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SPONSORED BY: _____
PROPOSED BY: Public Works
INTRODUCTION DATE: _____

RESOLUTION NO. _____

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

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

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

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

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

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

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

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

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

SUBJECT TO the conditions described in Exhibit B.

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

BE IT FURTHER RESOLVED that the Board of Supervisors authorizes the County 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4 the date of the passage of this Resolution, the authorization to lease shall be withdrawn.

5

6 APPROVED this _____ day of _____, 2021

7

8 ATTEST:

9

10

11 _____
12 Dana Brown-Davis, County Clerk

13

14

15 APPROVED AS TO FORM:

16

17 Christopher Quinn

18 Civil Deputy Prosecutor

19 (approved electronically 3/10/2021)

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

Barry Buchanan, Board of Supervisors Chair

EXHIBIT A

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

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

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

Situate in Whatcom County, Washington.

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

Situate in Whatcom County, Washington.

Subject to any other covenants, conditions, restrictions and easements, if any, affecting title, which may appear in the public record, including those shown on any recorded plat or survey.

EXHIBIT B

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LIMITATIONS ON AND REQUIREMENTS FOR USE:

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