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**TITLE OF DOCUMENT:** Resolution regarding a 2018 update to the Whatcom County Agricultural Strategic Plan – Discussion and Declaration of Support

**ATTACHMENTS:** Cover memo, proposed resolution, Whatcom County 2018 Agricultural Strategic Plan

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

The Agricultural Advisory Committee and staff will present and discuss the Agricultural Strategic Plan. The proposed resolution declares support of the Strategic Plan, and affirms support for the County’s Agricultural Program and Agricultural Advisory Committee. Additional information regarding the County’s Agricultural Programs can be found at [http://whatcomcounty.us/1109/Agricultural-Program](http://whatcomcounty.us/1109/Agricultural-Program).

**COMMITTEE ACTION:**
7/24/2018: Presented and forwarded to Council for approval

**COUNCIL ACTION:**
7/24/2018: Held in Council

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).
RESOLUTION #__________________

DECLARING THE COUNTY COUNCIL’S SUPPORT FOR THE 2018 WHATCOM COUNTY AGRICULTURAL STRATEGIC PLAN

WHEREAS, the Agricultural Advisory Committee was established under Whatcom County Ordinance 2001-036 and is governed by Whatcom County Code Chapter 2.34; and

WHEREAS, the Agricultural Advisory Committee is to provide review and recommendations to the Whatcom County Council on issues that affect agriculture, including assistance with establishment, promotion, and implementation of a comprehensive agricultural protection program; and

WHEREAS, the county has identified 100,000 acres as being the minimum acreage needed in farming to support a viable agriculture industry in Whatcom County (RES 2009-040); and

WHEREAS, the county has identified areas outside the roughly 87,500-acre Agriculture zone where agricultural land protection efforts should be strengthened (RES 2009-040); and

WHEREAS, the Agricultural Advisory Committee and staff were requested by the county to recommend options that strengthen farm land preservation policies in these areas (RES 2009-040); and

WHEREAS, the county has requested the Agricultural Advisory Committee’s 2009 list of tools and strategies be further developed with recommendations made that enable implementation of these tools (RES 2009-040); and

WHEREAS, the Agricultural Advisory Committee conducted open public meetings in 2010-2011 to develop an Agricultural Strategic Plan that creates a road map, including specific tasks and priorities for implementing agricultural protection measures; and

WHEREAS, the Agricultural Advisory Committee unanimously voted to endorse the 2018 Agricultural Strategic Plan on May 9, 2018; and
WHEREAS, members of the Agricultural Advisory Committee and staff discussed the Strategic Plan with the County Council at the July 24, 2018 Natural Resources Committee meeting;

NOW, THEREFORE, BE IT RESOLVED that the Whatcom County Council hereby endorses this Whatcom County Agricultural Strategic Plan, and commits to the time and resources necessary for its implementation; and

BE IT FURTHER RESOLVED that the County Council affirms the important role of the Agricultural Advisory Committee and Agriculture Program staff in developing recommendations for appropriate code changes and comprehensive plan amendments as identified in the Whatcom County Agricultural Strategic Plan.

APPROVED this _________ day of __________, 2018

ATTEST: WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

__________________________  __________________________
Dana Brown-Davis, Council Clerk  Rud Browne, Chairman

APPROVED as to form:

__________________________
Civil Deputy Prosecutor
Memorandum

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

THROUGH: Mark Personius, Director, PDS

FROM: Chris Elder, Planner

DATE: July 11, 2018

SUBJECT: Discussion and declaration of support for the updated Agricultural Strategic Plan

On behalf of the Agricultural Advisory Committee, I am pleased to deliver this Agricultural Strategic Plan and invite your participation with the committee in discussing its tasks and implementation on July 24, 2018. The enclosed materials also include a draft resolution through which you may choose to join the committee and Executive in voicing your commitment to this Plan.

This Plan is a result of Agricultural Advisory Committee members’ work over the past year, with discussions held in their open public meetings between October 2017 and May 2018.

Also incorporated into this Agricultural Strategic Plan is an Agricultural Status Report which documents the degree to which active agricultural use and other uses are seen throughout the Agriculture zone and the Rural Study Areas (as identified in the 2007 Rural Lands Study). This report is intended to continue documenting conditions and changes within the agricultural landscape of Whatcom County.

Please contact Chris Elder at (360)778-5932 with any questions or concerns.
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Overview

Whatcom County Council approved Resolution 2009-040 on July 7th, 2009 declaring the County Council’s goals for Farmland Preservation, its priorities for consideration and adoption of policies to further farmland preservation, and requesting the County Administration to allocate staff support to accommodate this important policy initiative.

The Agriculture Strategic Plan was originally created to support the goals of this resolution and help direct Whatcom County Planning and Development Services, as well as other County Departments, in achieving the goals and supporting agricultural efforts throughout Whatcom County. This update continues those efforts.

This update of the Agricultural Strategic Plan coordinates and integrates the efforts underway through the:

- Purchase of Development Rights Oversight Committee
- Agricultural Advisory Committee
- Transfer of Development Rights/Purchase of Development Rights Workgroup
- Planning Commission
- County Council
Whatcom County Agricultural Advisory Committee

Whatcom County Executive
Whatcom County Courthouse, Suite 108
311 Grand Avenue
Bellingham, Washington 98225

Whatcom County Council
Whatcom County Courthouse, Suite 105
311 Grand Avenue
Bellingham, WA 98225

Executive Louns and Council Members,

It has been seven years since the last update of the County Agricultural Strategic Plan. Actions have been taken and implemented on the plan adopted by the Council in June 2011. The primary work goal of the Agricultural Advisory Committee (AAC) this year was to complete a review of the 2011 strategic plan, identify updates, and submit our recommendations to the Council by the conclusion of our May meeting. We have met our goal by submittal of the accompanying report and recommendations therein.

One of the objectives identified in the 2011 plan was/is, “To ensure a minimum of 100,000 acres of land area available for agricultural use to maintain the necessary land base to support an economically viable agricultural industry.” The AAC recommends reaffirmation of this objective. We further recommend that this objective be made a standing goal or policy of the Council.

While this objective is certainly important to the maintenance of an economically viable agriculture industry in Whatcom County, the associated county policy framework/infrastructure must be aligned to complement that goal. Toward that end, the AAC recommends asking three filtering questions when considering ordinance changes that bear upon the agricultural strategic plan:

1. “Will this policy proposal support or hinder the implementation of the ag strategic plan?”
2. “Will this policy proposal support or hinder the maintenance of an economically viable ag sector in the county?”
3. “Will this policy proposal advance a careful balance between an economically viable ag sector and environmental objectives in the county?”

Chris Eider is an outstanding member of the county’s professional staff. His support to the AAC has been exemplary, even knowing he has other assigned responsibilities within PDS. Staffing support for the AAC is critical to the importance of the County Agricultural Strategic Plan. The AAC advocates for additional staff support to assure timely attention to and completion of the elements of the agricultural strategic plan that have yet to be fulfilled (see Page 4 of the report). Such an investment on the part of the Council would underscore its commitment to sustaining an economically viable agriculture sector.

We stand ready to respond to any questions the Council may have regarding the report and recommendations. As indicated by letter early this year, we also stand ready to work with the Council and truly be a working, advisory committee.

Respectfully submitted:

Larry Davis, Chair
Agricultural Advisory Committee

Dave Buys, Vice Chair
Agricultural Advisory Committee

Signed on behalf of other Agricultural Advisory Committee members:
Lesa Boxx, Barb Hento, Anna Martin, Jeff Rainey, Kristi Roberts,
Jagjiwan Brar, Mike Hawley, Melodie Kirk, Matthew McDermott
Purpose: To describe the role Whatcom County Planning and Development Services will play in implementing an agricultural program consistent with County Council Resolution 2009-040 and Comprehensive Plan goals.

The overall objectives of Whatcom County Council as enacted by Planning and Development Services' agricultural program are:

1. To ensure a minimum of 100,000 acres of land are available for agricultural use to maintain the necessary land base to support an economically viable agricultural industry;

2. To advocate for policies and programs which support local solutions and balanced approaches that protect agricultural and natural resource needs in an effort to ensure economic viability;

3. To support agricultural planning efforts and production techniques that ensure local agricultural producers engage in strategic conversations about the connections between economic viability and local, state, and federal regulations, continuing to use the Agricultural Advisory Committee, the Purchase of Development Rights Oversight Committee, as well as other local agricultural groups;

4. To create and maintain strong, clear, concise, and effective land and water programs and regulations that benefit the agricultural industry and are in compliance with federal and state law;

5. To address policy and infrastructure shortcomings that impact local agricultural producers and businesses, such as farmworker housing;

6. To ensure sufficient physical and intellectual infrastructure, such as research and community education remain available to support the agricultural industry;

7. To support new and beginning farmers in acquiring farmland and support effective transition of farmland to the next generation of farmers; and

8. To effectively measure progress toward these objectives and communicate this with the population of Whatcom County.
Strong and Clear Agricultural Programs and Regulations

The overarching highest priority is the continuance and maintenance of the “Agriculture Program” within the county government. Continuing or additional staff support (a minimum of 1.0 FTE) is necessary in order to achieve momentum and continuity in pursuit of the agriculture program objectives. The amount and professional level of support available will determine both the timing and quantity of work achieved. Maintaining support for the AAC is a key part of an effective agricultural program, as well as the other subtasks below. Programs and priorities listed below were developed by the Agricultural Advisory Committee and reflect current ongoing programs and a prioritized list of efforts that the Agricultural Advisory Committee believes should be addressed to ensure the future of agriculture in Whatcom County.

Immediate Priorities:
- Designating Agricultural Lands of Long-term Commercial Significance
- Review Agriculture Zoning Code to ensure uses support and do not interfere with overall agricultural use of property and neighboring properties

Short-term Priorities (over the next 1 to 3 years):
- Review Rural Study Areas for additional protective measures
- Development of flexible policy framework that allows variable development actions that provide for protection of the best agricultural areas while supporting development at zoned densities

Medium-term Priorities (2 - 5 years):
- Natural Resource Marketplace

Long-term Priorities (3 to 10 years):
- Right to Farm Enforcement
- Water system planning & agricultural planning coordination
- Mitigation for the loss of agricultural land
- Improved coordination with partner agencies to support improved agricultural permit review

Ongoing Programs:
- Purchase of Development Rights (PDR) Program
- Current Use Assessment through Open Space Taxation Act
Ongoing Programs:

Responding to the loss of County farmland, Whatcom County Executive initiated the development of a Purchase of Development Rights Program in September of 2001. A PDR Advisory Committee comprised of farmers, citizens and conservation organizations was instructed to assist County staff in developing a proposal for County Council consideration. The PDR Program offers a voluntary tool for the preservation of productive agricultural land in the County that will:

- Provide farmers with the market based economic value for agricultural land without selling the land.
- Support and promote ongoing agricultural activity by offering an attractive option for farmers and landowners.

All applicants for the PDR Program must be within an Agriculture or Rural zoning designation. Valid applications are reviewed to determine if the acquisition of development rights will promote the PDR program’s goals and priorities. Selection criteria have been developed to guide, but not control, the review and assessment of eligible properties. Applications are scored based on factors such as soil type and classification, size of parcel(s), number of development rights offered, proximity to other conserved lands, percent farmed, water rights availability, as well as conservation and historical significance.
Ongoing Programs:

Current Use Tax Assessment under Open Space Taxation Act as defined in Chapter 84.34 RCW
- Open Space Farm and Agricultural Land
- Open Space Land Farm and Agriculture Conservation

The Open Space Taxation Act, enacted in 1970, allows property owners to have their open space, farm and agricultural, and timber lands valued at their current use rather than at their highest and best use. The Act states that it is in the best interest of the state to maintain, preserve, conserve, and otherwise continue in existence adequate open space lands for the production of food, fiber, and forest crops and to assure the use and enjoyment of natural resources and scenic beauty for the economic and social well-being of the state and its citizens.

Open Space Farm & Agricultural Land (OSAG)
Farm and Agricultural land is defined as either:
1. Any parcel of land that is 20 or more acres or multiple parcels of land that are contiguous and total 20 or more acres and are:
   a. Devoted primarily to the production of livestock or agriculture commodities for commercial purposes
   b. Enrolled in the federal conservation reserve program or its successor administered by the United States department of agriculture
   c. Other similar commercial activities as may be established by chapter 458-30 WAC.
2. Any parcel of land that is five acres or more but less than twenty acres, is devoted primarily to agricultural uses, which has produced a gross income from agricultural uses equivalent to:
   a. Prior to January 1, 1993, $100 or more per acre per year for three of the five calendar years preceding the date of application for classification.
   b. On or after January 1, 1993, $200 or more per acre per year for three of the five calendar years preceding the date of application for classification.
3. Any parcel of land that is five acres or more but less than 20 acres, is devoted primarily to agricultural uses, and has standing crops with an expectation of harvest within:
   a. Seven years and a demonstrable investment in the production of those crops equivalent to $100 or more per acre in the current or previous calendar year.
   b. Fifteen years for short rotation hardwoods and a demonstrable investment in the production of those crops equivalent to $100 or more per acre in the current or previous calendar year.
4. For parcels of land five acres or more but less that 20 acres, “gross income from agricultural uses” includes, but is not limited to, the wholesale value of agricultural products donated to nonprofit food banks or feeding programs.
5. Any parcel of land less than five acres devoted primarily to agricultural uses and has produced a gross income of:
   a. Incidental uses compatible with agricultural purposes, including wetland preservation, provided such use does not exceed 20 percent of the classified land.
   b. Land on which appurtenances necessary for production, preparation, or sale of agricultural products exist in conjunction with the lands producing such products.
c. Any non-contiguous parcel one to five acres, that is an integral part of the farming operation.

d. Land on which housing for employees or the principal place of residence of the farm operator or owner is sited provided the use of the housing or residence is integral to the use of the classified land for agricultural purposes, the housing or residence is on or contiguous to the classified land, and the classified land is 20 or more acres.

e. Land that is used primarily for equestrian-related activities for which a charge is made, including, but not limited to, stabling, training, riding, clinics, schooling, shows, or grazing for feed. Depending on the number of classified acres, the land may be subject to gross income requirements.

f. Land that is primarily used for commercial horticultural purposes, including growing seedlings, trees, shrubs, vines, fruits, vegetables, flowers, herbs, and other plants in containers, whether under a structure or not. For additional criteria regarding this use, please refer to RCW 84.34.020(2)(h).

Open Space Land Farm and Agriculture Conservation (OSFACL)
Farm and Agriculture Conservation Land is defined as any land meeting the definition of “farm and agricultural conservation land,” which means either:

a. Land previously classified under the farm and agricultural classification that no longer meets the criteria and is reclassified under open space land; or

b. “Traditional farmland,” not classified, that has not been irrevocably devoted to a use inconsistent with agricultural use, and that has a high potential for returning to commercial agriculture.
Immediate Priorities:

Designating Agricultural Lands of Long-term Commercial Significance

As part of the 2016 Comprehensive Plan Update process, additional language was added to Policy 8A-3.

Policy 8A-3 states that the criteria for designating or de-designating lands under the Agriculture Land use designation shall be considered on an area-wide basis. When applying the following criteria, the process should result in designating an amount of agricultural resource lands sufficient to maintain and enhance the economic viability of the agricultural industry in the county over the long term, and to retain agricultural support businesses, such as processors, farm suppliers, and equipment maintenance and repair facilities. One of the criteria was updated to better reflect language from the Washington State Growth Management Act and the updated language is contained below.

3. The land has long term commercial significance for agriculture. In determining this factor, consider the following nonexclusive criteria:
   a. The majority of the area contains Prime Farmland Soils as determined by the Natural Resource Conservation Service (NRCS).
   b. The area may contain 100-year floodplains as delineated by the Federal Emergency Management Agency (FEMA).
   c. Land use settlement patterns, the intensity of nearby uses, and the history of approved land development permits are generally compatible with agricultural practices.
   d. A majority of the area is composed of agricultural operations that were historically in agriculture prior to 1985.
   e. The predominate parcel size in the area is large enough to adequately maintain agricultural operations.
   f. The availability of public services.
   g. The availability of public facilities such as roads used to transport agricultural products.
   h. Special purpose districts that are oriented to enhancing agricultural operations such as drainage improvement, watershed improvement, and flood control exist.
   i. The area has a pattern of landowner capital investment in agricultural operations improvements including irrigation, drainage, manure storage, the presence of barns and support buildings, enhanced livestock feeding techniques, agricultural worker housing, etc.
   j. The area contains a predominance of parcels that have current use tax assessment derived from the Open Space Taxation Act.
   k. The area’s proximity to urban growth areas.
   l. The area’s proximity to agricultural markets.
   m. Land value under alternative uses.

The Agricultural Advisory Committee will review lands in Whatcom County to determine if the designation of agricultural lands of long-term commercial significance is accurate based on these updated criteria.
Immediate Priorities:

Review Agriculture Zoning Code to ensure uses support and do not interfere with overall agricultural use of property and neighboring properties.

There are many uses currently allowed within the Agriculture District through permitted, accessory, administrative approval, and conditional use permits. The AAC would like to review these uses to determine whether uses support and do not interfere with agricultural activities in this zone. The Agriculture District zoning code can be found in Chapter 20.40 of the Whatcom County Code.

Short-term Priorities (over the next 1 to 3 years):

Review Rural Study Areas for additional protective measures
Work with the AAC and greater community to identify if any new or changed zoning designations are needed, building on the direction outlined in Resolution 2009-040. Once identified clearly and in accordance with RCW 36.70A.170, implement - write draft ordinance to change development regulation language, zoning maps, and/or Comprehensive Plan language.

Flexible Policy Framework
The AAC believes there needs to be a flexible policy framework that allows variable development actions that provide for the protection of the best agricultural areas while supporting development at zoned densities. The AAC supports continued examination of a parcel reconfiguration tool as one development action option.
Medium-term Priorities (2 - 5 years):

Natural Resource Marketplace
Work with the AAC and other relevant groups on water issues, density credit program development, and other planning-related incentive programs that have the potential to use the marketplace to compensate farmers for the services they provide. This effort was initiated primarily due to farmers’ comments that they would be willing to trade off their ability to develop their land in exchange for obtaining the legal right to water.

Long-term Priorities (3 to 10 years):

Right to Farm Enforcements
The AAC recommendation is to review the Right to Farm ordinance to make it more effective at the farm level. Work items under this task include looking at strengthening farmers’ recourse against those who bring failed lawsuits against them, coordination with law enforcement with regard to complaints from nearby non-farming neighbors and to require title companies and real estate professionals to effectively communicate this ordinance with land purchasers.

Water system planning & agricultural planning coordination
The County should pursue a comprehensive water supply plan that includes out-of-stream uses including irrigation and other agricultural water needs. Agriculture program staff need to coordinate to ensure the water needs of the agricultural community are incorporated into future water planning efforts.

Mitigation for the loss of Agricultural land
The AAC has expressed the desire to explore agricultural mitigation options and potential regulations. Currently there is the perception that critical area concerns override agricultural concerns. Agricultural lands are lost due to conversions of the land to development, critical areas banking, and other types of conversions. The agricultural mitigation task would entail the development of policy recommendations to govern all conversions away from agricultural land.

Improved Coordination with partner agencies to support agricultural permit review
Project implementation for agricultural projects can be challenging for producers when multiple agency review is required. The AAC recommends continued coordination with the multiple partner agencies to improve agricultural permit review processes.
Public Outreach, Input and Education

Public committees are an invaluable resource for county staff and policy makers. The agricultural community sees potential changes to county agricultural policies and regulations continuing to go through the Agricultural Advisory Committee for recommendations, and Purchase of Development Rights policy and transaction recommendations continuing to go through the PDR Oversight Committee. State Growth Management law requires early and continuous public involvement, and these committees are an important way to engage the farming community (and others interested) on a regular basis in planning-related agricultural issues.

When it comes time to engage a broader audience in programs or regulatory discussions, farmers recommend outreach and publication in their news outlets, and when possible, in-person discussions at meetings already attended by those in the farming community. Outreach should provide opportunities for farmers to talk with other farmers about their experiences related to county programs.

Maintaining these committees also provides the broader public outside the agricultural community to engage in discussions related to agricultural programs, policies, and regulations. They are welcomed and accommodated through open public meetings of both advisory committees, as well as the formal public processes that occur as changes make their way through the Planning Commission and County Council.

Tasks

- Maintain regular meetings of Agricultural Advisory Committee
- Maintain regular meetings of PDR Oversight Committee
- Publish and distribute the Natural Resource Newsletter at least twice per year
- Support outreach discussions with agricultural groups and the community at large

Whatcom County Comprehensive Plan

In August of 2016, Whatcom County Council adopted the updated Comprehensive Plan. In Chapter 8, Resource Lands, goals related to Agriculture include:

Goal 8A: Conserve and enhance Whatcom County’s agricultural land base for the continued production of food and fiber.

Goal 8B: Maintain and enhance Whatcom County’s agricultural product industry as a long-term and sustainable industry.

Goal 8C: Preserve and enhance the cultural heritage that is related to agriculture.

Goal 8D: Reduce land use conflicts between Whatcom County’s agriculture and non-agricultural landowners.

Goal 8E: Work with agricultural land users to find efficient and effective cooperative ways to protect and improve habitat of threatened and endangered species through education and incentive programs.

Goal 8F: Strive to ensure adequate water supplies to support a thriving agricultural sector.

Each Comprehensive Plan goal provides direction to County staff and residents as to the priorities of Whatcom County. Policies listed under each goal provide additional guidance as to how to meet each goal. Look at Appendix B for the complete Agricultural Resource Land excerpt from the 2016 Whatcom County Comprehensive Plan.
Land Available for Agricultural Use

Whatcom County has identified the minimum of agricultural land necessary to be available for agricultural use as 100,000 acres, in order to keep the agricultural industry -- and those businesses that support it -- economically viable.

According to the 2012 AgCensus, there are: (See Page 20-21 for additional 2012 AgCensus information)

- 1,702 farms in Whatcom County
- growing crops on 115,831 acres
- contributing to an overall farmgate value of $357 million dollars.

These statistics place Whatcom County as one of the top 10 agricultural economies in Washington State and one of the top 3 agricultural economies in the Puget Sound region.

In order to address the 100,000 acre goal, an understanding of terms relating to agriculture must be described.

- **What is agriculture?**
  
  Agriculture is defined as the science or practice of farming, including growing crops and raising animals for the production of food, fiber, fuel and other products. Agriculture in Whatcom County consists of a diversity of crop types including dairy, raspberry, blueberry, seed potatoes, mixed vegetables, beef, tree fruits, and several other crop types.

- **What does it mean for land to be “available for agricultural use”?**
  
  Land is generally characterized as being available for agricultural use if the land could be farmed. This indicates that streams, forests, wetlands, and non-farm related homes and businesses would be unavailable for agricultural use.

According to the US Department of Agriculture:

A **Farmer/Rancher** is an owner and/or operator who has a vested interest in the operation of the farm or ranch.

A **beginning farmer** is defined as one who:

- Has not operated a farm or ranch for more than 10 years
- Does not own a farm or ranch greater than 30 percent of the average size farm in the county as determined by the most current Census for Agriculture
Prime farmland is one of several kinds of important farmland defined by the U.S. Department of Agriculture. It is of major importance in meeting the Nation’s short- and long-range needs for food and fiber. Because the supply of high-quality farmland is limited, the U.S. Department of Agriculture recognizes that responsible levels of government, as well as individuals, should encourage and facilitate the wise use of our Nation’s prime farmland (Soil Survey of Whatcom County Area, Washington, USDA, Soil Conservation Service, 1992).

Natural Resource Conservation Service (NRCS) policy and procedures on prime and unique farlands are published in the “Federal Register,” Vol. 43, No.21, January 31, 1978, p.4030 through p. 4033. This document states that prime farmland is land that has the best combination of physical and chemical characteristics for producing food, feed, forage, fiber, and oilseed crops, and is also available for these uses. It has the soil quality, growing season, and moisture supply needed to economically produce sustained high yields of crops when treated and managed, including water management, according to acceptable farming methods. In general, prime farmlands have an adequate and dependable water supply from precipitation or irrigation, a favorable temperature and growing season, acceptable acidity or alkalinity, acceptable salt and sodium content, and few or no rocks. They are permeable to water and air. Prime farmlands are not excessively erodible or saturated with water for a long period of time, and they either do not flood frequently or are protected from flooding.
Agriculture Zone

The Agriculture Zone consists of 87,353 acres as of May, 2018. This is down from 87,525 acres in 2011, when the Agriculture Strategic Plan was originally adopted. This loss in acreage is due to expansion of small cities located adjacent to the Agriculture Zone. The purpose and allowed uses within the Agriculture Zone are described in Whatcom County Code Chapter 20.40. The primary purposes of this district are to implement the agricultural designation of the Comprehensive Plan, established pursuant to RCW 36.70A.170, preserve, enhance and support the production of food and fiber in Whatcom County, to maintain a sufficiently large agricultural land base to ensure a viable agriculture industry and to maintain the economic feasibility of supporting services.

Policy 8A-3: The criteria for designating or de-designating lands under the Agriculture land use designation shall be considered on an area-wide basis. When applying the following criteria, the process should result in designating an amount of agricultural resource lands sufficient to maintain and enhance the economic viability of the agricultural industry in the county over the long term, and to retain agricultural support businesses, such as processors, farm suppliers, and equipment maintenance and repair facilities. The criteria are as follows:

1. The land is not already characterized by urban growth. In determining this factor, the County should consider WAC 365-196-310 and RCW 36.70A.030(19).
2. The land is used or capable of being used for agricultural production. In making this determination, the County shall use the land-capability classification system of the U.S. Department of Agriculture Natural Resources Conservation Service. These eight classes are incorporated into map units and are based on the growing capacity, productivity, and soil composition of the land.
3. The land has long term commercial significance for agriculture. In determining this factor, consider the following nonexclusive criteria:
   a. The majority of the area contains Prime Farmland Soils as determined by the Natural Resource Conservation Service (NRCS).
   b. The area may contain 100-year floodplains as delineated by the Federal Emergency Management Agency (FEMA).
   c. Land use settlement patterns, the intensity of nearby uses, and the history of approved land development permits are generally compatible with agricultural practices.
   d. A majority of the area is composed of agricultural operations that were historically in agriculture prior
to 1985.

e. The predominate parcel size in the area is large enough to adequately maintain agricultural operations.

f. The availability of public services.

g. The availability of public facilities such as roads used to transport agricultural products.

h. Special purpose districts that are oriented to enhancing agricultural operations such as drainage improvement, watershed improvement, and flood control exist.

i. The area has a pattern of landowner capital investment in agricultural operations improvements including irrigation, drainage, manure storage, the presence of barns and support buildings, enhanced livestock feeding techniques, agricultural worker housing, etc.

j. The area contains a predominance of parcels that have current use tax assessment derived from the Open Space Taxation Act.

**Agriculture Protection Overlay**

The purpose of the Agriculture Protection Overlay (APO), fully defined in Whatcom County Code Chapter 20.38, is to maintain and enhance commercial agricultural activity and further protect open space resources within Whatcom County; further the county’s efforts in meeting long-term agricultural needs; provide a reasonable mix of uses and activities which may enhance the economic resources available to the farm; and provide for a variety of uses within the rural areas which are not inconsistent with or incompatible with the use of lands within the area for agricultural activities.

The Agriculture Protection Overlay applies to parcels:

- Located within any Rural 5 or 10 zone
- larger than 20 acres
- containing more than 50% APO soils

Parcels meeting the above criteria wishing to subdivide are required to cluster densities and maintain a large agricultural reserve tract, consisting of at least 75% of the original parent parcel. The intent of this code was to maintain a large agricultural area while allowing for development at the density allowed by the zoning code.
Rural Study Areas

The Whatcom County Rural Land Study: A Collaborative Report Identifying Rural Areas of Agricultural Significance was completed in 2007. The primary objective of the rural land study was to identify and map areas within the Rural 5 and 10 Zones that are of agricultural significance and may require additional protection to ensure long-term agricultural viability. Project data was collected that included air photos, APO Soils, Critical Areas, Assessor data, Purchase of Development Rights Target Areas, and NOAA Coastal Change Analysis Program (2004) data based on Landsat Images (2000). The Agricultural Advisory Committee, in conjunction with PDS staff, identified 9 rural areas comprising over 21,000 acres that have high agricultural value. In 2012, the rural study areas were re-evaluated and a total 10 rural areas were identified representing 25,407 acres.

The criteria for establishing these areas includes a consideration of:

- Proximity to active agricultural areas
- Current land use characterized by Agriculture
- High percentage of APO soils
- Parcelization of the area
- Land use as identified on Assessors records
- Evaluation of forested areas for potential agricultural use
Measurements toward Progress

By tracking basic information related to agriculture and reporting results on a regular basis, Whatcom County can provide a valuable service to the agricultural community. There is no known source of compiled multi-agency data on agricultural issues in Whatcom County, yet data is a critical component to measuring progress. The county could compile data from other sources and make it available in a user friendly way to the broader community. Periodically, the county could add new data gleaned from staff GIS analysis. The information would relate back to the Agriculture program objectives in order to know whether programs and policies are achieving the intended results.

Some of the indicators useful for providing an agricultural status report include:

1. Mapping of land currently in agricultural use — Methods used would be consistent with land characterization effort underway by Planning and Development Services described in Appendix F; reported as new aerial photos become available
2. Permits - Agricultural building permits and new single family residential permits in Agriculture Zone and Rural Study Areas, available on an annual basis
3. New irrigation water rights issued, available through the Department of Ecology
4. Exempt wells installed for domestic and agricultural use
5. Market value of agricultural products sold — US Agricultural Census
6. Number of Agricultural Advisory Committee meetings held, Purchase of Development Rights Oversight Committee meetings held, and other opportunities for public participation related to the agricultural program
7. Area of farms enrolled with WA Dept. of Agriculture, Farm Service Agency or Whatcom Conservation District in a farm planning program
8. Incentive program participation including Open Space Farm and Agriculture current use taxation, Purchase of Development Rights program, and others
9. Acreage and changes in acreage of various cropping types

Tasks associated with performing this assessment include:
- Mapping agricultural lands based on Whatcom County aerial photos
- Compiling data and publishing an agricultural status report

The Agricultural Status Report for the years 2000 through 2017 has been completed and included as part of this 2018 Agriculture Strategic Plan (Pages 19 - 25).
2018 Agricultural Status Report (pages 18 - 26)

The following pages contain the 2018 Agriculture Status Report using indicators and measurements identified during the Agriculture Strategic Plan development process. Throughout this report, AG Zone refers to the Agriculture Zone and RSA refers to Rural Study Areas.

1. Mapping of land currently in agricultural use – Methods of land characterization effort by Planning and Development Services described below; new aerial photos are higher resolution and increase accuracy as compared to previous years.

Data used for the land characterization effort include:

- Pictometry aerial photos, oblique and 4-6 inch ortho-corrected images
- NAIP aerial imagery, 1 meter—very little detail
- Whatcom County Assessor Parcel Layer, land use codes, building values
- Whatcom County Critical Areas data—stream corridors and wetlands
- Whatcom County Zoning
- 2000 Land Cover Designations, LandSat

(Item type and description contained in Appendix C)

<table>
<thead>
<tr>
<th>Land Cover</th>
<th>(acres) 2012</th>
<th>(acres) 2017</th>
</tr>
</thead>
<tbody>
<tr>
<td>AG Zone</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Active</td>
<td>82,426</td>
<td>82,852</td>
</tr>
<tr>
<td>Fallow</td>
<td>4,809</td>
<td>4,639</td>
</tr>
<tr>
<td>Infrastructure</td>
<td>3,835</td>
<td>3,907</td>
</tr>
<tr>
<td>Farmstead Home</td>
<td>2,939</td>
<td>2,979</td>
</tr>
<tr>
<td>RSA</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Active</td>
<td>13,641</td>
<td>13,559</td>
</tr>
<tr>
<td>Fallow</td>
<td>522</td>
<td>489</td>
</tr>
<tr>
<td>Infrastructure</td>
<td>712</td>
<td>718</td>
</tr>
<tr>
<td>Farmstead Home</td>
<td>816</td>
<td>836</td>
</tr>
</tbody>
</table>
2. Permits - Agricultural building permits and new single family residential permits in the Agriculture zone and Rural Study Areas, available on an annual basis.

Whatcom County Code Title 20 Zoning is intended to further the goals and policies of the Whatcom County Comprehensive Plan by providing the authority for and procedures to be followed in regulating the physical development of Whatcom County, through coordinating the execution of both public and private projects with respect to all subject matters utilized for developing and servicing land.

The table presented depicts the number SFR (single family residences), Mobile (mobile homes), and Short Plat (land divisions of up to 5 new lots). For the purposes of this Ag Strategic Plan, permits approved have been grouped by the time period before the original Ag Strategic Plan (2000—2009) and between the original and this updated Ag Strategic Plan (2010—2017). For future Agricultural Status Reports, every year will be tracked independently. It should also be taken into account that the Ag Zone represents approximately 87,353 acres and the Rural Study Areas represent 25,407 acres, therefore the number of permits issued have different relative impacts on the overall agricultural neighborhood.

<table>
<thead>
<tr>
<th>Permits Issued</th>
<th>(# of permits) 2000 - 2009</th>
<th>(# of permits) 2010 - 2017</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>AG Zone</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>SFR</td>
<td>132</td>
<td>42</td>
</tr>
<tr>
<td>Mobile</td>
<td>49</td>
<td>14</td>
</tr>
<tr>
<td>AG Short Plat</td>
<td>1</td>
<td>16</td>
</tr>
<tr>
<td><strong>RSA</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>SFR</td>
<td>249</td>
<td>127</td>
</tr>
<tr>
<td>Mobile</td>
<td>90</td>
<td>26</td>
</tr>
<tr>
<td>Short Plat</td>
<td>36</td>
<td>7</td>
</tr>
</tbody>
</table>
2018 Agricultural Status Report

It is the understanding of staff that no new permanent irrigation water rights have been issued by the Washington State Department of Ecology since before the last Agricultural Strategic Plan was completed.

4. Exempt wells installed for domestic and agricultural use
A comprehensive assessment of exempt wells installed for domestic and agricultural use has not yet been completed. Once a more comprehensive assessment has been completed this information will be included in future Agriculture Status Reports.

5. Agricultural Census Data of Whatcom County {2012 & 2007, USDA}
(including Skagit, Snohomish, King Counties for context)
Whatcom County leads in both increases in the total number of farms and acres farmed among these Puget Sound Counties.

<table>
<thead>
<tr>
<th>Item</th>
<th>Year</th>
<th>Whatcom</th>
<th>Skagit</th>
<th>Snohomish</th>
<th>King</th>
</tr>
</thead>
<tbody>
<tr>
<td>Number of Farms</td>
<td>2012</td>
<td>1,702</td>
<td>1,074</td>
<td>1,438</td>
<td>1,837</td>
</tr>
<tr>
<td>Number of Farms</td>
<td>2007</td>
<td>1,483</td>
<td>1,215</td>
<td>1,670</td>
<td>1,790</td>
</tr>
<tr>
<td>% change in Number of Farms</td>
<td>2012 to 2007</td>
<td>+ 15 %</td>
<td>- 12 %</td>
<td>- 14%</td>
<td>+ 3 %</td>
</tr>
<tr>
<td>Land in Farms</td>
<td>2012</td>
<td>115,831</td>
<td>106,538</td>
<td>70,863 acres</td>
<td>46,717 acres</td>
</tr>
<tr>
<td>Land in Farms</td>
<td>2007</td>
<td>102,584</td>
<td>108,541</td>
<td>76,837 acres</td>
<td>49,285 acres</td>
</tr>
<tr>
<td>% change in Land in Farms</td>
<td>2012 to 2007</td>
<td>+ 13 %</td>
<td>- 2 %</td>
<td>- 8 %</td>
<td>- 5 %</td>
</tr>
<tr>
<td>Average Size of Farms</td>
<td>2012</td>
<td>68 acres</td>
<td>99 acres</td>
<td>49 acres</td>
<td>25 acres</td>
</tr>
<tr>
<td>Average Size of Farms</td>
<td>2007</td>
<td>69 acres</td>
<td>89 acres</td>
<td>46 acres</td>
<td>28 acres</td>
</tr>
<tr>
<td>% change in Average Farm Size</td>
<td>2012 to 2007</td>
<td>- 1 %</td>
<td>+ 11 %</td>
<td>+ 7 %</td>
<td>- 11 %</td>
</tr>
<tr>
<td>Market Value of Products Sold</td>
<td>2012</td>
<td>$357,312,000</td>
<td>$272,275,000</td>
<td>$139,486,000</td>
<td>$120,749,000</td>
</tr>
<tr>
<td>Market Value of Products Sold</td>
<td>2007</td>
<td>$326,450,000</td>
<td>$256,248,000</td>
<td>$125,619,000</td>
<td>$127,269,000</td>
</tr>
<tr>
<td>% change in Market Value</td>
<td>2012 to 2007</td>
<td>+ 9 %</td>
<td>+ 6 %</td>
<td>+ 11 %</td>
<td>- 5 %</td>
</tr>
<tr>
<td>Crop Sales</td>
<td>2012</td>
<td>$119,816,000</td>
<td>$201,007,000</td>
<td>$63,216,000</td>
<td>$44,012,000</td>
</tr>
<tr>
<td>Livestock Sales</td>
<td>2012</td>
<td>$237,496,000</td>
<td>$71,268,000</td>
<td>$76,270,000</td>
<td>$76,737,000</td>
</tr>
<tr>
<td>Average Sales per farm</td>
<td>2012</td>
<td>$209,937</td>
<td>$253,515</td>
<td>$97,000</td>
<td>$65,732</td>
</tr>
<tr>
<td>Average Sales per farm</td>
<td>2007</td>
<td>$220,128</td>
<td>$210,904</td>
<td>$75,221</td>
<td>$71,100</td>
</tr>
<tr>
<td>Average age of principal operator</td>
<td>2012</td>
<td>57.4</td>
<td>58.4</td>
<td>58.5</td>
<td>57.1</td>
</tr>
</tbody>
</table>

Principal operators by primary occupation (2012)

<p>| | | | | | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Farming</td>
<td>773</td>
<td>515</td>
<td>511</td>
<td>814</td>
<td></td>
</tr>
<tr>
<td>Other</td>
<td>929</td>
<td>559</td>
<td>927</td>
<td>1023</td>
<td></td>
</tr>
</tbody>
</table>
Farms by size: 2012

<table>
<thead>
<tr>
<th>Number of Farms</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 to 9 acres</td>
</tr>
<tr>
<td>10 to 49 acres</td>
</tr>
<tr>
<td>50 to 179 acres</td>
</tr>
<tr>
<td>180 to 499 acres</td>
</tr>
<tr>
<td>500 to 999 acres</td>
</tr>
<tr>
<td>1,000 acres or more</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Commodity</th>
<th># Farms</th>
<th>Market Value (2012)</th>
<th>Percent</th>
</tr>
</thead>
<tbody>
<tr>
<td>Dairy products</td>
<td>114</td>
<td>$193,042,000</td>
<td>54%</td>
</tr>
<tr>
<td>Fruits, Nuts &amp; Berries</td>
<td>252</td>
<td>$79,978,000</td>
<td>22%</td>
</tr>
<tr>
<td>Cattle, calves</td>
<td>520</td>
<td>$26,535,000</td>
<td>7%</td>
</tr>
<tr>
<td>Nursery</td>
<td>40</td>
<td>$18,697,000</td>
<td>5%</td>
</tr>
<tr>
<td>Poultry, eggs</td>
<td>201</td>
<td>$14,641,000</td>
<td>4%</td>
</tr>
<tr>
<td>Vegetables</td>
<td>101</td>
<td>$11,693,000</td>
<td>3%</td>
</tr>
<tr>
<td>Grain</td>
<td>71</td>
<td>$4,687,000</td>
<td>1%</td>
</tr>
<tr>
<td>All other *</td>
<td>403</td>
<td>$8,039,000</td>
<td>2%</td>
</tr>
<tr>
<td>Total</td>
<td>1,702</td>
<td>$357,312,000</td>
<td>100%</td>
</tr>
</tbody>
</table>

Whatcom Agriculture by Commodity

- Dairy products: 54%
- Fruits, Nuts & Berries: 23%
- Cattle, calves: 8%
- Nursery: 5%
- Poultry, eggs: 4%
- Vegetables: 3%
- Grain: 2%
- All other *: 1%
6. Number of Agricultural Advisory Committee meetings held, Purchase of Development Rights Oversight Committee meetings held, and other opportunities for public participation related to the agricultural program
   - The Agricultural Advisory Committee has a scheduled 7 meetings annually
   - The Purchase of Development Rights Oversight Committee has a scheduled 11 meetings annually
   - The Transfer of Development Rights/Purchase of Development Rights Workgroup met 14 times between March 2017 and June 2018

7. Area/Number of farms enrolled with Washington Department of Agriculture (WSDA), Whatcom Conservation District or Whatcom County in a farm planning program (As of May 2018)
   - WSDA reports 98 licensed dairies have certified farm plans on 32,800 acres
   - WCD reports that 89 farm plans were completed in 2017
   - Whatcom County reports 149 farms have participated in the Conservation Program on Agricultural Lands

8. Incentive program participation:
   A. Current use taxation

<table>
<thead>
<tr>
<th>2017 Current Use Assessment Enrollment</th>
</tr>
</thead>
<tbody>
<tr>
<td>Open Space Farm and Agricultural Land</td>
</tr>
<tr>
<td>Open Space Farm and Agriculture Conservation Land</td>
</tr>
</tbody>
</table>

   B. Incentive program participation: Purchase of Development Rights program, and others.
   The PDR Program has completed 19 agricultural conservation easements representing the protection of 919 acres extinguishing 130 development rights. The PDR Program is currently working with an additional 18 PDR applicants representing an additional 943 acres. Whatcom County Council has approved staff to move forward towards completion of 7 of these applications.
27


9. Acreage and changes in acreage of various cropping types (2017) (turn landscape)

Washington Cropland Data Layer, also known as CropScape, has been developed by the United States Department of Agriculture (USDA), National Agricultural Statistics Service (NASS), Research and Development Division (RDD), Geospatial Information Branch (GIS), Spatial Analysis Research Section (SARS). Additional information can be found at www.nass.usda.gov. The purpose of the Cropland Data Layer Program is to use satellite imagery to (1) provide planted acreage estimates to the Agricultural Statistics Board for the state's major commodities and (2) produce digital, crop-specific, categorized geo-referenced output products.

*When reviewing the table on the next page, please note that the acreages are estimates based on satellite imagery as described above and is not intended to be used as exact figures.
<table>
<thead>
<tr>
<th></th>
<th>2008 AG Zone</th>
<th>2014 AG Zone</th>
<th>2017 AG Zone</th>
<th>2008 RSA</th>
<th>2014 RSA</th>
<th>2017 RSA</th>
</tr>
</thead>
<tbody>
<tr>
<td>Alfalfa</td>
<td>16</td>
<td>65</td>
<td>8</td>
<td>2</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>Apples</td>
<td>44</td>
<td>32</td>
<td>3</td>
<td>2</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Barley</td>
<td>266</td>
<td>36</td>
<td>12</td>
<td>1</td>
<td>1</td>
<td></td>
</tr>
<tr>
<td>Barren</td>
<td>466</td>
<td>499</td>
<td>838</td>
<td>8</td>
<td>46</td>
<td>112</td>
</tr>
<tr>
<td>Blueberries **</td>
<td>9,433</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>1,156</td>
</tr>
<tr>
<td>Blueberries/Raspberries*</td>
<td>11,949</td>
<td>15,638</td>
<td>1,633</td>
<td>1,921</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Clover/Wildflower</td>
<td>50</td>
<td></td>
<td></td>
<td></td>
<td>1</td>
<td></td>
</tr>
<tr>
<td>Corn</td>
<td>11,467</td>
<td>16,418</td>
<td>13,906</td>
<td>580</td>
<td>852</td>
<td>602</td>
</tr>
<tr>
<td>Cranberries</td>
<td>159</td>
<td>6</td>
<td></td>
<td>25</td>
<td></td>
<td>1</td>
</tr>
<tr>
<td>Developed - Open Space</td>
<td>1,813</td>
<td>1,536</td>
<td>1,594</td>
<td>1,731</td>
<td>1,702</td>
<td>1,713</td>
</tr>
<tr>
<td>Developed - Low Intensity</td>
<td>2,909</td>
<td>3,056</td>
<td>3,070</td>
<td>1,526</td>
<td>1,569</td>
<td>1,597</td>
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<tr>
<td>Developed - Med. Intensity</td>
<td>473</td>
<td>500</td>
<td>578</td>
<td>148</td>
<td>160</td>
<td>177</td>
</tr>
<tr>
<td>Developed - High Intensity</td>
<td>228</td>
<td>229</td>
<td>260</td>
<td>68</td>
<td>68</td>
<td>75</td>
</tr>
<tr>
<td>Fallow/Idle</td>
<td>3</td>
<td>2,208</td>
<td>102</td>
<td>54</td>
<td></td>
<td>9</td>
</tr>
<tr>
<td>Forest, Deciduous</td>
<td>2,797</td>
<td>3,969</td>
<td>3,599</td>
<td>1,966</td>
<td>3,053</td>
<td>2,898</td>
</tr>
<tr>
<td>Forest, Evergreen</td>
<td>1,792</td>
<td>1,194</td>
<td>1,320</td>
<td>1,309</td>
<td>891</td>
<td>856</td>
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<tr>
<td>Mixed Forest</td>
<td>2,930</td>
<td>2,222</td>
<td>2,463</td>
<td>1,651</td>
<td>1,597</td>
<td>1,702</td>
</tr>
<tr>
<td>Grasses/Pasture+</td>
<td>28,714</td>
<td>21,747</td>
<td>5,663</td>
<td>11,049</td>
<td>11,475</td>
<td>6,481</td>
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<tr>
<td>Hay - non alfalfa+</td>
<td>11,126</td>
<td>10,574</td>
<td>22,046</td>
<td>718</td>
<td>473</td>
<td>3,111</td>
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<tr>
<td>Herbaceous Wetlands</td>
<td>3,086</td>
<td>963</td>
<td>3,043</td>
<td>420</td>
<td>193</td>
<td>821</td>
</tr>
<tr>
<td>Other Crops</td>
<td>34</td>
<td>48</td>
<td>120</td>
<td>10</td>
<td></td>
<td>3</td>
</tr>
<tr>
<td>Other Tree Crops</td>
<td>181</td>
<td>81</td>
<td></td>
<td>4</td>
<td>20</td>
<td></td>
</tr>
<tr>
<td>Peas</td>
<td>50</td>
<td></td>
<td>3</td>
<td></td>
<td>2</td>
<td></td>
</tr>
<tr>
<td>Potatoes</td>
<td>878</td>
<td>1,314</td>
<td>659</td>
<td>23</td>
<td>22</td>
<td>36</td>
</tr>
<tr>
<td>Raspberries**</td>
<td></td>
<td></td>
<td>11,519</td>
<td></td>
<td></td>
<td>1,624</td>
</tr>
<tr>
<td>Shrubland</td>
<td>1,549</td>
<td>1,151</td>
<td>1,941</td>
<td>582</td>
<td>664</td>
<td>797</td>
</tr>
<tr>
<td>Sod/Grass</td>
<td>7</td>
<td>97</td>
<td>111</td>
<td>6</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Sorghum</td>
<td>66</td>
<td></td>
<td>29</td>
<td>1</td>
<td>1</td>
<td>14</td>
</tr>
<tr>
<td>Strawberries</td>
<td>2</td>
<td>302</td>
<td>15</td>
<td>9</td>
<td>60</td>
<td>2</td>
</tr>
<tr>
<td>Water</td>
<td>755</td>
<td>1,027</td>
<td>961</td>
<td>18</td>
<td>20</td>
<td>23</td>
</tr>
<tr>
<td>Winterwheat</td>
<td>107</td>
<td>20</td>
<td>23</td>
<td>1</td>
<td>1</td>
<td></td>
</tr>
<tr>
<td>Woody Wetlands</td>
<td>3,645</td>
<td>2,148</td>
<td>3,754</td>
<td>2,437</td>
<td>1,057</td>
<td>2,048</td>
</tr>
<tr>
<td>Xmas Trees</td>
<td>1</td>
<td>46</td>
<td>105</td>
<td>6</td>
<td></td>
<td>20</td>
</tr>
</tbody>
</table>

+ Grasses/Pasture and Other Hay - non alfalfa categorized differently in 2017
* 2008/2014 - blueberries and raspberries combined
** 2017 - blueberries and raspberries counted separately
**WHATCOM COUNTY COUNCIL AGENDA BILL**

<table>
<thead>
<tr>
<th>CLEARANCES</th>
<th>Initial</th>
<th>Date</th>
<th>Date Received in Council Office</th>
<th>Agenda Date</th>
<th>Assigned to:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Originator:</td>
<td>C</td>
<td>July 26, 2018</td>
<td></td>
<td>8/8/18</td>
<td>Nat. Resources Comm/ Council</td>
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<tr>
<td>Division Head:</td>
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<td>Dept. Head:</td>
<td>MJP</td>
<td>7-24-18</td>
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<td>7-27-18</td>
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<td>Executive</td>
<td>7-31-18</td>
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</table>

**TITLE OF DOCUMENT:**
Resolution Affirming the PDR Oversight Committee Ranking and Authorizing Whatcom County Purchase of Development Rights Administrator to proceed with acquisition process for 2018 applications.

**ATTACHMENTS:**
Memo, Resolution, Purchase of Development Rights 2018 Applicant Ranked list (Exhibit 1)

**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.)

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

**COMMITTEE ACTION:**

<table>
<thead>
<tr>
<th>COUNCIL ACTION:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Related County Contract #:</td>
</tr>
</tbody>
</table>

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

TO: Honorable Whatcom County Councilmembers
Honorable Executive Louws

THROUGH: Mark Personius; Assistant Director, PDS

FROM: Chris Elder; PDR Program Administrator

DATE: July 26, 2018

SUBJECT: PDR Program Update and PDR application Sidhu Request for approval to complete acquisition of agricultural conservation easement

Dear Executive Louws and Honorable Councilmembers,

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

Background Information

The Purchase of Development Rights (PDR) Program was created in 2002 to contribute to sustaining the farming enterprise in Whatcom County by protecting critically located County farmland. The program is voluntary and pays landowners fair market value for their remaining development rights and places a permanent agricultural conservation easement on the property. The easement restricts future residential development, and restricts (to a certain extent) other impervious surface. Staff develops agricultural conservation easements as the mechanism to retire development rights. This way the farmer gets to keep their land and continue farming activities, but the future residential potential of the land is extinguished. Whatcom County currently partners with the Whatcom Land Trust to perform baseline studies on all properties before closing, and to hold and monitor the easements annually in perpetuity. In the past, the program has received 50-50 cost share for easement purchases from sources such as the Washington State Recreation and Conservation Office’s Washington Wildlife Recreation Program (WWRP) Farmland Category, and the Natural Resource Conservation Service (NRCS) Agricultural Conservation Easement Program – Agricultural Land Easements (ACEP-ALE).

Since the PDR program’s inception, 919 acres of farmland have been permanently protected from development, and 130 potential development rights have been permanently extinguished through enactment of 19 agricultural conservation easements. The total cost of the transactions (purchase price, Whatcom Land Trust expenses, closing costs, and appraisal fees) is $6,135,499.10. Of that, Whatcom County’s Conservation Futures Fund has paid $3,225,399.10. The remainder amount was reimbursed back into the Conservation Futures Fund through cost share from the sources mentioned earlier.
Update on Progress Since 2017

The PDR Oversight Committee last came to Council in September of 2017 to provide a program update and to present recent property applications for approval.

The PDR Oversight Committee and Administrator have completed 3 easements over the past 12 months and have been authorized to proceed with the acquisition of seven (7) additional conservation easements in the order of the approved ranking pursuant to the process outlined in the PDR Guidelines Document as approved under Resolution 2016-029 & Resolution 2017-042. These properties still in process of completion are Cougar Creek Ranch, Matheson, Brar, Greenwood, Carbee, Sigurdson/Neptune Beach, and Broad Leaf Farm (Williams 1).

Since that last update to Council, the current number of active applications is twelve (12) as presented in Exhibit 1 of the attached resolution. Please refer to Exhibit 1 for a breakdown of property characteristics for all current applications. The PDR Committee has seen and has approved the ranking for these 12 properties based on the current approved guidelines.

Match Fund Sources

Whatcom County has been awarded match funding through the Natural Resource Conservation Service (NRCS)' Agricultural Conservation Easement Program- Agricultural Land Easement (ACEP-ALE) Program. This grant provides 50-50 cost share on the purchase price of the following applications (including ones approved for purchase by Council and ones that have not yet been approved by Council):

- Broad Leaf Farm (Williams 1)
- Cougar Creek Ranch
- Matheson
- Sigurdson/Neptune Beach
- Brar
- Carbee
- Greenwood
- Roper
- McLeod
- Vanderwerff

The total match amount is up to $1,357,500 (depending on appraisals).

Staff requested match dollars from the Whatcom Community Foundation- Sustainable Whatcom Fund in the late spring of 2015 and were awarded $200,000 to be used as match for the purchase of conservation easements. Staff has used these $82,500 of these funds for the acquisition of an agricultural conservation easement on the following applications:

- Williams I (Williams 2)
- Williams II (Williams 3)

Staff has also been awarded matching funds through the Washington State Recreation and Conservation Office’s Washington Wildlife Recreation Program (WWRP) Farmland Category in the 2016 round for the following applications:

- Cougar Creek Ranch
- Carbee
- Greenwood
- Brar

The total match amount for these projects is up to $840,000.
Staff has applied to this same program in 2018 for the following applications:
  - Roper
  - McLeod
  - TeVelde
These applications represent a $270,000 request. Ranking for these applications will occur in the fall of 2018 and a notification of award should take place by July of 2019.

Whatcom County staff also applied to the Regional Conservation Partnership Program through the Natural Resource Conservation Service for the Whatcom County Working Lands Conserving Watersheds. This application was awarded for $1,300,000 to provide matching funds to the purchase of agricultural conservation easements in Whatcom County for the years 2019 through 2022. This grant agreement is currently being finalized and will come back to County Council for consideration sometime in the next couple months.

Additionally, given a strong working relationship with the Whatcom Land Trust, the Whatcom Land Trust board of directors voted to provide a 50% match towards the Sidhu application. This contribution represents the first project that the Whatcom Land Trust has contributed towards the purchase of an agricultural conservation easement through the PDR Program. The total match amount for the Sidhu application is $40,000.

**Request**

The PDR Oversight Committee and staff request approval of the current ranked list of properties, authorization for the County Executive and PDR Program Administrator to proceed with acquisition of a conservation easement on the PDR Program’s Sidhu application, and authorization to proceed with the acquisition of title search and appraisal services of the Roper, McLeod, and Vanderwerff applications.

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

AFFIRMING THE PDR OVERSIGHT COMMITTEE RANKING AND AUTHORIZING WHATCOM COUNTY PURCHASE OF DEVELOPMENT RIGHTS ADMINISTRATOR AND WHATCOM COUNTY EXECUTIVE TO PROCEED WITH THE ACQUISITION OF AN AGRICULTURAL CONSERVATION EASEMENT ON THE SIDHU APPLICATION

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 3.25A 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, pursuant to PDR Guidelines Document, must affirm or modify the properties as submitted by the PDR Oversight Committee, and

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

WHEREAS, Council has determined the ranking in accordance with their policy priorities and the requirements of Title 3.25A and the PDR Guidelines Document, and

WHEREAS, Council passed resolution 2016-029 authorizing the PDR Administrator to acquire title and appraisal services for applicants Sidhu, and
WHEREAS, The PDR Administrator has contracted appraisal services for all properties listed above, and

WHEREAS, The Whatcom Land Trust board approved providing 50% matching funds to support purchase of development rights on the Sidhu application.

WHEREAS, The Purchase of Development Oversight Rights Committee met on June 22, 2018 to develop a ranking of all applications received to date and forwarded that ranking to Council; and

WHEREAS, The Purchase of Development Rights Oversight Committee considered the ranked list of all current applications and recommended at their May 25, 2018 meeting that County Council authorize the PDR Program Administrator and County Executive proceed with the acquisition of an agricultural conservation easement on the Sidhu application and proceed with title search and appraisal of the value of development rights on the Roper, McLeod, and Vanderwerff applications.

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

1. The PDR Oversight Committee and Administrator proceed with the acquisition of one (1) conservation easement on the Sidhu application pursuant to the process outlined in the PDR Guidelines Document.

2. The PDR Oversight Committee and Administrator proceed with the acquisition of title search and appraisal services of the Roper, McLeod, and Vanderwerff applications pursuant to the process outlined in the PDR Guidelines Document.

3. The Executive is authorized to enter into a Purchase and Sale Agreement for the Sidhu property, provided:
   a. Appraisals are completed and conservation easements are drafted which meet the requirements of the Whatcom County Purchase of Development Rights program, and
   b. Landowners have agreed to the offer price and conservation easement conditions.

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

APPROVED this __________ day of __________, 2018

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

ATTEST:

________________________
Dana Brown-Davis, Council Clerk

________________________
Rud Browne, Chairperson

________________________
Deputy Prosecutor
TITLE OF DOCUMENT:
Finance will present its quarterly 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.)

Finance Manager Bennett’s quarterly report to Council.
Resolution to add East Whatcom Regional Resource Center (EWRRC) Expansion Project to the Comprehensive Economic Development Strategy (CEDS).

ATTACHMENTS:
Resolution
List of Additional Projects to be added to the 2018 CEDS List

Requesting Council approval of the updated CEDS project list which includes the addition of three projects:
1. EWRRC expansion project
2. BBWARM Outfalls drainage project
3. Rural County Broadband Feasibility Study (Port request- required if using State Economic Development Administration funds)
RESOLUTION NO. __________

A RESOLUTION OF THE WHATCOM COUNTY COUNCIL UPDATING THE APPENDIX OF THE 2015 COMPREHENSIVE ECONOMIC DEVELOPMENT STRATEGY (CEDS)

WHEREAS, the Economic Development Reform Act of 1998 identifies a Comprehensive Economic Development Strategy (CEDS) as a requirement to apply for assistance under the Economic Development Administration’s (EDA) economic adjustment and public works program; and

WHEREAS, on June 19, 2018 the County Council adopted Resolution 2018-024 the 2018 CEDS project list update through Resolution 2018-024; and

WHEREAS, the project list did not include three identified economic development capital projects which include a) the County’s East Whatcom Regional Resource Center (EWRRC) construction expansion project, b) the County’s Birch Bay Watershed and Aquatic Resource Management (BBWARM) Outfalls project and c) the Port’s rural Broadband County Broadband project; and

WHEREAS, these projects are more clearly defined in the project descriptions included on the attached revised 2018 CEDS Project Project List update; and

WHEREAS, RCW 82.14.370 requires that projects utilizing rural sales tax revenue must be contained in the County’s overall economic development plan; and

NOW, THEREFORE, BE IT RESOLVED that the Whatcom County Council hereby accepts the inclusion of three projects to the updated appendix as submitted by the Whatcom Council of Governments and approved through Resolution 2018-024. The three additional projects are listed here:

1. Whatcom Regional Resource Center Expansion project  Whatcom County
2. BBWARM Outfalls Drainage project  Whatcom County
3. Rural County Broadband feasibility study  Port of Bellingham
BE IT FURTHER RESOLVED that the Whatcom County Council officially adopts the revised 2018 update to the 2015 Whatcom County Economic Development Strategy Appendix.

APPROVED 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
Memo

TO: Tawni Helms, Administrative Services Coordinator
From: Gina Stark, Communications and Research Coordinator
Re: Broadband feasibility study coordinated by the Economic Development Division at the Port of Bellingham

Background

In 2017 the legislature adopted 2017-2019 Capital Budget ESSB 6095. It authorizes the Community Economic Revitalization Board (CERB) to make grants and loans to local government and federally recognized tribes to build infrastructure to provide high-speed, open-access broadband service, with a minimum of 25 megabits per second download speed, to rural and underserved communities, for the purpose of economic development or community development.

Goal

Prior to implementation a feasibility study needs to be conducted. The goal of the feasibility study is to:

A. Define local broadband needs and goals in the County.
B. Inventory existing broadband infrastructure assets within the County.
C. Identify and map pathways for broadband lines and infrastructure necessary to provide optimal service.
D. Include a gap analysis defining the additional broadband infrastructure necessary to meet the identified goals.
E. Identify one or more potential network designs, cost estimates, operating models and business model.
F. Do an assessment of municipal procedures, policies, rules and ordinances that impact or influence broadband infrastructure deployment.
G. Identify how to implement digital inclusion including:
   a. Affordable internet
   b. Affordable equipment
   c. Digital Literacy Training
   d. Public Computer Access

Funding

The estimated cost for this feasibility study will be approximately $200,000. We have identified and will be using multiple sources of funds. These include CERB planning grants, funds from the Port of Bellingham, funds from PUD and Economic Development Agency (EDA) funds.
Whatcom County
Comprehensive Economic Development Strategy

2018 Project List

Prepared by the Whatcom Council of Governments
Approved by the Whatcom County Council on June 19, 2018
<table>
<thead>
<tr>
<th>Project Name</th>
<th>Location</th>
<th>Description of Project</th>
<th>Project Type</th>
<th>Estimated Cost</th>
<th>Potential Funding Source(s)</th>
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<tbody>
<tr>
<td>Courthouse Exterior</td>
<td>Whatcom County Courthouse</td>
<td>Repair failing roof and exterior</td>
<td>Public Works</td>
<td>4,799,000</td>
<td>EDI, REET I</td>
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<tr>
<td>State Street Remodel</td>
<td>1500 North State St.</td>
<td>Remodel for reorganization</td>
<td>Public Works</td>
<td>2,805,000</td>
<td>EDI/State St. Fund</td>
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<td>Civic Center Remodel</td>
<td>322 N. Commercial</td>
<td>Remodel for reorganization</td>
<td>Public Works</td>
<td>2,765,000</td>
<td>Civic Center Fund</td>
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<td>Girard Street Repair</td>
<td>509 Girard Street</td>
<td>Repair and upgrade building</td>
<td>Public Works</td>
<td>511,000</td>
<td>EDI</td>
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<td>New Jail</td>
<td>Whatcom Co.</td>
<td>Construct new jail</td>
<td>Public Works</td>
<td>87,000,000</td>
<td>Bonds</td>
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<tr>
<td>New Sheriff's Office</td>
<td>Whatcom Co.</td>
<td>Construct new Sheriff's Office</td>
<td>Public Works</td>
<td>13,000,000</td>
<td>REET I</td>
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<tr>
<td>Existing Jail Remodel</td>
<td>Public Safety Building</td>
<td>New dayholding facility and Life and Safety Improvements</td>
<td>Public Works</td>
<td>7,000,000</td>
<td>Bonds</td>
</tr>
<tr>
<td>Mental Health Triage Center</td>
<td>Whatcom County</td>
<td></td>
<td>Public Works</td>
<td>7,000,000</td>
<td>EDI, Behavioral Health Sales Tax Fund, North Sound BHO, Federal, State and local grants</td>
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<td>Whatcom County Emergency Operations Center Building</td>
<td>Whatcom County</td>
<td>Office space improvement</td>
<td>Public Works</td>
<td>150,000</td>
<td>REET I</td>
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<tr>
<td>South Fork Park Development</td>
<td>Whatcom County</td>
<td>Bridges and trail development</td>
<td>Public Works</td>
<td>1,050,000</td>
<td>REET II, Park Improvement Fund, State grant</td>
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<tr>
<td>Williamson Way Remodel</td>
<td>Whatcom County</td>
<td>Remodel office area to add five additional offices and a conference room. Upgrade low voltage wiring and install enhances security features. Upgrade HVAC system. Provide perimeter fencing.</td>
<td>Public Works</td>
<td>450,000</td>
<td>REET I</td>
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<tr>
<td>Birch Bay Beach Park Development</td>
<td>Whatcom County</td>
<td>Construct new waterfront park/recreation and tourism</td>
<td>Public Works</td>
<td>4,750,000</td>
<td>REET II, EDI, Grants, Capital Funds</td>
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<tr>
<td>Plantation Range HVAC and Roof</td>
<td>Plantation Range</td>
<td>Replace HVAC and roof, make improvements to building</td>
<td>Public Works</td>
<td>900,000</td>
<td>REET I, State grant, EDI, REET II</td>
</tr>
<tr>
<td>Silver Lake Park</td>
<td>Silver Lake Park</td>
<td>Utility, road, day-use and campground improvements</td>
<td>Public Works</td>
<td>2,380,000</td>
<td>REET II</td>
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<tr>
<td>Emergency Management Radio System</td>
<td>Countywide</td>
<td>A complete system design for a new public safety radio system for law enforcement, fire and EMS</td>
<td>Telecommunications</td>
<td>3,500,000</td>
<td>EDI, REET I, State grants</td>
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<td>Nesson Farm House Restoration</td>
<td>Nesson Farm</td>
<td>Restore historical home</td>
<td>Public Works</td>
<td>125,000</td>
<td>Nesson Foundation</td>
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<tr>
<td>Project Description</td>
<td>Location</td>
<td>Description</td>
<td>Funding Source</td>
<td>Cost</td>
<td>Notes</td>
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<tr>
<td>East Whatcom Regional Resource Center Expansion Project</td>
<td>Kendall</td>
<td>Expand facility to include food bank distribution center and additional multi-use space</td>
<td>Public Works</td>
<td>2,500,000</td>
<td>State grants, REET I</td>
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<tr>
<td>Selder Road</td>
<td>Birch Bay</td>
<td>Drainage improvement</td>
<td>Public Works</td>
<td>110,000</td>
<td>BBWARM, REET II</td>
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<tr>
<td>Smith Road/Northwest Road Roundabout</td>
<td>Whatcom County</td>
<td>Install roundabout</td>
<td>Public Works</td>
<td>5,000,000</td>
<td>Road Fund</td>
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<td>Canyon Lake Comm. Forest</td>
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<td>Access road repair</td>
<td>Public Works</td>
<td>135,000</td>
<td>REET II</td>
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<tr>
<td>Lake Whatcom Park</td>
<td>Whatcom County</td>
<td>Construct trailhead and amenities including parking, shelter and restrooms</td>
<td>Public Works</td>
<td>1,350,000</td>
<td>REET II, State grants</td>
</tr>
<tr>
<td>Birch Bay Drive Pedestrian Facility</td>
<td>Birch Bay Drive</td>
<td>This is a 1.58 mile separate berm to provide soft-shore erosion protection, habitat enhancement, and to encourage pedestrian use along Birch Bay Drive.</td>
<td>Public Works</td>
<td>10,694,000</td>
<td>Federal grant, RF, EDI, Flood, BBWARM, REET II</td>
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<tr>
<td>BBWARM Harborview Road</td>
<td>Harborview Road</td>
<td>Culvert replacement</td>
<td>Public Works</td>
<td>95,000</td>
<td>REET II</td>
</tr>
<tr>
<td>BBWARM Cottonwood Drive</td>
<td>Cottonwood Drive</td>
<td>Drainage improvement</td>
<td>Public Works</td>
<td>85,000</td>
<td>REET II</td>
</tr>
<tr>
<td>BBWARM Outfalls</td>
<td>Birch Bay</td>
<td>Drainage improvement</td>
<td>Public Works</td>
<td>300,000</td>
<td>BBWARM, REET II</td>
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<tr>
<td>Beaver Creek</td>
<td>Sudden Valley</td>
<td>This project will restore and repair eroded sections of Beaver Creek to reduce sediment from entering Lake Whatcom.</td>
<td>Public Works</td>
<td>565,000</td>
<td>REET II</td>
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<td>Agate Heights Estate</td>
<td>Lk. Whatcom</td>
<td>Stormwater improvements</td>
<td>Public Works</td>
<td>610,000</td>
<td>REET II, Flood Fund</td>
</tr>
<tr>
<td>Sudden Valley</td>
<td>Lk. Whatcom</td>
<td>Stormwater improvements</td>
<td>Public Works</td>
<td>640,000</td>
<td>REET II</td>
</tr>
<tr>
<td>Silver Beach Creek</td>
<td>Lk. Whatcom</td>
<td>Stormwater improvements</td>
<td>Public Works</td>
<td>750,000</td>
<td>REET II, Flood Fund</td>
</tr>
<tr>
<td>Northshore Drive and Cedarbrook Court</td>
<td>Lk. Whatcom</td>
<td>Stormwater improvements</td>
<td>Public Works</td>
<td>200,000</td>
<td>REET II</td>
</tr>
<tr>
<td>Maple Falls Park &amp; Trail Corridor</td>
<td>Whatcom County</td>
<td>Construct restrooms, parking and trail improvements</td>
<td>Public Works</td>
<td>900,000</td>
<td>REET II, State grants</td>
</tr>
<tr>
<td>Slater Road/I-5 Interchange Improvements</td>
<td>Slater Road</td>
<td>Construct five roundabouts on Slater Road at its intersections with Northwest Road, Pacific Highway, northbound and southbound I-5 on-ramps and Rural Avenue to improve channelization and stop control.</td>
<td>Public Works</td>
<td>30,000,000</td>
<td>Federal, State and local funds; Developer contributions</td>
</tr>
</tbody>
</table>
### CITY OF BELLINGHAM

<table>
<thead>
<tr>
<th>Project Name</th>
<th>Location</th>
<th>Description</th>
<th>Department</th>
<th>Cost</th>
<th>Funding Sources</th>
</tr>
</thead>
<tbody>
<tr>
<td>Railroad Safety Improvements</td>
<td>Bellingham</td>
<td>Includes safety improvements to at-grade rail crossings and elimination of other at-grade crossings throughout the City.</td>
<td>Public Works</td>
<td>5,000,000</td>
<td>EDI, Motor Vehicle Fuel Taxes, Vehicle Reg. Fees, Sales Tax, Other Federal, State and Local Funding Sources</td>
</tr>
<tr>
<td>City Center Parking Project</td>
<td>Bellingham</td>
<td>Planning and implementation of parking improvements to increase parking inventory to meet current and projected demand in support of a comprehensive district redevelopment project.</td>
<td>Planning and Public Works</td>
<td>8,100,000</td>
<td>EDI, general or revenue obligation bonds</td>
</tr>
<tr>
<td>City Center Redevelopment</td>
<td>Bellingham</td>
<td>Redevelop through partnerships or other methods, 600 West Holly Street, other city-owned properties or chronic vacant buildings into a mixed use development compatible with the sub-area plans in an effort to spur additional private sector development to increase housing and job opportunities.</td>
<td>Planning and Public Works</td>
<td>10,000,000</td>
<td>EDI, Targeted grants, CDBG, HOME, HUD 108 and other Federal, State, local and private funds</td>
</tr>
<tr>
<td>City Center and Urban Village</td>
<td>Bellingham</td>
<td>Construct critical infrastructure in Bellingham’s Downtown, Old Town and Waterfront Districts and other urban villages, including streets, parks and utilities.</td>
<td>Parks &amp; Public Works</td>
<td>20,000,000</td>
<td>EDI, Real Estate Excise Tax, Greenways Levy, Private Funds, Park Impact Fees, LIFT, Street and Other Federal, State and Local Funding Sources</td>
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<tr>
<td>Infrastructure</td>
<td></td>
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</tr>
<tr>
<td>Regional Wetland and Stormwater</td>
<td>Bellingham</td>
<td>Explore regional wetland alternatives such as “mitigation bank” programs and regional stormwater facilities when they can provide equal or better treatment to on-site facilities</td>
<td>Public Works</td>
<td>5,000,000</td>
<td>EDI, Private funds, and Federal, State and local funding sources</td>
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<tr>
<td>Facilities</td>
<td></td>
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<tr>
<td>West Horton Road</td>
<td>Bellingham and Whatcom County</td>
<td>West Horton Road is an Important east-west connection in the City's UGA.</td>
<td>Public Works</td>
<td>20,000,000 (Bellingham: $5-million, Whatcom County $15-million)</td>
<td>EDI, Motor Vehicle Fuel Taxes, Vehicle Registration Fees, Sales Tax, Other Federal, State and Local Funding Sources</td>
</tr>
</tbody>
</table>
### Whatcom County Comprehensive Economic Development Strategy – Project List (June 19, 2018)

<table>
<thead>
<tr>
<th>Major Recreational Facility</th>
<th>Location</th>
<th>Description</th>
<th>Category</th>
<th>Funding Sources</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bellingham</td>
<td>Provide parking and visitor facilities for a major mountain biking destination.</td>
<td>Parks</td>
<td>2,000,000</td>
<td>EDI, Real Estate Excise Tax, Greenways Levy, Private Funds, Parking Impact Fees, Other Federal, State and Local Funding Sources</td>
</tr>
<tr>
<td>Waterfront District Specific Utilities</td>
<td>Bellingham</td>
<td>Provide infrastructure for district utilities for more efficient heating, irrigation, Encogen heat capture, and potential hydropower generation.</td>
<td>Public Works</td>
<td>6,000,000</td>
</tr>
</tbody>
</table>

### CITY OF BLAINE

<table>
<thead>
<tr>
<th>Project Description</th>
<th>Location</th>
<th>Description</th>
<th>Category</th>
<th>Funding Sources</th>
</tr>
</thead>
<tbody>
<tr>
<td>Improved Interstate Highway Access – Interchange 274</td>
<td>Northwest Whatcom County and Pacific Highway Border Crossing</td>
<td>This project implements the FHWA/WSDOT-approved Interchange Justification Report improving I-5 access at Exit 274 by replacing partial interchange with a full interchange. Provides direct connection from Blaine industrial area to I-5, serves as alternate access to truck border crossing, and serves as a critical access point to south Blaine and Birch Bay.</td>
<td>Public Works and Economic Development</td>
<td>50,000,000</td>
</tr>
<tr>
<td>Boblett Street and SR 543 (Truck Route) Signalization Improvements</td>
<td>Blaine and Pacific Highway Border Crossing</td>
<td>This is the first intersection on northbound SR 543 and is the primary corridor for all cross-border freight. The Boblett/SR 543 intersection has several challenges; including the signal itself which is an antiquated span wire which requires frequent repair. This project improves channelization, traffic signal and equipment for improved operation and pedestrian safety. Boblett St. serves the industrial zone to the east and Blaine K-12 school complex abutting on the west.</td>
<td>Public Works and Economic Development</td>
<td>1,200,000</td>
</tr>
<tr>
<td>SR 543 Widening On-ramp to H Street R3, Boblett to H Street</td>
<td>Blaine and Pacific Highway Border Crossing</td>
<td>Project adds an additional northbound truck lane to SR 543. This lane would add capacity to alleviate severe queue length which backs onto I-5 multiple times a month at the border. It would also provide capability for TDM solutions such as dynamic lane assignment at the Boblett intersection.</td>
<td>Public Works and Economic Development</td>
<td>1,500,000</td>
</tr>
<tr>
<td>Project Description</td>
<td>Location</td>
<td>Description</td>
<td>Responsible Agency</td>
<td>Funding</td>
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<tr>
<td>Peace Portal/Bell Road Signalization</td>
<td>Blaine and Birch Bay</td>
<td>Traffic signal installation to improve safety and congestion at this location. Serves as primary corridor between Blaine, Birch Bay, and Semiahmoo Spit, as well as I-5 Exit 274 off-ramp. Involves reconfiguration of RR crossing. Currently stop-controlled.</td>
<td>Public Works</td>
<td>1,500,000 STP Regional Funds, TIB, Developer Contributions</td>
</tr>
<tr>
<td>Mitchell Avenue/H Street Signalization</td>
<td>Blaine</td>
<td>Traffic signal installation to improve safety and congestion at this location. Serves arterial connection between mid-point of H Street and Peace Portal Drive.</td>
<td>Public Works</td>
<td>750,000 STP Regional Funds, TIB, Developer Contributions</td>
</tr>
<tr>
<td>Marine Drive Improvements, Phase 3</td>
<td>Blaine and Port of Bellingham</td>
<td>Marine Drive Phase 3 will improve the section east of Marine Drive which serves the Port's Industrial Commercial area and the Public Pier. This project restores a badly deteriorated seawall on the south and enhances the riprap on the north. It also includes the addition of a pedestrian boardwalk to link Marine Park to the public Fisherman's Pier.</td>
<td>Public Works and Economic Development</td>
<td>2,300,000 STP Regional Funds, TIB</td>
</tr>
<tr>
<td>Harvey Road/Sweet Road Transmission Improvements (18” Line)</td>
<td>Blaine and Northwestern Whatcom County</td>
<td>Upgrade potable water line capacity outside city limits serving portions of NW Whatcom county within Blaine Water Service Area.</td>
<td>Public Works</td>
<td>2,200,000 DOE Centennial Funds, USDA-RD Grant/Loan, PWTF</td>
</tr>
<tr>
<td>New 630’ Zone Reservoir (East Blaine) and Booster Pump Station, Phases 1 &amp; 2</td>
<td>Blaine</td>
<td>New reservoir establishing new high pressure zone to increase storage capacity and provide adequate pressure to underserved areas and residential/commercial development of east Blaine.</td>
<td>Public Works</td>
<td>7,000,000 DOE Centennial Funds, USDA-RD Grant/Loan, PWTF</td>
</tr>
<tr>
<td>Project Description</td>
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<td>Funding Source</td>
<td>Cost</td>
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<tr>
<td>Regional Stormwater Retention Facility and Wetland Mitigation for Manufacturing Zoning District</td>
<td>Blaine</td>
<td>The City of Blaine manufacturing area consists of a number of small (2-7 acre) sites that are fully served with City utilities. This project provides a regional stormwater facility and associated conveyance piping to mitigate the stormwater impacts on industrially zoned properties to encourage manufacturing interests to locate in Blaine and create jobs. Many of these parcels contain small, low quality wetlands that pose significant development challenges and restrictions. This project includes a Regional Wetlands area that would provide collective mitigation enhancing an existing wetland that supports a large bird population.</td>
<td>Public Works and Economic Development</td>
<td>2,000,000</td>
</tr>
<tr>
<td>Peace Portal Boardwalk – Connection Between H and G Street Plazas</td>
<td>Blaine</td>
<td>Construction of a pedestrian boardwalk along the marine bluff of the downtown district in order to capitalize on the unique shoreline location and rich commercial fishing history.</td>
<td>Public Works and Economic Development</td>
<td>1,000,000</td>
</tr>
<tr>
<td>Pedestrian Bridge from the Wharf District to Downtown Business District (H Street Plaza)</td>
<td>Blaine and Port of Bellingham</td>
<td>Design and construct a pedestrian bridge crossing the BNSF rail lines (existing easement) to link the Peace Portal Boardwalk with Wharf District. Connects marina, marine recreational and historical fishing area to the downtown business district uniquely situated on an overlooking marine bluff. This is a priority project in the joint City/Port Wharf District Master Plan.</td>
<td>Public Works and Economic Development</td>
<td>1,500,000</td>
</tr>
<tr>
<td>Reconstruction of the Semiahmoo Lighthouse</td>
<td>Blaine</td>
<td>This project will serve as a major tourist attraction. The lighthouse will be constructed to approximate life-size scale from the original plans secured from archives in Washington DC. This is a priority project in the joint City/Port Wharf District Master Plan.</td>
<td>Economic Development</td>
<td>750,000</td>
</tr>
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### Whatcom County Comprehensive Economic Development Strategy – Project List (June 19, 2018)

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<th>Funding</th>
<th>Source(s)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Marine Park Improvements</td>
<td>Blaine</td>
<td>Major waterfront park on the north side of Marine Drive. Site of City's new Lighthouse Point Water Reclamation Facility and future site of replica Semiahmoo Lighthouse. Restoration includes Whale Deck upgrades, outdoor theater improvements, trail paving, irrigation, and replacement of two birding shelters and addition of a festival/parking area. This is a priority project in joint City/Port Wharf District Master Plan.</td>
<td>Public Works and Economic Development</td>
<td>325,000</td>
<td>EDA/City of Blaine, Port of Bellingham, CZM, Ground Fish Grant, Other Federal/State/Local</td>
</tr>
<tr>
<td>Pintail Marsh and Cain Creek Restoration</td>
<td>Blaine</td>
<td>Restore functioning wetland boundary between the Wharf District and BNSF railroad right-of-way and restores the mouth of Cain Creek. This is a priority project in the joint City/Port Wharf District Master Plan.</td>
<td>Planning</td>
<td>850,000</td>
<td>EDA/City of Blaine, Port of Bellingham, CZM, Ground Fish Grant, Other Federal/State/Local</td>
</tr>
<tr>
<td>Marine Park Shoreline Restoration</td>
<td>Blaine</td>
<td>Stabilizes and improves habitat functions for 650 feet of Marine Park shoreline, and rehabilitates/controls invasive species on 700 feet of shoreline. This project protects the shoreline from continuing erosion that would ultimately threaten City utilities and critical wastewater treatment facilities. This is a priority project in the joint City/Port Wharf District Master Plan.</td>
<td>Planning</td>
<td>3,500,000</td>
<td>EDA/City of Blaine, Port of Bellingham, CZM, Ground Fish Grant, Other Federal/State/Local</td>
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</tbody>
</table>

### CITY OF EVERSON

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<tr>
<th>Project Description</th>
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<th>Department/Agency</th>
<th>Funding</th>
<th>Source(s)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Lincoln Street, Phases 1 &amp; 2</td>
<td>Everson</td>
<td>Reconstruct and extend Lincoln Street from State Route 544 through the downtown commercial area to Blair Drive.</td>
<td>Public Works</td>
<td>2,100,000</td>
<td>City Street Fund, STP, TIB</td>
</tr>
<tr>
<td>Kirsch Drive Improvements</td>
<td>Everson</td>
<td>Reconstruct and extend Kirsch Drive from SR 544 to the extension of Lincoln Street.</td>
<td>Public Works</td>
<td>725,000</td>
<td>City Street Fund, TIB</td>
</tr>
<tr>
<td>Everson Sewage Treatment Plant Upgrade</td>
<td>Everson and Nooksack</td>
<td>Design and construction of a major upgrade to Everson Sewage Treatment Plant.</td>
<td>Public Works</td>
<td>4,500,000</td>
<td>Nooksack Sewer Fund; Everson Sewer Fund; CCWF; Washington RLF/EDA</td>
</tr>
<tr>
<td>Downtown Market Analysis</td>
<td>Everson</td>
<td>Conduct professional market analysis to identify demand for products and services and assess the downtown's ability to capture that demand.</td>
<td>Technical Assistance</td>
<td>20,000</td>
<td>Local funds; Port of Bellingham</td>
</tr>
<tr>
<td>Gas Station/Mini Mart</td>
<td>Everson</td>
<td>Prepare site selection materials and research potential investor (local or national) to determine interest in locating a gas station in Everson.</td>
<td>Planning</td>
<td>5,000</td>
<td>Local funds</td>
</tr>
<tr>
<td>Project Name</td>
<td>City</td>
<td>Description</td>
<td>Funding Sources</td>
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<tr>
<td>Everson Road Sewer Line</td>
<td>Everson</td>
<td>Upgrade existing 8” line for future growth on the southwest portion of the City and UGA.</td>
<td>Public Works 165,000 Local funds</td>
<td></td>
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</tr>
<tr>
<td>Business Incubator</td>
<td>Everson</td>
<td>Conduct feasibility study and potentially purchase property, if deemed feasible by study, for a business incubator. Consider incorporating other local studies and projects such as an agricultural center.</td>
<td>Planning 15,000 EDA/Port of Bellingham; LMF; CERB</td>
<td></td>
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</tr>
<tr>
<td>East Main Street Water Main Upgrade</td>
<td>Everson</td>
<td>Increase water main from 6 to 10 inches from Kirsch Dr. east to City limits, providing better pressure for fire protection and emergency uses with the City of Nooksack.</td>
<td>Public Works 1,200,000 LMF</td>
<td></td>
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</tr>
<tr>
<td>East/West Connector</td>
<td>Everson</td>
<td>Future all-weather arterial connecting Mission Road and Everson-Goshen Road (SR 544), used as primary arterial to future UGA and light industrial area of South Everson.</td>
<td>Public Works and Business Development/Finance 2,400,000 CDBG; GMA Planning Grant; CERB; EDA</td>
<td></td>
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<tr>
<td><strong>CITY OF FERNDALE</strong></td>
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<tr>
<td>Downtown Infrastructure Improvements</td>
<td>Ferndale</td>
<td>Upgrade underground utilities to meet anticipated future demand. Wayfinding signage for public parking and amenities.</td>
<td>Public Works, Economic Development 2,500,000 Local funds, REET,EDI</td>
<td></td>
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</tr>
<tr>
<td>Main Street (Downtown) Improvements</td>
<td>Ferndale</td>
<td>Re-image Main Street with focus on the Main Street area through Downtown; Incentive program, visual appearance upgrades, regional stormwater approach, etc.</td>
<td>Public Works, Economic Development 5,000,000 Local funds, REET, EDI, Private funds</td>
<td></td>
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</tr>
<tr>
<td>Portal Way Corridor Improvements</td>
<td>Ferndale</td>
<td>Improve corridor, create consistent road profile and frontage on Portal Way. Three sections (I-5 to Newkirk, Newkirk to Kass, Kass to Trigg)</td>
<td>Public Works, Economic Development, Planning 15,000,000 (5,000,000 x 3) TBD, TIB, Local funds, REET, Private funds</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Wetland Mitigation</td>
<td>Ferndale</td>
<td>For city projects</td>
<td>Public Works 75,000 Local funds, REET</td>
<td></td>
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</tr>
<tr>
<td>Project Description</td>
<td>Location</td>
<td>Description</td>
<td>Funding Agency, Source</td>
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<tr>
<td>Utility Extension to Malloy/Grandview</td>
<td>Ferndale</td>
<td>The nature of current and future development in this area is a combination of retail but more importantly light industrial – a sector of the economy that is growing fast at the same time that the inventory of available land has now reached critical levels. Ferndale is one of the only jurisdictions with theoretical inventory within its UGA in close proximity to highway and rail transportation, but development cannot be initiated without these extensions. Opens up area for development, protects sensitive watersheds from existing development built to rural standards – [Grandview area], provides fire flow, etc.</td>
<td>Public Works 8,000,000 PWTF, Local, EDA, DWSRF</td>
<td></td>
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<tr>
<td>Water Reservoir – Grandview Area (Fire Flow)</td>
<td>Ferndale</td>
<td>Significant undeveloped and underdeveloped areas exist in this manufacturing and industrial zoned area of the City and UGA. Development interest in this area appears high, but lacks appropriate water infrastructure to support the zoning and fire flow requirements associated with potential industrial and/or manufacturing uses. A collaborative effort is needed between the City of Ferndale and PUD#1 to serve the area with fire flow via a potable water supply system.</td>
<td>Public Works 6,000,000 PWTF, Local, EDA, DWSRF</td>
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</tr>
<tr>
<td>Wastewater Treatment Plant Upgrades</td>
<td>Ferndale</td>
<td>City’s wastewater treatment plant currently runs at close to 80% capacity during low demand periods and at capacity during high flow demand periods (Fall/Winter). Future plant expansion is required or a development moratorium will have to be considered in 2017-18 until expansion is scheduled and funded.</td>
<td>Public Works 26,000,000 Water Quality Grants, EDA, CERB, PWTF, DWSRF</td>
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<td>Project Title</td>
<td>Location</td>
<td>Description</td>
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<tr>
<td>Gateway Area Stormwater Conveyance Improvements (LaBounty Road and Main Street)</td>
<td>Ferndale</td>
<td>As a result of the City's Main Street Master Plan Planned Action EIS, action was identified that a regional drainage study was needed and was subsequently completed in 2014. As a result of that study several drainage areas in the 443 acre basin were determined to have insufficient stormwater runoff capacity. Several culverts need to be upsized in and around Main street and several ditch sections need to be reconstructed and expanded to meet the future runoff demands in the basin.</td>
<td>Public Works 1,750,000 ($1,000,000 of work is complete; sections south of Main Street need to be completed) DOE Water Quality Grants, Special Assessment, EDA, CERB, PWTF, Local Match</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Right-of-Way Beautification and Landscaping Along Major Corridors</td>
<td>Ferndale</td>
<td>Main Street, Portal Way and Slater Road: The creation of attractive, unified landscaping along major corridors provides a sense of place and welcome for new development. Project would include staff and consultant time to develop a coordinated landscaping proposal, funding for materials and plants, and planting.</td>
<td>Public Works 300,000 TIB, TBD, Local, Federal/State</td>
<td></td>
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</tr>
<tr>
<td>Advance Mitigation Program</td>
<td>Ferndale</td>
<td>The Advance Mitigation Program would allow private development to mitigate impacts to low-to-medium quality wetlands and critical areas by paying into a fund to establish mitigation and enhancement areas to be established and maintained by the City of Ferndale. The mitigation and enhancement areas that will be utilized have been identified as having degraded habitat and/or of ecological importance to the City. In many cases, mitigation areas may be established with the assistance of private and public partnerships and may include opportunities for public education. Depending upon the specific mitigation area, local or regional Low Impact stormwater elements may also be integrated.</td>
<td>Public Works and Planning 75,000 Private and Public Development (self-sustaining once created)</td>
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<tr>
<td>Project Name</td>
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<tr>
<td>Wayfinding Sign System</td>
<td>Ferndale</td>
<td>Establish a coordinated system of wayfinding signs for the purpose of guiding visitors, residents and businesses to their destinations (and other points of interest) within the City and the surrounding area. Coordinated wayfinding systems enable jurisdictions to improve traffic circulation, create a sense of place, improve the characterization of sub-areas and districts within a community, and reduce sign blight. As proposed, the City would establish a series of signs throughout the City that will provide directions to points of interest within the City. As part of this program a variety of existing signs would be removed and consolidated into the proposed wayfinding program. The City expects to coordinate with the Lummi Nation, Whatcom County, private businesses and the general public to identify important destinations within the Ferndale area and to development variations from the central theme of the wayfinding program.</td>
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<tr>
<td>Thornton Overpass</td>
<td>Ferndale</td>
<td>Construction of an overpass over BNSF Railway tracks with connection to downtown and freeway interchange. This will significantly reduce Peak Hour Demand traffic on Main Street and improve development potential extensively in the surrounding area. It also greatly benefits I-5 access for residents and businesses in the subregion.</td>
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<tr>
<td>Planned Action EIS – Grandview</td>
<td>Ferndale</td>
<td>Complete Environmental Impact Statement and Planned Action Ordinance to spur business location at freeway interchange.</td>
<td>Planning</td>
<td></td>
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<tr>
<td>Interchange</td>
<td></td>
<td>Planning</td>
<td>200,000</td>
<td>Economic Development Planning Grants, CDBG</td>
<td></td>
</tr>
<tr>
<td>Main Street/LaBounty Road Roundabout</td>
<td>Ferndale</td>
<td>Construct multi-lane roundabout to accommodate anticipated large retail development along and adjacent to Main Street.</td>
<td>Public Works</td>
<td>2,000,000</td>
<td>REET, EDI, State Grant, Federal Grant</td>
</tr>
<tr>
<td>Main Street/Axton Road Roundabout</td>
<td>Ferndale</td>
<td>Construct multi-lane roundabout to accommodate anticipated large retail development along Main Street/Axton Road.</td>
<td>Public Works</td>
<td>2,000,000</td>
<td>REET, EDI, State Grant Federal Grant</td>
</tr>
<tr>
<td>Interstate 5 Exit 262 Roundabouts</td>
<td>Ferndale</td>
<td>Construct on/off ramp roundabouts along I-5 at exit 262 where they intersect Main Street.</td>
<td>Public Works</td>
<td>4,000,000</td>
<td>State and Federal Grants; WSDOT Funding</td>
</tr>
<tr>
<td>PROJECT NAME</td>
<td>LOCATION</td>
<td>DESCRIPTION</td>
<td>FUNDING CATEGORY</td>
<td>FUNDING AMOUNT</td>
<td>OTHER FUNDS</td>
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<tr>
<td>West Front Extension</td>
<td>West Lynden</td>
<td>New construction of the east-west connection between Tromp Road and the already completed section of West Front just west of Duffner Road. This project will include an industrial-standard street complete with curbs, gutters and sidewalks. All utilities, including water, sanitary sewer, and stormwater conveyance have been constructed. This project will provide service to industrial properties to access both the Guide Meridian (SR 539) and Birch Bay-Lynden Road and I-5 to the west.</td>
<td>Public Works</td>
<td>1,200,000</td>
<td>EDI, TIB, TBD, and other Federal/State/Local funds</td>
</tr>
<tr>
<td>Central Guide Meridian Sewer Service</td>
<td>West Lynden Commercial Area</td>
<td>Extension of sewer infrastructure to area fronting SR 539 and bounded by Front Street on the south and Meadow Lane to the north. Sewer would be extended north from West Front and cross Guide Meridian Road (SR 539) to provide service on the west side. This work should be coordinated with the WSDOT Connecting Washington-funded widening of SR 539 north of Front Street.</td>
<td>Public Works, Economic Development</td>
<td>950,000</td>
<td>EDI; City Sewer Utility Funds; Other Federal, State and local funds</td>
</tr>
<tr>
<td>Northwest Washington Fair Ag Ed Center</td>
<td>Lynden</td>
<td>The Northwest Washington Agriculture Education Center facility will provide an agricultural program for local residents and tourists. It will be a local presence for the Washington State University's educational program and research station. As a multi-purpose facility it will be available to the community for a variety of uses and be used as exhibit space during the annual summer Fair.</td>
<td>Economic Development</td>
<td>5,000,000</td>
<td>EDI; Washington State Dept. Of Commerce Capital Grant; Washington State University; Private donations</td>
</tr>
<tr>
<td>7th Street Rehabilitation and Intersection Improve</td>
<td>Downtown Historic Business District</td>
<td>Reconstruction of approximately 1,200 feet of roadway between Judson and Grover streets on the west edge of the Lynden Historic Business District. Improvements (signal or compact roundabout) at both intersections. Preliminary planning was done under a 2014 Port of Bellingham Small Cities grant.</td>
<td>Public Works</td>
<td>2,000,000</td>
<td>EDI; TIB; TBD; Other Federal, State or Local funds</td>
</tr>
<tr>
<td>Project Description</td>
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<td>Department</td>
<td>Budget</td>
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<tr>
<td>4th Street Extension</td>
<td>Downtown Historic Business District</td>
<td>Street improvements to extend 4th Street to the south from Front Street to provide vehicle and pedestrian access between Lynden's Historic Downtown District and 25 acres of currently undeveloped commercial and residential zoned properties. This project would improve pedestrian access and use of this corridor for community events.</td>
<td>Public Works</td>
<td>1,600,000</td>
<td>EDI; Transportation Impact Fees; TBD; CERB; Federal, State and other local funds</td>
</tr>
<tr>
<td>West Main Street Improvements (Phase 2)</td>
<td>West Lynden</td>
<td>Reconstruct existing 20-foot roadway to an industrial street standard including curbs, gutters and sidewalks as well as utilities (water and storm drainage). Also, culvert and bridge replacement for an existing, uninhabited drainage ditch.</td>
<td>Public Works</td>
<td>2,300,000</td>
<td>EDI; Transportation Impact Fees; Federal, State and other local funds</td>
</tr>
<tr>
<td>Tromp Road Extension</td>
<td>West Lynden</td>
<td>New construction of a north-south connection between West Main Street to West Front and Birch Bay-Lynden Road. This project will include an industrial-standard street complete with curbs, gutters and sidewalks. All utilities, including water, sanitary sewer and stormwater conveyance have been constructed. This project will complete the connection between the northern portion of the City's industrial area to Birch Bay-Lynden Road, providing safe and efficient access to State Route 539 and I-5.</td>
<td>Public Works</td>
<td>1,200,000</td>
<td>EDI, TIB, TBD, and other Federal/State/Local funds</td>
</tr>
<tr>
<td>South Guide Meridian Road Sewer Service</td>
<td>West Lynden Commercial Area</td>
<td>Extension of sewer infrastructure to area fronting SR 539 and bounded to the south by the City limits; to the east by Fishtrap Creek, and; to the west by an extension of Berthusen Road, south of Birch Bay-Lynden Road. The west basin (west of SR 539) encompasses approximately 153 acres, and the east basin another 93 acres. A Port of Bellingham study prepared in 2015 identified preferred solutions.</td>
<td>Public Works and Economic Development</td>
<td>3,000,000</td>
<td>EDI; City Sewer Utility Funds; Other Federal, State and Local funds.</td>
</tr>
<tr>
<td>City Wayfinding Signage/Branding Project</td>
<td>Main Travel Corridors and Trailways</td>
<td>Coordinate with the Bellingham Whatcom County Tourism office to implement Lynden's portion of the regional wayfinding plan created by the MERJE consulting group and expand to the City center. Create City-wide wayfinding plan which corresponds to the MERJE plan. Sign fabrication and installation.</td>
<td>Planning</td>
<td>150,000</td>
<td>EDI, TBD, TAP, City General Fund</td>
</tr>
</tbody>
</table>
### Whatcom County Comprehensive Economic Development Strategy – Project List (June 19, 2018)

<table>
<thead>
<tr>
<th>Project Description</th>
<th>Location</th>
<th>Details</th>
<th>Funding Source</th>
</tr>
</thead>
<tbody>
<tr>
<td>Pepin Creek</td>
<td>Lynden UGA</td>
<td>This project relocates year-round flow in north-south running, deep roadside ditches along Benson and Double Ditch Roads (0.5 miles apart) to a newly constructed channel halfway between the two roads and extending to Badger Road (SR 546). This allows re-construction of the roads to arterial standards, prevents flooding in neighborhoods and nearby agricultural areas, and improves ESA fish habitat.</td>
<td>Public Works 6,000,000 EDI; Transportation Impact Fees; TBD; Federal, State and other local funds</td>
</tr>
<tr>
<td><strong>CITY OF NOOKSACK</strong></td>
<td></td>
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</tr>
<tr>
<td>Garfield Force Main Extension</td>
<td>Nooksack</td>
<td>Extend the force main from the Garfield sewer pump station to Pump Station No. 4 in Everson.</td>
<td>Public Works 1,000,000 City Sewer fund, PWTF</td>
</tr>
<tr>
<td>West Columbia Water Line Replacement</td>
<td>Nooksack</td>
<td>Upgrade water main serving Nooksack Valley Middle School to intertie with Everson.</td>
<td>Public Works 275,000 City Water Fund, PWTF, DWSRF</td>
</tr>
<tr>
<td>Stormwater Management Plan Development</td>
<td>Nooksack</td>
<td>Inventory and assessment of existing stormwater management facilities serving the City of Nooksack. Following analysis of existing system, system improvements necessary to accommodate anticipated commercial, industrial and residential development would be identified and prioritized.</td>
<td>Technical Assistance and Planning 30,000 City General Fund; CCWF</td>
</tr>
<tr>
<td>Historic Nooksack Store Building – Purchase and Renovation</td>
<td>Nooksack</td>
<td>Purchase and renovate the historic 1913 Nooksack Store Building located at the corner of Nooksack Ave. and Madison Street to serve as new City Hall and multi-purpose community activity/meeting place.</td>
<td>Public Works 750,000 City General Funds; Historic Preservation Fund; USDA Rural Development</td>
</tr>
<tr>
<td>Everson Sewage Treatment Plant Upgrade</td>
<td>Everson and Nooksack</td>
<td>Design and construction of a major upgrade to the Everson Sewage Treatment Plant.</td>
<td>Public Works 4,500,000 Nooksack Sewer Fund; Everson Sewer Fund; CCWF; Washington RLF/EDA</td>
</tr>
<tr>
<td><strong>NOOKSACK INDIAN TRIBE</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>No projects submitted</td>
<td></td>
<td></td>
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</tr>
<tr>
<td><strong>PORT OF BELLINGHAM</strong></td>
<td></td>
<td></td>
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</tr>
<tr>
<td>Shipping Terminal Rail Siding Connection</td>
<td>Bellingham Shipping Terminal</td>
<td>Reconnect the Bellingham Shipping Terminal to the mainline of the BNSF with the design and construction of a new siding.</td>
<td>Public Works 15,000,000 MTCA; Insurance; State (CERB and FMSIB)</td>
</tr>
<tr>
<td>Mooring Improvements to Bellingham Shipping Terminal</td>
<td>Bellingham Shipping</td>
<td>Design and construct new mooring dolphins and fendering system.</td>
<td>Public Works 12,000,000 Port; State; Federal</td>
</tr>
<tr>
<td>Project Description</td>
<td>Location</td>
<td>Description</td>
<td>Ownership</td>
</tr>
<tr>
<td>------------------------------------------------------------------------------------</td>
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<td>-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------</td>
<td>----------------------------------------</td>
</tr>
<tr>
<td>Marine Trades Area Travel Lift</td>
<td>Bellingham Waterfront District</td>
<td>Develop boat haul-out/travel lift on the north side of the Whatcom Waterway with a private partner. Feasibility/design and construction.</td>
<td>Public Works</td>
</tr>
<tr>
<td>Bellingham Shipping Terminal, Log Pond Redevelopment Area</td>
<td>Bellingham Waterfront District</td>
<td>Power upgrades and improvement to buildings and cargo facilities at the Bellingham Shipping Terminal. Also, provide uplands infrastructure, including rail spur restoration, to serve new economic development activity.</td>
<td>Public Works</td>
</tr>
<tr>
<td>Mt. Baker Products Peninsula Improvements</td>
<td>Bellingham Squalicum Waterfront</td>
<td>Provide infrastructure on 4.5 acre industrial site behind Mt Baker Products to support new marine trades activity.</td>
<td>Public Works</td>
</tr>
<tr>
<td>Schultz Way Improvements</td>
<td>Bellingham Squalicum Waterfront</td>
<td>Reconstruct Port-owned Schultz Way road to city standards as a secondary arterial, serving existing port tenants and extending it to the Mt Baker Products peninsula to serve new tenants.</td>
<td>Public Works</td>
</tr>
<tr>
<td>Marine Highway Port designation for the Bellingham Shipping Terminal and preparation of facilities to service resulting “short sea” routes</td>
<td>Bellingham Shipping Terminal</td>
<td>Achieve MARAD status as a terminal point on the Pacific M-5 Maritime Highway Route and make necessary repairs and reconfiguration to the BST “Railway Dock,” allowing it to handle barge calls and resulting inbound and outbound cargo flow.</td>
<td>Public Works</td>
</tr>
<tr>
<td>Airport Industrial Park Infrastructure Improvements</td>
<td>Bellingham Airport Industrial Park</td>
<td>Infrastructure improvements to the 18 acres of immediately buildable property in the AIP to support business expansion and attraction.</td>
<td>Public Works</td>
</tr>
<tr>
<td>Visitor Moorage at GP Pier</td>
<td>Bellingham Waterfront District</td>
<td>Dock and moorage system in the Whatcom Waterway to serve visiting commercial and recreational boaters, improve water access and stimulate local spending.</td>
<td>Public Works</td>
</tr>
<tr>
<td>Alcohol Plant Renovation</td>
<td>Bellingham Waterfront District</td>
<td>Renovate historic former GP ethyl alcohol plant for commercial uses.</td>
<td>Public Works</td>
</tr>
<tr>
<td>Fishers Pavilion</td>
<td>Bellingham Squalicum Harbor</td>
<td>Construct covered area to store/repair fishing gear, provide a fresh seafood market and host marine trades and community events.</td>
<td>Public Works</td>
</tr>
<tr>
<td>East County Light Industrial Park</td>
<td>Kendall UGA</td>
<td>Acquire property and develop infrastructure to support business development serving the community.</td>
<td>Public Works</td>
</tr>
<tr>
<td>Blaine Wharf District Marine</td>
<td>Blaine Harbor</td>
<td>Infrastructure improvements to support facilitate</td>
<td>Public Works</td>
</tr>
<tr>
<td>Industrial Area</td>
<td>Whatcom County EDI</td>
<td>Rural County Broadband</td>
<td>Whatcom Co.</td>
</tr>
<tr>
<td>---------------------------------------------------------------------------------</td>
<td>------------------------------------------------------------------------------------</td>
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</tr>
<tr>
<td>CITY OF SUMAS</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Regional Recreational Facility Enhancements</td>
<td>Sumas</td>
<td>Replace bleachers at Sumas Rodeo Grounds and associated fields. Upgrade existing facilities and lighting.</td>
<td>Public Works</td>
</tr>
<tr>
<td>Cherry Street (SR 9)/Front Street Roundabout</td>
<td>Sumas</td>
<td>Construct roundabout at intersection to allow for improved truck flow through city industrial sector.</td>
<td>Public Works</td>
</tr>
<tr>
<td>Truck Bypass</td>
<td>Sumas</td>
<td>New road alignment for trucks seeking to utilize the industrial areas of Sumas and the international border crossing.</td>
<td>Public Works</td>
</tr>
<tr>
<td>Sumas Avenue Reconstruction</td>
<td>Sumas</td>
<td>Reconstruct Sumas Avenue from Front Street to Garfield Street.</td>
<td>Public Works</td>
</tr>
<tr>
<td>Cherry Street (SR 9) Bridge Replacement</td>
<td>Sumas</td>
<td>Replace Cherry Street bridge to remove blockage to flow of floodwaters and increase capacity on the State highway.</td>
<td>Public Works</td>
</tr>
<tr>
<td>WHATCOM COUNCIL OF GOVERNMENTS</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Econometric Model</td>
<td>Whatcom County</td>
<td>This project includes acquisition and calibration of data and software intended to enable economic evaluation of various development and infrastructure improvement scenarios. This is a policy/decision-making tool designed to inform investment decisions toward best use of resources.</td>
<td>Planning</td>
</tr>
<tr>
<td>Whatcom Smart Trips</td>
<td>Whatcom County</td>
<td>Three years of core funding for countywide program to reduce travel demand through the use of walking, bicycling, carpooling and transit.</td>
<td>Economic Development</td>
</tr>
<tr>
<td>Project Description</td>
<td>Location</td>
<td>Description</td>
<td>Responsible Agency</td>
</tr>
<tr>
<td>-----------------------------------------------------------------------------------</td>
<td>--------------------------------------------------------------------------</td>
<td>-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------</td>
<td>----------------------------------------------</td>
</tr>
<tr>
<td>International Mobility and Trade Corridor Program (IMTC)</td>
<td>Whatcom County, State of Washington, British Columbia, Canada and U.S.</td>
<td>Three years of core funding for IMTC, a coalition of U.S. and Canadian government and business entities that identifies and promotes improvements to mobility and security for the four border crossings that connect Whatcom County and the Lower Mainland of British Columbia.</td>
<td>Planning</td>
</tr>
<tr>
<td>WHATCOM COUNTY PUBLIC UTILITIES DISTRICT NO. 1</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Grandview Industrial Park Water System Upgrade</td>
<td>Grandview, Interstate 5, Northgate Park, Delta Tech Park</td>
<td>Construction of pipeline and infrastructure from PUD industrial water system to the Grandview Fire water supply system to support industrial and commercial development.</td>
<td>Public Works, Economic Development and Public Safety</td>
</tr>
<tr>
<td>WRWA 1 Water Supply Infrastructure</td>
<td>Various Areas in Whatcom County</td>
<td>Implement Nooksack Basin Water Supply Plan by constructing water system infrastructure projects with other water purveyors to supply water for streamflow, agriculture needs, municipal needs and economic development.</td>
<td>Public Works, Environmental Enhancement and Economic Development</td>
</tr>
<tr>
<td>Alternative/Renewable Energy/Water Reclamation Project</td>
<td>Dairy Farms in Whatcom County</td>
<td>Working with dairy and other agriculture producers, develop agriculture waste treatment facilities to produce renewable fuels, generate electricity and clean water to enhance water quality/quantity, and economic benefits to farmers and ecological systems.</td>
<td>Public Works, Economic Development and Renewable Resources</td>
</tr>
<tr>
<td>Electric Utility Infrastructure</td>
<td>Western Whatcom County</td>
<td>Acquire existing BPA electric infrastructure and construct additional infrastructure to support industrial and commercial industries and redevelopment of existing industries in heavy industrial zones.</td>
<td>Public Works, Economic Development and Renewable Energy</td>
</tr>
</tbody>
</table>
### TITLE OF DOCUMENT:
Joint Funding Agreement with United States Geological Survey

### ATTACHMENTS:
Cover Memo

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

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

The annual Joint Funding Agreement with the USGS funds the ongoing operation and maintenance of the County's six stream gages within the Nooksack River early flood warning system, plus stream gages at the Nooksack River Everson Overflow and Jones Creek in Acme, WA, for early flood warning and flood response

### COMMITTEE ACTION:

### COUNCIL ACTION:

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

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

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

THROUGH: Jon Hutchings, Public Works Director

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

DATE: July 24, 2018

RE: Joint Funding Agreement with United States Geological Survey

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

- **Background and Purpose**
The FCZD has worked cooperatively with the USGS for a number of years to collect stream-gaging data on a real-time basis for early flood warning and flood response. Financing of this program is provided on a cost-share basis through the USGS Cooperative Program. This Joint Funding Agreement covers the six early warning gages on the Nooksack River and its upper forks, plus the Jones Creek gage and the Everson overflow gage at Main Street. The Jones Creek gaging station was installed in 2009 to provide advance warning for the Acme Fire District (AFD) in responding to a debris flow event on Jones Creek. The Everson Overflow gaging station was installed in 2012 in cooperation with the City of Abbotsford to help monitor and plan flood response for overflows at Everson during large flood events.

- **Funding Amount and Source**
The proposed Joint Funding Agreement is for a total amount of $116,937, of which $7,378 will be funded by the USGS through Cooperative Matching Funds. The FCZD fund will provide $99,985, the Acme/VanZandt Subzone will provide $6,312 and the City of Abbotsford will reimburse $4,225 in accordance with the existing Interlocal Agreement for the Everson Overflow gaging station.

Similar to last year, another portion ($9,574) of the total USGS contribution of $16,952 is through its Federal Priority Streamgage Program, which is not reflected in the Joint Funding Agreement (other than in Attachment A) as the agreement is only for Cooperative Water Program funding.

- **Differences from Previous Contract**
This year’s costs are approximately 2.8% higher than the cost of similar services provided last year.

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

Encl.
## Whatcom County Contract Information Sheet

<table>
<thead>
<tr>
<th>Originating Department:</th>
<th>Public Works</th>
</tr>
</thead>
<tbody>
<tr>
<td>Division/Program: (i.e. Dept, Division and Program)</td>
<td>River and Flood/907540</td>
</tr>
<tr>
<td>Contractor or Grant Administrator:</td>
<td>Paula J. Harris</td>
</tr>
<tr>
<td>Contractor's / Agency Name:</td>
<td>United States Geological Survey</td>
</tr>
</tbody>
</table>

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

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

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

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

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

### Is this agreement excluded from E-Verify?  
No ☑ Yes ☐  
If no, include Attachment D Contractor Declaration form.  

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

### Contract Amount: (sum of original contract amount and any prior amendments):  
$ 116,937  

### This Amendment Amount:  
$  

### Total Amended Amount:  
$ 116,937  

### Summary of Scope:  
*The annual Joint Funding Agreement with the USGS funds the ongoing operation and maintenance of the County’s six stream gages within the Nooksack River early flood warning system; a stream gage at the Nooksack River Everson Overflow; and a stream gage on Jones Creek in Acme, WA for early flood warning and flood response.*  

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

<table>
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<tr>
<th>Term of Contract:</th>
<th>Fixed Amount</th>
<th>Expiration Date: September 30, 2019</th>
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</thead>
<tbody>
<tr>
<td></td>
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<td>Date: 7/24/2018</td>
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<td>Date: 7/24/2018</td>
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<td>Date: 6/15/18</td>
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<td>Date: 6/15/18</td>
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<td>Date: 6/15/18</td>
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</tbody>
</table>

Last edited 10/31/16
COUNTY ORIGINAL

Form 9-1366 (May 2018)

U.S. DEPARTMENT OF THE INTERIOR
GEOLOGICAL SURVEY

JOINT FUNDING AGREEMENT

FOR
WATER RESOURCES INVESTIGATIONS

THIS AGREEMENT is entered into as of the, 1 day of October, 2018 by the U.S. GEOLOGICAL SURVEY, UNITED STATES DEPARTMENT OF THE INTERIOR, party of the first part, and the Whatcom County Flood Control Zone District, party of the second part.

1. The parties hereto agree that subject to availability of appropriations and in accordance with their respective authorities there shall be maintained in cooperation a fixed-price agreement for the operation and maintenance of the cooperative streamgaging program between the USGS and Whatcom County Public Works, herein called the program. The USGS legal authority is 43 USC 36C, 43 USC 50; and 43 USC 50b.

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

(a) by the party of the first part during the period

<table>
<thead>
<tr>
<th>Amount</th>
<th>Date</th>
<th>to</th>
<th>Date</th>
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<tbody>
<tr>
<td>$7,378</td>
<td>October 1, 2018</td>
<td>to</td>
<td>September 30, 2019</td>
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</table>

(b) by the party of the second part during the period

<table>
<thead>
<tr>
<th>Amount</th>
<th>Date</th>
<th>to</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>$99,985</td>
<td>October 1, 2018</td>
<td>to</td>
<td>September 30, 2019</td>
</tr>
</tbody>
</table>

(c) Contributions are provided by the party of the first part through other USGS regional or national programs, in the amount of:

$9,574

Description of the USGS regional/nations program: USGS Federal Priority Streamgage Program

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

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

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

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

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

6. During the course of this program, all field and analytical work of either party pertaining to this program shall be open to the inspection of the other party, and if the work is not being carried on in a mutually satisfactory manner, either party may terminate this agreement upon 60 days written notice to the other party.
7. The original records resulting from this program will be deposited in the office of origin of those records. Upon request, copies of the original records will be provided to the office of the other party.

8. The maps, records, or reports resulting from this program shall be made available to the public as promptly as possible. The maps, records, or reports normally will be published by the party of the first part. However, the party of the second part reserves the right to publish the results of this program and, if already published by the party of the first part shall, upon request, be furnished by the party of the first part, at costs, impressions suitable for purposes of reproduction similar to that for which the original copy was prepared. The maps, records, or reports published by either party shall contain a statement of the cooperative relations between the parties. The Parties acknowledge that scientific information and data development as a result of the Scope of Work (SOW) are subject to applicable USGS review, approval, and release requirements, which are available on the USGS Fundamental Science Practices website (https://www2.usgs.gov/fsp/).

9. Billing for this agreement will be rendered: QUARTERLY. Invoices not paid within 60 days from the billing date will bear interest, Penalties, and Administrative cost at the annual rate pursuant the Debt Collection Act of 1982, (codified at 31 U.S.C. § 3717) established by the U.S. Treasury.

---

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

**USGS Point of Contact**

Name: Mark Mastin  
Address: 934 Broadway, Suite 300  
Tacoma, WA 98402  
Telephone: 253-552-1609  
Email: mcmastin@usgs.gov  
Org Code: GGWNYG0000

**Signature and Date:**

Signature: [Signature]  
Date: 4-15-18  
Name: Cynthia Barton, PhD, LHG, LG  
Title: Center Director

---

**Name of Customer**  
**Whatcom County Flood Control Zone District**

**Customer Point of Contact**

Name: Paula Harris  
Address: 322 N. Commercial St, Suite 120  
Bellingham, WA 98225  
Telephone: 360-778-6285  
Email: pharris@co.whatcom.wa.us

**Signature and Date:**

Signature: [Signature]  
Date:  
Name:  
Title:  

---

65
By: _______________________________________
Jack Louws, Whatcom County Executive  Date

STATE OF WASHINGTON )
) ss
COUNTY OF WHATCOM )

On this _____ day of ____________, ______, 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 ________________.

Approved As To Form Only:

[Signature]
Christopher Quinn  Date
Civil Deputy Prosecutor
<table>
<thead>
<tr>
<th>USGS Station No.</th>
<th>Station Name</th>
<th>USGS Federal Priority Streamgage Program</th>
<th>USGS Cooperative Matching Funds</th>
<th>USGS - Whatcom County Public Works Dept. Streamgaging Program, October 1, 2018 - September 30, 2019</th>
<th>Remarks</th>
</tr>
</thead>
<tbody>
<tr>
<td>12205000</td>
<td>North Fork Nooksack River below Cascade Creek near Glacier</td>
<td>$14,322</td>
<td>$7,378</td>
<td>$21,700</td>
<td>Streamflow discharge with priority real-time data transmission</td>
</tr>
<tr>
<td>12208000</td>
<td>Middle Fork Nooksack River near Deming</td>
<td>$4,080</td>
<td></td>
<td></td>
<td>Streamflow discharge with priority real-time data transmission</td>
</tr>
<tr>
<td>12210000</td>
<td>South Fork Nooksack River at Saxon Bridge</td>
<td>$14,624</td>
<td>$7,076</td>
<td>$21,700</td>
<td>Streamflow discharge with priority real-time data transmission</td>
</tr>
<tr>
<td>12210220</td>
<td>Jones Creek at Acme</td>
<td>$4,339</td>
<td></td>
<td></td>
<td>Stage (unpublished) with real-time data transmission, Oct.-June</td>
</tr>
<tr>
<td>12210700</td>
<td>Nooksack River at North Cedarville</td>
<td>$12,890</td>
<td></td>
<td></td>
<td>Streamflow discharge with priority real-time data transmission</td>
</tr>
<tr>
<td>12211195</td>
<td>Nooksack River Overflow at Highway 544 at Everson</td>
<td>$4,225</td>
<td></td>
<td></td>
<td>Stage (published) with real-time data transmission (Oct.-Mar.)</td>
</tr>
<tr>
<td>12211200</td>
<td>Nooksack River at Everson</td>
<td>$21,700</td>
<td></td>
<td></td>
<td>Streamflow discharge with priority real-time data transmission</td>
</tr>
<tr>
<td>12213100</td>
<td>Nooksack River at Ferndale</td>
<td>$19,202</td>
<td>$2,498</td>
<td>$21,700</td>
<td>Streamflow discharge with priority real-time data transmission</td>
</tr>
<tr>
<td></td>
<td></td>
<td>FY19 TOTAL</td>
<td>$99,985</td>
<td>$9,574</td>
<td>$7,378</td>
</tr>
</tbody>
</table>

The remainder of this gage is $4,080 funded by the City of Bellingham.
**WHATCOM COUNTY COUNCIL AGENDA BILL**

**CLEARANCES**

<table>
<thead>
<tr>
<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>JT</td>
<td>6/28/18</td>
<td></td>
<td>8/8/18</td>
<td>Finance/Council</td>
</tr>
<tr>
<td>AD</td>
<td>6/28/18</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>MD</td>
<td>7/13/18</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Z 20 8</td>
<td>7/23/18</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>NM</td>
<td>7/31/18</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**TITLE OF DOCUMENT:**

Agreement between Whatcom County and the Ferndale School District

**ATTACHMENTS:**

1. Contract Information Sheet
2. Memo to County Executive
3. 2 Originals of Contract

**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.)

The purpose of the contracted services is to provide behavioral health services within the Ferndale School District in order to promote a greater ability for academic success for students who are challenged with mental health and substance abuse problems.

**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, County Executive

FROM:  Regina A. Delahunt, Director

RE:    Ferndale School District – Behavioral Health Services Contract Amendment #3

DATE:  July 16, 2018

Enclosed are two (2) originals of a contract amendment between Whatcom County and Ferndale School District for your review and signature.

- Background and Purpose

The purpose of the contracted services is to provide behavioral health services within the Ferndale School District in order to promote a greater ability for academic success for students who are challenged with mental health and substance abuse problems. The purpose of this amendment is to extend the agreement for an additional year and to increase funding for Intervention/Prevention Specialist and subcontracted professional services and professional development and training.

- Funding Amount and Source

The source of funding for this amendment, in an amount not to exceed $120,000, is the Behavioral Health Program Fund. Funding for this amendment is included in the 2018 – 2019 budget. Council approval is required because funding exceeds 10% of the original contract amount.

Please contact Joe Fuller at extension 6045 if you have any questions regarding this agreement.

Encl.
**WHATCOM COUNTY CONTRACT INFORMATION SHEET**

<table>
<thead>
<tr>
<th>Field</th>
<th>Details</th>
</tr>
</thead>
<tbody>
<tr>
<td>Originating Department:</td>
<td>85 Health</td>
</tr>
<tr>
<td>Division/Program:</td>
<td>8550 Human Services / 855060 Mental Health</td>
</tr>
<tr>
<td>Contract or Grant Administrator:</td>
<td>Joe Fuller</td>
</tr>
<tr>
<td>Contractor's / Agency Name:</td>
<td>Ferndale School District</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></td>
</tr>
<tr>
<td>Does contract require Council Approval?</td>
<td>Yes ☒ No ☐</td>
</tr>
<tr>
<td>If Amendment or Renewal, (per WCC 3.08.100 (a)) Original Contract #:</td>
<td>201507028</td>
</tr>
<tr>
<td>If No, include WCC:</td>
<td></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#:</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>Contract Cost Center: 124100</td>
</tr>
<tr>
<td>Is this 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></td>
</tr>
<tr>
<td>Is this agreement excluded from E-Verify?</td>
<td>Yes ☒ No ☐</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 $100,000.</td>
<td></td>
</tr>
<tr>
<td>Contract work is for less than 120 days.</td>
<td></td>
</tr>
<tr>
<td>Interlocal Agreement (between Governments).</td>
<td></td>
</tr>
<tr>
<td>Contract Amount:(sum of original contract amount and any prior amendments):</td>
<td>$ 300,000</td>
</tr>
<tr>
<td>This Amendment Amount:</td>
<td>$ 120,000</td>
</tr>
<tr>
<td>Total Amended Amount:</td>
<td>$ 420,000</td>
</tr>
</tbody>
</table>

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

Summary of Scope: The purpose of this contract is to provide behavioral health services within the Ferndale School District in order to promote a greater ability for academic success for students who are challenged with mental health and substance abuse problems.

<table>
<thead>
<tr>
<th>Term of Contract:</th>
<th>1 Year</th>
<th>Expiration Date:</th>
<th>8/31/2019</th>
<th>Date: 6/15/18</th>
</tr>
</thead>
<tbody>
<tr>
<td>Contract Routing:</td>
<td>1. Prepared by: JT</td>
<td>Date: 7/20/18</td>
<td>Date: 7/23/18</td>
<td></td>
</tr>
</tbody>
</table>
WHATCOM COUNTY HEALTH DEPARTMENT CONTRACT EXTENSION

Whatcom County # 201507028

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

AND CONTRACTOR:
Ferndale School District
PO Box 698
Ferndale, WA 98248

AMENDMENT NUMBER: 3

CONTRACT PERIODS:
Original: 09/01/2015 – 08/31/2016
Amendment #1 09/01/2016 – 08/31/2017
Amendment #2 09/01/2017 – 08/31/2018
Amendment #3 09/01/2018 – 08/31/2019

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

DESCRIPTION OF EXTENSION:

1. Extend the duration and other terms of this contract for 1 year, as per the original contract “General Terms, Section 10.2, Extension”.

2. Amend Exhibit B “Compensation” by adding $20,000 for additional subcontracted services, professional development and training, and staffing.

3. Funding for this extended contract period (09/01/2018 - 08/31/2019) is not to exceed $120,000

4. Funding for the total contract period (09/01/2015 – 08/31/2019) is not to exceed $420,000.

5. All other terms and conditions remain unchanged.

6. The effective start date of the extension is 09/01/2018.
EXHIBIT "B"
(COMpENSATION)

The source of funding for this contract, in an amount not to exceed $120,000.00, is the Behavioral Health Program Fund.

The budget for behavioral health services is as follows:

<table>
<thead>
<tr>
<th>Contract Budget 9/1/2018 – 8/31/2019</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Item</strong></td>
</tr>
<tr>
<td>Intervention/Prevention Specialist</td>
</tr>
<tr>
<td>(including salary and benefits)</td>
</tr>
<tr>
<td>Subcontracted services (e.g.,</td>
</tr>
<tr>
<td>assessment, therapy, drug/alcohol</td>
</tr>
<tr>
<td>counseling, case management, parent</td>
</tr>
<tr>
<td>education)</td>
</tr>
<tr>
<td>Care Team Member Stipends</td>
</tr>
<tr>
<td>($600/member/year &amp; taxes)</td>
</tr>
<tr>
<td>Program supplies, professional</td>
</tr>
<tr>
<td>development, training, and travel</td>
</tr>
<tr>
<td></td>
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<td></td>
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<tr>
<td><strong>TOTAL</strong></td>
</tr>
</tbody>
</table>

The Contractor may transfer funds between budget line items with County prior approval.

The Contractor cannot exceed 40% of the total allocation during the first four months of service (September through December) without prior County approval.
ALL OTHER TERMS AND CONDITIONS OF THE ORIGINAL CONTRACT AND ANY PREVIOUS AMENDMENTS THERETO REMAIN IN FULL FORCE AND EFFECT.

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

Signature is required below.

==================================
APPROVAL AS TO PROGRAM:
Anne Deacon, Human Services Manager 7/16/18
Date

DEPARTMENT HEAD APPROVAL:
Regina A. Delahunty, Health Department Director 7/18/18
Date

APPROVAL AS TO FORM:
Royce Buckingham, Civil Deputy Prosecuting Attorney 7-20-18
Date

FOR THE CONTRACTOR:
Contractor Signature

Print Name and Title
7/12/18
Date

STATE OF WASHINGTON
COUNTY OF WHATCOM

On this 12th day of July, 2018, before me personally appeared Paul Douglas, to me known to be the undersigned and who executed the above instrument and who acknowledged to me the act of signing and sealing thereof.

TAMERA J. LONGSTAFF

NOTARY PUBLIC in and for the State of Washington, Residing at Bellingham, Washington.

My Commission expires:

FOR WHATCOM COUNTY:

Jack Louws, County Executive
Date

STATE OF WASHINGTON
COUNTY OF WHATCOM

On this _____ day of ____________________, 2018, before me personally appeared Jack Louws, to me known to be the Executive of Whatcom County and who executed the above instrument and who acknowledged to me the act of signing and sealing thereof.

NOTARY PUBLIC in and for the State of Washington, Residing at Bellingham.

My Commission expires:

 HL_090118_Ferndale_SD_Amend_03   Page 3 of 3
**WHATCOM COUNTY COUNCIL AGENDA BILL**

<table>
<thead>
<tr>
<th>CLEARANCES</th>
<th>Initial</th>
<th>Date</th>
<th>Date Received in Council Office</th>
<th>Agenda Date</th>
<th>Assigned to:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Originator:</td>
<td>JT</td>
<td>6/20/18</td>
<td></td>
<td>8/8/18</td>
<td>Finance/Council</td>
</tr>
<tr>
<td>Division Head:</td>
<td>AD</td>
<td>6/28/18</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Dept. Head:</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Prosecutor:</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Purchasing/Budget:</td>
<td></td>
<td>7/16/18</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Executive:</td>
<td></td>
<td>7/31/18</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**TITLES OF DOCUMENT:**
Agreement between Whatcom County and the Nooksack Valley School District

**ATTACHMENTS:**
1. Contract Information Sheet
2. Memo to County Executive
3. 2 Originals of Contract

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

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

The purpose of the contracted services is to provide behavioral health services within the Nooksack Valley School District in order to promote a greater ability for academic success for students who are challenged with mental health and substance abuse problems.

**COMMITTEE ACTION:**

**COUNCIL ACTION:**

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

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

TO: Jack Louws, County Executive
FROM: Regina A. Delahunt, Director
RE: Nooksack Valley School District – Behavioral Health Services Contract Amendment #3
DATE: July 9, 2018

Enclosed are two (2) originals of a contract amendment between Whatcom County and Nooksack Valley School District for your review and signature.

- **Background and Purpose**

The purpose of the contracted services is to provide behavioral health services within the Nooksack Valley School District in order to promote a greater ability for academic success for students who are challenged with mental health and substance abuse problems. The purpose of this amendment is to extend the agreement for an additional year and to increase funding for additional Behavioral, Prevention, and Intervention Specialist services, as well as expanded Family Resource Coordinator services.

- **Funding Amount and Source**

The source of funding for this amendment, in an amount not to exceed $120,000, is the Behavioral Health Program Fund. Funding for this amendment is included in the 2018 budget. Council approval is required because funding exceeds 10% of the original contract amount.

Please contact Joe Fuller at extension 6045 if you have any questions regarding this agreement.

Encl.
**Whatcom County Contract No.**

**201507019 – 3**

**Whatcom County Contract Information Sheet**

<table>
<thead>
<tr>
<th>Originating Department:</th>
<th>85 Health</th>
</tr>
</thead>
<tbody>
<tr>
<td>Division/Program: (i.e. Dept. Division and Program)</td>
<td>8550 Human Services / 855020 Mental Health</td>
</tr>
<tr>
<td>Contract or Grant Administrator:</td>
<td>Joe Fuller</td>
</tr>
<tr>
<td>Contractor’s / Agency Name:</td>
<td>Nooksack Valley School District</td>
</tr>
</tbody>
</table>

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

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

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

**If Amendment or Renewal, (per WCC 3.08.100 (a)) Original Contract #:**
- 201507019

**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):**
- CFDA#

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

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

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

**If yes, RFP and Bid number(s):**
- Contract Cost Center: 124100

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

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

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

**Contract Amount:** (sum of original contract amount and any prior amendments):
- $ 300,000

**This Amendment Amount:**
- $ 120,000

**Total Amended Amount:**
- $ 420,000

**Summary of Scope:** The purpose of this contract is to provide behavioral health services within the Nooksack Valley School District in order to promote a greater ability for academic success for students who are challenged with mental health and substance abuse problems.

**Term of Contract:**
- 1 Year

**Expiration Date:**
- 8/31/2019

**Contract Routing:**
1. Prepared by: JT
2. Attorney signoff: Date: 7/15/18
3. AS Finance reviewed: Date: 7/16/18
4. IT reviewed (if IT related): Date: 6/29/18
5. Contractor signed: Date: 7/16/18
6. Submitted to Exec.: Date: 7/16/18
7. Council approved (if necessary): Date: 8/31/19
8. Executive signed: Date: 8/31/19
9. Original to Council: Date: 8/31/19
WHATCOM COUNTY HEALTH DEPARTMENT CONTRACT EXTENSION

Whatcom County # 201507019

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

AND CONTRACTOR:
Nooksack Valley School District
3326 E Badger Road
Nooksack, WA 98276

AMENDMENT NUMBER: 3

CONTRACT PERIODS:
Original: 09/01/2015 – 08/31/2016
Amendment #1 09/01/2016 – 08/31/2017
Amendment #2 09/01/2017 – 08/31/2018
Amendment #3 09/01/2018 – 08/31/2019

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

DESCRIPTION OF EXTENSION:

1. Extend the duration and other terms of this contract for 1 year, as per the original contract "General Terms, Section 10.2, Extension".

2. Amend Exhibit B "Compensation" by adding $20,000 for additional Behavioral, Prevention, and Intervention Specialist services, and expanded Family Resource Coordinator services.

3. Funding for this extended contract period (09/01/2018 - 08/31/2019) is not to exceed $120,000.

4. Funding for the total contract period (09/01/2015 – 08/31/2019) is not to exceed $420,000.

5. All other terms and conditions remain unchanged.

6. The effective start date of the extension is 09/01/2018.
EXHIBIT "B" – Amendment #3  
(COMPLEMENTATION)

The source of funding for this contract, in an amount not to exceed $120,000, is the Behavioral Health Program Fund.

The budget for behavioral health services is as follows:

<table>
<thead>
<tr>
<th>Item</th>
<th>Invoice Documentation Required</th>
<th>Budget</th>
</tr>
</thead>
<tbody>
<tr>
<td>Family Resource Coordinators (including salary and benefits)</td>
<td>General Ledger Detail</td>
<td>$30,021</td>
</tr>
<tr>
<td>Behavioral, Prevention, and Intervention Specialists (including salary and benefits)</td>
<td>General Ledger Detail</td>
<td>$89,279</td>
</tr>
<tr>
<td>Subcontracted services (e.g., assessment, therapy, psychological services, drug/alcohol counseling, case management, parent education, etc.)</td>
<td>Subcontractor invoice showing subcontractor name, type of service, rate &amp; hours of service, student identifier $500</td>
<td></td>
</tr>
<tr>
<td>Travel</td>
<td>For mileage reimbursement, copies of mileage records, including the name of the staff member, date of travel, starting point and destination of travel, the number of miles traveled, and a brief description of the purpose of travel. Mileage will be reimbursed at the current Federal rate.</td>
<td>$100</td>
</tr>
<tr>
<td>Program Supplies and Materials</td>
<td>General Ledger Detail</td>
<td>$100</td>
</tr>
<tr>
<td>TOTAL</td>
<td></td>
<td>$120,000</td>
</tr>
</tbody>
</table>

The Contractor may transfer funds between budget line items with County prior approval.

The Contractor cannot exceed 40% of the total allocation during the first four months of service (September through December) without prior County approval.
ALL OTHER TERMS AND CONDITIONS OF THE ORIGINAL CONTRACT AND ANY PREVIOUS AMENDMENTS THERETO REMAIN IN FULL FORCE AND EFFECT.

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

Signature is required below.

APPROVAL AS TO PROGRAM:  
Anne Deacon, Human Services Manager  
Date: 7/9/18

DEPARTMENT HEAD APPROVAL:  
Regina A. Delahunt, Health Department Director  
Date: 7/10/18

APPROVAL AS TO FORM:  
Royce Buckingham, Civil Deputy Prosecuting Attorney  
Date: 7/15/18

FOR THE CONTRACTOR:

Cindy Stackwell, Asst Superintendent  
Date: 6/29/18

STATE OF WASHINGTON)  
COUNTY OF WHATCOM

On this 29th day of June, 2018, before me personally appeared Cindy Stackwell, to me known to be the Asst Superintendent, and who executed the above instrument and who acknowledged to me the act of signing and sealing thereof.

YESENIA CISNEROS  
Notary Public  
State of Washington  
My Commission Expires September 04, 2019

FOR WHATCOM COUNTY:

Jack Louws, County Executive  
Date

STATE OF WASHINGTON)  
COUNTY OF WHATCOM

On this ______ day of __________________, 2018, before me personally appeared Jack Louws, to me known to be the Executive of Whatcom County and who executed the above instrument and who acknowledged to me the act of signing and sealing thereof.

NOTARY PUBLIC in and for the State of Washington, 
Residing at Sumas, WA 98295

My Commission expires:
## WHATCOM COUNTY COUNCIL AGENDA BILL

<table>
<thead>
<tr>
<th>CLEARANCES</th>
<th>Initial</th>
<th>Date</th>
<th>Date Received in Council Office</th>
<th>Agenda Date</th>
<th>Assigned to</th>
</tr>
</thead>
<tbody>
<tr>
<td>Originator:</td>
<td>JT</td>
<td>6/20/2018</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Division Head:</td>
<td>AD</td>
<td>6/28/18</td>
<td></td>
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<td></td>
</tr>
<tr>
<td>Dept. Head:</td>
<td></td>
<td>7/10/18</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Prosecutor:</td>
<td></td>
<td>7/13/18</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Purchasing/Budget:</td>
<td>7/16/18</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Executive:</td>
<td></td>
<td>7/31/18</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**TITLE OF DOCUMENT**
Agreement between Whatcom County and the Blaine School District

**ATTACHMENTS:**
1. Contract Information Sheet
2. Memo to County Executive
3. 2 Originals of Contract

**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.)

The purpose of the contracted services is to provide behavioral health services within the Blaine School District in order to promote a greater ability for academic success for students who are challenged with mental health and substance abuse problems.

**COMMITTEE ACTION:**

**COUNCIL ACTION:**

**Related County Contract #:**

**Related File Numbers:**

**Ordinance or Resolution Number:**

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

TO: Jack Louws, County Executive

FROM: Regina A. Delahunt, Director

RE: Blaine School District – Behavioral Health Services Contract Amendment #3

DATE: July 9, 2018

Enclosed are two (2) originals of a contract amendment between Whatcom County and Blaine School District for your review and signature.

- Background and Purpose

The purpose of this contract is to provide behavioral health services within the Blaine School District in order to promote a greater ability for academic success for students who are challenged with mental health and substance abuse problems. The purpose of this amendment is to extend the agreement for an additional year and to increase funding for school-based counseling services, subcontracted professional services, and Care Team Stipends.

- Funding Amount and Source

The source of funding for this amendment, in an amount not to exceed $131,400, is the Behavioral Health Program fund. Funding for this amendment is included in the 2018 budget. Council approval is required because funding exceeds 10% of the original contract amount.

Please contact Joe Fuller at extension #6045 if you have any questions regarding this agreement.

Encl.
### WHATCOM COUNTY CONTRACT INFORMATION SHEET

**Originating Department:** 85 Health  
**Division/Program:** (i.e. Dept. Division and Program) 8550 Human Services / 855020 Mental Health  
**Contract or Grant Administrator:** Joe Fuller  
**Contractor’s / Agency Name:** Blaine School District

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 #: 201507023  
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 Number:  
Cost Center: 124100  
Is this agreement excluded from E-Verify? No ☐ Yes ☒  
If no, include Attachment D Contractor Declaration form.

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

**Contract Amount:** (sum of original contract amount and any prior amendments):  
$ 293,400  
**This Amendment Amount:**  
$ 131,400  
**Total Amended Amount:**  
$ 424,800  
**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.

**Summary of Scope:** The purpose of this contract is to provide behavioral health services within the Blaine School District in order to promote a greater ability for academic success for students who are challenged with mental health and substance abuse problems.

**Term of Contract:** 1 Year  
**Expiration Date:** 8/31/2019  
**Contract Routing:**  
1. Prepared by: JT  
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:** 6/15/2018  
**Date:**  
**Date:**  
**Date:**  
**Date:** 6-29-18  
**Date:** 7-16-18  
**Date:**
WHATCOM COUNTY HEALTH DEPARTMENT CONTRACT EXTENSION

Whatcom County # 201507023

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

AND CONTRACTOR:
Blaine School District
770 Mitchell Street
Blaine, WA  98230

AMENDMENT NUMBER: 3

CONTRACT PERIODS:
Original: 09/01/2015 – 08/31/2016
Amendment #1: 09/01/2016 – 08/31/2017
Amendment #2: 09/01/2017 – 08/31/2018
Amendment #3: 09/01/2018 – 08/31/2019

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

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

DESCRIPTION OF EXTENSION:

1. Extend the duration and other terms of this contract for 1 year, as per the original contract “General Terms, Section 10.2, Extension”.

2. Amend Exhibit B – Compensation, to add $18,000 in funding for school-based counseling services, subcontracted professional services and Care Team stipends; revised Exhibit B is attached.

3. Funding for this extended contract period (09/01/2018 – 08/31/2019) is not to exceed $131,400.

4. Funding for the total contract period (09/01/2015 – 08/31/2019) is not to exceed $424,800.

5. All other terms and conditions remain unchanged.

6. The effective start date of the extension is 09/01/2018.
ALL OTHER TERMS AND CONDITIONS OF THE ORIGINAL CONTRACT AND ANY PREVIOUS AMENDMENTS THERETO REMAIN IN FULL FORCE AND EFFECT. ALL PARTIES IDENTIFIED AS AFFECTED BY THIS EXTENSION HEREBY ACKNOWLEDGE AND ACCEPT THE TERMS AND CONDITIONS OF THIS EXTENSION. Signature is required below.

APPROVAL AS TO PROGRAM: Anne Deacon, Human Services Manager 7/9/18
DEPARTMENT HEAD APPROVAL: Regina A. Delahunt, Health Department Director 7/10/18
APPROVAL AS TO FORM: Royce Buckingham, Civ. Deputy Prosecuting Attorney 7/13/18

FOR THE CONTRACTOR:

Contractor Signature  Randy Elsbree, Director 6/25/18
Print Name and Title  Date

STATE OF WASHINGTON
COUNTY OF WHATCOM

On this 29th day of JUNE, 2018, before me personally appeared Randy Elsbree, to me known to be the Director and who executed the above instrument and who acknowledged to me the act of signing and sealing thereof.

Lynn M. VanBuckink
NOTARY PUBLIC in and for the State of Washington
Residing at Blaine
My Commission expires: 8/1/2021

FOR WHATCOM COUNTY:

Jack Louws, County Executive  Date
STATE OF WASHINGTON
COUNTY OF WHATCOM

On this ______ day of _____________________, 2018, before me personally appeared Jack Louws, to me known to be the Executive of Whatcom County and who executed the above instrument and who acknowledged to me the act of signing and sealing thereof.

________________________________________
NOTARY PUBLIC in and for the State of Washington,
Residing at Bellingham.
My Commission expires: _____________________
EXHIBIT "B" – Amendment #3  
(COMPENSATION)

The source of funding for this contract, in an amount not to exceed $131,400, is the Behavioral Health Program Fund. The budget for mental health intervention and treatment services is as follows:

<table>
<thead>
<tr>
<th>Item</th>
<th>Invoice Documentation Required</th>
<th>Budget</th>
</tr>
</thead>
<tbody>
<tr>
<td>Intervention/Prevention Specialist (including salary and benefits)</td>
<td>General Ledger Detail</td>
<td>$73,272</td>
</tr>
<tr>
<td>Mental Health Counselor (including salary and benefits)</td>
<td>General Ledger Detail for supplies &amp; training</td>
<td></td>
</tr>
<tr>
<td>Program supplies, professional development/training, and travel</td>
<td>For mileage reimbursement, copies of mileage records, including the name of the staff member, date of travel, starting point and destination, the number of miles traveled, the per mile reimbursement rate, and a brief description of the purpose of travel, for mileage reimbursement. Mileage will be reimbursed at the current Federal Rate. Ground transportation, coach airfare, and ferries will be reimbursed at cost when accompanied by receipts. Reimbursement requests for allowable travel must include name of staff member, beginning and ending time and dates of travel, starting point and destination, and a brief description of purpose. Lodging and meal costs for training are not to exceed the U.S. General Services Administration Domestic Per Diem Rates (<a href="http://www.gsa.gov">www.gsa.gov</a>), specific to location. Receipts for meals are not required.</td>
<td>$10,558</td>
</tr>
<tr>
<td>Subcontracted services (e.g., alcohol and drug evaluations, case management, community presentations, parent and staff trainings, psychological evaluations)</td>
<td>Subcontractor invoicing showing subcontractor name, type of service, rate &amp; hours of service, student identifier</td>
<td>$37,970</td>
</tr>
<tr>
<td>Care Team member stipends plus benefits (Middle School and High School) $450/member/yr</td>
<td>Names of Care Team Members</td>
<td>$9,600</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td></td>
<td><strong>$131,400</strong></td>
</tr>
</tbody>
</table>

The Contractor may transfer funds between budget line items with County prior approval.

The Contractor cannot exceed 40% of the total allocation during the first four months of service (September through December) without prior county approval.
# WHATCOM COUNTY COUNCIL AGENDA BILL

<table>
<thead>
<tr>
<th>CLEARANCES</th>
<th>Initial</th>
<th>Date</th>
<th>Date Received in Council Office</th>
<th>Agenda Date</th>
<th>Assigned to:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Originator:</td>
<td>JT</td>
<td>6/20/2018</td>
<td></td>
<td>8/8/18</td>
<td>Finance/Council</td>
</tr>
<tr>
<td>Division Head:</td>
<td>AD</td>
<td>6/28/18</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Dept. Head:</td>
<td>L40</td>
<td>7/12/18</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Prosecutor:</td>
<td>7-35-18</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Purchasing/Budget:</td>
<td>BB</td>
<td>1/13/18</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Executive:</td>
<td>W</td>
<td>3.31.18</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**TITLE OF DOCUMENT:**
Agreement between Whatcom County and the Lynden School District

**ATTACHMENTS:**
1. Contract Information Sheet
2. Memo to County Executive
3. 2 Originals of Contract

**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.)

The purpose of the contracted services is to provide behavioral health services within the Lynden School District in order to promote a greater ability for academic success for students who are challenged with mental health and substance abuse problems.

**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, County Executive

FROM: Regina A. Delahunt, Director

RE: Lynden School District, Behavioral Health Services, Amendment #3

DATE: July 10, 2018

Enclosed are two (2) originals of a contract amendment between Whatcom County and Lynden School District for your review and signature.

- Background and Purpose

The purpose of the contracted services is to provide behavioral health services within the Lynden School District in order to promote a greater ability for academic success for students who are challenged with mental health and substance abuse problems. The purpose of this amendment is to extend the agreement for an additional year and to increase funding to provide Youth Mental Health First Aid Training. Funds would train district staff to be facilitators, and provide coverage for 60-90 staff to complete the training.

- Funding Amount and Source

The source of funding for this amendment, in an amount not to exceed $111,000, is the Behavioral Health Program Fund. Funding for this amendment is included in the 2018 – 2019 budget. Council approval is required because funding exceeds 10% of the original contract amount.

Please contact Joe Fuller at extension 6045 if you have any questions regarding this agreement.

Encl.
**WHATCOM COUNTY CONTRACT INFORMATION SHEET**

**Originating Department:** 85 Health

**Division/Program: (i.e. Dept. Division and Program)** 8550 Human Services / 855060 Mental Health

**Contract or Grant Administrator:** Joe Fuller

**Contractor’s / Agency Name:** Lynden School District

---

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

**If not, is this an Amendment or Renewal to an Existing Contract?**

**Yes [x]  No [ ]

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

- If Amendment or Renewal, (per WCC 3.08.100 (a)) Original Contract #: 201507027
- 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 [x]

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

**CFDA#:**

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

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

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

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

**Contract Cost Center:**

124100

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

**If yes, include Attachment D Contractor Declaration form.**

---

If YES, indicate exclusion(s) below:

- Professional services agreement for certified/licensed professional.

- Contract work is for less than $100,000.

- Contract work is for less than 120 days.

- Interlocal Agreement (between Governments).

- Contract for Commercial off the shelf items (COTS).

- Work related subcontract less than $25,000.

- Public Works - Local Agency/Federally Funded FHWA.

---

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

- $ 277,500

**This Amendment Amount:**

- $ 111,000

**Total Amended Amount:**

- $ 388,500

Council approval required for: all property leases, contracts or bid awards exceeding $40,000, and professional service contract amendments that have an increase greater than $10,000 or 10% of contract amount, whichever is greater, except when:

1. Exercising an option contained in a contract previously approved by the council.

2. Contract is for design, construction, r-o-w acquisition, professional services, or other capital costs approved by council in a capital budget appropriation ordinance.

3. Bid or award is for supplies or equipment included approved in the budget.

4. Contract is for manufacturer's technical support and hardware maintenance of electronic systems and/or technical support and software maintenance from the developer of proprietary software currently used by Whatcom County.

---

**Summary of Scope:** The purpose of this contract is to provide behavioral health services within the Lynden School District in order to promote a greater ability for academic success for students who are challenged with mental health and substance abuse problems.

---

**Term of Contract:** 1 Year

**Expiration Date:** 8/31/2019

**Contract Routing:**

1. Prepared by: JT


3. AS Finance reviewed by: [bennett]

4. IT reviewed (if IT related): [16]

5. Contractor signed: [ ]

6. Submitted to Exec.: [ ]

7. Council approved (if necessary): [ ]

8. Executive signed: [ ]

9. Original to Council: [ ]

---

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WHATCOM COUNTY HEALTH DEPARTMENT CONTRACT EXTENSION

Whatcom County # 201507027

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

AMENDMENT NUMBER: 3

CONTRACT PERIODS:
Original:  09/01/2015 – 08/31/2016
Amendment #1  09/01/2016 – 08/31/2017
Amendment #2  09/01/2017 – 08/31/2018
Amendment #3  09/01/2018 – 08/31/2019

AND CONTRACTOR:
Lynden School District
1203 Bradley Road
Lynden, WA  98264

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

DESCRIPTION OF EXTENSION:

1. Extend the duration and other terms of this contract for 1 year, as per the original contract "General Terms, Section 10.2, Extension".

2. Amend Exhibit B "Compensation" by adding $18,500 to provide Youth Mental Health First Aid Training. Funds would train district staff to be facilitators, and provide coverage for 60-90 staff to complete the training.

3. Funding for this extended contract period (09/01/2018 - 08/31/2019) is not to exceed $111,000

4. Funding for the total contract period (09/01/2015 – 08/31/2019) is not to exceed $388,500.

5. All other terms and conditions remain unchanged.

6. The effective start date of the extension is 09/01/2018.
EXHIBIT "B"
(COMPLEMENTATION)

The source of funding for this contract, in an amount not to exceed $111,000.00, is the Behavioral Health Program Fund.

The budget for behavioral health services is as follows:

<table>
<thead>
<tr>
<th>Item</th>
<th>Documentation Required for Reimbursement</th>
<th>Budget</th>
</tr>
</thead>
<tbody>
<tr>
<td>Community Prevention Specialist</td>
<td>General Ledger Detail</td>
<td>$30,000</td>
</tr>
<tr>
<td>(including salary and benefits)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Drug/Alcohol Intervention/Prevention Specialist</td>
<td>General Ledger Detail</td>
<td>$25,000</td>
</tr>
<tr>
<td>(including salary and benefits)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Behavioral Intervention/Prevention Specialist</td>
<td>General Ledger Detail</td>
<td>$35,000</td>
</tr>
<tr>
<td>(including salary and benefits)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Staff time (facilitating and/or receiving training)</td>
<td>General Ledger Detail</td>
<td>18,500</td>
</tr>
<tr>
<td>Subcontracted services (e.g., therapy, Psychological services, drug/alcohol counseling)</td>
<td>Subcontractor invoice showing subcontractor name, type of service, rate &amp; hours of service, student identifier</td>
<td>$1,500</td>
</tr>
<tr>
<td>Program supplies, professional development/training, and travel</td>
<td>General Ledger Detail or receipts detailing program supplies, training, and travel expenses</td>
<td>$1,000</td>
</tr>
<tr>
<td></td>
<td>For mileage reimbursement, copies of mileage records, including the name of the staff member, date of travel, starting point and destination of travel, the number of miles traveled, and a brief description of the purpose of travel. Mileage will be reimbursed at the current Federal rate.</td>
<td></td>
</tr>
</tbody>
</table>

**TOTAL** $111,000

The Contractor may transfer funds between budget line items with County prior approval.

The Contractor cannot exceed 40% of the total allocation during the first four months of service (September through December) without prior County approval.
ALL OTHER TERMS AND CONDITIONS OF THE ORIGINAL CONTRACT AND ANY PREVIOUS AMENDMENTS THERETO REMAIN IN FULL FORCE AND EFFECT.

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

Signature is required below.

APPROVAL AS TO PROGRAM:

Anna Deacon, Human Services Manager
Date

DEPARTMENT HEAD APPROVAL:

Regina A. Delahunt, Health Department Director
Date

APPROVAL AS TO FORM:

Royce Buckingham, Civil Deputy Prosecuting Attorney
Date

FOR THE CONTRACTOR:

Contractor Signature | Print Name and Title | Date

STATE OF WASHINGTON)

COUNTY OF WHATCOM )

On this ______ day of ______, 2018, before me personally appeared __________ to me known to be the __________ and who executed the above instrument and who acknowledged to me the act of signing and sealing thereof.

________________________
NOTARY PUBLIC in and for
the State of __________
Residing at __________

My Commission expires:

FOR WHATCOM COUNTY:

________________________
Jack Louws, County Executive
Date

STATE OF WASHINGTON)

COUNTY OF WHATCOM )

On this ______ day of __________, 2018, before me personally appeared Jack Louws, to me known to be the Executive of Whatcom County and who executed the above instrument and who acknowledged to me the act of signing and sealing thereof.

________________________
NOTARY PUBLIC in and for the State of Washington,
Residing at Bellingham.

My Commission expires:
**CLEARANCES**

<table>
<thead>
<tr>
<th>Originator:</th>
<th>Initial</th>
<th>Date</th>
<th>Date Received in Council Office</th>
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<tbody>
<tr>
<td>JT</td>
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<td>7/10/18</td>
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<td>8/8/18</td>
<td>Finance/Council</td>
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<td>7/31/18</td>
<td></td>
<td></td>
<td></td>
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</tbody>
</table>

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**TITLE OF DOCUMENT:**

Contract amendment between Whatcom County and North Sound Behavioral Health Organization

---

**ATTACHMENTS:**

1. Memo to County Executive
2. Contract Information Sheet
3. 1 Original of Contract

---

**SEPA review required?**

<table>
<thead>
<tr>
<th>Yes</th>
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**SEPA review completed?**

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**Should Clerk schedule a hearing?**

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**Requested Date:**

---

**SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:**

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

This contract provides funding to support evidence-based services in the schools and in the community that have been shown to reduce elevated risk factors for substance use disorders and behavioral health issues in Whatcom County.

---

**COMMITTEE ACTION:**

---

**COUNCIL ACTION:**

---

**Related County Contract #:**

---

**Related File Numbers:**

---

**Ordinance or Resolution Number:**

---

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

TO: Jack Louws, County Executive

FROM: Regina A. Delahunt, Director

RE: North Sound Behavioral Health Organization – Community Partnership Contract

DATE: July 12, 2018

Enclosed are two (2) originals of a contract between Whatcom County and North Sound Behavioral Health Organization for your review and signature.

- Background and Purpose

This contract provides funding to support evidence-based services in the schools and in the community that have been shown to reduce elevated risk factors for substance use disorders and behavioral health issues in Whatcom County. Regionally, funds are distributed by North Sound Behavioral Health Organization (NS BHO) to the county for development, implementation, maintenance, and evaluation of programs that support prevention and recovery support services for middle school and high school aged students.

- Funding Amount and Source

Funding in the amount of $115,506 is provided by Medicaid funds via the North Sound Behavioral Health Organization. These funds are included in the 2018 budget. County Council approval is required per RCW 39.34.030(2) for agreements between public agencies.

Please contact Joe Fuller at extension #6045 if you have any questions regarding this agreement.

Encl.
**WHATCOM COUNTY CONTRACT INFORMATION SHEET**

**Originating Department:** 85 Health

**Division/Program:** (i.e. Dept. Division and Program) 8550 Human Services / 855060 Substance Abuse Program

**Contract or Grant Administrator:** Joe Fuller

**Contractor’s / Agency Name:** North Sound Behavioral Health Organization

**Is this a New Contract?** Yes ☐ No ☑

**If not, is this an Amendment or Renewal to an Existing Contract?** Yes ☐ No ☑

**Original Contract #:**

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

(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):** BHO - WHATCOM - PSC 18

**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 ☑

**Center:**

**Contract Cost:** 675500

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

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

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

**If YES, indicate exclusion(s) below:**

☐ Professional services agreement for certified/licensed professional.

☐ Contract work is for less than $100,000.

☐ Contract work is for less than 120 days.

☒ Interlocal Agreement (between Governments).

☐ Contract for Commercial off the shelf items (COTS).

☐ Work related subcontract less than $25,000.

☐ Public Works - Local Agency/Federally Funded FHWA.

**Contract Amount:(sum of original contract amount and any prior amendments):** $115,506

**This Amendment Amount:**

**Total Amended Amount:**

**Council approval required for: all property leases, contracts or bid awards exceeding $40,000, and professional service contract amendments that have an increase greater than $10,000 or 10% of contract amount, whichever is greater, except when:**

1. Exercising an option contained in a contract previously approved by the council.
2. Contract is for design, construction, r-o-w acquisition, professional services, or other capital costs approved by council in a capital budget appropriation ordinance.
3. Bid or award is for supplies or equipment included approved in the budget.
4. Contract is for manufacturer’s technical support and hardware maintenance of electronic systems and/or technical support and software maintenance from the developer of proprietary software currently used by Whatcom County.

**Summary of Scope:** The purpose of this contract is to provide funding to support evidence-based services in the schools and in the community that have been shown to reduce elevated risk factors for substance use disorders and behavioral health issues in Whatcom County.

<table>
<thead>
<tr>
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<tr>
<td></td>
<td>9. Original to Council:</td>
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<td></td>
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</tbody>
</table>
PROFESSIONAL SERVICE AGREEMENT
NORTH SOUND BEHAVIORAL HEALTH ORGANIZATION, LLC (North Sound BHO)
AND
WHATCOM COUNTY

CONTRACT #NORTH SOUND BHO-WHATCOM-PSC 18

THIS AGREEMENT is entered into between NORTH SOUND BEHAVIORAL HEALTH ORGANIZATION, LLC (North Sound BHO)/PREPAID HEALTH PLAN, 301 Valley Mall Way, Suite 110, Mount Vernon, WA 98273 and WHATCOM COUNTY (Contractor), 509 Girard Street 37, Bellingham, WA 98225.

THE PARTIES MUTUALLY AGREE AS FOLLOWS:

I. Terms and Conditions
   A. Term: This Agreement shall take effect July 1, 2018 and shall continue in full force and effect through December 31, 2018.
   B. Termination: This Agreement may be terminated in whole or in part by either party for any reason by giving 30-calendar days’ written notice to the other party.

   1. Loss of Funding: In the event funding from any source is withdrawn, reduced, or limited in any way after the effective date of this Agreement and prior to termination, North Sound BHO may terminate this Agreement by written notice effective upon Contractor’s receipt of written notice. The parties may re-negotiate under new funding limitations and conditions.

   2. Breach: This Agreement may be terminated for any breach by either party. The terminating party shall give the breaching party five (5)-calendar days’ written notice to cure the breach. Failure to cure shall cause this agreement to terminate immediately at the end of the five (5)-day period.

   C. Amendments: This Agreement may only be amended by written consent of both parties.

   D. Compliance with Laws: Contractor shall comply with all applicable federal, state and local laws, rules and regulations in performing this Agreement, including, but not limited to, laws against discrimination and conflict of interest laws.

   E. Confidentiality: The parties shall use personal information and other confidential information gained by reason of this Agreement only for the purpose of this Agreement. All parties shall not disclose, transfer, or sell any such information to any other party, except as provided by law or, in the case of personal information except as provided by law or with the prior written consent of the person whom the personal information pertains. The parties shall maintain the confidentiality of all personal information and other confidential information gained by reason of this Agreement and shall return or certify the destruction of such information if requested in writing by the party to this Agreement that provided the information.
F. **Debarment Certification:** Contractor, by signature to this Agreement, certifies that Contractor and any Owners are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any Federal department or agency from participating in transactions (Debarred) and is not listed in the Excluded Parties List System in the System for Award Management (SAM) website. Contractor shall immediately notify North Sound BHO if, during the term of this Contract, Contractor becomes debarred.

G. **Relationship of Parties:** Contractor agrees Contractor shall perform the services under this Agreement as an independent Contractor and not as an agent, employee, partner, joint venture or servant of North Sound BHO. The parties agree Contractor is not entitled to any benefits or rights enjoyed by employees of North Sound BHO. Contractor specifically has the right to direct and control Contractor's own activities in providing the agreed upon services in accordance with the specifications set forth herein. North Sound BHO shall only have the right to enforce Contractor's performance.

H. **Indemnification:** Contractor shall defend, hold harmless and indemnify North Sound BHO and its member counties and employees against any and all claims, liabilities, damages or judgments asserted against, imposed upon, or incurred by North Sound BHO and its member counties and employees alleged to arise out of intentional acts and/or the negligent or wrongful acts or omissions of Contractor or Contractor's officers and employees, agents or volunteers.

North Sound BHO shall defend, hold harmless and indemnify Contractor and its member districts and employees against any and all claims, liabilities, damages or judgments asserted against, imposed upon, or incurred by Contractor and its member districts and employees alleged to arise out of intentional acts and/or the negligent or wrongful acts or omissions of North Sound BHO or North Sound BHO's officers and employees, agents or volunteers.

For the purposes of these indemnifications, the Parties specifically and expressly waive any immunity granted under the Washington Industrial Insurance Act, Title 51 RCW. This waiver has been mutually negotiated and agreed to by the Parties.

I. **Ratification**
This contract will go into effect and shall be fully enforceable when signed by authorized representatives of all parties involved. This contract will be submitted for ratification at the next scheduled meeting of the North Sound BHO County Authorities Executive Committee. If not ratified by the Committee, North Sound BHO will terminate the contract either immediately or within a reasonable amount of time at North Sound BHO's discretion.

J. **Resolution of Disputes**

1. The parties wish to provide for prompt, efficient, final and binding resolution of disputes or controversies, which may arise under this Agreement and therefore establish this dispute resolution procedure.
2. All claims, disputes and other matters in question between the parties arising out of, or relating to this Agreement shall be resolved exclusively by the following dispute resolution procedure unless the parties mutually agree in writing otherwise:

a. The parties shall use their best efforts to resolve issues prior to giving written Notice of Dispute.

b. Within 10 working days of receipt of the written Notice of Dispute, the parties (or their designated representatives) shall meet, confer and attempt to resolve the claim within the next 5 working days.

c. The terms of the resolution of all claims concluded in meetings shall be memorialized in writing and signed by each party.

d. Arbitration: If the claim is not resolved within 24 days of the initial notice, the parties shall proceed to arbitration as follows:

   i. Demand for arbitration shall be made in writing to the other party. The parties shall select one person as arbitrator.

   ii. If there is a delay of more than 10 days in the naming of the arbitrator, either party can ask the presiding judge of Skagit County to name the arbitrator.

   iii. The professional fees and administrative costs of the arbitrator shall be paid 50/50 by the parties; the prevailing party shall be entitled to recover from the other party all costs and expenses, including reasonable attorney fees. The arbitrators shall determine which party, if any, is the prevailing party.

   iv. The parties agree that the arbitrators' decision shall be binding, final and enforceable subject to timely appeal to Skagit County Superior Court only as provided in Chapter 7.04A RCW.

   v. Unless the parties agree in writing otherwise, the unresolved claims in each notice of dispute shall be considered at an arbitration session which shall occur in Skagit County no later than 60 days after the close of the meeting described in paragraph (b) above.

   vi. The Provisions of this section shall, with respect to any controversy or claim, survive the termination or expiration of this Agreement.

   vii. Nothing contained in this Agreement shall be deemed to give the arbitrator the power to change any of the terms and conditions of this Agreement in any way.

   viii. The prevailing party in any action to compel arbitration or to enforce an arbitration award shall be awarded its costs, including attorney fees. Venue for any such action is exclusively Skagit County Superior Court.
ix. This Agreement shall be governed by laws of the State of Washington, both as to interpretation and performance.

K. Records and Reports: Contractor shall maintain books, records, documents and other evidence, which sufficiently and properly reflect all direct and indirect costs expended in the performance of the services described herein. Contractor shall retain all books, records, documents and other material relevant to this Agreement for five (5) years’ after its expiration and all payment for the contract have been made. The later of the two (2) dates initiates the five (5) year timeframe. All books, records, documents, reports and other data related to this contract shall be subject to inspection, review and/or audit by North Sound BHO personnel or other parties authorized by North Sound BHO, DSHS, the Office of the State Auditor and authorized federal officials during regular business hours and upon demand.

L. Survivability
The terms and conditions contained in this Contract that by their sense and context are intended to survive the expiration of this Contract shall so survive. Surviving terms include, but are not limited to: Order of Precedence, Financial Terms, Contract Performance/Enforcement, Confidentiality of Individual Information, Resolution of Disputes, Indemnification, Oversight Authority, Maintenance of Records and Ownership of Materials.

II. Compensation
A. Consideration: Contractor shall be paid only if North Sound BHO has a fully executed contract on file.

B. Payment Procedures: Contractor shall submit an invoice by the close of business on the 10th day of the month after the month in which services were provided. Invoice shall document services in accordance with Exhibit B.

C. Failure to submit an invoice by the 10th may delay payment for one (1) month.

No invoices will be accepted 30 days after the service. Contractor shall submit a final billing for this Agreement no later than 30 days after the contract expiration date.

Until notified otherwise, Contractor shall submit all requests for reimbursement to:

NORTH SOUND BEHAVIORAL HEALTH ORGANIZATION, LLC
ATTN: Fiscal Officer
301 Valley Mall Way, Suite 110
Mount Vernon, WA 98273

D. Reporting Requirements and Reconciling monthly payments: On a monthly basis Contractor shall submit a detailed invoice. Contractor will document actual minutes/hours worked by date and type of service provided.
E. Reimbursed Expenses: Contractor shall be reimbursed for services provided under this contract. Mileage reimbursement shall conform to the currently published mileage rate for business travel deductions set by the Internal Revenue Service for all business-related travel. Mileage usage documentation shall be attached to the monthly invoice when applicable. The reimbursement request shall be itemized on the monthly invoice.

III. Service Expectations
Contractor shall provide services as outlined in Exhibit A. Funds shall be spent according to the parameters of Exhibit B.

IV. Miscellaneous
A. Assignments: Neither party may assign its rights or delegate its performance hereunder to any person or entity without the prior written consent of the other party.
B. Entire Agreement: This Agreement constitutes the entire agreement with respect to the subject matter hereof and there are no other agreements, written or oral, relating to the subject matter hereof.
C. Headings: Paragraphs headings are for convenience and reference only and shall have no effect upon the construction or interpretation of any party of this Agreement.
D. Severability: If any provision of this Agreement is found by a court to be invalid, unenforceable, or contrary to applicable law, the remainder of this Agreement or the application of such provision to persons or circumstances other than those to which it is held invalid, unenforceable, or contrary to applicable law, shall not be affected and shall continue in full force and effect.
E. Notices: All notices pertaining to this Agreement shall be written and delivered, by certified US mail or by hand delivery to the addresses shown below. Notices shall be deemed served upon receipt, or three (3) days after postmark if mailed. Notices transmitted by facsimile, which are followed immediately by mailing, shall be deemed received on the date of the facsimile transmission.
F. Venue: This Agreement shall be construed, both as to validity and performance and enforced, subject to Paragraph (I.G), in accordance with the laws of the State of Washington. The venue of any action brought hereunder shall be Skagit County.
G. Power to Execute: Both parties warrant they have the power and authorization to execute this Agreement and any other documents executed pursuant to this Agreement.

This contract will go into effect and shall be fully enforceable when signed by authorized representatives of all parties involved. This contract is subject to ratification after it becomes effective. This contract will be submitted for ratification at the next scheduled meeting of the North Sound BHO County Authorities Executive Committee ("the Committee"). If not ratified by the Committee, North Sound BHO will terminate the contract either immediately or within a reasonable amount of time at North Sound BHO’s discretion.
IN WITNESS WHEREOF, the Parties have executed this Agreement on the dates set forth below.

NORTH SOUND BHO                              WHATCOM COUNTY

Joe Valentine                                Regina Delahunt
Executive Director                          Director

7/13/18                                      7/16/18

Date                                          Date

Approved as to Form for North Sound Behavioral Health Organization, LLC (North Sound BHO):

Basic Form approved by Brad Furlong         10/1/01 (reviewed 2013)
Attorney at Law
WHATCOM COUNTY

_________________________________________
JACK LOUWS
County Executive

STATE OF WASHINGTON    )
    )
COUNTY OF WHATCOM   )

On this ______ day of ________________________, 2018, before me personally appeared Jack Louws, to me known to be the Executive of Whatcom County and who executed the above instrument and who acknowledged to me the act of signing and sealing thereof.

_________________________________________
NOTARY PUBLIC in and for the State of Washington, residing at Bellingham.
My Commission expires: ______________________

APPROVED AS TO FORM

_________________________________________
Royce Buckingham, Deputy Prosecuting Attorney
Date 7-18-18
North Sound Behavioral Health Administration  
Budget 7/1/18 to 12/31/18  
Whatcom County SUD Youth Community  
Partnership Development and Coordination

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Expenses

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<tr>
<td>Total</td>
<td>$ 115,506</td>
<td>$ 12,834</td>
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* The definition of capital for Medicaid is a single piece of equipment or single item more than $5,000.
Whatcom County
Substance Use Disorder (SUD) Community Partnership

July – December 2018

I. Background
The Whatcom County Health Department utilizes Substance Abuse Mental Health Services Administration (SAMHSA) Strategic Planning Framework to determine needs and resources, and to select and implement Substance Abuse Prevention and Mental Health Promotion programs in the county. The department currently supports three (3) Community Prevention & Wellness Initiative (CPWI) sites in Whatcom County and also contracts with all seven (7) school districts in Whatcom County to deliver behavioral health services. Strategies outlined below will seek to reduce priority risk factors identified in the local assessment process.

II. Strategies
Whatcom County will utilize funding to support evidence-based services in the schools and in the community that have been shown to reduce elevated risk factors in Whatcom County. The targeting of multiple risk factors in multiple domains makes this an effective combination. Services will be available throughout the county, with the exception of the Student Assistance Program being targeted in one (1) priority geographical area.

1. Student Assistance Program (SAP) – The Student Assistance Specialist (SAS) will provide Motivational Interviewing (MI) and other identified strategies on the Dedicated Marijuana Account (DMA) list, in schools, to support the Prevention, Intervention, Treatment Aftercare (PITA) continuum. Efforts will include individual and small group activities.

2. Case Management Services – Case Management Services will be provided in schools to connect students with resources that meet their identified individual needs. Services will include one-on-one support with supporting group activities. These services may include MI as appropriate.

3. Strengthening Families Program (SFP) – SFP is a family skills training intervention designed to enhance school success and reduce youth substance use and aggression among 10- to 14-year-olds. Seven (7) sessions provide instruction for parents on understanding the risk factors for substance use, parent-child bonding, monitoring compliance with parental guidelines and other related skills.
4. **Community Education & Outreach** – The community will receive critical information about substance abuse trends, norms, and resources for those experiencing addiction. A focus of these efforts will include social norming, as 80% of students in 10th grade incorrectly believe more of their peers using substances than factually are and opiate abuse.

5. **Training & Capacity** – Training on priority behavioral health issues will be delivered to individuals throughout the county. Recipients will also include local services providers. Topics will be locally prioritized, based on data from the Healthy Youth Survey and other data sources.
TITLE OF DOCUMENT: Fiber Optic Lease for Williamson Way

ATTACHMENTS:
1. Cover Memo on Contract
2. Contract Information Sheet
3. Service Order

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 Executive to enter into an agreement between Whatcom County and Wave Business Solutions, LLC (Wave) for a six year lease for fiber optic connectivity from the Courthouse to the Facilities Management building on Williamson Way. This includes a one-time installation fee of $10,000.00 and a monthly fee of $785.00 plus applicable fees and taxes for a total amount over six years of $66,520.00.

COMMITTEE ACTION:  

COUNCIL ACTION:

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

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

TO: Jack Louws, County Executive
    Whatcom County Council

FROM: Perry Rice, IT Manager
      Rob Ney, Facilities Projects & Operations Manager

RE: Fiber Optic Lease Agreement for Williamson Way

DATE: July 30, 2018

Enclosed for your consideration is the proposed Dark Fiber Optic Lease agreement between Whatcom County and Wave Business Solutions, LLC (Wave) for connectivity to the Williamson Way building.

- **Background and Purpose**

  Facilities Management is in the process of relocating their operations to the Williamson Way building. The purpose of this agreement is to provide Whatcom County with two (2) strands of single mode dark fiber optic connectivity between the Whatcom County Courthouse located at 311 Grand Avenue, Bellingham and the Williamson Way building at 3720 Williamson Way, Bellingham. One fiber optic strand will be for the County Data Network (file services, print services, telecommunications, servers, etc.) and the other fiber optic strand will be for the Facilities Network (proximity lock, security video and HVAC). Wave is a sole source vendor since it has fiber optic infrastructure directly connected to the Courthouse Data Center.

- **Funding Amount and Source**

  The total amount of the agreement over the initial 72 month service term is $66,520 ($785 per month) plus applicable monthly fees and taxes and a one-time installation fee of $10,000. The one-time installation fee is for Wave to extend their fiber optic network underground from Airport Drive to the Facilities Building on Williamson Way.

  Funding for this agreement for 2018 will be from the Facilities Management Williamson Way Construction Budget. Expenditure authority for the monthly costs starting in 2019 will be requested in the 2019 – 2020 Biennial Budget.

- **Contact Information**

  Please contact Perry Rice at x5235 or Rob Ney at x5387 if you have any questions or concerns regarding the terms of this agreement.
**WHATCOM COUNTY CONTRACT INFORMATION SHEET**

<table>
<thead>
<tr>
<th>Originating Department:</th>
<th>Information Technology</th>
</tr>
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<tbody>
<tr>
<td>Division/Program: (i.e. Dept. Division and Program)</td>
<td>AS-IT-Technology</td>
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<tr>
<td>Contract or Grant Administrator:</td>
<td>Perry Rice – IT Manager</td>
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<tr>
<td>Contractor’s / Agency Name:</td>
<td>Wave Business Solutions, LLC</td>
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</table>

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

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

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

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

**Is this contract the result of a RFP or Bid process?**  Yes ☒  No ☐  If yes, RFP and Bid number(s): ______________  Contract  Cost Center: 50727

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

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

**Contract Amount:** (sum of original contract amount and any prior amendments):
- $10,000 Installation Fee
- $785/mo. plus applicable fees and taxes
- Total: $66,520 over six years

**This Amendment Amount:** ______________

**Total Amended Amount:** ______________

**Summary of Scope:**
Request approval for the County Executive to enter into an agreement between Whatcom County and Wave Business Solutions, LLC (Wave) for a six year lease for fiber optic connectivity from the Courthouse to the Facilities Management building on Williamson Way. This includes a one-time installation fee of $10,000.00 and a monthly fee of $785.00 plus applicable fees and taxes for a total amount over six years of $66,520.00.

**Term of Contract:** Term: Ongoing

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<th>Contract Routing:</th>
<th>Expiration Date:</th>
<th>Until vacated by either party</th>
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<td>2. Attorney signoff:</td>
<td>Date: 7/27/15</td>
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<tr>
<td>3. AS Finance reviewed:</td>
<td>Date: 7/30/16</td>
<td>Date: 7/30/16</td>
</tr>
<tr>
<td>4. IT reviewed (if IT related):</td>
<td>Date: 7/27/2018</td>
<td>Date: 7/27/2018</td>
</tr>
<tr>
<td>5. Contractor signed:</td>
<td>Date:</td>
<td>Date:</td>
</tr>
<tr>
<td>6. Submitted to Exec.:</td>
<td>Date:</td>
<td>Date:</td>
</tr>
<tr>
<td>7. Council approved (if necessary):</td>
<td>Date:</td>
<td>Date:</td>
</tr>
<tr>
<td>8. Executive signed:</td>
<td>Date:</td>
<td>Date:</td>
</tr>
<tr>
<td>9. Original to Council:</td>
<td>Date:</td>
<td>Date:</td>
</tr>
</tbody>
</table>

**Council approval required for:** all property leases, contracts or bid awards exceeding $40,000, and professional service contract amendments that have an increase greater than $10,000 or 10% of contract amount, whichever is greater, **except when:**

1. Exercising an option contained in a contract previously approved by the council.
2. Contract is for design, construction, r-o-w acquisition, professional services, or other capital costs approved by council in a capital budget appropriation ordinance.
3. Bid or award is for supplies or equipment included approved in the budget.
4. Contract is for manufacturer’s technical support and hardware maintenance of electronic systems and/or technical support and software maintenance from the developer of proprietary software currently used by Whatcom County.

**Last edited 10/31/16**
DARK FIBER ORDER

This Dark Fiber Order (this “Service Order”) is entered into as of the date of last signature below (the “Effective Date”), by and between WAVE BUSINESS SOLUTIONS, LLC, a Washington limited liability company (“Provider”), and WHATCOM COUNTY, a political subdivision of the State of Washington (“Customer”). This Service Order is made pursuant to and will be governed by that certain Master Services Agreement between Provider and Customer dated July 27, 2018 (the “MSA”). All capitalized terms used but not defined in this Service Order shall have the meanings given to them MSA.

Section 1: Description of Fiber Routes and Charges. Provider shall deliver to Customer the dark fiber service(s) set forth in the following table (each, a “Service,” and collectively, the “Services”). The Services shall connect the “End Points” set forth below (each such connection, a “Fiber Route”), using the number of dark fiber strands described below, at a loss budget not to exceed the “Maximum Loss Budget” set forth below, in exchange for the one-time, non-recurring installation cost (“NRC”) set forth below, and the monthly recurring charges (“MRC”) set forth below:

<table>
<thead>
<tr>
<th>Fiber Route Identifier</th>
<th>Location A End Point</th>
<th>Location Z End Point</th>
<th>Description of Fiber</th>
<th>Maximum Loss Budget</th>
<th>NRC</th>
<th>MRC</th>
</tr>
</thead>
<tbody>
<tr>
<td>Fiber Route 1</td>
<td>Whatcom County Courthouse 311 Grand Avenue Bellingham, WA 98225</td>
<td>Facilities Management 3720 Williamson Way Bellingham, WA 98226</td>
<td>2 strands single mode dark fiber</td>
<td>7 dB @ 1310 nm</td>
<td>$10,000</td>
<td>$785</td>
</tr>
</tbody>
</table>

- Provider shall invoice Customer for the NRC upon Service Commencement Date, and shall be paid by Customer within (30) days of receipt.

Section 2: Initial Service Term. The Initial Service Term for the Services is seventy-two (72) months. The estimated installation date for the Service is 6 – 8 weeks from the Effective Date of this Service Order.

Section 3: Customer Information.

Account Name: Whatcom County
Account Executive to Customer: Jeff Stoner
Invoicing Address: Whatcom County, Information Technology
311 Grand Avenue, Suite 305
Bellingham, WA 98225
ATTN: Tami Gee-Hardy

To facilitate communication the following information is provided as a convenience and may be updated at any time without affecting the enforceability of the terms and conditions herein:

Customer Site/Technical Contact:
Lee LaMar
LLaMar@co.whatcom.wa.us
360-778-5243 (Ph)

Customer Billing Contact:
Tami Gee-Hardy
tgeehardy@co.whatcom.wa.us
360-778-5236

Other Customer Contact:
Perry Rice
price@co.whatcom.wa.us
360-778-5235

[Signatures on following page.]
IN WITNESS WHEREOF, Whatcom County and Wave Business Solutions, LLC have executed this Amendment on the date and year below written.

DATED this ____ day of __________, 2018.

CONTRACTOR:

WAVE BUSINESS SOLUTIONS, LLC

Paul Koss, SVP Commercial Services

STATE OF WASHINGTON  
COUNTY OF KING  

On this 30th day of July, 2018, before me personally appeared Paul Koss to me known to be the SVP Commercial Service of Wave Business Solutions, LLC, who executed the above instrument and who acknowledged to me the act of signing and sealing thereof.

Bree Urban

NOTARY PUBLIC in and for the State of Washington,

residing at Seattle, WA

My commission expires August 1, 2022

WHATCOM COUNTY:

Recommended for Approval:

IT Manager  

Date

Approved as to form:

Prosecuting Attorney  

Date
Approved:
Accepted for Whatcom County:

By: ____________________________
    Jack Louws, Whatcom County Executive

STATE OF WASHINGTON     
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,
                                      __________________________________________, printed name,
                                      residing at __________________________________. My commission expires
                                      __________________________________

CONTRACTOR INFORMATION:

WAVE BUSINESS SOLUTIONS, LLC  
401 PARKPLACE CENTER, SUITE 500  
KIRKLAND, WA 98033

Contact Name: Jeff Stoner  
Contact Phone: 360-914-4541  
Contact FAX: 206-538-0910  
Contact Email: jstoner@wavebusiness.com

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MASTER SERVICES AGREEMENT FOR ENTERPRISE SERVICES – GOVERNMENTAL CUSTOMER

This Master Services Agreement for Enterprise Services (this “MSA”) is entered into as of this 27th day of July, 2018 (the “Effective Date”), by and between WAVE BUSINESS SOLUTIONS, LLC, a Washington limited liability company, on behalf of itself and its Affiliates (collectively, “Provider”), and WHATCOM COUNTY, a political subdivision of the State of Washington (“Customer”). For purposes of this MSA, the term “Affiliate” shall mean any other person which directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, the first person or any of its subsidiaries. Each of Provider and Customer may be referred to in this MSA as a “Party” and together as the “Parties.”

ARTICLE 1 – STRUCTURE OF AGREEMENT

1.1 Purpose of MSA. Provider and its Affiliates provide various facilities-based telecommunications services, including Ethernet transport, dedicated internet access, phone over fiber, dark fiber, and related services (as applicable, the “Services”). This MSA is neither an agreement to purchase nor a commitment to provide Services. The purpose of this MSA is to provide the general terms, conditions and framework within which Customer and its Affiliates may from time to time purchase Services from Provider and its Affiliates, pursuant to one or more “Service Orders,” as described in Section 1.2 below.

1.2 Service Orders. The purchase of Services shall be accomplished only through the negotiation and mutual execution and delivery of a Service Order memorializing the terms and conditions pursuant to which Provider shall provide the desired Services to Customer. Service Orders shall clearly specify the following: (i) the type of Service at issue (e.g., Internet access, data transport, VoIP, dark fiber, etc.); (ii) the location(s) at which the Service is to be provided (each, a “Service Site”); (iii) the initial term of the Service Order (the “Initial Service Term”); (iv) the pricing for the Service, including (a) the monthly recurring charges (“MRC”) for the Service, and (b) any non-recurring charges (“NRC”) associated with installation of the Service; and (v) any other terms or conditions specific to the particular Service Order. Each fully-executed Service Order shall be governed by and become part of this MSA, and this MSA together with all fully-executed Service Orders shall be collectively referred to as the “Agreement.”

1.3 Additional Documents Comprising Agreement; Order of Precedence. If one or more Service Level Agreements are attached to this MSA as Exhibits (the “SLA”), the SLA constitutes a part of this MSA. Customer’s use of any Services purchased pursuant to the Agreement will also be governed by Provider’s Acceptable Use Policy for Commercial Services (the “AUP”) which is attached to this MSA as Exhibit C. Additional provisions that are applicable only to specific types of Services are contained in Provider’s Service-Specific Terms and Conditions (the “Service-Specific T&Cs”) which is attached to this MSA as Exhibit D. In the event of a conflict between the provisions of any of the foregoing documents, the documents shall have the following order of precedence unless expressly stated otherwise in a particular Service Order: (i) this MSA (including the SLA); (ii) the applicable Service Order; (iii) the AUP; and (iv) the Service-Specific T&Cs.

ARTICLE 2 – TERM AND RENEWAL

2.1 Term of MSA. The term of this MSA (the “MSA Term”) shall be for five (5) years, commencing on the Effective Date and expiring on the date that is one day prior to the fifth (5th) anniversary of the Effective Date. Notwithstanding the foregoing, so long as any one or more Service Orders entered into pursuant to this MSA remain in effect, this MSA shall not terminate with respect to said Service Orders but shall continue to govern same until the expiration or termination of said Service Orders.

2.2 Term of Service Orders. The Initial Service Term of each Service Order shall be as specified in the Service Order. Upon expiration of the Initial Service Term of a Service Order, unless either Party terminates the Service Order by giving written notice of termination to the other Party not less than thirty (30) days prior to the end of the Initial Service Term, the Service Order will automatically renew for successive periods of one (1) year (each, a “Renewal Term”). During any Renewal Term for a Service Order, either Party may terminate the Service Order at the end of the then-current Renewal Term by giving written notice of termination to the other Party not less than thirty (30) days prior to the end of the then-current Renewal Term. The total period of time a Service Order is in effect is referred to as the “Service Term” for the Service Order at issue.

ARTICLE 3 – INSTALLATION, TESTING, ACCEPTANCE AND USE

3.1 Service Site; Demarcation Points; Equipment. Unless a Service Site is within Provider’s control, Customer shall provide
Provider with access to the Service Site as and to the extent reasonably necessary for Provider to install, test, inspect and maintain the Service(s) ordered during the Service Term. Unless otherwise stated in a Service Order: (i) Provider shall be solely responsible for the provision, operation and maintenance of all equipment and facilities (the “Provider Equipment”) necessary to connect Provider’s network facilities to the Customer demarcation point(s) at the Service Site (the “Demarcation Point(s)”; and (ii) Customer shall be solely responsible for the provision, operation and maintenance of all equipment and facilities (the “Customer Equipment”) from the Demarcation Point(s) to Customer’s internal network. Unless a Service Site is within Provider’s control, Customer shall be responsible for maintaining appropriate HVAC, electrical power, and security at the Service Site. Title to the Provider Equipment shall at all times remain vested in Provider. Customer shall not re-arrange, disconnect, tamper with, attempt to repair, or otherwise interfere with the Provider Equipment, nor shall Customer permit any third party to do so.

3.2 Testing, Acceptance and Service Commencement Date. Provider shall use commercially reasonable efforts to install the Services consistent with Provider’s usual and customary installation timeline, and shall endeavor to keep Customer regularly informed regarding installation progress. Provider shall notify Customer when a Service has been installed and is ready for testing and use. Customer may, at Customer’s option, participate in Provider’s final testing of the Service. The Initial Service Term for the Service at issue shall commence on the date on which the Service has been installed, tested and is active and available for use by Customer (the “Service Commencement Date”). Customer shall have a period of five (5) business days after the Service Commencement Date in which Customer may notify Provider that the Service at issue is not functioning properly. If Customer notifies Provider of problems with a Service pursuant to this Section 3.2, Provider shall investigate and correct same and the Service Commencement Date shall be revised to be the first calendar day after the date on which Provider has corrected the problems. Unless Customer delivers notification of problems to Provider within the time period set forth above, Customer shall be deemed to have accepted the Service at issue and to have confirmed that the Service has been installed and is functioning properly as of the Service Commencement Date.

3.3 No Sub-Licensing; Non-Compete. Any Services provided to Customer pursuant to the Agreement are for the sole benefit of Customer. Customer shall not grant to any third party the right to use any of the Services, regardless of whether such grant were to take the form of a license, sublicense, lease, sublease, or any other form. Nor shall Customer use the Services for commercial purposes that are competitive with Provider’s business (e.g., use the Services to sell Internet access services, point-to-point data transport services, VoIP services, etc., to third parties within Provider’s service area).

ARTICLE 4 – PAYMENT AND BILLING

4.1 Invoicing. All amounts owed by Customer to Provider under the Agreement shall be collectively referred to as “Fees.” Provider shall begin billing Customer for the MRC applicable to a Service as of the Service Commencement Date. Invoices shall be delivered monthly, and shall be paid by Customer within thirty (30) days of receipt. Fixed Fees shall be billed in advance and usage-based Fees shall be billed in arrears. Fixed fees for any partial month shall be pro-rated. For Services having an NRC, unless otherwise stated in the Service Order, Provider shall invoice Customer for the NRC upon full-execution of the Service Order. Except for amounts disputed in good faith by Customer pursuant to Section 4.2 below, past due amounts shall bear interest in the amount of 1.5% per month, or the highest amount allowed by law, whichever is lower.

4.2 Disputed Invoices. If Customer in good faith disputes any portion of a Provider invoice, Customer shall pay the undisputed portion of the invoice and submit written notice to Provider regarding the disputed amount, which notice shall include documentation supporting the alleged billing error (each such notice, a “Fee Dispute Notice”). A Fee Dispute Notice must be submitted to Provider within ninety (90) days from the date the invoice at issue is received by Customer. Customer waives the right to dispute any Fees not disputed within such ninety (90) day period. The Parties shall negotiate in good faith to attempt to resolve any such disputes within sixty (60) days after Customer’s delivery of the applicable Fee Dispute Notice. Fee disputes unresolved within that time period shall be resolved by the mediation and arbitration procedures set forth in Sections 11.2 and 11.3 below.

4.3 Applicable Taxes. All charges for Services set forth in Service Orders are exclusive of Applicable Taxes (as defined below). Except for taxes based on Provider’s net income or taxes for which Customer possesses a valid exemption certificate, Customer shall be responsible for payment of all applicable taxes and regulatory fees, however designated, that arise in any jurisdiction, including, without limitation, value added, consumption, sales, use, gross receipts, excise, access, bypass, or other taxes, fees, duties, charges or surcharges, that are imposed on, incident to, or based upon the provision, sale, or use of the Service(s) (collectively “Applicable Taxes”). The Applicable Taxes will be individually identified on invoices. If Customer is entitled to an exemption from any Applicable Taxes, Customer is responsible for presenting Provider with a valid exemption certificate (in
a form reasonably acceptable to Provider). Provider will give prospective effect to any valid exemption certificate provided in accordance with the preceding sentence.

ARTICLE 5 – DEFAULT AND REMEDIES

5.1 Customer Default. Each of the following shall constitute a default by Customer under the Agreement (each a separate event of "Default"): (i) if Customer fails to pay any undisputed Fees when due, the failure of Customer to cure same within ten (10) days after receiving written notice from Provider regarding such failure to pay; (ii) if Customer fails to comply with any other material provision of the Agreement, the failure of Customer to cure same within thirty (30) days of receiving written notice from Provider regarding such non-compliance; or (iii) if Customer files or initiates proceedings, or has proceedings initiated against it, seeking liquidation, reorganization or other relief (such as the appointment of a trustee, receiver, liquidator, custodian or other such official) under any bankruptcy, insolvency or other similar law, and the same is not dismissed within sixty (60) days.

5.2 Remedies for Customer Default. In the event of a Default by Customer under the Agreement, Provider may, at its option: (i) suspend any applicable Services until such time as the Customer Default has been corrected (provided, however, that any suspension shall not relieve Customer's on-going obligation to pay Provider all Fees and other amounts due under the Agreement as if such suspension of Services had not taken place); (ii) terminate the applicable Service(s) and/or the applicable Service Order(s); (iii) after the occurrence of any two Customer Defaults in any twelve (12) month period, terminate this MSA and all Service Orders entered into pursuant to this MSA; and/or (iv) pursue any other remedy available to Provider under the Agreement or applicable law. In the event of early termination for Customer Default pursuant to this Section 5.2, Customer shall pay to Provider the Termination Charge described in Section 6.3 below.

5.3 Provider Default. Each of the following shall constitute a Default by Provider under the Agreement: (i) if Provider fails to comply with any material provision of the Agreement other than provisions of the SLA, the failure by Provider to cure same within thirty (30) days of receiving written notice from Customer regarding such non-compliance; or (ii) Provider files or initiates proceedings, or has proceedings initiated against it, seeking liquidation, reorganization or other relief (such as the appointment of a trustee, receiver, liquidator, custodian or other such official) under any bankruptcy, insolvency or other similar law, and the same is not dismissed within sixty (60) days.

5.4 Remedies for Provider Default. In the event of a Default by Provider under the Agreement Customer may, at its option: (i) terminate the applicable Service(s) and/or the applicable Service Order(s); (ii) terminate this MSA and all Service Orders entered into pursuant to this MSA; and/or (iii) pursue any other remedy available to Customer under the Agreement or applicable law. Early termination by customer shall be accomplished by providing termination notice to disconnects@wavebroadband.com and to the notice address specified in Article 13 below. In the event of early termination for Provider Default pursuant to this Section 5.4, Provider shall reimburse Customer for any pre-paid, unused monthly service Fees attributable to the terminated Service(s) and/or Service Order(s), and Customer shall have no further liability to Provider for the terminated Service(s) and/or Service Order(s). Early termination by Customer pursuant to this Section 5.4 shall not relieve Customer of its obligations to pay all Fees incurred prior to the early termination date.

ARTICLE 6 – EARLY TERMINATION & PORTABILITY

6.1 Early Termination for Non-Appropriation. Customer is a public entity subject to legislative appropriation requirements. As a general matter, Customer cannot legally be obligated to make payments for Services that are provided after the end of the fiscal period in which Customer executes a particular Service Order. In the event that, for any future fiscal period, sufficient funds are not appropriated or allocated for payment of any one or more Service Orders, Customer may terminate the Service Order at issue as a matter of public convenience as provided herein without incurring any Termination Charge or other early termination fee. If and when Customer becomes aware that non-allocation of funds for the coming fiscal period appears likely, Customer shall use reasonable efforts to notify Provider of that possibility prior to the end of the then-current fiscal period. Once the non-appropriation decision has been made, Customer shall, as soon as reasonably practicable, deliver written notice of termination for non-appropriation to Provider specifying which Service or Services and/or which Service Order or Service Orders are being terminated for non-appropriation and the date on which such early termination shall occur. Customer shall remain obligated to pay for all Services delivered through the date of termination.

6.2 Early Termination for Customer Convenience. Customer may, at any time during the Service Term for a Service, discontinue the Services and/or terminate the corresponding Service Order upon not less than thirty (30) days’ advance written notice to disconnects@wavebroadband.com and to the notice address specified in Article 13 below. Any early
termination of a Service pursuant to this Section 6.1 shall be referred to as "Termination for Customer Convenience." In the event of Termination for Customer Convenience, Customer shall pay to Provider the Termination Charge described in Section 6.4 below.

6.3 Early Termination for Default. In accordance with Article 5 above, either Party may elect to terminate this MSA and/or one or more Service Orders prior to the scheduled Expiration Date in the event of an uncured Default by the other Party.

6.4 Termination Charge. In the event of Termination for Customer Convenience pursuant to Section 6.2 above, or termination for Customer Default pursuant to Section 5.2 above, Customer shall pay a Termination Charge to Provider. The "Termination Charge" shall equal the sum of the following: (i) all unpaid amounts for Services actually provided prior to the termination date; (ii) any portion of the NRC for the terminated Service(s) that has not yet been paid to Provider; and (iii) a percentage of all remaining MRCs Customer was to pay Provider for the remainder of the applicable Service Term (the "Remaining Monthly Service Charges"). If a Termination Charge is incurred during the first year of the Service Term, the percentage of the Remaining Monthly Service Charges due shall be one hundred percent (100%). If a Termination Charge is incurred during the second or third year of the Service Term, the percentage of the Remaining Monthly Service Charges due shall be seventy-five percent (75%). If a Termination Charge is incurred during or after the fourth year of the Service Term, the percentage of the Remaining Monthly Service Charges due shall be fifty percent (50%). If incurred, the Termination Charge will be due and payable by Customer within thirty (30) days after the termination date of the Service at issue. Customer acknowledges that the calculation of the Termination Charge is a genuine estimate of Provider's actual damages and is not a penalty.

6.5 Portability; Substitution of Services. At any time during the Service Term of a Service Order, Customer may elect to substitute new Services for then-existing Services. In such event, Provider will waive the Termination Charge associated with the termination of the then-existing Services as long as: (i) the Fees payable to Provider in connection with the substitute Services are equal to or greater than the Fees of the discontinued Services; (ii) Customer commits to retain the substitute Services for a period equal to or greater than the remainder of the Service Term for the discontinued Services; (iii) Customer pays all applicable installation and other NRCs, if any, for provision of the substitute Services; and (iv) Customer reimburses Provider for all reasonable and documented engineering, installation and construction costs associated with the discontinued Services, calculated on a time and materials basis, that have not already been recovered by Provider by the time of the substitution.

ARTICLE 7 – CONFIDENTIAL INFORMATION

7.1 Definition of Confidential Information. "Confidential Information" shall mean all information, including the Agreement, regarding the telecommunications needs of Customer and the Services that Provider offers under the Agreement which is disclosed by one Party ("Disclosing Party") to the other Party ("Receiving Party"), to the extent that such information is marked or identified as confidential or proprietary or would be reasonably deemed confidential or proprietary given the circumstances surrounding its disclosure. All written or oral pricing and contract proposals exchanged between the Parties shall be deemed Confidential Information, whether or not so designated. The fact that Customer is a customer of Provider shall not be deemed Confidential Information and may be freely disclosed by either Party. Information shall not be deemed Confidential Information if (i) it is independently developed by or for the Receiving Party, (ii) it is lawfully received by the Receiving Party free of any obligation to keep it confidential, (iii) it becomes generally available to the public other than by breach of the Agreement, or (iv) it was known to the Receiving Party prior to the Disclosing Party’s disclosure of same.

7.2 Obligations Regarding Confidential Information. Confidential Information is the property of the Disclosing Party and shall be returned to the Disclosing Party upon request. The Receiving Party shall hold all Confidential Information in confidence. The Receiving Party: (a) shall use such Confidential Information only for the purposes of performing its obligations and/or enforcing its rights under the Agreement; (b) shall reproduce such Confidential Information only to the extent necessary for such purposes; (c) shall restrict disclosure of such Confidential Information to employees or contractors that have a need to know for such purposes (with disclosure to contractors being limited to contractors that have signed a non-disclosure agreement to protect the Confidential Information of third parties); (d) shall not disclose Confidential Information to any third party without prior written approval of the Disclosing Party except as expressly provided in the Agreement or as required by law, by court order, by administrative order of an agency having jurisdiction, or in the enforcement of its rights under the Agreement; and (e) shall use at least the same degree of care (in no event less than reasonable care) as it uses with regard to its own proprietary or confidential information to prevent the disclosure, unauthorized use or publication of Confidential Information. In the event a Receiving Party is required to disclose Confidential Information of the Disclosing Party pursuant to law, court order or administrative order of an agency having jurisdiction, the Receiving Party will, if such notice is permitted by law, notify the Disclosing Party of the required disclosure with sufficient time for the Disclosing Party to seek judicial relief from the required disclosure, and reasonably cooperate.
with the Disclosing Party in any efforts the Disclosing Party may take to obtain protective measures in respect to the required disclosure. The Parties agree that breach of this Article 7 may cause irreparable injury for which monetary damages are not an adequate remedy; accordingly, each Party may seek injunctive relief and any other available equitable remedies to enforce the provisions of this Article 7.

7.3 Public Records Act. Notwithstanding anything to the contrary contained elsewhere in this Article 7, the Parties understand and acknowledge that Customer is a governmental entity, and that Washington law limits the ability of Customer to shield from public disclosure any information given to Customer. Accordingly, the Parties agree to work together to avoid disclosures to Customer by Provider of confidential information which would result in economic loss or damage to Provider if such information were to be disclosed to third persons by Customer pursuant to a request submitted under the Public Records Act, chapter 42.56 RCW, or other similar public disclosure law. In the event that Customer receives a request pursuant to the Public Records Act (or other similar law) to disclose information identified by Provider in writing as confidential, Customer’s sole obligations to Provider shall be: (i) to promptly notify Provider; and (ii) to refrain from disclosing such records for a period of up to ten (10) business days to allow Provider an opportunity to seek legal protection against disclosure from a court of competent jurisdiction. Customer will not be required to withhold requested records beyond the ten (10) business days unless it may do so based on good faith reliance upon an exception to disclosure under the Public Records Act, or unless Customer is ordered to withhold disclosure by the order of a court having competent jurisdiction. Customer may, but shall not be required, to join in any legal proceedings relating to the requested disclosure unless required to do so by the court. In the event that Provider initiates legal proceedings, or Customer initiates legal proceedings or withholds requested records at Provider’s request, Provider shall indemnify and hold Customer harmless from and against all costs, attorneys’ fees, expenses, liabilities, damages or other liabilities Customer may incur due to the legal proceedings initiated at and/or Customer’s withholding of records at Provider’s request. Customer shall not be liable to Provider for any loss, cost or expense relating to the disclosure of requested records if Provider fails to obtain legal protection against disclosure and Customer releases the records in good faith.

ARTICLE 8 – LIMITATION OF LIABILITY

8.1 General Limitations. Provider shall not be liable for any loss or damage occasioned by a Force Majeure Event. Except as expressly provided to the contrary elsewhere in the Agreement, Provider’s aggregate liability for any and all causes and claims arising under the Agreement, whether based in contract, tort, warranty or otherwise shall be limited to the lesser of: (i) the actual direct damages sustained by Customer; or (ii) an amount equivalent to the total MRC received by Provider from Customer for the Service(s) at issue during the preceding twelve (12) month period.

8.2 Service Level Agreement. Should Provider fail, on any one or more occasions, to deliver any one or more Services to Customer in accordance with all of the terms and conditions contained in the applicable SLA, Customer’s sole and exclusive remedy for such failure shall be as set forth in the SLA. No such failure shall be considered a Default by Provider under the Agreement.

8.3 No Special Damages. EXCEPT FOR (i) EACH PARTY’S CONFIDENTIALITY OBLIGATIONS UNDER ARTICLE 7 ABOVE, (ii) EACH PARTY’S THIRD-PARTY INDEMNIFICATION OBLIGATIONS UNDER ARTICLE 9 BELOW, AND (iii) CLAIMS ARISING FROM A PARTY’S INTENTIONAL MISCONDUCT, IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER PARTY FOR ANY INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL, EXEMPLARY OR PUNITIVE DAMAGES WHATSOEVER, ARISING OUT OF OR INCURRED IN CONNECTION WITH A PARTY’S PERFORMANCE OR FAILURE TO PERFORM UNDER THIS AGREEMENT, INCLUDING, BY WAY OF EXAMPLE AND NOT BY WAY OF LIMITATION, LOST PROFITS, LOST REVENUE, LOSS OF GOODWILL, LOSS OF ANTICIPATED SAVINGS, LOSS OF BUSINESS OPPORTUNITY, LOSS OF DATA OR COST OF PURCHASING REPLACEMENT SERVICES, EVEN IF THE OTHER PARTY HAD BEEN ADVISED, KNOWN OR SHOULD HAVE KNOWN OF THE POSSIBILITY OF SUCH SPECIAL DAMAGES.

8.4 Disclaimer of Warranties. EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT, PROVIDER MAKES NO WARRANTIES OR REPRESENTATIONS, EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, EITHER IN FACT OR BY OPERATION OF LAW, AS TO THE DESCRIPTION, QUALITY, MERCHANTABILITY, COMPLETENESS, FITNESS FOR A PARTICULAR PURPOSE OR USE OF ANY SERVICE PROVIDED PURSUANT TO THIS AGREEMENT.

8.5 Assumption of Risk. PROVIDER HAS NO CONTROL OVER AND EXPRESSLY DISCLAIMS ANY LIABILITY OR RESPONSIBILITY WHATSOEVER FOR THE CONTENT OF ANY INFORMATION TRANSMITTED OR RECEIVED BY CUSTOMER THROUGH THE SERVICES, SERVICE INTERRUPTIONS ATTRIBUTABLE TO CUSTOMER’S NETWORK, ANY CUSTOMER EQUIPMENT FAILURES, OR ANY OTHER SUCH CAUSES, AND CUSTOMER USES THE SERVICES AT CUSTOMER’S OWN RISK. CUSTOMER SHALL BE SOLELY RESPONSIBLE FOR THE SECURITY, CONFIDENTIALITY AND INTEGRITY OF INFORMATION CUSTOMER TRANSMITS OR RECEIVES USING ANY
8.6 **Disclaimer Regarding HIPAA Compliance.** If and to the extent Customer is a covered entity under the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), and needs its business associates to comply with HIPAA, Provider hereby notifies Customer that Provider's operations are not complaint with HIPAA. Provider's operations are generally exempt from HIPAA pursuant to the conduit exception. However, if and to the extent the Services provided pursuant to any Service Order would not qualify for the conduit exception, Provider's operations with respect to the Services are not HIPAA complaint. Provider will not execute a business associate agreement under HIPAA.

**ARTICLE 9 — INDEMNIFICATION FOR THIRD PARTY CLAIMS**

9.1 **Indemnification by Customer.** Customer shall indemnify, defend and hold Provider and its members, managers, officers, agents and employees (collectively, the "Provider Indemnified Parties") harmless from and against any and all claims, lawsuits or damages asserted against the Provider Indemnified Parties by any third-party to the extent the same arise out of or are due to: (i) Customer's negligence or willful misconduct in exercising its rights or performing its obligations under the Agreement; (ii) Customer's noncompliance with or Default under the Agreement; and/or (iii) Customer's failure to comply with applicable law in connection with its performance under the Agreement.

9.2 **Indemnification by Provider.** Provider shall indemnify, defend and hold Customer and its members, managers, officers, agents and employees (collectively, the "Customer Indemnified Parties") harmless from and against any and all claims, lawsuits or damages asserted against the Customer Indemnified Parties by any third-party to the extent the same arise out of or are due to: (i) Provider's negligence or willful misconduct in exercising its rights and performing its obligations under the Agreement; (ii) Provider's noncompliance with or Default under the Agreement; and/or (iii) Provider's failure to comply with applicable law in connection with its performance under the Agreement.

9.3 **Indemnification Procedures for Third-Party Claims.** Should any third-party claim arise under this Article 9, the indemnified party shall promptly notify the indemnifying party of same in writing, and shall take such action as may be necessary to avoid default or other adverse consequences in connection with such claim. The indemnifying party shall have the right to select counsel and to control the defense and settlement of such claim; provided, however, that the indemnified party shall be entitled to participate in the defense of such claim and to employ counsel at its own expense to assist in handling the claim, and provided further, that the indemnifying party shall not take any action in defense or settlement of the claim that would negatively impact the indemnified party without the consent of the indemnified party. The indemnified party shall reasonably cooperate with the indemnifying party in the defense of the third-party claim, including making its files and personnel reasonably available to the indemnifying party, at all the cost and expense of the indemnifying party.

**ARTICLE 10 – FORCE MAJEURE EVENTS**

Neither Party shall be liable for any delay in or failure of performance hereunder (other than Customer's payment obligations under Article 4) due to causes beyond such Party's reasonable control including, but not limited to, acts of God, fire, flood, earthquake, ice storms, wind storms, or other sever weather events, explosion, vandalism, cable cut, terrorist acts, insurrection, riots or other civil unrest, national or regional emergency, a governmental authority's failure to timely act, inability to obtain equipment, material or other supplies due to strike, lockout or work stoppage, or any law, order, regulation, direction, action or request of any civil or military governmental authority (each, a "Force Majeure Event"). The Party claiming relief under this Article shall notify the other Party of the occurrence or existence of the Force Majeure Event and of the cessation of such event. If any Force Majeure Event causes an increase in the time required for performance of any of its duties or obligations, the affected Party shall be entitled to an equitable extension of time for completion. If the delay in performance caused by the Force Majeure Event exceeds thirty (30) days, either Party may terminate the Agreement or the applicable Service Order(s) immediately on written notice to the other Party, without incurring any liability in connection with such termination.

**ARTICLE 11 – DISPUTE RESOLUTION**

11.1 **Good Faith Negotiations.** Except for actions seeking a temporary restraining order or injunction, in the event any controversy, disagreement or dispute (each, a "Dispute") arises between the Parties in connection with this Agreement, the Parties shall use good faith efforts to resolve the Dispute through negotiation. In the event of a Dispute, either Party may give the other Party written notice of the Dispute (each, a "Dispute Notice"). The parties will meet and attempt to resolve the Dispute within sixty (60) days of the date on which the Dispute Notice is delivered. All discussions occurring and documents exchanged during negotiations under this Section are confidential and inadmissible for any purpose in any legal proceeding involving the
Parties; provided that evidence that is otherwise admissible or discoverable shall not be rendered inadmissible or non-discoverable as a result of its use in the negotiation process. If the Parties do not resolve the Dispute within the sixty (60) day period, either of the Parties may pursue any remedy available to it under this Agreement, at law or in equity.

11.2 Governing Law. This Agreement and all matters arising out of this Agreement shall be governed by the laws of the State of Washington. Any judicial action arising in connection with this Agreement shall be in the Superior Court of the State of Washington in and for King County, or in the Federal District Court for the Western District of Washington, as applicable.

ARTICLE 12 – ASSIGNMENT AND ASSUMPTION

Except as otherwise provided in this Article 12, neither Party shall assign, delegate or otherwise transfer the Agreement or its obligations under the Agreement, in whole or in part, without the prior written consent of the other Party. Notwithstanding the foregoing, either Party may, without the necessity of obtaining the other Party’s consent, assign its interest in and to the Agreement to: (i) any entity acquiring such Party, whether by merger or through purchase of substantially all the assets of such Party; (ii) a lender as an asset securing indebtedness; or (iii) an Affiliate of such party; provided, that in the event of a transfer to an Affiliate, the transferring Party shall continue to remain liable for the obligations under the Agreement.

ARTICLE 13 – NOTICES

Unless otherwise provided elsewhere in the Agreement, any notice to be given to either Party under the Agreement will be in writing and directed to the addresses set forth below. Notices will be deemed received (i) the next business day, when sent by reliable, commercial overnight courier; (ii) three (3) business days after being sent by certified mail, postage prepaid and return receipt requested; (iii) when actually received, if sent by email during the business hours of 9:00 a.m. to 5:00 p.m. (recipient’s time). Notices received after 5:00 p.m. (recipient’s time) will be effective the next business day.

If to Provider:
Wave Business Solutions, LLC
401 Parkplace Center, Suite 500
Kirkland, WA 98033
ATTN: Paul Koss
Email: pkoss@wavebusiness.com

With a Copy to:
WaveDivision Holdings, LLC
401 Parkplace Center, Suite 500
Kirkland, WA 98033
ATTN: Jim Penney
Email: jpenney@wavebroadband.com

If to Customer:
Whatcom County
Information Technology
311 Grand Avenue, Suite 305
Bellingham, WA 98225
ATTN: Tami Gee-Hardy
Email: tgee-hardy@co.whatcom.wa.us

Either party may change its notice address by giving notice to the other party in accordance with this Article.

ARTICLE 14 – REPRESENTATIONS AND COVENANTS

Each Party represents and covenants to the other as follows: (i) the execution and delivery of the Agreement and the performance of its obligations hereunder have been duly authorized; (ii) the Agreement is a valid and legal agreement binding on such parties and enforceable in accordance with its terms; (iii) to the best of its knowledge and belief, it is in material compliance with all laws, rules and regulations and court and governmental orders related to the operation of its business; and (iv) it shall comply with all applicable laws and regulations when exercising its rights and performing its obligations under the Agreement.

ARTICLE 15 – MISCELLANEOUS

15.1 Entire Agreement; Interpretation. The Agreement constitutes the entire agreement between the Parties regarding the subject matter hereof, and supersedes any and all prior oral or written agreements between the Parties regarding the subject matter. 
matter contained herein. The Agreement may only be modified or supplemented by an instrument executed by an authorized representative of each Party. The Agreement and each of the terms and provisions of it are deemed to have been explicitly negotiated by the Parties, and the language in all parts of the Agreement shall, in all cases, be construed according to its fair meaning and not strictly for or against either of the Parties. If any provision of the Agreement or the application thereof to any person or circumstance shall, for any reason and to any extent, be found invalid or unenforceable, the remainder of the Agreement and the application of that provision to other persons or circumstances shall not be affected thereby, but shall instead continue in full force and effect.

15.2 **No Waiver.** No failure by either Party to enforce any rights hereunder will constitute a waiver of such rights. Nor shall a waiver by either Party of any particular breach or default constitute a waiver of any other breach or default. Provider’s acceptance of any payment under the Agreement will not constitute an accord or any other form of acknowledgement or satisfaction that the amount paid is in fact the correct amount, and acceptance of a payment will not release any claim by Provider for additional amounts due from Customer.

15.3 **Attorneys’ Fees.** If any proceeding is brought by a Party to enforce or interpret any term or provision of the Agreement, the substantially prevailing Party in such proceeding will be entitled to recover, in addition to all other relief as set forth in the Agreement, that Party’s reasonable attorneys’ and experts’ fees and expenses.

15.4 **Relationship: No Third Party Beneficiaries.** The Agreement is a commercial contract between Provider and Customer and the relationship between the Parties is that of independent contractors. Nothing in the Agreement creates any partnership, principal-agent, employer-employee or joint venture relationship between the Parties or any of their Affiliates, agents or employees for any purpose. The Agreement is for the sole benefit of Provider and Customer and is not intended to confer any rights on any other person; there are no third party beneficiaries of the Agreement.

15.5 **Exhibits.** The following Exhibits, which are attached to this MSA, are incorporated herein and by this reference made a part of this MSA:

- EXHIBIT A - Service Level Agreement for Lit Fiber Services
- EXHIBIT B - Service Level Agreement for Dark Fiber Services
- EXHIBIT C - Acceptable Use Policy for Commercial Services
- EXHIBIT D - Service-Specific Terms and Conditions
- EXHIBIT E - Form of Certificate of Insurance

15.6 **Computation of Time.** Except where expressly provided to the contrary, as used in the Agreement, the word “day” shall mean “calendar day,” and the computation of time shall include all Saturdays, Sundays and holidays for purposes of determining time periods specified in the Agreement. If the final date of any period of time set out in any provision of the Agreement falls upon a Saturday or a Sunday or a legal holiday, then in such event, the time of such period shall be extended to the next day that is not a Saturday, Sunday or legal holiday. As used in the Agreement, the term “business day” shall mean a day that is not a Saturday, Sunday or a legal holiday.

15.7 **Counterparts.** This MSA and any Service Order entered into by the Parties pursuant to this MSA may be executed in multiple counterparts, each of which shall constitute an original, and all of which shall constitute one and the same instrument. Any executed documents sent to the other Party in portable document format (pdf) images via email will be considered the same as an original document.

15.8 **Proof of Insurance:**

The Contractor shall, at its own expense, obtain and continuously maintain the following insurance coverage. All insurers providing such insurance shall have an A.M. Best Rating of not less that A- (or otherwise be acceptable to the County) and be licensed to do business in the State of Washington and admitted by the Washington State Insurance Commissioner. Coverage limits shall be the minimum limits identified in this Agreement or the coverage limits provided or available under the policies maintained by the Contractor without regard to this Agreement, whichever are greater:

Commercial General Liability
a. Property Damage – $500,000.00 – per occurrence
b. General Liability & bodily injury – $1,000,000.00 – per occurrence; $2,000,000 - Minimum, Annual Aggregate.

c. Business Automobile Liability $1,000,000 Minimum, per occurrence  
$2,000,000 Minimum, Annual Aggregate

Contractor shall provide auto liability coverage for owned, non-owned and hired autos using ISO Business Auto Coverage form CA 00 01 or the exact equivalent with a limit of no less than $1,000,000 per accident. If Contractor owns no vehicles this requirement may be met through a non-owned auto Endorsement to the CGL policy.

The Contractor must provide a Certificate of Liability Insurance with Endorsements on the CGL and auto policy, which shall identify the County, employees, officers, agents, officials and volunteers as named Additional Insureds, and as may be attached hereto as Exhibit "E". The Contractor’s insurance shall be considered primary and shall waive all rights of subrogation. The County insurance shall be non-contributory. The CGL policy shall be an occurrence basis. All Contractor’s and Contractor’s subcontractors’ insurance policies shall also name the County as an additional named insured with endorsements, provide primary insurance coverage, waiver of subrogation and the County’s insurance shall be non-contributory. Any insurance, self-insured retention, deductible, risk retention or insurance pooling maintained or participate in by the County shall be excess. All Contractor’s and subcontractors’ liability insurance policies must be endorsed to show this primary coverage.

The Contractor must submit the certificate of liability insurance with endorsements as required above to the County prior to the commencement of any work on this project. The County must be notified immediately of any cancellation of the policy or change in insurer carrier. Contractor shall immediately provide a copy to the County of the certificate of liability and endorsements when there is a change in insurance carrier or when the policy is renewed so that the County maintains a current copy of the Contractor’s policy with the required certificate and endorsements. The County not confirming adequate proof of insurance requirements does not constitute a waiver of the Contractor’s insurance requirement under this contract.

[Signatures on following pages.]
IN WITNESS WHEREOF, Whatcom County and Wave Business Solutions, LLC have executed this Amendment on the date and year below written.

DATED this 30th day of July, 2018.

CONTRACTOR:

WAVE BUSINESS SOLUTIONS, LLC

[Signature]
Paul Koss, SVP Commercial Services

STATE OF WASHINGTON

) ss.

COUNTY OF KING

On this 30th day of July, 2018, before me personally appeared Paul Koss to me known to be the SVP Commercial Service of Wave Business Solutions, LLC, who executed the above instrument and who acknowledged to me the act of signing and sealing thereof.

[Signature]
Bree Urban, Notary Public

NOTARY PUBLIC in and for the State of Washington,

Bree Urban, printed name,

residing at Seattle, WA,

My commission expires August 1, 2022.

WHATCOM COUNTY:

Recommended for Approval:

[Signature]
RJ 7/30/2018

IT Manager Date

Approved as to form:

[Signature]
Kara Wahn 7/30/18

Prosecuting Attorney Date
Approved:
Accepted for Whatcom County:

By:  
Jack Louws, Whatcom County Executive

STATE OF WASHINGTON  
COUNTY OF WHATCOM  

On this 30 day of July 2018 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.

[Signature]
NOTARY PUBLIC in and for the State of Washington,

residing at Bellingham. My commission expires 05.25.2019

CONTRACTOR INFORMATION
WAVE BUSINESS SOLUTIONS  
401 PARKPLACE CENTER, SUITE 500  
KIRKLAND, WA 98033

Contact Name: Jeff Stoner  
Contact Phone: 360-914-4541  
Contact FAX: 206-538-0910  
Contact Email: jstoner@wavebusiness.com

[The remainder of this page is intentionally left blank.]
This Service Level Agreement for High Availability Enterprise Services (this “SLA”) is a part of the Master Services Agreement for Enterprise Services (“MSA”) between Wave Business Solutions, LLC (“WAVE”) and Customer. This SLA applies to the following types of Enterprise Services offered by WAVE: (a) Data Transport Services, (b) Dedicated Internet Access Services, and (c) Phone Solutions Over Fiber Services.

1. **AVAILABILITY SLA**

WAVE’s Network is designed to provide a target **Availability of at least 99.9%** per month. If the Availability target is not achieved in a given calendar month, Customer shall be entitled to the remedies set forth in the table below, which must be claimed as described in this SLA.

<table>
<thead>
<tr>
<th>Target Availability</th>
<th>Duration of Service Outage</th>
<th>Customer Credit as % of MRC for the applicable Circuit*</th>
</tr>
</thead>
<tbody>
<tr>
<td>99.9% Availability</td>
<td>Less than 45 minutes</td>
<td>Target Met</td>
</tr>
<tr>
<td></td>
<td>45 Min. up to 4 hours</td>
<td>5%</td>
</tr>
<tr>
<td></td>
<td>&gt; 4 hours up to 12 hours</td>
<td>10%</td>
</tr>
<tr>
<td></td>
<td>&gt; 12 hours up to 18 hours</td>
<td>20%</td>
</tr>
<tr>
<td></td>
<td>&gt; 18 hours up to 24 hours</td>
<td>35%</td>
</tr>
<tr>
<td></td>
<td>&gt; 24 hours</td>
<td>50%</td>
</tr>
</tbody>
</table>

*Customer credits for Unavailability are calculated on an individual circuit basis, and the amount of any credit is based on the portion of MRC allocable to the affected circuit.

2. **MEAN TIME TO RESTORE (“MTTR”) SLA**

In the event of Outages in Services due to failure or malfunction of the WAVE Network or WAVE Equipment, WAVE’s NOC is designed to provide a **MTTR of 6 hours or less**. If the target MTTR is not met for a particular circuit in a given calendar month, and Customer receives a Service from WAVE on the circuit at issue, then Customer shall be entitled to remedies set forth in the table below, which must be claimed as described in this SLA.

<table>
<thead>
<tr>
<th>Target MTTR</th>
<th>Actual MTTR</th>
<th>Customer Credit as % of MRC for the applicable Circuit</th>
</tr>
</thead>
<tbody>
<tr>
<td>6 hr MTTR</td>
<td>≤ 6 Hrs.</td>
<td>Target Met</td>
</tr>
<tr>
<td></td>
<td>&gt; 6 Hrs. to 10 Hrs.</td>
<td>5%</td>
</tr>
<tr>
<td></td>
<td>&gt; 10 Hrs. to 18 Hrs.</td>
<td>10%</td>
</tr>
<tr>
<td></td>
<td>&gt; 18 Hrs.</td>
<td>20%</td>
</tr>
</tbody>
</table>

3. ** PACKET DELIVERY/ PACKET LOSS SLA**

The WAVE Network is designed to provide **no greater than 0.1% Packet Loss**. If the Packet Loss target is not achieved in a given calendar month, Customer shall be entitled to the remedies set forth in the table below, which must be claimed as described in this SLA. Customer credits for average monthly Packet Loss are calculated on an individual circuit basis, and the amount of any credit is based on the portion of MRC allocable to the affected circuit.
4. LATENCY SLA

The WAVE Network is designed to provide a monthly average round trip Latency not to exceed the following:

- Round Trip Local Market Latency of 12 ms or less
- Round Trip Inter-Market Latency* of 45 ms or less

If WAVE determines the applicable Latency target was not met in a given month and also cannot remedy the problem within fifteen (15) calendar days from the date on which Customer opens a Trouble Ticket with the WAVE NOC regarding excessive Latency, Customer shall be entitled to the remedies set forth in the table below, which must be claimed as described in this SLA.

<table>
<thead>
<tr>
<th>Target Local Market Latency Round Trip</th>
<th>Target Inter-Market Latency* Round Trip</th>
<th>Actual Latency Round Trip (lower end - upper end)</th>
<th>Customer Credit as % of MRC for the applicable Circuit</th>
</tr>
</thead>
<tbody>
<tr>
<td>12 ms or less</td>
<td>45 ms or less</td>
<td>≤ Target Latency</td>
<td>Target Met</td>
</tr>
<tr>
<td></td>
<td></td>
<td>&gt; Target up to 8 ms over Target</td>
<td>5%</td>
</tr>
<tr>
<td></td>
<td></td>
<td>&gt; 8 ms up to 15 ms over Target</td>
<td>10%</td>
</tr>
<tr>
<td></td>
<td></td>
<td>&gt; 15 ms up to 20 ms over Target</td>
<td>25%</td>
</tr>
<tr>
<td></td>
<td></td>
<td>&gt; 20 ms over Target</td>
<td>50%</td>
</tr>
</tbody>
</table>

* Inter-Market Latency means up to 800 network miles between locations

5. NETWORK JITTER SLA

The WAVE Backbone Network is designed to have a monthly average one-way Network Jitter of no greater than 2 ms. If the Network Jitter target is exceeded in a given calendar month, Customer will be entitled to a credit of 1/30th of the MRC of the affected circuit for that month for each full 1ms of Network Jitter above the applicable Network Jitter target set forth above. Any such credit must be claimed as described in this SLA.

6. CHRONIC OUTAGE

If Customer experiences a Chronic Outage with respect to a Service, Customer shall have the right to elect either of the following remedies, which must be claimed as described in this SLA: (i) substitute a different Service or a different circuit/path for the Service and circuit/path that experienced the Chronic Outage without incurring any Termination Charge or installation fees; or (ii) terminate the affected Service for the circuit/path that experienced the Chronic Outage without incurring any Termination Charge.

7. DEFINITIONS

For purposes of this SLA the following terms shall have the meanings set forth below.

“Availability” means the ability of Customer to exchange Ethernet packets with the WAVE Network via Customer’s router port. Availability is measured in minutes of uptime over the calendar month during which the Services are Available.
% Availability = \frac{(\text{Total Minutes in Month} - \text{Total Minutes of Unavailability in Month})}{\text{Total Minutes in Month}}
(per calendar month)

For Ethernet Transport Services and Phone Over Fiber Services, Availability is calculated at the individual circuit level, between WAVE’s Backbone Network and the Customer’s router port. For Dedicated Internet Access Services, Availability is calculated from the Customer’s router port through the WAVE Network to the handoff point for the Internet. Dedicated Internet Access Service Availability does not include the availability of the Internet itself or any particular Internet resource. Periods of Excused Outage are not included in Availability metrics.

“Chronic Outage” means a series of three (3) or more Service Outages affecting the same Service on the same circuit during a given calendar month, each of which has an actual time to restore “TTR” in excess of WAVE’s targeted MTTR.

“Emergency Maintenance” means WAVE’s efforts to correct conditions on the WAVE Network that are likely to cause a material disruption to or outage in services provided by WAVE and which require immediate action. Emergency Maintenance may degrade the quality of the Services provided to Customer, including possible outages. Any such outages are Excused Outages that will not entitle Customer to credits under this SLA. WAVE may undertake Emergency Maintenance at any time WAVE deems necessary and will provide Customer with notice of such Emergency Maintenance as soon as commercially practicable under the circumstances.

“Excused Outage” means any disruption to or unavailability of Services caused by or due to (i) Scheduled Maintenance, (ii) Emergency Maintenance, or (iii) circumstances beyond WAVE’s reasonable control, such as, by way of example only, Force Majeure, acts or omissions of Customer or Customer’s agents, licensees or end users, electrical outages not caused by WAVE, or any failure, unavailability, interruption or delay of third-party telecommunications network components the use of which are reasonably necessary for WAVE’s delivery of the Services to Customer.

“Jitter” or “Network Jitter” refers to an undesirable variation in the interval at which packets are received, also described as the variability in Latency as measured in the variability over time of the packet latency across a network. Jitter is calculated as aggregate average monthly metric measured by WAVE across the WAVE Backbone Network between a sample of WAVE POPs. Local access loops are not included. Periods of Excused Outage are not included in Jitter metrics.

“Latency” means how much time it takes, measured in milliseconds, for a packet of data to get from one designated point on WAVE’s Network to another designated point on WAVE’s Network. Latency is calculated as aggregate average monthly metric measured by WAVE across the WAVE Backbone Network between a sample of WAVE POPs. Local access loops are not included. Periods of Excused Outage are not included in Latency metrics.

“Mean Time to Restore” or “MTTR” means the average time required to restore the WAVE Network to a normally operating state in the event of an Outage. MTTR is calculated on a circuit basis, as a monthly average of the time it takes WAVE to repair all Service Outages on the specific circuit. MTTR is measured from the time an Outage related Trouble Ticket is generated by the WAVE NOC until the time the Service is again Available. The cumulative length of Service Outages per circuit is divided by the number of Trouble Tickets in the billing month to derive the monthly MTTR per circuit:

\[
\text{MTTR in Hrs} = \frac{\text{Cumulative Length of Service Outages Per Month Per Circuit}}{\text{Total Number of Trouble Tickets for Service Outages Per Month Per Circuit}}
\]

(weeks)

Periods of Excused Outage are not included in MTTR metrics.

“Outage” means a disruption in the Service making the Service completely unavailable to Customer that is not an Excused Outage. For purposes of SLA-related credits and remedies, the period of unavailability begins when an Outage-related Trouble Ticket is opened by the Customer and ends when the connection is restored, as measured by WAVE. Unavailability does not include periods of Service degradation, such as slow data transmission.
“Packet Loss” means the unintentional discarding of data packets in a network when a device (e.g., switch, router, etc.) is overlapped and cannot accept any incoming data. Packet Loss is calculated as aggregate average monthly metric measured by WAVE across the WAVE Backbone Network between a sample of WAVE POPs. Local access loops are not included. Periods of Excused Outage are not included in Packet Loss metrics.

“Scheduled Maintenance” means any maintenance of the portion of the WAVE Network to which Customer’s router is connected that is performed during a standard maintenance window (1:00AM – 5:00AM Pacific Time). Customer will be notified via email at least forty-eight (48) hours in advance of any scheduled maintenance that is likely to affect Customer’s Service.

“Trouble Ticket” means a trouble ticket generated through the WAVE NOC upon notification of a Service-related problem. Trouble Tickets may be generated by WAVE pursuant to its internal network monitoring process, or by Customer’s reporting of a problem to the WAVE NOC. In order for Customer to be eligible for credits or remedies under this SLA, Customer must contact the WAVE NOC and open a Trouble Ticket regarding the problem; Trouble Tickets generated internally by WAVE will not provide a basis for Customer credits or Chronic Outage remedies.

“WAVE Network” means all equipment, facilities and infrastructure that WAVE uses to provide Services to Customer, and includes Customer’s access port. The “WAVE Network” does not include Customer owned or leased equipment (unless leased from WAVE), or any portion of Customer’s local area network after the demarcation point for the Services provided by WAVE.

“WAVE Backbone Network” means WAVE’s core fiber backbone that connects WAVE’s POPs and regional hubs.

“WAVE’s Network Operations Center” or “WAVE’s NOC” means WAVE’s network operations center which is staffed 24x7x365 and can be reached at: 888-317-0488.

8. CLAIMING CREDITS AND REMEDIES

8.1 Requesting SLA Related Credits and Chronic Outage Remedies. To be eligible for any SLA-related Service credit or Chronic Outage remedy, Customer must be in good standing with WAVE and current in its financial obligations to WAVE. Credits are exclusive of any applicable taxes charged to Customer or collected by WAVE.

(i) To claim SLA-related Service credits, Customer must do the following:

(a) Open a Trouble Ticket with the WAVE NOC within twenty-four (24) hours of the occurrence giving rise to the claimed credit(s);

(b) Submit a written request for the credit(s) to WAVE’s customer service department within fifteen (15) days after the end of the calendar month in which the incident giving rise to the credit(s) occurred; and

(c) Provide the following documentation when requesting the credit(s):
   - Customer name and contact information;
   - Trouble Ticket number(s);
   - Date and beginning/end time of the claimed Outage or failed SLA metric;
   - Circuit IDs for each pertinent circuit/path; and
   - Brief description of the characteristics of the claimed Outage or failed SLA metric.

(ii) To claim remedies for a Chronic Outage under this SLA, Customer must do the following:

(a) Open a Trouble Ticket regarding the Chronic Outage with the WAVE NOC within seventy-two (72) hours of the last Outage giving rise to the claimed remedy;

(b) Submit a written request for a remedy regarding the Chronic Outage to WAVE’s customer service department within thirty (30) days of the end of the calendar month in which the Chronic Outage occurred; and
(c) Provide the following documentation when requesting the remedy:
- Customer name and contact information;
- Type of remedy requested (e.g., substitution or termination);
- Trouble Ticket numbers for each individual Outage event;
- Date and beginning/end time of each of the claimed Outages;
- Trouble Ticket number for the Chronic Outage at issue;
- Circuit IDs for each pertinent circuit/path; and
- Brief description of the characteristics of the claimed Chronic Outage.

If Customer fails to timely submit, pursuant to the procedure described in this Section, a request for any SLA-related credit or Service Outage remedy for which Customer might otherwise be eligible under this SLA, Customer shall be deemed to have waived its right to receive such credit or remedy. The credits and remedies provided by this SLA are Customer’s sole and exclusive remedies for any and all claims or complaints regarding the quality and/or availability of any of the Services to which this SLA applies.

8.2 **WAVE’s Evaluation of Claims.** All claims for SLA-related credits and remedies for Chronic Outages are subject to evaluation and verification by WAVE. Upon receiving a claim for SLA-related credit and/or remedies for Chronic Outage, WAVE will evaluate the claim and respond to Customer within thirty (30) days. If WAVE requires additional information in order to evaluate Customer’s claim, WAVE will notify Customer by email specifying what additional information is required. Customer will have fifteen (15) days from the date on which it receives WAVE’s request for additional information in which to provide the requested information to WAVE. If Customer fails to provide the additional information within that time period, Customer will be deemed to have abandoned its claim. WAVE will promptly notify Customer of WAVE’s resolution of each Customer claim. If Customer’s claim for an SLA-related credit or Chronic Outage remedy is rejected, the notification will specify the basis for the rejection. If Customer’s claim for a credit is approved, WAVE will issue the credit to Customer’s account, to appear on the next monthly invoice. If Customer’s claim for a Chronic Outage remedy is approved, WAVE will notify Customer of the date on which the requested substitution or termination will occur. WAVE’s determination regarding whether or not an SLA has been violated shall be final.

8.3 **Limitations and Exclusions.** Total credits for any given calendar month shall not exceed 100% of the MRC for the affected circuit and Service. Credits shall not be cumulative with respect to any given incident; instead, if multiple SLAs are violated during a single incident, Customer shall be entitled only to the largest applicable credit amount. This SLA will not apply and Customer will not be entitled to any credit under this SLA for any impairment of Services that is caused by or due to any of the following: (i) The acts or omissions of Customer, its agents, employees, contractors, or Customer’s end users, or other persons authorized by Customer to access, use or modify the Services or the equipment used to provide the Services, including Customer’s use of the Service in an unauthorized or unlawful manner; (ii) The failure of or refusal by Customer to reasonably cooperate with WAVE in diagnosing and troubleshooting problems with the Services, including the unavailability of required Customer personnel due to Customer’s failure to keep WAVE provided with current and accurate contact information for such personnel; (iii) Scheduled Service alteration, maintenance or implementation; (iv) The failure or malfunction of network equipment or facilities not owned or controlled by WAVE or WAVE’s Affiliates; (v) Force majeure events; (vi) WAVE’s inability (due to no fault of WAVE) to access facilities or equipment as reasonably required to troubleshoot, repair, restore or prevent degradation of the Service; (vii) Customer’s failure to release the Service for testing or repair and continuing to use the Service on an impaired basis; (viii) WAVE’s termination of the Service for cause, or as otherwise authorized by the MSA; (ix) Improper or inaccurate network specifications provided by Customer; (x) Interruptions resulting from incorrect, incomplete or inaccurate Service orders from Customer; (xi) Special configurations of the standard Service that have been mutually agreed to by Customer and WAVE, unless a separate Service Level Agreement for the special configuration has been established with the Service Order; or (xii) WAVE’s inability to deliver Service by the Customer’s desired due date.
This Service Level Agreement for High Availability Dark Fiber Services (this "SLA") is a part of the Master Services Agreement for Enterprise Services ("MSA") between Wave Business Solutions, LLC ("WAVE") and Customer.

1. **AVAILABILITY SLA**

WAVE’s dark fiber paths are designed to provide a target Availability of *at least 99.9%* per calendar month. If the Availability target is not met with respect to a given dark fiber path in a given calendar month, Customer will be entitled to a credit in the amount set forth below, which must be claimed as described in this SLA. Customer credits for Outages of Dark Fiber Services are calculated on an individual path basis, and the amount of any credit is based on the portion of MRC allocable to the affected dark fiber path.

<table>
<thead>
<tr>
<th>Duration of Unavailability</th>
<th>Customer Credit as % of MRC for the applicable Dark Fiber Path*</th>
</tr>
</thead>
<tbody>
<tr>
<td>Less than 45 minutes</td>
<td>Target Met</td>
</tr>
<tr>
<td>45 Min. up to 8 hours</td>
<td>9%</td>
</tr>
<tr>
<td>&gt; 8 hours up to 16 hours</td>
<td>10%</td>
</tr>
<tr>
<td>&gt; 16 hours up to 24 hours</td>
<td>20%</td>
</tr>
<tr>
<td>&gt; 24 hours</td>
<td>35%</td>
</tr>
</tbody>
</table>

2. **MEAN TIME TO RESTORE ("MTTR") SLA**

In the event of Outages in the Services, WAVE’s NOC is designed to provide a MTTR of *no greater than 6 hours*. If the target MTTR is not met for a particular dark fiber path in a given calendar month, and Customer receives a Service from WAVE on the path at issue, then Customer shall be entitled to remedies set forth in the table below, which must be claimed as described in this SLA.

<table>
<thead>
<tr>
<th>Target MTTR</th>
<th>Actual MTTR</th>
<th>Customer Credit as % of MRC for the applicable Path</th>
</tr>
</thead>
<tbody>
<tr>
<td>6 hr MTTR</td>
<td></td>
<td></td>
</tr>
<tr>
<td>≤ 6 Hrs.</td>
<td>Target Met</td>
<td></td>
</tr>
<tr>
<td>&gt; 6 Hrs. to 10 Hrs.</td>
<td>5%</td>
<td></td>
</tr>
<tr>
<td>&gt; 10 Hrs. to 18 Hrs.</td>
<td>10%</td>
<td></td>
</tr>
<tr>
<td>&gt; 18 Hrs.</td>
<td>20%</td>
<td></td>
</tr>
</tbody>
</table>

3. **CHRONIC OUTAGE**

If Customer experiences a Chronic Outage with respect to a Service, Customer shall have the right to elect either of the following remedies, which must be claimed as described in this SLA: (i) substitute a different Service or a different path for the Service that experienced the Chronic Outage without incurring any Termination Charge or installation fees; or (ii) terminate the affected Service for the path that experienced the Chronic Outage without incurring any Termination Charge.

4. **DEFINITIONS**

For purposes of this SLA the following terms shall have the meanings set forth below.

“Availability” means the dark fibers at issue are available to and accessible by Customer at the specified locations, are capable of transmitting signals and can otherwise be used by Customer. Availability does not involve the quality of data
transmission. Periods of Excused Outage are not included in the Availability metric. WAVE does not monitor the use or availability of dark fiber Services, thus any Outage must be reported to the WAVE NOC by Customer.

“Chronic Outage” means a series of three (3) or more Service Outages affecting the same Service on the path during a given calendar month, each of which has an actual time to restore “TTR” in excess of WAVE’s targeted MTTR.

“Emergency Maintenance” means WAVE’s efforts to correct conditions on the WAVE Network that are likely to cause a material disruption to or outage in Services provided by WAVE and which require immediate action. Emergency Maintenance may degrade the quality of the Services provided to Customer, including possible outages. Any such outages are Excused Outages that will not entitle Customer to credits under this SLA. WAVE may undertake Emergency Maintenance at any time WAVE deems necessary and will provide Customer with notice of such Emergency Maintenance as soon as commercially practicable under the circumstances.

“Excused Outage” means any disruption to or unavailability of Services caused by or due to (i) Scheduled Maintenance, (ii) Emergency Maintenance, or (iii) circumstances beyond WAVE’s reasonable control, such as, by way of example only, Force Majeure, acts or omissions of Customer or Customer’s agents, licensees or end users, electrical outages not caused by WAVE, or any failure, unavailability, interruption or delay of third-party telecommunications network components the use of which are reasonably necessary for WAVE’s delivery of the Services to Customer.

“Mean Time to Restore” or “MTTR” means the average time required to restore the Service(s) to a normally operating state in the event of an Outage. MTTR is calculated on a path route basis, as a monthly average of the time it takes WAVE to repair all Service Outages on the specific path route. MTTR is measured from the time Customer opens an Outage related Trouble Ticket with the WAVE NOC until the time the Service is again Available. The cumulative length of Service Outages per circuit is divided by the number of Trouble Tickets in the billing month to derive the monthly MTTR per circuit:

\[
\text{MTTR in Hrs} = \frac{\text{Cumulative Length of Service Outages Per Month Per Circuit}}{\text{Total Number of Trouble Tickets for Service Outages Per Month Per Circuit}}
\]

Periods of Excused Outage are not included in MTTR metrics.

“Outage” means a disruption in the Service making the Service completely unavailable to Customer that is not an Excused Outage. For purposes of SLA-related credits and remedies, the period of unavailability begins when an Outage-related Trouble Ticket is opened by the Customer and ends when the connection is restored, as measured by WAVE. Unavailability does not include periods of Service degradation, such as slow data transmission.

“Scheduled Maintenance” means any maintenance of the portion of the WAVE Network to which Customer’s router is connected that is performed during a standard maintenance window (1:00AM – 5:00AM Pacific Time). Customer will be notified via email at least forty-eight (48) hours in advance of any scheduled maintenance that is likely to affect Customer’s Service.

“Trouble Ticket” means a trouble ticket generated through the WAVE NOC upon notification of a Service-related problem. In order for Customer to be eligible for credits or remedies under this SLA, Customer must contact the WAVE NOC and open a Trouble Ticket regarding the problem.

“WAVE Network” means all equipment, facilities and infrastructure that WAVE uses to provide Services to Customer, and includes Customer’s access port. The “WAVE Network” does not include Customer owned or leased equipment (unless leased from WAVE), or any portion of Customer’s local area network after the demarcation point for the Services provided by WAVE.

“WAVE’s Network Operations Center” or “WAVE’s NOC” means WAVE’s network operations center which is staffed 24x7x365 and can be reached at: 888-317-0488.
5. CLAIMING CREDITS AND REMEDIES

5.1 Requesting SLA Related Credits and Chronic Outage Remedies. To be eligible for any SLA-related Service credit or Chronic Outage remedy, Customer must be in good standing with WAVE and current in its financial obligations to WAVE. Credits are exclusive of any applicable taxes charged to Customer or collected by WAVE.

(i) To claim SLA-related Service credits, Customer must do the following:

(a) Open a Trouble Ticket with the WAVE NOC within twenty-four (24) hours of the occurrence giving rise to the claimed credit(s);

(b) Submit a written request for the credit(s) to WAVE’s customer service department within fifteen (15) days after the end of the calendar month in which the incident giving rise to the credit(s) occurred; and

(c) Provide the following documentation when requesting the credit(s):
   - Customer name and contact information;
   - Trouble Ticket number(s);
   - Date and beginning/end time of the claimed Outage or failed SLA metric;
   - Circuit IDs for each pertinent circuit/path; and
   - Brief description of the characteristics of the claimed Outage or failed SLA metric.

(ii) To claim remedies for a Chronic Outage under this SLA, Customer must do the following:

(a) Open a Trouble Ticket regarding the Chronic Outage with the WAVE NOC within seventy-two (72) hours of the last Outage giving rise to the claimed remedy;

(b) Submit a written request for a remedy regarding the Chronic Outage to WAVE’s customer service department within thirty (30) days of the end of the calendar month in which the Chronic Outage occurred; and

(c) Provide the following documentation when requesting the remedy:
   - Customer name and contact information;
   - Type of remedy requested (e.g., substitution or termination);
   - Trouble Ticket numbers for each individual Outage event;
   - Date and beginning/end time of each of the claimed Outages;
   - Trouble Ticket number for the Chronic Outage at issue;
   - Circuit IDs for each pertinent circuit/path; and
   - Brief description of the characteristics of the claimed Chronic Outage.

If Customer fails to timely submit, pursuant to the procedure described in this Section, a request for any SLA-related credit or Service Outage remedy for which Customer might otherwise be eligible under this SLA, Customer shall be deemed to have waived its right to receive such credit or remedy. The credits and remedies provided by this SLA are Customer’s sole and exclusive remedies for any and all claims or complaints regarding the quality and/or availability of any of the Services to which this SLA applies.

5.2 WAVE’s Evaluation of Claims. All claims for SLA-related credits and remedies for Chronic Outages are subject to evaluation and verification by WAVE. Upon receiving a claim for SLA-related credit and/or remedies for Chronic Outage, WAVE will evaluate the claim and respond to Customer within thirty (30) days. If WAVE requires additional information in order to evaluate Customer’s claim, WAVE will notify Customer by email specifying what additional information is required. Customer will have fifteen (15) days from the date on which it receives WAVE’s request for additional information in which to provide the requested information to WAVE. If Customer fails to provide the additional information within that time period, Customer will be deemed to have abandoned its claim. WAVE will promptly notify Customer of WAVE’s resolution of each Customer claim. If Customer’s claim for an SLA-related credit or Chronic Outage remedy is rejected, the notification will specify the basis for the rejection. If Customer’s claim for a credit is approved, WAVE will issue the credit to Customer’s account, to appear on the next monthly invoice. If Customer’s claim for a Chronic Outage remedy is approved, WAVE will notify Customer of the date on which the requested substitution or termination will occur. WAVE’s determination regarding whether or not an SLA has been violated shall be final.
5.3 Limitations and Exclusions. Total credits for any given calendar month shall not exceed 100% of the MRC for the affected dark fiber path and Service. Credits shall not be cumulative with respect to any given incident; instead, if multiple SLAs are violated during a single incident, Customer shall be entitled only to the largest applicable credit amount. This SLA will not apply and Customer will not be entitled to any credit under this SLA for any impairment of Services that is caused by or due to any of the following: (i) The acts or omissions of Customer, its agents, employees, contractors, or Customer’s end users, or other persons authorized by Customer to access, use or modify the Services or the equipment used to provide the Services, including Customer’s use of the Service in an unauthorized or unlawful manner; (ii) The failure of or refusal by Customer to reasonably cooperate with WAVE in diagnosing and troubleshooting problems with the Services, including the unavailability of required Customer personnel due to Customer’s failure to keep WAVE provided with current and accurate contact information for such personnel; (iii) Scheduled Service alteration, maintenance or implementation; (iv) The failure or malfunction of network equipment or facilities not owned or controlled by WAVE or WAVE’s Affiliates; (v) Force majeure events; (vi) WAVE’s inability (due to no fault of WAVE) to access facilities or equipment as reasonably required to troubleshoot, repair, restore or prevent degradation of the Service; (vii) Customer’s failure to release the Service for testing or repair and continuing to use the Service on an impaired basis; (viii) WAVE’s termination of the Service cause, or as otherwise authorized by the MSA; (ix) Improper or inaccurate network specifications provided by Customer; (x) Interruptions resulting from incorrect, incomplete or inaccurate Service orders from Customer; (xi) Special configurations of the standard Service that have been mutually agreed to by Customer and WAVE, unless a separate Service Level Agreement for the special configuration has been established with the Service Order; or (xii) WAVE’s inability to deliver Service by the Customer’s desired due date.
Public Works will present its quarterly report to Council

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

Public Works will present its quarterly report to Council

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.
### CLEARANCES

| Originator: |  
| --- | --- |
| Division Head: |  
| Dept. Head: | 7/31/2018 |
| Prosecutor: |  
| Purchasing/Budget: |  
| Executive: |  

### TITLE OF DOCUMENT:

Report on Criminal Justice Committee Listening Tour

### 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.)

Report on Criminal Justice Committee Listening Tour

### 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).
EXECUTIVE SUMMARY

In the wake of a second failed ballot initiative to build a new jail, the Whatcom County Council’s Criminal Justice & Public Safety Committee sought to gain insight into why people were opposed to the proposal, and to gather input on the types of facilities and services they feel are needed to improve criminal justice and public safety in Whatcom County. The Committee contracted with Crossroads Consulting to facilitate seven listening sessions across the county from April to June 2018.

In addition to gathering verbal public comments from the 115 people who attended the listening sessions, 101 participants completed a brief written questionnaire. The same questionnaire was posted online for three weeks and was completed by 693 people who did not attend a listening session but who wanted to express their opinions.

Public comment at listening sessions and responses to the questionnaire represented a spectrum of opinions about criminal justice, and indicated that the majority of people had a holistic understanding of public safety. Rather than a large, new, and costly jail, participants consistently voiced the need to reduce incarceration by investing in prevention, treatment, rehabilitation, and alternatives to jail.

While many participants agreed that there needs to be a jail for people who are violent and at risk of harming others, and that it needs to be a safe and humane place for corrections staff who work there and inmates, they felt that there were inherent injustices in the current incarceration system that need to be rectified. They clearly communicated that jail was not the appropriate place to address mental health and substance abuse issues, or to house the homeless.

Most respondents wanted more tax funding to go to human services than into building a new jail. They had many ideas about how to reduce the number of people who are incarcerated, and many hoped that by investing more resources into incarceration prevention and diversion programs, less money would be needed over time to support the jail system.

There was strong support for decisions about the jail and incarceration prevention and rehabilitation services to be driven by data and best practices. Participants expressed that they would like to be informed and included in future planning for the jail and criminal justice system reforms. This will require effective outreach strategies to reach the diverse array of people who care about and are impacted by the criminal justice system.
TITLE OF DOCUMENT:
Vacation Rental Amendments – Title 20 Zoning and Title 23 Shoreline Management

ATTACHMENTS:
1. Staff Memorandum
2. Staff Report
3. Draft Ordinance Amending Title 20 Zoning and Title 23 Shoreline Management Program
4. Exhibit A – Proposed Title 20 (Zoning) amendments
5. Exhibit B – Proposed Title 23 (Shoreline Master Program) amendments
6. Resolution 2016-039

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 adopting amendments to WCC Title 20 Zoning and Title 23 Shoreline Management, regarding bed and breakfast and vacation rental units.

Related County Contract #: PLN2014-00020
PLN2016-00011

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

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

FROM: Cliff Strong, Senior Planner

THROUGH: Mark Personius, AICP, Director

DATE: July 26, 2018

SUBJECT: Vacation Rental Regulation – Title 20 and Title 23 Amendments

At its August 7, 2018, meeting, the Council’s Planning and Development Committee will continue its discussion of regulating short-term rental units such as bed and breakfasts (B&Bs) and vacation rental units. Please review the attached staff report, draft ordinance, and Exhibits A & B, showing the proposed amendments.

The proposed zoning code amendments (Exhibit A) would add vacation rentals as an accessory use in UR, URM, URMX, RR, RRI, TZ, RC, STC, AG, and R, subject to a series of standards listed in WCC 20.80, the “supplemental requirements” chapter of the zoning code, and would require owners to annually register with Planning and Development Services.

The proposed Shoreline Management Program (SMP) amendments would include vacation rental units and bed and breakfast establishments as part of a single family residential use (rather than a commercial use) for purposes of determining permitted uses in various shoreline designations. This would make the shoreline code more consistent with the proposed zoning code amendments.

Both sets of draft amendments have been reviewed by the Planning Commission, who recommended approval. In 2016, the Council held a hearing on the SMP amendments and passed Resolution 2016-039, forwarding the SMP amendments to the Department of Ecology (DOE) for its review. However, the Council has not had a hearing on the zoning code amendments, choosing to hold off until DOE approved the SMP amendments.

As it has been awhile since the P&D Committee has reviewed these amendments (while we were awaiting DOE’s review), the introduction of the draft ordinance has not been scheduled. At the August 7, 2018, P&D Committee meeting, PDS would like to get direction as to whether to bring it forward to the County Council for action.

If the County Council chooses to adopt the ordinance, staff would suggest making it effective a few months out. This would give PDS time to develop the registration system established by proposed WCC 20.80.960(3), to conduct outreach to vacation rental owners, and to add registration fees to the Unified Fee Schedule.

Attachments:
- Staff Report
- Draft Ordinance No. ___
- Exhibit A – Proposed Title 20 (Zoning) amendments
- Exhibit B – Proposed Title 23 (Shoreline Master Program) amendments
- Resolution 2016-039
Whatcom County Planning & Development Services
Staff Report

Vacation Rentals by Owners (VRBOs)
Title 20 Zoning Code Amendments &
Title 23 Shoreline Master Program Amendments

I. BACKGROUND INFORMATION

File #s: PLN2014-00020 (Title 20 Zoning Code Amendments) & PLN2016-00011 (Title 23 Shoreline Master Program Amendments)

File Name: Vacation Rentals – Zoning and Shoreline Master Program Code Amendments

Applicant: Whatcom County Planning and Development Services (PDS)

Summary of Request: Amend Whatcom County Code Title 20 (Zoning) to define and regulate short-term rentals of residential units, and Whatcom County Code Title 23 (Shoreline Master Program (SMP)) to add definitions of “bed and breakfast establishment” (B&Bs) and “vacation rental unit” and to remove B&Bs from the list of commercial uses that are subject to a shoreline conditional use permit.

Location: Countywide.

Staff Recommendation: As it has been awhile since Council has considered this proposal, Planning and Development Services recommends that the Council Planning & Development (P&D) Committee review the proposed code amendments and provide direction to staff. If the P&D Committee chooses to schedule the ordinance before the whole Council for action, staff will schedule it for introduction and a public hearing.1

Reason for Amendments
Over the past several years, the County has received public complaints regarding vacation rentals by owners (VRBOs), generally regarding noisy behavior of guests, which is enforced by the Sheriff under the “disorderly house” provisions of WCC 9.40. Complaints related to land use considerations (such as overflow parking) have occurred when a rental property is used as a special event venue for weddings, retreats, or other gatherings. Council directed staff to develop regulations for VRBOs to help minimize impacts to surrounding residents.

Existing Code

Zoning Code
The Whatcom County Zoning Code (WCC Title 20) does not currently prohibit rental of single-family dwellings, either short or long term. Lacking such a prohibition, PDS interprets the Zoning Code to permit VRBOs wherever single family dwellings are permitted.

1 The Council has already held a public hearing on PLN2016-00011 prior to the SMP amendments being sent to the Department of Ecology; however, Council has not held a hearing on PLN2014-00020.
Whatcom County's zoning code does not list VRBOs as a distinctive land use that is either permitted or prohibited. The zoning code does define and regulate transient room rentals for bed and breakfasts, rooming houses, and hotels as shown in Table 1:

**Table 1. Current Zoning Regulation of Transient Room Rentals**

<table>
<thead>
<tr>
<th>Use</th>
<th>Number of Persons</th>
<th>Number of Rooms</th>
<th>Owner Occupied</th>
<th>Permitted Use in:</th>
<th>Accessory Use in:</th>
<th>Conditional Use in:</th>
</tr>
</thead>
<tbody>
<tr>
<td>B&amp;B Establishment WCC 20.97.027</td>
<td>1 or 2</td>
<td>1 or 2</td>
<td>Yes</td>
<td>RC in Pt. Roberts,</td>
<td>UR, URM, URMX, RR, RRI, TZ, RC, STC, AG, R</td>
<td>RF</td>
</tr>
<tr>
<td>B&amp;B Inn WCC 20.97.028</td>
<td>3 to 5</td>
<td>3 to 5</td>
<td>Yes</td>
<td>RC in Pt. Roberts</td>
<td>RC, STC</td>
<td>UR, URM, URMX, RR, RRI, TZ, AG, R</td>
</tr>
<tr>
<td>Rooming House WCC 20.97.355</td>
<td>3 or more</td>
<td>No minimum or maximum</td>
<td>RC (except Maple Beach in Pt. Roberts) 3-8 persons</td>
<td>RC, STC</td>
<td>URM</td>
<td></td>
</tr>
<tr>
<td>Motel WCC 20.97.260</td>
<td>No minimum or maximum</td>
<td>16 or fewer rooms, AO, TC, GI, GC, STC</td>
<td>RC (16 or fewer rooms), AO, TC, GI, GC, STC</td>
<td>RGC, Pt. Roberts Special District</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Hotel WCC 20.97.185</td>
<td>6 or more</td>
<td>6 or more</td>
<td>Yes</td>
<td>RC (16 or fewer rooms), AO, TC, GI, GC, STC</td>
<td>RGC, Pt. Roberts Special District</td>
<td></td>
</tr>
</tbody>
</table>

“Rooming house” is a permitted use only in the RC zone (except the Maple Beach section of Point Roberts) and a conditional use in URM. A “hotel” or “motel” is a permitted use only in commercial zones, including RC. A “bed and breakfast establishment” (an accessory use in residential and rural zones) allows for renting 1 or 2 rooms, while a “bed and breakfast inn” (a conditional use in residential and rural zones) allows for renting 3 to 5 rooms. Both types of bed and breakfast establishments must be owner-occupied.

In September 2014, staff compiled potential options for regulating VRBOs from a land use standpoint and discussed them with the P&D Committee:

1. **Permitted outright as a single family dwelling.** Allow VRBOs of any duration in residential zones without conditions.
2. **Permitted with performance standards.** Allow VRBOs as a permitted use in all rural and residential zones, subject to conditions.
3. **Permitted in specified locations, with performance standards.** Same as 2 but permitted only in certain zones or geographic areas.
4. **Permitted with registration.** Same as 2 or 3 but with licensing or registration requirements.
5. **Prohibition.** Prohibit VRBOs in all residential zones.

The P&D Committee expressed a preference for exploring Option 2, permitting VRBOs countywide with performance standards, but with no additional licensing or registration requirements.

**Shoreline Management Program**

The SMP does not list or define a vacation rental unit use. However, the SMP definition of "residential development" expressly excludes "camping sites or clubs, recreational vehicle parks, motels, hotels and other transient housing." Therefore PDS believes vacation rental units, like B&Bs, would be considered commercial uses under the current SMP.

During the course of the discussion with the P&D Committee, staff pointed out that even if VRBOs and B&Bs were allowed under the zoning code, the current SMP regulations would make it very difficult to
locate them within the SMP jurisdiction (generally within 200 feet of a shoreline). A new B&B or VRBO development within shoreline jurisdiction would be subject to a shoreline substantial development permit, though a conversion from an existing residence to one of these uses would likely be exempt from that requirement. However, whether it is a new development or a conversion, the B&B or VRBO use within the SMP jurisdiction would be subject to a shoreline conditional use permit under the current regulations.

And it would likely be difficult to obtain a conditional use permit for a B&B or VRBO under current SMP criteria. The SMP currently lists B&Bs among commercial uses in its regulations for the “urban conservancy” and the “conservancy” shoreline designations. Those commercial uses are subject to a shoreline conditional use permit. WCC 23.60.040(B)(1), which lists shoreline conditional use permit criteria, requires that “the proposed use will be consistent with the policy of RCW 90.58.020 and this program.” That RCW section lists criteria in order of preference and gives preference to shoreline protection and public access over other uses.\(^2\)

**Extent of B&B and VRBO Uses**

Based on a November 2015 compilation of online listings, staff estimated that about one quarter of the approximately 400 short term rental units then advertised on the vrbo.com and airbnb.com websites in unincorporated Whatcom County were within shoreline jurisdiction (typically 200 feet from ordinary high water mark of an affected waterbody) (Table 2). While these uses are widespread throughout the County, they tend to cluster in areas traditionally characterized by recreational housing, such as Glacier and Birch Bay. Smaller clusters also exist in areas that have not been primarily recreational in nature, such as Lake Whatcom.

A large majority of these short term rental units are VRBOs (Table 3 and Table 4). At present, conversion of a residence to a vacation rental does not require a permit or registration through PDS. Without such a requirement, there has been no action that would prompt PDS to inform owners within the SMP jurisdiction that a conditional use permit is required.

**Table 2. VRBO and Airbnb Listings by Location and Shoreline Designation, November 2015**

<table>
<thead>
<tr>
<th>Location</th>
<th>Shoreline Designation (based on approximate location mapped in online listing)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Conservancy</td>
</tr>
<tr>
<td>Birch Bay</td>
<td>8</td>
</tr>
<tr>
<td>Birch Point</td>
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<td>Columbia Valley</td>
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\(^2\) **RCW 90.58.020** "...The legislature declares that the interest of all of the people shall be paramount in the management of shorelines of statewide significance. The department, in adopting guidelines for shorelines of statewide significance, and local government, in developing master programs for shorelines of statewide significance, shall give preference to uses in the following order of preference which:

(1) Recognize and protect the statewide interest over local interest;
(2) Preserve the natural character of the shoreline;
(3) Result in long term over short term benefit;
(4) Protect the resources and ecology of the shoreline;
(5) Increase public access to publicly owned areas of the shorelines;
(6) Increase recreational opportunities for the public in the shoreline;
(7) Provide for any other element as defined in RCW 90.58.100 deemed appropriate or necessary.”
<table>
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<tr>
<th>Location</th>
<th>Conservancy</th>
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<th>Rural</th>
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Table 3. VRBO and Airbnb Listings by Location and Type, November 2015
### Table 4. VRBO and Airbnb Listings by Type and Shoreline Designation, November 2015

<table>
<thead>
<tr>
<th>Type</th>
<th>Shoreline Designation (based on approximate location mapped in online listing)</th>
<th>Total</th>
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<td></td>
<td>Conservancy</td>
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<td>Bed &amp; Breakfast</td>
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<tr>
<td>Total</td>
<td>31</td>
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### Status of Amendments

**Zoning Code Amendments**

The Planning Commission held a December 2014 work session and January 2015 public hearing regarding proposed zoning code amendments to regulate short-term rentals. The Commission recommended approval of the proposal to list B&Bs and VRBOs as accessory uses in most zones.

The Council P&D Committee has discussed the issue four times since then. Committee discussion focused on permitting VRBOs as accessory uses per the Planning Commission recommendations, adding a provision making them a conditional use in the Lake Whatcom Watershed, and adding a series of performance standards intended to protect the safety of guests and prevent negative impacts to nearby residents. The proposed amendments shown in Exhibit A are based on the P&D Committee’s latest recommendation, with clarifying amendments proposed by staff since its last review. These are to §20.80.960, trying to better lay out the registration requirements, and amending the definition of “vacation rental unit” to match that of the DOE revised definition in the SMP amendments.

**Shoreline Management Program Amendments**

The Planning Commission held a public hearing on June 23, 2016, on the SMP amendments and recommended approval.

On October 25, 2016, the County Council held a public hearing and pre-approved the proposed amendments, passing Resolution 2016-039 (attached), forwarding the SMP amendments to the Department of Ecology (DOE) for its review.

On April 3, 2018, the DOE granted condition approval of Resolution 2016-039, providing recommended minor changes to some of the definitions for clarity. These changes have been incorporated into the proposed draft amendments (Exhibit B).
II. PROPOSED AMENDMENTS

Zoning Code Amendments
The proposed code amendments (Exhibit A) would add vacation rentals as an accessory use in UR, URM, URMX, RR, RRI, TZ, RC, STC, AG, and R, subject to a series of standards listed in WCC 20.80, the "supplemental requirements" chapter of the zoning code. These are the zones where "bed and breakfast establishments" are currently permitted as an accessory use (see Table 1). VRBOs would also be required to annually register as such with PDS.

The amendment would also add a definition of vacation rentals to distinguish them from long-term rentals. The definition uses 30 days as the vacation rental threshold, which is consistent with the County’s transient occupancy definition (WCC Chapter 3.36 Transient Occupancy Tax) and with the definitions of bed and breakfast establishments and inns. The definition also specifies no food service, to distinguish them from the bed and breakfast uses.

SMP Amendments
The proposed amendments (Exhibit B) would make B& Bs and vacation rental units residential rather than commercial uses in the SMP. This would be consistent with the proposed zoning code amendments, which would allow them as accessory uses to residential uses. Specifically, the amendment would:

- Remove B& Bs from the list of commercial uses subject to shoreline conditional use permits in the Urban Conservancy and Conservancy shoreline designations (WCC 23.30.055 and .095, and 23.100.050C(3) and .050C(7))
- Add a definition of “bed and breakfast” (WCC 23.110.020(4))
- Exclude B& Bs and vacation rental units from the definition of “commercial development” (WCC 23.110.030(6))
- Add B& Bs and vacation rental units to the definition of “residential development” (WCC 23.110.180(7)), and
- Add a definition of “vacation rental unit” (WCC 23.110.220(1))

The added definitions of B&B and vacation rental unit are consistent with those proposed in the Title 20 (zoning code) amendments. If enacted, the proposed zoning code amendments coupled with these amendments to the SMP would allow for a use that is already becoming a significant non-urban economic activity in the county, while placing performance standards on these uses to prevent negative impacts to surrounding residents.

III. COMPREHENSIVE PLAN EVALUATION

Zoning Code Amendments
The proposed zoning code amendment to add a definition and standards for vacation rental uses is consistent with the following policies of the Whatcom County Comprehensive Plan:

Goal 2A: Ensure provision of sufficient land and densities to accommodate the growth needs of Whatcom County and protect the qualities that make the county a desirable place to live.

Policy 2A-13 Allow for adequate economic development to provide economic sustainability, adequate employment opportunities, and services in and for the rural areas.

Goal 2DD: Retain the character and lifestyle of rural Whatcom County.
Policy 2DD-2: Protect the character of the rural area through the County’s development regulations ...

Goal 2FF: Provide employment opportunities in the rural parts of Whatcom County.

Policy 2FF-1: Support small businesses, cottage industries, home occupations, resource-based, tourist, recreational, and other appropriate industries in the rural areas of Whatcom County. New rural commercial and industrial uses that are more intensive than those permitted within rural zones as home occupations or cottage industries should be located within designated Rural Communities and Rural Business areas.

Policy 2FF-3: Ensure that business operations do not adversely impact adjacent residential, agricultural or forest land, or compromise water quality and quantity.

Policy 2FF-4: Allow home-based occupations, cottage industries and small-scale tourist and recreational uses throughout the rural area provided they do not adversely affect the surrounding residential uses, agricultural uses, forestry uses, or rural character.

Goal 7K: Enable a geographic balance for economic growth within the capacities of the county’s natural resources, natural systems, public services, and public facilities.

Policy 7K-4: Consider establishing more resource and tourism based recreational, commercial, and industrial uses to create economic opportunity in the rural areas of the county.

Shoreline Management Program Amendments
The proposed SMP amendment, in conjunction with the proposed zoning code amendments, is consistent with the following policies of the Whatcom County Comprehensive Plan:

Goal 2A: Ensure provision of sufficient land and densities to accommodate the growth needs of Whatcom County and protect the qualities that make the county a desirable place to live.

Policy 2A-13 Allow for adequate economic development to provide economic sustainability, adequate employment opportunities, and services in and for the rural areas.

Goal 2DD: Retain the character and lifestyle of rural Whatcom County.

Policy 2DD-2: Protect the character of the rural area through the County’s development regulations ...

Goal 2FF: Provide employment opportunities in the rural parts of Whatcom County.

Policy 2FF-1: Support small businesses, cottage industries, home occupations, resource-based, tourist, recreational, and other appropriate industries in the rural areas of Whatcom County. New rural commercial and industrial uses that are more intensive than those permitted within rural zones as home occupations or cottage industries should be located within designated Rural Communities and Rural Business areas.

Policy 2FF-4: Allow home-based occupations, cottage industries and small-scale tourist and recreational uses throughout the rural area provided they do not adversely affect the surrounding residential uses, agricultural uses, forestry uses, or rural character.

Goal 7K: Enable a geographic balance for economic growth within the capacities of the county’s natural resources, natural systems, public services, and public facilities.
IV. PROPOSED FINDINGS OF FACT AND REASONS FOR ACTION

Staff recommends the Council adopt the following findings of fact and reasons for action:

PLN2014-00020 (Title 20 Zoning Code Amendments)

1. Whatcom County Planning and Development Services submitted an application for a zoning code amendment to add a definition and standards for vacation rental units.

2. The amendment would add vacation rentals as an accessory use in zones where "bed and breakfast establishments" are currently permitted as an accessory use.

3. A determination of non-significance (DNS) was issued under the State Environmental Policy Act (SEPA) on December 1, 2014.

4. Notice of the subject amendment was submitted to the Washington State Department of Commerce on November 26, 2014.

5. On January 8, 2015, the Whatcom County Planning Commission held a duly noticed public hearing on a proposal to amend the Zoning Code (WCC Title 20) to allow vacation rental units as accessory uses in most zones, and recommended approval.

6. On _______, 2018, the Whatcom County Council held a duly noticed public hearing on the proposed amendments.

7. WCCP Policies 2A-13, 2FF-1, 2FF-3, 2FF-4, and 7K-4 support small home-based businesses in the rural areas of the county.

8. WCCP Policies 2FF-3 and 2FF-4 support rural businesses provided they do not adversely impact rural character or surrounding uses.

9. WCCP Policy 2DD-2 supports protecting rural character through development regulations.

PLN2016-00011 (Title 23 Shoreline Master Program Amendments)

10. Whatcom County Planning and Development Services submitted an application for a SMP code amendment to define B&Bs and vacation rental units as residential uses.

11. PDS estimates that about a quarter of vacation rental and bed and breakfast uses offered on two of the most popular vacation rental websites is located within the Shoreline Master Program jurisdiction.

12. The amendment would list vacation rental and bed and breakfast uses as residential uses in the Shoreline Master Program, consistent with the proposed zoning code amendments.

13. A determination of non-significance (DNS) was issued under the State Environmental Policy Act (SEPA) on May 27, 2016.

14. Notice of the subject amendment was submitted to the Washington State Department of Commerce on April 28, 2016.

15. The Planning Commission held a public hearing on the proposed amendments on June 23, 2016, notice of which was published in the Bellingham Herald on June 10, 2016.
16. The County Council held a duly noticed public hearing on the amendments on October 25, 2016, and passed Resolution 2016-039, directing staff to forward the SMP amendments to the Department of Ecology for its review.

17. Pursuant to WAC 173-26-110 and Resolution No. 2016-039, the staff forwarded the proposed SMP amendments to the Washington State Department of Ecology for review as a limited master program amendment.

18. On April 3, 2018, the Department of Ecology granted conditional approval of the proposed amendments, requesting some minor definitional changes that have been incorporated into the proposal.

19. WCCP Policies 2A-13, 2FF-1, 2FF-4, and 7K-4 support economic sustainability in the rural areas of the County.

20. WCCP Policy 2FF-4 supports rural home-based occupations, cottage industries and small-scale tourist and recreational uses throughout the rural area provided they do not adversely affect the surrounding residential uses, agricultural uses, forestry uses, or rural character.

V. PROPOSED CONCLUSIONS

1. The zoning amendments defining vacation rental units and regulating their operation is in the public interest.

2. The Shoreline Master Program amendments regarding vacation rental units and bed and breakfasts in the shoreline jurisdiction is in the public interest.

3. The amendments are consistent with the Whatcom County Comprehensive Plan.

VI. RECOMMENDATION

Planning and Development Services recommends that the Council P&D Committee review the proposed code amendments and provide direction to staff. If the P&D Committee chooses to schedule the ordinance before the whole Council for action, staff will schedule it for introduction and a public hearing.

ATTACHMENTS

- Draft Ordinance No. ___
- Exhibit A – Proposed Title 20 (Zoning) amendments
- Exhibit B – Proposed Title 23 (Shoreline Master Program) amendments
- Resolution 2016-039
ORDINANCE NO. ____________

ADOPTING AMENDMENTS TO WHATCOM COUNTY CODE TITLE 20 ZONING AND TITLE 23 SHORELINE MANAGEMENT PROGRAM, RELATING TO REGULATION OF VACATION RENTAL UNITS

WHEREAS, Use of single family homes as vacation rentals has become increasingly common in Whatcom County in recent years; and

WHEREAS, The Whatcom County Code Title 20 Zoning and Title 23 Shoreline Management Program lacks provisions for defining and permitting such uses; and

WHEREAS, Whatcom County Planning and Development Services has proposed amendments to the Whatcom County Code related to regulation of vacation rental units; and

WHEREAS, The Whatcom County Council reviewed and considered Planning Commission recommendations, staff recommendations, and public comments on the proposed amendments; and

WHEREAS, The County Council hereby adopts the following findings of fact and conclusions:

FINDINGS OF FACT

PLN2014-00020 (Title 20 Zoning Code Amendments)

1. Whatcom County Planning and Development Services submitted an application for a zoning code amendment to add a definition and standards for vacation rental units.

2. The amendment would add vacation rentals as an accessory use in zones where "bed and breakfast establishments" are currently permitted as an accessory use.

3. A determination of non-significance (DNS) was issued under the State Environmental Policy Act (SEPA) on December 1, 2014.

4. Notice of the subject amendment was submitted to the Washington State Department of Commerce on November 26, 2014.

5. On January 8, 2015, the Whatcom County Planning Commission held a duly noticed public hearing on a proposal to amend the Zoning Code (WCC Title 20) to allow vacation rental units as accessory uses in most zones, and recommended approval.
6. On _______, 2018, the Whatcom County Council held a duly noticed public hearing on the proposed amendments.

7. WCCP Policies 2A-13, 2FF-1, 2FF-3, 2FF-4, and 7K-4 support small home-based businesses in the rural areas of the county.

8. WCCP Policies 2FF-3 and 2FF-4 support rural businesses provided they do not adversely impact rural character or surrounding uses.

9. WCCP Policy 2DD-2 supports protecting rural character through development regulations.

PLN2016-00011 (Title 23 Shoreline Master Program Amendments)

10. Whatcom County Planning and Development Services submitted an application for a SMP code amendment to define B&Bs and vacation rental units as residential uses.

11. PDS estimates that about a quarter of vacation rental and bed and breakfast uses offered on two of the most popular vacation rental websites is located within the Shoreline Master Program jurisdiction.

12. The amendment would list vacation rental and bed and breakfast uses as residential uses in the Shoreline Master Program, consistent with the proposed zoning code amendments.

13. A determination of non-significance (DNS) was issued under the State Environmental Policy Act (SEPA) on May 27, 2016.

14. Notice of the subject amendment was submitted to the Washington State Department of Commerce on April 28, 2016.

15. The Planning Commission held a public hearing on the proposed amendments on June 23, 2016, notice of which was published in the Bellingham Herald on June 10, 2016.

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19. WCCP Policies 2A-13, 2FF-1, 2FF-4, and 7K-4 support economic sustainability in the rural areas of the County.

20. WCCP Policy 2FF-4 supports rural home-based occupations, cottage industries and small-scale tourist and recreational uses throughout the rural area provided they do
not adversely affect the surrounding residential uses, agricultural uses, forestry uses, or rural character.

CONCLUSIONS

1. The zoning amendments defining vacation rental units and regulating their operation is in the public interest.

2. The Shoreline Master Program amendments regarding vacation rental units and bed and breakfasts in the shoreline jurisdiction is in the public interest.

3. The amendments are consistent with the Whatcom County Comprehensive Plan.

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

Section 1. Amendments to the Whatcom County Code are hereby adopted as shown on Exhibits A and B.

ADOPTED this ______ day of ______________, 2018.

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

ATTEST:

______________________________    ______________________________
Dana Brown-Davis, Council Clerk    Barry Buchanan, Chairperson

APPROVED as to form:

( ) Approved    ( ) Denied

______________________________    ______________________________
Civil Deputy Prosecutor    Jack Louws, Executive

Date: ________________________

Page 3 of 3
EXHIBIT A
Whatcom County Code Title 20 Zoning
AMENDMENTS

Note: Proposed changes since the last version went to the P&D Committee are highlighted in yellow.

CHAPTER 20.20 URBAN RESIDENTIAL (UR) DISTRICT

20.20.100 Accessory uses.

.106 Bed and breakfast establishments, except in the Lake Whatcom Watershed Overlay District, where bed and breakfast establishments are a conditional use, per WCC 20.51.070.

.107 Vacation rental units, per WCC 20.80.960, except in the Lake Whatcom Watershed Overlay District, where vacation rental units are a conditional use, per WCC 20.51.070.

CHAPTER 20.22 URBAN RESIDENTIAL – MEDIUM DENSITY (URM) DISTRICT

20.22.100 Accessory uses.

.107 Vacation rental units, per WCC 20.80.960.

CHAPTER 20.24 URBAN RESIDENTIAL MIXED (UR-MX) DISTRICT

20.24.100 Accessory uses.

.107 Vacation rental units, per WCC 20.80.960.
CHAPTER 20.32 RESIDENTIAL RURAL (RR) DISTRICT

20.32.100 Accessory uses.

.106 Bed and breakfast establishments, except in the Lake Whatcom Watershed Overlay District, where bed and breakfast establishments are a conditional use, per WCC 20.51.070.

.107 Vacation rental units, per WCC 20.80.960, except in the Lake Whatcom Watershed Overlay District, where vacation rental units are a conditional use, per WCC 20.51.070.

CHAPTER 20.34 RURAL RESIDENTIAL - ISLAND (RR-I) DISTRICT

20.34.100 Accessory uses.

.107 Vacation rental units, per WCC 20.80.960.

CHAPTER 20.35 ELIZA ISLAND (EI) DISTRICT

20.35.100 Accessory uses.

.108 Vacation rental units, per WCC 20.80.960.

CHAPTER 20.36 RURAL (R) DISTRICT

20.36.100 Accessory uses.

.109 Bed and breakfast establishments, except in the Lake Whatcom Watershed Overlay District, where bed and breakfast establishments are a conditional use, per WCC 20.51.070.

.110 Vacation rental units, per WCC 20.80.960, except in the Lake Whatcom Watershed Overlay District, where vacation rental units are a conditional use, per WCC 20.51.070.
CHAPTER 20.37 POINT ROBERTS TRANSITIONAL ZONE (TZ) DISTRICT

20.37.100 Accessory uses.

.108 Vacation rental units, per WCC 20.80.960.

-----

CHAPTER 20.40 AGRICULTURE (AG) DISTRICT

20.40.100 Accessory uses.

.114 Vacation rental units, per WCC 20.80.960.

-----

CHAPTER 20.42 RURAL FORESTRY (RF) DISTRICT

20.42.150 Conditional uses.

.160 Vacation rental units, per WCC 20.80.960.

-----

CHAPTER 20.51 LAKE WHATCOM WATERSHED OVERLAY DISTRICT

20.51.060 Accessory uses.

All accessory uses in the underlying zone districts are permitted except as expressly prohibited or made conditional, or further conditioned by this chapter. (Ord. 2013-043 § 1 Exh. A, 2013).

20.51.070 Conditional uses.

All conditional uses in the underlying zone districts shall remain conditional uses unless expressly prohibited, made conditional, or further conditioned by this chapter. In addition, the following uses shall only be conditionally permitted:

.074 Bed and Breakfast Establishments and Inns.

.075 Vacation Rental Units, per WCC 20.80.960, with the following additional criteria in the Lake Whatcom Watershed Overlay District:
(1) In vacation rental units adjacent to the Lake Whatcom shoreline, the owner shall post notice to renters information about prevention of aquatic invasive species.

(2) The owner of a vacation rental unit using an on-site septic system shall provide to the department a current satisfactory Report of System Status upon registration and shall provide updated reports every three years thereafter for conventional gravity systems or annually for all other systems.

CHAPTER 20.59 RURAL GENERAL COMMERCIAL (RGC) DISTRICT

20.59.100 Accessory uses.

.108 Vacation rental units, per WCC 20.80.960.

CHAPTER 20.61 SMALL TOWN COMMERCIAL (STC) DISTRICT

20.61.100 Accessory uses.

.111 Vacation rental units, per WCC 20.80.960.

CHAPTER 20.62 GENERAL COMMERCIAL (GC) DISTRICT

20.62.100 Accessory uses.

.106 Vacation rental units, per WCC 20.80.960.

CHAPTER 20.64 RESORT COMMERCIAL (RC) DISTRICT

20.64.100 Accessory uses.

.113 Vacation rental units, per WCC 20.80.960.
CHAPTER 20.80 SUPPLEMENTARY REQUIREMENTS

20.80.580 Parking space requirements.
For the purpose of this ordinance, the following parking space requirements shall apply (See also WCC 20.97.140):

(7.1) Bed and Breakfast Establishments and Inns: 1 for each rented sleeping unit in addition to the parking spaces required for the single-family dwelling.

20.80.960 Vacation rental units
Vacation rental units are subject to all of the following standards:

1. Vacation rental units in the Lake Whatcom Watershed Overlay Zone are subject to a conditional use permit per WCC 20.51.070 and WCC 20.84. A conditional use permit may set standards that are more restrictive than the standards in this section.

2. There shall be no more than one vacation rental unit per lot.

3. To operate, each vacation rental unit must be currently registered by the owner in the Department of Planning and Development Services. Registration must be reapplied for annually, by the date of the owner’s first registration. A registration fee may be collected by the department, as specified in the County’s Unified Fee Schedule. The department may revoke registration of a vacation rental unit if the owner has been cited for two or more code violations within a 12-month period. The department shall issue a registration number for each vacation rental unit and the owner shall include the registration number in all advertising for the unit. The registration shall apply to the owner and not run with the land. Information provided at the time of registration shall include, at a minimum:

   a. Name and telephone number of the owner or an authorized agent who is available on a 24-hour basis to resolve problems associated with the unit,

   b. A copy of the sign required to be posted on the front exterior of the unit giving the 24-hour contact information for the owner or authorized agent, and a description of the specific posting location by subsection (8),

   c. A checklist of safety features required by the Building Official and Fire Marshal that the owner certifies are present in the unit,

   d. A statement that by signing the registration/permit application the owner or agent authorizes the County staff to inspect the property, and agrees to engage in dispute resolution and act in good faith to resolve disputes with neighbors arising from the use of a dwelling as a vacation rental,

   e. A copy of the notice posted inside the unit providing guests with 24-hour contact information, safety information and rules of conduct, and

   f. A copy of the current State of Washington business license, including the Unified Business Identifier (UBI) number.
(4) The maximum number of persons permitted to stay in a vacation rental unit shall not exceed two per the number of legally permitted bedrooms being rented, plus two additional persons. The owner shall not advertise occupancy higher than the maximum number permitted by this subsection or by a conditional use permit, whichever is the lesser.

(5) Other than the contact information required to be posted by subsection (8)c., there shall be no outdoor signage or any other visible feature that would distinguish the unit from surrounding residential units.

(6) The vacation rental shall be operated in a way that will prevent unreasonable disturbances to nearby residents, per WCC Chapter 9.40.

(7) Off-street parking shall be provided per WCC 20.80.580(50).

(8) The owner of the vacation rental unit shall post notices to renters in prominent places, to include:
   a. The maximum number of guests, as calculated in subsection (4)
   b. Guest rules of conduct and their responsibility not to trespass on private property or create disturbances.
   c. The name and telephone number of the owner or authorized agent who is available on a 24-hour basis to resolve problems associated with the unit (to be posted both inside, for the guests, and outside, near the primary entrance).
   d. A copy of the current State of Washington business license, including the Unified Business Identifier (UBI) number.

CHAPTER 20.97 DEFINITIONS

20.97.027 Bed and breakfast establishment.
"Bed and breakfast establishment" means a privately owned dwelling that is the primary residence(s) of the owners and in which, for compensation, one to two rooms are used as sleeping units to house or lodge individuals or families for periods of less than one month, 30 days as transient visitors with or without limited food service. The use of the dwelling unit for the bed and breakfast shall be clearly incidental and subordinate to its use for residential purposes and the purpose of the applicable zoning district. At least one owner shall be present overnight when a guest room is rented.

20.97.028 Bed and breakfast inn.
"Bed and breakfast inn" means a privately owned dwelling that is the primary residence(s) of the owners in which, for compensation, three to five rooms are used as sleeping units to house or lodge individuals or families for periods of less than one month, 30 days as transient visitors with or without limited food service. The use of the dwelling unit for the bed and breakfast shall be clearly incidental and subordinate to its use for residential purposes and the purpose of the applicable zoning district. At least one owner shall be present overnight when a guest room is rented.
20.97.445.1 Vacation Rental Unit.
"Vacation Rental Unit" means a single-family dwelling unit, detached accessory dwelling unit, or accessory apartment that, for compensation, is rented as a single unit used to lodge individuals or families for a period of less than 30 days and where the owner is not present in the rented unit during the rental period. Individual sleeping rooms shall not be rented individually.
EXHIBIT B
Whatcom County Code Title 23
Shoreline Management Program
AMENDMENTS

(Note: Changes recommended by the Department of Ecology are highlighted in yellow.)

CHAPTER 23.30 SHORELINE JURISDICTION AND AREA DESIGNATIONS

23.30.055 Urban conservancy shoreline area – Conditional uses.
The following may be permitted as conditional uses subject to the applicable policies and regulations of this program:
   A. All other residential development.
   B. Low intensity water-oriented commercial limited to resort, bed and breakfast, campgrounds and similar facilities subject to the criteria in WCC 23.100.050. Low intensity non-water-oriented commercial limited to resort, bed and breakfast, campgrounds and similar facilities, subject to the criteria in WCC 23.100.050(B)(1)(d).

23.30.095 Conservancy shoreline area – Conditional uses.
The following uses may be permitted as conditional uses subject to the applicable policies and regulations of this program:
   A. All other residential development.
   B. Low intensity water-oriented commercial limited to resort, bed and breakfast, campgrounds and similar facilities. Low intensity non-water-oriented commercial uses limited to resort, bed and breakfast, campgrounds and similar facilities may be permitted as a conditional use, subject to the criteria in WCC 23.100.050(B)(1)(d).

CHAPTER 23.60 SHORELINE PERMITS AND EXEMPTIONS

23.60.070 Fees.
   A. Required fees for all shoreline substantial development permits, shoreline conditional use permits, shoreline variances, statements of exemption, appeals, preapplication conferences and other required reviews and/or approvals shall be paid to the county at the time of application in accordance with the Whatcom County unified fee schedule in effect at that time.
   B. When any given project requires more than one of the following permits or applications, the total amount of shoreline fees shall be reduced by 25 percent:
      1. Preliminary plat application.
      2. Rezone application.
3. Major development permit.
4. Planned unit development.
5. Binding site plan.

C. When any project requires a shoreline conditional use permit or shoreline variance in addition to a shoreline substantial development permit, the fees for the conditional use or variance shall be reduced by half.

D. In the event that actions of an applicant result in the repetition of the review, inspections and other steps in the approval process, those items or steps repeated shall be charged to and paid by the applicant prior to any further processing of the application by the county. The cost shall be in accordance with the adopted fee schedule.

E. If an application is withdrawn within 30 days of submittal, and no work has commenced at the site of the proposal for which the application was made, a refund of not more than 50 percent of the shoreline fees paid may be granted by the administrator. This amount may be reduced where staff time, public notice and other costs exceed 50 percent of the fees paid.

F. No fees shall be collected from an agency of Whatcom County government.

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CHAPTER 23.100 SHORELINE USE POLICIES AND REGULATIONS

23.100.050 Commercial use.
Commercial development in shoreline areas shall be subject to the policies and regulations of this section and Chapter 23.90 WCC.

C. Shoreline Area Regulations.

3. Urban Conservancy. Low intensity water-oriented commercial use and development limited to resort, bed-and-breakfast, campgrounds and similar facilities may be permitted as a conditional use. Low intensity non-water-oriented commercial limited to resort, bed-and-breakfast, campgrounds and similar facilities may be permitted as a conditional use subject to the criteria for such uses in subsection (B)(1)(d) of this section.

7. Conservancy. Low intensity water-oriented commercial use and development limited to resort, bed-and-breakfast, campgrounds and similar facilities may be permitted as a conditional use. Low intensity non-water-oriented commercial limited to resort, bed-and-breakfast, campgrounds and similar facilities may be permitted as a conditional use subject to the criteria for such uses in subsection (B)(1)(d) of this section.

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CHAPTER 23.110 DEFINITIONS

23.110.020 B definitions

4. “Bed and Breakfast” means a privately owned dwelling that is the primary residence(s) of the owner in which, for compensation, one to five rooms are used as sleeping units to house
or lodge individuals or families for periods of less than 30 days as transient visitors with or without limited food service. The use of the dwelling unit for the bed and breakfast shall be clearly incidental and subordinate to its use for residential purposes and the purpose of the applicable zoning district. At least one owner shall be present overnight when a guest room is rented.

(Scrivener’s note: Subsequent numbers shall be renumbered)

23.110.030 C definitions

6. “Commercial development” means those developments whose primary use is for retail, service, or other commercial business activities. Included in this definition are developments such as hotels, motels, bed and breakfast establishments, shops, restaurants, banks, professional offices, grocery stores, laundromats, recreational vehicle parks, commercial rental campgrounds and cabins, whether public or private, and indoor or intensive outdoor commercial recreation facilities. Not included are private camping clubs, marinas, signs, utilities, bed and breakfasts, vacation rental units, and other development.

23.110.180 R definitions

7. “Residential development” means buildings, earth modifications, subdivision, and use of land primarily for human residence, including, but not limited to: single-family and multifamily dwellings, condominiums, mobile homes and mobile home parks, boarding homes, family daycare homes, adult family homes, retirement and convalescent homes, bed and breakfasts, and vacation rental units, together with accessory uses common to normal residential use. Camping sites or clubs, recreational vehicle parks, motels; and hotels and other transient housing are not included in this definition.

23.110.220 V definitions.

1. “Vacation Rental Unit” means a single-family dwelling unit, detached accessory dwelling unit, or accessory apartment that, for compensation, is rented as a single unit used to lodge individuals or families for a period of less than 30 days and where the owner is not present in the rented unit during the rental period. Individual sleeping rooms shall not be rented individually.

(Scrivener’s note: Subsequent numbers shall be renumbered)
Resolution Forwarding Draft Shoreline Master Program Amendments For Department of Ecology Review

ATTACHMENTS:
1. Draft Resolution and Draft Amendments
2. Staff Memorandum

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

Resolution forwards to Department of Ecology draft Shoreline Master Program limited amendments related to vacation rental and bed and breakfast uses

COUNCIL ACTION:
9/27/2016: Introduced 7-0
10/11/2016: Held in Council for a Public Hearing
10/25/2016: Approved 7-0, Res. 2016-039

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. 2016-039

FORWARDING DRAFT SHORELINE MASTER PROGRAM AMENDMENTS FOR DEPARTMENT OF ECOLOGY REVIEW

WHEREAS, the Washington Administrative Code (WAC 173-26-080) requires counties to develop and administer a Shoreline Master Program; and

WHEREAS, the Washington Administrative Code (WAC 173-26-110) requires counties to submit amendments to their Shoreline Master Programs to the Washington State Department of Ecology for its review and formal action; and

WHEREAS, Whatcom County Code Title 23 Shoreline Management contains the County’s Shoreline Master Program; and

WHEREAS, Whatcom County Planning and Development Services has submitted an application to amend Title 23 Shoreline Management to define vacation rental uses and bed and breakfast uses as residential uses rather than commercial uses, and

WHEREAS, the Whatcom County Planning Commission held a public hearing regarding the proposed amendment to WCC Title 23 on June 23, 2016; and

WHEREAS, a determination of non-significance was issued under the State Environmental Policy Act on May 27, 2016; and

WHEREAS, the Planning Commission has forwarded its findings and recommendations to the County Council; and

WHEREAS, the Whatcom County Council has reviewed and approved the proposed amendment to the County’s Shoreline Management Program and wishes to forward it to the Department of Ecology for their review and approval;
NOW, THEREFORE, BE IT RESOLVED that the Whatcom County Council hereby forwards to the Department of Ecology for their review the amendments shown on attached Exhibit A.

APPROVED this 25th day of October 2016.

ATTEST

[Signature]
Dana Brown-Davis, Clerk of the Council

[Signature]
Barry Buchanan, Council Chair

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

APPROVED AS TO FORM:

[Signature]
Civil Deputy Prosecutor
EXHIBIT A

Whatcom County Code Title 23
Shoreline Management Program

AMENDMENTS

Chapter 23.30

SHORELINE JURISDICTION AND AREA DESIGNATIONS

23.30.055 Urban conservancy shoreline area – Conditional uses.
The following may be permitted as conditional uses subject to the applicable policies and regulations of this program:
A. All other residential development.
B. Low intensity water-oriented commercial limited to resort, bed-and-breakfast, campgrounds and similar facilities subject to the criteria in WCC 23.100.050. Low intensity non-water-oriented commercial limited to resort, bed-and-breakfast, campgrounds and similar facilities, subject to the criteria in WCC 23.100.050(B)(1)(d).

23.30.095 Conservancy shoreline area – Conditional uses.
The following uses may be permitted as conditional uses subject to the applicable policies and regulations of this program:
A. All other residential development.
B. Low intensity water-oriented commercial limited to resort, bed-and-breakfast, campgrounds and similar facilities. Low intensity non-water-oriented commercial uses limited to resort, bed-and-breakfast, campgrounds and similar facilities may be permitted as a conditional use, subject to the criteria in WCC 23.100.050(B)(1)(d).

Chapter 23.100

SHORELINE USE POLICIES AND REGULATIONS
23.100.050 Commercial use.
Commercial development in shoreline areas shall be subject to the policies and regulations of this section and Chapter 23.90 WCC.

C. Shoreline Area Regulations.

3. Urban Conservancy. Low intensity water-oriented commercial use and development limited to resort, bed and breakfast, campgrounds and similar facilities may be permitted as a conditional use. Low intensity non-water-oriented commercial limited to resort, bed and breakfast, campgrounds and similar facilities may be permitted as a conditional use subject to the criteria for such uses in subsection (B)(1)(d) of this section.

7. Conservancy. Low intensity water-oriented commercial use and development limited to resort, bed and breakfast, campgrounds and similar facilities may be permitted as a conditional use. Low intensity non-water-oriented commercial limited to resort, bed and breakfast, campgrounds and similar facilities may be permitted as a conditional use subject to the criteria for such uses in subsection (B)(1)(d) of this section.

Chapter 23.110
DEFINITIONS

23.110.020 B definitions

4. "Bed and Breakfast" means a single family residence that is the primary residence(s) of the owner in which, for compensation, one to five rooms are used as sleeping units to house or lodge individuals or families for periods of less than 30 days as transient visitors with or without limited food service.
23.110.030 C definitions

6. "Commercial development" means those developments whose primary use is for retail, service or other commercial business activities. Included in this definition are developments such as hotels, motels, bed and breakfast establishments, shops, restaurants, banks, professional offices, grocery stores, laundromats, recreational vehicle parks, commercial rental campgrounds and cabins, whether public or private, and indoor or intensive outdoor commercial recreation facilities. Not included are private camping clubs, marinas, signs, utilities, bed and breakfasts, vacation rental units, and other development.

23.110.180 R definitions

7. "Residential development" means buildings, earth modifications, subdivision and use of land primarily for human residence, including, but not limited to: single-family and multifamily dwellings, condominiums, mobile homes and mobile home parks, boarding homes, family daycare homes, adult family homes, retirement and convalescent homes, bed and breakfasts, and vacation rental units, together with accessory uses common to normal residential use. Camping sites or clubs, recreational vehicle parks, motels; and hotels and other transient housing are not included in this definition.

23.110.220 V definitions.

1. "Vacation Rental Unit" means a dwelling unit where the owner is not present on site during the rental period, which, for compensation, is used to lodge individuals or families for a period of less than 30 days.
**WHATCOM COUNTY COUNCIL AGENDA BILL**

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<th>Agenda Date</th>
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**TITLES OF DOCUMENT:**
Proposed Amendment to the Whatcom County Comprehensive Plan, Chapter 8, Marine Resource Lands

**ATTACHMENTS:**
1. Staff Memorandum
2. Staff Report
3. Exhibit A – Proposed amendment to Chapter 8 of the Whatcom County Comprehensive Plan
4. Exhibit B – Comparison of CM Weimer’s Original Proposal to Existing Goals & Policies
5. Letter from the Lummi Business Council

**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.)

Proposed Amendment to the Whatcom County Comprehensive Plan, Chapter 8, designating Marine Resource Lands and providing goals and policies thereof.

**COMMITTEE ACTION:**

**COUNCIL ACTION:**

**Related County Contract #:**
PLN2017-00005

**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: Council’s Planning & Development Committee
FROM: Cliff Strong, Senior Planner
THOUGH: Mark Personius, Director
DATE: July 26, 2018
FILE NO. PLN2017-00005 – Marine Resource Lands
SUBJECT: Proposed Amendment to the Whatcom County Comprehensive Plan, Chapter 8, Marine Resource Lands

Via the current CompPlan Policy 8T-1, the County Council directed staff to develop a new section of the CompPlan entitled “Marine Resource Lands” in Chapter 8, Resource Lands. Please review the attached staff report, which explains the background for this amendment, the process used to develop it, and reviews its consistency with the Comprehensive Plan.

Staff recommends that the Council’s Planning & Development Committee review the attached materials and provide direction to staff. Options include:

- If the P&D Committee wants to move toward approving the proposal, forward it to the full Council for introduction and a public hearing. The Council could then forward it for concurrent review in the annual docket to be acted on in Feb/Mar 2019.
- If the P&D Committee does not want to move toward approving the proposal, forward it to the full Council with a recommendation to remove it from the docket.
- Direct staff to consider incorporating the non-redundant goals and policies into the Shoreline Management Program during its update.

Attachments:

- Staff Report
- Exhibit A – Proposed amendment to Chapter 8 of the Whatcom County Comprehensive Plan
- Exhibit B – Comparison of CM Weimer’s Original Proposal to Existing Goals & Policies
- Letter from the Lummi Business Council
Planning and Development Services
Staff Report

Whatcom County Comprehensive Plan Amendment to Chapter 8, Marine Resource Lands

File # PLN2017-00005

File Name: Whatcom County Comprehensive Plan Amendment to Chapter 8, Marine Resource Lands

Applicants: Whatcom County Planning and Development Services (PDS)

Summary of Request: An ordinance amending the Whatcom County Comprehensive Plan, Chapter 8, Marine Resource Lands. The proposed Marine Resource Lands language (Exhibit A) would replace the current Marine Resource Lands language (as shown below) of the CompPlan.

Location: Countywide.

I. BACKGROUND

When the Council amended the CompPlan in 2016 they included a new section that reads:

Marine Resource Lands - Introduction

Purpose
This section contains policies to guide Whatcom County in the creation of a new section for this chapter to ensure the conservation of functioning marine resource lands of long-term commercial and recreational significance, and to ensure that both industries requiring functioning marine lands, and the cultural heritage that use of our marine lands represent, thrive in the years to come.

GMA Requirements
Goal 8 of the GMA (RCW 36.70A.020) guides the County to “Maintain and enhance natural resource based industries, including productive timber, agricultural, and fisheries industries.” Marine lands have a clear nexus regarding maintenance of fisheries industries, including commercial and recreational shellfish harvest. While the GMA does not require specific designation of marine resource lands that support aquatic based industries, functioning marine lands are so intrinsically necessary for production of historical fish and shellfish production that these lands are identified on our GMA required critical areas maps, shoreline inventory and analysis, and integral in the State/County approved 2008 Shoreline Restoration Plan.

Goal 8T: Conserve and enhance Whatcom County's marine land base for the long-term and sustainable production of commercial and recreational economic activities.

Policy 8T-1: Whatcom County will work with committees including but not limited to the Marine Resource Committee, the Shellfish Protection Advisory Committee, and other local marine land experts to create a new section of this chapter to support Goal 8T to be docketed and processed for consideration no later than 2017.
This section was proposed by then-Councilmember Weimer after having worked with the Marine Resources Committee (MRC). The MRC's (and CM Weimer’s) original proposal was much longer (text of which is found in Exhibit B). However, concern was raised that the Planning Commission had not considered this amendment, a requirement of the County Code for CompPlan amendments. Thus, CM Weimer substituted the above text as a placeholder.

At one of the advisory committee meetings where staff introduced this project—at which CM Weimer was present—one of the members commented that the proposed policies seemed quite similar to those of our Shoreline Management Program (SMP), and asked if this was really necessary. CM Weimer suggested that if that’s the case—that if the SMP already does what this section is attempting to do—then perhaps it’s not really needed after all.

This set staff on a path to review the proposed policies against our current SMP and other CompPlan policies. The result of that analysis is attached as Exhibit B. It turns out that almost all the originally proposed policies are indeed already addressed through the SMP and other CompPlan policies. (And remember, the goals and policies of the SMP are considered a component of the CompPlan pursuant to RCW 36.70A.480.) Therefore, most of the ideas proposed in CM Weimer’s original proposal are already covered. And next year we will start on an update of the SMP, due in 2020, so it can be amended at that time to cover any new ideas.

With this, staff convened a Working Group comprised of members of the listed committees and “other local marine land experts” per Policy 8T-1. Members included:

- Amy de Vera, Environmental Resources Management
- Jim Hansen, Marine Resources Committee
- Pat Alesse, BBWARM
- Shannon Moore, WRIA 1 Planning Unit’s Fisheries Caucus and commercial fisherman
- Steve Seymour, Drayton Harbor Shellfish Advisory Committee
- Jim Verburg, BP Cherry Point Refinery Senior Environmental Engineer

This Working Group met earlier this year to review the staff work presented herein and develop a final draft of the Marine Resource Lands section to move forward. They decided that policies already covered by the SMP don’t need to be repeated in the MRL section, but did want to cover some basics, such as describing what Marine Resource Lands are, why they’re important, and why we’d want to protect them. But most importantly, they recommended that the policies of this section be implemented through the Shoreline Management Program. Their recommended language is shown in Exhibit A.

Advisory Committee Review
Staff then took the proposal to the MRC, BBWARM, and P/D SPD, in addition to the Planning Commission, for review and their recommendations. They are as follows:

Marine Resources Committee (MRC)
The MRC reviewed the proposal at their June 7, 2018, meeting. After adding a new policy addressing educational efforts and programs (Policy 8V-4), they recommended that the County Council adopt the proposed language.

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1 To read the entire SMP, go to http://www.codepublishing.com/WA/WhatcomCounty/#!/WhatcomCounty23/WhatcomCounty23.html.
2 Only five are not, highlighted by red text in the Staff Comments column of Exhibit A.
Birch Bay Watershed and Aquatic Resources Management Committee (BBWARM)
The BBWARM reviewed the proposal at their June 20, 2018, meeting. They recommended that the Council not adopt the proposed language. They felt that the new Marine Resource Lands section of the CompPlan was already covered by the existing Shoreline Management Program and that including it would add unnecessary complication/duplication. They recommended that the Council postpone any action on the Marine Resource Lands amendment until the SMP update commences in 2019.

Portage/Drayton Shellfish Protection Districts (P/D SPD)
The P/D SPD reviewed the proposal at their July 25, 2018, meeting. However, they did not have a quorum and could not act. They requested that we put the item on their next agenda, in October.

Planning Commission
The Planning Commission held a workshop on June 14, 2018, and a public hearing on June 28th. They recommended that the Council not adopt the Marine Resource Lands proposal. There was concern amongst some of the Commissioners that regulations adopted subsequent to these policies could affect farmers, even though staff explained that it was not our nor CM Weimer’s intent to address agricultural runoff. They also thought it would be better to consider this during our SMP update, perhaps incorporating some of the goals and policies into that rather than having a separate section.

Public Comment
To date staff has not received any public comments. But we would like to inform Council that the Lummi Nation, through its Business Council, did file an appeal of the SEPA determination. However, they did not submit the required appeal fee and the Director informed them that their appeal was thus not valid. Nonetheless, PDS said we would inform Council of their concerns. Their letter is attached.

II. PROPOSED AMENDMENTS

The proposed ordinance would amend the Comprehensive Plan, Chapter 8, Marine Resource Lands section as shown in Exhibit A.

III. COMPREHENSIVE PLAN EVALUATION

Below are listed all the pertinent Comprehensive Plan goals and policies regarding land use along the marine shorelines:

Chapter 2, Land Use

Policy 2D-6: Review and update the Whatcom County Shoreline Management Program in accordance with the schedule in the Shoreline Management Act (RCW 90.58.080). Updates should improve the integration of the Shoreline Program with Growth Management and with the Cherry Point Aquatic Reserve Management Plan in order to provide predictability and consistency in regulation, and eliminate regulatory redundancy.

Chapter 9, Recreation

Goal 9E: Recognize the shoreline as one of Whatcom County’s unique assets and provide adequate physical and visual access for present and future generations.

Policy 9E-1: As economically feasible, acquire for public use as much of the saltwater shoreline as possible. Public and private resources should be explored to further this policy. A reasonable goal is to acquire for public access a minimum of 15% of the saltwater shoreline and adjacent tidelands in Whatcom County.
Chapter 10, Environment

Goal 10B: Simplify and harmonize regulations relating to the identification, delineation, and protection of environmental features.

Policy 10B-8: Recognize the policies of the Whatcom County Shoreline Management Program as constituting a “Shoreline Element” of this plan. The Shoreline program regulations and policies shall be considered to be consistent with this plan.

IV. PROPOSED FINDINGS OF FACT AND REASONS FOR ACTION

Staff recommends the Council adopt the following findings of fact and reasons for action:

1. Through Comprehensive Plan Policy 8T-1, the County Council directed staff to “work with committees including but not limited to the Marine Resource Committee, the Shellfish Protection Advisory Committee, and other local marine land experts to create a new section of this chapter to support Goal 8T to be docketed and processed for consideration no later than 2017.”

2. Working with these committees, staff convened a working group to develop a new Marine Resource Lands section of the Comprehensive Plan, as shown in Exhibit A.

3. The working group’s proposal was reviewed by the Marine Resources Committee, Birch Bay Watershed and Aquatic Resources Management Committee, and Portage/Drayton Shellfish Protection Districts.

4. A determination of non-significance (DNS) was issued under the State Environmental Policy Act (SEPA) on June 13, 2018; and,

5. In accordance with RCW 36.70A.106, Whatcom County Planning and Development Services notified the Department of Commerce of the proposed amendments contained herein on June 05, 2018 (Material ID # 24986); and,

6. The Planning Commission held a duly noticed public hearing on this ordinance on June 28, 2018;

7. The County Council held a public hearing on this ordinance on __________, 2018;

V. PROPOSED CONCLUSIONS

1. The amendment to the Whatcom County Comprehensive Plan fulfills the direction Council gave staff in Policy 8T-1.

2. The amendment is consistent with the Comprehensive Plan goals and policies listed in Section III of this staff report.

3. The amendment is in the public interest.

VI. RECOMMENDATION

Staff recommends that the Council’s Planning & Development Committee review the attached materials and provide direction to staff. Options include:

- If the P&D Committee wants to move toward approving the proposal, forward it to the full Council for introduction and a public hearing. The Council could then forward it for concurrent review in the annual docket to be acted on in Feb/Mar 2019.
• If the P&D Committee does not want to move toward approving the proposal, forward it to the full Council with a recommendation to remove it from the docket.

• Direct staff to consider incorporating the non-redundant goals and policies into the Shoreline Management Program during its update.

VII. ATTACHMENTS

• Exhibit A – Proposed amendment to Chapter 8 of the Whatcom County Comprehensive Plan
• Exhibit B – Comparison of CM Weimer’s Original Proposal to Existing Goals & Policies
• Letter from the Lummi Business Council
Exhibit A: Proposed Amendment to Chapter 8 of the Comprehensive Plan

Working Group’s Marine Resource Lands Recommendation

Marine Resource Lands

Purpose
Marine resource lands, for the purpose of this plan, are defined as those marine areas waterward of the ordinary high water mark, together with their underlying lands and their water column, within the jurisdiction of the Whatcom County Shoreline Management Program (WCC Title 23). Marine resource lands have the physical conditions and habitat required to generate and maintain fisheries of all types, including the commercial and recreational harvest of finfish, shellfish, algae, and other invertebrates including but not limited to mollusks, crab, and shrimp, etc. This section is intended to guide Whatcom County in the conservation of functioning marine resource lands of long-term commercial, ecological, cultural, and recreational significance, and to ensure that all water-dependent, water-related, and water-enjoyment uses requiring use or access to marine resource lands thrive in the years to come.

GMA Requirements
Goal 8 of the GMA (RCW 36.70A.020) guides the County to “Maintain and enhance natural resource based industries, including productive timber, agricultural, and fisheries industries.” While the GMA does not specifically require the designation of marine resource lands that support aquatic-based uses and industries, functioning marine resource lands are so intrinsically necessary for the creation and sustainability of historical fish and wildlife production that Whatcom County wishes to acknowledge them here.

Process
Per County Council direction, staff convened a working group comprised of members of “the Marine Resource Committee, the Shellfish Protection Advisory Committee, and other local marine land experts.” This working group developed a draft of this section of the Comprehensive Plan, as well as drafts of the goals and policies contained herein. The draft was then presented to the full membership of the Marine Resource Committee and Shellfish Protection Advisory Committees for review and recommendation to the County Planning Commission and Council.

Background Summary
The marine resource lands of Whatcom County have historically been one of the most important natural resources in the region. For thousands of years the shores of Whatcom County provided an important shellfish resource, sustaining our local tribes. More recently the tidelands of Drayton Harbor supported one of the earlier commercial oyster-farming businesses in the Salish Sea. The shore and nearshore lands of the County provided spawning, rearing, and forage areas for a diverse array of finfish and shellfish species which together formed an incredible food web for ancestral tribes and early commercial fisheries. The County’s marine resource lands are located along the coastal areas bordering the Salish Sea fed by the rivers, streams, and lakes that drain the upland areas of western Whatcom County. Marine resource lands include more than 130 miles of marine shoreline.

Marine resource lands in the area of Cherry Point are designated in the Shoreline Management Program as the Cherry Point Management Area to support adjacent Heavy Impact Industrial (HII) zoned industrial uses that require deep water access, such as the two existing refineries and an aluminum smelter. The
harbor area and waterways in Bellingham Bay are designated for preservation of commerce and navigation along the Bellingham shoreline. The tidelands of Drayton Harbor are designated to support a small commercial wharf, marinas, residential shoreline development, shellfish production, and natural areas.

The majority of marine resource lands in Whatcom County are owned by the State of Washington (managed by Department of Natural Resources [DNR]), the Lummi Nation and the Port of Bellingham (via a Port Management Agreement with DNR). These include many of the tidelands and subtidal lands in the County. Marine resource landowners also include some private entities that were sold tidelands prior to 1971, and who manage their marine resource lands for a variety of uses, including recreational, commercial, and industrial.

Historically, marine resource lands have been managed for natural and farmed shellfish production and harvest, fishing, transportation, utility corridors (oil/gas/natural gas pipelines; sewer and stormwater outfall pipes; communication lines [phone/fiber optic]; power [electric] lines, and commercial, recreational and subsistence/cultural fishing and food gathering. Historic uses also included commercial and industrial uses, marinas (Bellingham, Blaine), municipal garbage dumps, public parks, etc.

With a growing population, there is increasing interest in improving public access to marine resource lands through the addition of boat ramps and access points for motor, wind, and human-powered craft. Over the last 20 years the desire to harvest more diverse aquatic resources, particularly from tidelands, has driven a number of significant efforts to improve water quality as well as innovative culturing techniques such as intertidal geoduck seeding, nori farming, etc.

Conservation efforts have resulted in protection of several areas including the Cherry Point Aquatic Reserve and two areas withdrawn from leasing in Bellingham Bay. These areas are valuable due to their high productivity of aquatic life that contributes to the economy and greater ecosystem of Whatcom County. Twenty years of effort and millions of dollars in public investment have kept Drayton Harbor a viable commercial and recreational shellfish growing area for future generations to enjoy.

Marine resource lands provide a huge economic benefit to the County, and the health of our stream, river, and estuarine environments and marine resource lands is the foundation of a critical tribal and non-tribal finfish and shellfish industry. In 2006, non-tribal commercial fish landings from Washington fisheries totaled nearly 109.4 million pounds, generating $65.1-million in ex-vessel value (i.e., the price received by commercial fishers for fish). Whatcom County was the State’s second-largest commercial port area that year (after Grays Harbor County), with an ex-vessel value of commercial fish landings of more than $13.5-million, accounting for nearly 21% of the total value of landings from Washington fisheries. Additionally, the North Puget Sound Region—which the Washington Department of Fish and Wildlife defines as including San Juan, Skagit, Snohomish and Whatcom counties—is also the most popular location for recreational shellfishing in the State. In 2006, the combined recreational shellfish catch in those four counties included more than 3.3-million pounds of Dungeness crab, 23,520 pounds of shrimp, 93,038 pounds of clams, and more than 19,000 individual oysters. In 2016, the marine trades provided 6,033 jobs, or 7% of the County’s workforce.

Whatcom County marine shorelines continue to provide income to over 250 Lummi Nation registered shellfish harvesters. Many other Lummi and Nooksack tribal members depend on finfish and crab harvest for a substantial part of their yearly family income. The Lummi Nation shellfish enterprise is

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2 Center of Economic and Business Research, Western Washington University, July 2016. Whatcom County Marine Trades Impacts.
highly productive and provides clam, oyster, and geoduck seed to a large part of the northwest shellfish industry. To the extent that the environmental health of these lands impacts the ability of Tribal Nations to practice fish and wildlife harvests and conduct ceremonial activities for their cultural, economic, and spiritual welfare, protection of these lands is a Treaty trust resource supporting Treaty reserved rights to take fish.

Other direct and indirect benefits to the County are even more substantial given the multiplier effect from marina-related boat works, electronics, fuel and supplies, charter and whale watching businesses, the Alaska Ferry service, sporting goods, kayaking, rowing, sailing, wind surfing, power boating, and all the sales, repair, maintenance, and provisioning that goes with these type of activities. Whatcom County's marine resource areas are not only an international destination for water-dependent, water-related, and water-enjoyment activities, such as bird and wildlife watching, sailing and cruising, fishing and gathering, but they are also a gateway to the San Juan Islands, Gulf Islands, the greater Salish Sea environs, and international waters. Whatcom County's marine resource lands are a renewable and sustainable economic driver that will serve this region well into the future.

**Issues, Goals, and Policies**

The following goals and policies apply to marine resource lands and address the issues of conserving productive aquatic land and meeting the goals of the Growth Management Act.

**Marine Resource Land Base**

Tidelands, marine waters, major lakes, and navigable rivers were owned by the State of Washington at the time of statehood unless reserved for other uses such as federal facilities or Indian reservations. Between 1889 and 1971, the State sold many of its tidelands to railroads, timber companies, and shellfish growers as a way to finance the State. As a result, the State owns only about 30% of the tidelands. The bulk of tidelands and many shoreline areas are owned by ports, industries, tribes, and private property owners. The State retains ownership of most all of the subtidal lands which were not sold.

Since their adoption, the marine resource land base in Washington State and in Whatcom County has largely been protected by the Washington State Shoreline Management Act, as well as Whatcom County's Shoreline Management Program (SMP), Critical Areas Ordinance, and other land use regulations such as stormwater, land disturbance, zoning, and other regulations.

Historically, shoreline modification, including filling, hardening, and diking of many natural shorelines has resulted in a significant reduction in acreage of functioning marine resource lands in many areas of the County. These modifications came as a result of transportation improvements (roads, railroads, barge landings, and ferry terminals), utilities (electrical, communications, sewer, stormwater, etc.), hydropower, water-dependent uses (marinas, fish processing, ship yards), non-water dependent uses (large industrial facilities), flood control efforts, residential development (including bulkheading, armoring, and docks), and parks.

The Washington State Legislature passed the State Shoreline Management Act (SMA) in June 1971. Under the SMA, each county and city is required to adopt and administer a local shoreline management plan to carry out the provisions of the Act. The Whatcom County Shoreline Management Program (SMP) is the document that implements the goals and policies of the SMA at the local level. The SMP was originally adopted by the County Council in May 1976 in accordance with the SMA and the shoreline

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3 Since adoption of the SMP, shoreline armoring, filling, and bulkheading is only allowed for the purpose of protecting existing structures.
guidelines issued by the Washington Department of Ecology. The SMP is implemented in coordination with other chapters of the Comprehensive Plan and the Whatcom County Code to protect and manage shorelines throughout the county. It is important to note that Whatcom County and Ecology share joint authority and responsibility for the administration and enforcement of the SMP. In addition, numerous other local, state and federal regulations, permits, and approvals apply to development or use in, on or above the County’s marine resource lands. Some of the most common permits and approvals include:

<table>
<thead>
<tr>
<th>Agency</th>
<th>Permit(s)</th>
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</thead>
<tbody>
<tr>
<td>Whatcom County</td>
<td>• Shoreline statement of exemption</td>
</tr>
<tr>
<td></td>
<td>• Substantial development permit</td>
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<tr>
<td></td>
<td>• Shoreline conditional use permit</td>
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<td></td>
<td>• Shoreline variance</td>
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<td></td>
<td>• State Environmental Policy Act (SEPA) determination</td>
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<tr>
<td>Washington Department of Ecology</td>
<td>• Clean Water Act Section 401 Water Quality Certification</td>
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<td></td>
<td>• Coastal Zone Management Consistency Determination</td>
</tr>
<tr>
<td>Washington Department of Fish and Wildlife</td>
<td>• Hydraulic project approval (HPA)</td>
</tr>
<tr>
<td>Washington Department of Natural Resources</td>
<td>• Aquatic use authorization</td>
</tr>
<tr>
<td></td>
<td>• Aquatic lands lease agreements</td>
</tr>
<tr>
<td>U.S. Army Corps of Engineers</td>
<td>• Clean Water Action Section 404 Permit</td>
</tr>
<tr>
<td></td>
<td>• Rivers and Harbors Act Section 10 Permit</td>
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Goal 8T: Conserve and enhance Whatcom County’s marine land base for the long-term and sustainable use and operation of water-dependent, water-related and water-enjoyment activities.

Policy 8T-1: Coordinate with public agencies, tribal governments, landowners, and private organizations to protect and maintain an appropriate, productive, and sustainable marine resource land base adequate to support marine-dependent commercial, industrial, recreational, and cultural needs.

Aquaculture, Fishing, and other Marine Resource Lands Activities

Goal 8U: Support measures to increase the viability and sustainability of Whatcom County’s aquatic biodiversity and production.

Policy 8U-1: Help improve the efficiency, effectiveness, and flexibility of environmental regulations affecting marine resource lands in order to support environmental protection and improve predictability.

Policy 8U-2: Consider developing a range of non-regulatory programs, options, and incentives that owners of marine resource lands can employ to meet or exceed County environmental goals.

Policy 8U-3: Support the efforts of people in Whatcom County to operate in a long-term, sustainable manner as part of a stable, broad-based economy.

Policy 8U-4: Work cooperatively with the Washington State Departments of Natural Resources, Ecology, and Fish and Wildlife to protect productive and appropriate use of State marine resource lands within Whatcom County.
Policy 8U-5: Continue cooperation and funding for a comprehensive Pollution Identification and Correction (PIC) program as needed to reduce bacterial pollution to levels that meet National Shellfish Sanitation Program Growing waters criteria to allow reopening of closed shellfish beds, and to maintain the operation of those beds in a commercially viable manner.

Reducing Land Use Impacts
Different land owners have different goals for their property and employ different practices when using it, whether it be for their business, home, recreation, or personal enjoyment. But oft times, the practices one property owner employs can have detrimental effects on another property owner’s use or enjoyment of their property, or the public when using public lands, which can lead to conflict amongst users. One of the most cited is how poorly managed agriculture or failing septic systems can cause bacterial pollution of rivers and streams, causing closure of important shellfish production areas. Other adverse upstream inputs include, but are not limited to, excess nutrients, heavy metals, and aromatic hydrocarbons. But there have been other such actions as well, such as piers placed in fish habitat, use of pesticides in shellfish farming, loading/unloading practices, etc. However, many such users are employing new practices and technologies to alleviate such impacts, yet the public many not be aware. Improved communication and education between these groups would be beneficial for each to understand what the other is doing, how their actions affect one another, and how they plan to avoid such impacts.

Goal 8V: Aim to reduce land use conflicts between Whatcom County’s Marine Resource Lands operations and upland property owners.

Policy 8V-1: Support improved communication and understanding between aquatic land landowners and the public through such mechanisms as community forums and educational programs.

Policy 8V-2: Work cooperatively with local, State, Federal and Tribal agencies, adjacent upland property owners, and the general public, as applicable, to address community concerns and land use conflicts that may affect the productivity of marine resource lands.

Policy 8V-3: Implement land use, building, and transportation planning policies, regulations, and practices that help minimize adverse water quality inputs into water bodies.

Policy 8V-4: Support and participate in education efforts and programs that emphasize the importance of and promote the benefits of marine resource lands.

Fish and Wildlife
Land use practices on marine resource lands can impact tidelands and other shallow and deepwater habitats that are important to a wide variety fish and wildlife.

Goal 8W: Ensure that operations associated with marine resource lands strive to avoid adverse impacts to the survival and habitat of aquatic species, particularly to threatened and endangered fish and wildlife species and shellfish resources.

Administration and Regulation

Goal 8X: Recognize the Shoreline Management Program (WCC Title 23) and Zoning Code (WCC Title 20) as the primary regulations used to implement this section.
Policy 8X-1: Pursuant to RCW 36.70A.480 and Comprehensive Plan Policy 10B-8, the Whatcom County Shoreline Management Program is an element of this Comprehensive Plan, and the goals and policies therein are recognized as additional goals and policies of this section.

Policy 8X-2: Those coastal lands that fall within the jurisdiction of the Shoreline Management Program ("shoreline jurisdiction") are hereby designated as Marine Resource Lands, as shown on Map 8-5.

Policy 8X-3: Regulate land use on Marine Resource Lands within the County through the Shoreline Management Program, Zoning Code, and other appropriate means.

Policy 8X-4: When updating the Shoreline Management Program, consider new or amended policies to further these goals.
<table>
<thead>
<tr>
<th>No.</th>
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</table>
| G8T | **Conserve and enhance Whatcom County’s marine land base for the long-term and sustainable production of commercial and recreational economic activities.** | | G10N, P10N-1, G10P, P10P-1 - 18 | • 23.20.020 Economic development goals and objectives  
• 23.20.040 Recreation goals and objectives  
• Ch. 23.30 Shoreline Jurisdiction and Area Designations  
• Ch. 23.90 General Policies and Regulations  
• Ch. 23.100 Shoreline Use Policies and Regulations | Whatcom County’s marine land base is already protected by the cited policies in the CompPlan and the SMP. In the SMP the County has identified and designated appropriate marine lands for commercial and recreational economic activities (see below). The SMP also contains numerous policies to ensure their use for such. |
| P8T-1 | **Regulate land use on marine resource lands within the County through the designation of Marine Resource Conservation Zone or other appropriate means.** | | | • 23.30.022 Shoreline area designations | The SMP uses a set of 10 shoreline area designations to provide a systematic, rational, and equitable basis upon which to guide and regulate development within specific shoreline reaches. Development and use within each designated shoreline area shall occur consistent with this program. |
| P8T-2 | **Apply the following general criteria for Marine Resource Land comprehensive plan designations and zones:**  
- *Commercial Marine Resource Lands:* Lands mostly devoted to the commercial production of aquatic organisms, e.g. shellfish or algae. Land parcels are generally 0.5 acres or greater in size.  
- *Industrial Marine Resource Lands:* Lands primarily devoted to large industrial water-dependent shipping consistent with the Shoreline Management Program and fossil fuel reduction goals of this comprehensive plan. Land parcels are generally 20 acres or | | • 23.30.030 Urban shoreline area  
• 23.30.040 Urban resort shoreline area  
• 23.30.071 Rural shoreline area  
• 23.30.070 Rural shoreline area  
• 23.30.080 Resource shoreline area  
• 23.30.120 Cherry Point management area | The SMP contains the following designations for commercial and industrial shoreline uses:  
- **Urban** – Provides for intensive development of water-oriented commercial, transportation, and industrial uses and accommodate mixed use developments, while protecting existing shoreline ecological functions and processes and restoring shoreline ecological functions and/or processes in areas that have been previously degraded.  
- **Urban Resort** – Provides for intensive residential and commercial uses geared to the needs of tourists and day visitors while protecting existing shoreline ecological functions and processes. |
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<td><strong>WWC/SMP Reference</strong></td>
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<td>greater in size.</td>
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| | Protect an appropriate commercial, industrial, and recreational aquatic land base through cooperation between tribal governments, public agencies, landowners and private organizations. | P10B-4, P10C-1, P10F-3 | • 23.90.020 Land use (A)(3)  
• 23.90.070 Archaeological, historic and cultural resources  
• 23.100.030 Aquaculture (A)(7 & 8); (B)(1)(u)  
• 23.100.070 Industrial and Port Development (A)(4)(a) 23.100.100 Recreation (10)  
• 23.100.120 Restoration and Enhancement (A)(1)  
• 23.100.170 Cherry Point Management Area (A)(1)(d) | The CompPlan already contains 3 policies, and the SMP contains a myriad of policies, calling for and/or requiring cooperation between governments, agencies, landowners, and the public in protecting marine resource lands. |
| | | | - **Rural** – Protects shoreline ecological functions in areas having a rural character characterized by open space and low density development including, but not limited to: residences, agriculture, forestry and outdoor recreation.  
- **Resource** – Protects shoreline ecological functions and processes in areas designated in the Whatcom County Comprehensive Plan as agriculture resource lands, rural forestry, commercial forestry and mineral resource lands and to protect the economic base of those lands and limit incompatible uses.  
- **Cherry Point management area** – Recognizes and balances the special port, industrial and natural resource needs associated with the development of this marine resource.  
It doesn’t seem to staff that adding additional land use designations would enhance protection beyond what is already available. |
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| P8T-4 | Do not allow conversion of aquaculture lands if the proposed use is incompatible with the maintenance of long-term aquaculture and ecological management. Incompatible uses include those that:  
- Cause water pollution (of all types, including sedimentation, temperature changes, etc.) that impacts the opportunity to grow healthy shellfish and other organisms;  
- Permanently (defined as more than 6 months) alter or remove greater than 20% of a parcel from production of aquaculture;  
- Create a financial hardship for adjacent aquatic landowners;  
- Lead (as determined by a County-approved study) to land use conflicts with adjacent aquatic landowners. | G10P, P10P-1 – 18 | • 23.100.030 Aquaculture  
• 23.100.020 Agriculture  
• Ch. 20.36 Rural (R) District  
• Ch. 20.40 Agriculture (AG) District  
• Ch. 20.34 Rural Residential-Island (RR-I) District  
• 20.69 Rural Industrial and Manufacturing (RIM) District | • Per the zoning code, aquaculture is allowed in:  
- Rural District (20.36.054, permitted use)  
- Agriculture District (20.40.154, conditional use)  
- Rural Residential-Island District (20.34.053, permitted use)  
- Rural Industrial and Manufacturing District (20.69.051(25), permitted use)  
- The 18 policies in the CompPlan and the 11 policies in 23.100.030 address each of these proposed policies, and would be duplicative. |
| P8T-5 | Maintain a productive commercial, industrial, scientific, and sustainable marine resource land base to support productive, viable marine resource land resources. Measures that can be taken to support sustainable marine resource lands may include:  
- Land use policies that encourage active management plans that support sustainable marine resource lands resources;  
- No net loss of marine resource | P10H-10, Throughout | • 23.10.030 Governing principles (C)(2, 3)  
• Ch. 23.90 General Policies and Regulations  
• Ch. 23.100 Shoreline Use Policies and Regulations | This is one policy that doesn’t already have a counterpart in the SMP. There are no requirements that uses have “active management plans.”  
The standard of “no net loss” of ecological |
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<td><strong>C/P Ref</strong></td>
<td><strong>WWC/SMP Reference</strong></td>
</tr>
<tr>
<td>181</td>
<td>lands productivity;</td>
<td>P10K-15 &amp; 16</td>
<td>functions is scattered throughout the SMP and the CAO, and the CompPlan contains 3 such policies. There are too many in the SMP/CAO to list, but suffice it to say that all uses must show that they will meet this standard. However, there are no policies regarding no net loss of marine resource lands productivity.</td>
</tr>
<tr>
<td></td>
<td>• Land use policies that recognize the multiple values of marine resource lands and the waters above them and provide basic life-giving properties that are and can only be public for all people to enjoy;</td>
<td></td>
<td>The SMP’s policies recognize the multiple values of marine resource lands and strive to balance these sometimes competing uses and values.</td>
</tr>
<tr>
<td></td>
<td>• Education programs that emphasize the importance of marine resource production in Whatcom County;</td>
<td>P10A-7, P10F-6</td>
<td>While the County doesn’t have specific education programs that emphasize the importance of marine resource production, we do contribute to organizations that do.</td>
</tr>
<tr>
<td></td>
<td>• Public and institutional education programs that promote the benefits of marine resource lands;</td>
<td></td>
<td>While the County doesn’t have specific education programs that emphasize the importance of marine resource production, we do contribute to organizations that do.</td>
</tr>
<tr>
<td></td>
<td>• Discourage conversion of any marine resource lands to non-compatible uses.</td>
<td></td>
<td>The SMP already discourages the conversion of any marine resource lands to non-compatible uses by maintaining shoreline designations. Changing them requires a public process and a decision by the County Council.</td>
</tr>
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</table>

Aquaculture, Fishing, and other Marine Resource Lands Activities

<p>| G8T | Support measures to increase the viability and sustainability of Whatcom County’s aquatic biodiversity and production. | P10K-6, G10N, G10P, P10P 1 – 18 | 23.100.030 Aquaculture | The CompPlan contains multiple goals and policies aimed at protecting the viability and sustainability of Whatcom County’s aquatic biodiversity and production. The SMP contains multiple policies aimed at ensuring that aquaculture projects are located... |</p>
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<thead>
<tr>
<th>Proposed MRL Goal/Policy</th>
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<tbody>
<tr>
<td><strong>P8T-1</strong> Improve the efficiency, effectiveness, and flexibility of State and local environmental regulations affecting marine resource lands in order to assure environmental protection and improve predictability.</td>
<td>G10B, P10B 1 – 8</td>
<td>• Chapter 23.80 Legal Provisions</td>
<td>In the right place, are implemented in such a way as to minimize impacts (to both people and the environment, and that the appropriate lands are reserved for such uses.</td>
</tr>
<tr>
<td><strong>P8T-2</strong> Develop a range of non-regulatory programs, options, and incentives that landowners with marine resource lands can employ to meet or exceed County environmental goals.</td>
<td>P10B-1</td>
<td></td>
<td>The State requires periodically updating the SMP so as to review the program’s effectiveness in achieving its goals. Furthermore, 23.80.010(D) requires that the Shoreline Administrator submit an annual report to the County Council reviewing the effectiveness of the program in achieving its stated purpose, goals, and objectives, and to propose amendments if not.</td>
</tr>
<tr>
<td><strong>P8T-3</strong> Support the efforts of people in Whatcom County to operate in a long-term, sustainable manner as part of a stable, broad-based economy.</td>
<td>G10C, P10C-2, G10D, P10D-1 – 3, G10K, P10K-13, P10M-3</td>
<td>• 23.100.020 Agriculture (A)(1) • 23.100.070 Industrial and port development (A)(2) • 23.100.080 Mining (B)(2 &amp; 4)</td>
<td>Though the CompPlan already contains a similar policy, the County has not yet developed such programs specifically for marine resource land owners.</td>
</tr>
<tr>
<td><strong>P8T-4</strong> Work cooperatively with the Washington State Departments of Natural Resources, Ecology, and Fish and Wildlife to make the most productive and appropriate use of State marine resource lands within Whatcom County.</td>
<td>P10F-3</td>
<td>• 23.20.030 Public access (B)(3) • 23.20.040 Recreation (B)(4) • 23.20.080 Archaeological, historical and cultural resources (B)(1)</td>
<td>Both the CompPlan and SMP recognize the importance of economic growth, and contain policies to balance the protection of environmental resources (including marine resource lands) with economic benefits.</td>
</tr>
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</table>

**Land Use Conflicts**

<p>| G8U | Reduce land use conflicts between Whatcom County’s marine resource lands operations and upland property owners. | | |</p>
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<tr>
<th>No.</th>
<th>Proposed MRL Goal/Policy</th>
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<th>WWC/SMP Reference</th>
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</tr>
</thead>
</table>
| P8U-1 | Before a development permit or a rezone is approved, the applicant should demonstrate to the satisfaction of the County that adequate protection of aquatic lands will be implemented for the residents and adjacent properties, and that adjacent properties are protected from adverse effects. | P10B-8 | 20.100.020 Agriculture (A)(2)  
23.100.030 Aquaculture (A)(1, 5, 6, 7, 9); (B)(1)(d, e, i); (B)(2)(a)(viii, xi); (B)(2)(b)(ii)  
23.100.040 Boating facilities – Marinas and launch ramps (A)(2, 7, 10, 11, 12); (B)(1)(h, n); (B)(10)(a, c(ii)  
23.100.050 Commercial use (A)(3); (B)(5)(b)  
23.100.060 Flood control works and instream structures (A)(2)(b, d); (B)(1)(e)  
23.100.070 Industrial and port development (A)(5)  
23.100.080 Mining (A)(1, 6(b), 7); (B)(1, 8(b)), 9(a), 10(c, d, e)  
23.100.090 Moorage – Docks, piers and mooring buoys (A)(4, 5, 11); (B)(5, 6, 7(c))  
23.100.110 Residential (A)(11); (B)(1)(b, i)  
23.100.130 Shoreline stabilization (A)(10); (B)(1)(a); (B)(3)(b, c)  
23.100.150 Transportation (A)(8); (B)(1)(a, e, i); (B)(2)(e)  
23.100.160 Utilities (B)(1)(a)(i, ii); (B)(1)(b)(ii); (B)(1)(c)(ii); (B)(2)(d)  
23.100.170 Cherry Point management area (A)(5, 6, 7(a)); (B)(1)(a)(ii); (B)(4)(a)(ii, iv); (B)(4)(d)(i); (B)(5)  
Ch. 23.60 Shoreline Permits and Exemptions (multiple instances in the permit processing criteria) | The CompPlan recognizes the SMP, with its goals and policies, as the “shoreline element” of the CompPlan. |
<p>| P8U-2 | Support improved communication and understanding between aquatic land landowners and the public through such mechanisms as management plans, community forums, | | | | | There are no such policies in the CompPlan or the SMP. |</p>
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<tr>
<th>No.</th>
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<th>Existing SMP Goal/Policy</th>
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</tr>
</thead>
</table>
| 3   | environmental testing/monitoring stations, and educational programs. Work cooperatively with State agencies such as the Washington State Departments of Ecology, Fish and Wildlife, and Natural Resources, and adjacent upland property owners and the general public to address community concerns and land use conflicts that may arise as a result of marine resource land practices. | Work cooperatively with State agencies such as the Washington State Departments of Ecology, Fish and Wildlife, and Natural Resources, and adjacent upland property owners and the general public to address community concerns and land use conflicts that may arise as a result of marine resource land practices. | P10B-4, P10C-1, P10F-3 | • 23.90.020 Land use (A)(3)  
• 23.90.070 Archaeological, historic and cultural resources  
• 23.100.030 Aquaculture (A)(7 & 8); (B)(1)(u)  
• 23.100.070 Industrial and Port Development (A)(4)(a) 23.100.100 Recreation (10)  
• 23.100.120 Restoration and Enhancement (A)(1)  
• 23.100.170 Cherry Point Management Area (A)(1)(d)                                                                 | The CompPlan already contains 3 policies, and the SMP contains a myriad of policies, calling for and/or requiring cooperation between governments, agencies, landowners, and the public to address community concerns and land use conflicts. |
| 4   | Continue cooperation and funding for a comprehensive Pollution Identification and Correction (PIC) program as needed to reduce bacterial pollution to levels that meet National Shellfish Sanitation Program Growing waters criteria to allow reopening of closed shellfish beds, and to maintain the operation of those beds in a commercially viable manner. | Continue cooperation and funding for a comprehensive Pollution Identification and Correction (PIC) program as needed to reduce bacterial pollution to levels that meet National Shellfish Sanitation Program Growing waters criteria to allow reopening of closed shellfish beds, and to maintain the operation of those beds in a commercially viable manner. | P10A-9, P10K-2, P10L-8 | • 20.100.020 Agriculture (A)(2)  
• 23.100.030 Aquaculture (A)(1, 5, 6, 7, 9); (B)(1)(d, e, i); (B)(2)(a)(viii, xi); (B)(2)(b)(ii)  
• 23.100.040 Boating facilities – Marinas and launch ramps (A)(2, 7, 10, 11, 12); (B)(1)(h, n); (B)(10)(a, c)(ii)  
• 23.100.050 Commercial use (A)(3); (B)(5)(b)  
• 23.100.060 Flood control works and | The CompPlan, while it describes the PIC Program, does not contain any policies regarding its continuation. Nor is the PIC program a land use/shoreline regulation, and is thus not addressed in the SMP. |

**Fish and Wildlife**

| G8V | Ensure that operations associated with marine resource lands avoid adverse impacts to the survival and habitat of aquatic species, particularly to threatened and endangered fish and wildlife species and shellfish resources. | Ensure that operations associated with marine resource lands avoid adverse impacts to the survival and habitat of aquatic species, particularly to threatened and endangered fish and wildlife species and shellfish resources. | P10A-9, P10K-2, P10L-8 | • 20.100.020 Agriculture (A)(2)  
• 23.100.030 Aquaculture (A)(1, 5, 6, 7, 9); (B)(1)(d, e, i); (B)(2)(a)(viii, xi); (B)(2)(b)(ii)  
• 23.100.040 Boating facilities – Marinas and launch ramps (A)(2, 7, 10, 11, 12); (B)(1)(h, n); (B)(10)(a, c)(ii)  
• 23.100.050 Commercial use (A)(3); (B)(5)(b)  
• 23.100.060 Flood control works and | Both the CompPlan and SMP contain policies similar to this. |
<table>
<thead>
<tr>
<th>No.</th>
<th>Proposed Text</th>
<th>Existing CompPlan Policy</th>
<th>Existing SMP Goal/Policy</th>
<th>WWRC/SMPP Reference</th>
<th>Staff Comments</th>
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<td>instream structures (A)(2)(b, d); (B)(1)(e)</td>
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<td>• 23.100.070 Industrial and port development (A)(5)</td>
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<td>• 23.100.080 Mining (A)(1, 6(b), 7); (B)(1, 8(b)), 9(a), 10(c, d, e)</td>
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<td>• 23.100.090 Moorage – Docks, piers and mooring buoys (A)(4, 5, 11); (B)(5, 6, 7(c))</td>
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<td>• 23.100.110 Residential (A)(11); (B)(1)(b, i)</td>
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<td>• 23.100.130 Shoreline stabilization (A)(10); (B)(1)(a); (B)(3)(b, c)</td>
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<td>• 23.100.150 Transportation (A)(8); (B)(1)(a, e, i); (B)(2)(e)</td>
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<td>• 23.100.160 Utilities (B)(1)(a)(i, ii); (B)(1)(b)(ii); (B)(1)(c)(ii); (B)(2)(d)</td>
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<td>• 23.100.170 Cherry Point management area (A)(5, 6, 7(a)); (B)(1)(a)(i); (B)(4)(a)(ii, iv); (B)(4)(d)(i); (B)(5)</td>
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<td>P8V-1</td>
<td>Implement the Whatcom County Shoreline Management Plan with appropriate regulations within the context of the Critical Areas Ordinances.</td>
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<td>Staff is unsure of what this means exactly. Nonetheless, the CAO is adopted as part of the SMP and are thus consistent.</td>
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<td>P8V-2</td>
<td>Take action to reduce stormwater impacts on the marine food web and contaminant loads affecting the abundance and productivity of finfish and shellfish species.</td>
<td>G10F, P10F-1, G10H, P10H-1 – 12, P10P-6, P10P-19</td>
<td></td>
<td>Too many to list</td>
<td>The CompPlan contains policies addressing stormwater, though it itself does not create programs (i.e., take action); that is done through the County’s budget and work plan. The SMP contains a myriad of policies and requirements that permit applicants address the impacts of stormwater.</td>
</tr>
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June 29, 2018

Hearing Examiner
5280 Northwest Drive,
Bellingham, WA 98226-9097

RE: Appeal of Determination of Nonsignificance (DNS) issued for SEP2018-00055, for the Ordinance amending Whatcom County Comprehensive Plan, Ch 8, Marine Resource Lands.

Dear Hearing Examiner:

This letter conveys to you our statements as specified on the SEPA Appeal Form PL4-83-005B.

We believe that the determination of Nonsignificance (DNS) is not correct. We strongly disagree with the contention that the ordinance will not have a significant effect(s) on Marine Resource Lands, and the natural resources there. The ordinance and its predecessors fail to recognize the obligations incumbent on the state and lesser governmental entities, including Whatcom County, to manage and regulate the actions within their jurisdiction such that tribal treaty-reserved resources and the rights to them are neither harmed nor diminished as a result of human activities or the effects thereof. Furthermore, considering the inseparable nature of the Salish Sea from our cultural identity as a people, we find that any ordinance or process that fails to timely engage us in an open and forthright manner to protect our resources and rights, in effect abets regulated activities that can, and historically have, damaged our resources and rights. The County’s habit of announcing its intentions in no way meets our need and requirement for timely consultation and involvement in the planning of such an undertaking when actions promulgated in its wake absolutely could impact our culture and indeed the whole of our people in ways that could never be reasonably termed “Non-Significant”.

We believe that the correct determination is a Determination of Significance. We believe that finding and determining acknowledges the potential of actions taken under the ordinance as having possibilities for harming Treaty-Reserved resources as well as the people of the Lummi Nation, whether directly or through deleterious effects to our Schelang’en (way of life) that is so dependent on the health and well-being of the Salish Sea and all that it naturally contains that it no less vital to us than the oxygen in the air we breathe.

The decision (and ordinance) affects the Lummi Nation and its people by:
The DNS enables and empowers the continuance of a modus operandi through which there can be a continuing diminution of treaty rights and resources without a ready means of timely notification, preventative intervention, or redress absent a judicial proceeding.
I have enclosed a copy of our position paper for your use regarding activities and their regulation with regard to their relevance to the Salish Sea and the Lummi People. As you will note from the paper, we secured our rights in perpetuity via the Point Elliott Treaty of 1855 with the United States which, as with all treaties, is constitutionally—established as the Supreme Law of the Land. We strongly disagree with the implication in your ordinance that state laws in any way circumvent or supplant that law or eliminate the need to timely consult with us on a government-to-government basis. Where was the engagement when the proposed ordinance was crafted? Thus, it is with the foregoing in mind, that I must again renew my appeal of the issuance of a DNS by the County for the proposed ordinance.

We look forward to cooperating and collaborating with the County in its quest for developing an ordinance that recognizes the County’s obligations to uphold the Supreme Laws of the Land, including the treaty-reserved rights of the Lummi Nation (and other Point Elliott Treaty Tribes), timely engages the Lummi Nation, and acknowledges the County’s obligation and intention of protecting the all of the marine natural resources for the benefit of all now, and yet to come.

Sincerely,

[Signature]

Merle B. Jefferson, Sr., Director,
Lummi Natural Resources Department

Enc.

Cc: file
The Cultural Significance and Management of the
Xwullem' (Salish Sea)
Cultural Significance of the Salish Sea

I. The Salish Sea, known in the Lummi language as Xwullem' has been the home of the Lummi and other tribes since time immemorial. It defines the identity of the Lummi Nation and sustains our existence. It is intimately associated with virtually all the events and patterns of events in history that have defined the Lummi Nation as a culture.

II. The 1855 Treaty of Point Elliott, which like other treaties executed by tribal governments and the United States government, constitutes the supreme law of the land, guarantees to the people of the Lummi Nation the right to fish in their usual and accustomed places, which comprise the fresh and salt waters of the Salish Sea.

III. The Lummi Nation holds that the Salish Sea is eligible for the National Register of Historic Places (NRHP), for listing as a National Historic Landmark, and for inclusion in the World Heritage List, for its association with the culture, traditions, and history of the Lummi people.

IV. The fish, shellfish, marine mammals, avian life, plant life, water quality and air quality of the Salish Sea all are elements that contribute to its cultural significance, as do the traditions and traditional lifeways of the Lummi people.

Management of the Salish Sea and its Contributing Elements

I. In their compliance with federal and state laws the Lummi Nation expects agencies of the federal, state, and local governments to consult in good faith (i.e., adhere to the principles of full, prior, and informed consent) with the Lummi Nation to avoid adverse effects on the tangible and intangible cultural properties of the Salish Sea, and to adopt such measures as are agreed upon to restore culturally significant aspects of the Salish Sea that have deteriorated or been adversely affected by human activities over the years. Until such time as there is meaningful consultation with the Lummi Nation and it formally agrees with the proposed measures, our position should be construed as opposed to the proposed activity. Any action contrary to this position would be in violation of our treaty, the Supreme Law of the Land.

II. The Lummi Nation expects that such consultation will be carried out with full respect for the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP).

III. While the Lummi Nation does and will cooperate with other tribes and governments to ensure the proper management of the Salish Sea and its contributing elements, no one but the Lummi Nation is authorized to speak for the Lummi Nation without the Lummi Nation’s explicit agreement. We expect all agencies to adhere to the protocols of government-to-government relations.

---

1 Xwullem' is the language term that historically referred to the glaciers that existed in our area and now refers to the glacial peaks and the waters left behind by the receded glaciers to become the sea and fresh water and includes other bioregion properties. Thus, Xwullem'/Ch'osey as a language-based term(s) for many if not all aspects of our bioregion. The Xwullem' or Salish Sea can be viewed as having both the practical side of our Lhaqtémish people but also have our spiritual and religious significance as yet the another side.

LIBC Approved March 13, 2018
**WHATCOM COUNTY COUNCIL AGENDA BILL NO. 2018-77 B**

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**TITLE OF DOCUMENT:**
Ordinance imposing interim moratorium on Cherry Point applications and permits

**ATTACHMENTS:**
Ordinance

| SEPA review required? | ( ) Yes | ( ) NO |
| SEPA review completed? | ( ) Yes | ( ) NO |
| Should Clerk schedule a hearing? | ( X ) Yes | ( ) NO |
| Requested Date:       | 8/8/2018 |

**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.)

Ordinance imposing an interim moratorium on the acceptance and processing of applications and permits for new or expanded facilities in the Cherry Point Urban Growth Area, the primary purpose of which would be the shipment of unrefined fossil fuels not to be processed at Cherry Point.

**COMMITTEE ACTION:**

**COUNCIL ACTION:**
7/24/2018: Introduced 5-2, Brenner and Byrd opposed

**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).
PROPOSED BY:  
INTRODUCTION DATE:  JULY 24, 2018

ORDINANCE NO. _______  
(INTERIM ORDINANCE)

IMPOSING AN INTERIM MORATORIUM ON THE ACCEPTANCE AND PROCESSING OF APPLICATIONS AND PERMITS FOR NEW OR EXPANDED FACILITIES IN THE CHERRY POINT URBAN GROWTH AREA THE PRIMARY PURPOSE OF WHICH WOULD BE THE SHIPMENT OF UNREFINED FOSSIL FUELS NOT TO BE PROCESSED AT CHERRY POINT

WHEREAS, on July 12, 2016, the county received a letter from Chairman Ballew of the Lummi Business Council which included the statement that they "hope that the amendments to the Comprehensive Plan not unfairly impact the current employers within Cherry Point."; and

WHEREAS, the County Council previously adopted Title 20-Zoning of Whatcom County Code which regulates land use within unincorporated areas of Whatcom County; and

WHEREAS, the County Council adopted the Whatcom County Comprehensive Plan on May 20, 1997, which contains goals, objectives and policies regarding land use compatibility and environmental considerations; and

WHEREAS, the Whatcom County Council recently updated the Whatcom County Comprehensive Plan as required by Revised Code of Washington 36.70A; and

WHEREAS, during the Comprehensive Plan review process the Whatcom County Council received many individual public comments on fossil fuel transshipment, transport, and transfer from Cherry Point related to the protection of the health of Whatcom County’s environment, economy, and residents; and

WHEREAS, the County recognizes that the existing refineries have for decades been significant shippers of refined fossil fuels such as jet fuel and calcined coke used in manufacture of aluminum while providing substantial local employment; and

WHEREAS, the refining of fossil fuels at Cherry Point provides high wage jobs which could be lost if the existing refineries were converted to crude oil export facilities; and

WHEREAS, the Whatcom County Council has requested the Whatcom County Planning Commission review language that would discourage new development that would primarily facilitate the shipment of unrefined fossil fuels not to be processed or consumed at Cherry Point; and

WHEREAS, multiple trains carrying crude oil from the Bakken formation moving through the United States and Canada have derailed and exploded causing damage to property and the environment, one derailment caused significant fatalities, which is the reason regulations must be improved; and
WHEREAS, a unit train carrying Bakken crude traveling through Mosier, Oregon, on June 3, 2016, derailed and exploded causing damage to property and the Columbia River, demonstrating that recently adopted state and federal policies and corporate investment intended to reduce the risks associated with oil by rail have proven insufficient to protect communities along the rail corridor; and

WHEREAS, the Washington State Department of Natural Resources has designated waters adjacent to the Cherry Point Urban Growth Area as an aquatic reserve to ensure long-term protection of this unique aquatic environment; and

WHEREAS, the United States recently lifted a ban on the export of crude oil from the country, increasing pressure on deep water ports such as Cherry Point to develop into crude export terminals; and

WHEREAS, existing refineries at Cherry Point have recently increased their ability to accept crude oil by rail by constructing new rail offloading facilities to serve the refineries; and

WHEREAS, existing and proposed pipeline facilities have increased, or proposed to increase, their capacity to move crude oil, diluted bitumen, and natural gas to Cherry Point; and

WHEREAS, Title 20 currently does not explicitly prohibit transshipment, transport, and transfer of unrefined fossil fuels and construction of infrastructure to facilitate expanded shipment of unrefined fossil fuels not to be processed at Cherry Point; and

WHEREAS, according to the June 27, 2016 Land Capacity Analysis report produced by Planning and Development Services, Cherry Point contains only 1,072.6 acres of developable land that is zoned Heavy Impact Industrial (HII) for the purposes of “supplying a reasonable amount of land, commensurate with demand, for the location and grouping of heavy impact industrial uses” and to “minimize the scope of impacts generated within the HII District and to provide protection for nonindustrial districts situated outside thereof...” (WCC 20.68.010); and

WHEREAS, expansion of existing facilities for purposes of shipping unrefined fossil fuels not to be processed or consumed at Cherry Point will increase the transport of dangerous fuels through our community and increase the risk of possible derailment, spills, explosions, and the fallout will pose a serious threat to the community; and

WHEREAS, pursuant to the Washington State Constitution, the general police powers granted to counties empower and authorize Whatcom County to adopt land use controls to provide for the regulation of land uses within the County and to provide that such uses shall be consistent with applicable law; and

WHEREAS, on August 9, 2016, the Whatcom County Council adopted Ordinance 2016-031, an emergency ordinance imposing a sixty day moratorium on the filing, acceptance, and processing of new applications for conversion of land or water, new building or structure permits, or other County permits or authorizations in the Cherry Point Urban Growth Area for new or expanded facilities whose purpose is to facilitate the increased shipment of unrefined fossil fuels not to be processed or consumed at Cherry Point; and
WHEREAS, the Whatcom County Council adopted interim measures on September 27, 2016 (Ordinance 2016-039), March 21, 2017 (Ordinance 2017-011), September 26, 2017 (Ordinance 2017-049), and February 27, 2018 (Ordinance 2018-007) prohibiting the filing, acceptance, and processing of new applications for conversion of land or water, new building or structure permits, or other County permits or authorizations in the Cherry Point Urban Growth Area for new or expanded facilities whose purpose is to facilitate the increased shipment of unrefined fossil fuels not to be processed or consumed at Cherry Point, unless the applications:

1. Were filed and complete prior to the effective date of the ordinance and vested pursuant to Washington statutes;

2. Were for building permits for remodels, maintenance, or repairs of existing structures where no increased capacity for shipping unrefined fossil fuels not to be processed or consumed at Cherry Point would result; or

3. Were necessary to protect health and safety of the community.

WHEREAS, the County Council finds that extending the moratorium imposed by Ordinance 2018-007 is necessary for the protection of public health and safety; and

WHEREAS, RCW 36.70.790 and RCW 36.70.795 allow for adoption of interim official controls as long as a public hearing is held within sixty (60) days of adoption; and

WHEREAS, the Whatcom County Council is scheduled to hold a public hearing on this issue on August 8, 2018, or a later date; and

WHEREAS, the County Council fully recognizes the limits to its authority over transportation of certain goods imposed by federal statutes and the US Constitution, and finds that this action is within its authority;

NOW, THEREFORE, BE IT ORDAINED that the Whatcom County Council adopts the above “WHEREAS” recitals as findings of fact in support of its action as required by RCW 36.70A.390

BE IT FURTHER ORDAINED by the Whatcom County Council that an interim moratorium is hereby imposed prohibiting the filing, acceptance, and processing of new applications for conversion of land or water, new building or structure permits, or other County permits or authorizations in the Cherry Point Urban Growth Area for new or expanded facilities whose purpose is to facilitate the increased shipment of unrefined fossil fuels not to be processed or consumed at Cherry Point, unless the applications:

1. Were filed and complete prior to the effective date of this ordinance and vested pursuant to Washington statutes;

2. Are for building permits for remodels, maintenance, or repairs of existing structures where no increased capacity for shipping unrefined fossil fuels not to be processed or consumed at Cherry Point will result; or

3. Are necessary to protect health and safety of the community.
BE IT FURTHER ORDAINED by the Whatcom County Council that this interim ordinance shall be effective for not longer than six months following its effective date, but may be renewed for one or more six-month periods if subsequent public hearings are held and findings of fact are made prior to each renewal.

BE IT FURTHER ORDAINED that if a section, subsection, paragraph, sentence, clause, or phrase of this ordinance is declared unconstitutional or invalid for any reason by any court of competent jurisdiction; such decision shall not affect the validity of the remaining portions of this ordinance, and if the provisions of this ordinance are found to be inconsistent with other provisions of the Whatcom County Code, this ordinance shall control.

BE IT FURTHER ORDAINED that for the purpose of this ordinance the definition of “unrefined fossil fuel” includes but is not limited to all forms of crude oil whether stabilized or not; raw bitumen, diluted bitumen, or syncrude; coal; methane propane, butane, and other “natural gas” in liquid or gaseous formats excluding those that are the byproduct of refinery processes in the Cherry Point UGA; and condensate.

BE IT FINALLY ORDAINED that for the purpose of this ordinance, the definition of “facility” includes but is not limited to piers, wharfs, buildings, tank farms, pipelines, rail loading and offloading facilities, road spurs, or any other such physical infrastructure intended to receive, transfer, or store unrefined fossil fuels;

APPROVED this _________ day of ____________, 2018.

ATTEST:

Dana Brown Davis, Clerk of the Council

Rud Browne, Council Chair

APPROVED AS TO FORM:

Karen N. Tkach
Civil Deputy Prosecutor

WHATCOM COUNTY EXECUTIVE
WHATCOM COUNTY, WASHINGTON

Jack Louws, County Executive

( ) Approved  ( ) Denied

Date Signed: ________________

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**WHATCOM COUNTY COUNCIL AGENDA BILL**

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**TITeL OF DOCUMENT:**
Appointment to fill vacancy on the Wildlife Advisory Committee - Robert Waddell

**ATTACHMENTS:**
Application

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

1 Vacancy Representing Technical expertise in wildlife and habitat management or current or past professional experience such as, but not limited to, at least one of the following: wetlands manager, wildlife biologist, population biologist, natural resources manager, watershed scientist, conservation specialist, forestry protection, and tribal representative. Term ending 12/31/2022. Applicant: Robert Waddell.
The committee will advise the Whatcom County Planning and Development Services Department staff and the Whatcom County Council on the value of wildlife and habitat management issues as they relate to the Whatcom County Comprehensive Plan, with the goal of integrating wildlife management and protection into the community planning process.

**COMMITTEE ACTION:**
7/24/2018: Introduced 5-2, Brenner and Byrd opposed

**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).
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  Robert
Last Name  Waddell
Date  7/9/2018
Street Address  1508 F Street
City  Bellingham
Zip  98225
Do you live in & are you registered to vote in Whatcom County?  Yes
Do you have a different mailing address?  YES
Mailing Address  PO Box 1100, La Conner, WA 98257
Primary Telephone  425-422-0537
Secondary Telephone  Field not completed.
Email Address  robert.waddell@dfw.wa.gov
Step 2

1. Name of Board or Committee
   Wildlife Advisory Committee

   Position:
   I have professional experience as a wildlife biologist.

2. Do you meet the residency, employment, and/or affiliation requirements of the position for which you’re applying? Yes

3. Which Council district do you live in? District 2

4. Are you a US citizen? Yes

5. Are you registered to vote in Whatcom County? Yes

6. Have you 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

Field not completed.

9. Please describe your... I am a District Wildlife Biologist for the Washington Department
occupation (or former occupation if retired), qualifications, professional and/or community activities, and education

10. Please describe why you’re interested in serving on this board or commission

Although I have worked for WDFW since January 2016, I am a new employee in this WDFW district and a new resident of Bellingham (I moved here in May 2018). I am very interested in serving on the committee as a Whatcom County resident and representative for WDFW. I am interested in helping advise the county on wildlife management, wildlife habitat enhancement/protection, etc.

References (please include daytime telephone number):

Fenner Yarborough, WDFW Wildlife Regional Program Manager (360) 466-4345

Signature of applicant:

Robert Waddell

Place Signed / Submitted

La Conner, WA
Title of Document: Request to amend the PDR Program Guidelines as recommended by the Purchase of Development Rights Oversight Committee

Attachments: Memo, Draft Updated PDR Program Guidelines, Recommended Ordinance with Exhibit

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.

Development pressure in Whatcom County continues to impact agricultural areas, but pressure is also being applied to working forestlands and important ecosystem areas. Based on the receipt of multiple applications from property owners voluntarily applying to sell development rights on properties that would protect additional values such as working forestlands or important ecosystem areas, in addition to consideration of other prioritization considerations, the Purchase of Development Rights Oversight Committee reviewed the currently approved PDR Program Guidelines. The PDR Oversight worked on updating the PDR Program Guidelines for the entire year of 2017 and would like to request Council approval of the updated guidelines and accompanying ordinance.

Committee Action:  

Council Action:  

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

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

TO: Honorable County Councilmembers
   Honorable Executive Louws

THROUGH: Mark Personius, PDS Director

FROM: Chris Elder, PDR Program Administrator

DATE: 7/23/2018

SUBJECT: Request to amend the PDR Program Guidelines as recommended by the Purchase of Development Rights Oversight Committee

The Purchase of Development Rights Oversight Committee worked on updating the PDR Program Guidelines during regular committee meetings for the entire year of 2017. Based on the receipt of numerous applications from property owners voluntarily applying to sell development rights on properties that would protect other values such as working forestlands or the protection of important ecosystem areas, the PDR Oversight Committee amended the PDR Program Guidelines to be able to effectively receive, process, and support these applications. Development pressure in Whatcom County continues to impact agricultural areas, but pressure is also being applied to working forestlands and important ecosystem areas. The Program guidelines and scoring criteria, as presented in the attached documents, prioritize the protection of agricultural applications.

Several Comprehensive Plan policies also support this broadened program scope including the following:

Policy 8G-5: Support conservation of working forest land base through cooperation between landowners, private organizations, and public agencies, and through incentives such as the current use tax assessment provisions of RCW 84.33, and RCW 84.34.

Policy 10K-7: Promote voluntary fish and wildlife habitat enhancement projects through educational and incentive programs, such as purchase of development rights or habitat conservation easements. These projects, which can be done by individuals, organizations, and businesses, will buffer and expand fish, plant, and wildlife habitat.

The PDR Oversight Committee and PDR Program staff recommend these updated guidelines and the attached ordinance. We look forward to discussing these recommended changes with you.

Please call Chris Elder, PDR Program Administrator, with any questions or concerns.
ORDINANCE NO. _____

ADOPTING AMENDMENTS TO THE PURCHASE OF DEVELOPMENT RIGHTS PROGRAM

WHEREAS, Whatcom County government recognizes agriculture and forestry as major contributors to the local economy, and agriculture, forestry, and ecosystem functions and values as contributing to 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 and forestry lands of long term commercial significance and protection of ecosystem functions and values, 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, wetlands, farm and agricultural land, and timber land; and

WHEREAS, Ordinance #2002-054 established the Whatcom County Agricultural Purchase of Development Rights Program; and

WHEREAS, The Whatcom County Council has identified the Purchase of Development Rights Program as an effective tool to protect community values by compensating willing property for the voluntary sale of development rights, and

WHEREAS, The Whatcom County Purchase of Development Rights Program has received several voluntary applications from non-agricultural property owners wishing to protect their working forestlands and important ecosystem areas, and

WHEREAS, Additional sources of matching funds are available to support acquisition of conservation easements on properties that protect forestry and ecosystem values, and

WHEREAS, The Purchase of Development Rights Oversight Committee has updated the program guidelines so as to maintain the protection of agricultural lands as the primary purpose of the program, and

WHEREAS, The Purchase of Development Rights Oversight Committee voted unanimously on January 26, 2018 to recommend approval of the updated guidelines.
NOW, THEREFORE, BE IT ORDAINED by the Whatcom County Council that
Whatcom County Code 3.25A is hereby amended as outlined in Exhibit A to this ordinance.
ADOPTED this ___ day of __________, 2018.

ATTEST:

Dana Brown-Davis, Clerk of the Council

Rud Browne, Council Chair

WHATCOM COUNTY EXECUTIVE
APPROVED AS TO FORM:

WHATCOM COUNTY, WASHINGTON

Jack Louws, County Executive

( ) Approved   ( ) Denied

Date Signed: ____________________________
Whatcom County
Agricultural, Forestry, and Ecological
Purchase of Development Rights
PROGRAM GUIDELINES

Revised version adopted April 9, 2013,
Second revision adopted XX, 2018
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PURCHASE OF DEVELOPMENT RIGHTS PROGRAM

--------------------------------------------------------------------------------------
I. INTRODUCTION

These Program Guidelines are authorized under WCC Title 3.25A and serve as rules and procedures for administering the Whatcom County Agricultural, Forestry, and Ecological Purchase of Development Rights (PDR) Program.

The Guidelines serve two functions:

A. To provide an overview of the land preservation process for the property owner. Specifically, this information can be found in Section V.

B. To establish the rules and operational procedures that the PDR Oversight Committee and the Administrator must follow when operating a Purchase of Development Rights program.
II. PDR PROGRAM OBJECTIVE AND PRINCIPLES

Responding to the loss of County farmland, the Whatcom County Executive initiated the development of a Purchase of Development Rights (PDR) program in September of 2001. A PDR Advisory Committee comprised of farmers, citizens and conservation organizations was formed and tasked with assisting County staff in the development of a proposal for County Council consideration. The Purchase of Development Rights Program was enacted through Ordinance 2002-054 in September of 2002.

Since that time Whatcom County continues to experience a rapid development rate. Responding to the continued loss of agricultural land and of other land types such as forest resource lands and areas of ecological importance, these program guidelines have been updated accordingly.

A. Objective

The primary objective of the Whatcom County Purchase of Development Rights Program, in conjunction with other tools, is the protection of farmland. The secondary objective of the PDR Program is the protection of forestland and areas of ecological importance. The Whatcom County Purchase of Development Rights Program will help to sustain the farming and forestry enterprises as well as support healthy ecosystem function throughout Whatcom County.

B. Principles

The PDR Program provides a strategic tool to protect County farmland, forestland, and areas of ecological importance.

1. Preserve the County's Agricultural lands, Forestlands and Areas of Ecological Importance

   Encourage the protection of a critical mass of agricultural and forestry land to sustain the farm-related and forestry-related businesses and activities that are necessary to support the agricultural and forestry industries in Whatcom County. Additionally the Program will encourage the protection of areas of ecological importance necessary to sustain ecosystem health and function.

   The primary PDR Program emphasis will be:
   a. Reduce conversion of land to non-agricultural uses within the Agricultural District;
   b. Provide a buffer to discourage encroachment into the Agricultural District;
   c. Consolidate and protect areas of agricultural land; and
   d. Protect agricultural lands located outside the Agricultural District that are under increased pressure of development.

   The secondary PDR Program emphases will be:
   a. Reduce conversion of land to non-forestry uses within the Forestry Districts;
   b. Provide a buffer to encroachment of the Forestry Districts;
   c. Consolidate and protect areas of forestry land;

Revised and adopted, XX, 2018
d. Address commercially significant forestry lands outside the Forestry Districts that are under pressure of development.

e. Protect areas of ecological importance and support and enhance ecosystem functions within agricultural and forestry lands;

h. Improve and support habitat connectivity and protection of critical habitat corridors.

2. Offer Effective Program Design

Maintain a voluntary tool for the preservation of productive agricultural and forestry lands, as well as areas of ecological importance in the County that will:
a. Provide farmers and foresters with the market based economic value for agricultural and forestry land without selling the land;

b. Provide property owners with the market based economic value for areas of ecological importance without selling the land.

c. Support and promote ongoing agricultural and forestry activities by offering an attractive option for farmers, foresters, and landowners;

d. Support and promote ecosystem function by offering an attractive option for landowners; and

e. Provide for ongoing monitoring and enforcement.

3. Leverage Program Impact and Efficiency

Enhance and support a coordinated approach to the preservation of the agricultural and forestry lands, as well as areas of ecological importance that will:
a. Create community support for agricultural and forestry preservation initiatives;

b. Create community support for the protection of areas of ecological importance;

c. Complement and foster other County programs and policies to preserve farming and agricultural lands;

d. Complement and foster other County programs and policies to preserve forestry and forestry lands;

e. Complement and foster other County programs and policies to enhance ecosystem function and protect areas of ecological importance; and

c. Leverage other public and private funding sources and provide or increase property owner incentives and program effectiveness.
III. ELIGIBILITY CRITERIA

A. Priority Consideration

Areas around the county have been identified to receive priority consideration for PDR Program participation.

Agricultural priority areas (Appendix A) include a combination of the twelve initial PDR Target Areas, Ten Rural Study Areas, Watershed Improvement District areas, in addition to the lands within the Agriculture Zone. Preservation of these areas protect designated agricultural lands and can establish a perimeter of PDR farmlands to protect against development encroachment into large blocks of agricultural lands. These lands, due to their soils, land use, and proximity to core agricultural areas, are deemed priority farmlands for program participation due to their vulnerability for conversion to non-agricultural uses.

Forestry priority areas (Appendix B) include lands located within the Rural Forestry zone and areas designated by the Washington State Department of Natural Resources as being priority for protection from conversion under Washington’s Forest Action Plan.

Ecological priority areas (Appendix C) include lands containing a mapped Habitat Conservation Area or within 165’ of habitat conservation feature. This includes fish bearing streams, areas identified under the Washington State Department of Fish and Wildlife’s Priority Habitats and Species, and the Chuckanut Wildlife Corridor. Additionally the mapped FEMA Floodplain and Flood Hazard areas have been included in addition to a 300’ buffer of the Historic Meander Zone.

B. PDR Program Eligibility

Two factors will be important in determining eligibility:
1. Availability of funding to expand the program and
2. Advancement of PDR Program objectives. Priority lands will continue to receive preference over other lands through weighted selection criteria.

All applicants for PDR Program participation must be within an Agriculture, Rural, Rural Residential, or Rural Forestry zoning designations. Properties located in Urban Growth Areas are ineligible to participate in the program, unless coordination with cities is a component of an application.

Applications received on parcels smaller than 10 acres may not retain any development rights.
IV. SITE SELECTION CRITERIA

All valid applications will be reviewed to determine if the acquisition of development rights will promote the PDR program’s goals and priorities. Selection criteria have been developed to guide, but not control, the review and assessment of eligible properties during selection.

Valid and accepted offers on eligible properties of greater points shall be considered for purchase with available funds before properties receiving lower scores. The criteria, which will be used to evaluate the applications, are outlined below.

Rating instructions: The selection criteria allow for a score of up to 100, with all five criteria sections assessed. Each criteria section is rated and assigned a point value. Then each section is assigned a weight factor. The five weight factors add up to 1.0. When total point values for a section are multiplied by the weight factor, a score will be reached for that section. The total of the 5 section scores result in the final applicant score. Staff performs the ranking, with review and adjustment by the PDR Oversight Committee.

1. Site Evaluation

The points for each criteria are based on a 100 point scale. Higher points are given to site characteristics that are more desirable, such as parcel size, characteristics that reflect a site’s threat of conversion, and characteristics that make a site more desirable to farming, such as available water rights.

A. Total size of parcel(s) (nominal acres)

   a. 0 – 10 ................................................................. 0 points
   b. 10 – 20 .......................................................... 15 points
   c. 20-49.9 ......................................................... 30 points
   d. 50-79.9 ......................................................... 70 points
   e. >80 ................................................................. 100 points

B. Number of existing development rights offered under current zoning

   a. 1-2 ................................................................. 20 points
   b. 3 ................................................................. 40 points
   c. 4 ................................................................. 60 points
   d. 5 ................................................................. 80 points
   e. >/=/6 ............................................................ 100 points

C. Adjacent land is conserved by easement or other means (Whatcom Land Trust, NRCS CREP Program, or owned by a municipality or NGO)

   a. >1 mile ............................................................. 0 points
   b. ½ to 1 mile ..................................................... 25 points
   c. ¼ to ½ mile ...................................................... 50 points
d. < ¼ mile ................................................................. 75 points  
e. Adjacent ............................................................... 100 points

D. Percent of parcel actively farmed

a. 0-25% ................................................................. 25 points  
b. 26-50% ............................................................... 50 points  
c. 51-75% ............................................................... 75 points  
d. >75% ................................................................. 100 points

E. Number of legal lots of record

a. 0-2 ................................................................. 20 pts  
b. 3 ................................................................. 40 pts  
c. 4 ................................................................. 60 pts  
d. 5 ................................................................. 80 pts  
e. >= 6 ................................................................. 100 pts

F. Legal water availability documentation

a. Certified Water Right/Access to public water ................. 100 pts  
b. Water Claim or documented water use .................... 50 pts  
c. No Water documentation or legal water access ........... 0 pts

G. Proximity to major roads or road intersections

(For purposes of this evaluation, “major roads” means roads with a daily traffic volume of 3,000 or more trips. A list of roads currently meeting this definition is included as Appendix D to this report.)

a) Property is at an intersection of major roads ............... 100 Points  
b) Property is within 1,500 feet of the intersection of two major roads ........................................... 75 Points  
c) Property fronts on a major road ........................................ 50 Points  
d) Property is within 2,500 feet of a major road ............... 25 Points

H. Threat of Conversion/Parcelization

Total Number of Parcels in surrounding ¼ mile

a) Less than 20 parcels ........................................... 50 Points  
b) 20 - 50 parcels ................................................. 100 Points  
c) 50 - 100 parcels ............................................... 50 Points  
d) more than 100 parcels ....................................... 0 Points

Once a point value for the section is determined, it is multiplied by a weight factor to indicate the importance (weighted factor for Site Evaluation section has been 0.35, but is subject to ongoing review by the Committee).
2. Land Evaluation

Productive farming, forestry and associated activities depend on soil capability (the suitability of soils for most types of field crops and/or timber production). Therefore, emphasis should be placed on the property’s soil characteristics. The scoring system uses the NRCS Prime Farmland classifications, LESA classifications and APO soils classifications, including classification of soils of statewide importance as well as consideration given to site index score for forest soils. Highest points are assigned to better agricultural soils and lower points to poorer agricultural soils. Forest soils also receive additional points. Points are assigned based on the productivity and/or characteristics of the soil (profile, texture, slope, other). A soils chart is included as Appendix D. If a soil has a site index rating and a prime soil rating, the rating with the highest number of points will be applied.

Below is a table detailing the soil point system:

<table>
<thead>
<tr>
<th>LESA Rating</th>
<th>APO or Non-APO Prime 1</th>
<th>Non-APO Prime 2-8</th>
<th>Soils of Statewide Importance</th>
<th>Site Index</th>
<th>Site Index Rating</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>100</td>
<td>90</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>2</td>
<td>95</td>
<td>85</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>3</td>
<td>90</td>
<td>80</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>4</td>
<td>85</td>
<td>75</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>No Rating</td>
<td>80</td>
<td>70</td>
<td>50</td>
<td>0</td>
<td>0</td>
</tr>
</tbody>
</table>

Farm applications receive points for this section proportional to the percentage of each soil type that exists on the property. An example of how this would work follows: A farm under review is 40 acres, of which 29.79 acres (about 75%) is soil 179-Whatcom Silt Loam 4-9% slopes, which is classified as LESA 4, APO Prime 1; and 10.21 acres (about 25%) is soil 180-Whatcom Silt Loam 9-15% slopes, which is not classified as APO or Prime, but is a soil of Statewide Importance. This farm would score a total of 76.07 points for this Section, as shown:

<table>
<thead>
<tr>
<th>A</th>
<th>B</th>
<th>C</th>
<th>D</th>
<th>E</th>
<th>F</th>
<th>G</th>
<th>H</th>
<th>I</th>
<th>J</th>
<th>K</th>
</tr>
</thead>
<tbody>
<tr>
<td>Soil #</td>
<td>Area (in acres)</td>
<td>% (B/Total area)</td>
<td>APO Soil</td>
<td>Prime 1-6?</td>
<td>LESA Rating</td>
<td>Prime Rating</td>
<td>Statewide Soil</td>
<td>Site Index</td>
<td>Points</td>
<td>Score (J°C)</td>
</tr>
<tr>
<td>179</td>
<td>29.79</td>
<td>74.48%</td>
<td>Y</td>
<td>Y</td>
<td>4</td>
<td>1</td>
<td>O</td>
<td>2</td>
<td>85</td>
<td>63.30</td>
</tr>
<tr>
<td>180</td>
<td>10.21</td>
<td>25.53%</td>
<td>N</td>
<td>N</td>
<td>0</td>
<td>0</td>
<td>yes</td>
<td>2</td>
<td>50</td>
<td>12.76</td>
</tr>
<tr>
<td>Total area</td>
<td>40</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>76.07</td>
</tr>
</tbody>
</table>

Once a point value for the section is determined, it is multiplied by a weight factor to indicate the importance (weighted factor for Land Evaluation section has been 0.35, but is subject to ongoing review by the Committee).
3. **Ecological Evaluation**

The Washington State Department of Ecology Watershed Characterization report has identified recommendations for addressing water flow processes within sub-watersheds.

A. Protection (Overall importance to Water flow processes)
   a. Highest protection............................................................... 100 pts
   b. Protection........................................................................... 75 pts
   c. Protection/Restoration....................................................... 50 pts
   d. Conservation (no change).................................................... 25 pts

B. Water Flow Restoration – Is property owner willing to restore ecosystem processes beyond the minimum required practices?
   a. Yes............................................................... 50 pts
   b. Maybe/No......................................................... 0 pts

C. Site contains conservation values (viewsheks, wetlands, notable wildlife habitat, other critical areas)
   a. Yes............................................................... 50 pts
   b. No............................................................... 0 pts

*Once a point value for the section is determined, it is multiplied by a weight factor to indicate the importance (weighted factor for Ecological Evaluation section has been 0.10, but is subject to ongoing review by the Committee).*

4. **Special Considerations**

A. Site contains heritage/historical significance, i.e. Heritage Barn Registry
   1. Yes............................................................... 50 pts
   2. No............................................................... 0 pts

B. Bargain Sale Opportunity below market value
   1. 91%-Full Value............................................................... 0 pts
   2. 71%-90% .............................................................. 33 pts
   3. 50%-70% .............................................................. 66 pts
   4. < 50% Full Value.......................................................... 100 pts

C. Removal of all remaining development rights?
   1. All removed.............................................................. 100 pts
   2. Development rights remaining ..................................... 0 pts

D. Is located within a priority area:
   a. In priority area........................................................ 100 pts
   b. Not in a priority area................................................. 0 pts

*Once a point value for the section is determined, it is multiplied by a weight factor to indicate the importance (weighted factor for Special Considerations Points section has been 0.10, but is subject to ongoing review by the Committee).*
5. **Matching Funds Secured**
   1. 100% secured ........................................................................................................ 100 pts
   2. 75% secured ........................................................................................................ 75 pts
   3. 50% secured ........................................................................................................ 50 pts
   4. 25% secured ........................................................................................................ 25 pts
   5. 0% secured .......................................................................................................... 0 pts

   *Once a point value for the section is determined, it is multiplied by a weight factor to indicate the importance (weighted factor for Bonus Points section has been 0.10, but is subject to ongoing review by the Committee).*

6. **Final Score**

   The points for each section are added up and multiplied by a weight factor, which indicates the importance that is placed on a particular characteristic. The weighted scores are then added to provide an overall score (0-100). The higher the score, the more closely the property meets the goals of the program and hence is a higher priority for purchase and preservation. Properties which score less than 40 (forty) points will not be recommended for program participation. The PDR Oversight Committee retains the ability to add or subtract up to 5 points on any application. A write-up of committee opinion will be included in all council proceedings.
V. OVERVIEW OF PDR PROGRAM PROCEDURES

A. Outreach and Publicity

Step 1: The County shall annually give notice in one newspaper of general circulation in each area where eligible lands are located which may be acquired. The notice shall include the properties eligible to participate, the application process and applicable timeframes and extensions.

The Administrator may identify each property with potential development rights within priority consideration areas and provide written notification to the property owners.

B. Application and Ranking

Step 2: Voluntary pre-application screening. Interested property owners may meet with the County PDR Program Administrator (Administrator) to review their eligibility and special circumstances, if any.

Step 3: Application. An owner of land eligible for PDR Program participation submits and application for County acquisition of property or development rights. The application must be submitted on the form provided by the County. Lot of Record application must be submitted simultaneously unless determination has already been completed.

Step 4: Lot of Record/Density Determination. An owner of land eligible for PDR Program participation submits a Lot of Record application and signs a Letter of Intent that states that payment for this service must be made upon closing of the easement or should the applicant wish to withdraw their application. This application determines legal status of lots being considered and determines that number of development rights remaining on said lots. PDR Program application may be submitted simultaneously.

Step 5: The Administrator reviews each application for completeness, determines if the subject property meets minimum eligibility criteria and assigns a preliminary score based upon the PDR site selection criteria.

Step 6: The PDR Oversight Committee reviews PDR Program applications and recommends proposed development rights acquisition utilizing the selection criteria. Recommendations for development right acquisition are prepared and forwarded to County Council to approve, deny, or recommend modification.

Step 7: The Administrator estimates the number of appraisals that can be initiated based on available funds and chooses the top ranked parcels from the County Council’s list of parcels. The property owner is notified in writing of eligibility status.
Step 8: Property owners disputing their ranking may request a reconsideration of their ranking to the PDR Oversight Committee within 14 days after receiving written notice. The Committee shall review the reconsideration request at the next regularly scheduled meeting. Special consideration will be given if applicant modifies the original offer to include a bargain sale. The PDR Oversight Committee may, at its discretion, change the site's rank, recommend the site for subsequent consideration, or deny the request.

C. Title

Step 9: The Administrator initiates a title search. Closing is conditioned on the resolution of all unapproved title exceptions, within the County's sole discretion, which may require the receipt of subordination agreements or payoff letter.

D. Pricing Estimate and Appraisal

Step 10: The Administrator or designee provides preliminary estimate of value, and notifies the property owner of an estimated range of value within which the appraisal will likely fall. The Administrator or designee sends the applicant a letter of intent, including range of expected value. The letter calls for the signature of property owner(s), and spells out conditions under which costs for further due diligence and the lot of record must be reimbursed to the county if the property owner chooses to withdraw from the program within a specified period of time.

Step 10: The Administrator or designee proceeds to verify assumptions through official county processes, such as a formal Lot of Record and density determination, and conduct other due diligence as necessary (such as water rights research and Title research and clearing).

Step 11: Unless Council and the Executive specifically authorize an alternate approach to determine value, the Administrator commissions a full appraisal by a County authorized appraiser to appraise the development rights value of the land proposed for development rights sale. The development rights value is the difference between the market value of full ownership of the land, and the agricultural value.

Step 12: The appraiser submits the completed appraisal (or the alternate determination of value is conducted and submitted) to the Administrator and the Oversight Committee for their review.

Step 13: The Administrator or designee meets with the property owner to review the appraisal (or alternate determination of value), state the offer, review the conservation easement provisions, agreement terms and conditions, and to answer the property owner’s questions.

Step 14: If the property owner believes that the land has not been adequately appraised or valued, the owner may, within the time allowed in the schedule, commission an appraisal at the owner's expense.
E. Offer to Purchase Easement and Agreement

Step 15: A written offer to purchase development rights based on appraised or determined value is made to the property owner following budget authorization by the County Council, and approval by the County Executive.

Step 16: Within 30 days, the property owner accepts, rejects or makes a counter offer. Counter offers will be reviewed and evaluated by the Oversight Committee and the County’s authorized appraiser.

Step 17: Property owners desiring to sell their development rights sign a Purchase and Sale Agreement.

F. Adjacent Property Owner Notification

Step 18: Neighboring property owners are notified that adjacent land is in the process of being preserved.

G. Approval

Step 19: Review materials are presented to the County Executive for review and approval, rejection, or recommendation for modification.

Step 20: Review materials are sent to other participating entities for partially or wholly funded conservation easements several days prior to any deadline.

I. Settlement

Step 21: Settlement will occur following County Executive approval of transaction terms and is contingent upon a title search and any other evidence, such as a land survey, that may be necessary to establish clear title.

Step 22: Payment will be in full at time of settlement unless the County and property owner agree to an installment sale.

Step 23: Checks are requested from the Finance Manager and settlement is scheduled within a week or two of approval. Federal or state money is dispersed according to federal or state regulation.

J. Recording

Step 24: The conservation easement will be recorded at the County Auditor’s office. The County or its designee will monitor the properties under easement at least annually to ensure compliance with the easement.
VI. CONSERVATION EASEMENTS

A. Description

A conservation easement deed is a legally binding document, which is recorded by the County Auditor, forever restricting the property to agricultural and directly associated uses, and for which compensation may be paid. As an easement in gross in perpetuity, restrictions are binding upon the owner and future owners, and run with the land.

B. PDR Program Conservation Easements

At the time of acquisition of development rights from a participating property, a conservation easement is placed on the property permanently restricting development of the site and protecting/preserving the agricultural, forestry, and ecological values associated with the site. The conservation easement must be signed by both the property owner(s) and the County Executive or his/her designee and recorded with the property records for the property. A model conservation easement deed is included in these guidelines as attachment D.

1. Conservation Easement Requirements

Conservation easements shall be on a form approved by the Whatcom County Prosecuting Attorney and shall meet the following basic requirements:

a. The deed shall be in recordable form and contain an accurate legal description setting forth the metes and bounds of the area subject to the easement;

b. Restriction is granted in favor of Whatcom County, or if designated by the organizations as defined in RCW 64.04.130;

c. Restriction is granted in perpetuity, and shall bind existing and future property owners; and

d. Unless specifically provided for, nothing in the restrictions shall be construed to convey to the public a right of access or use of the property, and the owner of the property, his/her heirs, successors and assigns shall retain exclusive right to such access or use subject to the terms of the easement.

2. Filing

After the conservation easement is signed and notarized, it must be recorded with the Whatcom County Auditor's Office.

C. Conservation Easement Conveyance

Conservation easements may be either donated or sold, or a combination of both.
1. Conservation Easement Donation
   a. A donation of a total parcel will not be subject to eligibility except as below in section c. Partial parcel donation shall be considered under the same rule as for development rights sales. Notwithstanding the eligibility of the property, acceptance of a fee interest or partial donation is within the discretion of the County Council.
   b. Whatcom County will accept voluntary donations or bequests of development rights as perpetual easements in gross if meeting eligibility criteria (except priority area criteria) and within the discretion of the County Council.
   c. All properties offered for development rights donation must meet the following minimum eligibility criteria:
      1. The PDR Oversight Committee will consider each offer on a case by-case basis, considering the property’s consistency with current and future land uses, and
      2. The property must be at least 1 acre in size, and
      3. Be in agricultural or forestry use or contain ecological values and has not been irrevocably devoted to a use inconsistent with the above values,
      4. Cannot be located within an Urban Growth Area, unless coordination with the proximal small city is a component of the donation.

2. Conservation Easement Sale
   a. Whatcom County will purchase perpetual conservation easements on qualified properties in accordance with the policies and procedures of the Whatcom County Agricultural, Forestry, and Ecological Purchase of Development Rights Program, with Federal, State, County, and/or private funds and any combination thereof.
   b. All properties offered for conservation easement sale must meet minimum eligibility criteria as contained in Section III.
VII. OPERATIONAL PROCEDURES FOR ACQUIRING PDR EASEMENTS

A. Outreach and Publicity

Annually, notice shall be published in one newspaper of general circulation. Application opening and closing dates, if any, will be determined by the PDR Oversight Committee. The Committee shall have the discretion to consider applications in rounds, or individually on a rolling basis. If selection deadlines are extended, the committee will provide public notice of the extension.

B. Application and Ranking

1. Property owner(s) voluntarily submits an application(s) to the County. The application must be submitted to the County on the form provided by the PDR Program, and according to the relevant public notice. Applicants are to include at a minimum:
   a. Name(s) and address(es) of the property owner(s) of the site;
   b. Legal description and parcel number(s);
   c. Copy of the property deed and title;
   d. Total acreage of farmland to be included in the PDR Program;
   e. Current land use and soils;
   f. Number of dwelling units;
   g. Description of the farming operation;
   h. Other information necessary to evaluate property eligibility;
   i. Lot of Record/Density Determination application and payment, or Lot of Record/Density Determination application and signed Letter of Intent agreeing to terms of payment at the time of easement closing or upon withdrawal from program, or completed Lot of Record/Density Determination; and
   j. Acknowledgement of intent to grant to Whatcom County a conservation easement in a form provided by the County.

2. The Administrator shall review each application to determine completeness and eligibility.

3. Applications meeting all minimum eligibility criteria shall be evaluated and scored by the administrator and Oversight Committee according to the site selection criteria. (See Section IV)

4. The PDR Oversight Committee shall provide the County Council with information and scoring of properties recommended for conservation easement acquisition by the committee. County Council shall approve or deny pursuit of conservation easement acquisitions on the parcels.
5. The Administrator shall then arrange appraisals (or alternate determination of value) of eligible applicant properties as determined by the County Council.

6. The PDR Oversight Committee and Administrator shall provide updates to the County Council discussing recommended purchases, possible program changes, and anticipated budget needs.

C. Appraisal

1. Appraisals for eligible properties shall be conducted to determine the value of development rights of parcels in the order of acquisition priority until acquisition funds are expended.

   a. The appraisals are to be made by an independent appraiser qualified to appraise agricultural, forestry, and/or ecological land for development rights purchases. An appraiser is deemed qualified if he or she possesses a State of Washington certification as a State Certified General Real appraiser, MAI designation by the Appraisal Institute (or equivalent), and at least five years agricultural lands appraisal experience. Appraisers shall supply a narrative or UAAR form report, which contains information as required by the Uniform Standards of Professional Appraisal Practice (USPAP), Uniform Appraisal Standards of Federal Land Acquisition (UASFLA) and as specified in any contract with the County.

   b. An appraisal report is an objective report of market facts. The appraisal report must estimate both the unrestricted fee market value of the land only, excluding the value of buildings, and the agricultural value of the land only, of which the difference is the development rights value.

   c. Both values shall be based primarily on an analysis of comparable sales. If comparable sales data is not available for agricultural lands, the appraiser may use local farmland rental values or capitalized production values to determine the agricultural values of the land.

   d. A description of the buildings or other improvements shall appear in the appraisal report; however, the buildings will not be valued and therefore will not be considered in determining the development rights value.

   e. The appraiser shall report whether the subject property has any land use restrictions, public or private and/or physical attributes, which limit the developmental capability of the land.

   f. The appraiser shall be advised that conservation easements are perpetual. The perpetual nature of the easement shall take precedent over any agricultural zoning status.

   g. The appraisal shall be in writing and may be discussed with the owners prior to the submission of written offers.
h. If the property owner believes the property has not been adequately appraised, the owner may, within the time allotted, request that a review appraisal be made at the owner’s expense. This appraisal must be completed in accordance with the guidelines set forth herein. If the review (owner’s) appraisal is not completed within the allotted time, the application will be delayed for future committee consideration. If a review appraisal is completed, the appraisals will be reviewed by the County’s Appraiser. The County’s Appraiser in consultation with the Program Administrator and the PDR Oversight Committee will accept, modify or reject the review appraisal. The determination of the County’s Appraiser is final.

i. The maximum value of development rights purchased by the County shall be no more than the easement value contained in an appraisal report. The easement value is the difference between the farmland’s value before and after the voluntary conservation easement.

2. Council and the Executive may specifically authorize an alternate approach to determine value in accordance with state and local laws, in which case the conditions of that approach would substitute for the appraisal guidelines as set forth in C.1., above.

D. Title and Survey Issues

1. The Administrator shall request a title report confirming that applicant is the owner of the property and has unrestricted legal right to transfer the development rights (i.e. there must be clear title to transfer the property). The title report will be provided to the County Attorney for review.

2. All encumbrances (including but not limited to: liens, mortgages and judgments) against the property must be subordinated, satisfied or removed prior to development rights acquisition. Mortgage and/or lien holder subordination and releases may be required acknowledging that a conservation easement will be placed on the property and subordinating their interest in the property to the deed restriction.

3. At settlement for a County or joint development rights purchase, the PDR Oversight Committee or applicant shall provide a title insurance company authorized to conduct business in Washington State by the Washington State Office of Insurance Commissioner. The cost of such title insurance shall be a shared cost, with the county’s portion considered a cost incident to the development rights purchase and a reimbursable expense from the County’s Conservation Futures Fund.

4. It is the property owner’s responsibility to survey (or provide a legal description that meets specific standards) any exceptions from the easement and any graveyards or cellular towers that may be located on the property. It is the property owner’s responsibility to provide a legal description for any commercial
operation on the farm that is not incidental to the overall farming operation, in
order to exclude it from the easement. Surveys shall be conducted by a licensed
surveyor in accordance with state and federal regulations.

E. Development Rights Value and Purchase Price

1. The maximum value of development rights purchased by the County shall be no
more than the easement value contained in an appraisal report. The easement
value is the difference between the land’s value before and after the voluntary
conservation easement.

2. Development rights may only be purchased in perpetuity.

F. Recommendation of Development Rights Purchases by the PDR Oversight
Committee

1. The PDR Oversight Committee, in making recommendations concerning
applications and purchase offers, shall consider the following:
   a. Evaluation according to the site selection criteria
   b. Consistency with County Comprehensive
   c. Cost relative to total allocations and appropriations
   d. Proximity to other land subject to protection easements

2. Upon receiving the recommendations of the PDR Oversight Committee and the
Administrator, the County Executive shall review the recommendations and shall
take final action to authorize or deny proposed purchase terms and offers,
consistent with authorization by the County Council.

3. If a property is approved for development rights purchase, the Administrator will
meet with the property owner and review the terms, conditions and amount of the
County’s offer. A written offer will be provided to the property owner. Written
notice shall also be provided to land not approved for development rights
purchase.

4. Within 30 days of receipt of a written offer from the County an applicant must
indicate in writing which of the following actions they intend to pursue:
   a. Accept the offer.
   b. Reject the offer.
      1. Reject offer outright
         a. no further action
         b. participate in future review
      2. Submit a counter offer within 90 days of written notice of offer by
the County.
   c. Failure to notify the County within 30 days shall constitute rejection of the
offer.
5. If the offer is accepted, the Administrator shall prepare a Purchase and Sale agreement. USDA or State Funds must be paid as lump sum. The method of payment shall be specified from the options listed below:
   a. Lump Sum
   b. Installment Purchase Agreement (IPA)
   c. Like-Kind Exchange
   d. Or a combination of the above

6. For development rights purchase utilizing the Installment Purchase Agreement (IPA) program, the County Council at settlement shall provide an opinion of legal counsel that the County’s obligations to make installment payments of principal and tax-exempt interest over time are legal, valid, and binding. And that such payments are a general obligation of the County for which its full faith, credit, and taxing power are pledged. Interest paid by the County is exempt from federal income taxes.

7. All Agreements of Sale and Conservation Easements require the County Council’s approval.

G. Grant of the Agricultural, Forestry, and/or Ecological Protection Conservation Easement

Before the purchase of development rights can be finalized, a conservation easement in a form approved by the County Attorney and consistent with the policies of the PDR Program Guidelines, must be placed on the property permanently restricting development of the site and preserving its agricultural, forestry and/or ecological values.

The principal interest of the County is to ensure that lands are preserved and subsequently stewarded in a manner that maintains and enhances their farmland, forestland, and/or ecological values. There may be some instances where there is a public interest in another public entity or non-profit organization to hold the conservation easement, for continued stewardship and protection of the land. The County will consider:

1. The preferences of the donor or seller;

2. Administrative, monitoring, and enforcement issues associated with the conservation easement and the resources available to address these issues;

3. Requirement of Federal, State or County funding sources utilized to purchase development rights.

H. Development Rights Purchase Recommendations/Submission Requirements

1. County Council: Each recommendation for development rights purchases with County funds, State funds, Federal funds, private donor funds or a combination of funds shall be presented to the County Council at a regularly scheduled public meeting.
2. Letters of Notification: Letters of notification for development rights purchases will be sent to adjoining property owners by the Administrator.
VIII. CONSERVATION FUTURES FUND

A. Intent

This fund was established in 1992 to be used solely to acquire right and interests in open space land, farm and agricultural land, and timber land, so as to protect, preserve, maintain, improve, restore, limit the future use of, or otherwise conserve the property for public use and enjoyment.

B. Fund Sources

This Conservation Futures Fund is funded by a real property tax applied to all real property within Whatcom County at a rate determined by the county administration and county council.

C. Fund Source Accounts

Council shall annually consider an allocation of Conservation Futures Fund to be placed in a Purchase of Development Rights Account.

D. Installment Payment Fund

1. The intent of installment payment funds, which are established by the County, is to encumber and invest committed funds for which recipient property owners have elected annual installment payments for a period, which may vary according to the wishes of the property owner.

2. The full consideration of any transaction for which installment payments of five years or less have been elected shall be placed in the fund, less the amount of any first installment to be paid at settlement. This amount shall be invested and annual installment payments shall include the interest accrued.

3. Annual installment payments shall be made on or before January 20th of each year.

4. A property owner may enter into an Installment Purchase Agreement for fifteen (15) to thirty (30) years at an interest rate to be negotiated between the property owner and the County. The property owner will receive semi-annual interest payments that are tax exempt. Principal will be paid in one lump sum at the end of term. The property owner will also receive a security representing the Installment Purchase Agreement. The property owner may sell or assign this Agreement.
E. Public Expenditures

1. All public expenditures from the Conservation Futures Fund are subject to approval by Whatcom County Council and will be made in accordance with approved disbursement procedures.

2. Expenditures from the PDR Program Account shall be limited to interests in qualified agricultural, forestry, and/or ecological land participating in Whatcom County's Agricultural, Forestry, and Ecological Purchase of Development Rights Program, and other expenses necessary to the acquisition of conservation easements authorized under RCW 84.34.200-.240.

3. The annual appropriation to the PDR Program by the County Council shall be available for the calendar year in which the appropriation was made and or the subsequent calendar year.
### APPENDIX E

#### Soils List

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Revised and adopted, XX, 2018

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APPENDIX F

Model Conservation Easement Deed

A sample Conservation Easement Deed based on the assumption of matching funds from the USDA-NRCS Agricultural Conservation Easement Program, is included in the following pages.
PURCHASE OF DEVELOPMENT RIGHTS PROGRAM
Chapter 3.25A
AGRICULTURAL, FORESTRY, AND ECOLOGICAL PURCHASE OF DEVELOPMENT RIGHTS PROGRAM

Sections:

3.25A.010 Short title.
3.25A.020 Purpose.
3.25A.030 Applicability.
3.25A.040 Definitions.
3.25A.050 Designation of program administrator – Powers and duties.
3.25A.060 Purchase of development rights oversight committee established – Powers and duties.
3.25A.070 Eligibility criteria.
3.25A.080 Ranking system.
3.25A.090 Conservation easement terms and conditions.
3.25A.100 Application and evaluation procedure.
3.25A.110 Purchase of development rights procedure.
3.25A.120 Restriction on buy-back – Extinguishment and exchange of easements.
3.25A.130 Authorization.

3.25A.010 Short title.
This chapter shall be known and may be cited as the "Agricultural, Forestry, and Ecological Purchase of Development Rights Program." For the purpose of this chapter this program shall be known as the "PDR" program. (Ord. 2013-015 Exh. A; Ord. 2002-054 § 1).

3.25A.020 Purpose.
To establish a voluntary agricultural, forestry, and ecological purchase of development rights program for Whatcom County which will enhance the protection of the county's farmland, forestland, and important ecosystem areas, enhance the long-term viability of the agricultural and forestry enterprises within the county and provide public benefit by retaining properties in permanent resource use, in addition to the protection ecosystem functions and values. (Ord. 2002-054 § 1).

3.25A.030 Applicability.
The PDR program shall be available for all qualifying lands, as identified in the PDR program guidelines, except those lands under the ownership or control of the United States of America, the state of
32 Washington or an agency or instrumentality thereof. Any conservation easement acquired pursuant to this
33 chapter shall be voluntarily offered by the owner. (Ord. 2002-054 § 1).

34 3.25A.040 Definitions.
35 The following definitions shall apply in the interpretation and implementation of this chapter:

36 “Administrator” is that person placed in a managerial position over the daily operations of the PDR
37 program. The administrator shall serve as a direct liaison to the program.

38 “Conservation easement” means a nonpossessory interest in one or more parcels by one or more
39 qualified easement holders under WCC 3.25A.090(B) acquired under RCW 64.04.130, whether the
40 easement is appurtenant or in gross, voluntarily offered by an owner and acquired by purchase or
41 donation pursuant to the PDR program guidelines, imposing limitations or affirmative obligations for the
42 purpose of retaining or protecting agricultural, forestry, and ecosystem values of the parcel or parcels.

43 “Owner” means the owner or owners of the fee simple interest of the parcel.

44 “Development rights” means an interest in and the right to use and subdivide land for any and all
45 residential, commercial and industrial purposes and activities which are not incident to agricultural,
46 forestry, and/or ecosystem uses.

47 “Parcel” means a legal lot of record, lawfully recorded in the Whatcom County auditor’s office. A
48 conservation easement may contain one or more parcels; for purposes of this chapter the term “parcel”
49 shall include all parcels covered by, or proposed to be covered by, the conservation easement.

50 The “PDR program guidelines” shall be adopted by county council and contain the rules and regulations
51 under which the PDR program operates. They include eligibility criteria, site selection criteria, a standard
52 conservation easement and other procedures and information necessary to ensure fair and consistent
53 administration of the PDR program.

54 “Qualifying lands” means those properties meeting the eligibility criteria established in the PDR program
55 guidelines for which development rights may be purchased pursuant to this chapter. (Ord. 2002-054 § 1).

56 3.25A.050 Designation of program administrator – Powers and duties.
57 A. Designation. The administrator shall be designated by and report to the director of planning and
58 development services.

59 B. Powers and Duties. The administrator or his or her designee shall administer the PDR program and
60 shall have powers and duties to:
1. Establish reasonable and standard procedures and forms consistent with this chapter and the PDR program guidelines for the administration and implementation of the program.

2. Promote the program in cooperation with the PDR oversight committee by providing educational materials to the public and conducting informational meetings.

3. Investigate and pursue, in conjunction with the county, state, federal and other programs available, to provide additional public and private resources to fund the program and to maximize private participation.

4. Evaluate and rank all applications to determine their eligibility and provide assistance to the PDR oversight committee in ranking properties.

5. Coordinate the preparation of appraisals.

6. Negotiate conservation easement terms and value with the owner or owners.

7. Provide staff support to the county council, the PDR oversight committee, and the county’s authorized appraiser.

8. For each conservation easement accepted into the program, establish baseline data, and assure that the terms and conditions of the easement are monitored and complied with by coordinating a monitoring program with each easement holder. (Ord. 2002-054 § 1).

3.25A.060 Purchase of development rights oversight committee established – Powers and duties.

A. Establishment. The PDR oversight committee is hereby established, as follows:

1. The committee shall consist of seven members appointed by the county executive and confirmed by county council. Each member shall be a resident in and of Whatcom County. The committee shall be comprised of three farmers, one individual representing farm-supporting businesses, one individual possessing real estate experience, one citizen (nonfarmer) from the unincorporated county, and one citizen (nonfarmer) from an incorporated city. No members may have an ownership interest in any of the lands submitted for purchase pursuant to this chapter.

2. The members of the committee shall serve at the pleasure of the county council. The initial terms of the members shall be as follows: two members shall be for two years; three members shall be for three years; and two members shall be for four years. Each term after the initial term shall be for four years.
3. The members of the committee shall serve without pay, but the county council may, at its
discretion, reimburse members for actual and necessary expenses incurred in the performance of
their duties.

4. The committee shall elect a chairperson, vice-chairperson and secretary at its first meeting each
calendar year. The secretary need not be a member of the committee.

5. The administrator shall be an ex-officio member of the committee.

B. Purpose. To provide oversight and evaluation for the county PDR program. The PDR oversight
committee's role is to advise the council in the selection of eligible lands offered for PDR acquisition.

C. Powers and Duties. The PDR oversight committee shall have the powers and duties to:

1. Promote the program, in cooperation and under the guidance of the administrator, by providing
educational materials to the public and conducting informational meetings.

2. Review and make recommendations to the administrator and the county council as to which
conservation easements should be purchased.

3. Annually review the PDR program guidelines and recommend to the county council any changes
needed to maintain the program's consistency with the comprehensive plan, or to improve the
administration, implementation and effectiveness of the program.

4. Provide an annual report of program accomplishments to county council and county executive.

D. Organization – Meetings. Meetings of the committee shall be open and accessible to the public and
shall be subject to the Open Public Meetings Act. The committee shall determine its own meeting
schedule but shall meet at least annually. A public comment period will be provided at each meeting.
Written records of meetings, decisions, findings and recommendations shall be kept and such records
shall be public. The committee shall adopt its own rules and procedures for the conduct of business. The
committee shall elect a chairperson from among its members who shall preside at its meetings. A quorum
shall consist of four members present and the committee shall operate on a "majority rule" basis.

E. Technical Advisory Committee. A technical advisory committee, without voting privileges, may be
formed to advise the PDR oversight committee on technical/scientific matters as needed. Representatives
may include but not be limited to individuals from the following agencies: Cooperative Extension Service,
3.25A.070 Eligibility criteria.

In order for a parcel to be eligible for a conservation easement, it must be located outside of an established urban growth area and within Rural 2A, Rural 5A*, Rural 5A, Rural 10A, Residential Rural, Rural Residential – Island, Rural Forestry, or Agriculture zoned land and meet any additional eligibility criteria as defined in the PDR program guidelines. (Ord. 2011-025 § 1 Exh. A; Ord. 2002-054 § 1).

*The asterisk refers to Rural 5A areas depicted on the official zoning maps with an asterisk that are subject to WCC 20.36.252, Rural residential density overlay.

3.25A.080 Ranking system.

In order to effectuate the purposes of this chapter, parcels for which conservation easement applications have been received shall be evaluated by utilizing the site selection criteria as contained in the PDR program guidelines. The ranking system shall be used to prioritize the acquisition of conservation easements. (Ord. 2002-054 § 1).

3.25A.090 Conservation easement terms and conditions.

Each conservation easement shall conform with the requirements of this chapter. The deed of easement shall be in a form approved by the county attorney, and shall contain, at a minimum, the provisions incorporated in the standard agricultural conservation easement. Central to the purpose of the PDR program are the following:

A. Allowable Uses. Uses that are compatible with the long-term productivity of the soil for the pursuit of farming or forestry enterprises and/or protection of ecosystem functions and values.

B. Designation of Easement Holders. The county shall be the easement holder, and if designated by the county council, one or more other public bodies or qualified organizations, as defined in RCW 64.04.130.

C. Conservation Easement Duration. A conservation easement acquired under the terms of this chapter shall be in perpetuity. (Ord. 2002-054 § 1).

3.25A.100 Application and evaluation procedure.

Beginning in the first year following the adoption of the ordinance codified in this chapter and continuing thereafter, the county shall conduct a voluntary property selection process generally as follows and pursuant to the PDR program guidelines.

A. Application. Owners of qualifying lands will be invited to make application for purchase of development rights by the county by giving notice in one newspaper of general circulation. Application materials will be provided by the administrator and will include, at a minimum, a standard application form and information
about the PDR program. Applications shall be submitted to the administrator and reviewed for
completeness.

B. Evaluation. The administrator shall review and determine eligibility and priority classification of
applications. The applications ranked by the administrator shall be forwarded to the PDR oversight
committee. The committee shall review the applications and establish parcels for easement purchase
based on selection criteria contained in PDR program guidelines. The committee shall then forward the
parcels to the county council which shall review and prioritize parcels on which it will seek to purchase
conservation easements.

C. Appraisal. For those applications that meet the requirements of subsection B of this section, the
committee shall cause an appraisal of the applicant’s development rights to be made in accordance with
PDR program guidelines.

D. Requirements and Deadlines May Be Waived. Any requirement or deadline set forth in this chapter or
the PDR program guidelines may be waived by the county council if, for good cause, it is shown that
urgent circumstances exist that warrant consideration of an application. Under such circumstances the
council may purchase a conservation easement at any time and through any process it deems necessary.

E. Reapplication. An owner of a parcel not selected by the county council for purchase of a conservation
easement may reapply in any future open application period. (Ord. 2013-015 Exh. A; Ord. 2002-054
§ 1).

3.25A.110 Purchase of development rights procedure.

Each application for a conservation easement shall be processed and evaluated pursuant to the
requirements as contained in the PDR program guidelines which will include at a minimum the following:

A. Development Rights Sale. Based on anticipated funding the administrator shall estimate the number of
development rights that can be acquired from the initial pool of parcels identified in WCC 3.25A.100(B).
The administrator shall coordinate negotiations with the property owners. Upon completion of
negotiations, the administrator shall arrange for an appraisal of the development rights by an independent
county-authorized appraiser. The PDR oversight committee and administrator shall review the results of
the appraisal. The administrator shall, in writing, invite property owners to sell to the county development
rights for the amount of the appraised value of such development rights, subject to the terms and
conditions of a proposed deed of easement. Property owners desiring to sell and/or donate development
rights shall submit a written offer to sell. Nothing in this chapter shall compel an owner to submit an offer
to sell.
B. Acceptance. An offer to sell development rights shall be forwarded to the county council for acceptance.

C. Conservation Easement Established. A conservation easement shall be established when the owner and an authorized representative of the holder of the easement have each signed the deed of easement. The deed shall be recorded in the Whatcom County auditor's office.

D. Offers Not Made – Offers Not Accepted – Invitation to Other Owners. If an owner invited to sell elects not to do so, then the county administrator may send an invitation to sell to the owner(s) of the next highest prioritized parcel(s) remaining on the list of parcels.

E. Costs. If the county council accepts an offer to sell development rights, the county may pay all other costs including environmental site assessments, surveys, recording costs, if any, and other charges associated with closing. However, the county shall not pay expenses or fees incurred by the property owner for independent appraisals or legal, financial, or other advice, or expenses or fees in connection with the release and subordination of liens to the easement purchased by the county. (Ord. 2002-054 § 1).

3.25A.120 Restriction on buy-back – Extinguishment and exchange of easements.

If circumstances arise that render the purpose of this easement impossible to accomplish, the easement can be extinguished only by judicial proceedings. In the event of such an extinguishment or the taking of the property by the exercise of the power of eminent domain, grantors shall pay to Whatcom County an amount determined by subtracting the fair market value of the property subject to this easement from the fair market value of the property unrestricted by this easement, at the time of extinguishment or condemnation if Whatcom County is not compensated for its property interests at the time of the extinguishment or condemnation. Other details regarding restrictions on buy-back or extinguishment as may be deemed necessary shall be contained in the PDR program guidelines, and/or the easement deed. (Ord. 2013-015 Exh. A; Ord. 2002-054 § 1).

3.25A.130 Authorization.

A. The county is hereby authorized to acquire development rights from lands described and prioritized in WCC 3.25A.080. Such acquisition may be accomplished by purchase, gift, grant, bequest, devise, covenant or contract but only at a price which is equal to or less than the appraised value determined as provided in this chapter and the PDR program guidelines.

B. If the owner so elects, the county is authorized to pay the purchase price in a lump-sum single payment at time of closing, or to enter into contract for installment payments against the purchase price. When installment purchases are made, the county is authorized to pay interest on the declining unpaid
principal balance at a legal rate of interest consistent with prevailing market conditions at the time of execution of the installment contract and adjusted for the tax-exempt status of such interest.

C. After county acquisition of development rights, the county may purchase the remaining agricultural, forestry, or ecosystem rights or other property interests in such land only when requested by the owner and when such acquisition is necessary to maintain agricultural, forestry, or ecosystem uses of the property. (Ord. 2002-054 § 1).
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PURCHASE OF DEVELOPMENT RIGHTS PROGRAM
I. INTRODUCTION

These Program Guidelines are authorized under WCC Title 3.25A and serve as rules and procedures for administering the Whatcom County Agricultural, Forestry, and Ecological Purchase of Development Rights (PDR) Program.

The Guidelines serve two functions:

A. To provide an overview of the farmland preservation process for the property owner. Specifically, this information can be found in Section V.

B. To establish the rules and operational procedures that the PDR Oversight Committee and the Administrator must follow when operating a Purchase of Development Rights program.
II.-PDR PROGRAM OBJECTIVE AND PRINCIPLES

Responding to the loss of County farmland, the Whatcom County Executive initiated the development of a Purchase of Development Rights (PDR) program in September of 2001. A PDR Advisory Committee comprised of farmers, citizens and conservation organizations was instructed to assist formed and tasked with assisting County staff in developing the development of a proposal for County Council consideration. The Purchase of Development Rights Program was enacted through Ordinance 2002-054 in September of 2002.

Since that time Whatcom County continues to experience a rapid development rate. Responding to the continued loss of agricultural land and of other land types such as forest resource lands and areas of ecological importance, these program guidelines have been updated accordingly.

A. Objective

In conjunction with other tools for protecting farmland, the primary objective of the Whatcom County Purchase of Development Rights Program, in conjunction with other tools, is the protection of farmland. The secondary objective of the PDR Program is the protection of forestland and areas of ecological importance. The Whatcom County Purchase of Development Rights Program will contribute help to sustaining the farming enterprise and forestry enterprises as well as support healthy ecosystem function throughout Whatcom County.

B. Principles

The PDR Program is to provide a strategic tool to protect critically located County farmland, forestland, and areas of ecological importance.

1. Contribute to the Preservation of Preserve the County's Agricultural Land Baselands, Forestlands and Areas of Ecological Importance

Encourage the retention protection of a critical mass of agricultural and forestry land to sustain the farm-related and forestry-related businesses and activities that are necessary to support the agricultural and forestry industries in Whatcom County. Additionally, the Program will encourage the protection of areas of ecological importance necessary to sustain ecosystem health and function.

The primary PDR Program emphasis will be:

a. Reduce conversion of land to non-agricultural uses within the Agricultural District;

b. Provide a buffer to discourage encroachment into the agricultural core Agricultural District;

c. Reduce development potential within the agricultural core;

d. Address unique and regionally important farming activities Protect agricultural lands located outside the agricultural core Agricultural District that are under increased pressure of development.
The secondary PDR Program emphasis will be:

a. Reduce conversion of land to non-forestry uses within the Forestry Districts;
b. Provide a buffer to encroachment of the Forestry Districts;
c. Consolidate and protect areas of forestry land;
d. Address commercially significant forestry lands outside the Forestry Districts that are under pressure of development.

e. Protect areas of ecological importance and support and enhance ecosystem functions within agricultural and forestry lands;
h. Improve and support habitat connectivity and protection of critical habitat corridors.

2. Offer Effective Program Design

Maintain a voluntary tool for the preservation of productive agricultural land and forestry lands, as well as areas of ecological importance in the County that will:

a. Provide farmers and foresters with the market based economic value for agricultural and forestry land without selling the land;

b. Provide property owners with the market based economic value for areas of ecological importance without selling the land.

c. Support and promote ongoing agricultural activity and forestry activities by offering an attractive option for farmers, foresters, and landowners; and

d. Support and promote ecosystem function by offering an attractive option for landowners; and

e. Provide for ongoing monitoring and enforcement.

3. Leverage Program Impact and Efficiency

Enhance and support a coordinated approach to the preservation of the agricultural land and forestry lands, as well as areas of ecological importance that will:

a. Create community support for agricultural and forestry preservation initiatives;

b. Create community support for the protection of areas of ecological importance;

c. Complement and foster other County programs and policies to preserve farming and agricultural lands; and

d. Complement and foster other County programs and policies to preserve forestry and forestry lands;

e. Complement and foster other County programs and policies to enhance ecosystem function and protect areas of ecological importance; and

e. Leverage other public and private funding sources and provide or increase property owner incentives and program effectiveness.

Revised and adopted, April 9, 2013
III.- ELIGIBILITY CRITERIA

A. Priority Consideration

Areas around the county have been identified to receive priority consideration for PDR Program participation.

Twelve Agricultural priority areas (Appendix A) include a combination of the twelve initial PDR Target Areas (shown in Appendix A) are priority farmlands that are located within designated areas of Everson, Beard Road, Ten Mile Road, east Hemmi Road, Laurel, south Custer, north Custer, Stein Road, west Lynden, north Lynden and northeast Lynden Rural Study Areas, Watershed Improvement District areas, in addition to the lands within the Agriculture Zone. Preservation of these areas protect designated agricultural lands and can establish a perimeter of PDR farmlands to protect against development encroachment into large blocks of agricultural lands.

Ten Rural Study Areas (shown in Appendix B) are priority farmlands that are located in rural-zoned areas of Guide/Aldrich, Grandview, Ten Mile, Loomis Trail, Custer, Harksell, East Badger, Minaker, Lawrence, and South Fork. These lands, due to their soils, land use, and proximity to core agricultural areas, are also deemed priority farmlands for program participation.

In addition, the lands zoned Agricultural in Whatcom County are also priority farmlands due to their vulnerability for program participation. Lands immediately adjacent to Ag lands or Rural Study Area lands will also be given priority through the selection process/ conversion to non-agricultural uses.

Forestry priority areas (Appendix B) include lands located within the Rural Forestry zone and areas designated by the Washington State Department of Natural Resources as being priority. Farmlands for protection from conversion under Washington’s Forest Action Plan.

Ecological priority areas (Appendix C) include lands containing a mapped Habitat Conservation Area or within 165’ of habitat conservation feature. This includes fish bearing streams, areas identified under the Washington State Department of Fish and Wildlife’s Priority Habitats and Species, and the Chuckanut Wildlife Corridor. Additionally the mapped FEMA Floodplain and Flood Hazard areas have been included in addition to a 300’ buffer of the Historic Meander Zone.

B. PDR Program Eligibility

Two factors will be important in determining eligibility: 1.

1. Availability of funding to expand the program and 2.
Advancement of PDR Program objectives. Priority farmland will continue to receive preference over other farmland through weighted selection criteria.

All applicants for PDR Program participation must be within an Agriculture, Rural, Rural Residential, or Rural Forestry zoning designation. Properties located in Urban Growth Areas are ineligible to participate in the program, unless coordination with cities is a component of an application.

Applications received on parcels smaller than 10 acres may not retain any development rights.
IV. SITE SELECTION CRITERIA

All valid applications will be reviewed to determine if the acquisition of development rights will promote the PDR program's goals and priorities. Selection criteria have been developed to guide, but not control, the review and assessment of eligible properties during selection.

In all selection rounds, valid offers on eligible properties of greater points shall be considered for purchase with available funds before properties receiving lower scores. The criteria, which will be used to evaluate the applications, are outlined below.

Rating instructions: The selection criteria allow for a score of up to 100, with all five criteria sections assessed. Each criteria section is rated and assigned a point value. Then each section is assigned a weight factor. The five weight factors add up to 1.0. When total point values for a section are multiplied by the weight factor, a score will be reached for that section. The total of the 5 section scores result in the final applicant score. Staff performs the ranking, with review and adjustment by the PDR Oversight Committee.

1. Site Evaluation

The points for each criteria are based on a 100 point scale. Higher points are given to site characteristics that are more desirable, such as parcel size, characteristics that reflect a site's threat of conversion, and characteristics that make a site more desirable to farming, such as available water rights.

A. Total size of parcel(s) (nominal acres)

<table>
<thead>
<tr>
<th>Size Range</th>
<th>Points</th>
</tr>
</thead>
<tbody>
<tr>
<td>0 - 10</td>
<td>0</td>
</tr>
<tr>
<td>10 - 20</td>
<td>15</td>
</tr>
<tr>
<td>20-49.9</td>
<td>30</td>
</tr>
<tr>
<td>50-79.9</td>
<td>70</td>
</tr>
<tr>
<td>&gt;80</td>
<td>100</td>
</tr>
</tbody>
</table>

B. Number of existing development rights offered under current zoning

<table>
<thead>
<tr>
<th>Number of Rights</th>
<th>Points</th>
</tr>
</thead>
<tbody>
<tr>
<td>1-2</td>
<td>20</td>
</tr>
<tr>
<td>3</td>
<td>40</td>
</tr>
<tr>
<td>4</td>
<td>60</td>
</tr>
<tr>
<td>5</td>
<td>80</td>
</tr>
<tr>
<td>&gt;=6</td>
<td>100</td>
</tr>
</tbody>
</table>

C. Adjacent land is conserved by easement or other means (Whatcom Land Evaluation Trust, NRCS CREP Program, or owned by a municipality or NGO)

<table>
<thead>
<tr>
<th>Distance</th>
<th>Points</th>
</tr>
</thead>
<tbody>
<tr>
<td>&gt;1 mile</td>
<td>0</td>
</tr>
<tr>
<td>¼ to 1 mile</td>
<td>25</td>
</tr>
<tr>
<td>¼ to ½ mile</td>
<td>50</td>
</tr>
</tbody>
</table>

Revised and adopted, April 9, 2013
| d. < ¼ mile .............................................................. 75 points |
| e. Adjacent ........................................................................... 100 points |

**D. Percent of parcel actively farmed**

| a. 0-25% ........................................................................... 25 points |
| b. 26-50% ................................................................. 50 points |
| c. 51-75% ........................................................................... 75 points |
| d. >75% ........................................................................... 100 points |

**E. Number of legal lots of record**

| a. 0-2 ................................................................. 20 pts |
| b. 3 ........................................................................... 40 pts |
| c. 4 ........................................................................... 60 pts |
| d. 5 ........................................................................... 80 pts |
| e. >6 ................................................................. 100 pts |

**F. Legal water availability documentation**

| a. Certified Water Right/Access to public water .................. 100 pts |
| b. Water Claim or documented water use ........................... 50 pts |
| c. No Water documentation or legal water access .......... 0 pts |

**G. Proximity to major roads or road intersections**

*For purposes of this evaluation, “major roads” means roads with a daily traffic volume of 3,000 or more trips. A list of roads currently meeting this definition is included as Appendix D to this report.*

| a) Property is at an intersection of major roads ................ 100 Points |
| b) Property is within 1,500 feet of the intersection of two major roads ............................................. 75 Points |
| c) Property fronts on a major road ................................... 50 Points |
| d) Property is within 2,500 feet of a major road ................ 25 Points |

**H. Threat of Conversion/Parcelization**

*Total Number of Parcels in surrounding ¼ mile*

| a) Less than 20 parcels ............................................ 50 Points |
| b) 20 – 50 parcels .................................................. 100 Points |
| c) 50 – 100 parcels .................................................. 50 Points |
| d) more than 100 parcels ............................................ 0 Points |

*Once a point value for the section is determined, it is multiplied by a weight factor to indicate the importance (weighted factor for Site Evaluation section has been 0.35, but is subject to ongoing review by the Committee).*
2. Land Evaluation

Productive farming, forestry and associated activities depend on soil capability (the suitability of soils for most types of field crops) and/or timber production. Therefore, emphasis should be placed on the property’s soil characteristics. The scoring system uses the NRCS Prime Farmland classifications, LESA classifications and APO soils classifications, as well as including classification of soils of statewide importance. Higher as well as consideration given to site index score for forest soils. Highest points are assigned to better agricultural soils and lower points to poorer agricultural soils. Forest soils also receive additional points. Points are also assigned based on the productivity and/or characteristics of the soil (profile, texture, slope, other). A soils chart is included as Appendix E. If a soil has a site index rating and a prime soil rating, the rating with the highest number of points will be applied.

Below is a table detailing the soil point system:

<table>
<thead>
<tr>
<th>LESA Rating</th>
<th>APO or Non-APO Prime 1</th>
<th>Non-APO Prime 2-30</th>
<th>Soils of Statewide Importance</th>
<th>Nonwild Index</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>100</td>
<td>90</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>2</td>
<td>95</td>
<td>85</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>3</td>
<td>90</td>
<td>80</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>4</td>
<td>85</td>
<td>75</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>No Rating</td>
<td>80</td>
<td>70</td>
<td>50</td>
<td>0</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Site Index Rating</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
</tr>
<tr>
<td>2</td>
</tr>
<tr>
<td>3</td>
</tr>
<tr>
<td>4</td>
</tr>
<tr>
<td>5</td>
</tr>
</tbody>
</table>

Farm applications receive points for this section proportional to the percentage of each soil type that exists on the property. An example of how this would work follows: A farm under review is 40 acres, of which 29.79 acres (about 75%) is soil 179-Whatcom Silt Loam 4-9% slopes, which is classified as LESA 4, APO Prime 1; and 10.21 acres (about 25%) is soil 180-Whatcom Silt Loam 9-15% slopes, which is not classified as APO or Prime, but is a soil of statewide importance. This farm would score a total of 76.07 points for this section, as shown:

<table>
<thead>
<tr>
<th>Soil</th>
<th>Area (in acres)</th>
<th>% (B/Total area)</th>
<th>APO Soil</th>
<th>Prime 1-6?</th>
<th>LESA Rating</th>
<th>Prime Rating</th>
<th>Statewide Soil</th>
<th>Site Index</th>
<th>Points</th>
<th>Score (U°C)</th>
</tr>
</thead>
<tbody>
<tr>
<td>179</td>
<td>29.79</td>
<td>74.48%</td>
<td>Y</td>
<td>Y</td>
<td>4</td>
<td>1</td>
<td>0</td>
<td>2</td>
<td>85</td>
<td>63.30</td>
</tr>
<tr>
<td>180</td>
<td>10.21</td>
<td>25.53%</td>
<td>N</td>
<td>N</td>
<td>0</td>
<td>0</td>
<td>yes</td>
<td>2</td>
<td>50</td>
<td>12.76</td>
</tr>
<tr>
<td>Total area</td>
<td>40</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>76.07</td>
</tr>
</tbody>
</table>

Revised and adopted, April 9, 2011
Once a point value for the section is determined, it is multiplied by a weight factor to indicate the importance (weighted factor for Land Evaluation section has been 0.3333, but is subject to ongoing review by the Committee).

2. Site 3. Ecological Evaluation

The points for each criteria are based on a 100 point scale. Higher points are given to site characteristics that are more desirable, such as parcel size, characteristics that reflect a site's threat of conversion, and characteristics that make a site more desirable to farming, such as available water rights.

B. Total size of parcel(s) (nominal acres)
   a. 20-49.9  30 pts
   b. 50-79.9  70 pts
   c. >80

The Washington State Department of Ecology Watershed Characterization report has identified recommendations for addressing water flow processes within sub-watersheds.

A. Protection (Overall importance to Water flow processes)
   a. Highest protection .................................................. 100 pts
   b. Protection ............................................................ 75 pts
   c. Protection/Restoration ............................................. 50 pts
      i. Conservation (no change) ......................................
         100 pts

C.A. Number of existing development rights offered under current zoning
   a. 1-2 ................................................................. 20 pts
   b. 3 ................................................................. 40 pts
   c. 4 ................................................................. 60 pts
   d. 5 ................................................................. 80 pts
   e. >6 ................................................................. 100 pts

D. Adjacent land is conserved by easement or other means (Whatcom Land Trust or NRCS CREP Program)
   a. <1 mile .......................................................... 0 pts
   b. 1/2 to 1 mile ..................................................... 25 pts
   c. 1/4 to 1/2 mile ....................................................

B. Water Flow Restoration ~ is property owner willing to restore ecosystem processes beyond the minimum required practices?
   a. Yes ................................................................. 50 pts
   d. <1/4 mile .......................................................... 75 pts
   e. Adjacent .......................................................... 100 pts

E.A. Percent of parcel actively farmed
C. Site contains conservation values (viewsheds, wetlands, notable wildlife habitat, other critical areas)
   a. Yes ................................................................. 0-25%  0 pts
   b. 26-50% ....................................................... 50 pts
   c. 51-75% ....................................................... 75 pts
   d. >75% .............................................................. 100 pts

F-A. Number of legal lots of record
   b. No ................................................................. 0 pts
      a. 0-2 ......................................................... 0 pts
      b. 3 ......................................................... 40 pts
      c. 4 ......................................................... 60 pts
      d. 5 ......................................................... 80 pts
      e. >6 ......................................................... 100 pts

G. Water Rights documentation available
   a. Yes ............................................................ 100 pts
   b. No ............................................................. 50 pts

Once a point value for the section is determined, it is multiplied by a weight factor to indicate the importance (weighted factor for SiteEcological Evaluation section has been 0.33/10, but is subject to ongoing review by the Committee).

34. Special Considerations

A. Site contains heritage/historical significance, i.e. Heritage Barn Registry
   a. 1. Yes .............................................................. 50 pts

B. Bargain Sale Opportunity below market value
   2-1. 91%-Full Value ................................................. 0 pts
      b. No .............................................................. 0 pts

H. Site contains conservation values (viewsheds, wetlands, wildlife habitat, other)
   a. Yes .............................................................. 30 pts
   b. No .............................................................. 71%-90%  33 pts
   3. 50%-70% ........................................................... 66 pts
4. < 50% Full Value ......................................................... 100 pts

C. Removal of all remaining development rights?
   1. All removed ....................................................... 100 pts
   2. Development rights remaining .............................. 0 pts

D. Is located within a priority area:
   ........................................................................... 0 pts

   a. In priority area....................................................... 100 pts
   b. Not in a priority area.............................................. 0 pts

Once a point value for the section is determined, it is multiplied by a weight factor to indicate the importance (weighted factor for Special Considerations Points section has been 0.63/10, but is subject to ongoing review by the Committee).

4. Bargain Sale Opportunity
   1. Sale below market value
      ........................................................................... 0 pts
      a. 0%-99% Full Value ................................. 33 pts
      b. 75%-99% Full Value ................................. 33 pts

5. Matching Funds Secured
   1. 100% secured....................................................... 100 pts
   2. 75% secured....................................................... 75 pts
   2.3. ........................................................................ 66%
      c. 50%-70% ......................................................... 50 pts
      d. < 50% Full Value .............................................. 100 pts

Once a point value for the section is determined, it is multiplied by a weight factor to indicate the importance (weighted factor for Bargain Sale Opportunity section has been 0.69, but is subject to ongoing review by the Committee).

5. Bonus Points

   Increases the amount of preserved farmland in target or rural study area to:
   .................................................................................. 0 pts
   3.1. Not in target area .............................................. 25 pts
      a. 25%-50% ......................................................... 50 pts
      b. 51%-75% ......................................................... 75 pts
      c. > 75% ............................................................ 100 pts
Once a point value for the section is determined, it is multiplied by a weight factor to indicate the importance (weighted factor for Bonus Points section has been 0.7210, but is subject to ongoing review by the Committee).

6. Final Score

The points for each section are added up and multiplied by a weight factor, which indicates the importance that is placed on a particular characteristic. The weighted scores are then added to provide an overall score (0-100). The higher the score, the more closely the property meets the goals of the program and hence is a higher priority for purchase and preservation. Properties which score less than 40 (forty) points will not be recommended for program participation. The PDR Oversight Committee retains the ability to add or subtract up to 5 points on any application. A write-up of committee opinion will be included in all council proceedings.
V. OVERVIEW OF PDR PROGRAM PROCEDURES

A. Outreach and Publicity

Step 1: The County shall annually give notice in one newspaper of general circulation in each area where eligible lands are located which may be acquired. The notice shall include the properties eligible to participate, the application process and applicable timeframes and extensions.

The Administrator may identify each property with potential development rights within priority consideration areas and provide written notification to the property owners.

B. Application and Ranking

Step 2: Voluntary pre-application screening. Interested property owners may meet with the County PDR Program Administrator (Administrator) to review their eligibility and special circumstances, if any.

Step 3: Application. An owner of land eligible for PDR Program participation submits and application for County acquisition of property or development rights. The application must be submitted on the form provided by the County. Lot of Record application must be submitted simultaneously unless determination has already been completed.

Step 4: Lot of Record/Density Determination. An owner of land eligible for PDR Program participation submits a Lot of Record application and signs a Letter of Intent that states that payment for this service must be made upon closing of the easement or should the applicant wish to withdraw their application. This application determines legal status of lots being considered and determines that number of development rights remaining on said lots. PDR Program application may be submitted simultaneously.

Step 5: The Administrator reviews each application for completeness, determines if the subject property meets minimum eligibility criteria and assigns a preliminary score based upon the PDR site selection criteria.

Step 6: The PDR Oversight Committee reviews PDR Program applications and recommends proposed development rights acquisition utilizing the selection criteria. Recommendations for development right acquisition are prepared and forwarded to County Council to approve, deny, or recommend modification.

Step 7: The Administrator estimates the number of appraisals that can be initiated based on available funds and chooses the top ranked parcels from the County Council’s list of parcels. The property owner is notified in writing of eligibility status.
Step 78: Property owners disputing their ranking may request a reconsideration of their ranking to the PDR Oversight Committee within 14 days after receiving written notice. The Committee shall review the reconsideration request at the next regularly scheduled meeting. Special consideration will be given if applicant modifies the original offer to include a bargain sale. The PDR Oversight Committee may, at its discretion, change the site's rank, recommend the site for subsequent consideration, or deny the request.

C. Title

Step 89: The Administrator initiates a title search. Closing is conditioned on the resolution of all unapproved title exceptions, within the County’s sole discretion, which may require the receipt of subordination agreements or payoff letter.

D. Pricing Estimate and Appraisal

Step 910: The Administrator or designee initiates the pricing estimation process using the formula developed by a consulting appraiser and periodically updated OR provides preliminary estimate of value, and notifies the property owner of an estimated range of value within which the appraisal will likely fall. The Administrator or designee sends the applicant a letter of intent, including range of expected value. The letter calls for the signature of property owner(s), and spells out conditions under which costs for further due diligence and the appraisal lot of record must be reimbursed to the county if the property owner chooses to withdraw from the program within a specified period of time.

Step 10: The Administrator or designee proceeds to verify assumptions through official county processes, such as a formal Lot of Record and density determination, and conduct other due diligence as necessary (such as water rights research and Title research and clearing).

Step 11: Unless Council and the Executive specifically authorize an alternate approach to determine value, the Administrator commissions a full appraisal by a County authorized appraiser to appraise the development rights value of the land proposed for development rights sale. The development rights value is the difference between the market value of full ownership of the land, and the agricultural value.

Step 12: The appraiser submits the completed appraisal (or the alternate determination of value is conducted and submitted) to the Administrator and the Oversight Committee for their review.

Step 13: The Administrator or designee meets with the property owner to review the appraisal (or alternate determination of value), state the offer, review the conservation easement provisions, agreement terms and conditions, and to answer the property owner’s questions.
Step 14: If the property owner believes that the farmland has not been adequately appraised or valued, the owner may, within the time allowed in the schedule, commission an appraisal at the owner’s expense.

E. Offer to Purchase Easement and Agreement

Step 15: A written offer to purchase development rights based on appraised or determined value is made to the property owner following budget authorization by the County Council, and approval by the County Executive.

Step 16: Within 30 days, the property owner accepts, rejects or makes a counter offer. Counter offers will be reviewed and evaluated by the Oversight Committee and the County’s authorized appraiser.

Step 17: Property owners desiring to sell their development rights sign a Purchase and Sale Agreement.

F. Adjacent Property Owner Notification

Step 18: Neighboring property owners are notified that adjacent land is in the process of being preserved.

G. Approval

Step 19: Review materials are presented to the County Executive for review and approval, rejection, or recommendation for modification.

Step 20: Review materials are sent to other participating entities for partially or wholly funded conservation easements several days prior to any deadline.

I. Settlement

Step 21: Settlement will occur following County Executive approval of transaction terms and is contingent upon a title search and any other evidence, such as a land survey, that may be necessary to establish clear title.

Step 22: Payment will be in full at time of settlement unless the County and property owner agree to an installment sale.

Step 23: Checks are requested from the Finance Manager and settlement is scheduled within a week or two of approval. Federal or state money is dispersed according to federal or state regulation.

J. Recording
Step 24: The conservation easement will be recorded at the County Auditor's office. The County or its designee will monitor the properties under easement at least annually to ensure compliance with the easement.
VI. CONSERVATION EASEMENTS

A. Description

A conservation easement deed is a legally binding document, which is recorded by the County Auditor, forever restricting the property to agricultural and directly associated uses, and for which compensation may be paid. As an easement in gross in perpetuity, restrictions are binding upon the owner and future owners, and run with the land.

B. PDR Program Conservation Easements

At the time of acquisition of development rights from a participating property, a conservation easement is placed on the property permanently restricting development of the site and protecting/preserving the agricultural, forestry, and ecological values associated with the site. The conservation easement must be signed by both the property owner(s) and the County Executive or his/her designee and recorded with the property records for the property. A model conservation easement deed is included in these guidelines as attachment D.

1. Conservation Easement Requirements

Conservation easements shall be on a form approved by the Whatcom County Prosecuting Attorney and shall meet the following basic requirements:

a. The deed shall be in recordable form and contain an accurate legal description setting forth the metes and bounds of the farmland area subject to the easement;

b. Restriction is granted in favor of Whatcom County, or if designated by the organizations as defined in RCW64.04.130;

c. Restriction is granted in perpetuity, and shall bind existing and future property owners; and

d. Unless specifically provided for, nothing in the restrictions shall be construed to convey to the public a right of access or use of the property, and the owner of the property, his/her heirs, successors and assigns shall retain exclusive right to such access or use subject to the terms of the easement.

2. Filing

After the conservation easement is signed and notarized, it must be recorded with the Whatcom County Auditor’s Office.

C. Conservation Easement Conveyance

Conservation easements may be either donated or sold, or a combination of both.
1. Conservation Easement Donation
   a. A donation of a total parcel will not be subject to eligibility except as below in section c. Partial parcel donation shall be considered under the same rule as for development rights sales. Notwithstanding the eligibility of the property, acceptance of a fee interest or partial donation is within the discretion of the County Council.
   b. Whatcom County will accept voluntary donations or bequests of agricultural development rights as perpetual easements in gross if meeting eligibility criteria (except priority area criteria) and within the discretion of the County Council.
   c. All properties offered for development rights donation must meet the following minimum eligibility criteria:
      1. The PDR Oversight Committee will consider each offer on a case by-case basis, considering the property’s consistency with current and future land uses, and
      2. The farm property must be at least 4 acres in size, and
      3. Be in agricultural or forestry use or contain ecological values and has not been irrevocably devoted to a use inconsistent with agricultural uses, and that has a high potential for returning to commercial agriculture, and the above values.
      4. Consist primarily of productive agricultural soils (APG soils) and,
      5. Cannot be located within an Urban Growth Area, unless coordination with the proximal small city is a component of the donation.

2. Conservation Easement Sale
   a. Whatcom County will purchase perpetual conservation easements on qualified properties in accordance with the policies and procedures of the Whatcom County Agricultural, Forestry, and Ecological Purchase of Development Rights Program, with Federal, State, County, and/or private funds and any combination thereof.
   b. All properties offered for conservation easement sale must meet minimum eligibility criteria as contained in Section III.
VII.-OPERATIONAL PROCEDURES FOR ACQUIRING PDR EASEMENTS

A. Outreach and Publicity

Annually, notice shall be published in one newspaper of general circulation. Application opening and closing dates, if any, will be determined by the PDR Oversight Committee. The Committee shall have the discretion to consider applications in rounds, or individually on a rolling basis. If selection deadlines are extended, the committee will provide public notice of the extension.

B. Application and Ranking

1. Property owner(s) voluntarily submits an application(s) to the County. The application must be submitted to the County on the form provided by the PDR Program, and according to the relevant public notice. Applicants are to include at a minimum:
   a. Name(s) and address(es) of the property owner(s) of the site;
   b. Legal description and parcel number(s);
   c. Copy of the property deed and title;
   d. Total acreage of farmland to be included in the PDR Program;
   e. Current land use and APEX soils;
   f. Number of dwelling units;
   g. Description of the farming operation;
   h. Other information necessary to evaluate property eligibility; and
   i. Lot of Record/Density Determination application and payment, or Lot of Record/Density Determination application and signed Letter of Intent agreeing to terms of payment at the time of easement closing or upon withdrawal from program, or completed Lot of Record/Density Determination; and
   j. Acknowledgement of intent to grant to Whatcom County a conservation easement in a form provided by the County.

2. The Administrator shall review each application to determine completeness and eligibility.

3. Applications meeting all minimum eligibility criteria shall be evaluated and scored by the administrator and Oversight Committee according to the site selection criteria. (See Section IV)

4. The PDR Oversight Committee shall provide the County Council with information and scoring of properties recommended for conservation easement acquisition by the committee. County Council shall approve or deny pursuit of conservation easement acquisitions on the parcels.

Revised and adopted, April 9, 2013
5. The Administrator shall then arrange appraisals (or alternate determination of value) of eligible farmland-applicant properties as determined by the County Council.

6. The PDR Oversight Committee and Administrator shall provide annual updates to the County Council discussing recommended purchases, possible program changes, and anticipated budget needs.

C. Appraisal

1. Appraisals for eligible properties shall be conducted to determine the value of development rights of parcels in the order of acquisition priority until acquisition funds are expended.

   a. The appraisals are to be made by an independent appraiser qualified to appraise agricultural, forestry, and/or ecological land for development rights purchases. An appraiser is deemed qualified if he or she possesses a State of Washington certification as a State Certified General Real appraiser, MAI designation by the Appraisal Institute (or equivalent), and at least five years agricultural lands appraisal experience. Appraisers shall supply a narrative or UAAR form report, which contains information as required by the Uniform Standards of Professional Appraisal Practice (USPAP), Uniform Appraisal Standards of Federal Land Acquisition (UASFLA) and as specified in any contract with the County.

   b. An appraisal report is an objective report of market facts. The appraisal report must estimate both the unrestricted fee market value of the land only, excluding the value of buildings, and the agricultural value of the land only, of which the difference is the development rights value.

   c. Both values shall be based primarily on an analysis of comparable sales. If comparable sales data is not available for agricultural lands, the appraiser may use local farmland rental values or capitalized production values to determine the agricultural values of the land.

   d. A description of the buildings or other improvements shall appear in the appraisal report; however, the buildings will not be valued and therefore will not be considered in determining the development rights value.

   e. The appraiser shall report whether the subject property has any land use restrictions, public or private and/or physical attributes, which limit the developmental capability of the land.

   f. The appraiser shall be advised that conservation easements are perpetual. The perpetual nature of the easement shall take precedent over any agricultural zoning status.
g. The appraisal shall be in writing and may be discussed with the owners prior to the submission of written offers.

h. If the property owner believes the property has not been adequately appraised, the owner may, within the time allotted, request that a review appraisal be made at the owner’s expense. This appraisal must be completed in accordance with the guidelines set forth herein. If the review (owner’s) appraisal is not completed within the allotted time, the application will be delayed for future committee consideration. If a review appraisal is completed, the appraisals will be reviewed by the County’s Appraiser. The County’s Appraiser in consultation with the Program Administrator and the PDR Oversight Committee will accept, modify or reject the review appraisal. The determination of the County’s Appraiser is final.

i. The maximum value of development rights purchased by the County shall be no more than the easement value contained in an appraisal report. The easement value is the difference between the farmland’s value before and after the voluntary conservation easement.

2. Council and the Executive may specifically authorize an alternate approach to determine value in accordance with state and local laws, in which case the conditions of that approach would substitute for the appraisal guidelines as set forth in C.1., above.

D. Title and Survey Issues

1. The Administrator shall request a title report confirming that applicant is the owner of the property and has unrestricted legal right to transfer the development rights (i.e. there must be clear title to transfer the property). The title report will be provided to the County Attorney for review.

2. All encumbrances (including but not limited to: liens, mortgages and judgments) against the property must be subordinated, satisfied or removed prior to development rights acquisition. Mortgage and/or lien holder subordination and releases may be required acknowledging that a conservation easement will be placed on the property and subordinating their interest in the property to the deed restriction.

3. At settlement for a County or joint development rights purchase, the PDR Oversight Committee or applicant shall provide a title insurance policy issued by a title insurance company authorized to conduct business in Washington State by the Washington State Office of Insurance Commissioner. The cost of such title insurance shall be a shared cost, with the county’s portion considered a cost incident to the development rights purchase and a reimbursable expense from the County’s Conservation Futures Fund.

4. It is the property owner’s responsibility to survey (or provide a legal description that meets specific standards) any exceptions from the easement and any
graveyards or cellular towers that may be located on the property. It is the property owner’s responsibility to provide a legal description for any commercial operation on the farm that is not incidental to the overall farming operation, in order to exclude it from the easement. Surveys shall be conducted by a licensed surveyor in accordance with state and federal regulations.

E. Development Rights Value and Purchase Price

1. The maximum value of development rights purchased by the County shall be no more than the easement value contained in an appraisal report. The easement value is the difference between the farmland's value before and after the voluntary conservation easement.

2. Development rights may only be purchased in perpetuity.

F. Recommendation of Development Rights Purchases by the PDR Oversight Committee

1. The PDR Oversight Committee, in making recommendations concerning applications and purchase offers, shall consider the following:
   a. Evaluation according to the site selection criteria.
   b. Consistency with County Comprehensive Plan (and Rural and Agriculture zoning designations).
   c. Cost relative to total allocations and appropriations.
   d. Proximity to other land subject to agricultural protection easements.

2. Upon receiving the recommendations of the PDR Oversight Committee and the Administrator, the County Executive shall review the recommendations and shall take final action to authorize or deny proposed purchase terms and offers, consistent with authorization by the County Council.

3. If a farmproperty is approved for development rights purchase, the Administrator will meet with the property owner and review the terms, conditions and amount of the County’s offer. A written offer will be provided to the property owner. Written notice shall also be provided to farmland not approved for development rights purchase during the current application round.
4. Within 30 days of receipt of a written offer from the County an applicant must indicate in writing which of the following actions they intend to pursue:
a. Accept the offer.
b. Reject the offer.
   1. Reject offer outright
      a. no further action
      b. participate in future review
   2. Submit a counter offer within 90 days of written notice of offer by the County.
c. Failure to notify the County within 30 days shall constitute rejection of the offer.

5. If the offer is accepted, the Administrator shall prepare a Purchase and Sale agreement. USDA or State Funds must be paid as lump sum. The method of payment shall be specified from the options listed below:
a. Lump Sum
b. Installment Purchase Agreement (IPA)
c. Like-Kind Exchange
d. Or a combination of the above

6. For development rights purchase utilizing the Installment Purchase Agreement (IPA) program, the County Council at settlement shall provide an opinion of legal counsel that the County’s obligations to make installment payments of principal and tax-exempt interest over time are legal, valid, and binding. And that such payments are a general obligation of the County for which its full faith, credit, and taxing power are pledged. Interest paid by the County is exempt from federal income taxes.

7. All Agreements of Sale and Conservation Easements require the County Council’s approval.

G. Grant of the Agricultural, Forestry, and/or Ecological Protection Conservation Easement

Before the purchase of development rights can be finalized, a conservation easement in a form approved by the County Attorney and consistent with the policies of the PDR Program Guidelines, must be placed on the property permanently restricting development of the site and preserving its agricultural, forestry and/or ecological values.
The principal interest of the County is to ensure that agricultural lands are preserved and subsequently stewarded in a manner that maintains and enhances their farmland, forestland, and/or ecological values. There may be some instances where there is a public interest in another public entity or non-profit organization to hold the conservation easement, for continued stewardship and protection of the land. The County will consider:

1. The preferences of the donor or seller;
2. Administrative, monitoring, and enforcement issues associated with the conservation easement and the resources available to address these issues;
3. Requirement of Federal, State or County funding sources utilized to purchase development rights.

H. Development Rights Purchase Recommendations/Submission Requirements

1. County Council: Each recommendation for development rights purchases with County funds, State funds, Federal funds, private donor funds or a combination of funds shall be presented to the County Council at a regularly scheduled public meeting.
2. Letters of Notification: Letters of notification for development rights purchases will be sent to adjoining property owners by the Administrator.
3. All eligible applications not selected for PDR Program participation may choose to be reviewed during the next application period or withdrawn. Within 30 days following receipt of written notice from the county, the property owner must notify the administrator in writing requesting review in the next selection period.
VIII.- CONSERVATION FUTURES FUND

A. Intent

This fund was established in 1992 to be used solely to acquire right and interests in open space land, farm and agricultural land, and timber land, so as to protect, preserve, maintain, improve, restore, limit the future use of, or otherwise conserve the property for public use and enjoyment.

B. Fund Sources

This Conservation Futures Fund is funded by a real property tax applied to all real property within Whatcom County at a rate determined by the county administration and county council.

C. Fund Source Accounts

Council shall annually consider an allocation of Conservation Futures Fund to be placed in a Purchase of Development Rights Account.

D. Installment Payment Fund

1. The intent of installment payment funds, which are established by the County, is to encumber and invest committed funds for which recipient property owners have elected annual installment payments for a period, which may vary according to the wishes of the property owner.

2. The full consideration of any transaction for which installment payments of five years or less have been elected shall be placed in the fund, less the amount of any first installment to be paid at settlement. This amount shall be invested and annual installment payments shall include the interest accrued.

3. Annual installment payments shall be made on or before January 20th of each year.

4. A property owner may enter into an Installment Purchase Agreement for fifteen (15) to thirty (30) years at an interest rate to be negotiated between the property owner and the County. The property owner will receive semi-annual interest payments that are tax exempt. Principal will be paid in one lump sum at the end of term. The property owner will also receive a security representing the Installment Purchase Agreement. The property owner may sell or assign this Agreement.

Revised and adopted, April 9, 2013
E. Public Expenditures

1. All public expenditures from the Conservation Futures Fund are subject to approval by Whatcom County Council and will be made in accordance with approved disbursement procedures.

2. Expenditures from the PDR Program Account shall be limited to interests in qualified agricultural, forestry, and/or ecological land participating in Whatcom County’s Agricultural, Forestry, and Ecological Purchase of Development Rights Program, and other expenses necessary to the acquisition of agricultural conservation easements authorized under RCW 84.34.200-240.

3. The annual appropriation to the PDR Program by the County Council shall be available for the calendar year in which the appropriation was made and or the subsequent calendar year.
APPENDIX A

Purchase of Development Rights: Agricultural Target Areas

Figure 1
APPENDIX B

Rural Study Forestry Priority Areas

Whatcom County
-Rural Study Areas and Agricultural Zone

Figure 2
APPENDIX C

Ecological Priority Areas
APPENDIX D

Major Roads
## APPENDIX E

### Soils List

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Revised and adopted, XX, 2018  
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<td>137</td>
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<td>138</td>
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<td>139</td>
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Revised and adopted, XX, 2018

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APPENDIX DEF

Model Conservation Easement Deed

A sample Conservation Easement Deed based on the assumption of matching funds from the USDA-NRCS Farm and Ranch Lands Protection Agricultural Conservation Easement Program, is included in the following pages.
PURCHASE OF DEVELOPMENT RIGHTS PROGRAM
TITLE OF DOCUMENT: 2018 Supplemental Budget Request #10

ATTACHMENTS: Ordinance, Memoranda & Budget Modification Requests

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

Supplemental #10 requests funding from the General Fund:
1. To appropriate $30,000 in Assessor to fund valuation defense consultant services.
2. To appropriate $13,330 in Health to fund immunization program from Group Health Foundation grant proceeds.
3. To appropriate $45,100 in Non-Departmental to fund What-Comm E911 operations grant program.
   From the Solid Waste Fund
4. To appropriate $89,874 in Health to fund solid waste enforcement program from grant proceeds.
5. To appropriate $138,035 in Health to fund increased maintenance activities at solid waste facilities.
   From the Real Estate Excise Fund I
6. To appropriate $115,000 to provide additional funding for EWRRC expansion project.
   From the Real Estate Excise Fund II
7. To appropriate $54,000 to fund transfer for Lighthouse Marine Park playground project.

COMMITTEE ACTION:  

COUNCIL ACTION:  

Related County Contract #:  
Related File Numbers:  
Ordinance or Resolution Number:
ORDINANCE NO.
AMENDMENT NO. 10 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 ORDEIGNED 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>
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<th>Fund</th>
<th>Expenditures</th>
<th>Revenues</th>
<th>Net Effect</th>
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<tr>
<td>General Fund</td>
<td></td>
<td></td>
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<tr>
<td>Assessor</td>
<td>30,000</td>
<td>-</td>
<td>30,000</td>
</tr>
<tr>
<td>Health</td>
<td>13,330</td>
<td>(16,000)</td>
<td>(2,670)</td>
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<tr>
<td>Non-Departmental</td>
<td>45,100</td>
<td>(45,100)</td>
<td>-</td>
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<td>Total General Fund</td>
<td>88,430</td>
<td>(61,100)</td>
<td>27,330</td>
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<tr>
<td>Solid Waste Fund - Health</td>
<td>227,909</td>
<td>(89,874)</td>
<td>138,035</td>
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<tr>
<td>Total Supplemental</td>
<td>485,339</td>
<td>(150,974)</td>
<td>334,365</td>
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ADOPTED this ___ day of __________________, 2018.

ATTEST:

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

Dana Brown-Davis, Council Clerk

Rud Browne, Chair of the Council

APPROVED AS TO FORM:

( ) Approved     ( ) Denied

Jack Louws, County Executive

Date: ____________________________
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<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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<tr>
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<td>Assessor</td>
<td>To fund valuation defense consultant services.</td>
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<td>30,000</td>
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<td>Health</td>
<td>To fund immunization program from Group Health Foundation grant proceeds.</td>
<td>13,330</td>
<td>(16,000)</td>
<td>(2,670)</td>
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<tr>
<td>Non-Departmental</td>
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<td><strong>Total General Fund</strong></td>
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<td>To fund solid waste enforcement program from grant proceeds.</td>
<td>89,874</td>
<td>(89,874)</td>
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<td>To fund increased maintenance activities at solid waste facilities.</td>
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<td><strong>Total Solid Waste Fund</strong></td>
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<td>227,909</td>
<td>(89,874)</td>
<td>138,035</td>
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<td>Real Estate Excise Tax Fund I</td>
<td>To provide additional funding for EWRRC expansion project.</td>
<td>115,000</td>
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<td>To fund transfer for Lighthouse Marine Park playground project.</td>
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<td><strong>Total Supplemental</strong></td>
<td></td>
<td>485,339</td>
<td>(150,974)</td>
<td>334,365</td>
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Supplemental Budget Request

Assessor

Suppl ID #: 2825  Fund: 1  Cost Center: 300  Originator: Keith Willnauer

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

Name of Request: ADDITIONAL PROFESSIONAL SERVICES - NEW CONSULTANT

X

Department Head Signature (Required on Hard Copy Submission)  Date

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<th>Object</th>
<th>Object Description</th>
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1a. Description of request:
Provide Valuation and Valuation Defense consultant services to the Assessor's Office appeal defense for BTA Docket Numbers 2017-004, 2018-003 and 2018-004, Patrogas West, LLC., and Petrogas Pacific, LLC.

1b. Primary customers:
The Assessor's Office representing property tax payers and Taxing Districts

2. Problem to be solved:
The issues associated with valuation of industrial facilities are complex and valuation in dispute is substantial.

3a. Options / Advantages:
Attempts to reconcile differences between the parties and reach stipulation agreement have been unsuccessful.

3b. Cost savings:

4a. Outcomes:
A Successful defense will set valuations currently in controversy and establish precedent to proceed with future valuation considerations.

4b. Measures:
Withdrawal of the appeals, (one has been withdrawn already), or hearing and decisions on the matters.

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:
General Fund. Successful establishment of valuations above contested amounts will result in supplemented payment of back taxes with a 9% penalty for the back tax amounts accruing directly to reimburse the general fund.
The current contract 201705022 will be reduced with an anticipated 20,000+ unexpended fund balance.

Wednesday, July 25, 2018

Rpt: Rpt Suppl Regular
Supplemental Budget Request

Status: Pending

Health | Communicable Disease & Epidemiology

Suppid #: 2017 | Fund 1 | Cost Center 627216 | Originator: Patty Proctor

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

Name of Request: Group Health Momentum Grant Phase II

X

Department Head Signature (Required on Hard Copy Submission) | Date: 7/31/18

<table>
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<th>Object Description</th>
<th>Amount Requested</th>
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<tr>
<td>6320</td>
<td>Office &amp; Op Supplies</td>
<td>$13,330</td>
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Request Total ($2,670)

1a. Description of request:

Group Health Foundation Grant will be utilized to promote disease prevention and immunizations in Whatcom County. The Immunization program was awarded funds to:

1. Focus on immunization schedule awareness for new parents by providing an immunization schedule in a clear plastic “luggage tag” cover that can be attached to a diaper bag.

2. Provide educational material and encourage influenza vaccinations, send home influenza prevention kits and parent packs with children at six local area elementary schools (2200 children) and distribute to additional departments/agencies servicing preschool ages (0-5) i.e. WIC and childcare programs.

3. Coach four Whatcom County dental offices to access the state online immunization registry (WAIS) at the time of their clients’ appointments. The offices will print and provide each client their individualized immunization schedule identifying immunizations that are due. Clients will also be given a small gift such as bookmark, lip balm, pens with an imprinted immunization reminder along with the printout.

1b. Primary customers:

Whatcom County children age 0-18 and their parents/guardians.

2. Problem to be solved:

The county has had lower immunization rates than the state average, and has experienced above average rates of measles, mumps and pertussis.

3a. Options / Advantages:

These low-cost evidence based strategies are able to be implemented initially as pilots with potentially renewable grant funding. This will allow the program staff to review outcomes and determine if the interventions are effective prior to expanding.

3b. Cost savings:

Undetermined, intended results include decreased time out of school for children and decreased sick leave use by parents.

4a. Outcomes:

Improved immunization rates for Whatcom County children age 0-18, decreased sick days reported by participating schools, participation in pilot by 4 local dental offices.

4b. Measures:

2019 program performance measures

5a. Other Departments/Agencies:

Local dentists, elementary schools, birthing centers, WIC programs and childcares, primary care provider offices, Nurse Family Partnership

Monday, July 23, 2018

Rpt: Rpt Suppl Reguar

289
5b. **Name the person in charge of implementation and what they are responsible for:**
   Cindy Hollingsworth, Communicable Disease Manager, will ensure implementation of the grant components as outlined in the grant proposal.

6. **Funding Source:**
   Group Health Foundation Community Grant.
MEMORANDUM

To: Whatcom County Executive Jack Louws and Whatcom County Council Members
From: Suzanne Mildner, Grant Coordinator
Subject: Supplemental Budget Request for E911 funding (Pass through Grant to What-Comm)
Date: July 20, 2018

The County is in the process of entering into a subrecipient agreement with the City of Bellingham to facilitate a pass-through grant from The Washington State Military Department. The grant funding is for FY2018-19 Emergency 911 operational expenses for What-Comm Communications.

The grant contract period is July 2018 through August 2019, for a total of $45,100. The execution of the Subrecipient Agreement will be contingent upon your approval of this budget authority. Accordingly, we are requesting approval for supplemental funding in the amount of $45,100 to support 911 operations at What-Comm Communications.
Supplemental Budget Request

Executive

Supp1ID #: 2830  Fund 1  Cost Center 4287  Originator: Suzanne Mildner

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

Name of Request: What-Comm E911 Operations 2018-19

X

Department Head Signature (Required on Hard Copy Submission)  Date 7.20.18

<table>
<thead>
<tr>
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<th>Object</th>
<th>Object Description</th>
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<tr>
<td>7220</td>
<td>Intergov Subsidies</td>
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<tr>
<td>Request Total</td>
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1a. Description of request:
This request is for the annual state-funded pass-through grant from the Washington State Military Department to reimburse the What-Comm Communications Center for eligible operating expenditures under WAC 118-66-050 (eligible professional development and operational expenses).

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

2. Problem to be solved:
What-Comm is able to access this State Military Department funding by way of pass-through from the local county government. A subrecipient agreement will be signed with City of Bellingham.

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

3b. Cost savings:
N/A

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

4b. Measures:
N/A

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

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

6. Funding Source:
Washington State Military Department
Supplemental Budget Request

Status: Pending

Health

Fund 140  Cost Center 140304  Originator: Patty Proctor

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

Name of Request: Dept of Ecology LFSWA Grant Enforcement

X

Department Head Signature (Required on Hard Copy Submission)

Date: 7/23/18

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<tr>
<td>8351</td>
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<td>$14,998</td>
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Request Total: $0

1a. Description of request:
The Department of Ecology has awarded funding for the solid waste enforcement program. Grant funding provides for the investigation and enforcement of solid waste illegal dumping.

1b. Primary customers:
Whatcom County Residents

2. Problem to be solved:
As per WAC 173-350 and WCC 24.06 the Health Department is the jurisdictional authority for enforcing compliance with solid waste handling standards. The grant funding increases local capacity to address illegal dumping.

3a. Options / Advantages:
The grant helps cover some of the cost for enforcement.

3b. Cost savings:
Without grant funds the solid waste fund must cover the cost. The 2018 portion of the grant is $89,874.

4a. Outcomes:
Mitigation of public health nuisances that result from improper and illegal solid waste handling.

4b. Measures:
Number of solid waste complaints received and resolved.

5a. Other Departments/Agencies:

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

6. Funding Source:
Department of Ecology, LFSWA grant. Includes indirect of 20.03%
Supplemental Budget Request

Health

Solid Waste

Fund 140  Cost Center 140100  Originator: Patty Proctor

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

Name of Request: Solid Waste Adjustments for maintenance

Department Head Signature (Required on Hard Copy Submission) 7/23/18

<table>
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<th>Object</th>
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<tr>
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<tr>
<td>7060</td>
<td>Repairs &amp; Maintenance</td>
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<td>8391</td>
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<td>$138,035</td>
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1a. Description of request:
Maintenance on solid waste facilities has been deferred for several years. Now that the addition revenue from the excise tax on self-haulers has started, we are requesting funding for the following:

1. Repair & maintenance at the Disposal of Toxics facility by the airport $5,000
2. Repair and maintenance to the closed landfills. $15,000
3. Repair, maintenance of equipment at the Point Roberts facility $75,000
4. Needed tools and equipment for program use. $20,000

This request was reviewed and approved by the Solid Waste Executive Committee at their 7/17/18 meeting.

1b. Primary customers:
Residents of Whatcom County

2. Problem to be solved:
The Health Department took over the Solid Waste fund in 2015. Since that time, the program has expanded services (tire amnesty, Sustainable Connections waste audits for business, etc.). The existing facilities have had minor repairs but as grant funds were reduced less maintenance was feasible using existing funding. With the addition of the excise tax on self-haulers, funding is available to address some of the deferred maintenances issues.

3a. Options / Advantages:
The use of the funding to improve facilities will extend the life of the facilities and make them safer for the county residents using them.

3b. Cost savings:
Unknown

4a. Outcomes:
Solid Waste facilities will be better maintained and be safer for the county residents using them.

4b. Measures:
Repairs at solid waste facilities will be completed.

5a. Other Departments/Agencies:
None

Monday, July 23, 2018
## Supplemental Budget Request

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<td><strong>Originator:</strong> Patty Proctor</td>
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### 5b. Name the person in charge of implementation and what they are responsible for:

### 6. Funding Source:

The funding source for this request is the Solid Waste excise tax. On supplemental number 2379, the solid waste excise tax was increased to reflect the additional revenue anticipated by the self-haul excise tax. At that time of approval the unallocated revenue was $414,961. This request would use $138,035 leaving approximately $279,926 to increase the fund balance in the Solid Waste Fund.
MEMO:

TO: Whatcom County Council  
DATE: July 18, 2018  
FROM: Tyler Schroeder, Deputy Executive  
RE: East Whatcom Regional Resource Center Expansion Project

Background and Purpose:  
In 2016 the Opportunity Council secured a $750,000 Community Development Block Grant to add a food bank distribution center and space for multi-use programming to the East Whatcom Regional Resource Center. Due to revised construction estimates the project costs have increased.

On June 24, 2018 the County Council approved Resolution 2018-025 to allow for an increased contribution of $115,000 for a total REET I contribution of $415,000 to the project contingent upon the inclusion of the project on the 2018 CEDS Project list as approved through Resolution 2018-.

Funding Amount and Source:  
The Fund Source is the REET I Fund in the amount of $115,000 for a total of $415,000.
Supplemental Budget Request

Non-Departmental

Suppl ID # 2823  Fund 326  Cost Center 32600  Originator: Tawni Helms

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

Name of Request: Trf to fund EWRRC Expansion Project

X

Department Head Signature (Required on Hard Copy Submission)  Date

 Costs:  

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</table>

1a. Description of request:

In 2016, the Opportunity Council secured a $750,000 Community Development Block Grant and other funding to add a food bank distribution center and space for multi-use programming to the East Whatcom Regional Resource Center. Council also approved a $300,000 REET contribution for the project at that time. Due to revised construction estimates the project costs increased. On July 10, 2018 Council approved Resolution 2018-025 to increase the funding contribution by $115,000 to bring total REET I contributions for the project to $415,000. Additional revenue sources will bring the total project funding to over $2 million.

1b. Primary customers:

Low and moderate income residents of east Whatcom County.

2. Problem to be solved:

The additional REET funds will contribute sufficient monies to complete the project and achieve the project goals. Goals include year round emergency repository of food, currently not available due to lack of food bank storage and the absence of local grocery stores, so that in case of a state of emergency or disaster, the Foothills population will have a hub of food access. Expansion of the community multi use building will afford space for community programming and meeting spaces.

3a. Options / Advantages:

Original request for additional funds was much higher. Opportunity Council was able to achieve an expanded construction design at lower costs.

3b. Cost savings:

N/A

4a. Outcomes:

Completion of new construction of an expansion of the EWRRC building, and delivery of occupancy permit.

4b. Measures:

Ongoing reports will be required of the Opportunity Council, who will be working under supervision of our County Facilities staff.

5a. Other Departments/Agencies:

County Parks Department will continue to maintain an operating agreement with Opportunity Council for the EWRRC, and the County Facilities staff will have some oversight of the construction process. The Opportunity Council will be managing the project.

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

Mike McFarlane, Parks Director
Rob Ney, Facilities Operations Manager

Wednesday, July 25, 2018
### Supplemental Budget Request

**Status:** Pending

<table>
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<tr>
<td>2822</td>
<td>326</td>
<td>32600</td>
<td>Tawni Helms</td>
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6. **Funding Source:**
   
   Real Estate Excise Tax Fund I
## Supplemental Budget Request

**Status:** Pending

### Non-Departmental

- **Suppl #:** 2632
- **Fund:** 324
- **Cost Center:** 32400
- **Originator:** M Caldwell

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

#### Name of Request
- Companion to Lighthouse Marine Park Proj Bgt Req

### Costs

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**Request Total:** $54,000

### 1a. Description of request:

Transfer out of REET II to fund Lighthouse Marine Park playground replacement in project budget. See Supplemental ID 2621

### 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:

REET II
**WHATCOM COUNTY COUNCIL AGENDA BILL**

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<th>CLEARANCES</th>
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<th>Date</th>
<th>Date Received in Council Office</th>
<th>Agenda Date</th>
<th>Assigned to:</th>
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<td>T.M.</td>
<td>7-31-18</td>
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**TITLE OF DOCUMENT:**
Amendment No. 2 to Ordinance No. 2017-048 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. Supplemental Budget Request

**SEPA review required?**

<table>
<thead>
<tr>
<th></th>
<th>( ) Yes</th>
<th>( x ) NO</th>
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</table>

**SEPA review completed?**

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<tr>
<th></th>
<th>( ) Yes</th>
<th>( x ) NO</th>
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**Should Clerk schedule a hearing?**

<table>
<thead>
<tr>
<th></th>
<th>( ) Yes</th>
<th>( x ) NO</th>
</tr>
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</table>

**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 $54,000 to be added to the project budget for Fund 362 – Lighthouse Marine Park Improvement Fund. Budget will be used to fund aging playground equipment.

**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).
PROPOSED BY: Executive
INTRODUCTION DATE: 8/8/18

ORDINANCE NO. _________

AMENDMENT NO. 2 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, project funding was for replacement of a failing deck and deteriorated
playground equipment, and

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

WHEREAS, project funding has only been enough to replace the deck, and

WHEREAS, additional funding is needed to complete the playground, 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 $54,000 of expenditure authority, as described in
Exhibit A, to the amended project budget of $274,500, for a total amended project budget of
$328,500.

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:

( ) Approved         ( ) Denied

Jack Louws, County Executive
Date:_______________________
## EXHIBIT A

### LIGHTHOUSE MARINE PARK IMPROVEMENT FUND - 362

<table>
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<th>Account</th>
<th>Description</th>
<th>Current Project Budget</th>
<th>Amendment #2 to Ord. 2014-078</th>
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<td><strong>Expenditures</strong></td>
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1a. Description of request:
This project will replace the aging playground equipment at Lighthouse Marine Park. The existing equipment is approximately 35 years old, and is beyond its serviceable life. This proposed budget supplemental will replace the old equipment with a new structure that meets all current safety and accessibility requirements. Additionally, the new equipment is made from durable and long lasting materials that will reduce ongoing maintenance costs. A prior supplemental request initially thought enough to cover costs of both structural repairs to the boardwalk and restoration of the existing playground was determined to be insufficient to cover the current proposal of replacing the play equipment with a newly manufactured structure.

1b. Primary customers:
Whatcom County residents, and park visitors are the primary customers of this proposed playground replacement project.

2. Problem to be solved:
The existing playground equipment is primarily made from outdoor grade plywood and dimensional lumber. Over the last three plus decades, the marine environment has taken a serious toll on the stability of the structure, and has degraded to the point where it now poses a safety concern. Safety standards have evolved since the time that the old equipment was installed, and now some components no longer meet those standards.

3a. Options / Advantages:
Parks crew evaluated the condition of the existing playground, and initially thought that the structure could be reconstructed, replacing degraded or damaged components with new replacement components. Parks was also able to make contact with the manufacturer, and received material estimates for replacement components that meet current safety standards. However, the cost for purchasing individual components and labor necessary to complete the restoration exceeded costs for purchasing a replacement structure.

3b. Cost savings:
The new playground equipment is composed of powder-coated metal and composite plastic components. These materials are far more durable than wood, and will reduce ongoing maintenance costs. Installing new equipment that meets current safety and accessibility requirements also reduces the county’s exposure to liability.

4a. Outcomes:
The outcome of this project will be construction of a new playground and associated site improvements (concrete paving, fall protection, and benches) at Lighthouse Marine Park. The new equipment will be installed near the newly renovated boardwalk, restroom and picnic areas. Completion of this final
component of the project should be done by the end of the first quarter of 2019.

4b. Measures:
Completing the playground project by installing the new equipment and other site improvements will be the measurement of success, and verification will happen when the playground is open to the public.

5a. Other Departments/Agencies:
No.

5b. Name the person in charge of implementation and what they are responsible for:
Rod Lamb will be responsible for implementing this project.

6. Funding Source:
REET II
## WHATCOM COUNTY COUNCIL AGENDA BILL

<table>
<thead>
<tr>
<th>CLEARANCES</th>
<th>Initial</th>
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### TITLE OF DOCUMENT:
Appointment to the Surface Mining Advisory Committee

### ATTACHMENTS:
Application

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

Should Clerk schedule a hearing? Yes ( ) NO ( )

Requested Date:

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

Applicant: Dustin Gleaves for the Surface Mining Advisory Committee

1 vacancy, Ecologist. Committee advises the Whatcom County Planning and Development Services Department and the Whatcom County Council on implementing a surface mining regulatory program consistent with the Comprehensive Plan. Committee has been inactive, but will reactive if needed.

### COMMITTEE ACTION:

### COUNCIL ACTION:

### Related County Contract #:

### Related File Numbers:

### Ordinance or Resolution Number:

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

Step 1

Application for Appointment to Whatcom County Boards and Commissions

Public Statement
THIS IS A PUBLIC DOCUMENT: As a candidate for a public board or commission, the information provided will be available to the County Council, County Executive, and the public. All board and commission members are expected to be fair, impartial, and respectful of the public, County staff, and each other. Failure to abide by these expectations may result in revocation of appointment and removal from the appointive position.

First Name          DUSTIN
Last Name           GLEAVES
Date                7/20/2018
Street Address      3064 BAYVIEW DR
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   12063909480
Secondary Telephone Field not completed.
Email Address       dustingleaves@gmail.com

Step 2
1. Name of Board or Committee: Surface Mining 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 3

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? Yes

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):
   Occupation - Teaching Assistant of Environmental Studies, WWU. Commissioner, Whatcom Co. Fire Dist. 8. Qualifications and Education- M.A. Environmental Studies, B.S.
qualifications, professional and/or community activities, and education

Environmental Science. 2 years as teaching assistant at WWU for courses including physical geography, biogeography, GIS, climatology, and statistics.

10. Please describe why you’re interested in serving on this board or commission

I seek to apply my ecology expertise to improve and serve my community.

References (please include daytime telephone number):

Dr. Aquila Flower Title: Professor Relationship: Professor, thesis advisor, and supervisor Known for 5 years Phone: (360) 650-6487 Email: aquila.flower@wwu.edu --- Dr. Andy Bach Title: Professor Relationship: Professor and supervisor Known for 5 years Phone: (360) 650 - 4774 Email: andy.bach@wwu.edu --- Dr. James Helfield Title: Professor Relationship: Professor and faculty advisor Known for 4 years Phone: (360) 650-7285 Email: james.helfield@wwu.edu --- Benjamin Hagedorn Title: Graduate Teaching Assistant Relationship: Junior coworker at WWU, previous field work assistant Known for 2 years Phone: (206) 617-3507 Email: hagedob2@wwu.edu --- Christopher Trinies Title: Graduate Teaching Assistant Relationship: Coworker in same laboratory at WWU Known for: 4 years Phone: (206) 660 – 3088 Email: ctrinies@gmail.com

Signature of applicant: Dustin Gleaves

Place Signed / Submitted Bellingham, WA

Email not displaying correctly? View it in your browser.
Dustin A. Gleaves
Ecologist, GIS Analyst, and Environmental Scientist

gleaved@wwu.edu
(206) 390-9480

3064 Bayview Dr.
Bellingham, WA 98226

GIS portfolio at www.dustingleaves.wordpress.com/portfolio

Education

Western Washington University
Master of Arts - Environmental Studies, Geography. 2016 – 2018

Western Washington University
Bachelor of Science - Environmental Science, Terrestrial Ecology. 2013 - 2015

S. Seattle College
Associate's Degree, 2004 - 2006

Experience

Graduate Teaching Assistant at Western Washington University
September 2016 - Present
Instruct and administrate environmental studies coursework including GIS, statistical analysis, physical geography, demography, and climatology in a university setting for classes ranging from 30 to 120 students.

Commissioner, Whatcom County Fire District 8
November 2017 - Present
Elected office overseeing provision of fire prevention services, fire suppression, emergency medical services and the protection of life and property for Marietta neighborhood and Lummi Nation. Approves district’s annual and monthly budget, advises planning, and provides public oversight of operations.

Sr. Training and Development Assistant at Intrepid Learning / The Boeing Company
April 2011 - September 2016
As a permanent contractor to The Boeing Company, instruct and administrate initial certification and annual re-certification of aerospace electricians, mechanics, and assembly personnel on-site at the Boeing factory in Everett, WA. Focuses included skills, environmental health and safety, and ethics training.

Materials and Quality Coordinator at Intrepid Learning / The Boeing Company
April 2010 - April 2011
Permanent contractor to The Boeing Company. Maintained and developed supply continuity for training and development functions for the Boeing Everett factory and greater Puget Sound region. Single point of contact for administrators and contractor representative to Learning, Training, & Development dept.

Teaching Experience

Western Washington University
-Introduction to GIS (2) -GIS lab (2) -Physical Geography (6)
-Human Geography -Climatology -Understanding Environmental Data
-Biogeography -Art & Science of Cheesemaking

Intrepid Learning / The Boeing Company
-Recertification of mechanical skills -Environmental Health and Safety -Ethics and Accountability
Research History

Graduate Research at Western Washington University
Aug 2016 to Present
Responsibilities: Personal research project on dendrochronology, silviculture, and habitat of Seaside Juniper (J. maritima) a rare endemic tree species. Performed GIS habitat modeling, dendrochronological analysis, and GPS site collection of sites throughout the Salish Sea.

Undergraduate Research at Western Washington University
Sep 2014 to Dec 2015
Responsibilities: Research project consisting of 80% unsupervised biology laboratory procedures. Performed lab research and field specimen collection of tree core samples for dendrochronological reconstructions of salmon population. Performed nitrogen isotope analysis procedures on samples of wood segments. The results of this project are published in the journal Dendrochronologia.

Publications


Grants

2016. WWU, Huxley College of the Environment. Huxley Small Grant. $933
2017. WWU, Huxley College of the Environment. Dean’s Fund for Sustainability. $500
2017. WWU, Huxley College of the Environment. Dean and Sandy Blinn Fund. $500
2017. WWU, Graduate School. Ross Travel Grant. $350
2017. WWU, Huxley College of the Environment. Env. Studies Discretionary Fund. $669

Awards


Conference and Seminar Presentations


Committees

2017-present WWU, Huxley College of the Environment, Graduate program committee.

Skills

-SCUBA certified, PADI open water diver
-Fluent in American Sign Language
-Licensed Real Estate Broker, 2011-2013