



Whatcom County

COUNTY COURTHOUSE
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Agenda Bill Master Report

File Number: AB2021-168

File ID:	AB2021-168	Version:	1	Status:	Approved
File Created:	03/10/2021	Entered by:	AHester@co.whatcom.wa.us		
Department:	Public Works Department	File Type:	Resolution (FCZDBS) Requiring a Public Hearing		
Assigned to:	Council			Final Action:	04/06/2021
Agenda Date:	04/06/2021			Enactment #:	RES 2021-013

Primary Contact Email: Sdraper@co.whatcom.wa.us

TITLE FOR AGENDA ITEM:

Resolution declaring the Whatcom County Flood Control Zone District intention to lease property on Emmerson Road (Council Acting as the Flood Control Zone District Board of Supervisors)

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

Public Works requests that the FCZD Board of Supervisors hold a public hearing and take action on the proposed resolution to lease the property for agricultural purposes, and authorize the Whatcom County Executive to execute a lease agreement with the highest responsible bidder that can demonstrate their ability to comply with the conditions contained in the resolution

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
03/23/2021	Council	INTRODUCED FOR PUBLIC HEARING	Council
		Aye: 7 Browne, Buchanan, Byrd, Donovan, Elenbaas, Frazey, and Kershner	
		Nay: 0	
		Absent: 0	
04/06/2021	Council	APPROVED	
		Aye: 7 Browne, Buchanan, Byrd, Donovan, Elenbaas, Frazey, and Kershner	
		Nay: 0	
		Absent: 0	

Attachments: Staff Memo, Proposed Resolution, Aerial Photo

1 SPONSORED BY: _____
2 PROPOSED BY: Public Works
3 INTRODUCTION DATE: 3/23/2021
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5 RESOLUTION NO. 2021-013

6
7 A RESOLUTION DECLARING THE WHATCOM COUNTY FLOOD CONTROL
8 ZONE DISTRICT INTENTION TO LEASE PROPERTY ON EMMERSON ROAD
9

10 WHEREAS, the Whatcom County Flood Control Zone District (FCZD) owns property
11 located on Emmerson Road, which was purchased from grant funds obtained from the
12 Robert T. Stafford Disaster Relief and Emergency Assistance Act (the Stafford Act); 42
13 U.S.C. § 5121 et. Seq.; and

14 WHEREAS, certain provisions of the Stafford Act pertaining to maintaining acquired
15 property in open space, allow for cultivation of that space; and

16 WHEREAS, the FCZD is granted authority through its grant agreement to lease property
17 purchased with Stafford Act funds for cultivation; and

18 WHEREAS, the lease expired on May 31, 2020; and

19 WHEREAS, Whatcom County Public Works is supportive of continuing to lease the
20 property for agricultural purposes; and

21 WHEREAS, in accordance with RCW 86.15.080, a FCZD may lease surplus lands in a
22 manner consistent with RCW 36.34; and

23 WHEREAS, it has been determined that the fair market rental value of the property should
24 not be less than \$960.00 per year, plus applicable leasehold tax; and

25 NOW, THEREFORE, BE IT RESOLVED that it is the intention of the FCZD Board of
26 Supervisors to lease the following property described in Exhibit A for a minimum of
27 \$960.00 per year, plus leasehold tax,

28 SUBJECT TO the conditions described in Exhibit B.

29 BE IT FURTHER RESOLVED that the Board of Supervisors hereby directs the Whatcom
30 County Finance Department to lease this property by sealed bid to the highest and best
31 bidder; at a location and time determined by the Finance Department.

32 BE IT FURTHER RESOLVED that the Board of Supervisors authorizes the County
33 Executive to act on its behalf in executing a lease agreement with the highest responsible

1 bidder that can demonstrate his/her ability to comply with the conditions set forth in
2 Exhibit B.

3 BE IT FURTHER RESOLVED that if no lease is fully executed within six months from
4 the date of the passage of this Resolution, the authorization to lease shall be withdrawn.

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6 APPROVED this 6th day of April, 2021

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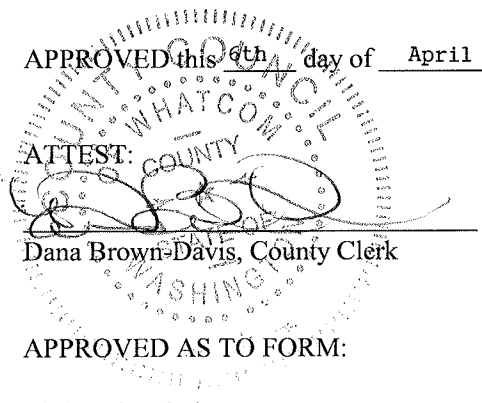
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ATTEST:
Dana Brown-Davis, County Clerk

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

Barry Buchanan

Barry Buchanan, Board of Supervisors Chair

APPROVED AS TO FORM:
Christopher Quinn
Civil Deputy Prosecutor
(approved electronically 3/10/2021)

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3 **EXHIBIT A**

4 A tract of land in the Northwest Quarter of the Southeast Quarter and
5 Government Lot 5 of Section 31, Township 40 North, Range 4 East of W.M.
6 described as follow:

7 Commencing at a point where the county road intersects the north boundary
8 line of the Southeast Quarter of said Section 31; thence south along said
9 county road a distance of 16 rods and 12 feet; thence due West and parallel to
10 the north boundary line of said Southeast Quarter of said Section 31 to the
11 present east bank of the Nooksack River as established January 1, 1962, from
12 aerial survey and decree in Superior Court Case No. 43682; thence northerly
13 along the said east bank of said river to the point where it intersects the north
14 boundary line of said Southeast Quarter of Section 31; thence east along the
15 said north boundary line to the place of beginning,

16
17 EXCEPT the East 132 feet of the south 156 feet thereof, AND EXCEPT
18 right-of-way lying along the easterly line thereof; commonly referred to as
19 Emmerson Road AND EXCEPT river wash.

20
21 Situate in Whatcom County, Washington.

22
23 SUBJECT TO an easement for ingress and egress commencing at a point
24 where the county road intersects the north boundary line of the Southeast
25 Quarter of Section 31, Township 40 North, Range 4 East of W.M.; thence
26 North along said county road, 12 feet; thence West 155 feet; thence South 12
27 feet; thence East along the North boundary line of the Southeast Quarter of
28 said Section 31, to the point of beginning.

29
30 Situate in Whatcom County, Washington.

31
32 Subject to any other covenants, conditions, restrictions and easements, if any,
33 affecting title, which may appear in the public record, including those shown
34 on any recorded plat or survey.
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1 **EXHIBIT B**

2 LIMITATIONS ON AND REQUIREMENTS FOR USE:

- 3 1. No fill can be brought into the property. Minor land grading of the property to make it
4 level and farmable is permissible.
- 5 2. No structures can be constructed on the property.
- 6 3. Only grasses or annual crops are allowed, with winter cover crop required if annual
7 crop is used. Grazing of animals on the property is not allowed.
- 8 4. Application of commercial fertilizer and manure are allowed only if they are included
9 in the farm plan. Methods and timing of fertilizer and manure application must be in
10 accordance with that plan.
- 11 5. All activities must be done in accordance with all applicable federal, state and local
12 rules and regulations.
- 13 6. Tenant agrees to keep in good repair all terraces, open ditches, inlets and outlets of tile
14 drains; preserve all established watercourses or ditches including grassed waterways,
15 and refrain from any operations or practice that will damage such structures or
16 adversely affect their function.
- 17 7. Tenant must have a current farm plan for this property following current NRCS
18 standards and specifications. If an approved farm plan has not already been
19 established, then within 30 days of the commencement of the lease the Tenant must
20 contact the Whatcom Conservation District to create an approved farm plan for the
21 property. The implementation of such plan must begin within 120 days of the
22 commencement of the lease and be followed during the term of the lease.
- 23 8. Prior to the commencement of the lease the County shall commission a comprehensive
24 soil chemistry analysis ("First Test") comparable to those typically used by
25 knowledgeable buyers as part of their typical pre-purchase inspections of agricultural
26 land. A copy shall be retained by the County and copy shall be provided to the tenant.
- 27 9. No sooner than 90 days and no later than 30 days prior to the termination of the lease
28 term the County shall commission a new comprehensive soil chemistry analysis
29 ("Second Test") substantially identical to the First Test. A copy shall be retained by the
30 County and copy shall be provided to the tenant.
- 31 10. If the Second Test establishes that the soil has equal or greater nutrient value and
32 health than the First Test then the Tenant shall have no further obligation to improve
33 the soil once the lease term expires.

1 11. If the Second Test establishes that the soil has been depleted or its health is has
2 otherwise been impaired since the First Test then it shall be the Tenant's obligation to
3 immediately repair and replenish the land as soon as weather permits. Should the
4 Tenant fail to do this within 90 days of the weather permitting, the County may elect to
5 employ others repair the land and bill the Tenant for all associated costs.

6 12. The Tenant shall provide security to guarantee payment of costs referred to in items #6,
7 #8, #9, and #11 above, in a form and amount approved by the Prosecuting Attorney's
8 Office.

9 Lease Term: The maximum term of the lease is 5 years.

10 Bid Response: Bidders should submit the following information as part of their bid response:

11 1. Bid amount for annual rental of land. Do not include leasehold tax in your bid amount,
12 as it will be calculated and applied separately upon the successful bid amount.

13 2. A statement of your understanding of the scope of the lease and the steps necessary to
14 farm the land.

15 3. A brief outline of how you propose to manage the farmland if awarded the lease and a
16 timetable for your farm plan.

17 4. Describe your ability to obtain insurance for your leasing for this project. Proof of
18 insurance must be provided prior to final execution of the lease agreement. Insurance
19 must include the following minimum coverages:

20 a. General liability coverage \$1,000,000 per occurrence

21 b. Workers Compensation Coverage as required by the Industrial Insurance laws of the
22 State of Washington.