons why established goals were not met, if appropriate;
c. additional pertinent information including, when appropriate, analysis and explanation of cost overruns or high unit costs.

In addition to the semi-annual performance reports, the subrecipient shall immediately notify the DOH Contracts Manager of developments that have a significant impact on the award-supported activities. As appropriate, the subrecipient agrees to inform the Project Officer as soon as problems, delays or adverse conditions become known which will materially impair the ability to meet the outputs/outcomes specified in the assistance agreement work plan. This notification shall include a statement of the action taken or contemplated, and any assistance needed to resolve the situation.

The subrecipient will submit performance reports through EPA’s Puget Sound Financial and Ecosystem Accounting Tracking System (FEATS). Reports are due 30 calendar days after the end of each reporting period. The reporting periods shall end March 31st and September 30th of each calendar year. Reports shall be submitted to the Project Officer on the FEATS form provided by the Project Officer and shall be submitted by electronic mail. The subrecipient agrees to submit performance reports that include brief information on each of the following areas:

a. a comparison of actual accomplishments to the outputs/outcomes established in the assistance agreement work plan for the period;
b. the reasons for slippages if established outputs/outcomes were not met;
c. additional pertinent information, including when appropriate, analysis and information of cost overruns or high unit costs.

2. Final Performance Report

The subrecipient shall submit a final performance report through FEATS, which is due 30 calendar days after the expiration or termination of the award. The report shall be submitted to the Project Officer and must be provided electronically. The report shall generally contain the same information as in the periodic reports, but should cover the entire project period. After completion of the project, the Project Officer may waive the requirement for a final performance report if the Project Officer deems such a report is inappropriate or unnecessary.
3. Program Income – Addition
If program income is generated, the subrecipient is required to account for program income related to this project. Program income earned during the project period shall be retained by the subrecipient and shall be added to funds committed to the project by EPA and the subrecipient, and shall be used to further eligible project objectives.

4. Information Collection Requirements
EPA and the subrecipient agree to comply with the requirements of the Paperwork Reduction Act in completing the project. Because the scope of work includes a survey, a questionnaire or similar information-gathering activity, the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.), requires EPA to obtain Office of Management and Budget (OMB) clearance prior to the subrecipient's collection of information by means of identical questions posed to 10 or more persons.

The subrecipient will provide to the EPA Project Officer the following information: (1) description of the information to be collected; (2) explanation of the need for the information; and (3) to whom the survey is being directed.

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

"This project has been funded wholly or in part by the United States Environmental Protection Agency under assistance agreement PC-00188801-3 to (subrecipient). The contents of this document do not necessarily reflect the views and policies of the Environmental Protection Agency, nor does mention of trade names or commercial products constitute endorsement or recommendation for use."

6. Annual Conferences
The subrecipient may attend one or more appropriate conferences each year, which may be within the Puget Sound region. The specific conferences will be determined in consultation with the Grant Officer. The purpose of this requirement is to provide subrecipients with opportunities to learn about and benefit from other relevant initiatives and programs that relate to the funded work; to exchange information about their funded work with organizations that may benefit from their experience; and generally to raise awareness within the Puget Sound, Salish Sea, and large aquatic ecosystem protection and restoration communities of the funded work. Example of potentially relevant conferences include, but are not limited to, the biennial Puget Sound-Georgia Basin Ecosystem Conference http://depts.washington.edu/uwconf/psgb/ and local or regional meetings of Tribal, professional, scientific, or other relevant associations http://www.wwu.edu/salishseaconference/. Specific conferences will depend on the nature of the work proposed. Subrecipient will be allowed to use award funds to pay for travel and lodging. The subrecipient should include anticipated costs for attending conferences in their proposed budget. https://www.eopugetsound.org/terms/354.

7. Peer Review
The results of this project may affect management decisions relating to Puget Sound. Prior to finalizing any significant technical products the Principal Investigator (PI) of this project must solicit advice, review and feedback from a technical review or advisory group consisting of relevant subject matter specialists. A record of comments and a brief description of how respective comments are addressed by the PI will be provided to the Project Monitor prior to releasing any final reports or products resulting from the funded study.
8. Competency of Organizations Generating and/or Using Environmental Measurement Data
In accordance with Agency Policy Directive Number FEM-2012-02, Policy to Assure the Competency of Organizations Generating Environmental Measurement Data under Agency-Funded Assistance Agreements, subrecipient shall maintain competency for the duration of the project period of this agreement and this will be documented during the annual reporting process. A copy of the Policy is available online at http://www.epa.gov/fem/labcomp.htm or a copy may also be requested by contacting the EPA Project Officer for this award.

Federal Assistance Agreement Funds Up To $200,000

Subrecipient agrees that if the total federal funding obligated on this award exceeds $200,000 (resulting from subsequent amendments to this agreement) and will involve the use or generation of environmental data it will (unless it has otherwise done so) demonstrate competency prior to carrying out any activities involving the generation or use of environmental data under this agreement.

Federal Assistance Agreement Funds Exceed or Expect to Exceed $200,000

Subrecipient agrees, by entering into this agreement, that it has demonstrated competency prior to award, or alternatively, where a pre-award demonstration of competency is not practicable. The Subrecipient agrees to submit documentation and demonstrate competency prior to carrying out any activities under the award involving the generation or use of environmental data.

9. STORET Requirement
Subrecipients are required to institute standardized reporting requirements into their work plans and include such costs in their budgets. All water quality data generated in accordance with an EPA approved Quality Assurance Project Plan as a result of this assistance agreement, either directly or by subaward, will be required to be transmitted into the Agency's Storage and Retrieval (STORET) data warehouse using either WQX or WQX web. Water quality data appropriate for STORET include physical, chemical, and biological sample results for water, sediment and fish tissue. The data include toxicity data, microbiological data, and the metrics and indices generated from biological and habitat data. The Water Quality Exchange (WQX) is the water data schema associated with the EPA, State and Tribal Exchange Network. Using the WQX schema partners map their database structure to the WQX/STORET structure. WQX web is a web based tool to convert data into the STORET format for smaller data generators that are not direct partners on the Exchange Network. More information about WQX, WQX web, and the STORET warehouse, including tutorials, can be found at http://www.epa.gov/store/wqx/

If activities submitted as match for this federal assistance agreement involve the generation of water quality data, the resulting information must be publicly accessible (in STORET or some other database). Subrecipients are encouraged to develop a cross walk between any non-STORET database utilized for the storage of water quality data associated with match activities and EPA's Water Quality Exchange (WQX).

10. Riparian Buffers
Riparian buffer restoration projects in agricultural areas shall be consistent with the interim riparian buffer recommendations provided to EPA and the Natural Resource Conservation Service by National Marine Fisheries Service letters of January 30, 2013 (stamp received date - February 4, 2013) and April 9, 2013 (stamp received date April 16, 2013), or the October 28, 2013 guidance. Grantees shall confirm in writing projects' consistency with the recommendations referenced above. When developing project proposals, grantees also should consider the extent to which proposals include appropriate riparian buffers or otherwise address pollution sources on other water courses on the properties in the project area to support water quality and salmon recovery. Deviations can only be obtained through an exception approved by EPA. In order for EPA to evaluate a request for an exception, the grantee must submit the scientific rationale demonstrating adequacy of buffers for supporting
water quality and salmon recovery. The request must summarize tribal input on the scientific rationale or other relevant issues. The scientific rationale could be developed from sources such as site-specific assessment data, salmon recovery plans, Total Maximum Daily Loads (TMDLs) and the state nonpoint plan. EPA will confer with the National Oceanic and Atmospheric Administration (NOAA) and the Washington Department of Ecology and provide the opportunity for affected tribes to consult with EPA before making a final decision on a deviation request.

11. International Travel (Including Canada)
All International Travel must be approved by the Office of International and Tribal Affairs (OITA) BEFORE travel occurs. Even a brief trip to a foreign country, for example to attend a conference, requires OITA approval. Please contact your EPA Project Officer as soon as possible if travel is planned out of the country, including Canada and/or Mexico, so that they can obtain appropriate approvals from EPA Headquarters. If you have questions, please contact your EPA Project Officer listed on the front page of the Award Document.

12. Geospatial Data Standards
All geospatial data created must be consistent with Federal Geographic Data Committee (FGDC) endorsed standards. Information on these standards may be found at www.fgdc.gov

13. Model Programmatic Subaward Reporting Requirement (GPI-16-01)
The subrecipient must report on its subaward monitoring activities under 2 CFR 200.331(d).

Examples of items that must be reported if the pass-through entity has the information available are:

- Summaries of results of reviews of financial and programmatic reports.
- Summaries of findings from site visits and/or desk reviews to ensure effective subrecipient performance.
- Environmental results the subrecipient achieved.
- Summaries of audit findings and related pass-through entity management decisions.
- Actions the pass-through entity has taken to correct deficiencies such as those specified at 2 CFR 200.331(e), 2 CFR 200.207 and the 2 CFR Part 200.338 Remedies for Noncompliance.

14. Lobbying and Litigation

1. The chief executive officer of this subrecipient agency shall ensure that no grant funds awarded under this assistance agreement are used to engage in lobbying of the Federal Government or in litigation against the U.S. unless authorized under existing law. The subrecipient shall abide by the Cost Principles available at 2 CFR 200 which generally prohibits the use of federal grant funds for litigation against the U.S. or for lobbying or other political activities. The subrecipient agrees to comply with Title 40 CFR Part 34, New Restrictions on Lobbying. The subrecipient shall include the language of this provision in award documents for all subawards exceeding $100,000, and require that subrecipients submit certification and disclosure forms accordingly.
ii. In accordance with the Byrd Anti-Lobbying Amendment, any recipient who makes a prohibited expenditure under Title 40 CFR Part 34 or fails to file the required certification or lobbying forms shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such expenditure.

iii. Subcontracts awarded by the subrecipient shall contain, when applicable, the anti-lobbying provision as stipulated in the Appendix II to Part 200—Contract Provisions for Non-Federal Entity Contracts Under Federal Awards.

iv. Pursuant to Section 18 of the Lobbying Disclosure Act, the subrecipient affirms that it is not a nonprofit organization described in Section 501(c)(4) of the Internal Revenue Code of 1986; or that it is a nonprofit organization described in Section 501(c)(4) of the Code but does not and will not engage in lobbying activities as defined in Section 3 of the Lobbying Disclosure Act. Nonprofit organizations exempt from taxation under section 501(c)(4) of the Internal Revenue Code that engage in lobbying activities are ineligible for EPA subawards.

15. **Quality Assurance Requirements (2 CFR 1500.11)**

(a) Quality assurance applies to all assistance agreements that involve environmentally related data operations, including environmental data collection, production or use.

(b) Recipients shall develop a written quality assurance system commensurate with the degree of confidence needed for the environmentally related data operations.

(c) If the recipient complies with EPA’s quality policy, the system will be presumed to be in compliance with the quality assurance system requirement. The recipient may also comply with the quality assurance system requirement by complying with American National Standard ASQ/ANSI E4:2014: Quality management systems for environmental information and technology programs.

16. **ULO Stretch Goal**

Recipients of EPA assistance agreements that include subawards in the approved workplan should manage their programs and subaward funding in ways that reduce the length of time that federal funds obligated and committed to subaward projects are “unspent” federal funds, not yet drawn down through disbursements to subaward recipients.

EPA encourages the reduction of these unliquidated obligations (ULOs) by applying the following programmatic term and condition to these assistance agreements with subaward projects:

- The FY2016 Strategic Initiative Lead awards, the FY2016 Tribal Lead Organization award, the FY2016 Management Conference Support For Implementation Strategies award, and may apply to subsequent awards not yet identified.

- Assistance agreement recipients and subrecipients are to apply these “stretch” goals throughout the life of the assistance agreement and to confer with your DOH Grant Manager whenever instances arise that make attainment of these stretch goals unlikely.

- Stretch Goal: A stretch goal for utilization of funds for each new strategic initiative lead grant with subawards is established. All funds should be spent by 21/2 years in order for incremental funding to be considered at levels otherwise available for the fourth year of the grant.

- Funds Awarded in FY2017 (October 1, 2016-September 30, 2017) should all be Drawn Down by March 2020
Funds Awarded in FY2018 (October 1, 2017-September 30, 2018) should all be Drawn Down by March 2021

Funds Awarded in FY2019 (October 1, 2018-September 30, 2019) should all be Drawn Down by March 2022

Funds Awarded in FY2020 All Should Be Drawn down by award end date.

17. Animal Subjects
The subrecipient agrees to comply with the Animal Welfare Act of 1966 (P.L. 89-544), as amended, 7 USC 2131-2156. The subrecipient also agrees to abide by the “U.S. Government Principles for the Utilization and Care of Vertebrate Animals used in Testing, Research, and Training.” (Federal Register 50(97): 20864-20865. May 20, 1985). The nine principles can be viewed at: https://www.nap.edu/search/?rpp=20&ft=1&term=nine+principles+for+the+utilization+and+care+of+vertebrate+animals+used+in+testing. For additional information about the Principles, the subrecipient should consult the Guide for Care and Use of Laboratory Animals, prepared by the Institute of Laboratory Animal Resources, National Research Council and can be accessed at: http://www.nap.edu/readingroom/books/labrats/.

18. Copyrighted Material and Data
In accordance with 2 CFR 200.315, EPA has the right to reproduce, publish, use and authorize others to reproduce, publish and use copyrighted works or other data developed under this assistance agreement for Federal purposes.

Examples of a Federal purpose include but are not limited to: (1) Use by EPA and other Federal employees for official Government purposes; (2) Use by Federal contractors performing specific tasks for the Government; (3) Publication in EPA documents provided the document does not disclose trade secrets (e.g., software codes) and the work is properly attributed to the subrecipient through citation or otherwise; (4) Reproduction of documents for inclusion in Federal depositories; (5) Use by State, tribal and local governments that carry out delegated Federal environmental programs as “co-regulators” or act as official partners with EPA to carry out a national environmental program within their jurisdiction and; (6) Limited use by other grantees to carry out Federal grants provided the use is consistent with the terms of EPA's authorization to the other grantee to use the copyrighted works or other data. Under Item6, the grantee acknowledges that EPA may authorize another grantee(s) to use the copyrighted works or other data developed under this grant as a result of: the selection of another grantee by EPA to perform a project that will involve the use of the copyrighted works or other data or; termination or expiration of this agreement.

In addition, EPA may authorize another grantee to use copyrighted works or other data developed with Agency funds provided under this grant to perform another grant when such use promotes efficient and effective use of Federal grant funds.

END OF DOCUMENT
**WHATCOM COUNTY COUNCIL AGENDA BILL**

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</tr>
<tr>
<td>Prosecutor:</td>
<td>3/14/18</td>
<td></td>
<td></td>
<td>-------------</td>
<td>--------------</td>
</tr>
<tr>
<td>Purchasing/Budget:</td>
<td>3/14/18</td>
<td></td>
<td></td>
<td>-------------</td>
<td>--------------</td>
</tr>
<tr>
<td>Executive:</td>
<td>3/14/18</td>
<td></td>
<td></td>
<td>-------------</td>
<td>--------------</td>
</tr>
</tbody>
</table>

**TITLE OF DOCUMENT:**
Recreational Boating Safety Federal Financial Assistance Grant

**ATTACHMENTS:**
Recreational Boating Safety Federal Financial Assistance Grant Documents

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

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

**Should Clerk schedule a hearing?**
( ) Yes ( ) NO

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

Annual Recreational Boating Safety (RBS) Grant awarded to the Whatcom County Sheriff’s Office in the amount of $16,810.69 to conduct on the water patrols during the peak boating period. The Sheriff’s Office conducts on the water patrols to increase education and enforcement activities encouraging greater compliance with boating safety laws in an effort to reduce boating-related loss of life, personal injury, and property damage. Whatcom County local match requirement for 2018 is $26,741.16.

**COMMITTEE ACTION:**

**COUNCIL ACTION:**

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

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

TO: Jack Louws, County Executive
FROM: Bill Elfo, Sheriff
DATE: March 13, 2018
RE: Washington State Parks and Recreation Commission
Recreational Boating Safety Federal Financial Assistance Grant 2018

Enclosed for your review and signature are two (2) original grant agreements between Whatcom County and Washington State Parks and Recreation Commission for grant period March 1, 2018 through September 30, 2018.

Background and Purpose
The Whatcom County Sheriff’s Office operates a state approved boating safety program under WAC 352-65 and provides recreational boating safety patrols and enforcement of both county code and state law.

Funding Amount and Source

Differences from Previous Agreement
A decrease of $1,563.88 from previous original award.
Original award in 2017 was $18,374.57 with a subsequent additional award of $5,000.

Please contact Undersheriff Jeff Parks at extension 6610 if you have any questions regarding the terms of this agreement.

Thank you,

enclosure
<table>
<thead>
<tr>
<th>Originating Department:</th>
<th>Sheriff's Office</th>
</tr>
</thead>
<tbody>
<tr>
<td>Division/Program: (i.e. Dept. Division and Program)</td>
<td>35 / 3520 / 352060</td>
</tr>
<tr>
<td>Contract or Grant Administrator:</td>
<td>Jeff Parks, Undersheriff</td>
</tr>
<tr>
<td>Contractor’s / Agency Name:</td>
<td>WA State Parks and Recreation Commission</td>
</tr>
<tr>
<td>Is this a New Contract?</td>
<td>Yes ☑ No ☐</td>
</tr>
<tr>
<td>If not, is this an Amendment or Renewal to an Existing Contract?</td>
<td>Yes ☐ No ☑</td>
</tr>
<tr>
<td>If Amendment or Renewal, (per WCC 3.08.100 (a))</td>
<td>Original Contract #:</td>
</tr>
<tr>
<td>Does contract require Council Approval?</td>
<td>Yes ☑ No ☐</td>
</tr>
<tr>
<td>If No, include WCC: 3.06.010</td>
<td>(see Whatcom County Codes 3.06.010, 3.08.090 and 3.08.100)</td>
</tr>
<tr>
<td>Is this a grant agreement?</td>
<td>Yes ☑ No ☐</td>
</tr>
<tr>
<td>If yes, grantor agency contract number(s):</td>
<td>CFDA#: 97.012</td>
</tr>
<tr>
<td>Is this contract grant funded?</td>
<td>Yes ☑ No ☐</td>
</tr>
<tr>
<td>If yes, Whatcom County grant contract number(s):</td>
<td></td>
</tr>
<tr>
<td>Is this contract the result of a RFP or Bid process?</td>
<td>Yes ☑ No ☐</td>
</tr>
<tr>
<td>If yes, RFP and Bid number(s):</td>
<td>Contract Cost Center: 1003512006</td>
</tr>
<tr>
<td>Is this agreement excluded from E-Verify?</td>
<td>Yes ☑ No ☐</td>
</tr>
<tr>
<td>If no, include Attachment D Contractor Declaration form.</td>
<td></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></td>
</tr>
<tr>
<td>Contract work is for less than $100,000.</td>
<td>Contract for Commercial off the shelf items (COTS).</td>
</tr>
<tr>
<td>Contract work is for less than 120 days.</td>
<td>Work related subcontract less than $25,000.</td>
</tr>
<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):</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 $10,000 or 10% of contract amount, whichever is greater, except when:</td>
</tr>
<tr>
<td>$ 16,810.69</td>
<td>1. Exercising an option contained in a contract previously approved by the council.</td>
</tr>
<tr>
<td>This Amendment Amount:</td>
<td>2. Contract is for design, construction, r-o-w acquisition, prof. services, or other capital costs approved by council in a capital budget appropriation ordinance.</td>
</tr>
<tr>
<td>$</td>
<td>3. Bid or award is for supplies.</td>
</tr>
<tr>
<td>Total Amended Amount:</td>
<td>4. Equipment is included in Exhibit “B” of the Budget Ordinance.</td>
</tr>
<tr>
<td>$ 16,810.69</td>
<td>5. 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>
<tr>
<td>Summary of Scope: Annual Recreational Boating Safety (RBS) Grant awarded to the Whatcom County Sheriff’s Office to conduct on-the-water patrols during the peak boating period. The Sheriff’s Office conducts on-the-water patrols to increase education and enforcement activities encouraging greater compliance with boating safety laws in an effort to reduce boating-related loss of life, personal injury, and property damage.</td>
<td></td>
</tr>
<tr>
<td>Term of Contract: 03/01/18</td>
<td>Expiration Date: 09/30/18</td>
</tr>
<tr>
<td>Contract Routing:</td>
<td>1. Prepared by: D. Pierce Date: 03/12/17</td>
</tr>
<tr>
<td></td>
<td>2. Attorney signoff: Date: 3/14/18</td>
</tr>
<tr>
<td></td>
<td>3. AS Finance reviewed: Date: 3/14/18</td>
</tr>
<tr>
<td></td>
<td>4. IT reviewed (if IT related): Date:</td>
</tr>
<tr>
<td></td>
<td>5. Contractor signed: Date:</td>
</tr>
<tr>
<td></td>
<td>6. Submitted to Exec.: Date: 3-16-18</td>
</tr>
<tr>
<td></td>
<td>7. Council approved (if necessary): Date:</td>
</tr>
<tr>
<td></td>
<td>8. Executive signed: Date:</td>
</tr>
<tr>
<td></td>
<td>9. Original to Council: Date:</td>
</tr>
</tbody>
</table>

Last edited 02/15/18
FEDERAL FINANCIAL ASSISTANCE GRANT

In exchange for grant dollars in the amount of $16,810.69, Whatcom County Sheriff's Office agrees to the following terms:

- To expend **local funds** in the amount of $26,741.16 during Federal Fiscal Year 2018 that will satisfy the match requirement of this grant.
- To use funds solely for expenditures limited to the areas outlined in the document “Eligible Expenses of Vessel Registration Fees and Federal Financial Assistance Grants” that can be found at [http://mle.parks.wa.gov/](http://mle.parks.wa.gov/).
- To use Federal grant funds consistent with the requirements of 2 CFR 200.
- To make at least one instructor available upon request as outlined in the A-300 application.
- To meet all requirements outlined in the annual Vessel Registration Fee Agreement (A-299) with Washington State Parks.
- To follow these procedures to request reimbursement:
  - Use the Marine Law Enforcement Grant Invoice Voucher (form A-19) to invoice State Parks for reimbursement.
  - Submit invoices no more than monthly and no less than quarterly.
  - Submit invoices with the following documents:
    - Officer List Worksheet.
    - Detailed explanations for equipment purchases and maintenance expenditures that occurred during the period in which reimbursement is requested.
    - Maintain records for all allowable expenditures for which grant dollars were spent for a period of six years following the completion of the grant, and provide them to State Parks upon request. This includes vessel log sheets.
  - Submit A-19 Invoice Vouchers by the following dates:
    - For the period March-April-May-June (2nd quarter): by July 15th.
    - For the period July-August-September (3rd quarter): by October 15th.
• If, during any quarter, Whatcom County Sheriff's Office is unable to meet the requirements of the grant it will submit a letter, signed by the police chief or sheriff, along with the reimbursement request explaining the reasons and mitigating circumstances. If requested, Whatcom County Sheriff's Office will submit a plan within 30 days of the end of the quarter that describes steps Whatcom County Sheriff's Office will take to meet minimum requirements. In these cases, reimbursement requests may be deferred until the plan is received and approved by State Parks.

• Consider a “zero tolerance” enforcement policy for violations of:
  o Life jacket requirements, including lifejackets not worn, insufficient lifejackets, and lifejackets found unserviceable or the incorrect size
  o Completion and possession of the mandatory boater education card when operating, for operators required to carry it
  o Boat operation under the influence of alcohol (BUI) rules
  o “Rules of the road” and other operating regulations

• Participate with Washington State Parks in the following campaigns:
  o Operation Dry Water
  o National Safe Boating Week
  o Spring Aboard
  o Paddle Safety Week

• My agency will accomplish the goals stated in the A-300 online application and summarized after the signature in this agreement.

**AUTHORIZED SIGNATURE**

I certify that I am authorized to obligate the Whatcom County Sheriff's Office listed below, I am authorized to accept such funds, and to guarantee that all grant requirements outlined in this agreement will be met.

SEE ATTACHED SIGNATURE PAGE

Signing Officer Signature  Date

Signing Officer Name (Please Print)  Title
WHATCOM COUNTY:
Recommended for Approval:

Bill Jeff, Sheriff
(undersheriff)

Approved as to form:

Prosecuting Attorney

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 __________________________.
## Prevention Goals Summary

<table>
<thead>
<tr>
<th>Goal Description</th>
<th>Goal Value</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total Patrol Hour Goal</td>
<td>591.00</td>
</tr>
<tr>
<td>Total Inspections Goal</td>
<td>400.00</td>
</tr>
<tr>
<td>Count of State Approved Boater Education Classes Planned</td>
<td>2.00</td>
</tr>
<tr>
<td>Sum of Hours for State Approved Boater Education Classes</td>
<td>16.00</td>
</tr>
<tr>
<td>Sum of State Approved Boater Education Classes Planned Attendance</td>
<td>50.00</td>
</tr>
<tr>
<td>Count of Community Events</td>
<td>4.00</td>
</tr>
<tr>
<td>Sum ofCommunity Events Hours</td>
<td>172.00</td>
</tr>
<tr>
<td>Count of Presentations to Schools</td>
<td>1.00</td>
</tr>
<tr>
<td>Sum of Presentation to Schools Hours</td>
<td>0.00</td>
</tr>
<tr>
<td>Count of Presentations to Groups</td>
<td>1.00</td>
</tr>
<tr>
<td>Sum of Presentations to Groups Hours</td>
<td>4.00</td>
</tr>
<tr>
<td>Count of Dealer Visits Planned</td>
<td>9.00</td>
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<tr>
<td>Sum of Dealer Visits Hours</td>
<td>9.00</td>
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<tr>
<td>Count of Rental Sites Planned</td>
<td>5.00</td>
</tr>
<tr>
<td>Sum of Rental Site Visits Hours</td>
<td>6.00</td>
</tr>
<tr>
<td>Owned Media Posts</td>
<td>16.00</td>
</tr>
<tr>
<td>Earned Media Posts</td>
<td>16.00</td>
</tr>
<tr>
<td>Count of Partnering Organizations</td>
<td>1.00</td>
</tr>
<tr>
<td>Sum of Partnering Organization Hours</td>
<td>4.00</td>
</tr>
</tbody>
</table>
**DATE RECEIVED:** MAR 20 2018

**WHATCOM COUNTY COUNCIL**

**TITLE OF DOCUMENT:** Tri-Funder Agreement for Economic Development Services

**ATTACHMENTS:**
Memo
Intelocal Agreement between Whatcom County, City of Bellingham and Port of Bellingham.

**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 Interlocal Agreement between Whatcom County, City of Bellingham, and the Port of Bellingham for the purposes of economic development.

**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
Whatcom County Council

FROM: Tawni Helms, Administrative Coordinator

DATE: March, 12, 2018

SUBJECT: Expanded Scope and Compensation for Tri-Funder Agreement

Enclosed for your review and authorization are three (3) originals of a contract between Whatcom County, the City of Bellingham, and the Port of Bellingham for the provision of economic development services.

Background and Purpose:
In 2011 the Parties successfully joined their funding resources on a multi-year basis to increase efficiency in coordination and focus on the shared economic development outcomes expected by the parties.

Recently, the Port of Bellingham submitted an EDI funding proposal requesting an increase of $300,000 for expanded Economic Development Services. The increased funding will support economic development programs and personnel to facilitate the creation or retention of business/jobs and promote economic development purposes within the county. This funding request was approved by Council through budget ordinance #2017-071.

Increased funding allows for the expanded scope which includes more targeted services utilizing the existing collaboration. Deliverables include the implementation of a countywide strategic plan and a vision for economic development for the entire region.

Funding Amount and Source:
Funding source is the Public Utilities Improvement – Economic Development Investment (EDI) Fund.

Please contact Tawni Helms at extension 5208, if you have any questions or concerns regarding the terms of this agreement.

Encl.
### WHATCOM COUNTY CONTRACT INFORMATION SHEET

**Executive Office**  
Non-Departmental – EDI Fund

**Contractor’s / Agency Name:**  
Port of Bellingham & City of Bellingham

**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 ☒

**Contract**

---

**Cost Center:** 332219

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

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

---

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

- **2017:** $265,000. (fulfilled)
- **2018:** $967,550.
- **2019:** $974,845.

**This Amendment Amount:**

---

**Total Amended Amount:**

---

**Summary of Scope:** This agreement rescinds and supersedes the three year (2017-2019) agreement # 201612005 and includes an expanded scope and compensation for years 2018 and 2019 for countywide economic development deliverables. Contract amount shared by all three Parties.

**Term of Contract:** Three years – January 1, 2017  
**Expiration Date:** December 31, 2019

**Contract Routing:**

1. Prepared by: twh  
   **Date:** 03/19/18
2. Attorney signoff:  
   **Date:**
3. AS Finance reviewed: ßß  
   **Date:** 3-15-18
4. IT reviewed (if IT related):  
   **Date:**
5. Contractor signed:  
   **Date:**
6. Submitted to Exec.: ✓  
   **Date:** 3-19-18
7. Council approved (if necessary):  
   **Date:**
8. Executive signed:  
   **Date:**
9. Original to Council:  
   **Date:**

**Last edited:** 02/15/18
INTERLOCAL COOPERATION AGREEMENT
BETWEEN
WHATCOM COUNTY, THE CITY OF BELLINGHAM, AND THE
PORT OF BELLINGHAM, REGARDING A COORDINATED
APPROACH TO FUNDING COUNTY WIDE ECONOMIC
DEVELOPMENT AND CONTRACTING WITH WESTERN
WASHINGTON UNIVERSITY (WWU) SMALL BUSINESS
DEVELOPMENT CENTER (SBDC).

This Interlocal Cooperation Agreement (the “Agreement”) is made and entered into this day by and between Whatcom County, (the “County”), the City of Bellingham, (the “City”), and the Port of Bellingham (the “Port”); The County, City, and Port may be individually referred to as a “Party” and collectively referred to as the “Parties”.

WHEREAS, the Parties have separately undertaken economic development activities in Whatcom County, including contracting with various service providers to deliver business start-up, retention, recruitment, expansion and related services; and

WHEREAS, in 2011 the Parties successfully joined their funding resources on a multi-year basis to increase efficiency in coordination and focus on the outcomes expected by the Parties; and

WHEREAS, the Parties have jointly and continually agreed to fund the WWU SBDC since 2011; and

WHEREAS, in 2015 the Parties jointly decided to market Whatcom County including the creation of the “CHOOSE WHATCOM” website; and

WHEREAS, the Parties wish to continue their collaboration to fund the WWU SBDC, maintain and enhance the “CHOOSE WHATCOM” Website and provide economic development services and marketing efforts that create beneficial outcomes to the parties; and

WHEREAS, the funding commitments are apportioned with the knowledge the County will utilize the County Public Utilities Improvement Fund as allowable through RCW 82.14.370 to support the County funding contribution; and

WHEREAS, since 2012, the County has designated the Port to be the lead economic development agency for Whatcom County serving as the Associate Development Organization with the State of Washington Department of Commerce; and

WHEREAS, pursuant to RCW 53.08.245, the Port has broad authority to engage in economic development activity; and

Economic Development Interlocal
Page No. 1
WHEREAS, pursuant to RCW Chapter 39.34 the Parties desire to enter into this Agreement to continue the commitment of funding to the WWU SBDC, and to substantially increase funding, beginning in 2018, allowing for the Port to grow their economic development department including the hiring of a Director of Economic Development. The Port will use innovative techniques to retain and expand existing business, recruit businesses, support business start-ups and develop training and technology partnerships with the university, colleges and NW Workforce to foster competitive job skills and encourage living wage job markets throughout the County. The Port will also develop countywide economic development strategies based on or consistent with the County and City Comprehensive Plan.

NOW, THEREFORE, it is agreed by and between the Parties as follows:

1. This agreement supersedes and replaces the three year agreement entered into by the Parties in December, 2016 as Whatcom County contract #201612005, City of Bellingham contract # 2016-0605 and the Port of Bellingham contract #2017-0103417.

2. ADMINISTRATION. The Parties designate the Port as the administrator pursuant to this Agreement. Administrative duties include maintaining an economic development office, economic development staff and benefits, management of contracts, coordination of marketing efforts, receipts and dispersal of funds, and communication to Port, County and City representatives. The Port will follow the Port policies with regard to contracting for services or consultants.

3. SERVICES. The parties agree that for the purposes of this agreement economic development services include but are not limited to:
   a) Business retention
   b) Business expansion
   c) Assistance to start-up
   d) Business recruitment
   e) Asset and capacity building to support the above
   f) Develop training and technology partnerships
   g) Serve as conduit and liaison for Economic Development via Choose Whatcom website
   h) Create and implement countywide strategic planning and vision for economic development for the entire region
   i) Serve on Economic Development Investment Board

4. REPORTING. The Port will report to the Parties on a quarterly basis regarding services provided pursuant to items in section #2 listed above. Reporting metrics will be evaluated and adjusted as the Program matures over the next year.
5. **FINANCIAL COMMITMENTS.** The County, the City and the Port will include an economic development services line item in their respective 2017, 2018 and 2019 budgets. Contingent upon budget approval from each Party, an amount up to the following contribution levels will be made:

<table>
<thead>
<tr>
<th></th>
<th>2017</th>
<th>2018</th>
<th>2019</th>
</tr>
</thead>
<tbody>
<tr>
<td>City of Bellingham</td>
<td>$66,250.00</td>
<td>$84,350.00</td>
<td>$86,150.00</td>
</tr>
<tr>
<td>Port of Bellingham</td>
<td>$66,250.00</td>
<td>$343,500.00</td>
<td>$345,395.00</td>
</tr>
<tr>
<td>Whatcom County</td>
<td>$132,500.00</td>
<td>$443,700.00</td>
<td>$447,300.00</td>
</tr>
<tr>
<td>ADO Grant*</td>
<td>$265,00.00</td>
<td>$96,000.00</td>
<td>$96,000.00</td>
</tr>
<tr>
<td>Total:</td>
<td>$265,00.00</td>
<td>$967,550.00</td>
<td>$974,845.00</td>
</tr>
</tbody>
</table>

* Estimated state grant amount, subject to State Legislative approval.

The Port will allocate funding to the following general expense categories in 2018. This funding breakdown will be reevaluated and adjusted as the program grows and matures.

<table>
<thead>
<tr>
<th><strong>Salaries and Benefits</strong></th>
<th>$485,550</th>
</tr>
</thead>
<tbody>
<tr>
<td>Staff will include a new <strong>Economic Development Director</strong>, two economic development project managers and one coordinator/communication specialist.</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th><strong>Office Expenses</strong></th>
<th>$30,000</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Office Rent</td>
<td></td>
</tr>
<tr>
<td>• Utilities and Communications</td>
<td></td>
</tr>
<tr>
<td>• Computers/ Office Equipment</td>
<td></td>
</tr>
<tr>
<td>• Office Furniture/ Supplies</td>
<td></td>
</tr>
<tr>
<td>• Publications/ Data Bases</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th><strong>Advertising, Promotion and Recruiting</strong></th>
<th>$152,000</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Targeted Advertising</td>
<td></td>
</tr>
<tr>
<td>• Trade Shows and Events</td>
<td></td>
</tr>
<tr>
<td>• Recruitment and Marketing Travel</td>
<td></td>
</tr>
<tr>
<td>• Marketing Materials</td>
<td></td>
</tr>
<tr>
<td>• Meeting Expenses</td>
<td></td>
</tr>
<tr>
<td>• Choose Whatcom Website</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th><strong>Outside Services</strong></th>
<th>$300,000</th>
</tr>
</thead>
</table>

Economic Development Interlocal
Page No. 3
6. **INVOICES.**

WWU SBDC: All WWU SBDC invoices must be consistent with the contract and approved by the Parties listed under section 9. Once approved, the Port will pay the invoice and forward the same to the County and the City for reimbursement. The County, the City and the Port shall provide the aggregate reimbursement for all payments quarterly within 30 days upon receipt of invoice by Port.

**STAFF, OFFICE, ADVERTISING AND OUTSIDE SERVICES EXPENSES:**
The Port will bill the City and the County quarterly in accordance with the budget in section 3, and future amendments.

7. **EFFECTIVE DATE AND TERM.** The Agreement shall be effective immediately upon its execution by all Parties. This Agreement shall continue in full force and effect until December 31, 2019. Then, in the event that funds remain in the account for this Agreement and all debts have been paid, the funds will be returned to the Parties in proportion to their contribution.

8. **WITHDRAWAL OF PARTIES.** Any Party may withdraw from this Agreement by providing thirty (30) days written notice to the other parties. However, any Party withdrawing shall remain responsible for its prorated share of any payments due the WWU SBDC and Port for contracts executed prior to the receipt of the notice by the Port.

9. **NEW PARTIES.** The Parties may allow additional public agencies (as the term is defined in RCW 39.34.020) to become parties to this Agreement subject to such terms and conditions as they unanimously agree.

10. **SURVIVABILITY:** All covenants, promises and performance which are not fully performed as of the date of termination shall survive termination as binding obligations.

11. **NOTICES:** All notices, demands, requests, consents and approvals which may, or are required to be given by any party to any other party hereunder, shall be in writing and shall be deemed to have been duly given if delivered personally, sent by facsimile, sent by a nationally recognized overnight delivery service, or if deposited in the United States mail and sent by registered or certified mail, return receipt requested, postage prepaid to:

Economic Development Interlocal
Page No. 4
or to such other address as the foregoing parties hereto may from time-to-time designate in writing and deliver in a like manner. All notices shall be deemed complete upon actual receipt or refusal of the intended recipient to accept delivery. Facsimile transmission of any signed original document, and retransmission of any signed facsimile transmission shall be the same as delivery of an original document.

2. **AMENDMENT**: No modification, termination or amendment of this Agreement may be made except by written agreement signed by all parties, except as provided herein.

13. **WAIVER**: No failure by any of the foregoing parties to insist upon the strict performance of any covenant, duty, agreement, or condition of this Agreement or to exercise any right or remedy consequent upon a breach thereof, shall constitute a waiver of any such breach or any other covenant, agreement, term or condition.

14. **NEUTRAL AUTHORSHIP**: Each of the provisions of this Agreement has been reviewed and negotiated, and represents the combined work product of all parties hereto. No presumption or other rules of construction which would interpret the provisions of this Agreement in favor of or against the party preparing the same shall be applicable in connection with the construction or interpretation of any of the provisions of this Agreement.

15. **PUBLIC RECORDS ACT**: All records received by any Party, pursuant to this Agreement shall be a public record and therefore subject to the Public Records Act.

16. **ENTIRE AGREEMENT**: The entire agreement between the parties hereto is contained in this Agreement, and this Agreement supersedes all of their previous understandings and agreements, written and oral, with respect to this transaction. This
Agreement may be amended only by written instrument executed by the parties subsequent to the date hereof.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year according to the signatures below.

EXECUTED THIS ___ day of ____________, 2018.

CITY OF BELLINGHAM

Kelli Linville
Mayor

Attest:

Finance Director

Approved as to form:

Office of the City Attorney
EXECUTED this ____ day of __________, 2018.

WHATCOM COUNTY

Jack Louws
County Executive

Approved as to form:

Sr. Civil Deputy Prosecuting Attorney

Economic Development Interlocal
Page No. 7

174
EXECUTED THIS 19th day of March, 2018.

PORT OF BELLINGHAM

Rob Eix
Executive Director
WHATCOM COUNTY COUNCIL AGENDA BILL

CLEARANCES

<table>
<thead>
<tr>
<th>Originator:</th>
<th>Initial</th>
<th>Date</th>
<th>Date Received in Council Office</th>
<th>Agenda Date</th>
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</table>

Division Head:

Dept. Head:

Prosecutor: 3/16/18

Purchasing/Budget: 3/14/18

Executive: 3/19/18

TITLE OF DOCUMENT:
WEST ONLINE SUBSCRIPTION CONTRACT

ATTACHMENTS:
Contract, contract information sheet, explanatory memo

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

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

Request approval for the County to enter into a three-year contract with WEST for online access to legal research databases and print service subscriptions for the Whatcom County Law Library

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 CONTRACT INFORMATION SHEET

### Contract Information
- **Originating Department:** Law Library / Prosecutor
- **Division/Program:** (i.e. Dept. Division and Program)  
  [Click here to enter text.]
- **Contractor’s / Agency Name:** West Publishing
- **Contract or Grant Administrator:** Gayle Isaac

### Contract Details
- **Is this a New Contract?** Yes ☑ No □
- **If not, is this an Amendment or Renewal to an Existing Contract?** Yes ☑ No □
- **Does contract require Council Approval?** Yes ☑ No □
- **If Yes, grantor agency contract number(s):** _________
- **Is this a grant agreement?** Yes ☑ No □
- **If Yes, Whatcom County grant contract number(s):** _________
- **If this is the result of a RFP or Bid process?** Yes ☑ No □
- **If Yes, RFP and Bid number(s):** _________
- **Is this agreement excluded from E-Verify?** No ☑ Yes □

### Contract Amount
- **Contract Amount:** (sum of original contract amount and any prior amendments):
  - $117,519.36 (total amount over 3 years)
- **This Amendment Amount:** $__________
- **Total Amended Amount:** $__________

### Summary of Scope
This is a 3-year, sole source subscription with West Publishing for legal research databases and print subscriptions.

### Contract Routing
- **Prepared by:** [Signature]
- **Attorney signoff:** [Signature]
- **AS Finance reviewed:** [Signature]
- **IT reviewed (if IT related):** [Signature]
- **Contractor signed:** [Signature]
- **Submitted to Exec.:** [Signature]
- **Council approved (if necessary):** [Signature]
- **Executive signed:** [Signature]
- **Original to Council:** [Signature]

### Council Approval
- **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, prof. services, or other capital costs approved by council in a capital budget appropriation ordinance.
  3. Bid or award is for supplies.
  4. Equipment is included in Exhibit “B” of the Budget Ordinance.
  5. 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.

### Expiration Date
- **Expiration Date:** 3 years from date of execution
  - Date: 3/9/2018
  - Date: 3/15/2018
  - Date: 3/16/18

**Last edited 02/15/18**

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Order Form

Order ID: Q-00170051

Contact your representative william.lavelle@thomsonreuters.com with any questions. Thank you.

Account Address
Account #: 1003199172
WHATCOM COUNTY LAW LIBRARY
PATRON ACCESS COURTHOUSE
311 GRAND AVE STE B3
BELLINGHAM
WA, 98225-4038
US

Shipping Address
Account #: 1003199172
WHATCOM COUNTY LAW LIBRARY
PATRON ACCESS COURTHOUSE
311 GRAND AVE STE B3
BELLINGHAM
WA, 98225-4038
US

Billing Address
Account #: 1003199172
WHATCOM COUNTY LAW LIBRARY
PATRON ACCESS COURTHOUSE
311 GRAND AVE STE B3
BELLINGHAM
WA, 98225-4038
US

This Order Form is a legal document between West Publishing Corporation and Subscriber. West Publishing Corporation also means “West”, “we” or “our” and Subscriber means “you”, or “I”. Subscription terms, if any, follow the ordering grids below.

ProFlex Products
See Attachment for details

<table>
<thead>
<tr>
<th>Service Material</th>
<th>Product</th>
<th>Monthly Charges</th>
<th>Minimum Term (Months)</th>
<th>Year Over Year Increase During Minimum Term</th>
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Bridge Terms
Bridge Monthly Charges begin on the date we process your order and will be prorated for the number of days remaining in that calendar month, if any. The Bridge Monthly Charges will continue for the number of complete calendar months listed in the Bridge Term column above. At the end of the Bridge Term, your Monthly Charges and the Minimum Term will be as described in the Product grid above. All other terms and conditions of the Order Form remain unchanged.

Minimum Terms
Online/Practice Solution/Software/ProFlex Products: Monthly Charges begin on the date we process your order and will be prorated for the number of days remaining in that calendar month, if any. Your Monthly Charges will continue for the number of complete calendar months listed in the Minimum Term column above. The percent increases for multi-year orders appear in the Term Increases column above. Subscriber ("you" or "I") is also responsible for all Excluded Charges. Excluded Charges are for accessing Westlaw data or a Practice Solutions service that is not included in your subscription. Excluded Charges may change after at least 30 days written or online notice.

For Window Products: Monthly Charges begin on the date we process your order and will continue for the number of complete calendar months in the Minimum Term column above. The percent increases for multi-year orders appear in the Term Increases column above. Monthly Charges are due regardless of the level of your usage. Transactional usage charges that exceed the Monthly Charges are waived up to the Monthly Window amount stated above. In addition to the Monthly Charges you are responsible for transactional usage charges in excess of the Monthly Window. Transactional charges are calculated based upon our then-current Schedule A rates. You are also responsible for all Excluded Charges. Excluded Charges are charges for accessing a service that is not included in your subscription. Excluded Charges may change after at least 30 days written or online notice.

To apply Window charges to a specific month, the request must be submitted at least five (5) business days prior to the end of the month.

For Online/Practice Solutions/Software/ProFlex Products: Your subscription will change to a month-to-month status at the end of the Minimum Term, and your Monthly Charges will increase by 7%. Thereafter, the Monthly Charges will increase 7% every 12 months unless we notify you of a different rate at least 60 days before the annual increase. You are also responsible for all Excluded Charges. Excluded Charges may change after at least 30 days written or online notice. Either of us may cancel the month-to-month subscription by sending at least 30 days written notice. Send your notice of cancellation to Customer Service, 610 Opperman Drive, P.O. Box 64833, Eagan, MN 55123-1803.

Page 1 of 5
Automatic Renewal Term for Window Products. Your subscription will change to a month-to-month status at the end of the Minimum Term and your Monthly Charges will be billed at up to our then-current rate. Thereafter, we may modify the Monthly Charges after at least 30 days notice. The Monthly Window will remain unchanged. Monthly Charges are due regardless of the level of your usage. Transactional usage charges that exceed the Monthly Charges are waived up to the Monthly Window. In addition to the Monthly Charges, you are responsible for transactional usage charges in excess of the Monthly Window. Transaction charges are calculated based upon our then-current Schedule A rate. You are also responsible for all Excluded Charges. Excluded Charges may change after 30 days written or online notice. Either of us may cancel the month-to-month subscription by sending at least 30 days written notice. Send your notice of cancellation to Customer Service, 610 Opperman Drive, P.O. Box 64833, Eagan MN 55123-1803.

To apply Window charges to a specific month, the request must be submitted at least five (5) business days prior to the end of the month.

Federal Government Subscribers Optional Minimum Term. Federal government subscribers that chose a multi-year Minimum Term, those additional months will be implemented at your option pursuant to federal law.

| Charges, Payments & Taxes. You agree to pay all charges in full within 30 days of the date of invoice. You are responsible for any applicable sales, use, value added tax (VAT), etc. unless you are tax exempt. If you are a non-government subscriber and fail to pay your invoiced charges, you are responsible for collection costs including attorneys' fees. |
| Credit Verification. If you are applying for credit as an individual, we may request a consumer credit report to determine your creditworthiness. If we obtain a consumer credit report, you may request the name, address and telephone number of the agency that supplied the credit report. If you are applying for credit on behalf of a business, we may request a current business financial statement from you to consider your request. |
| Auto Charge Credit Card/Electronic Funds Transfer Election Payment Terms. You may authorize us to automatically charge a credit card, debit card or electronic fund transfer to pay charges due. Contact Customer Service at 1-800-328-4880 for authorization procedures. If you have previously authorized us to bill a credit card, debit card or make electronic fund transfers for West subscriptions on an ongoing basis, or authorizing the same as part of this order, no further action is needed. |
| Returns and Refunds. You may return a print product to us within 45 days of the original shipment date if you are not completely satisfied. Assured Print Pricing, Library Savings Plan, West Complete, Library Maintenance Agreements, ePack, WestPack, Westlaw, CLEAR, Monitor Suite, ProView eBook, Software, West LegalEdcenter, Practice Solutions, TREGS and Serengeti charges are not refundable. Please see http://static.legalstandards.thomsonreuters.com/static/returns-refunds.pdf or contact Customer Service at 1-800-328-4880 for additional details regarding our policies on returns and refunds. |

Applicable Law. This Order Form will be interpreted under Minnesota state law. Any claim by one of us may be brought in the state or federal courts in Minnesota. If you are a state or local governmental entity, your state’s law will apply and any claim may be brought in the state or federal courts located in your state. If you are a United States Federal Government subscriber, United States federal law will apply and any claim may be brought in any federal court.

Excluded Charges. If you access services that are not included in your subscription you will be charged our then-current rate ("Excluded Charges"). Excluded Charges will be invoiced and due with your next payment. For your reference, the current Excluded Charges schedules are located at the links below. Excluded Charges may change after at least 30 days written or online notice.


The General Terms and Conditions, apply to all products ordered, except print and is located at http://static.legalstandards.thomsonreuters.com/static/general-terms-conditions.pdf

The General Terms and Conditions for Federal Subscribers are located at http://static.legalstandards.thomsonreuters.com/static/federal-general-terms-conditions.pdf. In the event that there is a conflict between the General Terms and Conditions and this Order Form, the terms of this Order Form control. This Order Form is subject to our approval.

Banded Product Subscriptions You certify the total number of attorneys (partners, shareholders, associates, contract or staff attorneys, of counsel, and the like), corporate users, personnel or full-time-equivalent students is indicated in the applicable Quantity column. Our pricing for banded products is made in reliance upon your certification. If we learn that the actual number is greater, we reserve the right to increase your charges as applicable.

Product Specific Terms. The following products have specific terms which are incorporated by reference and made part of this Order Form if they apply to your order. They can be found at http://static.legalstandards.thomsonreuters.com/static/product-specific-terms.pdf. If the product is not part of your order, the product specific terms do not apply. If there is a conflict between product specific terms and the Order Form, the product specific terms control.

- Campus Research
- Contract Express
- Hosted Practice Solutions
- ProView eBooks

Page 2 of 5
**Government Non Availability of Funds for Online, Practice Solutions or Software Products**
You may cancel a product or service with at least 30 days written notice if you do not receive sufficient appropriation of funds. Your notice must include an official document, (e.g., executive order, an officially printed budget or other official government communication) certifying the non-availability of funds. You will be invoiced for all charges incurred up to the effective date of the cancellation.

**ACKNOWLEDGEMENT**
I have read all pages and attachments to this Order Form and I accept the terms on behalf of Subscriber. I warrant that I am authorized to sign this Order Form on behalf of the Subscriber.

Signature of Authorized Representative for order

Printed Name

Title

Date

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This Order Form will expire and will not be accepted after 3/20/2018.
Order ID: Q-00170051

Payment, Shipping, and Contact Information

Payment Method:
Payment Method: Bill to Account
Account Number: 1003199172
PO Number:
SA ID:
GSA Funding:

Shipping Information:
Shipping Method: Ground Shipping - U.S. Only

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<th>Account Address</th>
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ProFlex Multiple Location Details

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ProFlex Product Details

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<tr>
<td>GAYLE</td>
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Online Contact Information

Lapsed Products

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<td>Real Property Practitioner Core — Washington (Westlaw PRO™)</td>
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<tr>
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<tr>
<td>40968624</td>
<td>National Reporter Images (Westlaw PRO™)</td>
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</tbody>
</table>
Order Form

Order ID: Q-00197651

Contact your representative kellie.gallagher@thomsonreuters.com with any questions. Thank you.

Account Address
Account #: 1000718985
WHATCOM COUNTY LAW LIBRARY
COURTHOUSE
311 GRAND AVE STE B03
BELLINGHAM
WA, 98225-4038
US

Shipping Address
Account #: 1000718985
WHATCOM COUNTY LAW LIBRARY
COURTHOUSE
311 GRAND AVE STE B03
BELLINGHAM
WA, 98225-4038
US

Billing Address
Account #: 1000718985
WHATCOM COUNTY LAW LIBRARY
COURTHOUSE
311 GRAND AVE STE B03
BELLINGHAM
WA, 98225-4038
US

This Order Form is a legal document between West Publishing Corporation and Subscriber. West Publishing Corporation also means “West”, “we” or “our” and Subscriber means “you”, or “I”. Subscription terms, if any, follow the ordering grids below.

<table>
<thead>
<tr>
<th>Service Material</th>
<th>Product Description</th>
<th>Quantity</th>
<th>Monthly Charges</th>
<th>Minimum Term (Months)</th>
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Subscription Services for Print/ProView eBook Programs

During your subscription term, for Print products, you will receive subscription services consisting of automatic shipments of updates and supplements to the print products, including but not limited to pocket parts, pamphlets, replacement volumes, or loose-leaf pages, as available. The license for Proview eBooks includes updates to the most current version of each edition of the eBooks which are available during your subscription terms.

Your West sales representative will provide frequency of updates upon request. Transportation charges, return and refund information is in the “Miscellaneous” section below.

West Complete Term

During your West Complete subscription term, you will receive subscription services consisting of automatic shipments of updates and supplements to the print product, including but not limited to pocket parts, pamphlets, replacement volumes, or loose-leaf pages. If your West Complete subscription includes ProView eBook titles, you will receive subscription services For eBook products you will receive updates to the most current version of each edition of the eBooks which are available during your subscription terms.

During your subscription term, for Print products, you will receive subscription services consisting of automatic shipments of updates and supplements to the print products, including but not limited to pocket parts, pamphlets, replacement volumes, or loose-leaf pages. The license for Proview eBooks includes updates to the most current version of each edition of the eBooks which are available during your subscription terms.

Your West sales representative will provide frequency of updates upon request. Transportation charges, return and refund information is in the “Miscellaneous” section below.

Minimum Terms

For Print Program Products: Monthly Charges begin on the date West Publishing Corporation (“West”, “we”, or “our”) processes Subscriber’s (“you” or “I”) order and will be prorated for the number of days remaining, if any. Your Monthly Charges will continue for the number of complete calendar months in the Minimum Term column above. The percent increases for multi-year orders appear in the Term Increases column above.

Initial for Automatic Renewal Term. I request West to continue subscription services for the products designated above after the Minimum Term. Each Automatic Renewal Term will be 12 months in length (“Automatic Renewal Term”) and include a 7% price increase unless we notify you of a different rate at least 60 days before each Automatic Renewal Term begins. Either of us may cancel in writing at least 30 days before an Automatic Renewal Term starts. Send your notice of cancellation to Customer Service, 610 Opperman Drive, P.O. Box 64833, Eagan MN 55123-1803. 

Page 1 of 5
Charges, Payments & Taxes. You agree to pay all charges in full within 30 days of the date of invoice. You are responsible for any applicable sales, use, value added tax (VAT), etc., unless you are tax exempt. If you are a non-government subscriber and fail to pay your invoiced charges, you are responsible for collection costs including attorneys' fees.

Credit Verification. If you are applying for credit as an individual, we may request a consumer credit report to determine your creditworthiness. If we obtain a consumer credit report, you may request the name, address and telephone number of the agency that supplied the credit report. If you are applying for credit on behalf of a business, we may request a current business financial statement from you to consider your request.

Auto Charge Credit Card/Electronic Funds Transfer Election Payment Terms. You may authorize us to automatically charge a credit card, debit card or electronic fund transfer to pay charges due. Contact Customer Service at 1-800-328-4880 for authorization procedures. If you have previously authorized us to bill a credit card, debit card or make electronic fund transfers for West subscriptions on an ongoing basis, or authorizing the same as part of this order, no further action is needed.

Returns and Refunds. You may return a print product to us within 45 days of the original shipment date if you are not completely satisfied. Assured Print Pricing, Library Savings Plan, West Complete, Library Maintenance Agreements, ePack, WestPack, Westlaw, CLEAR, Monitor Suite, ProView eBook, Software, West LegalEdcenter, Practice Solutions, TREWS and Serengeti charges are not refundable. Please see http://static.legalsolutions.thomsonreuters.com/static/returns-refunds.pdf or contact Customer Service at 1-800-328-4880 for additional details regarding our policies on returns and refunds.

Applicable Law. This Order Form will be interpreted under Minnesota state law. Any claim by one of us may be brought in the state or federal courts in Minnesota. If you are a state or local governmental entity, your state’s law will apply and any claim may be brought in the state or federal courts located in your state. If you are a United States Federal Government subscriber, United States federal law will apply and any claim may be brought in any federal court.

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- Campus Research
- Contract Express
- Hosted Practice Solutions
- ProView eBooks
- Time and Billing
- Westlaw Doc & Form Builder
- West km Software
- West LegalEdcenter
- Westlaw Paralegal
- Westlaw Patron Access
- Westlaw Public Records

ACKNOWLEDGEMENT

I have read all pages and attachments to this Order Form and I accept the terms on behalf of Subscriber. I warrant that I am authorized to sign this Order Form on behalf of the Subscriber.

Signature of Authorized Representative for order

Printed Name

Title

Date 3/15/18

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This Order Form will expire and will not be accepted after 5/6/2018.
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Government Accounts Only

Non Availability of Funds Addendum to Order Form for West Complete, Assured Print Pricing and Library Savings Plan Orders

Subscriber: WHATCOM COUNTY LAW LIBRARY
Account #: 1000718985
Date of Order Form: 03/12/2018

Non Availability of Funds. After the initial 12 months, you may cancel with 30 days written notice if you do not receive sufficient appropriation of funds. Your notice must include an official document (e.g., executive order, an officially printed budget, or other official communication) certifying the non-availability of funds. You will be invoiced for all charges incurred up to the effective date of the cancellation.

All other terms and conditions of the Order Form will remain unchanged. Please have this document signed by your authorized representative and returned to us along with the signed Order Form.

West Publishing Corporation

Accepted By ____________________________
Title ____________________________
Date ____________________________

Subscriber

Signed ____________________________
Name (please print) ____________________________
Title ____________________________
Date ____________________________
WHATCOM COUNTY COUNCIL AGENDA BILL

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TITLE OF DOCUMENT:
Discussion of the Criminal Justice & Public Safety Committee work plan for 2018 and other meeting-related items.

ATTACHMENTS:

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

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

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE: (If this item is an ordinance or requires a public hearing, you must provide the language for use in the required public notice. Be specific and cite RCW or WCC as appropriate. Be clear in explaining the intent of the action.)
Discussion of the Criminal Justice and Public Safety Committee's work plan for 2018

COMMITTEE ACTION:

2/27/18: Discussed in Criminal Justice and Public Safety Committee
3/13/2018: Discussed and approved motion to allocate money from the $100,000 approved for the work of the Criminal Justice and Public Safety Committee to create and implement a combined phone and Google survey to gather statistically valid opinions of the community

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

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**TITLE OF DOCUMENT:**

A request for an additional one-year extension for final approval for the Lincoln Road Long Subdivision.

**ATTACHMENTS:**

1. Cover Memo
2. Staff Report
3. Site Plan
4. Extension Request
5. Interested Parties

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Should Clerk schedule a hearing? ( ) Yes (X) NO

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

Pursuant to WCC 20.85.355, the applicant is requesting an additional one-year extension for final approval of the Lincoln Road Long Subdivision and Planned Unit Development.

**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: Honorable members of the Whatcom County Council
FROM: Amy Keenan, AICP Senior Planner
THROUGH: Mark Personius, Interim Director
DATE: March 14, 2018
SUBJECT: Lincoln Road - Extension to a Preliminarily Approved Planned Unit Development and Long Subdivision

On August 23, 2005, Mike Owens applied for preliminary approval of a long subdivision and planned unit development (PUD). The proposal was to create 22 single family residential lots and one reserve tract on a 19.73 acre parcel in the Urban Residential (UR4) zone in the Birch Bay Urban Growth Area (UGA).

The Whatcom County Council granted a major modification and one year extension in 2015 and granted second one year extension in 2016. The current expiration date for the subdivision is May 19, 2018. The applicant applied for the third and final extension request allowed by code on January 17, 2018. WCC 20.85.355(3) specifically addresses conditions under which the County Council can approve extensions to preliminarily approved subdivisions:

(3) The Whatcom County council shall have authority to grant two additional one-year extensions beyond the one-year extension authorized in subsection (2) of this section. Each such additional one-year extension may be granted after taking into consideration technical, economic and other matters beyond the control of the applicant and the council finds that there is reasonable justification for the granting of additional extensions. In granting each additional one-year extension beyond that approved in subsection (2) of this section, the council may take into consideration such changes in rules, regulations and ordinances that have occurred since the time the original approval was granted and may condition the extension so as to required compliance with any such subsequently adopted rules, regulations or ordinances, or portion thereof, that the council deems necessary to protect the public health, safety and welfare. Requests for extension shall be made in writing to the Whatcom County council prior to expiration of the initial PUD approval.

The TRC is recommending that Council approve the requested final one year extension. If approved by Council the applicant must obtain wetland delineation approval, civil drawing approval and construct all improvements by May 18, 2019.

Please feel free to contact me with any questions about this proposal at (360) 778-5943 or akeenan@whatcomcounty.us.
WHATCOM COUNTY PLANNING AND DEVELOPMENT SERVICES
STAFF REPORT AND RECOMMENDATION TO THE
WHATCOM COUNTY COUNCIL

March 14, 2018

The application by Mike Owens for an extension to a preliminarily approved Planned Unit Development and Long Subdivision

| PUD2005-00007 |
| LSS2005-00012 |
| FINDINGS, CONCLUSIONS, AND RECOMMENDATIONS |

I. SUMMARY OF APPLICATION AND RECOMMENDATIONS

Summary: The applicant is requesting a final one-year extension for final approval of Lincoln Road Long Subdivision and Planned Unit Development.

Recommendation: The Technical Review Committee recommends approval of the requested extension, subject to conditions.

II. PRELIMINARY INFORMATION

A. BACKGROUND INFORMATION

Applicant: Mayflower Equities, Inc.

Agent/Representative: Darcy Jones
Jones Engineers
4164 Meridian Street, Suite 304
Bellingham, WA 98226

Site Location/Address: South side of Lincoln Road, approximately 660 feet west of Blaine Road, Blaine, WA

Legal Description: Located within a portion of the NW quarter of the NE quarter of Section 19, Township 40 North, Range 1 East, W.M.

Assessor’s Parcel Number: 400119 436463

Zoning: Urban Residential (UR4)

Comprehensive Plan: Birch Bay Urban Growth Area (UGA)
Subarea: Birch Bay
Number of Lots: 22 single family lots and one reserve tract
Reserve Area: 13.5 acres
Total Acreage: 19.73 acres
Roads: Public Road
Water Supply: Birch Bay Water and Sewer District
Sewage Disposal: Birch Bay Water and Sewer District
Fire Protection: Whatcom County Fire District No. 21
Law Enforcement: Whatcom County Sheriff’s Office
Public Schools: Blaine School District No. 503

B. AUTHORIZING ORDINANCES:

1. Revised Code of Washington Chapter 58.17
2. Whatcom County Comprehensive Land Use Plan.
3. Whatcom County Code Chapter 12.08, Development Standards
4. Whatcom County Code Chapter 15, Building Code
5. State Environmental Policy Act (SEPA). Washington Administrative Code Chapter 197-11, Whatcom County Environmental Policy Administration Chapter 16.08
6. Whatcom County Code Chapter 16.16, Critical Areas
7. Whatcom County Code Title 20, Official Whatcom County Zoning Ordinance
8. Whatcom County Code Title 21, Subdivision Regulations
9. Whatcom County Code Title 24, Health Regulations

III. SITE DESCRIPTION

The subject rectangular 19.73-acre site is located on the south side of Lincoln Road, approximately 660 feet west of Blaine Road. The property has approximately 662-feet of frontage along Lincoln Road and is approximately 1,300-feet deep.

The terrain is described as generally flat with gentle slopes of 0-3% with a maximum slope of 5%. Vegetation on the site consists of forested areas with a mixture of coniferous and deciduous trees, shrubs, grass and wet soil plants.

Property to the north of the site is currently zoned Rural (R10A) and consists of vacant land and large lot single-family development. Property to the south and east of the site is zoned R5A and consists of large single-family home sites. Property to the west of the site is zoned UR4 and is undeveloped pasture and forestlands.
IV. PROJECT PROPOSAL

The Lincoln Road development is a 22-lot single-family project located on 6.23-acres of the 19.72-acre site. The balance acreage (13.5-acres) will be set aside as a wetland/reserve tract, which may ultimately serve additional residential lots. Residential lots range from 6,000-square feet to 8,379-square feet in size. The applicant has submitted a Long Subdivision (LSS) and a Planned Unit Development (PUD) with the intent of providing flexibility in lot design and preserving and enhancing large areas of wetland.

V. STATE ENVIRONMENTAL POLICY ACT (SEPA)

The State Environmental Policy Act (SEPA) requires applicants to disclose potential impacts to the environment as a result of their project. The Environmental Checklist submitted by the applicant adequately discloses anticipated environmental impacts as a result of this project. A Mitigated Determination of Non-Significance was issued on May 7, 2008. No appeals of the MDNS were filed.

VI. CONSISTENCY WITH REGULATIONS

A. Whatcom County Zoning Regulations

The following code details the approval timeframes for a Planned Unit Development (PUD):

WCC 20.85.355 Initial approval time limits.

1. The applicant shall have five years from the date of council action, except as provided in subsection (4) of this section, to submit the final application pursuant to WCC 20.85.365.

2. An applicant who files a written request with the Whatcom County council prior to expiration of the five-year expiration period shall be granted a one-year extension upon showing that the applicant has attempted in good faith to complete the requirements necessary for submittal of final PUD approval within five years from the date of initial PUD approval.

3. The Whatcom County council shall have authority to grant two additional one-year extensions beyond the one-year extension authorized in subsection (2) of this section. Each such additional one-year extension may be granted after taking into consideration technical, economic and other matters beyond the control of the applicant and the council finds that there is reasonable justification for the granting of additional extensions. In granting each additional one-year extension beyond that approved in subsection (2) of this section, the council may take into consideration such changes in rules, regulations and ordinances that have occurred since the time the original approval was granted and may condition the extension so as to required compliance with any such subsequently adopted rules, regulations or ordinances, or portion thereof, that the council deems necessary to protect the public health, safety and welfare. Requests for extension shall be made in writing to the Whatcom County council prior to expiration of the initial PUD approval.
WCC 21.05.039 Phasing, expiration and time extension for preliminary long subdivision approval.

(1) Except as provided by subsection (1)(a) of this section, a final plat shall be submitted in proper form for final plat approval within seven years of the date of preliminary plat approval if the date of preliminary plat approval is on or before December 31, 2014, and within five years of the date of preliminary plat approval if the date of preliminary plat approval is on or after January 1, 2015.

(a) A final plat shall be submitted in proper form for final plat approval within 10 years of the date of preliminary plat approval if this project is not subject to requirements adopted under Chapter 90.58 RCW and the date of preliminary plat approval is on or before December 31, 2007.

(2) Extension of Time for Submittal of Final Long Subdivision. The expiration of a preliminary long subdivision approval may be extended under the following provisions:

(a) An applicant files a written request with the subdivision administrator prior to expiration of the five-year expiration period. The request shall state the specific work items, standards, and criteria which have not been completed and the reasons therefor. The request shall also indicate when the work will be completed within the requested period. The subdivision administrator shall review the request and provide a recommendation to the hearing examiner.

(b) The hearing examiner shall have authority to grant one one-year extension subsequent to the original preliminary plat approval.

(c) The one-year extension may be granted if, after taking into consideration technical, economic and other matters beyond the control of the applicant, the hearing examiner finds that there is reasonable justification for the granting of an extension.

(d) In granting the one-year extension the hearing examiner shall take into consideration such changes in rules, regulations, ordinances, or development standards, or portions thereof, that have occurred since the time the original approval was granted.

(e) The hearing examiner may condition the extension so as to require compliance with any such subsequently adopted rules, regulations, ordinances, or development standards, or portion thereof, that are deemed necessary to protect the public health, safety and welfare.

Discussion:
The Whatcom County Hearing Examiner held a public hearing and recommended approval of the subdivision and PUD on May 6, 2009. The Whatcom County Council adopted the Hearing Examiner’s recommendation and approved the preliminary subdivision and PUD, subject to conditions, on May 19, 2009. The approval allowed the applicant five years to obtain final subdivision and PUD approval and record the mylar. The date for recording was May 19, 2014.

On August 2, 2013, Council approved Ordinance 2013-049 which changed the dates for final subdivision approval, consistent with changes to RCW 58.17.140. Pursuant
to WCC 21.05.039(1) subdivisions (and associated permits such as a PUD) that received preliminary approvals prior to December 31, 2014 were allowed seven years to reach final approval. The revised final subdivision approval timeframe, pursuant to WCC 21.05.039(1) was May 19, 2016.

In working through the preliminary construction drawing phase of the project with Public Works Engineering Services (PWES) it became clear that the conditions of approval associated with off-site road improvements were no longer applicable. The applicant worked with PWES to revise those conditions. Given the amount of time the applicant spent working with PWES and the amount of work necessary to complete the modification the applicant also requested a one year extension to the final plat approval. Council granted approval of both, with a new expiration date of May 19, 2017.

The applicant submitted a second request for extension which was granted and resulted in a new expiration date of May 19, 2018. The second extension question was granted by Council and required all infrastructure to be complete and the mylar recorded on or before May 19, 2018 or the approvals associated with the subdivision and PUD would expire. The extension was granted with the condition that the subdivision would be subject to updated critical areas and stormwater review.

On January 17, 2018 the applicant submitted a request for the third extension allowed pursuant to WCC 20.85.355(3). If Council granted the third and final extension the new expiration for the subdivision and PUD would be May 19, 2019. The following table outlines the project timeframes associated with the subdivision and PUD:

<table>
<thead>
<tr>
<th>Permit Timeframes</th>
</tr>
</thead>
<tbody>
<tr>
<td>Application Submitted</td>
</tr>
<tr>
<td>Application Determined Complete</td>
</tr>
<tr>
<td>Hearing Examiner Recommendation</td>
</tr>
<tr>
<td>Whatcom County Council Decision</td>
</tr>
<tr>
<td>Original Expiration Date</td>
</tr>
<tr>
<td>Expiration Date per WCC 21.05.039(1)(A)</td>
</tr>
<tr>
<td>Revision and Extension Request Submitted</td>
</tr>
<tr>
<td>Revision and Extension Request Approved by Council</td>
</tr>
<tr>
<td>Revised Expiration Date</td>
</tr>
<tr>
<td>Second Extension Request Submitted</td>
</tr>
<tr>
<td>Second Extension Request Approved by Council</td>
</tr>
<tr>
<td>Second Extension Expiration Date</td>
</tr>
<tr>
<td>Third Extension Request Submitted</td>
</tr>
<tr>
<td>Third Extension Expiration Date</td>
</tr>
</tbody>
</table>

*requested expiration date, not yet granted.

The applicant must obtain wetland delineation approval, civil drawing approval and construct all improvements by May 18, 2019 if the extension is granted by Council.
Deferred improvement or bonding for infrastructure construction will be allowed for only minor deficiencies; bonding for full construction will not be allowed.

VII. FINDINGS OF FACT

1. A one-year extension request was submitted to PDS on January 17, 2018, within the timeframes identified in WCC 21.05.030 and WCC 20.85.355(3) and as detailed in the Whatcom County Hearing Examiner’s Decision adopted by Council on May 6, 2009.

2. A civil construction set was submitted to PWES in June 2017. The civil construction drawing set associated with roads, stormwater, water and sewer infrastructure has not been approved by PDS or PWES.

3. Pursuant to WCC 20.85.355(3) the Whatcom County Council has authority to grant up to three one-year extensions to the final expiration of the subdivision and PUD. The Whatcom County Council has granted two of the three one-year extensions allowed by code.

4. In granting an extension, the Whatcom County Council may consider changes in rules, regulations and ordinances that have occurred in the time since preliminary approval was granted and may condition to require compliance with any adopted rules, regulations or ordinances deemed necessary to protect the public health, safety and welfare.

VIII. RECOMMENDATION

The TRC is requesting the Council approve the final one-year extension subject to the following condition of approval:

IX. RECOMMENDED CONDITIONS OF APPROVAL

1. The final plat for Lincoln Road Subdivision and Planned Unit Development shall be submitted in proper form for final plat and planned unit development approval on or before May 19, 2019.

Report prepared for the Technical Review Committee by:

Amy Keenan, AICP
January 16, 2017

Whatcom County Council
311 Grand Avenue, Suite 105
Bellingham, Washington 98225

RE: Lincoln Road PUD LSS (LSS 2005-00012 / PUD 2005-00007)
ATTN: Dana Brown-Davis, Clerk of the Council

Ms. Brown-Davis:

This purpose of this letter is to request an extension of time for the above referenced project. Pursuant to the criteria established in Whatcom County Code Title 21.05, we respectfully request a one-year extension of time for the referenced project in order to complete the infrastructure and to record the subdivision map.

WCC 20.85.355(3) allows the Whatcom County council to “grant two additional one-year extensions beyond the one-year extension authorized in subsection (2) of this section. Each such additional one-year extension may be granted after taking into consideration technical, economic and other matters beyond the control of the applicant” and the council finds that there is reasonable justification for the granting of additional extensions.”

On October 25, 2016 the Whatcom County Council granted a time extension request for this project. The decision included the addition of six new conditions of approval to be met prior to the map recording. We have been working diligently to achieve compliance with these new requirements; however, we need more time to resolve the issues associated with the more recent Critical Areas Ordinance.

A description of each of the additional conditions of approval, and their current status is listed below:

<table>
<thead>
<tr>
<th>Conditions of Approval (Added October 2016)</th>
<th>Actions</th>
<th>Current Status</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. “The final plat for Lincoln Road Subdivision and Planned Unit Development shall be submitted in proper form for final plat and planned unit development approval on or before May 19, 2018, unless that date is extended pursuant to WC 20.85.335.”</td>
<td>Final Plat is prepared, awaiting completion of construction.</td>
<td>Pending final approval of construction plans and installation of improvements.</td>
</tr>
</tbody>
</table>
2. "A new wetland delineation shall be completed as required by WCC 16.16. A Critical Areas Report must be submitted addressing appropriate mitigation and protective measures."

3. "Critical areas shall be reviewed in accordance with WCC 16.16 Critical Area regulations effect at the time of submittal of civil construction drawings."

4. "Final set of civil plans including road design and stormwater design report that addresses conveyance, detention, and water quality measures prepared by a Washington State licensed civil engineer shall be submitted for review and approval by Whatcom County Engineering."

5. "Applicant is required to submit a Traffic Impact Analysis Report (TIAR), as per conditions set forth in Memorandum dated January 6, 2015."

6. "The proposed development shall be subject to most current Development Standards in effect at the time of final documents submittal."

The additional conditions of approval have been diligently addressed by the applicant in a timely fashion.

Jones Engineers revised the onsite and offsite civil construction plans (originally designed to meet the 1997 Critical Areas Ordinance) to reflect the 2005 Critical Area Ordinance and submitted the updated plans to the County and the Birch Bay Water and Sewer District for approval in June, 2017. The plans however, are contingent on the resolution of the wetland delineation.
Gibson Traffic Associates has completed an updated Traffic Impact Analysis Report (TIAR) and submitted the report to the County for final approval.

In the winter of 2016-17 the owner engaged a Whatcom County "Qualified Wetland/Stream Specialist" who has extensive local experience, including recently successful delineations and studies on immediately adjacent properties. As soon as field conditions allowed, the consultant completed the field work, prepared the reports pursuant to the 2005 CAO and submitted to the County for approval.

Differences of opinion between the applicant’s wetland consultant and the County staff have arisen, these differences being of a technical nature outside of the direct control of the applicant. Both parties have been coordinating to engage a third party review, which may include the Washington State Dept. of Ecology. We expect a resolution of these differences in the near future. At that time, any necessary revisions will be made to the wetland reports and construction plans (if needed).

WCC 20.85.355(3) also mandates that “requests for extension shall be made in writing to the Whatcom County council prior to expiration of the initial PUD approval.” Therefore, please consider this letter as our client’s request for an extension of the approved Preliminary Plat and PUD application before May 18, 2018.

We appreciate your consideration in these matters, please do not hesitate to contact me at the phone number below or via email: darcy@jonesengineers.us.

Thank you and Best Regards,

Darcy Jones, PLS, AICP, LEED-ND
Jones Engineers, Inc.

Cc: Amy Keenan – Whatcom County Planning and Development Services
Client
Interested Parties

Mike Owens
1536 Willie Lake Road
Ferndale, WA 98248

Darcy Jones and Derek Holzl
Jones Engineers, Inc.
4164 Meridian Street, Suite 200
Bellingham, WA 98226

Jon Sitkin
Chmelik, Sitkin and Davis
1500 Railroad Avenue
Bellingham, WA 98225

Shawn Alexander
PO Box 359
Olga, WA 98279
**WHATCOM COUNTY COUNCIL AGENDA BILL**

<table>
<thead>
<tr>
<th>CLEARANCES</th>
<th>Initial</th>
<th>Date</th>
<th>Date Received in Council Office</th>
<th>Agenda Date</th>
<th>Assigned to:</th>
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<td>1/30/18</td>
<td>Introduction</td>
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<td>Amy Keenan</td>
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<td>2/13/18</td>
<td>Council</td>
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<td>Sam Ryan</td>
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<td>Executive:</td>
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<tr>
<td>Jack Louws</td>
<td></td>
<td></td>
<td>1-22-18</td>
<td></td>
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**TITLES OF DOCUMENT:**

Ordinance amending Whatcom County Code Title 2 Administration and Personnel; Title 9 Public Peace, Morals and Welfare; Title 16 Environment; Title 20 Zoning; Title 21 Land Division Regulations; Title 23 Shoreline Management Program; Title 24 Health; and creating a new Title 22 Land Use and Development Procedures, to relocate and revise procedures for land use and development related project permits and legislative actions.

**ATTACHMENTS:**

1. Staff Memorandum
2. Draft Ordinance
3. Staff Report, October 18, 2017
4. Findings and recommendations of the Planning Commission

**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.)

Ordinance amending Whatcom County Code Title 2 Administration and Personnel; Title 9 Public Peace, Morals and Welfare; Title 16 Environment; Title 20 Zoning; Title 21 Land Division Regulations; Title 23 Shoreline Management Program; Title 24 Health; and creating a new Title 22 Land Use and Development Procedures, to relocate and revise procedures for land use and development related project permits and legislative actions.

**COMMITTEE ACTION:**

2/13/2018: Held in Committee

**COUNCIL ACTION:**

1/30/2018: Introduced 7-0
2/13/2018: Held in Committee
2/27/18: Discussed in SCOTW. Held in committee for four weeks (March 27). The focus will be on vesting.

**Related County Contract #:**  
**Related File Numbers:** PLN2016-00008  
**Ordinance or Resolution Number:**

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

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

FROM: Amy Keenan, AICP, Senior Planner
      Nick Smith, Permit Center Specialist

THROUGH: Mark Personius, AICP, Director

DATE: March 16, 2018

SUBJECT: Code Amendment: Land Use and Development Procedures – Title 22

During the February 27, 2018 Committee of the Whole meeting, Planning and Development Services (PDS) staff presented a portion of the proposed Title 22 update. The existing and proposed code sections were presented and reviewed for the following sections: purpose and applicability, application requirements, consolidated permit review, preapplication review and application submittal and determination of completeness.

Direction from Council was to move forward presenting sections of code with the opportunity for additional public comment. Staff is proposing the following tentative timeline for review and public hearing of proposed Title 22:

- **March 27, 2018** - Discuss sections of proposed Title 22 addressing Vesting, Notice of Application, Posting of Application, Open Record Hearings, Consistency Review and Recommendations (proposed 22.05.060 through 22.05.100)

- **April 10, 2018** - Discuss sections of proposed Title 22 addressing Final Decision, Recommended Decisions to County Council, Permit Review Timeframes, Expiration of Project Permits, Permit Revocation Procedure, Appeals, Annual Report, Interpretation, Conflict, and Severability (proposed 22.05.110 through 22.05.180)

- **April 24, 2018** - Discuss sections of proposed Title 22 addressing Legislative Action Procedures (22.10), Code Compliance Procedures (22.15), Land Use and Development Code Interpretations Procedures (22.20) and Land Use and Development Fees (22.25) and Public Hearing

For the March 27, 2018 meeting the most substantive changes occurred throughout the vesting section (proposed 22.05.060). Staff has proposed to consolidate vesting language into Title 22 and clarify applicability from preapplication through building
permit depending upon application type, state law and recent court cases. A brief summary of the proposed vesting code follows:

- A project permit is determined vested at the time of determination of completeness (i.e. reviewed under the zoning and other land use control ordinances in effect on the date the applications was submitted),
- A project permit is not considered vested if it is determined incomplete,
- Ensure that required preapplication meetings are not delaying vesting (consistent with current subdivision code and West Main Associates vs Bellevue),
- Extend vesting from an approved land use permit to building permit (consistent with Potala v. City of Kirkland),
- Allow building permits after approval of short subdivisions to vest consistent with long subdivisions,
- Clarify that building and fire code provisions vest only at the time of building permit, and
- Clarify expiration of vesting with denial of the application, withdrawal of the permit or expiration of the approved permit.

At the March 27, 2018 meeting staff will give a presentation to review vesting in detail as well as discuss noticing and consistency review. With the exception of vesting, the sections are mostly a clarification and standardization of procedures throughout all chapters of code for all types of projects. The procedural standards are modeled on our existing code and the Washington State Local Project Review Act.

Staff has included the proposed Title 22, the existing code and proposed code matrix for sections we will be discussing, and an informational handout of vesting from the Municipal Research Services Center (MRSC) with a summary of the state law and court cases. Additional information and links to court cases can be found at the MRSC website (http://mrsc.org/Home/Explore-Topics/Legal/Planning/Vested-Rights.aspx).

If you have any questions please submit them by email to akeenan@whatcomcounty.us and nsmith@whatcomcounty.us so that staff may prepare a response. Please also feel free to contact Amy Keenan at 778-5943 or Nick Smith at 778-5913.

Thank you.

Attachments:

Draft Ordinance
Current Code and Proposed Code Matrix (sections 22.05.060 – 22.05.100)
MRSC Vesting Discussion
EXHIBIT A

Whatcom County Code Title 22

AMENDMENTS

Title 22

Land Use and Development Procedures

[This would create a new WCC Title 22 that would be the location for all procedural requirements for land use and development applications, separate from the land use and development regulations. This takes the place of the previous Title 22, the Guide Meridian Improvement Plan, which was repealed during the 2016 Comprehensive Plan update.]

Chapters:

22.05 Project Permit Procedures
22.10 Legislative Action Procedures
22.15 Code Compliance Procedures
22.20 Land Use and Development Code Interpretation Procedures
22.25 Land Use and Development Fees

Chapter 22.05

PROJECT PERMIT PROCEDURES

[This new chapter is adapted mostly from the current Chapter 2.33 Permit Review Procedures, and procedural passages from other chapters. Current text is shown in normal black font with proposed changes shown in red. The current chapter/section numbers are shown as deleted with the proposed numbers replacing them.]

Sections:
22.05.010 Purpose and applicability.
22.05.020 Project permit processing table.
22.05.030 Consolidated permit review.
22.05.040 Preapplication conference.
22.05.050 Application and determination of completeness.
22.05.060 Vesting.
22.05.070 Notice of application.
22.05.080 Posting of application.
22.05.090 Open record hearings.
22.05.100 Consistency review and recommendations.
22.05.110 Final decisions.
22.05.120 Recommended decisions to county council.
22.05.130 Permit review timeframes.
22.05.140 Expiration of project permits.
22.05.150 Permit revocation procedure.
22.05.160 Appeals.
22.05.170 Annual Report.
22.05.180 Interpretation, conflict, and severability.

22.05.010 Purpose and applicability.
(1) The purpose of this chapter is to combine and consolidate the application, review, and approval processes for project permits and appeals as defined in WCC 20.97.321. It is further intended for this chapter to comply with the provisions of Chapter 36.70B RCW. These procedures provide for a consolidated land use permit process and integrate the environmental review process with the procedures for review of land use decisions.

(2) This chapter applies to the processing of project permit applications for development and appeals related to the provisions of WCC Title 15 Building and Construction, Title 16 Environment, Title 17 Flood Damage Prevention, Title 20 Zoning, Title 21 Land Division Regulations, and Title 23 Shoreline Management. The provisions of this chapter shall apply to all project permit applications as defined in RCW 36.70B.020, and other administrative decisions, as listed in the table in WCC 22.05.020.

22.05.020 Project Permit Processing Table
(1) Marked boxes in the table below indicate the required general steps for processing all project permit applications or administrative actions. The requirements for each step listed in the top row of the table are provided in WCC sections 22.05.040 through 22.05.160, as indicated. Specific requirements for each project permit can be found through the references given in the table.
### Permit Application Processing Table

#### Type I Applications (Administrative decision with no public notice or hearing)

<table>
<thead>
<tr>
<th>Permit Type</th>
<th>WCC Reference for Specific Requirements</th>
<th>Preapp. Required (see 22.05.040)</th>
<th>Det. of Completeness Required (see 22.05.050)</th>
<th>Notice of Application Required (see 22.05.070)</th>
<th>Site Posting Required (see 22.05.080)</th>
<th>Notice of Open Record Hearing Required (see 22.05.090)</th>
<th>Open Record Hearing Held By: (see 22.05.090)</th>
<th>County Decision Maker (see 22.11.210, 22.05.110, 23.60.150H)</th>
<th>Appeal Body (see 22.11.210, 22.05.150, 23.60.150H)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Boundary Line Adjustment</td>
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<tr>
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<td>Commercial Site Plan Review</td>
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<td>Exempt Land Division</td>
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<td>Land Disturbance Permit</td>
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<td>Non-conforming Use</td>
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<td>Removal of Development Moratorium</td>
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#### Type II Applications (Administrative decision with public notice; no public hearing)

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<th>Det. of Completeness Required (see 22.05.050)</th>
<th>Notice of Application Required (see 22.05.070)</th>
<th>Site Posting Required (see 22.05.080)</th>
<th>Notice of Open Record Hearing Required (see 22.05.090)</th>
<th>Open Record Hearing Held By: (see 22.05.090)</th>
<th>County Decision Maker (see 22.11.210, 22.05.110, 23.60.150H)</th>
<th>Appeal Body (see 22.11.210, 22.05.150, 23.60.150H)</th>
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<td></td>
<td>Administrator Hearing Examiner</td>
<td>Administrator Hearing Examiner</td>
<td>Administrator Hearing Examiner</td>
<td>Administrator Hearing Examiner</td>
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<tr>
<td>Short Subdivision</td>
<td>21.04</td>
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<td>Administrator Hearing Examiner</td>
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#### Type III Applications (Hearing Examiner decision with public notice and public hearing)

<table>
<thead>
<tr>
<th>Permit Type</th>
<th>WCC Reference for Specific Requirements</th>
<th>Preapp. Required (see 22.05.040)</th>
<th>Det. of Completeness Required (see 22.05.050)</th>
<th>Notice of Application Required (see 22.05.070)</th>
<th>Site Posting Required (see 22.05.080)</th>
<th>Notice of Open Record Hearing Required (see 22.05.090)</th>
<th>Open Record Hearing Held By: (see 22.05.090)</th>
<th>County Decision Maker (see 22.11.210, 22.05.110, 23.60.150H)</th>
<th>Appeal Body (see 22.11.210, 22.05.150, 23.60.150H)</th>
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<tbody>
<tr>
<td>Conditional Use</td>
<td>20.84.200</td>
<td>✓</td>
<td>✓</td>
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<td>✓</td>
<td>Hearing Examiner Hearing Examiner Superiors Court</td>
<td>Hearing Examiner Hearing Examiner Superiors Court</td>
<td>Hearing Examiner Hearing Examiner Superiors Court</td>
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<tr>
<td>Floodplain Development Variance</td>
<td>Title 17</td>
<td></td>
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<td>Administrator Hearing Examiner</td>
<td>Administrator Hearing Examiner</td>
<td>Administrator Hearing Examiner</td>
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<tr>
<td>Long Subdivision</td>
<td>21.05</td>
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<td></td>
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<td>Hearing Examiner Hearing Examiner (g)</td>
<td>Hearing Examiner Hearing Examiner (g)</td>
<td>Hearing Examiner Hearing Examiner (g)</td>
<td>Hearing Examiner Hearing Examiner (g)</td>
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<tr>
<td>Binding Site Plan</td>
<td>21.07</td>
<td>✓</td>
<td></td>
<td></td>
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<td>Hearing Examiner Hearing Examiner (g)</td>
<td>Hearing Examiner Hearing Examiner (g)</td>
<td>Hearing Examiner Hearing Examiner (g)</td>
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<td>Reasonable Use (e)</td>
<td>16.16</td>
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<td>Hearing Examiner Hearing Examiner (g)</td>
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<td>Removal of Development Moratorium</td>
<td>20.80.738 (2)</td>
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<td>Hearing Examiner Hearing Examiner (g)</td>
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<tr>
<td>Shoreline Conditional Use (e)</td>
<td>23.06</td>
<td>✓(a)</td>
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<td>Hearing Examiner Hearing Examiner (d)</td>
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<td>Hearing Examiner Hearing Examiner (d)</td>
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<td>Shoreline Substantial (e)</td>
<td>23.06</td>
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<td>Hearing Examiner Hearing Examiner (d)</td>
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<tr>
<td>Shoreline Variance</td>
<td>23.06</td>
<td>✓(a)</td>
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<td></td>
<td>Hearing Examiner Hearing Examiner (d)</td>
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<td>Hearing Examiner Hearing Examiner (d)</td>
<td>Hearing Examiner Hearing Examiner (d)</td>
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<td>Zoning or Critical Areas</td>
<td>20.84.100 or 16.16.270</td>
<td>✓</td>
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<td>Administrator Hearing Examiner</td>
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#### Type IV Applications (County Council decision with public notice and public hearing)

<table>
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<tr>
<th>Permit Type</th>
<th>WCC Reference for Specific Requirements</th>
<th>Preapp. Required (see 22.05.040)</th>
<th>Det. of Completeness Required (see 22.05.050)</th>
<th>Notice of Application Required (see 22.05.070)</th>
<th>Site Posting Required (see 22.05.080)</th>
<th>Notice of Open Record Hearing Required (see 22.05.090)</th>
<th>Open Record Hearing Held By: (see 22.05.090)</th>
<th>County Decision Maker (see 22.11.210, 22.05.110, 23.60.150H)</th>
<th>Appeal Body (see 22.11.210, 22.05.150, 23.60.150H)</th>
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<tr>
<td>Development Agreement</td>
<td>2.11.205</td>
<td>✓</td>
<td>✓</td>
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<td>✓</td>
<td>Hearing Examiner County Council Superior Court</td>
<td>Hearing Examiner County Council Superior Court</td>
<td>Hearing Examiner County Council Superior Court</td>
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<tr>
<td>Major Project Permit</td>
<td>20.88</td>
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<td></td>
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<td>Hearing Examiner County Council Superior Court</td>
<td>Hearing Examiner County Council Superior Court</td>
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<tr>
<td>Planned Unit Development</td>
<td>20.85</td>
<td>✓</td>
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<td></td>
<td>Hearing Examiner County Council Superior Court</td>
<td>Hearing Examiner County Council Superior Court</td>
<td>Hearing Examiner County Council Superior Court</td>
<td>Hearing Examiner County Council Superior Court</td>
</tr>
</tbody>
</table>

Check marks indicate a step is required; reference letters refer to the notes in subsection (2).
(2) Project Permit Processing Table Notes. As indicated in the table in subsection (1), project permits are subject to the following additional requirements:

(a) Preapplication conference subject to Title 23 Shoreline Master Program.

(b) Single family residential uses in critical areas or critical area buffers, except all uses in geological hazardous areas and setbacks.

(c) Shoreline Permit public hearing decision determined pursuant to Title 23 Shoreline Master Program. If a public hearing is required the Shoreline Permit shall be processed as a Type III application.

(d) Final decision filed with the Washington State Department of Ecology.

(e) All uses in geological hazardous areas and setbacks and all non-single family residential uses in critical areas or critical area buffers.

(f) Building permit preapplication conference, subject to WCC 15.04.020(A)(3)(a).

(g) The hearing examiner may choose to consult with the development standards technical advisory committee concerning technical matters relating to land division applications. [from WCC 21.01.170]

(h) Whatcom County shall consider an appeal of a decision on a shoreline substantial development permit, shoreline variance, or shoreline conditional use only when the applicant waives his/her right to a single appeal to the shoreline hearings board. When an applicant has waived his/her right to a single appeal, such appeals shall be processed in accordance with the appeal procedures of section WCC 23.60.150.H.

(i) Except that appeals of Title 15 fire and building code requirements shall be made to the board of appeals per current building code, as adopted in WCC 15.04.010.

22.05.030 Consolidated permit review.¹
The county shall integrate and consolidate the review and decision on two or more project permits subject to this chapter that relate to the proposed project action unless the applicant requests otherwise. Consolidated Type I, II, III and IV permits shall be reviewed under the process required for the permit with the highest process type number per WCC 22.05.020. Level IV is considered the highest and Level I is considered the lowest process type.

22.05.040 Preapplication conference.
The purpose of a preapplication conference is to assist applicants in preparing development applications for submittal to the county by identifying applicable regulations and procedures. It is not intended to provide a staff recommendation on future permit decisions. Preapplication review does not constitute acceptance of an application by the county nor does it vest an application, unless otherwise indicated in Whatcom County Code.

¹ RCW 36.70B.060(3)
(1) A preapplication conference is required as indicated in WCC 22.05.020, unless the director or designee grants a written waiver. For other permits, the applicant may request a preapplication conference.

(2) The county shall charge the applicant a fee for a preapplication conference per the Unified Fee Schedule. If the county makes a determination of completeness on a project permit submitted within one year of the notice of site-specific submittal requirements per subsection (6) of this section, the preapplication fee shall be applied to the application cost.

(3) It is the responsibility of the applicant to initiate a preapplication conference through a written application. The application shall, at a minimum, include all items identified on the preapplication form and the department’s administrative manual. The applicant may provide additional information to facilitate more detailed review.

(4) A preapplication conference shall be scheduled as soon as possible and held no later than 30 calendar days from the date of the applicant’s request, unless agreed upon by the applicant and the county.

(5) The county shall invite the appropriate city to the preapplication meeting if the project is located within that city’s urban growth area or which contemplates the use of any city utilities. Notice shall also be given to appropriate public agencies and public utilities, if within 500 feet of the area submitted in the application. **[Subsection (5) wording is proposed to be moved from 21.01.090(2) so the requirement to involve cities in preapplication review would apply to all project permits, not just subdivisions. This is consistent with adopted interlocal agreements.]**

(6) The county should provide the applicant with notice of site-specific submittal requirements for application no later than 14 calendar days from the date of the conference.

(7) A new preapplication conference shall be required if an associated project permit application is not filed with the county within one year of the notice of site-specific submittal requirements per subsection (6) or the application is substantially altered, unless waived per WCC 22.05.040(1).

**22.05.050 Application and determination of completeness.**

(1) Project permit applications shall be submitted using current forms provided by the review authority. The submittal shall include: all applicable fees per Chapter 22.25 WCC, all materials required by the department’s administrative manual, and all items identified in the preapplication notice of site-specific submittal requirements.

(2) Upon submittal by the applicant, the county will accept the application and note the date of receipt. Receipt of an application does not constitute approval of the project proposal.
(3) Within 14 calendar days\(^2\) of receiving the application, the county shall provide to the applicant a written determination which states either that the application is complete or the application is incomplete. To the extent known by the county, other agencies of local, state, or federal government that may have jurisdiction shall be identified on the determination.

(4) A project permit application is complete when it meets the submittal requirements of the department's administrative manual, includes items identified through the preapplication conference process and contains sufficient information to process the application even if additional information will be required. A determination of completeness shall not preclude the county from requiring additional information or studies at any time prior to permit approval. A project permit application shall be deemed complete under this section if the county does not issue a written determination to the applicant that the application is incomplete by the end of the 14\(^{th}\) calendar day from the date of receipt.

(5) If the application is determined to be incomplete, the following shall take place:

(a) The county will notify the applicant that the application is incomplete and indicate what is necessary to make the application complete.

(b) The applicant shall have 90 calendar days from the date that the notification was issued to submit the necessary information to the county. If the applicant does not submit the necessary information to the county in writing within the 90-day period, the application shall be rejected. The director or designee may extend this period for an additional 90 calendar days upon written request by the applicant.

(c) Upon receipt of the necessary information, the county shall have 14 calendar days to make a determination and notify the applicant whether the application is complete or what additional information is necessary.\(^3\)

(6) A determination of an incomplete application is an appealable final administrative determination, subject to WCC 22.05.160(1).

22.05.060 Vesting. [The proposal would replace the County's vesting provisions of WCC 20.04.031 in this subsection so that they will clearly apply to all development permits (not just those listed in Title 20 Zoning) and to add clearer language that is more consistent with wording in state law and with recent court decisions. The current WCC 20.04.031(1)'s definition of project permit is proposed to be deleted, with a new reference to the County Code's definition (consistent with state law) to be added to 22.05.010.]

(1) Complete applications. For a project permit application the department has determined to be complete per WCC 22.05.050(4), the application shall be

\(^2\) RCW 36.70B.070(1) allows 28 days; Title 21 currently has 28 days for subdivision plat applications, which would be changed to 14 days under this proposal.

\(^3\) RCW 36.70B.070(4)(b)
considered under the zoning or other land use control ordinances in effect on the
date the application was submitted to the department.

(2) Incomplete applications. For a project permit application the department has
determined to be incomplete per WCC 22.05.050(5), the application shall be
considered under the zoning or other land use control ordinances in effect on the
date the department determines the application to be complete based on the
necessary information required by the department.

(3) Applications subject to preapplication conference. Notwithstanding the
provisions of subsections (1) and (2) of this section, for a project permit application
that is (a) subject to a preapplication conference per WCC 22.05.020 and .040, (b)
submitted no more than 28 calendar days from the date the department issued its
notice of site-specific submittal requirements, and (c) determined complete by the
department, the application shall be considered under the zoning or other land use
control ordinances in effect on the date the preapplication conference request was
submitted to the department.

[Proposed subsection (3) would prevent the requirement of a
preapplication meeting from delaying vesting, provided the preapplication
materials are complete enough that a building permit can be issued within
30 days of the preapplication findings. (See West Main Assoc. vs. Bellevue
decision)]

(4) Continuation of vesting. Building or land disturbance permit applications that
are required to complete a valid (i.e. not expired) project permit approval for
project permits identified in the following list (a-m) shall vest to the zoning and
land use control ordinances in effect at the time the project permit application
identified below was determined complete.

(a) Administrative Use;
(b) Commercial Site Plan Review;
(c) Conditional Use;
(d) Critical Areas Variance;
(e) Major Project Permit;
(f) Natural Resource Review;
(g) Planned Unit Development;
(h) Reasonable Use (Type II and III);
(i) Shoreline Conditional Use;
(j) Shoreline Exemption;
(k) Shoreline Substantial;
(l) Shoreline Variance;
(m) Zoning Variance.

(5) Building permit applications within recorded long and short subdivisions and
binding site plans. Building permit applications, including associated land
disturbance permits, shall be governed by conditions of approval, statutes, and
ordinances in effect at the time of final approval pursuant to RCW 58.17.170.
Vesting duration for those building permit applications shall be governed by the
time limits established for long subdivisions in RCW 58.17.170, unless the county
finds that a change in conditions creates a serious threat to the public health or
safety.

[Under this proposal, the 5- or 7-year vesting that applies specifically to
long plats in RCW 58.17.170 is proposed to be extended to short plats and
binding site plans. This is intended to provide greater clarity and
predictability, and to be consistent with recent case law. Based on the
County’s current understanding of statute and case law, water rights are
not currently considered “zoning or other land use controls.”]

(6) Building and fire code requirements. Building and fire code provisions adopted
per WCC Title 15 vest at the time a building permit application is determined
complete.

[The proposed subsection clarifies that building and fire code vests at the
time of complete building permit application, whereas land use controls
(e.g. zoning and critical areas) vest with the original project permit,
consistent with current 20.04.031(3)(d).]

(7) Duration. Vesting status established through subsections (1) through (5) of
this section runs with the application and expires upon denial of the application by
the county, withdrawal of the application by the applicant, rejection of the
application per WCC 22.05.050(5), expiration of the application per WCC
22.05.130(1)(a)(i), or expiration of the approved permit per WCC 22.05.140.

[Current 20.04.031(1) through (5) on vesting to be deleted:]

22.05.070 Notice of application.
(1) For Type II, III, and IV applications per WCC 22.05.020, the county shall issue
a notice of application within 14 calendar days\(^4\) of a determination of completeness.
The date of notice shall be the date of mailing.

(2) If the county has made a State Environmental Policy Act (SEPA) threshold
determination of significance concurrently with the notice of application, the county
shall combine the determination of significance and scoping notice with the notice
of application.

(3) Notice shall include:

(a) The date of application, the date of determination of completeness for the
application, and the date of the notice of application;

(b) A description of the proposed project action and a list of the project permits
included in the application, and, if applicable, a list of any studies requested by
the county;

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\(^4\) RCW 36.70B.110(2)
(c) The identification of other permits not included in the application to the extent known by the county;

(d) The identification of environmental reviews conducted, including notice of existing environmental documents that evaluate the proposed project (including but not limited to reports, delineations, assessments and/or mitigation plans associated with critical area reviews) and, if not otherwise stated on the document providing notice of application, the location where the application and any studies can be reviewed;

(e) Any other information determined appropriate by the county;

(f) A statement indicating those development regulations that will be used for project mitigation or a determination of consistency if they have been identified at the time of notice;

(g) A statement of the minimum public comment period which shall be 14 calendar days for all project permits except for shoreline substantial development, shoreline conditional use, shoreline variance and major project permits for mitigation banks which shall have a minimum comment period of no more than 30 calendar days.

(h) A statement of the right of any person to comment on the application and receive notice of and participate in any hearings, request a copy of the decision once made and to appeal a decision when allowed by law. The department may accept public comments at any time prior to the close of the open record public hearing, or if there is no public hearing, prior to the decision on the project permit. In addition, the statement shall indicate that any person wishing to receive personal notice of any decisions or hearings must notify the department.

(4) The department shall issue a notice of application in the following manner:

(a) The notice shall be published once in the official county newspaper and on the Whatcom County website. The applicant shall bear the responsibility of paying for such notice.

[As a courtesy the department also provides notice to other publications and individuals who have submitted a written request to receive such notice through the County’s web site.]

(b) Additional notice shall be given using the following method:

(i) For sites within urban growth areas: Application notice shall be sent to all property owners within 300 feet of the external boundaries of the subject property as shown by the records of the county assessor;

(ii) For sites outside urban growth areas: Application notice shall be sent to all property owners within 1,000 feet of the external boundaries of the subject property as shown by the records of the county assessor;

(5) The county shall send notices of application to neighboring cities and other agencies or tribes that will potentially be affected, either directly or indirectly, by
the proposed development. Notice shall also be given to public utilities, if within 500 feet of the area submitted in the application.

(6) All public comments received on the notice of application must be received by the department of planning and development services by 4:30 p.m. on or before the last day of the comment period.

(7) Except for a determination of significance, the county shall not issue its SEPA threshold determination or issue a decision or recommendation on a permit application until the end of the public comment period on the notice of application. If an optional determination of nonsignificance (DNS) process is used, the notice of application and DNS comment period shall be combined.

(8) Public notice given for project permit applications, SEPA documents, project hearings, and appeals hearings as required by this chapter and other provisions of the county code may be combined when practical, where such combined notice will expedite the permit review process, and where provisions applicable to each individual notice are met through the combined notice.

22.05.080 Posting of Application. [existing text from 20.84.235(2)]
Where posting of public notice is required per WCC 22.05.020, the department shall post public notices of the proposal on all road frontages of the subject property and adjacent shorelines on or before the notice of application date and shall be visible to adjacent property owners and to passing motorists. Said notices shall remain in place until three days after the comment period closes.

22.05.090 Open record hearings.
As shown in WCC 22.05.020, Type III and Type IV applications require an open record public hearing. These hearings are subject to the following:

(1) Open record hearing notice.

(a) The hearing examiner shall publish a notice of open record hearing once in the official county newspaper and on the Whatcom County website at least 14 calendar days prior to the hearing. The notice shall consist of the date, time, place, and type of the hearing. In addition, personal notice shall be provided to any person who has requested such notice in a timely manner, consistent with WCC 22.05.070(3)(h).

(b) Within two days of the published notice the applicant shall be responsible for posting three copies of the notice in a conspicuous manner on the property upon which the use is proposed. Notices shall be provided by the hearing examiner.

(c) An affidavit verifying distribution of the notice must be submitted to the hearing examiner two working days prior to the open record hearing.

(d) The hearing examiner shall send notice of an open record hearing to neighboring cities and other agencies or tribes that will potentially be affected, either directly or indirectly by the proposed development. The hearing examiner shall be responsible for such notification.
(e) The applicant shall pay all costs associated with providing notice.

(2) One open record hearing. A project proposal subject to WCC 22.05 shall be provided with no more than one open record hearing and one closed record hearing pursuant to RCW 36.70B. This restriction does not apply to an appeal of a determination of significance as provided in RCW 43.21C.075.

(3) Combined county and agency hearing. Unless otherwise requested by an applicant, the county shall allow an open record hearing to be combined with a hearing that may be necessary by another local, state, regional, federal or other agency for the same project if the joint hearing can be held within the time periods specified in WCC 22.05, or if the applicant agrees to waive such time periods in the event additional time is needed in order to combine the hearings. The combined hearing shall be conducted in Whatcom County pursuant to RCW 36.70B.

(4) Quasi-judicial actions, including applications listed as Type III and IV applications in WCC 22.05.020, are subject to the appearance of fairness doctrine, RCW 42.36. The hearing examiner shall administer the open record hearing and issue decisions or recommendations in accordance with RCW 42.36.

22.05.100 Consistency review and recommendations.
During project permit review, the review authority shall determine if the project proposal is consistent with the county’s comprehensive plan, other adopted plans, existing regulations and development standards.

(1) For Type I and II applications, the conclusions of a consistency determination made under this section shall be documented in the project permit decision.

(2) For Type III and IV applications the department shall prepare a staff report on the proposed development or action. Staff shall file one consolidated report with the hearing examiner at least 10 calendar days prior to the scheduled open record hearing. The staff report shall:

(a) Summarize the comments and recommendations of county departments, affected agencies, special districts and public comments received within the 14-day or 30-day comment period as established in WCC 22.05.070(6).

(b) Provide an evaluation of the project proposal for consistency as indicated in this section.

(c) Include recommended findings, conclusions, and actions regarding the proposal.

[The proposal to change the staff report time frame to ten days is consistent with public notice publication requirements of 22.05.090(1)(a).]

(3) For all project permit applications, if more information is required to determine consistency at any time in review of the application, the department may issue a notice of additional requirements. The notice of additional requirements shall allow
the applicant 180 calendar days from the date of issuance to submit all required information. The director or designee may extend this period for no more than cumulative 24 months upon written request by the applicant, provided the request is submitted before the end of the first 180-day period. A notice of additional requirements is not a final administrative determination.

[Proposed subsection (3) codifies a 180-day response period for NOAR, consistent with current PDS practice.]

22.05.110 Final decisions.
(1) The director or designee’s final decision on all Type I or II applications shall be in the form of a written determination or permit. The determination or permit may be granted subject to conditions, modifications, or restrictions that are necessary to comply with all applicable codes.

(2) The hearing examiner’s final decision on all Type III applications per WCC 22.05.020 or appeals per 22.05.160(1) shall either grant or deny the application or appeal.

(a) The hearing examiner may grant Type III applications subject to conditions, modifications or restrictions that the hearing examiner finds are necessary to make the application compatible with its environment, carry out the objectives and goals of the Comprehensive Plan, statutes, ordinances and regulations as well as other official policies and objectives of Whatcom County.

(b) Performance bonds or other security, acceptable to the prosecuting attorney, may be required to ensure compliance with the conditions, modifications and restrictions.

(c) The hearing examiner shall render a final decision within 14 calendar days following the conclusion of all testimony and hearings. Each final decision of the hearing examiner shall be in writing and shall include findings and conclusions based on the record to support the decision.

(d) No final decision of the hearing examiner shall be subject to administrative or quasi-judicial review, except as provided herein.

(e) The applicant, any party of record or any county department may appeal any final decision of the hearing examiner to superior court, except as otherwise specified in WCC 22.05.020.

[22.05.020 proposes changing the appeal body from County Council to Superior Court to separate legislative and quasi-judicial functions. Accordingly, the current 20.92.620 through .840, which describes the County Council appeal process, is proposed to be omitted.]

22.05.120 Recommended decisions to county council.
(1) For Type IV applications per WCC 22.05.020 the hearing examiner’s recommendations to the county council may be to grant, grant with conditions or deny an application. The hearing examiner’s recommendation may include conditions, modifications or restrictions as may be necessary to make the
application compatible with its environment, carry out the objectives and goals of the Comprehensive Plan, statutes, ordinances and regulations as well as other official policies and objectives of Whatcom County.

(2) Each recommended decision of the hearing examiner for an application identified as a Type IV application per WCC 20.05.020 shall be in writing to the clerk of the county council and shall include findings and conclusions based upon the record to support the decision. Such findings and conclusions shall also set forth the manner in which the decision carries out and conforms to the county’s Comprehensive Plan and complies with the applicable statutes, ordinances or regulations.

(3) The deliberation of the county council on quasi-judicial actions shall be in accordance with WCC 22.05.090(4) and Chapter 42.36 RCW.

(4) For planned unit developments and major project permits the following shall apply:

(a) The recommendation of the hearing examiner regarding planned unit developments and major project permits shall be based upon the criteria set forth in WCC 20.85.335 and 20.88.130, respectively.

(b) The hearing examiner shall file the recommendation with the clerk of the county council within 21 calendar days following the conclusion of the open record hearing.

(c) Within 28 calendar days after the hearing examiner’s recommendation has been filed, the county council shall hold a public meeting, not an open record public hearing, to deliberate on the project application and, within 21 calendar days of the meeting, issue a final written decision. The county council may exceed the time limits in this subsection if it makes written findings that a specified amount of additional time is needed to process a specific application or project type, per RCW 36.70B.080(1).

[The optional review by Planning Commission is proposed for omission because that step makes it difficult to complete the project review within 120 days required in proposed 22.05.130(1)]

(5) The county council’s final written decision may include conditions when the project is approved and shall state the findings of fact upon which the decision is based.

(6) Any deliberation or decision of the county council shall be based solely upon consideration of the record established by the hearing examiner, the recommendations of the hearing examiner and the criteria set forth in county code.

22.05.130 Permit review timeframes.
(1) The county shall issue a notice of final decision for all permit types, including procedures for administrative appeal and notice that affected property owners may request a change in valuation for property tax purposes, to the applicant, the Whatcom County assessor, and any person who requested notice or submitted
substantive comments on the application within 120 calendar days of the date the department determined the application complete\(^5\), except as provided below:

(a) The following time periods shall be excluded from the calculation of the number of days elapsed:

(i) Any period during which the applicant has been required by the county to correct plans, perform required studies, or provide additional, required information through a notice of additional requirements, per WCC 22.05.100(3). The period shall be calculated from the date the county issues a notice of additional requirements until the date the county receives all of the requested additional information.

(ii) Any period during which an environmental impact statement is being prepared following a determination of significance pursuant to Chapter 43.21C RCW and WCC Title 16;

(iii) The period specified for administrative appeals of project permits as provided in Chapter 2.11 WCC;

(iv) The period specified for administrative appeals of development standards as provided in WCC 12.08.035(I);

(v) Any period in which the applicant has not met public notification requirements;

(vi) Any period of time mutually agreed upon in writing by the applicant and the county.

(b) The time limits established by this section shall not apply to a project permit application that:

(i) Requires an amendment to the Whatcom County comprehensive plan or a development regulation in order to obtain approval.

(ii) Requires approval of a new fully contained community as provided in RCW 36.70A.350, a master planned resort as provided in RCW 36.70A.360, or the siting of an essential public facility as provided in RCW 36.70A.200.

(iii) Is substantially revised by the applicant, including all redesigns of proposed land divisions, in which case a new time period shall start from the date at which the revised project application is determined to be complete.

(c) The county may extend notice of final decision on the project if the county can document legitimate reasons for such a delay. In such a case the county shall provide written notice to the applicant at least 14 calendar days prior to the deadline for the original notice of final decision. The notice shall include a

\(^5\) RCW 36.70B.130
statement of reasons why the time limits have not been met and a date of issuance of a notice of final decision.

(2) If an applicant believes a project permit application has not been acted upon by the county in a timely manner or otherwise consistent with this chapter, the applicant or authorized representative may request a meeting with the director to resolve the issue. Within 14 calendar days of the meeting, the director shall:

(a) Approve the permit if it is within the director’s authority to do so, provided the approval would not violate state or county regulations, or

(b) Deny the permit if it is within the director’s authority to do so, or

(c) Respond in writing with the department’s position, or a mutually acceptable resolution of the issue, which may include a partial refund of application fees at the director’s discretion.

[This proposed change is intended to maintain accountability on the part of the county and provide an avenue for resolving disputes, while removing a provision that could potentially approve an application that violates state or county regulations.]

(3) Any final order, permit decision or determination issued by Whatcom County shall include a notice to the applicant of his or her appeal rights per WCC 22.05.160.

22.05.140 Expiration of project permits.
(1) Project permit approval status shall expire two years from the date of approval except where a different duration of approval is authorized by Whatcom County Code, or is established by a court decision or state law, or executed by a development agreement. The decision maker may extend this period up to one year from the date of original expiration upon written request by the applicant.

(2) Any complete project permit application for which no information has been submitted in response to the department’s notice of additional requirements per WCC 22.05.100(3) shall expire at the end of the time limit established in 22.05.100(3).

[This provision for applications to expire after no response within the NOAR time frames allows for consistent predictable outcomes, and establishes clear expectations.]

(3) For projects that have received a SEPA determination of significance per WCC 16.08, all underlying project permit applications shall expire when one of the following occurs:

(a) The applicant has not in good faith maintained a contract with a person or firm to complete the Environmental Impact Statement (EIS) as specified in the scoping document. The applicant is responsible for informing the county of the status of such contract. If there is no notice given to the County, all underlying project permit applications shall expire upon the end date of the contract; or
(b) The mutually agreed timeframe to complete the Draft EIS or Final EIS has lapsed.

(4) Project permits which received preliminary approval or a final decision prior to February 22, 2009 that did not include an expiration timeframe in the conditions of approval shall expire on [two years after the effective date of this ordinance].

[Proposed subsection (4) allows opportunity to obtain approval or implementation within two years for projects without an approval timeframe.]

22.05.150 Permit revocation procedure.

(1) Upon notification by the director that a substantial violation of the terms and conditions of any previously granted zoning conditional use, shoreline substantial development or shoreline conditional use permit exists, the hearing examiner shall issue a summons as per WCC 2.11.220 to the permit holder requiring said permit holder to appear and show cause why revocation of the permit should not be ordered. Failure of the permit holder to respond may be deemed good cause for revocation.

(2) Upon issuance of a summons as set forth in subsection (1) of this section, the hearing examiner shall schedule an open record hearing to review the alleged violations. The summons shall include notice of the hearing and shall be sent to the permit holder and the director of planning and development services no less than 12 calendar days prior to the date of the hearing. At the hearing the hearing examiner shall receive evidence of the alleged violations and the responses of the permit holder, as per the business rules of the hearing examiner’s office. Testimony shall be limited to that of the division and the permit holder except where additional evidence would be of substantial value in determining if revocation should be ordered. The land use division’s evidence may include the testimony of witnesses.

(3) Upon a showing of violation by a preponderance of the evidence as alleged, the hearing examiner may revoke the permit or allow the permit holder a reasonable period of time to cure the violation. If the violation is not cured within the time set by the hearing examiner, the permit shall be revoked. Where a time to cure the violation has been set out, no further hearing shall be necessary prior to the revocation. The permit holder shall have the burden of proving that the violation has been cured within the time limit previously set. Such evidence as is necessary to demonstrate that the violation has been cured may be submitted to the hearing examiner by either the permit holder or the director of planning and development services. Any revocation shall be accompanied by written findings of fact and conclusions of law. The permit holder shall be notified of any revocation within 14 calendar days of the revocation.

22.05.160 Appeals.

(1) Any party of record may appeal any order, final permit decision or final administrative determination made by the director or designee in the administration or enforcement of any chapter to the hearing examiner, who has the authority to hear and decide such appeals per WCC 2.11.210.
(a) An appeal shall be filed with the department within 14 calendar days of the issuance of a final permit decision and shall be accompanied by a fee as specified in the Unified Fee Schedule. The written appeal shall include:

(i) The action or decision being appealed and the date it was issued;

(ii) Facts demonstrating that the person is adversely affected by the decision;

(iii) A statement identifying each alleged error and the manner in which the decision fails to satisfy the applicable decision criteria;

(iv) The specific relief requested; and

(v) Any other information reasonably necessary to make a decision on the appeal.

[Proposed items 1(a)(i)-(v) are copied from Bellingham Municipal Code 21.10.250]

(b) The hearing examiner shall schedule a public hearing on the appeal to be held within 60 calendar days following the department’s receipt of the application for appeal unless otherwise agreed upon by the county and the appellant.

(2) The applicant, any party of record, or any county department may appeal any final decision of the hearing examiner to Superior Court or other body as specified by WCC 22.05.020. The appellant shall file a written notice of appeal within 14 calendar days of the final decision of the hearing examiner.

22.05.170 Annual report.
Staff shall prepare an annual report on the implementation of this chapter and submit it to the council.

22.05.180 Interpretation, conflict and severability.

(1) Interpret to Protect Public Welfare. In the event of any discrepancies between the requirements established herein and those contained in any other applicable regulation, code or program, the regulations which are more protective of the public health, safety, environment and welfare shall apply.

(2) Severability. The provisions of this chapter are severable. If a section, sentence, clause, or phrase of this title is adjudged by a court of competent jurisdiction to be invalid, the decision shall not affect the remaining portions of this chapter.
Chapter 22.10

LEGISLATIVE ACTION PROCEDURES

[This new chapter is adapted from the current Chapter 2.160 Comprehensive Plan Amendments, and Chapter 20.90 Amendments, along with new text that combines and streamlines existing process descriptions. Current text is shown in normal black font, with proposed changes shown in red. The current chapter/section numbers are shown as deleted with the proposed numbers replacing them.]

Sections:

22.10.010 Purpose and applicability.
22.10.020 The docket.
22.10.030 Processing of docketed amendments.
22.10.040 Concurrent review of comprehensive plan amendments
22.10.050 Notice of public hearing.
22.10.060 Approval criteria.

22.10.010 Purpose and applicability.
This chapter establishes the procedures for legislative actions amending the Whatcom County Comprehensive Plan and the development regulations that implement that plan. Amendments to the comprehensive plan includes changes to the plan’s text and maps, and amendments to the development regulations include changes to the official zoning map and the text in WCC Titles 16, 20, 21, and 23. For purposes of this chapter, comprehensive plan amendments include amendments to subarea plans.

22.10.020 The docket.
(1) The department of planning and development services ("department") shall maintain a proposed docket of comprehensive plan and development regulation amendment applications and shall present it to the county council for review once a year on or about March 1. The county council may, by resolution, approve a docket listing all applications that may be processed per the provisions of this chapter.

(2) The department, the executive, the planning commission, or the county council by majority vote, may place a proposed amendment on the docket at any time.

(3) A party other than the county council, executive, the planning commission or the department may suggest an amendment to the comprehensive plan or development regulations by making application on forms provided by the department and submitting any required docking fee.

(a) Applications for suggested amendments must be submitted by December 31 in order to be included on the proposed docket presented to the county council at its next annual docket review. The department shall review the application for completeness and may request additional information to ensure the application is complete before scheduling it for the annual docket review.
(b) If the county council docket a suggested amendment, all required amendment application fees are due within 30 calendar days after it is docketed. If all fees are not paid within 30 calendar days after being docketed, the department shall close the application and remove it from the docket. When docketing an application, the county council may waive the application fees if it finds the proposed amendment would clearly benefit the community as a whole.

[The intent of proposed section 22.10.020(1)-(3) is to clearly differentiate between the proposed docket presented by the department, and the final docket approved by resolution of the County Council. RCW 36.70.470’s allowance for suggested amendments is accommodated, with the requirement that the suggestion be accompanied by a completed application and a docketing fee (not the full application fee, which is charged if it is docketed, unless waived by the County Council; the “clearly benefit the community” finding is currently required in WCC 2.160.110.]

(4) The county council, by majority vote, may remove a proposed amendment from the approved docket by motion, unless:

(a) the amendment was proposed by a party other than the county council or the department per WCC 22.10.020(3), and
(b) the applicant has provided all information required by the planning and development services department. The department shall notify the applicant not less than 30 calendar days prior to consideration of removal from the docket. If the county council has not acted upon a docketed proposed amendment during the year for which it has been docketed, the county council may place the amendment on the following year’s docket.

22.10.030 Processing of docketed amendments.

(1) The department shall review docketed comprehensive plan and development regulation amendment applications as provided below:

(a) For suggested amendment applications filed per WCC 22.10.020(3), the department shall evaluate the applications for completeness and may request additional information of the applicant prior to requesting the appropriate hearing body to schedule a public hearing. Where a development regulation amendment requires a comprehensive plan amendment, the two amendments shall be processed at the same time.

(b) The department shall conduct environmental review under SEPA and prepare a staff report including recommendations and/or options for each docketed amendment. Both the report and the result of the environmental review shall be forwarded to the planning commission, and to the applicable city staff if the proposed amendment applies to land within a city’s urban growth area.

(c) The staff report shall evaluate the proposed amendment(s) in relationship to the approval criteria of WCC 22.10.060, and consider any environmental impacts or mitigation measures identified by the Whatcom County SEPA official. If the proposed amendment includes land within a city’s urban growth area, the staff report shall also address any comments from the city regarding consistency with.
the applicable city comprehensive plan and the ability of the city to provide
needed utility services.

(2) Docketed comprehensive plan and development regulation amendment
applications shall receive a public hearing by the planning commission subject to
the notice requirements of 22.10.050. Following the public hearing, the planning
commission shall vote to adopt findings of fact and recommended actions, which
the department shall transmit to the county council. In addition to the public
hearing, the planning commission may hold public work sessions to discuss a
proposed amendment.

(3) The county council may hold a public hearing on the docketed amendment in
addition to the planning commission’s public hearing. If the county council decides
the public interest is better served by considering a final action that differs from the
planning commission recommendation, the county council shall hold a public
hearing. The county council, by majority vote, may adopt the amendment by
ordinance, reject the amendment, or remand the proposed amendment to the
planning commission for further review.

(4) Actions that are quasi-judicial as defined in 42.36.010 RCW (including but not
limited to a zoning map amendment for a single lot) are subject to the appearance
of fairness doctrine, Chapter 42.36 RCW. For a proposed amendment that is a
quasi-judicial action, the planning commission and county council shall process the
application in accordance with Chapter 42.36 RCW in addition to the requirements
of this section.

22.10.040 Concurrent review of comprehensive plan amendments
(1) While public hearings and other public discussion of proposed comprehensive
plan amendments may take place at any time of the year, the county council’s final
review and adoption of those amendments shall take place concurrently, no more
frequently than once per calendar year, in accordance with RCW 36.70A.130(2)(a).
Final adoption should occur on or about February 1.

(2) The following comprehensive plan amendments are excluded from the
requirement of annual concurrent review and may be adopted at any time:

(a) The initial adoption of a subarea plan,

(b) Adoption or amendment of the shoreline master program under procedures
set forth in Chapter 90.58 RCW,

(c) The amendment of the capital facilities element concurrent with adoption or
amendment of the county budget,

(d) Amendments needed to resolve an appeal of the comprehensive plan filed
with the growth management hearings board or the court, or

(e) Amendments necessary in cases where the county council finds an
emergency exists.
22.10.050 Notice of public hearing.
(1) The county shall publish notice of the public hearing at least once in the official county newspaper and on the Whatcom County website no fewer than 10 calendar days prior to the hearing. The notice shall include the date, time, place, and subject of the hearing.

[As a courtesy the department also provides notice to other publications and individuals who have submitted a written request to receive such notice through the County’s website.]

(2) For public hearings involving a quasi-judicial zoning map amendment application, per WCC 22.10.030D, the county shall provide the following notice in addition to the requirements of subsection A of this section:

(a) The county shall mail notice to property owners as follows:

   (i) For zoning map amendments within existing urban growth areas: At least 10 calendar days prior to the scheduled hearing date, hearing notice shall be mailed to all property owners within 300 feet of the external boundaries of the subject property as shown by the records of the county assessor. The applicant shall submit mailing labels with a typed address for each of the above-referenced property owners.

   (ii) For zoning map amendments outside existing urban growth areas: At least 10 calendar days prior to the scheduled hearing date, hearing notice shall be mailed to all property owners within 1,000 feet of the external boundaries of the subject property as shown by the records of the county assessor. The applicant shall submit mailing labels with a typed address for each of the above-referenced property owners.

   (iii) For zoning map amendments that involve rezoning property to an Airport Operations District: At least 10 calendar days prior to the scheduled hearing date, hearing notice shall be mailed to all property owners within 1,500 feet of the external boundaries of the subject property as shown by the records of the county assessor. The applicant shall submit mailing labels with a typed address for each of the above-referenced property owners.

   (vi) For zoning map amendments that involve rezoning property to a Mineral Resource Land designation: At least 10 calendar days prior to the scheduled hearing date, hearing notice shall be mailed to all property owners within 2,000 feet of the external boundaries of the subject property as shown by the records of the county assessor. The applicant shall submit mailing labels with a typed address for each of the above referenced property owners.

(b) The county shall prepare and the applicant shall post signs giving notice of the hearing in conspicuous locations on the property at least 10 calendar days prior to the hearing.

(c) The county shall send notice to the appropriate city, when the proposed amendment is within or would expand the urban growth area, and to agencies,
school districts, and tribes that will potentially be affected by the proposed amendment at least 10 calendar days prior to the hearing.

(d) For sites within 4,500 feet of the runway of Lynden Airport or Floathaven Sea Plane Base: At least 10 calendar days prior to the scheduled hearing date, application notice shall be sent to the city manager (if applicable), airport board or commission (if applicable), and an official representative of the airport.

(e) For sites within 10,000 feet of the runway of Bellingham International Airport: At least 10 calendar days prior to the scheduled hearing date, application notice shall be sent to the Port of Bellingham.

(f) All notices shall specify the date, time, location, and purpose of the hearing and provide a description and the location of the proposed rezone. The public shall be invited to submit written comments and attend the hearing to provide oral comments.

22.10.060 Approval criteria.
(1) In order to approve a comprehensive plan amendment, the planning commission and the county council shall find all of the following:

(a) The amendment conforms to the requirements of the Growth Management Act, is internally consistent with the county-wide planning policies and is consistent with any interlocal planning agreements.

(b) Further studies made or accepted by the department of planning and development services indicate changed conditions that show need for the amendment.

(c) The public interest will be served by approving the amendment. In determining whether the public interest will be served, factors including but not limited to the following shall be considered:

(i) The anticipated effect upon the rate or distribution of population growth, employment growth, development, and conversion of land as envisioned in the comprehensive plan.

(ii) The anticipated effect on the ability of the county and/or other service providers, such as cities, schools, water and/or sewer purveyors, fire districts, and others as applicable, to provide adequate services and public facilities including transportation facilities.

(iii) Anticipated impact upon designated agricultural, forest and mineral resource lands.

(d) The amendment does not include or facilitate spot zoning.
(2) In order to approve an amendment to the development regulations, the planning commission and county council shall find that the amendment is consistent with the comprehensive plan.

Chapter 22.15
CODE COMPLIANCE PROCEDURES
(Reserved)

[This is a place-holder for a future consolidated chapter on enforcement procedures. It would largely be based on current Chapter 20.94 Enforcement and Penalties, with enforcement procedures from other titles added, because PDS staff enforces more than just Title 20 Zoning.]

Chapter 22.20
LAND USE AND DEVELOPMENT CODE INTERPRETATION PROCEDURES

[Based on City of Bellingham’s code interpretation process, BMC 21.10.270]
Sections:
22.20.010 Purpose and applicability.
22.20.020 Request for interpretation.
22.20.030 Procedure.
22.20.040 Factors for Consideration.
22.20.050 Issuance of Interpretation.
22.20.060 Appeals.

22.20.010 Purpose and applicability
(1) The purpose of this chapter is to establish the procedure for interpreting provisions of Whatcom County’s land use and development codes to clarify conflicting or ambiguous wording.

(2) The director of planning and development services (director) is authorized to make written interpretations of the provisions of the following titles of WCC:

(a) Title 16 Environment,
(b) Title 20 Zoning,
(c) Title 21 Land Division Regulations,
(d) Title 22 Land Use and Development Procedures, and
(e) Title 23 Shoreline Management.

(3) Issuance of an interpretation of the provisions of the code shall not amend the code.

**22.20.020 Request for interpretation.**
Anyone may request an interpretation consistent with the provisions of this chapter. Any person requesting an interpretation of the code shall submit a written request specifying each provision of the code for which an interpretation is requested, why an interpretation of each provision is necessary, and any reasons or material in support of a proposed interpretation.

**22.20.030 Procedure.**
(1) The director shall determine how to process the code interpretation request. The request may be:

(a) Processed as a Type I decision per WCC 22.05.020; or

(b) Consolidated with the process associated with the review of the application.

(2) The director shall consult with the Department of Ecology regarding any interpretation of the shoreline management program.

**22.20.040 Factors for consideration.**
In making an interpretation of the provisions of the code, the director shall consider the following:

(1) The applicable provisions of the code including their purpose and context;

(2) The impact of the interpretation on other provisions of the code;

(3) The implications of the interpretation for development within the county as a whole; and

(4) The applicable provisions of the comprehensive plan and other relevant codes and policies.

**22.20.050 Issuance of interpretation.**
The director shall issue a written interpretation within 30 calendar days of the department's receipt of the interpretation request. Issuance of the interpretation shall include notification of the person making the request and publication of the interpretation on the county's website. The director may docket an amendment to clarify the affected section of county code per WCC 22.10.020(2).

**22.20.060 Appeals.**
Any party of record may file an appeal of a formal code interpretation. The appeal shall follow all rules and procedures for appeals to the hearing examiner as set forth in WCC 22.05.160.
Chapter 22.25

LAND USE AND DEVELOPMENT FEES

[Proposed to be moved from WCC 20.04.090 - .092 because it applies to all land use and development fees, not just those in Title 20 zoning.]

Sections:
22.25.010 Purpose and applicability
22.25.020 Application fees and other fees.
22.25.030 Reduced application fees.
22.25.040 Refund of application fees.

22.25.010 Purpose and applicability
(1) The purpose of this chapter is to establish the authority for collecting fees for various land use and development review services, as well as provisions for reductions and refunds of those fees.

(2) The provisions of this chapter shall apply to fees charged for procedures contained in the following titles of WCC:

(a) Title 15 Building and Construction,
(b) Title 16 Environment,
(c) Title 17 Flood Damage Prevention,
(d) Title 20 Zoning,
(e) Title 21 Land Division Regulations,
(f) Title 22 Land Use and Development Procedures, and
(g) Title 23 Shoreline Management.

22.25.020 Application fees and other fees.
Fees for project permit applications, legislative amendments and fees for other approvals and reviews as set forth in this title shall be as provided in the Unified Fee Schedule.

22.25.030 Reduced application fees.
When any given project requires more than one of the following permits or applications, the total amount of fees shall be reduced by 25 percent of the required aggregate permit and application fees; provided any fees required for processing of an EIS shall not be included as part of the total amount of fees to be reduced by 25 percent.

(1) Subdivision plat application;
(2) Rezone application;

(3) Shoreline substantial development permit, variance or conditional use;

(4) Major development permit;

(5) Conditional use permit;

(6) Variance;

(7) Planned unit development.

22.25.040 Refund of application fees.
Recfunds of application fees for project permits and for amendments to the
Whatcom County Comprehensive Plan, development regulations and official maps
shall be computed based on the following, unless otherwise indicated in Whatcom
County Code. All refund requests shall be submitted in writing to the department of
planning and development services. The date of application for a refund request
shall be the date the written refund request is received by the department. For the
purpose of computing elapsed calendar days, the day after the date of application
or deadline date as appropriate shall be counted as day one.

(1) Fees for Project Permits.

   (a) Applications withdrawn on or before the fourteenth calendar day after the
date of application shall be eligible for a refund of 90 percent of all application
fees including any SEPA fees.

   (b) Applications withdrawn after the period set forth in subsection (1)(a) of
this section but on or before the ninetieth calendar day after the date of
application shall be eligible for a refund of 50 percent of all application fees
except for any SEPA fees which shall not be eligible for a refund.

   (c) Applications withdrawn after the ninetieth calendar day after the date of
application shall not be eligible for a refund.

   (d) Notwithstanding the above, no fees shall be refunded for any permit or
approval that has been issued or granted by the county.

   (e) The director may authorize a full refund of any project permit application
fee paid in error.

(2) Fees for Amendments to the Whatcom County Comprehensive Plan,
Development Regulations, and Official Maps.

   (a) Applications for amendments that are withdrawn on or before the
fourteenth calendar day after the deadline for submitting the fee shall be
eligible for a refund of 90 percent of all application fees including SEPA fees. If
there is no deadline for submitting the fee, the 90-percent refund shall be
given if the application is withdrawn on or before the fourteenth calendar day
after the fee was submitted.
(b) Applications for amendments that are withdrawn after the period set forth in subsection (2)(a) of this section but on or before the ninetieth calendar day after the deadline for submitting the fee shall be eligible for a refund of 50 percent of all application fees except for SEPA fees which shall not be eligible for a refund. If there is no deadline for submitting the fee, the 50-percent refund shall be given if the application is withdrawn on or before the ninetieth calendar day after the fee was submitted.

(c) Applications for amendments that are withdrawn after the 90 calendar days shall not be eligible for a refund.

(3) Withdrawal of an application shall constitute full surrender of any express or implied rights inherent in an application which has been perfected and accepted by the planning and development services department or its designees.
(4) Application submitted to the department.

(5) The application is incomplete or not submitted.

(6) The applicant is notified of the application.

(7) The application is rejected.

(8) The application is approved.

(9) The application is amended.

(10) The application is withdrawn.

(11) The application is pending.

(12) The application is in process.

(13) The application is complete.

(14) The application is submitted.

(15) The application is rejected.

(16) The application is approved.

(17) The application is amended.

(18) The application is withdrawn.

(19) The application is pending.

(20) The application is in process.

(21) The application is complete.

(22) The application is submitted.

(23) The application is rejected.

(24) The application is approved.

(25) The application is amended.

(26) The application is withdrawn.

(27) The application is pending.

(28) The application is in process.

(29) The application is complete.

(30) The application is submitted.

(31) The application is rejected.

(32) The application is approved.

(33) The application is amended.

(34) The application is withdrawn.

(35) The application is pending.

(36) The application is in process.

(37) The application is complete.

(38) The application is submitted.

(39) The application is rejected.

(40) The application is approved.

(41) The application is amended.

(42) The application is withdrawn.

(43) The application is pending.

(44) The application is in process.

(45) The application is complete.

(46) The application is submitted.

(47) The application is rejected.

(48) The application is approved.

(49) The application is amended.

(50) The application is withdrawn.

(51) The application is pending.

(52) The application is in process.

(53) The application is complete.

(54) The application is submitted.

(55) The application is rejected.

(56) The application is approved.

(57) The application is amended.

(58) The application is withdrawn.

(59) The application is pending.

(60) The application is in process.

(61) The application is complete.

(62) The application is submitted.

(63) The application is rejected.

(64) The application is approved.

(65) The application is amended.

(66) The application is withdrawn.

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(69) The application is complete.

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(77) The application is complete.

(78) The application is submitted.

(79) The application is rejected.

(80) The application is approved.

(81) The application is amended.

(82) The application is withdrawn.

(83) The application is pending.

(84) The application is in process.

(85) The application is complete.

(86) The application is submitted.

(87) The application is rejected.

(88) The application is approved.

(89) The application is amended.

(90) The application is withdrawn.

(91) The application is pending.

(92) The application is in process.

(93) The application is complete.

(94) The application is submitted.

(95) The application is rejected.

(96) The application is approved.

(97) The application is amended.

(98) The application is withdrawn.

(99) The application is pending.

(100) The application is in process.

(101) The application is complete.
(g) Building and the code provisions adopted

(h) Building and the code requirements

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4. The identification of other permits not included in the applicability, a list of any studies required by the County, and (a) a description of the proposed project application; and (b) the date of the notice of determination of completeness for the project application.

2. The date, time, place and type of the hearing, if required.

3. A description and significance of the determination of completeness, and the date of the notice of application.

2.33.060 Notice of Application for a Proposed Land Use Action.

A. A notice of application shall be issued for project permit applications under WCC 22.05.020, the County shall issue a WCC 22.05.070 Notice of Application for a Proposed Land Use Action.

B. If the County has made a determination of significance concurrently with notice of application, the notice shall include:

1. The date of application.

2. The date of the notice shall be the date of the determination of significance and scoping notice with the same mailing.

C. If the County has made a determination of significance concurrently with notice of application, the notice shall include:

1. The date of application.

2. The date of the notice shall be the date of the determination of significance and scoping notice with the same mailing.

Approved permit per WCC 22.05.140.

22.05.130(1)(a)(i)(2) of the application for the WCC 22.05.020(1), by the applicant, as filed with the County, with the notice of determination of completeness, with the date of the application for the WCC 22.05.020(1), by the applicant.

4. The identification of other permits not included in the applicability, a list of any studies required by the County, and (a) a description of the proposed project application; and (b) the date of the notice of determination of completeness for the project application.

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Approved permit per WCC 22.05.140.

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and to appeal a decision when allowed by
request, or of the decision once made
notices of application and notice
to comment on the application and notice
more than 30 calendar days.

there is a minimum period of no
permissible for mitigation banks, which will
 Develops, develops a conditional use,
except for shoreline
applications days for all project permits
common period which shall be 14
(a) a statement of the public
the time of notice;

1. This notice shall be published once in The Official
date of the notice of application
and, if so directed, in the following:
public notice shall, in the following:

(b) a statement of the public
the time of notice;

2. An additional notice shall be given using the following:

county newspaper. The application shall bear the

3. A statement of the public
the time of notice;

D. A notice of application shall be issued in the following:

project permits or mitigation banks of the
and major project permits for mitigation banks, or the
15 days (20 days for substantial development permit
SUBSIDEN.

(a) a statement of the public
the time of notice;

(b) a statement of the public
the time of notice;

(c) a statement of the public
the time of notice;

(d) a statement of the public
the time of notice;

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(r) a statement of the public
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(s) a statement of the public
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(t) a statement of the public
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(u) a statement of the public
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(v) a statement of the public
the time of notice;

(w) a statement of the public
the time of notice;

(x) a statement of the public
the time of notice;

(y) a statement of the public
the time of notice;

(z) a statement of the public
the time of notice;
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20.85.320 Application distribution and review.

Application to all or parts of the proposal.

Departmental written response in support of or in
submission to the Planning and Development Service
submittal to the Planning and Development Service
on the property, whichever is later, within which to
the mailed notice of 15 days from the posting of notice
the mailing date of 15 days from the date printed on
small housing project at least 15 days prior to the decision.
said notice shall be provided to the
decision and small remain in place for at least 15
periodic notices shall be provided to the
development and development services.

(7) Upon receipt of application materials, permit

(8) Applicant notices given for project permit

(9) Applicant notices given for project permit

(20) Application submittal and development

(3) Application submittal and development

(4) Application submittal and development

(5) Application submittal and development

(6) Application submittal and development

(1) Planning and development services.

(2) Planning and development services.

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(26) Planning and development services.
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Purpose and Application — Applicant Submission and Determination of Completeness

Current and Proposed Code Matrix
development permit, shoreline variance, or shoreline
under that section.
application/proprietor of his/her notice responsibility
open record public hearing, and to notify the
procurement (notwithstanding the requirement for an
the manner set forth in WCC 2.23.060 (Permit Review
a notice of application for a proposed land use action in
conditional use permit application, the county shall issue
development permit, shoreline variance, or shoreline
A. Upon receipt of a complete shoreline substantial

[Shorelines]
23.60.080 Notice of application

without such comments.

committee may conclude their review of the application
administrator, SEDA, official and technical review
respond. If they do not respond within 15 days, the
organizations shall be given 15 calendar day to
application, such actions, decisions, and utility
one-eighth mile (or the area submitted in the
application, and public utilities if within 66 feet
to area's existing utility having jurisdiction related to
the subdivision is within the city's urban growth
(c) Notify and provide copies of project plans to all
(b) Notify those agencies required by RCW 58.17.080;
WCC;
(a) Provide notification in accordance with Chapter 2.33
planning and development services shall;

[Subbdivisions]
21.05.035 Preliminary application procedures.

comments.

conclude their review of the application without such
SEDA, official and technical review committee may
they do not respond within 14 days, the administrator,
if

(Purpose and Applicability – Applicant Submittal and Determination of Completeness)
Current and Proposed Code Matrix
<table>
<thead>
<tr>
<th>RCW 36.70B.110(4)</th>
<th>20.8.4.232 Administrative approval uses, zoning.</th>
</tr>
</thead>
</table>
| Growth areas, and to the applicable city staff and growth management’s department, or before the notice of application, the department shall post public notices of the proposal on all growth areas and 1,000 feet for properties outside urban boundary or 22.05 acres of the subject property or 300 feet of the exclusive service area department shall send a notice of the proposal to all owners of property within 22.05 acres of the exclusive service area department.

(2) Upon receipt of application materials, or submission of the proposal, the department shall send a notice of the proposal to all owners of property within 22.05 acres of the exclusive service area department.

(3) The rights of the property may be accommodated through existing and comprehensive provisions of the regional planning and development program. The rights of the property may be accommodated through the notification and consistent provisions of the policy or regulation of this program.

(4) Any public comment submitted pursuant to this section for any proposal or permit not requiring a decision by the department shall not be subject to an additional notice by the department of other proposals or permits.

D. Application for any approval or permit, not requiring a decision by the department.

E. The rights of the property may be accommodated through the notification and consistent provisions of the policy or regulation of this program.

F. The rights of the property may be accommodated through the notification and consistent provisions of the policy or regulation of this program.

G. The rights of the property may be accommodated through the notification and consistent provisions of the policy or regulation of this program.
<table>
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<tr>
<th>Notice of application and notice of open record hearing</th>
<th>Open Record Hearings</th>
</tr>
</thead>
<tbody>
<tr>
<td>20.84.230 Open Record Hearing Notice</td>
<td>16.16.273 Variances [Critical Areas]</td>
</tr>
</tbody>
</table>

**Purpose and applicability - Applicant Submittal and Determination of Completeness**

Current and Proposed Code Matrix

| Planning Commission | City of | Property is within a city’s urban growth area, at least 15 days prior to the decision, the applicant shall issue a public notice of the subject property so that the public is aware of the decision. |}

<table>
<thead>
<tr>
<th>Open Record hearings</th>
<th>Notice of application and notice of open record hearing</th>
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</thead>
<tbody>
<tr>
<td>22.05.020 (3)(4)</td>
<td>20.84.230 Open Record Hearing Notice</td>
</tr>
</tbody>
</table>

| 22.05.020 (3)(4)     | 20.84.230 Open Record Hearing Notice |

- Any party of record may appeal the hearing examiner’s decision pursuant to Chapter 20.92 WCC. The hearing examiner is responsible for all variance applications processed in accordance with the procedures set forth in Section 16.16.273 WCC.
Examiner [sic] open record hearing notice. [Hearing]

20.92.215 Open record hearing notice. Hearing

10 working days prior to the hearing.

The meaning of the phrase "by the applicant" does not mean that the term shall be defined in a

proposed project, the hearing shall be defined in accordance with a

proposed project, the county shall allow an open

public record hearing. Notice shall consist of time and date of

public record hearing. Notice shall be published in a

newspaper of general circulation in the area of the

project.

The records of the county assessor:

(1) For sites with urban growth areas: Notice shall be

mailed to each property owner within 3,000 feet of the

property.

(2) For sites outside urban growth areas: Notice shall be

mailed to each property owner within 3,000 feet of the

property.

20.88.200 Procurement [Major Project Permits]

§ 2, 1996)

(Ord. 2004-07 § 2, 2002-07 Ord. 96-031)

20.93.090 If a proposed project is within a city's

project shall comply with WCC 2.33.060 and 2.33.070.

shall be given pursuant to WCC 2.33.060 and 2.33.070.

Notice of the time and place of the open record hearing

shall be given pursuant to WCC 2.33.060 and 2.33.070.

shall be given pursuant to WCC 2.33.060 and 2.33.070.

shall be given pursuant to WCC 2.33.060 and 2.33.070.

shall be given pursuant to WCC 2.33.060 and 2.33.070.

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shall be given pursuant to WCC 2.33.060 and 2.33.070.

shall be given pursuant to WCC 2.33.060 and 2.33.070.
20.02.210(2) [S]ubdivisions [WCC]

Chapter 2.33 WCC.

Notice of the open record hearing shall be set forth in accordance with the provisions of chapter 20.92 WCC.

The hearing examiner shall conduct and hold an open hearing in accordance with the provisions of chapter 20.92 WCC.

The hearing examiner shall conduct and hold an open hearing in accordance with the provisions of chapter 20.92 WCC.

Decision [S]ubdivisions

Chapter 2.33 WCC.

Decision [S]ubdivisions [WCC]

Chapter 2.33 WCC.

Decision [S]ubdivisions [WCC]

Decision [S]ubdivisions [WCC]
<table>
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<th>Consistency Review and Staff Report</th>
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<tr>
<td><strong>Purpose and Applicability – Applicant Submitted and Determination of Completeness</strong></td>
</tr>
<tr>
<td>Current and Proposed Code Matrix</td>
</tr>
</tbody>
</table>

**22.05.100 Consistency Review and Staff Report**

Consistency Review and Staff Report

- Consistency review and action
- Staff report

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RCW 36.70B.140

**Purpose and Applicability – Applicant Submitted and Determination of Completeness**

Current and Proposed Code Matrix

(Continues on next page...)
Developments

20.85.335 Zoning Administrator [Planned Unit Development]


The recommendation for any modification of a conditional approval, or denial of a conditional approval, or denial of a proposed conditional approval based on the findings of the hearing examiner shall be forwarded to the Planning and Zoning Administrator within fourteen days of the date of issuance or denial of the finding. The Planning and Zoning Administrator shall then submit the recommendation to the Technical Committee for review and shall make a recommendation to the Technical Committee within seven days of the date of issuance of any decision or denial of the finding. Each member of the Technical Committee shall review the recommendation and any other interested parties shall discuss the recommendation with the applicant and any other interested parties. The Planning and Zoning Administrator shall convene an open meeting to discuss the recommendation. If the Technical Committee recommends a modification, the Planning and Zoning Administrator shall forward the recommendation to the Technical Committee for review and shall make a recommendation to the Technical Committee within seven days of the date of issuance of any decision or denial of the finding. Each member of the Technical Committee shall review the recommendation and any other interested parties shall discuss the recommendation with the applicant and any other interested parties. The Planning and Zoning Administrator shall convene an open meeting to discuss the recommendation.

20.85.325 Technical Unit (Planned Unit Development)

2009-068 § 2; 2009-031 § 1.

The recommendation for any modification of a conditional approval or denial of a conditional approval based on the findings of the hearing examiner shall be forwarded to the Planning and Zoning Administrator within fourteen days of the date of issuance or denial of the finding. The Planning and Zoning Administrator shall then submit the recommendation to the Technical Committee for review and shall make a recommendation to the Technical Committee within seven days of the date of issuance of any decision or denial of the finding. Each member of the Technical Committee shall review the recommendation and any other interested parties shall discuss the recommendation with the applicant and any other interested parties. The Planning and Zoning Administrator shall convene an open meeting to discuss the recommendation.

Purpose and Applicability - Applicant Submittal and Determination of Completeness (Current and Proposed Code Matrix)
(a) The hearing examiner may grant or deny the application

(2) The hearing examiner's final decision

(c) In rural areas, consideration will be given to the

(d) The requirement of this section and of WCC
governing comprehensive plan policies and zoning


[See WCC 20.92.236 for details] (ord. 2004-07)

[Examiner] [Examiner] [Examiner] [Examiner]

§ 1, 2004)

Made available to any interested party. (Ord. 2004-07)

Purpose and applicability - Applicant Submittal and Determination of Completeness

Current and Proposed Code Matrix

Without pointing to the report or the examiner, copies shall be mailed to the applicant and

examiner. Copies shall be mailed to the applicant and

examiner. Upon submission of the report to the

proposed readings, shall be mailed within and contain relevant data and

shall be in writing and contain relevant data and

shall be in writing and contain relevant data and
Vested Rights

This page provides an overview of the application of the vested rights doctrine in Washington State, including significant court decisions and examples of codes.

Application of Doctrine

In Washington State, the vested rights doctrine "refers generally to the notion that a land use application, under the proper conditions, will be considered only under the land use statutes and ordinances in effect at the time of the application’s submission." See Noble Manor v. Pierce County (1997).

Vested Rights Apply Upon Permit Application

The doctrine was originally applied by the state supreme court and in a different manner than is applied in a majority of states, where it is invoked only when substantial development has occurred in reliance on an issued permit. See Hull v. Hunt (1958).

The rationale for the Washington courts rejecting the majority approach and applying the doctrine upon permit application is to provide certainty and predictability in land use regulations. See West Main Assocs, Inc. v. City of Bellevue (1986).

Society suffers if property owners cannot plan developments with reasonable certainty, and cannot carry out the developments they begin.

The Washington approach is, according to the courts, based on "constitutional principles of fairness and due process, acknowledging that development rights are valuable and protected property interests." See Weyerhaeuser v. Pierce County (1999).

Vested Rights Apply Only when Required by Statute

Potala Village Kirkland, LLC v. City of Kirkland (2014) clarifies the scope of the vested rights doctrine by citing prior state supreme court decisions and holding that the statutory vested rights doctrine replaced, rather than supplemented, the common law (court-made) vested rights doctrine.

Thus, under this decision, vested rights apply only in the context of building permit applications (RCW 19.27.095), short subdivision and subdivision applications (RCW 58.17.033), and development agreements (RCW 36.70B.180), although city or county policies may grant broader vested rights.

For further details, see Statutory Application of Doctrine below.

Vested Rights in the Context of a Nonconforming Use
The right to continue a nonconforming use despite a zoning ordinance that prohibits that use in that zone is sometimes referred to as a vested right. See *Rhod-A-Zalea v. Snohomish County* (1998). Though, this right in the context of a nonconforming use refers only to the right not to have the use immediately terminated in the face of a zoning ordinance that prohibits it. *Id.*

**Statutory Application of Doctrine**

The legislature has codified the vested rights doctrine as applied to:

- **Building permit applications (RCW 19.27.095):**
  
  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.

- **Subdivision applications (RCW 58.17.033):**
  
  A proposed division of land, as defined in RCW 58.17.020, shall be considered under the subdivision or short subdivision ordinance, and zoning or other land use control ordinances, in effect on the land at the time a fully completed application for preliminary plat approval of the subdivision, or short plat approval of the short subdivision, has been submitted to the appropriate county, city, or town official.

- **Development agreements (RCW 36.70B.180):**
  
  A development agreement and the development standards in the agreement govern during the term of the agreement, or for all or that part of the build-out period specified in the agreement, and may not be subject to an amendment to a zoning ordinance or development standard or regulation or a new zoning ordinance or development standard or regulation adopted after the effective date of the agreement.

**When Vested Rights Apply, What Is Subject to Being Vested?**

If vested rights apply to an application for a building permit or preliminary subdivision/short subdivision approval, they vest to "zoning or other land use control ordinances." Departing from appellate court interpretations that "land use control ordinances" are ones that have a restraining or directing influence on the use of the land regardless of whether adopted pursuant to State directive or local discretion, the Supreme Court in *Snohomish County v. Pollution Control Hearings Board* (2016) concluded that "land use control ordinances" mean only those ordinances adopted as a matter of local discretion, not those implementing a State mandate. "[T]he vested rights doctrine grew out of a concern that municipalities were abusing their discretion with respect to land use and zoning rules. That concern is not present in the [stormwater] Permit, as the State has mandated local governments to implement a stormwater management program that may take the form of stormwater regulations." (See Slip. Op. at 16-17). With this interpretation, it is possible that courts will conclude other state-mandated regulations (e.g., shoreline, critical areas, etc.) will not be subject to vesting, as well.

The courts have held "zoning or other land use control ordinances" **not to include:**

- **Stormwater regulations required under municipal stormwater permit (NPDES) issued by Department of Ecology.** See *Snohomish County v. Pollution Control Hearings Board* (2016).
- **Impact fees.** See *New Castle Invs. v. City of La Center* (1999).
- **Connection fees.** See *Lincoln Shiloh Assoc., Ltd. v. Mukilteo Water Dist.* (1986).
• Procedural regulation setting expiration date for inactive plat applications. See *Graham Neighborhood Ass’n v. F.G. Associates* (2011).

**Other Considerations Regarding Vested Rights**

In addition, the courts have held with respect to the vested rights doctrine:

• Vested rights are not waivable; developer cannot selectively benefit from old and new regulations. See *East County Reclamation Co. v. Bjornsen* (2005).

• Vested rights survive annexation. See *Schneider Homes v. City of Kent* (1998).

• Submission of a completed plat/short plat application vests the developer with the right to both divide the property and to develop it in the manner disclosed in the application in accordance with the land use and zoning laws in effect on the date of submission of the application. See *Noble Manor v. Pierce County* (1997).

• Preapplication procedures that delay the vesting point until well after a developer first applies for project approval and that reserve almost unfettered ability to change ordinances in response to a developer’s proposals violate the vested rights doctrine. See *West Main Assocs. v. Bellevue* (1986).

• Vested rights apply regardless of the existence of an enacted but not yet effective zoning change. See *Allenbach v. City of Tukwila* (1984).

**Examples of Codes**

“Within the parameters of the doctrine established by statutory and case law, municipalities are free to develop vesting schemes best suited to the needs of a particular locality.” *Erickson & Assocs., Inc. v. McLerran* (1984).

**Vested Rights Rules**

• **Bellevue Municipal Code Sec. 20.40.500**

• **Blaine Municipal Code Sec. 17.06.080**

• **Chelan County Code Sec. 14.08.040**

• **Everett Municipal Code Ch. 15.28**

• **Marysville Municipal Code Sec. 22G.010.250** - Vesting (conditional use permit)

• **Mount Vernon Municipal Code Sec. 14.05.120** (vesting) and **Sec. 15.40.140** (critical areas)

• **Pierce County Code Ch. 18.160**

• **Redmond Community Development Guide Sec. 2OF.10.60**

• **Tumwater Municipal Code Ch. 15.44**

• **Whatcom County Code Sec. 20.04.031**

• **Woodinville Municipal Code Sec. 21.40.035**

**Defining “Complete Application” for Vesting Purposes**

• **Burlington Municipal Code Sec. 15.16.010**

• **Edmonds Municipal Code Sec. 19.00.025** (G)
Court Decisions

The following links to significant State Supreme Court and Court of Appeals decisions address vested rights in various land use contexts. The list is in chronological order.

Any stormwater management program adopted pursuant to the state-issued NPDES permit is not a “land use control ordinance” and therefore vesting principles do not apply.

See Snohomish County v. Pollution Control Hearings Board ___ Wn. App. ___(12/29/2016) – The 2013-2018 Phase I municipal stormwater permit issued by the Washington Department of Ecology requires that certain cities and counties adopt regulations for controlling stormwater drainage and runoff to municipal stormwater sewer systems for new development, redevelopment, and construction activities. At issue in this case was a provision in the permit requiring local jurisdictions to adopt regulations that “shall apply to all [development] applications submitted after July 1, 2015, which have not started construction by June 30, 2020.” Several local jurisdictions, permittees, and a building industry group appealed this portion of the permit to the Pollution Control Hearings Board (PCHB), claiming it violated the statutory vested rights doctrine forcing them to retroactively apply new stormwater regulations to completed development applications. The PCHB upheld the provision in the 2013 permit, but the Court of Appeals reversed, holding that stormwater regulations adopted pursuant to the permit are “land use control ordinances” within the meaning of the vested rights statutes. The Supreme Court, in a unanimous decision, reversed the Court of Appeals. The court held that local ordinances adopted to implement the permit requirements are not “land use control ordinances” within the meaning of the vesting statutes and therefore not among the laws subject to the statutes’ protections. The court rejected arguments that the proper analysis was whether a regulation had a restraining or directing influence on the use of the land. Instead, the court concluded that “land use control ordinances” mean only those adopted as a matter of local discretion, not ordinances implementing a State mandate: “[T]he vested rights doctrine grew out of a concern that municipalities were abusing their discretion with respect to land use and zoning rules. That concern is not present in the [stormwater] Permit, as the State has mandated local governments to implement a stormwater management program that may take the form of stormwater regulations.” Slip. Op. at 16-17.

Critical areas ordinance amended after short plat approval

See Alliance Investment Group of Ellensburg, LLC v. City of Ellensburg 189 Wn. App. 763 (2015) – Approval of a short plat or subdivision application that is not accompanied with a building permit application does not vest a right to have future development of the property considered under a critical areas ordinance that existed at the time of the short plat or subdivision approval. This right does not vest even if the existing ordinance was considered for purposes of granting the short plat or subdivision. Any specific project or proposed development of the land must meet the development standards in effect at the time a completed application for a building permit is filed.

Shoreline substantial development permit

See Potala Village Kirkland, LLC v. City of Kirkland 183 Wn. App. 191 (2014) – The court held that that the filing of an application for a shoreline substantial development permit, without filing an application for a building permit, does not vest rights to zoning or other land use control ordinances. The court held that, since RCW 19.27.095(I) does not include shoreline substantial development permits, the legislature intended that the vested rights doctrine would not extend to such permits. The court relied on the state supreme court’s recent statement in Town of Woodway v.
Snohomish County, 180 Wn.2d 165 (2014), "While it originated at common law, the vested rights doctrine is now statutory." The court rejected the argument that the vested rights statutes - RCW 19.27.095 (building permits), RCW 58.17.033 (subdivisions), and RCW 36.70B.180 (development agreements) - supplement common law vesting, concluding rather that they replaced the common law doctrine.

Vesting despite SEPA noncompliance

See Town of Woodway v. Snohomish County, 180 Wn.2d 165 (2014) – The vested rights doctrine applies to permit applications filed under plans and regulations that were later found to be noncompliant with SEPA. Local land use plans and development regulations enacted under the Growth Management Act are presumed valid upon adoption. Should a valid plan or regulation later be found to violate SEPA, the exclusive remedies provided by the GMA affect only future applications for development - not development rights that have already vested.

Building permit application containing misrepresentations does not vest

See Lauer v. Pierce County, 173 Wn.2d 242 (2011), overruling Lauer v. Pierce County, 157 Wn. App. 693 (2010) – The court concluded that the applicant’s 2004 building permit application, which contained knowing misrepresentations and omissions of material fact, did not vest because it was not valid and did not comply with the regulations in place at the time it was submitted. The fact that the application was deemed complete as under RCW 36.70B.070(4)(a), because the county did not provide a written determination of incompleteness to the applicant within 28 days of submission, does not mean the application vests under RCW 19.27.095. To vest under that statute, a building permit application must be "valid and fully complete," which this application was not.

Application incompatible with the comp plan does not vest

See Kelly v. Chelan County, 157 Wn. App. 417 (2010) – Where a local jurisdiction’s code authorizes the issuance of a conditional use permit only if the proposed development is compatible with the jurisdiction’s comprehensive plan, an application for a conditional use permit does not vest the developer with the right to develop the property in the manner disclosed in the application according to the land use laws and regulations in effect on the date the application was filed if the proposed development is incompatible with the comprehensive plan.

Site plan review and vesting

See Deer Creek Developers, LLC v. Spokane County, 157 Wn. App. 1 (2010) – A developer does not have a due process right to the vesting of development rights under existing land use laws and regulations upon the filing of an application for site plan review if, under applicable laws and regulations, site plan review approval is not a prerequisite to the submission of a building permit application and the developer is not prohibited from filing a building permit application at the same time the site plan application is filed.

Site plan review and vesting

See Abbey Rd. Group, LLC v. City of Bonney Lake, 167 Wn.2d 242 (2009) – After the developer applied for site development plan review but before applying for a building permit, the city council passed an ordinance rezoning the subject property to a zoning category that precluded the sort of multifamily development the developer sought to construct. Concluding that Erickson & Assoc., Inc. v. McLerran, 123 Wn.2d 864 (1994), was controlling and
upholding a prior court of appeals decision, the state supreme court held that the developer, having failed to file a building permit application, did not have vested rights in the prior zoning. The court determined that the developer was not prohibited by the city code from submitting a building permit application at the same time as applying for site development plan review.

Can't waive vested rights

See *East County Reclamation Co. v. Bjornsen*, 125 Wn. App. 432, review denied, 155 Wn.2d 1005 (2005) – Vested rights are not waivable; a developer cannot selectively benefit from old and new regulations. If an applicant wishes to take advantage of the law allowing a previously prohibited use, it may do so by withdrawing its original application and submitting another, but it may not select which laws will govern its application.

Short plat application vesting

See *Westside Bus. Park, LLC v. Pierce County*, 100 Wn. App. 599, review denied, 141 Wn.2d 1023 (2000) – Because the county accepted the developer’s short plat application as complete and knew of the developer’s intended use for the plat, RCW 58.17.033 vested the developer’s right to have the stormwater drainage ordinance in effect at the time of its short plat application apply to that application.

No vesting for impact fees

See *New Castle Investments v. City of La Center*, 98 Wn. App. 224 (1999), review denied, 140 Wn.2d 1019 (2000) – RCW 58.17.033 does not apply to transportation impact fees of a city because they do not fall within the definition of "land use control ordinances."

Subdivision vesting

See *Noble Manor v. Pierce County*, 133 Wn.2d 269 (1997) – Under RCW 58.17.033, a developer’s submission of a completed short plat application vests the developer with the right to divide the property and develop it in the manner disclosed in the application according to the land use and zoning laws in effect on the date of submission.

Vested rights survive annexation

See *Schneider Homes v. City of Kent*, 87 Wn. App. 774 (1997), review denied, 134 Wn.2d 1021 (1998) – When the developer submitted its preliminary plat application to the county, it became entitled to have not only that application, but also its companion PUD application, considered under the county ordinances then in effect, and even though the land was annexed by a city in the interim.

Ambiguous vesting ordinance

*Friends of the Law v. King County*, 123 Wn.2d 518 (1994) – In the absence of an ordinance specifying the requirements for a “fully completed” preliminary plat application, a developer’s good faith attempt to comply with the ambiguous terms of existing ordinances may be sufficient to vest the application upon its submission under RCW 58.17.033.
EIS and vesting

*Adams v. Thurston County*, 70 Wn. App. 471 (1993) – A municipal ordinance requiring that a final environmental impact statement (EIS) be completed before a previously submitted preliminary plat application is deemed a fully completed application for purposes of determining when development rights vest conflicts with RCW 58.17.033(1), which vests development rights on the date a complete and legally sufficient preliminary plat application is submitted, and is invalid. The inclusion of an EIS as a contingent requirement for a fully completed plat application would violate the intent of RCW 58.17.033 and frustrate the purpose of the vesting rule.

Exception to vesting requirement

*Valley View Indus, Park v. Redmond*, 107 Wn.2d 621 (1987) – The state supreme court applied the exception to the vested rights rule that was developed in *Parkridge v. Seattle*, 89 Wn.2d 454 (1978). The court determined that the exception applied because: (1) the developer diligently and in good faith attempted to obtain building permits; (2) city officials explicitly frustrated the developer’s attempts; and (3) as a result, the developer’s building permit applications were incomplete.

Delaying point of vesting

*West Main Assoc., Inc. v. City of Bellevue*, 106 Wn.2d 47 (1986) – The city’s ordinance prohibited the filing of a building permit application for any proposed project until after several approvals are obtained. The court held that the ordinance upset the vesting doctrine’s protection of a citizen’s constitutional right to develop property free of the “fluctuating policy” of legislative bodies by delaying the vesting point until well after a developer first applies for project, thus reserving for the city an almost unfettered ability to change its ordinances in response to a developer’s proposals.

No vesting of connection charge


Vesting exception

See *Parkridge v. Seattle*, 89 Wn.2d 454 (1978) – The court created in this decision a limited exception to the requirement of completeness of building permit applications for vesting purposes, where the developer makes diligent attempts to complete the application prior to the zoning change but is obstructed by the local government.

Recommended Resource

- *Seattle University Law Review: Washington’s Vested Rights Doctrine - How We Have Muddled a Simple Concept and How We Can Reclaim It* (2001) - This article explores many of the problems with the details of the vested rights doctrine and outlines a statutory solution to them.
**WHATCOM COUNTY COUNCIL AGENDA BILL**

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**MAR 06 2018**

**WHATCOM COUNTY COUNCIL**

**TITLE OF DOCUMENT:**

Ordinance regarding the temporary installation of stop signs on Mosquito Lake Road until road repairs from erosion are completed.

**ATTACHMENTS:**

1. Cover Memo
2. Agenda Bill
3. Ordinance

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

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

**Should Clerk schedule a hearing?**  ( ) Yes  ( x ) NO

**Requested Date: 3-27-18**

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

To comply with RCW 36.32.120 and 46.61.200, it is found necessary and expedient to install temporary traffic control signs on Mosquito Lake Road in the vicinity of the erosion area.

**COMMITTEE ACTION:**

**COUNCIL ACTION:**

3/13/2018: Introduced 6-0, Sidhu absent

**Related County Contract #:**

**Related File Numbers:**

**Ordinance or Resolution Number:**

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

Date: February 27, 2018

Re: Ordinance Regarding Temporary Installation of Stop Signs on Mosquito
    Lake Road until the repair work is completed at the erosion area,
    approximately 2.4 miles east of SR 9.

Requested Action
Public Works respectfully requests that the County Council adopt the proposed ordinance to install
temporary stop signs on Mosquito Lake Road until the road repairs from erosion are completed.

Background and Purpose
Due to recent severe weather, the roadway on Mosquito Lake Road, approximately 2.4 miles east
of SR 9 had severe erosion requiring a one road roadway with stop control at each end. The
expected repair time is approximately one month. These temporary stop signs will be removed at
the completion of the repair work.

Information
This ordinance will allow for the temporary installation of stop signs and is necessary to comply
with RCW 36.32.120 and 46.61.200 to install traffic control signs.

Please contact Joe Rutan at extension 6219 with any questions regarding this ordinance.
ORDINANCE NO._______

REGARDING TEMPORARY INSTALLATION OF STOP SIGNS
ON MOSQUITO LAKE ROAD

WHEREAS, in compliance with RCW 36.32.120 and 46.61.200, it is found
necessary and expedient to install traffic control signs on certain County Roads; and

WHEREAS, due to recent severe weather, erosion immediately next to Mosquito
Lake Road occurred, and it was determined that a one-way road is needed with stop
control at each end; and

NOW, THEREFORE, BE IT ORDAINED by the Whatcom County Council that
stop signs be installed on Mosquito Lake Road at both ends of the erosion area, as
shown upon attached Exhibit A, Traffic Control Plan, upon start of project construction.

BE IT FURTHER ORDAINED that when the repairs to the erosion area on
Mosquito Lake Road are complete, the stop signs will be removed; and

BE IT FURTHER ORDAINED that the County Engineer is hereby directed to
install the appropriate signs and that the Whatcom County Sheriff be notified by a copy
of this ordinance.

ADOPTED this ____ day of ____________, 2018.

ATTEST:

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

Dana Brown-Davis, Council Clerk

Rud Browne, Council Chair

APPROVED AS TO FORM:

( ) Approved  ( ) Denied

Civil Deputy Prosecutor

Jack Louws, Executive

Date: ___________________________
# WHATCOM COUNTY COUNCIL AGENDA BILL

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**TITLE OF DOCUMENT:**

Ordinance regarding the temporary installation of stop signs on Mosquito Lake Road during the Mosquito Lake Road/North Fork Nooksack River Bridge No. 332 Cap Repair Project.

**ATTACHMENTS:**

1. Cover Memo
2. Agenda Bill
3. Ordinance

**SEPA review required?**

| ( ) Yes | ( x ) NO |

**SEPA review completed?**

| ( ) Yes | ( x ) NO |

**Should Clerk schedule a hearing?**

| ( ) Yes | ( x ) NO |

**Requested Date:** 3/27/18

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

To comply with RCW 36.32.120 and 46.61.200, it is found necessary and expedient to install temporary traffic control signs on Mosquito Lake Road during the Mosquito Lake Road/North Fork Nooksack River Bridge No. 332 Cap Repair Project.

**COMMITTEE ACTION:**

- 

**COUNCIL ACTION:**

3/13/2018: Introduced 6-0, Sidhu absent

**Related County Contract #:**

**Related File Numbers:**

**Ordinance or Resolution Number:**

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

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

Through: Jon Hutchings, Director

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

Date: February 27, 2018

Re: Ordinance Regarding Temporary Installation of Stop Signs on Mosquito Lake Road during the Mosquito Lake Road/North Fork Nooksack River Bridge No. 332 Cap Repair Project

Requested Action
Public Works respectfully requests that the County Council adopt the proposed ordinance to install temporary stop signs on Mosquito Lake Road during the Mosquito Lake Road/North Fork Nooksack River Bridge #332 Cap Repair Project.

Background and Purpose
The Mosquito Lake Road/North Fork Nooksack River Bridge No. 332 was originally constructed in 1965 and consists of a 150-foot steel girder main span with 30-foot reinforced concrete approach spans including timber piles and caps. The existing timber cap on the east approach of this bridge is experiencing crushing and is in need of repair.

Work will include the use of timber shoring and hydraulic jacks to support the east end of the bridge while the existing timber cap is replaced with a steel beam. The nature of the work will require a stop-controlled, single-lane traffic configuration through the project site for the duration of the repair work which will be completed this spring and will take approximately four weeks to complete. These temporary stop signs will be removed as soon as the repair work is complete.

Information
This ordinance will allow for the temporary installation of stop signs and is necessary to comply with RCW 36.32.120 and 46.61.200 to install traffic control signs.

Please contact James Lee at extension 6264 with any questions regarding this ordinance.
ORDINANCE NO. ________
REGARDING TEMPORARY INSTALLATION OF STOP SIGNS
ON MOSQUITO LAKE ROAD DURING THE MOSQUITO LAKE ROAD/NORTH FORK
NOOKSACK RIVER BRIDGE NO. 332 CAP REPAIR PROJECT

WHEREAS, in compliance with RCW 36.32.120 and 46.61.200, it is found necessary
and expedient to install traffic control signs on certain County Roads; and

WHEREAS, the existing Bridge No. 332 on Mosquito Lake Road at the North Fork
Nooksack River is in need of a cap repair project; and

WHEREAS, design and permitting on the project is now complete and construction of
this project is expected to start in the spring of 2018 and last approximately 4 weeks; and

WHEREAS, during construction of this project traffic on a certain portion of Mosquito
Lake Road needs to be reduced to one lane; and

WHEREAS, Public Works proposes installing temporary stop signs on Mosquito Lake
Road as part of a stop-controlled one-lane traffic configuration during the repair project;

NOW, THEREFORE, BE IT ORDAINED by the Whatcom County Council that
temporary stop signs be installed on Mosquito Lake Road as shown upon attached Exhibit A,
Traffic Control Plan, upon the start of project construction; and

BE IT FURTHER ORDAINED that upon completion of the project the temporary stop
signs will be removed; and

BE IT FURTHER ORDAINED that the County Engineer is hereby directed to install the
appropriate signs and that the Whatcom County Sheriff be notified by a copy of this ordinance.

ADOPTED this ____ day of __________, 2018.

ATTEST:

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

______________________________
Dana Brown-Davis, Council Clerk

______________________________
Rud Browne, Council Chair

APPROVED AS TO FORM:

______________________________
Civil Deputy Prosecutor

______________________________
( ) Approved ( ) Denied

______________________________
Jack Louws, Executive

Date: ________________
**WHATCOM COUNTY COUNCIL AGENDA BILL**

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**TITLE OF DOCUMENT:**
Ordinance regarding the temporary installation of stop signs on Noon Road at Ten Mile Road and Central Road to facilitate the Hannegan Road Ten Mile Bridge #236 Replacement Project construction detour.

**ATTACHMENTS:**
1. Cover Memo
2. Agenda Bill
3. Ordinance

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

**Should Clerk schedule a hearing?** ( ) Yes ( x ) NO
**Requested Date:** 3-27-18

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

To comply with RCW 36.32.120 and 46.61.200, it is found necessary and expedient to install temporary traffic control signs on Noon Road at Ten Mile Road and Central Road to facilitate the Hannegan Road Ten Mile Bridge #236 Replacement Project construction detour.

**COMMITTEE ACTION:**

**COUNCIL ACTION:**
3/13/2018: Introduced 6-0, Sidhu absent

**Related County Contract #:**

**Related File Numbers:**

**Ordinance or Resolution Number:**

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

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

Through: Jon Hutchings, Director

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

Date: February 27, 2018

Re: Ordinance Regarding Temporary Installation of Stop Signs on Noon Road at
Ten Mile Road and Central Road during Construction of the Hannegan
Road/Ten Mile Creek Bridge #236 Replacement Project

Requested Action
Public Works respectfully requests that the County Council adopt the proposed ordinance to install
temporary stop signs on Noon Road at Ten Mile Road and Central Road during construction of
the Hannegan Road/Ten Mile Creek Bridge #236 Replacement project.

Background and Purpose
The existing Hannegan Road Bridge #236 at Ten Mile Creek is scheduled to be replaced this
summer with construction activities expected to begin on August 20th, 2018 and continuing into
late 2018. This project is listed as #19 on the 2018 Annual Construction Program.

During the construction of this project, local traffic will be detoured around the project site via
Ten Mile Road, Noon Road and Central Road. Public Works proposes to install temporary stop
signs on Noon Road at the intersections of Ten Mile Road and Central Road to improve safety
and help manage the increased traffic these intersections will experience during the use of this
detour. These temporary stop signs will be removed as soon as construction of the project is
complete.

Information
This ordinance will allow for the temporary installation of stop signs and is necessary to comply
with RCW 36.32.120 and 46.61.200 to install traffic control signs.

Please contact James Lee at extension 6264 with any questions regarding this ordinance.
PROPOSED BY: Public Works - Engineering
INTRODUCTION DATE: 3/13/2018

ORDINANCE NO._______

REGARDING TEMPORARY INSTALLATION OF STOP SIGNS
ON NOON ROAD AT TEN MILE ROAD AND CENTRAL ROAD DURING CONSTRUCTION OF
THE HANNEGAN ROAD TEN MILE CREEK BRIDGE #236 REPLACEMENT PROJECT

WHEREAS, in compliance with RCW 36.32.120 and 46.61.200, it is found necessary
and expedient to install traffic control signs on certain County Roads; and

WHEREAS, the existing Bridge #236 on Hannegan Road at Ten Mile Creek is
scheduled to be replaced; and

WHEREAS, design and permitting on the project is now complete and construction of
this project is expected to start in the summer of 2018 with completion anticipated in late 2018;
and

WHEREAS, during construction of this project Hannegan Road will be closed at the
project site and local traffic will be detoured to Ten Mile Road, Noon Road and Central Road;
and

WHEREAS, Public Works proposes installing temporary stop signs on Noon Road at
Ten Mile Road and Central Road to improve the safety of these intersections during use of this
detour;

NOW, THEREFORE, BE IT ORDAINED by the Whatcom County Council that
temporary stop signs be installed on Noon Road at Ten Mile Road and Central Road as shown
on page 1 of attached Exhibit A, the detour plan for the above-cited project, upon the start of
project construction; and

BE IT FURTHER ORDAINED that upon completion of the project the temporary stop
signs will be removed; and

BE IT FURTHER ORDAINED that the County Engineer is hereby directed to install the
appropriate signs and that the Whatcom County Sheriff be notified by a copy of this ordinance.

ADOPTED this ____ day of ____________, 2018.

ATTEST:

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

Dana Brown-Davis, Council Clerk

Rud Browne, Council Chair

APPROVED AS TO FORM:

( ) Approved ( ) Denied

Daniel J. Gibson
Civil Deputy Prosecutor

Jack Louws, Executive

Date: ____________________

265
TYPE 3 BARRICADE WITH LIGHTS

PORTABLE CHANGEABLE MESSAGE SIGN (LOCATION AS DIRECTED BY ENGINEER)

NOTE:
ALL TRAFFIC CONTROL TO BE PAD FOR N UMP SIGN
"PROJECT TEMPORARY TRAFFIC CONTROL. INCLUDING FLAT
AND TEMPORARY STOP SIGN.
ALL SIGNS SHALL BE PAD FOR "CONSTRUCTION SIGNS
CLASS K.

Exhibit A
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>Orig -</td>
<td>SM</td>
<td>3/2/18</td>
<td></td>
<td>3/13/18</td>
<td>Introduction</td>
</tr>
<tr>
<td>Div Head:</td>
<td></td>
<td></td>
<td></td>
<td>3/27/18</td>
<td>Public Hearing</td>
</tr>
<tr>
<td>Dept. Head:</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Prosec:</td>
<td>(x)</td>
<td>03/02/18</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Purch/Budg:</td>
<td>T/5</td>
<td>3/5/18</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**EXECUTIVE:**

**TITLE OF DOCUMENT:** Resolution and Public Hearing regarding Community Development Block Grant funding application.

**ATTACHMENTS:** Memo from County Executive; CDBG Public Hearing handout; Public Services Project Scope and Budget; Resolution and Certification of Compliance.

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

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

**Should Clerk schedule a hearing?** ( X ) Yes ( ) NO

**Requested Date:** March 27, 2018

**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 Opportunity Council (OC) is on the state Community Development Block Grant (CDBG) list of 2018 Public Services Grant recipients, which is a State formula grant in the amount of $127,726 for distribution to the tri-county area of Whatcom, Skagit and Island Counties. In order to apply for the funding, OC is required to submit the application through their local jurisdiction, Whatcom County. The public services grant funding is intended to fund new or expanded direct services for persons with low- and moderate- incomes in Island, San Juan and Whatcom Counties. OC will act as Subrecipient of the funding, and Whatcom County will be the lead agency in the grant application process.

**Public Hearing Notice language:**

NOTICE IS HEREBY GIVEN that a public hearing will be held by the Whatcom County Council in the Council Chambers, Whatcom County Courthouse, 311 Grand Avenue, Bellingham, on Tuesday, March 27, 2018 at 7:00 p.m. The purpose of the public hearing is to review community development and housing needs, inform citizens of the availability of funds and eligible uses of the state Community Development Block Grant (CDBG), and receive comments on proposed activities, particularly from lower income persons residing in Whatcom County. $127,726 is proposed to be available annually to Whatcom, Skagit and Island Counties, through the Opportunity Council, to fund public services that principally benefit low- and moderate-income persons. Comments on the county's and Opportunity Council’s past performance and use of their 2017 CDBG Public Services Grant will also be received. A Resolution will be reviewed, which would authorize the County Executive to submit an application to the State of Washington for this funding. The draft grant application, including an overview of the proposed public services, will be available for review at the Whatcom County Executive's office, Suite 108, 311 Grand Avenue, Bellingham, after April 9, 2018. Comments may also be submitted in writing to the Whatcom County Council until the public hearing has been closed.

**COMMITTEE ACTION:**

3/13/2018: Introduced 6-0, Sidhu absent

**COUNCIL ACTION:**

3/13/2018: Introduced 6-0, Sidhu absent

**Related County Contract #:**

**Related File Numbers:**

**Ordinance or Resolution Number:**

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

To: Whatcom County Council Members
From: Jack Louws, County Executive
Subject: CDBG Grant Application for 2018 Public Services Grant
Date: March 2, 2018

We have been contacted by the Opportunity Council (OC) regarding acting as the lead agency to apply for a grant from Washington State Department of Commerce. The 2018 Public Services (Formula) Grant supports new or expanded direct services for persons with low and moderate incomes in the Whatcom, Skagit and Island County area.

Through a subrecipient agreement with the County, OC will administer this grant and oversee the distribution of services. The public services grant amount allocated to the tri-county area is $127,726.

I am supporting this application and recommending to the Council that it be submitted to Washington State Department of Commerce. As part of the application process, we are required to conduct a public hearing in order to receive public input on the use of CDBG funds and to inform the public on the nature of this and other CDBG funding opportunities. As lead agency for this pass-through grant, the County Council is required to sign a Resolution in support of the application. We have drafted the Resolution per CDBG guidelines and it is attached.

Thank you for your consideration of this matter. If you have any questions, please don’t hesitate to contact me.

/Enclosures
RESOLUTION NO______

APPLICATION FOR A COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG)

WHEREAS, Whatcom County is authorized to apply to the state Department of Commerce for a Community Development Block Grant (CDBG); and

WHEREAS, Whatcom County has identified a community development and housing priority need for which to seek CDBG funding and is preparing to submit an application to the State Department of Commerce for funding assistance; and

WHEREAS, it is necessary that certain conditions be met to receive CDBG funds;

NOW, THEREFORE, be it resolved that Whatcom County authorizes submission of the following application to the state Department of Commerce: a request for up to $127,726 and any amended amounts to fund public service activities in coordination with the Opportunity Council, and certifies that, if funded, it:

Will comply with applicable provisions of Title I of the Housing and Community Development Act of 1974, as amended, and other applicable state and federal laws;

Has provided and will provide opportunities for citizen participation that satisfy the CDBG requirements of 24 CFR 570.486;

Will not use assessments against properties owned and occupied by low- and moderate-income persons or charge user fees to recover the capital costs of CDBG-funded public improvements from low- and moderate-income owner-occupants;

Has established or will establish a plan to minimize displacement as a result of activities assisted with CDBG funds; and assist persons actually displaced as a result of such activities, as provided in the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended;

Has provided technical assistance to citizens and groups representative of low- and moderate-income persons that request assistance in developing proposals;

Will provide opportunities for citizens to review and comment on proposed changes in the funded project and program performance;
Will conduct and administer its program in conformance with Title VI of the Civil Rights Act of 1964 and the Fair Housing Act, will affirmatively further fair housing (Title VIII of the Civil Rights Act of 1968); and

Has adopted and enforces a policy prohibiting the use of excessive force by law enforcement agencies within its jurisdiction against any individuals engaged in nonviolent civil rights demonstrations; and has adopted (or will adopt) and implement a policy of enforcing applicable state and local laws against physically barring entrance to or exit from a facility or location which is the subject of such nonviolent civil rights demonstration within its jurisdiction, in accordance with Section 104(1) of the Title I of the Housing and Community Development Act or 1974, as amended;

Certifies to meeting the National Environmental Policy Act (NEPA) through a determination the CDBG-funded public services will not have a physical impact or result in any physical changes and are exempt under 24 CFR 58.34(a), and are not applicable to the other requirements under 24 CFR 58.6; and are categorically exempt under the State Environmental Policy Act (SEPA) per WAC 197-11-305 (2); and

Whatcom County designates Jack Louws, County Executive, as the authorized Chief Administrative Official and authorized representative to act in all official matters in connection with this application and Whatcom County’s participation in the Washington State CDBG Program.

APPROVED this ____ day of ____________, 2018.

ATTEST: 
[Signature]

Dana Brown-Davis, Clerk of the Council

Rud Browne, Council Chair

APPROVED AS TO FORM:

[Signature]

Civil Deputy Prosecutor

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON
Community Development Block Grant

Strengthening rural communities through projects that benefit low- and moderate-income persons

GENERAL PURPOSE GRANTS $9,000,000

For planning or construction of public infrastructure, community facilities, affordable housing, and economic development projects.
Competitive. Maximum grant up to $750,000 based on project type. Application materials available in March and due in June.

ECONOMIC OPPORTUNITY GRANTS $1,000,000

For state and local priority projects resulting in economic resilience and development in rural communities.
Competitive. Application materials available in July and accepted after the state Capital Budget is approved.

HOUSING ENHANCEMENT GRANTS $200,000

For off-site infrastructure or the community facility component of a state Housing Trust Fund project.
Competitive. Maximum grant generally $200,000. Application materials available in July and accepted with a HTF Stage 2 application.

PUBLIC SERVICES GRANTS $1,500,000

For 17 counties and community action agencies to fund new or expanded services for lower income persons.
Allocated by formula based on population and poverty. Application materials available in February and due in April.

HUD NATIONAL OBJECTIVES

CDBG project activities must meet one of three HUD National Objectives:
- Principally benefits low-and moderate-income (LMI) persons
- Aids in the prevention or elimination of slums or blight
- Addresses imminent threat to public health or safety

OUR CORE PURPOSE

Grow and improve jobs in Washington State by championing thriving communities, a prosperous economy, and suitable infrastructure.

PROGRAM CONTACT

Kaaren Roe
Section Manager
Local Government Division
360.725.3018
kaaren.roe@commerce.wa.gov

ELIGIBILITY GUIDELINES:

Eligible applicants are Washington State cities/towns with less than 50,000 in population and not participating in a CDBG entitlement urban county consortium; and counties with less than 200,000 in population. Eligible cities/towns and counties are listed on the CDBG website.

Special purpose districts, public housing authorities, community action agencies, economic development councils, other non-profit organizations, and Indian tribes are not eligible to apply directly to the state CDBG Program for funding, but may be a partner in projects and subrecipient of funding with an eligible city/town or county applicant.

1011 Plum Street SE, Olympia, WA 98504
http://www.commerce.wa.gov/cdbg

1/10/18
Attachment #1 – Scope of Work & Budget

SCOPE OF WORK

A. Service Programs

NOTE: List the specific public service activities from the CDBG application’s Project Description & Low- and Moderate-Income Benefit Table, or reference the CDBG application’s Project Description & Low- and Moderate-Income Benefit Table.

CDBG Whatcom Narrative:
In Whatcom County, CDBG funds will support services and activities in East Whatcom County, a region of Whatcom County that includes many low-income residents in a geographically remote and underserved rural community. Services will be provided and coordinated by Opportunity Council information and referral specialist at the East Whatcom Regional Resource Center. The primary activities will be connecting low to moderate income community members with services including early childhood education, food resources, and energy assistance programs.

CDBG Island County Narrative:
In Island County, CDBG funds will increase capacity to serve low-income households including housing support services. This funding supports current homeless housing and prevention screening, qualifying and enrolling clients in services such as Basic Food and other supportive programs. This service center, located in Oak Harbor, will also engage and refer to other local service providers to serve homeless, veterans and those with mental health and chemical dependency issues.

CDBG San Juan Narrative:
CDBG Public Services grant will provide support to the three Community Resource Centers on San Juan, Orcas and Lopez Islands in San Juan County. The geography and limited transportation systems in San Juan County create a significant challenge in providing services to low-income households. The Community Resource Centers are the conduit that connects people to services on each of the islands and the mainland as well. Opportunity Council will contract for information and referral services with each Community Resource Center so residents can access housing, food, energy assistance, and employment opportunities.
# ANNUAL BUDGET (July – June)

<table>
<thead>
<tr>
<th>COST CATEGORIES</th>
<th>AMOUNT</th>
<th>SERVICES DESCRIPTION</th>
<th>AMOUNT</th>
</tr>
</thead>
<tbody>
<tr>
<td>Staffing</td>
<td>$ 100,391</td>
<td>Staffing to provide resource information and referral services to LMI individuals. The Whatcom County staffing will include resource and referral specialist at the East Whatcom Regional Resource Center. Island county staffing will include a homeless housing specialist. This budget item includes both salary and fringe benefits.</td>
<td>$</td>
</tr>
<tr>
<td>Goods and services</td>
<td>$ 11,871</td>
<td>Goods and services include office supplies, office space costs for Island county staff, and recruitment/training expenses for the East Whatcom Regional Resource Center. In San Juan County, three Community Resource Centers will provide information and referral services.</td>
<td>$</td>
</tr>
<tr>
<td>Travel</td>
<td>$ 1,779</td>
<td>Mileage and vehicle costs for travel to rural communities</td>
<td>$</td>
</tr>
<tr>
<td>Indirect Costs</td>
<td>$ 13,685</td>
<td>Federally approved indirect rate</td>
<td>$</td>
</tr>
<tr>
<td>TOTAL</td>
<td>$ 127,726</td>
<td>Cannot exceed the total grant amount minus the county administration budget.</td>
<td>$</td>
</tr>
</tbody>
</table>

Up to $3,500 per year can be allocated from the total grant amount for county administration costs.
## WHATCOM COUNTY COUNCIL AGENDA BILL

### CLEARANCES

<table>
<thead>
<tr>
<th>Originator:</th>
<th>County Cou</th>
<th>2/8/2018</th>
</tr>
</thead>
<tbody>
<tr>
<td>Division Head:</td>
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<tr>
<td>Dept. Head:</td>
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<td></td>
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<tr>
<td>Prosecutor:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Purchasing/Budget:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Executive:</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

### TITLE OF DOCUMENT:

Appointments to Drainage Improvement District #6

### ATTACHMENTS:

<table>
<thead>
<tr>
<th>SEPA review required?</th>
<th>( ) Yes ( ) NO</th>
</tr>
</thead>
<tbody>
<tr>
<td>SEPA review completed?</td>
<td>( ) Yes ( ) NO</td>
</tr>
</tbody>
</table>

| Should Clerk schedule a hearing? | ( ) Yes ( X ) NO |

**Requested Date:**

### SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

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

Duties include field review of drainage needs, attending an annual meeting to determine the next year's work schedule and assessment levy, elect internal officers, and review, discuss, or act on any other official and district business. (RCW 85.06, RCW 85.38.070(5))

2 vacancies

Supervisor Position 1. 4 year term will expire at the special district general election of February 2022.

Supervisor Position 2. 2 year term will expire at the special district general election of February 2020.

District boundary generally encompasses the area located midway between Lynden and Ferndale and bounded and/or transected by portions of W. Pole, Old Guide, King Tut, Aldrich, and Woodlyn Roads. Unnamed tributary ditch to Cougar Creek/Nooksack River is the primary channel.

### COMMITTEE ACTION:

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

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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  Edward
Last Name  Thompson
Date  1/28/2018
Street Address  6670 Tut Terrace
City  Bellingham
Zip  98226
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  360-671-7149
Secondary Telephone  Field not completed.
Email Address  bhamthompson@gmail.com

Step 2
<table>
<thead>
<tr>
<th>Question</th>
<th>Answer</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Name of Board or Committee</td>
<td>Drainage Improvement District #6</td>
</tr>
<tr>
<td>2. Do you meet the residency, employment, and/or affiliation requirements of the position for which you’re applying?</td>
<td>Yes</td>
</tr>
<tr>
<td>3. Which Council district do you live in?</td>
<td>District 4</td>
</tr>
<tr>
<td>4. Are you a US citizen?</td>
<td>Yes</td>
</tr>
<tr>
<td>5. Are you registered to vote in Whatcom County?</td>
<td>Yes</td>
</tr>
<tr>
<td>6. Have you declared candidacy (as defined by RCW 42.17A.055) for a paid elected office in any jurisdiction within the county?</td>
<td>No</td>
</tr>
<tr>
<td>7. Have you ever been a member of this Board/Commission?</td>
<td>No</td>
</tr>
<tr>
<td>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?</td>
<td>No</td>
</tr>
<tr>
<td>You may attach a resume or detailed summary of experience, qualifications, &amp; interest in response to the following questions</td>
<td>Field not completed.</td>
</tr>
<tr>
<td>9. Please describe your occupation (or former occupation if retired), qualifications, professional and/or community activities, and education</td>
<td>Retired school principal. 5 years teacher and coach. 27 years principal in Monroe School District and Bainbridge Island.</td>
</tr>
</tbody>
</table>
10. Please describe why you’re interested in serving on this board or commission

To keep our berry fields, croplands and private acres usable, we need good functioning main drainage ditches. Also, if District 6 main ditches are in good shape, private lateral ditches may be better maintained.

References (please include daytime telephone number):

Jim Bjornstad 360-398-9874 Al Larsen 360-398-1322

Signature of applicant:

Edward L. Thompson

Place Signed / Submitted:

Home

Email not displaying correctly? [View it in your browser]
Board and Commission Application

**Step 1**

Application for Appointment to Whatcom County Boards and Commissions

**Public Statement**

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<table>
<thead>
<tr>
<th><strong>First Name</strong></th>
<th>Jim</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Last Name</strong></td>
<td>Bjornstad</td>
</tr>
<tr>
<td><strong>Date</strong></td>
<td>1/26/2018</td>
</tr>
<tr>
<td><strong>Street Address</strong></td>
<td>6827 old guide rd</td>
</tr>
<tr>
<td><strong>City</strong></td>
<td>Lynden</td>
</tr>
<tr>
<td><strong>Zip</strong></td>
<td>98264</td>
</tr>
<tr>
<td><strong>Do you live in &amp; are you registered to vote in Whatcom County?</strong></td>
<td>Yes</td>
</tr>
<tr>
<td><strong>Do you have a different mailing address?</strong></td>
<td>Field not completed.</td>
</tr>
<tr>
<td><strong>Primary Telephone</strong></td>
<td>360-398-9874</td>
</tr>
<tr>
<td><strong>Secondary Telephone</strong></td>
<td>360-961-4212</td>
</tr>
<tr>
<td><strong>Email Address</strong></td>
<td><a href="mailto:Bjornstadjim@yahoo.com">Bjornstadjim@yahoo.com</a></td>
</tr>
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</table>

**Step 2**
<table>
<thead>
<tr>
<th>Question</th>
<th>Answer</th>
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</thead>
<tbody>
<tr>
<td>1. Name of Board or Committee</td>
<td>Drainage Improvement District #6</td>
</tr>
<tr>
<td>2. Do you meet the residency, employment, and/or affiliation requirements of the position for which you’re applying?</td>
<td>Yes</td>
</tr>
<tr>
<td>3. Which Council district do you live in?</td>
<td>District 4</td>
</tr>
<tr>
<td>4. Are you a US citizen?</td>
<td>Yes</td>
</tr>
<tr>
<td>5. Are you registered to vote in Whatcom County?</td>
<td>Yes</td>
</tr>
<tr>
<td>6. Have you declared candidacy (as defined by RCW 42.17A.055) for a paid elected office in any jurisdiction within the county?</td>
<td>No</td>
</tr>
<tr>
<td>7. Have you ever been a member of this Board/Commission?</td>
<td>Yes</td>
</tr>
<tr>
<td>If yes, please list dates:</td>
<td>2005-2018</td>
</tr>
<tr>
<td>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?</td>
<td>No</td>
</tr>
<tr>
<td>You may attach a resume or detailed summary of experience, qualifications, &amp; interest in response to the following questions</td>
<td>Field not completed,</td>
</tr>
<tr>
<td>9. Please describe your occupation (or former occupation if retired), qualifications, professional and/or</td>
<td>Retired raspberry farmer</td>
</tr>
</tbody>
</table>
community activities, and education

<table>
<thead>
<tr>
<th>10. Please describe why you're interested in serving on this board or commission</th>
<th>I understand the importance of the drainage in my district. I'm applying for supervisor position 2</th>
</tr>
</thead>
<tbody>
<tr>
<td>References (please include daytime telephone number):</td>
<td>Lonni Cummings</td>
</tr>
<tr>
<td>Signature of applicant:</td>
<td>Jim Bjornstad</td>
</tr>
<tr>
<td>Place Signed / Submitted</td>
<td>Jim Bjornstad</td>
</tr>
</tbody>
</table>

(Section Break)

Email not displaying correctly? [View it in your browser](#).
### Whatcom County Council Agenda Bill

<table>
<thead>
<tr>
<th>Clearances</th>
<th>Initial</th>
<th>Date</th>
<th>Date Received in Council Office</th>
<th>Agenda Date</th>
<th>Assigned to</th>
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<td>Dept. Head:</td>
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<td>Purchasing/Budget:</td>
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<tr>
<td>Executive:</td>
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</table>

#### Title of Document:
Appointment to Drainage Improvement District #15

#### Attachments:

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

- Duties include field review of drainage needs, attending an annual meeting to determine the next year’s work schedule and assessment levy, elect internal officers, and review, discuss, or act on any other official and district business (RCW 85.06, RCW 85.38.070(5))
- 1 vacancy
- Supervisor Position 2, 2 year term will expire at the special district general election of February 2020.
- District boundary generally encompasses much of the lowland area east/southeast of Sumas and south of the Canadian Border and primarily drained by Saar Creek and Arnold (Mud) Slough. The main roads within the district include Jones Road, Rock Road, Hillview Road, Bishop Road, and Reese Hill Road.

#### Committee Action:

#### Council Action:

#### Related County Contract #:

#### Related File Numbers:

#### Ordinance or Resolution Number:

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Board and Commission Application

Step 1

Application for Appointment to Whatcom County Boards and Commissions

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First Name  Marvin
Last Name  Vreugdenhil
Date  1/25/2018
Street Address  4938 Hillview Rd.
City  Sumas
Zip  98295
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  360-988-7117
Secondary Telephone  360-961-7373
Email Address  hillviewllc@aol.com

Step 2
<table>
<thead>
<tr>
<th>Question</th>
<th>Answer</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Name of Board or Committee</td>
<td>Other</td>
</tr>
<tr>
<td>2. Do you meet the residency, employment, and/or affiliation requirements of the position for which you’re applying?</td>
<td>Yes</td>
</tr>
<tr>
<td>4. Are you a US citizen?</td>
<td>Yes</td>
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<tr>
<td>5. Are you registered to vote in Whatcom County?</td>
<td>Yes</td>
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<tr>
<td>6. Have you declared candidacy (as defined by RCW 42.17A.055) for a paid elected office in any jurisdiction within the county?</td>
<td>No</td>
</tr>
<tr>
<td>7. Have you ever been a member of this Board/Commission?</td>
<td>Yes</td>
</tr>
<tr>
<td>If yes, please list dates:</td>
<td>Have been a supervisor on this district from 2012 - 2017</td>
</tr>
<tr>
<td>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?</td>
<td>No</td>
</tr>
<tr>
<td>You may attach a resume or detailed summary of experience, qualifications, &amp; interest in response to the following questions</td>
<td>Field not completed.</td>
</tr>
<tr>
<td>9. Please describe your occupation (or former occupation if retired).</td>
<td>Dairy Farmer</td>
</tr>
</tbody>
</table>
qualifications, professional and/or community activities, and education

10. Please describe why you’re interested in serving on this board or commission

I am a landowner in the district and want to be pro-active and informed in the drainage district in which I reside.

References (please include daytime telephone number):

Mike Horat 360-815-4951

Signature of applicant:

Marvin Vreugdenhil

Place Signed / Submitted

Sumas

(Section Break)

Email not displaying correctly? View it in your browser.
TITLE OF DOCUMENT: Appointment to the Bicycle/Pedestrian Advisory Committee

ATTACHMENTS: Application for appointment.

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

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

County Executive Jack Louws requests the confirmation of his appointment of Gary Malick to the Bicycle/Pedestrian Advisory Committee.

COMMITTEE ACTION:

COUNCIL ACTION:

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

Please Note: Once adopted and signed, ordinances and resolutions are available for viewing and printing on the County’s website at: www.co.whatcom.wa.us/council.
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  GARY
Last Name  MALICK
Date  1/17/2018
Street Address  3854 fort bellingham road
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  13606504934
Secondary Telephone  3603031150
Email Address  garymalick@gmail.com

1. Name of Board or Committee
Bicycle/Pedestrian 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 5

4. Are you a US citizen?  Yes

5. Are you registered to vote in Whatcom County?  Yes
6. Have you declared candidacy (as defined by RCW 42.17A.055) for a paid elected office in any jurisdiction within the county? No

7. Have you ever been a member of this Board/Commission? No

8. Do you or your spouse have a financial interest in or are you an employee or officer of any business or agency that does business with Whatcom County? No

You may attach a resume or detailed summary of experience, qualifications, & interest in response to the following questions

9. Please describe your occupation (or former occupation if retired), qualifications, professional and/or community activities, and education

I am a technology manager at Western Washington University. I have lived and worked in Whatcom county for 23 years. I have served on the Bicycle master plan committee with the city of Bellingham. I have been a volunteer for the Bike to Work and School day for over 12 consecutive years. I am a avid bike commuter, my commute is 6 miles one way and covers both county and city routes. I have a Associates degree in electronics systems technology , and I am a certified audio visual designer.

10. Please describe why you're interested in serving on this board or commission

I am very interested in making our community safer for pedestrians and bicyclist. I want to encourage walking and biking as alternatives to driving and in order to do that we need to make the roads and paths as safe as possible.

References (please include daytime telephone number):

Carol Berry- Manager Office of Sustainability - 360-650-7979 Rick Nichols- Asst director of technology - 360-650-6546 Nancy Grayum- 360-319-3952

Signature of applicant: Gary Malick

Place Signed / Submitted Bellingham WA
Ordinance regarding the temporary installation of a stop sign on Roberts Road at Central Road to facilitate the Roberts Road Anderson Creek Bridge #249 Replacement Project construction detour.

ATTACHMENTS:
1. Cover Memo
2. Agenda Bill
3. Ordinance

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.)

To comply with RCW 36.32.120 and 46.61.200, it is found necessary and expedient to install temporary traffic control signs on Roberts Road at Central Road to facilitate the Roberts Road Anderson Creek Bridge #249 Replacement Project construction detour.

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

To: The Honorable Jack Louws, Whatcom County Executive and The Honorable 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: March 12, 2018

Re: Ordinance Regarding Temporary Installation of a Stop Sign on Roberts Road at Central Road during Construction of the Roberts Road/Anderson Creek Bridge #249 Replacement Project

Requested Action
Public Works respectfully requests that the County Council adopt the proposed ordinance to install a temporary stop sign on Roberts Road at Central Road during construction of the Roberts Road/Anderson Creek Bridge #249 Replacement Project.

Background and Purpose
The existing Roberts Road Bridge #249 at Anderson Creek is scheduled to be replaced this summer with construction activities anticipated to begin May 2018 and continuing into late 2018. This project is listed as #20 on the 2018 Annual Construction Program.

During construction of this project local traffic will be detoured around the project site via a temporarily re-opened section of Roberts Road. Public Works proposes to install a temporary stop sign on Roberts Road at the intersection of Central Road to improve safety and help manage the traffic this intersection will experience during the use of this detour. This temporary stop sign will be removed as soon as construction of the project is complete.

Information
This ordinance will allow for the temporary installation of a stop sign and is necessary to comply with RCW 36.32.120 and 46.61.200 to install traffic control signs.

Please contact James Lee at extension 6264 with any questions regarding this ordinance.
PROPOSED BY: Public Works - Engineering

INTRODUCTION DATE: ______________

ORDINANCE NO.____

REGARDING TEMPORARY INSTALLATION OF A STOP SIGN
ON ROBERTS ROAD AT CENTRAL ROAD DURING CONSTRUCTION OF THE ROBERTS
ROAD ANDERSON CREEK BRIDGE #249 REPLACEMENT PROJECT

WHEREAS, in compliance with RCW 36.32.120 and 46.61.200, it is found necessary
and expedient to install traffic control signs on certain County Roads; and

WHEREAS, the existing Bridge #249 on Roberts Road at Anderson Creek is scheduled
to be replaced; and

WHEREAS, design and permitting on the project is now complete and construction of
this project is expected to start in the summer of 2018 with completion anticipated in late 2018;
and

WHEREAS, during construction of this project Roberts Road will be closed at the project
site and local traffic will be detoured to a temporary re-opened section of Roberts Road and
Central Road; and

WHEREAS, Public Works proposes installing a temporary stop sign on Roberts Road at
Central Road to improve the safety of this intersection during use of this detour;

NOW, THEREFORE, BE IT ORDAINED by the Whatcom County Council that a
temporary stop sign be installed on Roberts Road at Central Road as shown on the attached
Exhibit A, the detour plan for the above-cited project, upon the start of project construction; and

BE IT FURTHER ORDAINED that upon completion of the project the temporary stop
sign will be removed; and

BE IT FURTHER ORDAINED that the County Engineer is hereby directed to install the
appropriate signs and that the Whatcom County Sheriff be notified by a copy of this ordinance.

ADOPTED this ___ day of ____________, 2018.

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

ATTEST:

Dana Brown-Davis, Council Clerk

Rud Browne, Council Chair

APPROVED AS TO FORM:

( ) Approved ( ) Denied

Chief Civil Deputy Prosecutor

Jack Louws, Executive

Date: ____________________________

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