

PROPOSED BY: Executive

INTRODUCTION DATE: March 12, 2019

RESOLUTION NO. _____

**AUTHORIZING THE RELEASE OF COVENANTS ON THE PROPERTY
KNOWN AS THE PLAYGROUND TRACT, BENNETT HILL SUPPLEMENTAL**

WHEREAS, Bellingham School District No. 501 (“District”), a political subdivision pursuant to RCW 28A.315.005, seeks to build a new elementary school on property owned by the Bellingham School District; and

WHEREAS, the District’s property is encumbered by a covenant that limits development of a portion of this lot, and that said covenant limiting development may only be enforced by Whatcom County; and

WHEREAS, said covenant, recorded in 1955, sought to preserve a portion of the Bellingham School District’s property for County public use; and

WHEREAS, this covenant constitutes a property interest held by the County for purposes of RCW 39.33;

WHEREAS, the County is satisfied the reasons underlying that certain covenant reserved in statutory warranty deed dated August 5, 1955, between Whatcom County and Bellingham School District No. 501, no longer exists, and the county’s interest will be enhanced through the building of a new elementary school and development of the lot; and

WHEREAS, the portion of land designated as “Playground” and reserved by covenant to the public in the deed, together with abutting “Service Ways” 20 feet in width and passageways between Lots 8 and 9 and Lots 24 and 25 connecting said playground area with Redwood Avenue and Alderwood Street respectively, all located in Block 5, “Bennett Hill Supplemental” Whatcom, will best serve Whatcom County as the site for the development of a new elementary school and playground; and

WHEREAS, RCW 36.34.130 authorizes the County Council to dispose of property, including property rights, to another governmental agency by means of private negotiation and upon such terms as may be agreed upon and for such consideration as may deemed adequate by the Council; and

WHEREAS, RCW 43.09.210 requires a transferring government to receive full value for the transfer of property; and that full value has a flexible meaning depending on the nature of the transfer and other surrounding circumstances; and

WHEREAS, “value” received for the transfer is not limited to monetary consideration and can include other forms of consideration as agreed upon by the parties; and

WHEREAS, the Bellingham School District has agreed to construct a playground suited to the needs of the school, maintain it, and make it available for public use during non-school hours as long as the District is using any portion of the Playground Tract to house a school; and

WHEREAS, the release of the Covenant will benefit the general public with the construction of a new elementary school serving the needs of the Alderwood Elementary School community and will result in the construction of a modern playground on the school site for use by students and the general public which is consistent with the shared vision of the District and the County; and

WHEREAS, the County will receive full value, in the form of greater public benefits than it enjoyed under the 1955 covenant.

NOW, THEREFORE, BE IT RESOLVED that the County Council authorizes the Release of Covenant as described in Exhibit A, “Release of Covenant” to allow for the construction of a new elementary school and modern playground.

APPROVED this _____ day of _____, 2019.

ATTEST:

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

Dana Brown-Davis, Council Clerk

Rud Browne, Council Chair

APPROVED as to form:



Civil Deputy Prosecutor

Exhibit A

Document Title: Release of Covenant
Reference Number of Related Documents: AF 801003
Grantor: Whatcom County
Grantee: Bellingham School District No. 501
Legal Description: Playground Tract, Bennett Hill Supplemental, S8, T38N, R2E W.M.
Assessor's Tax Parcel Number: 380214 089120 0000

RELEASE OF COVENANT

WHATCOM COUNTY, being satisfied that the reasons underlying that certain covenant reserved in statutory warranty deed dated August 5, 1955, between Whatcom County and Bellingham School District No. 501, filed under Whatcom County Auditor's File No. 801003, no longer exists and for and in consideration of mutual benefits Grantor hereby releases the following described property from said covenant:

That tract of land designated as "Playground" which was dedicated to the public as Public Playground, together with abutting "Service Ways" 20 feet in width and passageways between Lots 8 and 9 and Lots 24 and 25 connecting said playground area with Redwood Avenue and Alderwood Street respectively, all located in Block 5, "Bennett Hill Supplemental" Whatcom County, Washington, as per the map thereof, recorded in Book 7 of Plats, Page 24, in the Auditor's office of said County and State.

WHATCOM COUNTY

Jack Louws County Executive

Date: _____

Approved as to form:
Prosecuting Attorney's Office

Date: _____

Christopher Quinn, Senior Deputy
Prosecuting Attorney – Civil Division

STATE OF WASHINGTON)
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COUNTY OF WHATCOM)

On this _____ day of _____ 2019, before me personally appeared
Jack Louws, to me known to be the Executive of Whatcom County, a
Municipal Corporation that executed the within and foregoing instrument, and
acknowledged said instrument to be the free and voluntary act and deed of Whatcom
County, for the uses and purposes herein mentioned, and on oath stated that he was
authorized to execute said instrument on behalf of Whatcom County.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official
seal the day and year first above written.

Notary Public in and for the State of Washington
Residing at _____
My commission expires _____