

CLERK OF THE COUNCIL
Dana Brown-Davis, C.M.C.

COUNTY COURTHOUSE
311 Grand Avenue, Suite #105
Bellingham, WA 98225-4038
(360) 778-5010



COUNCILMEMBERS
Rud Browne
Barry Buchanan
Tyler Byrd
Todd Donovan
Ben Elenbaas
Carol Frazey
Kathy Kershner

WHATCOM COUNTY COUNCIL

COMBINED AGENDA PACKET FOR MAY 4, 2021

**INCLUDES INFORMATION
FOR THE FOLLOWING MEETINGS:**

**10 A.M. – COMMITTEE OF THE WHOLE – EXECUTIVE SESSION
(ENDS NO LATER THAN 10:30 A.M.)**

**10:40 A.M. – FINANCE AND ADMINISTRATIVE SERVICES COMMITTEE
(ENDS NO LATER THAN 11:45 A.M.)**

**12:45 P.M. – PLANNING AND DEVELOPMENT COMMITTEE
(ESTIMATED ADJOURN TIME OF 2 P.M.)**

**2:10 P.M. – COMMITTEE OF THE WHOLE
(MAY BEGIN EARLIER/LATER THAN 2:10 P.M., ENDS NO LATER THAN 5 P.M.)**

6 P.M. - COUNCIL

PARTICIPATE IN VIRTUAL COUNCIL MEETINGS

THE COUNCIL IS CURRENTLY HOLDING ALL MEETINGS REMOTELY

**VIEW MEETING SCHEDULES, AGENDAS, MINUTES, VIDEOS, AND ARCHIVES AT
WWW.WHATCOM.LEGISTAR.COM**

**FOR INSTRUCTIONS ON HOW TO WATCH OR PARTICIPATE IN COMMITTEE AND
COUNCIL MEETINGS, PLEASE VISIT
WWW.WHATCOMCOUNTY.US/3415/PARTICIPATE-IN-VIRTUAL-COUNCIL-MEETINGS
OR CONTACT THE COUNCIL OFFICE AT 360.778.5010**

COMMITTEE AGENDAS

**COUNCIL COMMITTEE OF THE WHOLE – EXECUTIVE SESSION
10:00 A.M. TUESDAY, May 4, 2021 (ENDS NO LATER THAN 10:30 A.M.)
Virtual Meeting**

Call To Order

Roll Call

Committee Discussion

1. AB2021-267 Update on negotiations and planning strategy discussion regarding collective bargaining [Discussion of this item may take place in executive session (closed to the public) pursuant to RCW 42.30.140(4)(a)]
Page 1

Items Added by Revision

Other Business

Adjournment

**COUNCIL FINANCE AND ADMINISTRATIVE SERVICES COMMITTEE
10:40 A.M. TUESDAY, May 4, 2021 (ENDS NO LATER THAN 11:45 A.M.)
Virtual Meeting**

Call To Order

Roll Call

Special Presentation

1. AB2021-259 Report from Facilities Management Division
Page 2

Committee Discussion and Recommendation to Council

1. AB2021-263 Request authorization for the County Executive to enter into Agreement Amendment No. 1 for Funding Support and Implementation of the Duffner Ditch Culvert and Flood Gate Replacement Project (Council acting as the Flood Control Zone District Board of Supervisors)
Pages 3 - 8
2. AB2021-256 Request authorization for the County Executive to enter into an interlocal agreement between Whatcom County and Washington State Military Department for FFY20 Operation Stonegarden, in the amount of \$405,600.00
Pages 9 - 53

Council "Consent Agenda" Items

1. AB2021-253 Request authorization for the County Executive to enter into a contract amendment between Whatcom County and G6 Hospitality to extend the lease through September, 2021 in an amount not to exceed \$60,000 per month
Pages 54 - 57
2. AB2021-254 Request authorization for the County Executive to enter into an interlocal agreement between Whatcom County and the Mount Baker School District to lease tower access at the Kendall Elementary School Tower Site, in the amount of \$0.00
Pages 58 - 76
3. AB2021-262 Request authorization for the County Executive to enter into a contract amendment between Whatcom County and Opportunity Council to provide rental assistance for people with co-occurring disorders in the amount of \$15,000 for a total amended contract amount of \$84,843
Pages 77 - 85
4. AB2021-272 Request authorization for the County Executive to renew a Collective Bargaining Agreement between Whatcom County and the Deputy Sheriff's Guild for the period of January 1, 2022 through December 31, 2022
Pages 86 - 89

Items Added by Revision

Other Business

Adjournment

**COUNCIL PLANNING AND DEVELOPMENT COMMITTEE
12:45 P.M. TUESDAY, May 4, 2021 (ESTIMATED END TIME OF 2:00 P.M.)
Virtual Meeting**

Call To Order

Roll Call

Committee Discussion

1. AB2021-269 Discussion with Planning Department staff on a proposal to hire a consultant to develop a feasibility study for creating an offsite buffer mitigation program
Pages 90 - 96
2. AB2021-270 Discussion on potential affordable housing amendments, including tiny homes, to the Whatcom County Code
Pages 97 - 108

Committee Discussion and Recommendation to Council

1. AB2021-257 Discussion and Council motion to approve the Public Participation Plan for Whatcom County Comprehensive Plan and Development Regulation Amendments
Pages 109 - 133

Items Added by Revision

Other Business

Adjournment

**COUNCIL COMMITTEE OF THE WHOLE
2:10 P.M. TUESDAY, May 4, 2021 (MAY BEGIN EARLIER / LATER THAN 2:10 P.M.)
Virtual Meeting**

Call To Order

Roll Call

Committee Discussion

1. AB2020-219 Discussion and update on strategies and other items related to COVID-19 (Council and Health Board)
Pages 134 - 135
2. AB2021-265 Discussion with Public Works Department staff regarding franchise committee assignments prior to public hearings
Page 136

Special Presentation

1. AB2021-260 Presentation from Human Services Manager on efforts to expand responses to people experiencing a behavioral health crisis
Pages 137 - 144
2. AB2021-268 Presentation from Human Services Manager on the recommendations from the Homeless Strategies Workgroup
Pages 145 - 158

Items Added by Revision

Other Business

Adjournment

COUNCIL AGENDA

**REGULAR COUNCIL MEETING
6:00 P.M. TUESDAY, May 4, 2021
Virtual Meeting**

CALL TO ORDER

ROLL CALL

FLAG SALUTE

ANNOUNCEMENTS

The Council is currently holding all meetings remotely. View meeting schedules, agendas, minutes, videos, and archives at www.whatcom.legistar.com. For instructions on how to watch or participate in this meeting, please visit us at www.whatcomcounty.us/joinvirtualcouncil or contact the Council Office at 360.778.5010.

The County is accepting applications from county residents to fill vacancies on several boards, commissions, and committees spanning a wide range of important local issues. For more information, visit the Boards and Commissions vacancy webpage on the County website at www.co.whatcom.wa.us, or call the County Council office or County Executive's Office.

COUNTY EXECUTIVE'S REPORT

MINUTES CONSENT

- | | | | |
|----|------------------------------------|-------------------------------------------------------------|-------------------------------|
| 1. | <u>MIN2021-034</u> | Water Work Session for April 13, 2021 | <u>Pages 159 - 162</u> |
| 2. | <u>MIN2021-035</u> | Special Council for April 15, 2021 | <u>Pages 163 - 171</u> |
| 3. | <u>MIN2021-037</u> | Committee of the Whole Executive Session for April 20, 2021 | <u>Pages 172 - 175</u> |
| 4. | <u>MIN2021-039</u> | Regular County Council for April 20, 2021 | <u>Pages 176 - 190</u> |
| 5. | <u>MIN2021-040</u> | Committee of the Whole for April 20, 2021 | <u>Pages 191 - 198</u> |

PUBLIC HEARINGS

To participate, please see instructions at www.whatcomcounty.us/joinvirtualcouncil or contact the Council Office at 360.778.5010. All speakers should state their name for the record and optionally include city of residence. Speakers will be given three minutes to address the Council. Council staff will keep track of time limits and inform speakers when they have thirty seconds left to conclude their comments.

- | | | |
|----|-----------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1. | <u>AB2021-243</u> | Ordinance ordering the closure of a portion of Manley Road to motorized vehicular traffic
<u>Pages 199 - 210</u> |
| 2. | <u>AB2021-244</u> | Resolution adopting the Whatcom County Americans with Disabilities Act (ADA) Transition Plan within the Public Rights-of-Way
<u>Pages 211 - 331</u> |
| 3. | <u>AB2021-245</u> | Resolution supporting a Community Development Block Grant (CDBG) Public Services Grant application
<u>Pages 332 - 340</u> |

OPEN SESSION (20 MINUTES)

To participate, please see instructions at www.whatcomcounty.us/joinvirtualcouncil or contact the Council Office at 360.778.5010. All speakers should state their name for the record and optionally include city of residence. Speakers will be given three minutes to address the Council. Council staff will keep track of time limits and inform speakers when they have thirty seconds left to conclude their comments.

CONSENT AGENDA

Items under this section of the agenda may be considered in a single motion. Councilmembers have received and studied background material on all items. Committee review has taken place on these items, as indicated. Any member of the public, administrative staff, or council may ask that an item be considered separately.

(From Council Finance and Administrative Services Committee)

1. AB2021-253 Request authorization for the County Executive to enter into a contract amendment between Whatcom County and G6 Hospitality to extend the lease through September, 2021 in an amount not to exceed \$60,000 per month
Pages 54 - 57
2. AB2021-254 Request authorization for the County Executive to enter into an interlocal agreement between Whatcom County and the Mount Baker School District to lease tower access at the Kendall Elementary School Tower Site, in the amount of \$0.00
Pages 58 - 76
3. AB2021-262 Request authorization for the County Executive to enter into a contract amendment between Whatcom County and Opportunity Council to provide rental assistance for people with co-occurring disorders in the amount of \$15,000 for a total amended contract amount of \$84,843
Pages 77 - 85
4. AB2021-272 Request authorization for the County Executive to renew a Collective Bargaining Agreement between Whatcom County and the Deputy Sheriff’s Guild for the period of January 1, 2022 through December 31, 2022
Pages 86 - 89

OTHER ITEMS

(From Council Finance and Administrative Services Committee)

1. AB2021-256 Request authorization for the County Executive to enter into an interlocal agreement between Whatcom County and Washington State Military Department for FFY20 Operation Stonegarden, in the amount of \$405,600.00
Pages 9 - 53
2. AB2021-263 Request authorization for the County Executive to enter into Agreement Amendment No. 1 for Funding Support and Implementation of the Duffner Ditch Culvert and Flood Gate Replacement Project (Council acting as the Flood Control Zone District Board of Supervisors)
Pages 3 - 8

(From Council Planning and Development Committee)

3. AB2021-257 Discussion and Council motion to approve the Public Participation Plan for Whatcom County Comprehensive Plan and Development Regulation Amendments
Pages 109 - 133

COUNCIL APPOINTMENTS TO BOARDS, COMMISSIONS, AND COMMITTEES

1. AB2021-255 Appointment to the Business and Commerce Advisory Committee - Higher Education vacancy, applicant(s): Eva Schulte
Pages 341 - 347

EXECUTIVE APPOINTMENTS TO BOARDS, COMMISSIONS, AND COMMITTEES

Per Whatcom County Code 2.03.070(B), the council must confirm or reject executive appointments within 30 days of submission to the council. County code deems the appointee confirmed if council does not take action within this time.

1. AB2021-266 Request confirmation of the County Executive's appointment of Dave Bren to the Development Standards Technical Advisory Committee
Pages 348 - 352

ITEMS ADDED BY REVISION

INTRODUCTION ITEMS

Council action will not be taken. The council may accept these items for introduction (no action) in a single motion. Changes, in terms of committee assignment for example, may be made at this time.

1. AB2021-264 Ordinance amending the Whatcom County Budget, request no. 7, in the amount of \$5,156,985
Pages 353 - 383
2. AB2021-185 Ordinance amending Whatcom County Code 9.32, Unlawful Discharge of Firearms, to establish a no shooting zone in the Drayton Harbor Area of Whatcom County
Pages 384 - 396
3. AB2021-186 Ordinance amending Whatcom County Code 9.32, Unlawful Discharge of Firearms, to establish a no shooting zone to be known as the Dearborn No Shooting Zone
Pages 397 - 405
4. AB2021-258 Ordinance amending the Six-Year Capital Improvement Program (CIP) for Whatcom County Facilities (2021-2026)
Pages 406 - 417
5. AB2021-261 Ordinance granting Cellco Partnership d/b/a Verizon Wireless, a non-exclusive franchise for the provision of wireless telecommunications services
Pages 418 - 443

COMMITTEE REPORTS

OTHER ITEMS

COUNCIL MEMBER UPDATES

ADJOURN



Whatcom County

COUNTY COURTHOUSE
311 Grand Avenue, Ste #105
Bellingham, WA 98225-4038
(360) 778-5010

Agenda Bill Master Report

File Number: **AB2021-267**

File ID:	AB2021-267	Version:	1	Status:	Agenda Ready
File Created:	04/22/2021	Entered by:	MKeeley@co.whatcom.wa.us		
Department:	Human Resources Division	File Type:	Discussion		
Assigned to:	Council Committee of the Whole-Executive Session			Final Action:	
Agenda Date:	05/04/2021			Enactment #:	

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

TITLE FOR AGENDA ITEM:

Update on negotiations and planning strategy discussion regarding collective bargaining [Discussion of this item may take place in executive session (closed to the public) pursuant to RCW 42.30.140(4)(a)]

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

Strategy planning discussion to be taken with regard to collective bargaining per RCW 42.30.140(4)(a)

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
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Attachments:



Whatcom County

COUNTY COURTHOUSE
311 Grand Avenue, Ste #105
Bellingham, WA 98225-4038
(360) 778-5010

Agenda Bill Master Report

File Number: **AB2021-259**

File ID:	AB2021-259	Version:	1	Status:	Agenda Ready
File Created:	04/19/2021	Entered by:	AHaines@co.whatcom.wa.us		
Department:	County Executive's Office	File Type:	Report		
Assigned to:	Council Finance and Administrative Services Committee			Final Action:	
Agenda Date:	05/04/2021			Enactment #:	

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

TITLE FOR AGENDA ITEM:

Report from Facilities Management Division

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

Facilities Manager, Rob Ney, will provide his first 2021 report to Council

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
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Attachments:



Whatcom County

COUNTY COURTHOUSE
311 Grand Avenue, Ste #105
Bellingham, WA 98225-4038
(360) 778-5010

Agenda Bill Master Report

File Number: AB2021-263

File ID:	AB2021-263	Version:	1	Status:	Agenda Ready
File Created:	04/21/2021	Entered by:	LCumming@co.whatcom.wa.us		
Department:	Public Works Department	File Type:	Contract (FCZDBS)		
Assigned to:	Council Finance and Administrative Services Committee			Final Action:	
Agenda Date:	05/04/2021			Enactment #:	

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

TITLE FOR AGENDA ITEM:

Request authorization for the County Executive to enter into Agreement Amendment No. 1 for Funding Support and Implementation of the Duffner Ditch Culvert and Flood Gate Replacement Project (Council acting as the Flood Control Zone District Board of Supervisors)

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

The purpose of this Agreement Amendment No. 1 is to increase the amount of funding multiple parties will contribute towards the Duffner Ditch Culvert and Flood Gate Replacement Project. The increase in funds provided from the the Flood Control Zone District is pass-through grant funding from a Floodplains by Design Grant

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
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Attachments: Staff Memo, Proposed Contract Amendment



MEMORANDUM

TO: The Honorable Satpal Singh Sidhu, Whatcom County Executive, and Honorable Members of the Whatcom County Flood Control Zone District Board of Supervisors

THROUGH: Jon Hutchings, Public Works Director

FROM: Gary S. Stoyka, Natural Resources Manager 
Paula J. Harris, River and Flood Manager 

RE: Agreement Amendment No. 1 for Funding Support and Implementation of the Duffner Ditch Culvert and Flood Gate Replacement Project

DATE: April 21, 2021

Enclosed for your review and consideration are two (2) originals of Agreement Amendment No. 1 for funding support and implementation of the above referenced project.

Requested Action

Public Works respectfully requests that the FCZD Board of Supervisors authorize the County Executive to enter into Agreement Amendment No. 1 with multiple parties for the implementation of the Duffner Ditch Culvert and Flood Gate Replacement Project (Project).

Background and Purpose

The Bertrand Watershed Improvement District (BWID) has completed final design and awarded bids for construction of the Project. The original Project cost estimate has been updated to reflect the bids and has increased by approximately \$80,000. This amount exceeds the Project funding available through the BWID, Natural Resources Conservation Service (NRCS), Diking District #4 (DD#4), Consolidated Drainage Improvement District #1 (CDID#1) and the FCZD. The FCZD committed to passing through \$100,000 of Floodplains by Design funding in the original agreement.

The enclosed agreement provides for additional funding from the BWID, CDID#1, DD#4, and FCZD to cover the anticipated project expenditures.

Funding Amount and Source

The original Agreement provided for \$395,000 from the FCZD through a temporary reimbursable payment and pass-through grant funding. Amendment No. 1 will provide an additional \$50,000 from the FCZD through Department of Ecology pass-through grant funding for a new total of \$445,088. This amount includes \$295,088 to be reimbursed by NRCS and \$150,000 in pass-through grant funding. The remaining Project expenditures will be funded by the other parties named in the agreement amendment. There will be no net impact to the FCZD's fund balance as a result of this amended agreement.

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

**WHATCOM COUNTY CONTRACT
INFORMATION SHEET**

Whatcom County Contract No. _____

Originating Department:	Public Works
Division/Program: <i>(i.e. Dept. Division and Program)</i>	River & Flood/Technical Assistance (907530)
Contract or Grant Administrator:	Paula Harris, River & Flood Manager
Contractor's / Agency Name:	Bertrand Watershed Improvement District and other parties
Is this a New Contract? If not, is this an Amendment or Renewal to an Existing Contract? Yes <input checked="" type="radio"/> No <input type="radio"/> Yes <input type="radio"/> No <input checked="" type="radio"/> If Amendment or Renewal, (per WCC 3.08.100 (a)) Original Contract #: <u>202007002</u>	
Does contract require Council Approval? Yes <input checked="" type="radio"/> No <input type="radio"/> If No, include WCC: _____ Already approved? Council Approved Date: _____ (Exclusions see: Whatcom County Codes 3.06.010, 3.08.090 and 3.08.100)	
Is this a grant agreement? Yes <input type="radio"/> No <input checked="" type="radio"/> If yes, grantor agency contract number(s): _____ CFDA#: _____	
Is this contract grant funded? Yes <input checked="" type="radio"/> No <input type="radio"/> If yes, Whatcom County grant contract number(s): <u>202004008 (partially grant funded)</u>	
Is this contract the result of a RFP or Bid process? Contract Yes <input type="radio"/> No <input checked="" type="radio"/> If yes, RFP and Bid number(s): _____ Cost Center: <u>720007</u>	
Is this agreement excluded from E-Verify? No <input type="radio"/> Yes <input checked="" type="radio"/> If no, include Attachment D Contractor Declaration form.	
If YES, indicate exclusion(s) below: <input type="checkbox"/> Professional services agreement for certified/licensed professional. <input type="checkbox"/> Goods and services provided due to an emergency <input type="checkbox"/> Contract work is for less than \$100,000. <input type="checkbox"/> Contract for Commercial off the shelf items (COTS). <input type="checkbox"/> Contract work is for less than 120 days. <input type="checkbox"/> Work related subcontract less than \$25,000. <input checked="" type="checkbox"/> Interlocal Agreement (between Governments). <input type="checkbox"/> Public Works - Local Agency/Federally Funded FHWA.	
Contract Amount:(sum of original contract amount and any prior amendments): \$ <u>395,088.00</u> This Amendment Amount: \$ <u>50,000.00</u> Total Amended Amount: \$ <u>445,088.00</u>	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 enclosed Agreement Amendment No. 1 will provide for Funding Support and Implementation of the Duffner Ditch Culvert and Flood Gate Replacement Project.	
Term of Contract:	Expiration Date: June 30, 2023

Contract Routing:	1. Prepared by: <u>C. Schoenfelder</u>	Date: <u>3/25/2021</u>
	2. Attorney signoff: <u>KNF</u>	Date: <u>4/2/21</u>
	3. AS Finance reviewed: <u>M Caldwell</u>	Date: <u>4/13/21</u>
	4. IT reviewed (if IT related): _____	Date: _____
	5. Contractor signed: _____	Date: _____
	6. Submitted to Exec.: _____	Date: _____
	7. Council approved (if necessary): _____	Date: _____
	8. Executive signed: _____	Date: _____
	9. Original to Council: _____	Date: _____

**AGREEMENT AMENDMENT NO. 1
FOR
FUNDING SUPPORT AND IMPLEMENTATION OF THE DUFFNER DITCH
CULVERT AND FLOOD GATE REPLACEMENT PROJECT
(WCC NO. 202007002)**

This Agreement Amendment No. 1, is made and entered into by and between the Bertrand Watershed Improvement District of Whatcom County, a Washington special-purpose district (hereinafter referred to as the “BWID”), Whatcom County Flood Control Zone District, a Washington quasi-municipal corporation (hereinafter referred to as the “District”), Diking District #4 of Whatcom County, a Washington special-purpose district (hereinafter referred to as “DD #4”), the (Consolidated Drainage Improvement District #1 of Whatcom County, a Washington special-purpose district (hereinafter referred to as “CDID #1”), and Mr. Scott Bedlington, the landowner (hereinafter referred to as “Mr. Scott Bedlington”).

WITNESSETH

WHEREAS, the parties entered into an agreement executed on July 8, 2020 and designated Whatcom County Contract No. 202007002 for the purpose of defining obligations and responsibilities in implementing and providing funding for the Duffner Ditch Culvert and Flood Gate Replacement Project (hereinafter referred to as the “Project”); and

WHEREAS, all parties have been meeting their responsibilities and obligations in the implementation of the Project to date; and

WHEREAS, the Project design is complete, it has been advertised for construction, and bids have been received for the culvert materials and construction installation; and

WHEREAS, the total project cost including design, construction, and inspection has been updated and is now estimated at \$515,000; and

WHEREAS, the new cost estimate exceeds the Project funding available through the Natural Resources Conservation Service (NRCS), BWID, DD#4, CDID#1, and the District by approximately \$80,000; and

WHEREAS, the BWID has requested that an additional \$50,000 of the Floodplains by Design (FbD) early action funding be allocated to the Project for construction; and

WHEREAS, the Floodplain Integrated Planning (FLIP) Steering Committee supports the allocation of an additional \$50,000 towards the Project as it is consistent with the FLIP mission and goals; and

WHEREAS, both DD#4 and CDID #1 have committed to providing an additional \$10,000 each towards the Project; and

WHEREAS, both DD#4 and CDID #1 have sufficient budget to cover this expenditure in their 2021 budget allocations; and

WHEREAS, the BWID has committed to providing funding to cover any of the remaining unallocated Project expenditures once all other funding sources have been utilized; and

WHEREAS, the unallocated Project expenditures are estimated to be \$10,000;

NOW, THEREFORE, the parties agree to amend the agreement No. 202007002 hereto as follows:

That Section 2. PARTY RESPONSIBILITIES is amended as follows:

A (amended). BERTRAND WATER IMPROVEMENT DISTRICT

11. Shall provide to DD#4 and CDID#1, after all other funding sources have been expended, a payment request showing Project expenditures, remaining expenditures to be cost-shared up between DD#4 and CDID#1 (maximum of \$10,000 per district), and backup documentation.
12. After all other Project funding has been expended, shall contribute an additional amount equal to the remaining Project cost, estimated at \$10,000.
13. Shall provide documentation to the District for the local 20% cost-share of additional eligible costs required by the FbD grant funds (up to \$12,500 additional, for a new total of \$37,500 local cost-share).

B (amended). WHATCOM COUNTY FLOOD CONTROL ZONE DISTRICT RESPONSIBILITIES

4. Shall reimburse an additional \$50,000 of eligible Project construction costs incurred by BWID within thirty (30) days of receiving the BWID reimbursement request including adequate documentation of the 20% local match required by the FbD grant.

C (amended). WHATCOM COUNTY DIKING DISTRICT #4 RESPONSIBILITIES

3. After receipt of BWID payment request, shall contribute to the BWID in cash, an amount equal to 50 percent of the funding request up to a maximum additional amount of \$10,000 toward Project implementation for a new total up to \$20,000.

D (amended). WHATCOM COUNTY CONSOLIDATED DRAINAGE IMPROVEMENT DISTRICT #1 RESPONSIBILITIES

3. After receipt of BWID payment request, shall contribute to the BWID in cash, an amount equal to 50 percent of the funding request up to a maximum additional amount of \$10,000 toward Project implementation for a new total up to \$20,000.

That Section 3. PAYMENT is amended as follows:

The District shall provide payment to the BWID to reimburse an additional \$50,000 for a new total of up to \$150,000 of eligible construction costs, within thirty (30) days of

receiving the BWID's reimbursement request and documentation of the 20% match (\$37,500) required by the FbD grant.

DD #4 will provide an additional cash payment up to \$10,000 to the BWID upon receipt of payment request.

CDID #1 will provide an additional cash payment up to \$10,000 to the BWID upon receipt of payment request.

FURTHER, that this Amendment No. 1 shall be made part of Whatcom County Contract No. 202007002. The parties agree that except as specifically provided in this modification, all other terms and conditions of the original agreement shall remain in full force and effect.

IN WITNESS WHEREOF, the parties have executed this Agreement.

**BERTRAND WATERSHED
IMPROVEMENT DISTRICT**

By: [Signature]
Title: Administrator
Date: 4/14/21

**WHATCOM COUNTY FLOOD
CONTROL ZONE DISTRICT**

By: _____
Title: _____
Date: _____

Approved as to form:

Karen Frakes (email to C. Schoenfelder) 04/02/21
Karen Frakes, Date
Senior Civil Deputy Prosecuting Attorney

**WHATCOM COUNTY DIKING
DISTRICT #4**

By: [Signature]
Title: Audit officer
Date: 4-14-21

**WHATCOM COUNTY
CONSOLIDATED DRAINAGE
IMPROVEMENT DISTRICT #1**

By: [Signature]
Title: Audit officer
Date: 4-7-21

MR. SCOTT BEDLINGTON

By: [Signature]
Title: _____
Date: 4-14-2021



Whatcom County

COUNTY COURTHOUSE
311 Grand Avenue, Ste #105
Bellingham, WA 98225-4038
(360) 778-5010

Agenda Bill Master Report

File Number: **AB2021-256**

File ID:	AB2021-256	Version:	1	Status:	Agenda Ready
File Created:	04/16/2021	Entered by:	DDuling@co.whatcom.wa.us		
Department:	Sheriff's Office	File Type:	Interlocal		
Assigned to:	Council Finance and Administrative Services Committee			Final Action:	
Agenda Date:	05/04/2021			Enactment #:	

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

TITLE FOR AGENDA ITEM:

Request authorization for the County Executive to enter into an interlocal agreement between Whatcom County and Washington State Military Department for FFY20 Operation Stonegarden, in the amount of \$405,600.00

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

See Attached

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
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Attachments: Staff Memo, Contract

**WHATCOM COUNTY
SHERIFF'S OFFICE**

BILL ELFO
SHERIFF



PUBLIC SAFETY BUILDING
311 Grand Avenue
Bellingham, WA 98225-4038
(360) 778-6600

MEMORANDUM

TO: Satpal S. Sidhu, County Executive

FROM: Bill Elfo, Sheriff *BE*

DATE: April 16, 2021

RE: Washington State Military Department
U.S. Department of Homeland Security
FFY20 Operation Stonegarden Program (OPSG) Contract Number E21-199

Enclosed for your review and signature are two (2) original grant agreements between Whatcom County Sheriff's Office and the Washington State Military Department for FFY20 Operation Stonegarden Program (OPSG), Grant Agreement Number E21-199

• **Background and Purpose**

The Whatcom County Sheriff's Office was awarded \$405,600.00 from the U.S. Department of Homeland Security (DHS), Operation Stonegarden Program (OPSG) for Fiscal Year 2020. This grant flows from DHS through the Washington State Military Department to Whatcom County. This is the thirteenth year that Whatcom County has received an Operation Stonegarden award.

The OPSG Grant Program supports enhanced cooperation and coordination among local, Tribal, territorial, State, and Federal law enforcement agencies in a joint mission to secure the borders of the United States along routes of ingress, to include travel corridors along the Canadian and international water borders.

Active participants include the Whatcom County Sheriff's Office, U.S. Border Patrol Blaine Sector, the Blaine, Everson, Ferndale, Lynden, and Sumas Police Departments, and Washington Department of Fish & Wildlife.

Participating agencies will not enforce Title 8 (U.S. Immigration Law).

This funding will be used for operational overtime and related mileage/fuel costs and equipment purchases which were pre-approved during the application process.

• **Funding Amount and Source**

\$405,600.00 from WA St. Military Department, Grant Agreement #E21-199. Funds originate from the U.S. Department of Homeland Security, FFY20 Operation Stonegarden Program, Federal Funding Source Agreement #EMW-2020-SS-00080, CFDA#97.067-20HSGP (OPSG).

• **Differences from Previous Contract**

An increase in funding of \$4,875.00 from previous fiscal year grant.

Please contact Undersheriff Doug Chadwick at extension 6618 if you have any questions regarding the terms of this agreement.

**WHATCOM COUNTY CONTRACT
INFORMATION SHEET**

Whatcom County Contract No. _____

Originating Department:	Sheriff's Office
Division/Program: <i>(i.e. Dept. Division and Program)</i>	35 Sheriff's Office / 3520 Bureau of LE & Investigations / 352096 Homeland Security
Contract or Grant Administrator:	Doug Chadwick , Undersheriff
Contractor's / Agency Name:	Washington State Military Department
Is this a New Contract? If not, is this an Amendment or Renewal to an Existing Contract? Yes <input type="radio"/> No <input checked="" type="radio"/> Yes <input checked="" type="radio"/> No <input type="radio"/> If Amendment or Renewal, (per WCC 3.08.100 (a)) Original Contract #: _____	
Does contract require Council Approval? Yes <input checked="" type="radio"/> No <input type="radio"/> If No, include WCC: _____ Already approved? Council Approved Date: _____ (Exclusions see: Whatcom County Codes 3.06.010, 3.08.090 and 3.08.100)	
Is this a grant agreement? Yes <input checked="" type="radio"/> No <input type="radio"/> If yes, grantor agency contract number(s): <u>E21-199</u> CFDA#: <u>97.067-20HSGP (OSPG)</u>	
Is this contract grant funded? Yes <input checked="" type="radio"/> No <input type="radio"/> If yes, Whatcom County grant contract number(s): _____	
Is this contract the result of a RFP or Bid process? Contract _____ Yes <input type="radio"/> No <input checked="" type="radio"/> If yes, RFP and Bid number(s): _____ Cost Center: <u>1003521001</u>	
Is this agreement excluded from E-Verify? No <input type="radio"/> Yes <input checked="" type="radio"/> If no, include Attachment D Contractor Declaration form.	
If YES, indicate exclusion(s) below: <input type="checkbox"/> Professional services agreement for certified/licensed professional. <input type="checkbox"/> Goods and services provided due to an emergency <input type="checkbox"/> Contract work is for less than \$100,000. <input type="checkbox"/> Contract for Commercial off the shelf items (COTS). <input type="checkbox"/> Contract work is for less than 120 days. <input type="checkbox"/> Work related subcontract less than \$25,000. <input checked="" type="checkbox"/> Interlocal Agreement (between Governments). <input type="checkbox"/> Public Works - Local Agency/Federally Funded FHWA.	
Contract Amount:(sum of original contract amount and any prior amendments): \$ <u>405,600.00</u> This Amendment Amount: \$ _____ Total Amended Amount: \$ <u>405,600.00</u>	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: Grant agreement supports enhanced cooperation and coordination among local, Tribal, territorial, State, and Federal law enforcement agencies in a joint mission to secure the international borders of the United States. Funding provided by the U.S. Department of Homeland Security, Operation Stonegarden Program for Fiscal Year 2020.	
Term of Contract: <u>9/1/2020</u> Expiration Date: <u>3/31/2023</u>	

Contract Routing:	1. Prepared by: <u>D.Duling</u> Date: <u>3/31/21</u> 2. Attorney signoff: <u>Approved via email Bw/102</u> Date: <u>3/31/21</u> 3. AS Finance reviewed: <u>Approved via email BB/D</u> Date: <u>3/31/21</u> 4. IT reviewed (if IT related): _____ Date: _____ 5. Contractor signed: _____ Date: _____ 6. Submitted to Exec.: _____ Date: _____ 7. Council approved (if necessary): _____ Date: _____ 8. Executive signed: _____ Date: _____ 9. Original to Council: _____ Date: _____
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Donna Duling

From: Brad Bennett
Sent: Wednesday, March 31, 2021 10:43 AM
To: Donna Duling
Subject: RE: 20OPSG WCSO Grant Agreement

Looks fine to me.

From: Donna Duling
Sent: Wednesday, March 31, 2021 10:11 AM
To: Brad Bennett <BBennett@co.whatcom.wa.us>; Brandon Waldron <BWaldron@co.whatcom.wa.us>
Subject: 20OPSG WCSO Grant Agreement
Importance: High

Brad, Brandon,

Could you please review the attached agreement: WA State Military – Operation Stonegarden FY2020

Please let me know if you approve or if any revisions need to be made.

Thank you
Donna



Donna Duling
Financial Accountant
Whatcom County Sheriff's Office
311 Grand Ave
Bellingham, WA 98225
360-778-6611

Donna Duling

From: Brandon Waldron
Sent: Wednesday, March 31, 2021 11:10 AM
To: Donna Duling; Brad Bennett
Subject: RE: 20OPSG WCSO Grant Agreement

Donna,

Looks good.

From: Donna Duling
Sent: Wednesday, March 31, 2021 10:11 AM
To: Brad Bennett <BBennett@co.whatcom.wa.us>; Brandon Waldron <BWaldron@co.whatcom.wa.us>
Subject: 20OPSG WCSO Grant Agreement
Importance: High

Brad, Brandon,

Could you please review the attached agreement: WA State Military – Operation Stonegarden FY2020

Please let me know if you approve or if any revisions need to be made.

Thank you
Donna



Donna Duling
Financial Accountant
Whatcom County Sheriff's Office
311 Grand Ave
Bellingham, WA 98225
360-778-6611

**Washington State Military Department
HOMELAND SECURITY GRANT PROGRAM AGREEMENT FACE SHEET**

1. Subrecipient Name and Address: Whatcom County Sheriff's Office 311 Grand Avenue Bellingham, WA 98225-4048		2. Grant Agreement Amount: \$405,600		3. Grant Agreement Number: E21-199	
4. Subrecipient Contact, phone/email: Doug Chadwick, 360-778-6618 dchadwic@co.whatcom.wa.us		5. Grant Agreement Start Date: September 1, 2020		6. Grant Agreement End Date: March 31, 2023	
7. Department Contact, phone/email: Zoie Choate, 253-512-7461 zoie.choate@mil.wa.gov		8. Data Universal Numbering System (DUNS): 060044641		9. UBI # (state revenue): 600-358-208	
10. Funding Authority: Washington State Military Department (the Department) and the U.S. Department of Homeland Security (DHS)					
11. Federal Funding Identification #: EMW-2020-SS-00080		12. Federal Award Date: 08/25/2020	13. Assistance Listings # (formerly CFDA) # & Title: 97.067 - 20HSGP (OPSG)		
14. Total Federal Award Amount: \$15,657,838.00		15. Program Index # & OBJ/SUB-OBJ: 703GA, 703GB, 703GF, 703GZ		16. EIN 91-6001383	
17. Service Districts: BY LEGISLATIVE DISTRICTS: 40,42 BY CONGRESSIONAL DISTRICTS: 1,2		18. Service Area by County(ies): Whatcom		19. Women/Minority-Owned, State Certified: <input checked="" type="checkbox"/> N/A <input type="checkbox"/> NO <input type="checkbox"/> YES, OMWBE # _____	
20. Agreement Classification <input type="checkbox"/> Personal Services <input type="checkbox"/> Client Services <input checked="" type="checkbox"/> Public/Local Gov't <input type="checkbox"/> Research/Development <input type="checkbox"/> A/E <input type="checkbox"/> Other _____			21. Contract Type (check all that apply): <input type="checkbox"/> Contract <input checked="" type="checkbox"/> Grant <input checked="" type="checkbox"/> Agreement <input type="checkbox"/> Intergovernmental (RCW 39.34) <input type="checkbox"/> Interagency		
22. Subrecipient Selection Process: <input checked="" type="checkbox"/> "To all who apply & qualify" <input type="checkbox"/> Competitive Bidding <input type="checkbox"/> Sole Source <input type="checkbox"/> A/E RCW <input type="checkbox"/> N/A <input type="checkbox"/> Filed w/OFM? <input type="checkbox"/> Advertised? <input type="checkbox"/> YES <input type="checkbox"/> NO			23. Subrecipient Type (check all that apply) <input type="checkbox"/> Private Organization/Individual <input type="checkbox"/> For-Profit <input checked="" type="checkbox"/> Public Organization/Jurisdiction <input type="checkbox"/> Non-Profit <input type="checkbox"/> CONTRACTOR <input checked="" type="checkbox"/> SUBRECIPIENT <input type="checkbox"/> OTHER		
24. PURPOSE & DESCRIPTION: The objective of the Federal Fiscal Year (FFY) 2020 Homeland Security Grant Program (20HSGP) is to fund state, local, tribal, and territorial efforts to prevent terrorism and prepare the nation for threats and hazards that pose the greatest risk to the security of the United States. 20HSGP provides funding to implement investments that build, sustain, and deliver the core capabilities essential to achieving the National Preparedness Goal of a secure and resilient nation. 20HSGP supports core capabilities across the five mission areas of prevention, protection, mitigation, response, and recovery based on allowable costs. HSGP is comprised of three interconnected grant programs: State Homeland Security Program (SHSP), Urban Areas Security Initiative (UASI), and Operation Stonegarden (OPSG). Together, these grant programs fund a range of preparedness activities, including planning, organization, equipment purchase, training, exercises, and management and administration. The Department is the Recipient and Pass-through Entity of the 20HSGP DHS Award Letter for Grant No. EMW-2020-SS-00080, which is incorporated in and attached hereto as Attachment C and has made a subaward of funds to the Subrecipient pursuant to this Agreement. The Subrecipient is accountable to the Department for use of Federal award funds provided under this Agreement.					
IN WITNESS WHEREOF, the Department and Subrecipient acknowledge and accept the terms of this Agreement, including all referenced attachments which are hereby incorporated, and have executed this Agreement as of the date below. This Agreement Face Sheet; Special Terms & Conditions (Attachment A); General Terms and Conditions (Attachment B); DHS Award Letter (Attachment C), Work Plan (Attachment D), Budget (Attachment E), Timeline (Attachment F); and all other documents, and attachments expressly referenced and incorporated herein contain all the terms and conditions agreed upon by the parties and govern the rights and obligations of the parties to this Agreement. No other understandings, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or to bind any of the parties.					
In the event of an inconsistency in this Agreement, unless otherwise provided herein, the inconsistency shall be resolved by giving precedence in the following order: 1. Applicable federal and state statutes and regulations 2. DHS/FEMA Award and program documents 3. Work Plan, Timeline, and Budget 4. Special Terms and Conditions 5. General Terms and Conditions, and, 6. Other provisions of the Agreement incorporated by reference.					
WHEREAS, the parties have executed this Agreement on the day and year last specified below. FOR THE DEPARTMENT:			FOR THE SUBRECIPIENT:		
_____ Signature Regan Anne Hesse, Chief Financial Officer Washington State Military Department Date			_____ Signature Satpal Singh Sidhu, County Executive Whatcom County Date		
BOILERPLATE APPROVED TO FORM: Dawn C. Cortez Assistant Attorney General (08/11/2020)			_____ Signature Bill Elfo, Sheriff Whatcom County Date		
			APPROVED AS TO FORM (if applicable): <i>Approved via email Bus/POD 3/31/21</i> Applicant's Legal Review Date		

SPECIAL TERMS AND CONDITIONS**ARTICLE I. KEY PERSONNEL**

The individuals listed below shall be considered key personnel for point of contact under this Agreement. Any substitution of key personnel by either party shall be made by written notification to the current key personnel.

SUBRECIPIENT		DEPARTMENT	
Name	Doug Chadwick	Name	Zoie Choate
Title	Undersheriff	Title	Program Coordinator
E-Mail	dchadwic@co.whatcom.wa.us	E-Mail	zoie.choate@mil.wa.gov
Phone	360-778-6618	Phone	253-512-7461
Name	Dawn Pierce	Name	Gail Cram
Title	Sr. Administrative Assistant	Title	Program Manager
E-Mail	dpierce@co.whatcom.wa.us	E-Mail	gail.cram@mil.wa.gov
Phone	360-778-6606	Phone	253-512-7472
Name	Donna Duling	Name	
Title	Financial Accountant	Title	
E-Mail	dduling@co.whatcom.wa.us	E-Mail	
Phone	360-778-6611	Phone	

ARTICLE II. ADMINISTRATIVE AND/OR FINANCIAL REQUIREMENTS

The Subrecipient shall comply with all applicable state and federal laws, rules, regulations, requirements and program guidance identified or referenced in this Agreement and the informational documents published by DHS/FEMA applicable to the 20HSGP Program, including, but not limited to, all criteria, restrictions, and requirements of "*The Department of Homeland Security (DHS) Notice of Funding Opportunity (NOFO) Fiscal Year (FY) 2020 Homeland Security Grant Program (HSGP)*" document, the *FEMA Preparedness Grants Manual* document, the *DHS Award Letter for Grant No. EMW-2020-SS-00080*, and the federal regulations commonly applicable to DHS/FEMA grants, all of which are incorporated herein by reference. The *DHS Award Letter* is incorporated in this Agreement as Attachment C.

The Subrecipient acknowledges that since this Agreement involves federal award funding, the period of performance may begin prior to the availability of appropriated federal funds. The Subrecipient agrees that it will not hold the Department, the state of Washington, or the United States liable for any damages, claim for reimbursement, or any type of payment whatsoever for services performed under this Agreement prior to distribution of appropriated federal funds, or if federal funds are not appropriated or in a particular amount.

A. STATE AND FEDERAL REQUIREMENTS FOR DHS/FEMA PREPAREDNESS GRANTS:

The following requirements apply to all DHS/FEMA Preparedness Grants administered by the Department.

1. SUBAWARDS & CONTRACTS BY SUBRECIPIENTS

- a. If the Subrecipient also becomes a pass-through entity by making a subaward to a non-federal entity as its subrecipient, the Subrecipient must make a case-by-case determination whether each agreement it makes for the disbursement of 20HSGP funds received under this Agreement casts the party receiving the funds in the role of a subrecipient or contractor in accordance with 2 CFR 200.330.
 - i. The Subrecipient must comply with all federal laws and regulations applicable to pass-through entities of 20HSGP funds, including, but not limited to, those contained in 2 CFR 200.
 - ii. The Subrecipient shall require its subrecipient(s) to comply with all applicable state and federal laws, rules, regulations, requirements and program guidance identified or referenced in this Agreement and the informational documents published by DHS/FEMA applicable to the 20HSGP Program, including, but not limited to, all criteria, restrictions, and requirements of "*The Department of Homeland Security (DHS) Notice of Funding Opportunity (NOFO) Fiscal Year (FY) 2020 Homeland Security Grant Program (HSGP)*" document, the *FEMA Preparedness Grants Manual* document, the *DHS Award Letter for Grant No. EMW-2020-*

SS-00080 in Attachment C, and the federal regulations commonly applicable to DHS/FEMA grants.

- iii. The Subrecipient shall be responsible to the Department for ensuring that all 20HSGP federal award funds provided to its subrecipients are used in accordance with applicable federal and state statutes and regulations, and the terms and conditions of the federal award set forth in Attachment C of this Agreement.

2. BUDGET, REIMBURSEMENT, AND TIMELINE

- a. Within the total Grant Agreement Amount (Agreement Face Sheet, Box #2), travel, subcontracts, salaries, benefits, printing, equipment, and other goods and services or other budget categories will be reimbursed on an actual cost basis upon completion unless otherwise provided in this Agreement.
- b. The maximum amount of all reimbursement requests permitted to be submitted under this Agreement, including the final reimbursement request, is limited to and shall not exceed the total Grant Agreement Amount.
- c. If the Subrecipient chooses to include indirect costs within the Budget (Attachment E), an indirect cost rate agreement negotiated between the federal cognizant agency for indirect costs and the Subrecipient establishing approved indirect cost rate(s) as described in 2 CFR 200.414 and Appendix VII to 2 CFR 200 must be submitted to the Department Key Personnel. However, under 2 CFR 200.414(f), if the Subrecipient has never received a negotiated indirect cost rate agreement establishing federally negotiated rate(s), the Subrecipient may negotiate a rate with the Department or charge a de minimis rate of ten percent (10%) of modified total direct costs. The Subrecipient's actual indirect cost rate may vary from the approved rate but must not exceed the approved negotiated indirect cost rate percentage for the time period of the expenditures. If a Subrecipient chooses to charge the ten percent (10%) de minimis rate, but did not charge indirect costs to previous subawards, a request for approval to charge indirect costs must be submitted to the Department's Key Personnel for approval with an explanation for the change.
- d. For travel costs, the Subrecipient shall comply with 2 CFR 200.474 and should consult their internal policies, state rates set pursuant to RCW 43.03.050 and RCW 43.03.060 as now existing or amended, and federal maximum rates set forth at <http://www.gsa.gov>, and follow the most restrictive. If travel costs exceed set state or federal limits, travel costs shall not be reimbursed without prior written approval by Department Key Personnel.
- e. Reimbursement requests will include a properly completed State A-19 Invoice Form and Reimbursement Spreadsheet (in the format provided by the Department) detailing the expenditures for which reimbursement is sought. Reimbursement requests must be submitted to Reimbursements@mil.wa.gov no later than the due dates listed within the Timeline (Attachment F).

Reimbursement request totals should be commensurate to the time spent processing by the Subrecipient and the Department.

- f. Receipts and/or backup documentation for any approved items that are authorized under this Agreement must be maintained by the Subrecipient consistent with record retention requirements of this Agreement and be made available upon request by the Department, and federal, state, and local auditors.
- g. The Subrecipient must request **prior** written approval from Department Key Personnel to waive or extend a due date in the Timeline (Attachment F) and, once approved, submit those costs on the next scheduled reimbursement due date contained in the Timeline. Waiving or missing deadlines serves as an indicator for assessing an agency's level of risk of noncompliance with the regulations, requirements, and the terms and conditions of the Agreement and may increase required monitoring activities. Any request for a waiver or extension of a due date in the Timeline will be treated as a request for Amendment of the Agreement. This request must be submitted to the Department Key Personnel sufficiently in advance of the due date to provide adequate time for Department review and consideration and may be granted or denied within the Department's sole discretion.

- h. All work under this Agreement must end on or before the Grant Agreement End Date (Agreement Face Sheet, Box #6), and the final reimbursement request must be submitted to the Department within forty-five (45) days after the Grant Agreement End Date, except as otherwise authorized by either (1) written amendment of this Agreement or (2) written notification from the Department to the Subrecipient to provide additional time for completion of the Subrecipient's subproject(s).
- i. No costs for purchases of equipment/supplies will be reimbursed until the related equipment/supplies have been received by the Subrecipient, its contractor, or any non-federal entity to which the Subrecipient makes a subaward and is invoiced by the vendor.
- j. Failure to submit timely, accurate, and complete reports and reimbursement requests as required by this Agreement (including, but not limited to, those reports in the Timeline [Attachment F]) will prohibit the Subrecipient from being reimbursed until such reports are submitted and the Department has had reasonable time to conduct its review.
- k. Final reimbursement requests will not be approved for payment until the Subrecipient is current with all reporting requirements contained in this Agreement.
- l. For SHSP and UASI Subrecipients, a written amendment will be required if the Subrecipient expects cumulative transfers among subproject totals, as identified in the Budget (Attachment E), to exceed ten percent (10%) of the Grant Agreement Amount. If a Subrecipient has only one subproject, cumulative transfers among solution areas within the subproject that exceed ten percent (10%) of the Grant Agreement Amount shall require an amendment to this Agreement.
- m. For OPSG Subrecipients, any deviations from the approved budget categories will require additional federal approvals and a written amendment.
- n. Subrecipients shall only use federal award funds under this Agreement to supplement existing funds and will not use them to replace (supplant) non-federal funds that have been budgeted for the same purpose. The Subrecipient may be required to demonstrate and document that the reduction in non-federal resources occurred for reasons other than the receipt or expected receipt of federal funds.

3. REPORTING

- a. With each reimbursement request, the Subrecipient shall report how the expenditures, for which reimbursement is sought, relate to the Work Plan (Attachments D-1, D-2, D-3), activities in the format provided by the Department.
- b. With the final reimbursement request, the Subrecipient shall submit to the Department Key Personnel a final report describing all completed activities under this Agreement.
- c. The Subrecipient shall comply with the Federal Funding Accountability and Transparency Act (FFATA) and related OMB Guidance consistent with Public Law 109-282 as amended by section 6202(a) of Public Law 110-252 (see 31 U.S.C. 6101 note) and complete and return to the *Department an Audit Certification/FFATA Form*. This form is required to be completed once per calendar year, per Subrecipient, and not per agreement. The Department's Contracts Office will request the Subrecipient submit an updated form at the beginning of each calendar year in which the Subrecipient has an active agreement.
- d. SHSP Subrecipients must participate in the State's Stakeholder Preparedness Review (SPR), the State's Threat and Hazard Identification and Risk Assessment (THIRA), core capabilities assessments, and data calls.
- e. UASI Subrecipients must participate in the UASI SPR and THIRA process.

4. EQUIPMENT AND SUPPLY MANAGEMENT

- a. The Subrecipient and any non-federal entity to which the Subrecipient makes a subaward shall comply with 2 CFR 200.318 – 200.326 when procuring any equipment or supplies under this Agreement, 2 CFR 200.313 for management of equipment, and 2 CFR 200.314 for management of supplies, to include, but not limited to:
 - i. Upon successful completion of the terms of this Agreement, all equipment and supplies purchased through this Agreement will be owned by the Subrecipient, or a recognized non-federal entity to which the Subrecipient has made a subaward, for which a contract,

- subrecipient grant agreement, or other means of legal transfer of ownership is in place.
- ii. All equipment, and supplies as applicable, purchased under this Agreement will be recorded and maintained in the Subrecipient's inventory system.
 - iii. Inventory system records shall include:
 - A. Description of the property;
 - B. Manufacturer's serial number, model number, or other identification number;
 - C. Funding source for the equipment, including the Federal Award Identification Number (FAIN);
 - D. Assistance Listings Number (formerly CFDA number);
 - E. Who holds the title;
 - F. Acquisition date;
 - G. Cost of the equipment and the percentage of federal participation in the cost;
 - H. Location, use and condition of the equipment at the date the information was reported;
 - I. Disposition data including the date of disposal and sale price of the property.
 - iv. The Subrecipient shall take a physical inventory of the equipment, and supplies as applicable, and reconcile the results with the property records at least once every two years. Any differences between quantities determined by the physical inspection and those shown in the records shall be investigated by the Subrecipient to determine the cause of the difference. The Subrecipient shall, in connection with the inventory, verify the existence, current utilization, and continued need for the equipment.
 - v. The Subrecipient shall be responsible for any and all operational and maintenance expenses and for the safe operation of their equipment and supplies including all questions of liability. The Subrecipient shall develop appropriate maintenance schedules and procedures to ensure the equipment, and supplies as applicable, are well-maintained and kept in good operating condition.
 - vi. The Subrecipient shall develop a control system to ensure adequate safeguards to prevent loss, damage, and theft of the property. Any loss, damage, or theft shall be investigated, and a report generated and sent to the Department's Key Personnel.
 - vii. The Subrecipient must obtain and maintain all necessary certifications and licenses for the equipment.
 - viii. If the Subrecipient is authorized or required to sell the property, proper sales procedures must be established and followed to ensure the highest possible return. For disposition, if upon termination or at the Grant Agreement End Date, when original or replacement supplies or equipment acquired under a federal award are no longer needed for the original project or program or for other activities currently or previously supported by a federal awarding agency, the Subrecipient must comply with the following procedures:
 - A. For Supplies: If there is a residual inventory of unused supplies exceeding \$5,000 in total aggregate value upon termination or completion of the project or program and the supplies are not needed for any other federal award, the Subrecipient must retain the supplies for use on other activities or sell them, but must, in either case, compensate the federal government for its share. The amount of compensation must be computed in the same manner as for equipment.
 - B. For Equipment:
 - 1) Items with a current per-unit fair-market value of five thousand dollars (\$5,000) or less may be retained, sold, or otherwise disposed of with no further obligation to the federal awarding agency.
 - 2) Items with a current per-unit fair-market value in excess of five thousand dollars (\$5,000) may be retained or sold. The Subrecipient shall compensate the federal awarding agency in accordance with the requirements of 2 CFR 200.313 (e) (2).

- ix. Records for equipment shall be retained by the Subrecipient for a period of six (6) years from the date of the disposition, replacement, or transfer. If any litigation, claim, or audit is started before the expiration of the six- (6-) year period, the records shall be retained by the Subrecipient until all litigation, claims, or audit findings involving the records have been resolved.
- b. The Subrecipient shall comply with the Department's Purchase Review Process, which is incorporated by reference and made part of this Agreement. No reimbursement will be provided unless the appropriate approval has been received.
- c. Allowable categories for 20HSGP are listed on the Authorized Equipment List (AEL) located on the FEMA website at <http://www.fema.gov/authorized-equipment-list>. It is important that the Subrecipient and any non-federal entity to which the Subrecipient makes a subaward regard the AEL as an authorized purchasing list identifying items allowed under the specific grant program and includes items that may not be categorized as equipment according to the federal, state, local, and tribal definitions of equipment. The Subrecipient is solely responsible for ensuring and documenting purchased items under this Agreement are authorized as allowed items by the AEL at time of purchase.

If the item is not identified on the AEL as allowable under HSGP, the Subrecipient must contact the Department Key Personnel for assistance in seeking FEMA approval prior to acquisition.

- d. Unless expressly provided otherwise, all equipment must meet all mandatory regulatory and/or DHS/FEMA adopted standards to be eligible for purchase using federal award funds.
- e. For OPSG Subrecipients, equipment purchased with DHS federal award funds is to be marked prominently with "Purchased with DHS funds for Operation Stonegarden Use" when practicable.
- f. The Subrecipient must pass on equipment and supply management requirements that meet or exceed the requirements outlined above to any non-federal entity to which the Subrecipient makes a subaward of federal award funds under this Agreement.

5. ENVIRONMENTAL AND HISTORICAL PRESERVATION

- a. The Subrecipient shall ensure full compliance with the DHS/FEMA Environmental Planning and Historic Preservation (EHP) Program. EHP program information can be found at <https://www.fema.gov/environmental-planning-and-historic-preservation-compliance> all of which are incorporated in and made a part of this Agreement.
- b. Projects that have historical impacts or the potential to impact the environment, including, **but not limited to**, construction of communication towers; modification or renovation of existing buildings, structures and facilities; or new construction, including replacement of facilities, must participate in the DHS/FEMA EHP review process prior to project initiation. Modification of existing buildings, including minimally invasive improvements such as attaching monitors to interior walls, and training or exercises occurring outside in areas not considered previously disturbed also require a DHS/FEMA EHP review before project initiation.
- c. The EHP review process involves the submission of a detailed project description that includes the entire scope of work, including any alternatives that may be under consideration, along with supporting documentation so FEMA may determine whether the proposed project has the potential to impact environmental resources and/or historic properties.
- d. The Subrecipient agrees that, to receive any federal preparedness funding, all EHP compliance requirements outlined in applicable guidance must be met. The EHP review process **must be completed and FEMA approval received by the Subrecipient before** any work is started for which reimbursement will be later requested. Expenditures for projects started before completion of the EHP review process and receipt of approval by the Subrecipient may not be reimbursed.

6. PROCUREMENT

- a. The Subrecipient shall comply with all procurement requirements of 2 CFR Part 200.318 through 200.326 and as specified in the General Terms and Conditions, Attachment B, A.10.
- b. For all sole source contracts expected to exceed \$250,000, the Subrecipient must submit to the Department for pre-procurement review and approval the procurement documents, such as requests for proposals, invitations for bids and independent cost estimates. This requirement must

be passed on to any non-federal entity to which the Subrecipient makes a subaward, at which point the Subrecipient will be responsible for reviewing and approving sole source justifications of any non-federal entity to which the Subrecipient makes a subaward.

7. SUBRECIPIENT MONITORING

- a. The Department will monitor the activities of the Subrecipient from award to closeout. The goal of the Department's monitoring activities will be to ensure that agencies receiving federal pass-through funds are in compliance with this Agreement, federal and state audit requirements, federal grant guidance, and applicable federal and state financial regulations, as well as 2 CFR Part 200 Subpart F.
- b. To document compliance with 2 CFR Part 200 Subpart F requirements, the Subrecipient shall complete and return to the Department an Audit Certification/FFATA form. This form is required to be completed once per calendar year, per Subrecipient, and not per agreement. The Department's Contracts Office will request the Subrecipient submit an updated form at the beginning of each calendar year in which the Subrecipient has an active agreement.
- c. Monitoring activities may include, but are not limited to:
 - i. Review of financial and performance reports;
 - ii. Monitoring and documenting the completion of Agreement deliverables;
 - iii. Documentation of phone calls, meetings (e.g. agendas, sign-in sheets, meeting minutes), e-mails, and correspondence;
 - iv. Review of reimbursement requests and supporting documentation to ensure allowability and consistency with Agreement Work Plan (Attachments D-1, D-2, D-3), Budget (Attachment E), and federal requirements;
 - v. Observation and documentation of Agreement-related activities, such as exercises, training, events, and equipment demonstrations; and
 - vi. On-site visits to review equipment records and inventories, to verify source documentation for reimbursement requests and performance reports, and to verify completion of deliverables.
- d. The Subrecipient is required to meet or exceed the monitoring activities, as outlined above, for any non-federal entity to which the Subrecipient makes a subaward as a pass-through entity under this Agreement.
- e. Compliance will be monitored throughout the performance period to assess risk. Concerns will be addressed through a corrective action plan.

8. LIMITED ENGLISH PROFICIENCY (CIVIL RIGHTS ACT OF 1964 TITLE VI)

The Subrecipient must comply with the Title VI of the Civil Rights Act of 1964 (Title VI) prohibition against discrimination on the basis of national origin, which requires that Subrecipients of federal financial assistance take reasonable steps to provide meaningful access to persons with limited English proficiency (LEP) to their programs and services. Providing meaningful access for persons with LEP may entail providing language assistance services, including oral interpretation and written translation. Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency (August 11, 2000), requires federal agencies to issue guidance to recipients, assisting such organizations and entities in understanding their language access obligations. DHS published the required recipient guidance in April 2011, DHS Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition against National Origin Discrimination Affecting Limited English Proficient Persons, 76 Fed. Reg. 21755-21768, (April 18, 2011). The Guidance provides helpful information such as how a recipient can determine the extent of its obligation to provide language services, selecting language services, and elements of an effective plan on language assistance for LEP persons. For additional assistance and information regarding language access obligations, please refer to the DHS Recipient Guidance at <https://www.dhs.gov/guidance-published-help-department-supported-organizations-provide-meaningful-access-people-limited> and additional resources on <http://www.lep.gov>.

9. NIMS COMPLIANCE

- a. The National Incident Management System (NIMS) identifies concepts and principles that answer how to manage emergencies from preparedness to recovery regardless of their cause, size, location, or complexity. NIMS provides a consistent, nationwide approach and vocabulary for multiple agencies or jurisdictions to work together to build, sustain, and deliver the core capabilities needed to achieve a secure and resilient nation.
- b. Consistent implementation of NIMS provides a solid foundation across jurisdictions and disciplines to ensure effective and integrated preparedness, planning, and response. NIMS empowers the components of the National Preparedness System, a requirement of Presidential Policy Directive 8, to guide activities within the public and private sector and describes the planning, organizational activities, equipping, training, and exercising needed to build and sustain the core capabilities in support of the National Preparedness Goal.
- c. In order to receive FY 2020 federal preparedness funding, to include 20HSGP, the Subrecipient will ensure all NIMS objectives have been initiated and/or are in progress toward completion. NIMS Implementation Objectives are located at <https://www.fema.gov/media-library/assets/document/130743>.

B. HSGP SPECIFIC REQUIREMENTS

1. The Subrecipient must use HSGP funds only to perform tasks as described in the Work Plan (Attachments D-1, D-2, D-3), as approved by the Department, and in compliance with this Agreement.
 - a. SHSP-funded projects must assist state, local, tribal, and territorial efforts to build, sustain, and deliver the capabilities necessary to prevent, prepare for, protect against, and respond to acts of terrorism.
 - b. UASI-funded projects must assist high-threat, high-density Urban Areas' efforts to build, sustain, and deliver the capabilities necessary to prevent, prepare for, protect against, and respond to acts of terrorism.
 - c. OPSG-funded projects must enhance cooperation and coordination among Customs and Border Protection, United States Border Patrol, and federal, state, local, tribal, and territorial law enforcement agencies to support joint efforts to secure the United States' borders along routes of ingress/egress to and from international borders, to include travel corridors in states bordering Mexico and Canada as well as states and territories with international water borders. State, local, tribal, and territorial (SLTT) law enforcement agencies utilize their inherent law enforcement authorities to support the border security mission and do not receive any additional authority as a result of participation in OPSG.
 - d. State agencies, including law enforcement, must comply with RCW 43.17.425 and may not use agency funds (including this grant), facilities, property, equipment, or personnel, to investigate, enforce, cooperate with, or assist in the investigation or enforcement of any federal registration or surveillance programs or any other laws, rules, or policies that target Washington residents solely on the basis of race, religion, immigration, or citizenship status, or national or ethnic origin, except as provided in RCW 43.17.425 (3).
2. The Budget (Attachment E) may include the following caps and thresholds:
 - a. If funds are allotted for Management and Administration (M&A), such expenditures must be related to administration of the grant. The maximum percentage of the Grant Agreement Amount that may be used for M&A costs when allocated under this Agreement shall not exceed five percent (5%) but may be less.
 - b. At least twenty-five percent (25%) of the combined HSGP award allocated under SHSP and UASI must be dedicated to law enforcement terrorism prevention activities (LETPA). To meet this requirement, the Subrecipient has agreed, at a minimum, to meet the LETPA percentage indicated in the Budget. If the Subrecipient anticipates spending less than the indicated amount, a budget amendment is required.

- c. The maximum percentage of the Grant Agreement Amount that may be used for personnel expenses under this Agreement is identified in the Budget. If the Subrecipient anticipates spending more on personnel costs, an amendment is required. Additional approval steps may also be required before the personnel percentage can be increased.
3. If funding is allocated to emergency communications, the Subrecipient must ensure that all projects comply with [SAFECOM Guidance on Emergency Communications](#) Grants ensuring the investments are compatible, interoperable, resilient, and support national goals and objectives for improving emergency communications.

Prohibitions on Expending Grant or Cooperative Agreement Funds for Certain Telecommunications and Video Surveillance Services or Equipment: Effective August 13, 2020, DHS/FEMA recipients and subrecipients may not use grant funds under the programs covered by this Manual and provided in FY 2020 or previous years to:

- a. Procure or obtain, extend or renew a contract to procure or obtain, or enter into a contract to procure or obtain any equipment, system, or service that uses “covered telecommunications equipment or services” as a substantial or essential component of any system, or as critical technology of any system; or
- b. Enter into contracts or extend or renew contracts with entities that use “covered telecommunications equipment or services” as a substantial or essential component of any system, or as critical technology as part of any system.

This prohibition regarding certain telecommunications and video surveillance services or equipment is mandated by section 889 of the *John S. McCain National Defense Authorization Act for Fiscal Year 2019 (FY 2019 NDAA)*, *Pub. L. No. 115-232 (2018)*. Recipients and subrecipients may use DHS/FEMA grant funding to procure replacement equipment and services impacted by this prohibition, provided the costs are otherwise consistent with the requirements of this Manual, applicable appendix to this Manual, and applicable NOFO. DHS/FEMA will publish additional guidance in a subsequent Information Bulletin or similar notice.

Per section 889(f)(2)-(3) of the FY 2019 NDAA, covered telecommunications equipment or services means:

- a. Telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation, (or any subsidiary or affiliate of such entities);
 - b. For the purpose of public safety, security of Government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities);
 - c. Telecommunications or video surveillance services provided by such entities or using such equipment; or
 - d. Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the People’s Republic of China.
4. If funding is allocated to a Fusion Center investment, the Subrecipient must ensure all Fusion Center analytical personnel demonstrate qualifications that meet or exceed competencies identified in the Common Competencies for state, local, and tribal Intelligence Analysts, which outlines the minimum categories of training needed for intelligence analysts. All training to ensure baseline proficiency in intelligence analysis and production must be completed within six (6) months of hiring unless the analyst has previously served as an intelligence analyst for a minimum of two (2) years. Proof of satisfaction of this requirement must be accessible to the Department Key Personnel as applicable.
 5. If funding is allocated to non-DHS FEMA training, the Subrecipient must request prior approval from the Department Key Personnel before attending the training. The Department will coordinate approval with the State Training Point of Contact. Pursuant to DHS/FEMA Grant Programs Directorate Policy [FP 207-008-064-1](#), the training must fall within the FEMA mission scope and be

included in the Subrecipient's Emergency Operations Plan. This requirement only applies to training courses and does not include attendance at conferences. Furthermore, additional federal approvals are required for courses that relate to countering violent extremism prior to attendance.

6. For SHSP and UASI, Subrecipients are required to complete the annual Nationwide Cybersecurity Review (NCSR) <https://www.cisecurity.org/ms-isac/services/ncsr> to benchmark and measure progress of improvement in their cybersecurity posture.
7. In support of efforts to enhance capabilities for detecting, deterring, disrupting, and preventing acts of terrorism and other catastrophic events, operational overtime costs are allowable for increased protective security measures at critical infrastructure sites or other high-risk locations and to enhance public safety during mass gatherings and high-profile events. However, except for an elevated National Terrorism Advisory System alert, **prior** written approval is required before SHSP and UASI funds may be used for operational overtime. Requests must be submitted to the Department Key Personnel in advance of the expenditure to ensure all additional approval steps can be met.
8. Subrecipients should document their preparedness priorities and use them to deploy a schedule of preparedness events in a multi-year Training and Exercise Plan (TEP) or an Integrated Preparedness Plan (IPP). Subrecipients are encouraged to participate in the State's annual Training and Exercise Planning Workshop (TEPW)/Integrated Preparedness Planning Workshop (IPPW) or may conduct their own local/regional TEPW/IPPW. Information related to TEPs and Training and Exercise Planning Workshops (TEPWs), as well as information about IPPs and Integrated Preparedness Planning Workshops (IPPWs), can be found on the HSEEP website at <https://www.fema.gov/HSEEP> and <https://preptoolkit.fema.gov/>.

C. DHS TERMS AND CONDITIONS

As a subrecipient of 20HSGP program funding, the Subrecipient shall comply with all applicable DHS terms and conditions of the 20HSGP Award Letter and its incorporated documents for DHS Grant No. EMW-2020-SS-00080, which are incorporated in and made a part of this Agreement as Attachment C.

**Washington State Military Department
GENERAL TERMS AND CONDITIONS
Department of Homeland Security (DHS)/
Federal Emergency Management Agency (FEMA)
Grants**

A.1 DEFINITIONS

As used throughout this Agreement, the terms will have the same meaning as defined in 2 CFR 200 Subpart A (which is incorporated herein by reference), except as otherwise set forth below:

- a. **“Agreement”** means this Grant Agreement.
- b. **“Department”** means the Washington Military Department, as a state agency, any division, section, office, unit or other entity of the Department, or any of the officers or other officials lawfully representing that Department. The Department is a recipient of a federal award directly from a federal awarding agency and is the pass-through entity making a subaward to a Subrecipient under this Agreement.
- c. **“Investment”** means the grant application submitted by the Subrecipient describing the project(s) for which federal funding is sought and provided under this this Agreement. Such grant application is hereby incorporated into this Agreement by reference.
- d. **“Monitoring Activities”** means all administrative, financial, or other review activities that are conducted to ensure compliance with all state and federal laws, rules, regulations, authorities and policies.
- e. **“Stakeholders Preparedness Report (SPR)”** The SPR is an annual three-step self-assessment of a community’s capability levels based on the capability targets identified in the THIRA.
- f. **“Subrecipient”** when capitalized is primarily used throughout this Agreement in reference to the non-federal entity identified on the Face Sheet of this Agreement that has received a subaward from the Department. However, the definition of “Subrecipient” is the same as in 2 CFR 200.93 for all other purposes.
- g. **“Threat and Hazard Identification and Risk Assessment (THIRA)”** The THIRA is a three-step risk assessment. The THIRA helps communities understand their risks and determine the level of capability they need in order to address those risks. The outputs from this process lay the foundation for determining a community’s capability gaps during the SPR process.

A.2 ADVANCE PAYMENTS PROHIBITED

The Department shall make no payments in advance or in anticipation of goods or services to be provided under this Agreement. Subrecipient shall not invoice the Department in advance of delivery and invoicing of such goods or services.

A.3 AMENDMENTS AND MODIFICATIONS

The Subrecipient or the Department may request, in writing, an amendment or modification of this Agreement. However, such amendment or modification shall not be binding, take effect or be incorporated herein until made in writing and signed by the authorized representatives of the Department and the Subrecipient. No other understandings or agreements, written or oral, shall be binding on the parties.

The Agreement performance period shall only be extended by (1) written notification of DHS/FEMA approval of the Award performance period, followed up with a mutually agreed written amendment, or (2) written notification from the Department to the Subrecipient to provide additional time for completion of the Subrecipient’s project(s).

A.4 AMERICANS WITH DISABILITIES ACT (ADA) OF 1990, PUBLIC LAW 101-336, 42 U.S.C. 12101 ET SEQ. AND ITS IMPLEMENTING REGULATIONS ALSO REFERRED TO AS THE “ADA” 28 CFR Part 35.

The Subrecipient must comply with the ADA, which provides comprehensive civil rights protection to individuals with disabilities in the areas of employment, public accommodations, state and local government services, and telecommunication.

A.5 ASSURANCES

The Department and Subrecipient agree that all activity pursuant to this Agreement will be in accordance with all the applicable current federal, state and local laws, rules and regulations.

A.6 CERTIFICATION REGARDING DEBARMENT, SUSPENSION, OR INELIGIBILITY

As federal funds are a basis for this Agreement, the Subrecipient certifies that the Subrecipient is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in this Agreement by any federal department or agency.

The Subrecipient shall complete, sign, and return a *Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion* form located at <http://mil.wa.gov/emergency-management-division/grants/requiredgrantforms>. Any such form completed by the Subrecipient for this Agreement shall be incorporated into this Agreement by reference.

Further, the Subrecipient agrees to comply with all applicable federal regulations concerning the federal debarment and suspension system, including 2 CFR Part 180. The Subrecipient certifies that it will ensure that potential contractors or subrecipients or any of their principals are not debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in "covered transactions" by any federal department or agency. "Covered transactions" include procurement contracts for goods or services awarded under a non-procurement transaction (e.g. grant or cooperative agreement) that are expected to equal or exceed \$25,000, and subawards to Subrecipients for any amount. With respect to covered transactions, the Subrecipient may comply with this provision by obtaining a certification statement from the potential contractor or subrecipient or by checking the System for Award Management (<https://sam.gov/SAM/>) maintained by the federal government. The Subrecipient also agrees not to enter into any arrangements or contracts with any party on the Washington State Department of Labor and Industries' "Debarred Contractor List" (<https://secure.lni.wa.gov/debarandstrike/ContractorDebarList.aspx>). The Subrecipient also agrees not to enter into any agreements or contracts for the purchase of goods and services with any party on the Department of Enterprise Services' "Debarred Vendor List" (<http://www.des.wa.gov/services/ContractingPurchasing/Business/Pages/Vendor-Debarment.aspx>).

A.7 CERTIFICATION REGARDING RESTRICTIONS ON LOBBYING

As required by 44 CFR Part 18, the Subrecipient hereby certifies that to the best of its knowledge and belief: (1) no federally appropriated funds have been paid or will be paid by or on behalf of the Subrecipient to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement; (2) that if any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Agreement, grant, loan, or cooperative agreement, the Subrecipient will complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions; (3) and that, as applicable, the Subrecipient will require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all Subrecipients shall certify and disclose accordingly. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into and is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code.

A.8 COMPLIANCE WITH APPLICABLE STATUTES, RULES AND DEPARTMENT POLICIES

The Subrecipient and all its contractors and subrecipients shall comply with, and the Department is not responsible for determining compliance with, any and all applicable federal, state, and local laws, regulations, executive orders, OMB Circulars, and/or policies. This obligation includes, but is not limited to: nondiscrimination laws and/or policies, Energy Policy and Conservation Act (PL 94-163, as amended), the Americans with Disabilities Act (ADA), Age Discrimination Act of 1975, Title VI of the Civil Rights Act of 1964, Civil Rights Act of 1968, the Robert T. Stafford Disaster Relief and Emergency Assistance Act, (PL 93-288, as amended), Ethics in Public Service (RCW 42.52), Covenant Against Contingent Fees (48 CFR Section 52.203-5), Public Records Act (RCW 42.56), Prevailing Wages on Public Works (RCW 39.12), State Environmental Policy Act (RCW 43.21C), Shoreline Management Act of 1971 (RCW 90.58),

State Building Code (RCW 19.27), Energy Related Building Standards (RCW 19.27A), Provisions in Buildings for Aged and Handicapped Persons (RCW 70.92), and safety and health regulations.

In the event of noncompliance or refusal to comply with any applicable law, regulation, executive order, OMB Circular or policy by the Subrecipient, its contractors or subrecipients, the Department may rescind, cancel, or terminate the Agreement in whole or in part in its sole discretion. The Subrecipient is responsible for all costs or liability arising from its failure, and that of its contractors and subrecipients, to comply with applicable laws, regulations, executive orders, OMB Circulars or policies.

A.9 CONFLICT OF INTEREST

No officer or employee of the Department; no member, officer, or employee of the Subrecipient or its designees or agents; no member of the governing body of the jurisdiction in which the project is undertaken or located; and no other official of the Subrecipient who exercises any functions or responsibilities with respect to the project during his or her tenure, shall have any personal or pecuniary gain or interest, direct or indirect, in any contract, subcontract, or the proceeds thereof, for work to be performed in connection with the project assisted under this Agreement.

The Subrecipient shall incorporate, or cause to incorporate, in all such contracts or subawards, a provision prohibiting such interest pursuant to this provision.

A.10 CONTRACTING & PROCUREMENT

a. The Subrecipient shall use a competitive procurement process in the procurement and award of any contracts with contractors or subcontractors that are entered into under the original agreement award. The procurement process followed shall be in accordance with 2 CFR Part 200.318 General procurement standards through 200.326 Contract provisions.

As required by Appendix II to 2 CFR Part 200, all contracts entered into by the Subrecipient under this Agreement must include the following provisions, as applicable:

- 1) Contracts for more than the simplified acquisition threshold currently set at \$250,000, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 U.S.C. 1908, must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.
- 2) All contracts in excess of \$10,000 must address termination for cause and for convenience by the non-federal entity including the manner by which it will be affected and the basis for settlement.
- 3) Equal Employment Opportunity. Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of "federally assisted construction contract" in 41 CFR Part 60-1.3 must include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, "*Equal Employment Opportunity*" (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, "*Amending Executive Order 11246 Relating to Equal Employment Opportunity*," and implementing regulations at 41 CFR part 60, "*Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor*."
- 4) Davis-Bacon Act, as amended (40 U.S.C. 3141-3148). When required by Federal program legislation, all prime construction contracts in excess of \$2,000 awarded by non-federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, "*Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction*"). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-federal entity must report all suspected or reported violations to the federal awarding agency. The contracts must also include a provision for compliance with the Copeland "Anti-Kickback" Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, "*Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or*

Grants from the United States”). The Act provides that each contractor or Subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-federal entity must report all suspected or reported violations to the federal awarding agency.

- 5) Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708). Where applicable, all contracts awarded by the non-federal entity in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.
- 6) Rights to Inventions Made Under a Contract or Agreement. If the federal award meets the definition of “funding agreement” under 37 CFR §401.2 (a) and the recipient or Subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” the recipient or Subrecipient must comply with the requirements of 37 CFR Part 401, “*Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements*,” and any implementing regulations issued by the awarding agency.
- 7) Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended—Contracts and subgrants of amounts in excess of \$150,000 must contain a provision that requires the non-federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).
- 8) Debarment and Suspension (Executive Orders 12549 and 12689)—A contract award (see 2 CFR 180.220) must not be made to parties listed on the government-wide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), “*Debarment and Suspension*.” SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.
- 9) Byrd Anti-Lobbying Amendment (31 U.S.C. 1352)—Contractors that apply or bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-federal funds that takes place in connection with obtaining any federal award. Such disclosures are forwarded from tier to tier up to the non-federal award.
- 10) Procurement of recovered materials -- As required by 2 CFR 200.322, a non-federal entity that is a state agency or agency of a political subdivision of a state and its contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds

\$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

- 11) Notice of federal awarding agency requirements and regulations pertaining to reporting.
 - 12) Federal awarding agency requirements and regulations pertaining to copyrights and rights in data.
 - 13) Access by the Department, the Subrecipient, the federal awarding agency, the Comptroller General of the United States, or any of their duly authorized representatives to any books, documents, papers, and records of the contractor which are directly pertinent to that specific contract for the purpose of making audit, examination, excerpts, and transcriptions.
 - 14) Retention of all required records for six years after the Subrecipient has made final payments and all other pending matters are closed.
 - 15) Mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94-163, 89 Stat. 871).
 - 16) Pursuant to Executive Order 13858 "*Strengthening Buy-American Preferences for Infrastructure Projects*," the Department encourages Subrecipients to use, to the greatest extent practicable and consistent with the law, the use of goods, products, and materials produced in the United States in every contract, subcontract, purchase order, or sub-award that is chargeable against federal financial assistance awards.
- b. The Department reserves the right to review the Subrecipient's procurement plans and documents and require the Subrecipient to make changes to bring its plans and documents into compliance with the requirements of 2 CFR Part 200.318 through 200.326. The Subrecipient must ensure that its procurement process requires contractors and subcontractors to provide adequate documentation with sufficient detail to support the costs of the project and to allow both the Subrecipient and Department to make a determination on eligibility of project costs.
- c. All contracting agreements entered into pursuant to this Agreement shall incorporate this Agreement by reference.

A.11 DISCLOSURE

The use or disclosure by any party of any information concerning the Department for any purpose not directly connected with the administration of the Department's or the Subrecipient's responsibilities with respect to services provided under this Agreement is prohibited except by prior written consent of the Department or as required to comply with the state Public Records Act, other law or court order.

A.12 DISPUTES

Except as otherwise provided in this Agreement, when a bona fide dispute arises between the parties and it cannot be resolved through discussion and negotiation, either party may request a dispute resolution panel to resolve the dispute. A request for a dispute resolution board shall be in writing, state the disputed issues, state the relative positions of the parties, and be sent to all parties. The panel shall consist of a representative appointed by the Department, a representative appointed by the Subrecipient and a third party mutually agreed upon by both parties. The panel shall, by majority vote, resolve the dispute. Each party shall bear the cost for its panel member and its attorney fees and costs and share equally the cost of the third panel member.

A.13 LEGAL RELATIONS

It is understood and agreed that this Agreement is solely for the benefit of the parties to the Agreement and gives no right to any other party. No joint venture or partnership is formed as a result of this Agreement.

To the extent allowed by law, the Subrecipient, its successors or assigns, will protect, save and hold harmless the Department, the state of Washington, and the United States Government and their authorized agents and employees, from all claims, actions, costs, damages or expenses of any nature whatsoever by reason of the acts or omissions of the Subrecipient, its subcontractors, subrecipients, assigns, agents, contractors, consultants, licensees, invitees, employees or any person whomsoever arising out of or in connection with any acts or activities authorized by this Agreement.

To the extent allowed by law, the Subrecipient further agrees to defend the Department and the state of Washington and their authorized agents and employees in any litigation; including payment of any costs or attorneys' fees for any claims or action commenced thereon arising out of or in connection with acts or activities authorized by this Agreement.

This obligation shall not include such claims, costs, damages or expenses which may be caused by the sole negligence of the Department; provided, that if the claims or damages are caused by or result from the concurrent negligence of (1) the Department, and (2) the Subrecipient, its agents, or employees, this indemnity provision shall be valid and enforceable only to the extent of the negligence of the Subrecipient, or the Subrecipient's agents or employees.

Insofar as the funding source, FEMA, is an agency of the Federal government, the following shall apply:

44 CFR 206.9 Non-liability. The Federal government shall not be liable for any claim based upon the exercise or performance of, or the failure to exercise or perform a discretionary function or duty on the part of a federal agency or an employee of the Federal government in carrying out the provisions of the Stafford Act.

A.14 LIMITATION OF AUTHORITY – AUTHORIZED SIGNATURE

The signatories to this Agreement represent that they have the authority to bind their respective organizations to this Agreement. Only the Department's Authorized Signature representative and the Authorized Signature representative of the Subrecipient or Alternate for the Subrecipient, formally designated in writing, shall have the express, implied, or apparent authority to alter, amend, modify, or waive any clause or condition of this Agreement. Any alteration, amendment, modification, or waiver of any clause or condition of this Agreement is not effective or binding unless made in writing and signed by both parties' Authorized Signature representatives, except as provided for time extensions in Article A.3.

Further, only the Authorized Signature representative or Alternate for the Subrecipient shall have signature authority to sign reimbursement requests, time extension requests, amendment and modification requests, requests for changes to projects or work plans, and other requests, certifications and documents authorized by or required under this Agreement.

A.15 LOSS OR REDUCTION OF FUNDING

In the event funding from state, federal, or other sources is withdrawn, reduced, or limited in any way after the effective date of this Agreement and prior to normal completion or end date, the Department may unilaterally reduce the work plan and budget or unilaterally terminate all or part of the Agreement as a "Termination for Cause" without providing the Subrecipient an opportunity to cure. Alternatively, the parties may renegotiate the terms of this Agreement under "Amendments and Modifications" to comply with new funding limitations and conditions, although the Department has no obligation to do so.

A.16 NONASSIGNABILITY

Neither this Agreement, nor any claim arising under this Agreement, shall be transferred or assigned by the Subrecipient.

A.17 NONDISCRIMINATION

The Subrecipient shall comply with all applicable federal and state non-discrimination laws, regulations, and policies. No person shall, on the grounds of age, race, creed, color, sex, sexual orientation, religion, national origin, marital status, honorably discharged veteran or military status, or disability (physical, mental, or sensory) be denied the benefits of, or otherwise be subjected to discrimination under any project, program, or activity, funded, in whole or in part, under this Agreement.

A.18 NOTICES

The Subrecipient shall comply with all public notices or notices to individuals required by applicable local, state and federal laws and regulations and shall maintain a record of this compliance.

A.19 OCCUPATIONAL SAFETY/HEALTH ACT and WASHINGTON INDUSTRIAL SAFETY/HEALTH ACT (OSHA/WISHA)

The Subrecipient represents and warrants that its workplace does now or will meet all applicable federal and state safety and health regulations that are in effect during the Subrecipient's performance under this Agreement. To the extent allowed by law, the Subrecipient further agrees to indemnify and hold harmless the Department and its employees and agents from all liability, damages and costs of any nature, including, but not limited to, costs of suits and attorneys' fees assessed against the Department, as a result of the failure of the Subrecipient to so comply.

A.20 OWNERSHIP OF PROJECT/CAPITAL FACILITIES

The Department makes no claim to any capital facilities or real property improved or constructed with funds under this Agreement, and by this subaward of funds does not and will not acquire any ownership interest or title to such property of the Subrecipient. The Subrecipient shall assume all liabilities and responsibilities arising from the ownership and operation of the project and agrees to indemnify and hold the Department, the state of Washington, and the United States government harmless from any and all causes of action arising from the ownership and operation of the project.

A.21 POLITICAL ACTIVITY

No portion of the funds provided herein shall be used for any partisan political activity or to further the election or defeat of any candidate for public office or influence the approval or defeat of any ballot issue.

A.22 PROHIBITION AGAINST PAYMENT OF BONUS OR COMMISSION

The assistance provided under this Agreement shall not be used in payment of any bonus or commission for the purpose of obtaining approval of the application for such assistance or any other approval or concurrence under this Agreement provided, however, that reasonable fees or bona fide technical consultant, managerial, or other such services, other than actual solicitation, are not hereby prohibited if otherwise eligible as project costs.

A.23 PUBLICITY

The Subrecipient agrees to submit to the Department prior to issuance all advertising and publicity matters relating to this Agreement wherein the Department's name is mentioned, or language used from which the connection of the Department's name may, in the Department's judgment, be inferred or implied. The Subrecipient agrees not to publish or use such advertising and publicity matters without the prior written consent of the Department. The Subrecipient may copyright original work it develops in the course of or under this Agreement; however, pursuant to 2 CFR Part 200.315, FEMA reserves a royalty-free, nonexclusive, and irrevocable license to reproduce, publish or otherwise use, and to authorize others to use the work for government purposes.

Publication resulting from work performed under this Agreement shall include an acknowledgement of FEMA's financial support, by the Assistance Listings Number (formerly CFDA Number), and a statement that the publication does not constitute an endorsement by FEMA or reflect FEMA's views.

A.24 RECAPTURE PROVISION

In the event the Subrecipient fails to expend funds under this Agreement in accordance with applicable federal, state, and local laws, regulations, and/or the provisions of the Agreement, the Department reserves the right to recapture funds in an amount equivalent to the extent of noncompliance. Such right of recapture shall exist for the life of the project following Agreement termination. Repayment by the Subrecipient of funds under this recapture provision shall occur within 30 days of demand. In the event the Department is required to institute legal proceedings to enforce the recapture provision, the Department shall be entitled to its costs and expenses thereof, including attorney fees from the Subrecipient.

A.25 RECORDS

- a. The Subrecipient agrees to maintain all books, records, documents, receipts, invoices and all other electronic or written records necessary to sufficiently and properly reflect the Subrecipient's contracts, subawards, grant administration, and payments, including all direct and indirect charges, and expenditures in the performance of this Agreement (the "records").
- b. The Subrecipient's records related to this Agreement and the projects funded may be inspected and audited by the Department or its designee, by the Office of the State Auditor, DHS, FEMA or their designees, by the Comptroller General of the United States or its designees, or by other state or federal officials authorized by law, for the purposes of determining compliance by the Subrecipient with the terms of this Agreement and to determine the appropriate level of funding to be paid under the Agreement.
- c. The records shall be made available by the Subrecipient for such inspection and audit, together with suitable space for such purpose, at any and all times during the Subrecipient's normal working day.
- d. The Subrecipient shall retain and allow access to all records related to this Agreement and the funded project(s) for a period of at least six (6) years following final payment and closure of the

grant under this Agreement. Despite the minimum federal retention requirement of three (3) years, the more stringent State requirement of six (6) years must be followed.

A.26 RESPONSIBILITY FOR PROJECT/STATEMENT OF WORK/WORK PLAN

While the Department undertakes to assist the Subrecipient with the project/statement of work/work plan (project) by providing federal award funds pursuant to this Agreement, the project itself remains the sole responsibility of the Subrecipient. The Department undertakes no responsibility to the Subrecipient, or to any third party, other than as is expressly set out in this Agreement.

The responsibility for the design, development, construction, implementation, operation and maintenance of the project, as these phrases are applicable to this project, is solely that of the Subrecipient, as is responsibility for any claim or suit of any nature by any third party related in any way to the project.

Prior to the start of any construction activity, the Subrecipient shall ensure that all applicable federal, state, and local permits and clearances are obtained, including, but not limited to, FEMA compliance with the National Environmental Policy Act, the National Historic Preservation Act, the Endangered Species Act, and all other environmental laws, regulations, and executive orders.

The Subrecipient shall defend, at its own cost, any and all claims or suits at law or in equity, which may be brought against the Subrecipient in connection with the project. The Subrecipient shall not look to the Department, or to any state or federal agency, or to any of their employees or agents, for any performance, assistance, or any payment or indemnity, including, but not limited to, cost of defense and/or attorneys' fees, in connection with any claim or lawsuit brought by any third party related to any design, development, construction, implementation, operation and/or maintenance of a project.

A.27 SEVERABILITY

If any court of rightful jurisdiction holds any provision or condition under this Agreement or its application to any person or circumstances invalid, this invalidity does not affect other provisions, terms or conditions of the Agreement, which can be given effect without the invalid provision. To this end, the terms and conditions of this Agreement are declared severable.

A.28 SINGLE AUDIT ACT REQUIREMENTS (including all AMENDMENTS)

The Subrecipient shall comply with and include the following audit requirements in any subawards.

Non-federal entities, as Subrecipients of a federal award, that expend **\$750,000** or more in one fiscal year of federal funds from all sources, direct and indirect, are required to have a single or a program-specific audit conducted in accordance with 2 CFR Part 200 Subpart F. Non-federal entities that spend less than **\$750,000** a year in federal awards are exempt from federal audit requirements for that year, except as noted in 2 CFR Part 200 Subpart F. As defined in 2 CFR Part 200, the term "non-federal entity" means a state, local government, Indian tribe, institution of higher education, or nonprofit organization that carries out a federal award as a recipient or subrecipient.

Subrecipients that are required to have an audit must ensure the audit is performed in accordance with Generally Accepted Government Auditing Standards (GAGAS) as found in the Government Auditing Standards (the Revised Yellow Book) developed by the United States Comptroller General and the OMB Compliance Supplement. The Subrecipient has the responsibility of notifying its auditor and requesting an audit in compliance with 2 CFR Part 200 Subpart F, to include the Washington State Auditor's Office, a federal auditor, or a public accountant performing work using GAGAS, as appropriate. Costs of the audit may be an allowable grant expenditure as authorized by 2 CFR Part 200.425.

The Subrecipient shall maintain auditable records and accounts so as to facilitate the audit requirement and shall ensure that any subcontractors also maintain auditable records. The Subrecipient is responsible for any audit exceptions incurred by its own organization or that of its subcontractors. Responses to any unresolved management findings and disallowed or questioned costs shall be included with the audit report. The Subrecipient must respond to Department requests for information or corrective action concerning audit issues or findings within 30 days of the date of request. The Department reserves the right to recover from the Subrecipient all disallowed costs resulting from the audit.

After the single audit has been completed, and if it includes any audit findings, the Subrecipient must send a full copy of the audit and its Corrective Action Plan to the Department at the following address no later than nine (9) months after the end of the Subrecipient's fiscal year(s):

**Contracts Office
Washington Military Department**

**Finance Division, Building #1 TA-20
Camp Murray, WA 98430-5032**

The Department retains the sole discretion to determine whether a valid claim for an exemption from the audit requirements of this provision has been established.

Conducting a single or program-specific audit in compliance with 2 CFR Part 200 Subpart F is a material requirement of this Agreement. In the absence of a valid claim of exemption from the audit requirements of 2 CFR Part 200 Subpart F, the Subrecipient's failure to comply with said audit requirements may result in one or more of the following actions in the Department's sole discretion: a percentage of federal awards being withheld until the audit is completed in accordance with 2 CFR Part 200 Subpart F; the withholding or disallowing of overhead costs; the suspension of federal awards until the audit is conducted and submitted; or termination of the federal award.

A.29 SUBRECIPIENT NOT EMPLOYEE

The parties intend that an independent contractor relationship will be created by this Agreement. The Subrecipient, and/or employees or agents performing under this Agreement are not employees or agents of the Department in any manner whatsoever. The Subrecipient will not be presented as, nor claim to be, an officer or employee of the Department by reason of this Agreement, nor will the Subrecipient make any claim, demand, or application to or for any right or privilege applicable to an officer or employee of the Department or of the state of Washington by reason of this Agreement, including, but not limited to, Workmen's Compensation coverage, unemployment insurance benefits, social security benefits, retirement membership or credit, or privilege or benefit which would accrue to a civil service employee under Chapter 41.06 RCW.

It is understood that if the Subrecipient is another state department, state agency, state university, state college, state community college, state board, or state commission, that the officers and employees are employed by the state of Washington in their own right and not by reason of this Agreement.

A.30 TAXES, FEES AND LICENSES

Unless otherwise provided in this Agreement, the Subrecipient shall be responsible for, pay and maintain in current status all taxes, unemployment contributions, fees, licenses, assessments, permit charges and expenses of any other kind for the Subrecipient or its staff required by statute or regulation that are applicable to Agreement performance.

A.31 TERMINATION FOR CONVENIENCE

Notwithstanding any provisions of this Agreement, the Subrecipient may terminate this Agreement by providing written notice of such termination to the Department Key Personnel identified in the Agreement, specifying the effective date thereof, at least thirty (30) days prior to such date.

Except as otherwise provided in this Agreement, the Department, in its sole discretion and in the best interests of the state of Washington, may terminate this Agreement in whole or in part ten (10) business days after emailing notice to the Subrecipient. Upon notice of termination for convenience, the Department reserves the right to suspend all or part of the Agreement, withhold further payments, or prohibit the Subrecipient from incurring additional obligations of funds. In the event of termination, the Subrecipient shall be liable for all damages as authorized by law. The rights and remedies of the Department provided for in this section shall not be exclusive and are in addition to any other rights and remedies provided by law.

A.32 TERMINATION OR SUSPENSION FOR LOSS OF FUNDING

The DEPARTMENT may unilaterally terminate or suspend all or part of this Grant Agreement, or may reduce its scope of work and budget, if there is a reduction in funds by the source of those funds, and if such funds are the basis for this Grant Agreement. Department will email the Subrecipient ten (10) business days prior to termination.

A.33 TERMINATION OR SUSPENSION FOR CAUSE

In the event the Department, in its sole discretion, determines the Subrecipient has failed to fulfill in a timely and proper manner its obligations under this Agreement, is in an unsound financial condition so as to endanger performance hereunder, is in violation of any laws or regulations that render the Subrecipient unable to perform any aspect of the Agreement, or has violated any of the covenants, agreements or stipulations of this Agreement, the Department has the right to immediately suspend or terminate this Agreement in whole or in part.

The Department may notify the Subrecipient in writing of the need to take corrective action and provide a period of time in which to cure. The Department is not required to allow the Subrecipient an opportunity to cure if it is not feasible as determined solely within the Department's discretion. Any time allowed for cure shall not diminish or eliminate the Subrecipient's liability for damages or otherwise affect any other remedies available to the Department. If the Department allows the Subrecipient an opportunity to cure, the Department shall notify the Subrecipient in writing of the need to take corrective action. If the corrective action is not taken within ten (10) calendar days or as otherwise specified by the Department, or if such corrective action is deemed by the Department to be insufficient, the Agreement may be terminated in whole or in part.

The Department reserves the right to suspend all or part of the Agreement, withhold further payments, or prohibit the Subrecipient from incurring additional obligations of funds during investigation of the alleged compliance breach, pending corrective action by the Subrecipient, if allowed, or pending a decision by the Department to terminate the Agreement in whole or in part.

In the event of termination, the Subrecipient shall be liable for all damages as authorized by law, including, but not limited to, any cost difference between the original Agreement and the replacement or cover Agreement and all administrative costs directly related to the replacement Agreement, e.g., cost of administering the competitive solicitation process, mailing, advertising and other associated staff time. The rights and remedies of the Department provided for in this section shall not be exclusive and are in addition to any other rights and remedies provided by law.

If it is determined that the Subrecipient: (1) was not in default or material breach, or (2) failure to perform was outside of the Subrecipient's control, fault or negligence, the termination shall be deemed to be a "Termination for Convenience".

A.34 TERMINATION PROCEDURES

In addition to the procedures set forth below, if the Department terminates this Agreement, the Subrecipient shall follow any procedures specified in the termination notice. Upon termination of this Agreement and in addition to any other rights provided in this Agreement, the Department may require the Subrecipient to deliver to the Department any property specifically produced or acquired for the performance of such part of this Agreement as has been terminated.

If the termination is for convenience, the Department shall pay to the Subrecipient as an agreed upon price, if separately stated, for properly authorized and completed work and services rendered or goods delivered to and accepted by the Department prior to the effective date of Agreement termination, the amount agreed upon by the Subrecipient and the Department for (i) completed work and services and/or equipment or supplies provided for which no separate price is stated, (ii) partially completed work and services and/or equipment or supplies provided which are accepted by the Department, (iii) other work, services and/or equipment or supplies which are accepted by the Department, and (iv) the protection and preservation of property.

Failure to agree with such amounts shall be a dispute within the meaning of the "Disputes" clause of this Agreement. If the termination is for cause, the Department shall determine the extent of the liability of the Department. The Department shall have no other obligation to the Subrecipient for termination. The Department may withhold from any amounts due the Subrecipient such sum as the Department determines to be necessary to protect the Department against potential loss or liability.

The rights and remedies of the Department provided in this Agreement shall not be exclusive and are in addition to any other rights and remedies provided by law.

After receipt of a notice of termination, and except as otherwise directed by the Department in writing, the Subrecipient shall:

- a. Stop work under the Agreement on the date, and to the extent specified, in the notice;
- b. Place no further orders or contracts for materials, services, supplies, equipment and/or facilities in relation to this Agreement except as may be necessary for completion of such portion of the work under the Agreement as is not terminated;
- c. Assign to the Department, in the manner, at the times, and to the extent directed by the Department, all of the rights, title, and interest of the Subrecipient under the orders and contracts so terminated, in which case the Department has the right, at its discretion, to settle or pay any or all claims arising out of the termination of such orders and contracts;

- d. Settle all outstanding liabilities and all claims arising out of such termination of orders and contracts, with the approval or ratification of the Department to the extent the Department may require, which approval or ratification shall be final for all the purposes of this clause;
- e. Transfer title to the Department and deliver in the manner, at the times, and to the extent directed by the Department any property which, if the Agreement had been completed, would have been required to be furnished to the Department;
- f. Complete performance of such part of the work as shall not have been terminated by the Department in compliance with all contractual requirements; and
- g. Take such action as may be necessary, or as the Department may require, for the protection and preservation of the property related to this Agreement which is in the possession of the Subrecipient and in which the Department has or may acquire an interest.

A.35 UTILIZATION OF MINORITY AND WOMEN BUSINESS ENTERPRISES (MWBE)

The Subrecipient is encouraged to utilize business firms that are certified as minority-owned and/or women-owned in carrying out the purposes of this Agreement. The Subrecipient may set utilization standards, based upon local conditions or may use the state of Washington MWBE goals, as identified in WAC 326-30-041.

A.36 VENUE

This Agreement shall be construed and enforced in accordance with, and the validity and performance shall be governed by, the laws of the state of Washington. Venue of any suit between the parties arising out of this Agreement shall be the Superior Court of Thurston County, Washington. The Subrecipient, by execution of this Agreement, acknowledges the jurisdiction of the courts of the state of Washington.

A.37 WAIVERS

No conditions or provisions of this Agreement can be waived unless approved in advance by the Department in writing. The Department's failure to insist upon strict performance of any provision of the Agreement or to exercise any right based upon a breach thereof, or the acceptance of any performance during such breach, shall not constitute a waiver of any right under this Agreement.

**FFY20HSGP Award Documents
EMW-2020-SS-00080**

Award Letter



U.S. Department of Homeland Security
Washington, D.C. 20472

Bret Daugherty
Washington Military Department
Building 20
Camp Murray, WA 98430 - 5122

Re: Grant No. EMW-2020-SS-00080

Dear Bret Daugherty:

Congratulations, on behalf of the Department of Homeland Security, your application for financial assistance submitted under the Fiscal Year (FY) 2020 Homeland Security Grant Program has been approved in the amount of \$15,657,838.00. You are not required to match this award with any amount of non-Federal funds.

Before you request and receive any of the Federal funds awarded to you, you must establish acceptance of the award. By accepting this award, you acknowledge that the terms of the following documents are incorporated into the terms of your award:

- Agreement Articles (attached to this Award Letter)
- Obligating Document (attached to this Award Letter)
- FY 2020 Homeland Security Grant Program Notice of Funding Opportunity.
- FEMA Preparedness Grants Manual

Please make sure you read, understand, and maintain a copy of these documents in your official file for this award.

In order to establish acceptance of the award and its terms, please follow these instructions:

Step 1: Please log in to the ND Grants system at <https://portal.fema.gov>.

Step 2: After logging in, you will see the Home page with a Pending Tasks menu. Click on the Pending Tasks menu, select the Application sub-menu, and then click the link for "Award Offer Review" tasks. This link will navigate you to Award Packages that are pending review.

Step 3: Click the Review Award Package icon (wrench) to review the Award Package and accept or decline the award. Please save or print the Award Package for your records.

System for Award Management (SAM): Grant recipients are to keep all of their information up to date in SAM, in particular, your organization's name, address, DUNS number, EIN and banking information. Please ensure that the DUNS number used in SAM is the same one used to apply for all FEMA awards. Future payments will be contingent on the information provided in the SAM; therefore, it is imperative that the information is correct. The System for Award Management is located at <http://www.sam.gov>.

If you have any questions or have updated your information in SAM, please let your Grants Management Specialist (GMS) know as soon as possible. This will help us to make the necessary updates and avoid any interruptions in the payment process.

A handwritten signature in black ink, consisting of a stylized 'C' followed by a horizontal line and a small dot.

CHRISTOPHER PATRICK LOGAN GPD Assistant Administrator



AGREEMENT ARTICLES
Homeland Security Grant Program

GRANTEE:
PROGRAM:
AGREEMENT NUMBER:

Washington Military Department
Homeland Security Grant Program
EMW-2020-SS-00080-S01

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Article I - Summary Description of Award

The purpose of the FY 2020 HSGP is to support state and local efforts to prevent terrorism and other catastrophic events and to prepare the Nation for the threats and hazards that pose the greatest risk to the security of the United States. The HSGP provides funding to implement investments that build, sustain, and deliver the 32 core capabilities essential to achieving the National Preparedness Goal of a secure and resilient Nation. Among the five basic homeland security missions noted in the DHS Quadrennial Homeland Security Review, HSGP supports the goal to Strengthen National Preparedness and Resilience.

The building, sustainment, and delivery of these core capabilities are not exclusive to any single level of government, organization, or community, but rather, require the combined effort of the whole community. This HSGP award consists of State Homeland Security Program (SHSP) funding in the amount of \$6,731,000, Urban Area Security Initiative (UASI) funding in the amount of \$6,250,000, and Operation Stonegarden (OPSG) funding in the amount of \$2,676,838. The following counties shall receive Operation Stonegarden subawards for the following amounts: Adams, \$75,000; Clallam, \$455,000; Ferry, \$130,000; Island, \$208,386; Jamestown Sklallam Tribe, \$80,000; Lower Elwha Tribe, \$75,000; Makah, \$77,018; Nooksack, \$110,262; Okanogan, \$250,000; Pend Oreille, \$155,232; Quileute, \$74,825; San Juan, \$165,750; Spokane, \$155,250; Stevens, \$175,000; Swinomish, \$74,115; Whatcom, \$416,000. These grant programs fund a range of activities, including planning, organization, equipment purchase, training, exercises, and management and administration across all core capabilities and mission areas.

Article II - Activities Conducted Abroad

Recipients must ensure that project activities carried on outside the United States are coordinated as necessary with appropriate government authorities and that appropriate licenses, permits, or approvals are obtained.

Article III - Reporting of Matters Related to Recipient Integrity and Performance

If the total value of any currently active grants, cooperative agreements, and procurement contracts from all federal awarding agencies exceeds \$10,000,000 for any period of time during the period of performance of this federal award, then the recipients must comply with the requirements set forth in the government-wide Award Term and Condition for Recipient Integrity and Performance Matters located at 2 C.F.R. Part 200, Appendix XII, the full text of which is incorporated here by reference in the award terms and conditions.

Article IV - Trafficking Victims Protection Act of 2000 (TVPA)

Recipients must comply with the requirements of the government-wide financial assistance award term which implements Section 106(g) of the Trafficking Victims Protection Act of 2000 (TVPA), codified as amended at 22 U.S.C. section 7104. The award term is located at 2 C.F.R. section 175.15, the full text of which is incorporated here by reference.

Article V - Federal Leadership on Reducing Text Messaging while Driving

Recipients are encouraged to adopt and enforce policies that ban text messaging while driving as described in E.O. 13513, including conducting initiatives described in Section 3(a) of the Order when on official government business or when performing any work for or on behalf of the federal government.

Article VI - Debarment and Suspension

Recipients are subject to the non-procurement debarment and suspension regulations implementing Executive Orders (E.O.) 12549 and 12689, which are at 2 C.F.R. Part 180 as adopted by DHS at 2 C.F.R. Part 3000. These regulations restrict federal financial assistance awards, subawards, and contracts with certain parties that are debarred, suspended, or otherwise excluded from or ineligible for participation in federal assistance programs or activities.

Article VII - Fly America Act of 1974

Recipients must comply with Preference for U.S. Flag Air Carriers (air carriers holding certificates under 49 U.S.C. section 41102) for international air transportation of people and property to the extent that such service is available, in accordance with the International Air Transportation Fair Competitive Practices Act of 1974, 49 U.S.C. section 40118, and the interpretative guidelines issued by the Comptroller General of the United States in the March 31, 1981, amendment to Comptroller General Decision B-138942.

Article VIII - Americans with Disabilities Act of 1990

Recipients must comply with the requirements of Titles I, II, and III of the *Americans with Disabilities Act*, Pub. L. No. 101-336 (1990) (codified as amended at 42 U.S.C. sections 12101-12213), which prohibits recipients from discriminating on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities.

Article IX - Duplication of Benefits

Any cost allocable to a particular federal financial assistance award provided for in 2 C.F.R. Part 200, Subpart E may not be charged to other federal financial assistance awards to overcome fund deficiencies; to avoid restrictions imposed by federal statutes, regulations, or federal financial assistance award terms and conditions; or for other reasons. However, these prohibitions would not preclude recipients from shifting costs that are allowable under two or more awards in accordance with existing federal statutes, regulations, or the federal financial assistance award terms and conditions.

Article X - Copyright

Recipients must affix the applicable copyright notices of 17 U.S.C. sections 401 or 402 and an acknowledgement of U.S. Government sponsorship (including the award number) to any work first produced under federal financial assistance awards.

Article XI - Civil Rights Act of 1968

Recipients must comply with Title VIII of the Civil Rights Act of 1968, Pub. L. No. 90-284, as amended through Pub. L. 113-4, which prohibits recipients from discriminating in the sale, rental, financing, and advertising of dwellings, or in the provision of services in connection therewith, on the basis of race, color, national origin, religion, disability, familial status, and sex (see 42 U.S.C. section 3601 et seq.), as implemented by the U.S. Department of Housing and Urban Development at 24 C.F.R. Part 100. The prohibition on disability discrimination includes the requirement that new multifamily housing with four or more dwelling units-i.e., the public and common use areas and individual apartment units (all units in buildings with elevators and ground-floor units in buildings without elevators)-be designed and constructed with certain accessible features. (See 24 C.F.R. Part 100, Subpart D.)

Article XII - Best Practices for Collection and Use of Personally Identifiable Information (PII)

Recipients who collect PII are required to have a publicly available privacy policy that describes standards on the usage and maintenance of the PII they collect. DHS defines personally identifiable information (PII) as any information that permits the identity of an individual to be directly or indirectly inferred, including any information that is linked or linkable to that individual. Recipients may also find the DHS Privacy Impact Assessments: Privacy Guidance and Privacy Template as useful resources respectively.

Article XIII - Limited English Proficiency (Civil Rights Act of 1964, Title VI)

Recipients must comply with Title VI of the Civil Rights Act of 1964, (42 U.S.C. section 2000d et seq.) prohibition against discrimination on the basis of national origin, which requires that recipients of federal financial assistance take reasonable

steps to provide meaningful access to persons with limited English proficiency (LEP) to their programs and services.

For additional assistance and information regarding language access obligations, please refer to the DHS Recipient

Guidance: <https://www.dhs.gov/guidance-published-help-department-supported-organizations-provide-meaningful-access-people-limited> and additional resources on <http://www.lep.gov>.

Article XIV - Hotel and Motel Fire Safety Act of 1990

In accordance with Section 6 of the Hotel and Motel Fire Safety Act of 1990, 15 U.S.C. section 2225a, recipients must ensure that all conference, meeting, convention, or training space funded in whole or in part with federal funds complies with the fire prevention and control guidelines of the Federal Fire Prevention and Control Act of 1974, (codified as amended at 15 U.S.C. section 2225.)

Article XV - Disposition of Equipment Acquired Under the Federal Award

When original or replacement equipment acquired under this award by the recipient or its sub-recipients is no longer needed for the original project or program or for other activities currently or previously supported by DHS/FEMA, you must request instructions from DHS/FEMA to make proper disposition of the equipment pursuant to 2 C.F.R. Section 200.313.

Article XVI - Patents and Intellectual Property Rights

Recipients are subject to the Bayh-Dole Act, 35 U.S.C. section 200 et seq, unless otherwise provided by law. Recipients are subject to the specific requirements governing the development, reporting, and disposition of rights to inventions and patents resulting from federal financial assistance awards located at 37 C.F.R. Part 401 and the standard patent rights clause located at 37 C.F.R. section 401.14.

Article XVII - DHS Specific Acknowledgements and Assurances

All recipients, subrecipients, successors, transferees, and assignees must acknowledge and agree to comply with applicable provisions governing DHS access to records, accounts, documents, information, facilities, and staff.

1. Recipients must cooperate with any compliance reviews or compliance investigations conducted by DHS.
2. Recipients must give DHS access to, and the right to examine and copy, records, accounts, and other documents and sources of information related to the federal financial assistance award and permit access to facilities, personnel, and other individuals and information as may be necessary, as required by DHS regulations and other applicable laws or program guidance.
3. Recipients must submit timely, complete, and accurate reports to the appropriate DHS officials and maintain appropriate backup documentation to support the reports.
4. Recipients must comply with all other special reporting, data collection, and evaluation requirements, as prescribed by law or detailed in program guidance.
5. Recipients of federal financial assistance from DHS must complete the DHS Civil Rights Evaluation Tool within thirty (30) days of receipt of the Notice of Award or, for State Administering Agencies, thirty (30) days from receipt of the DHS Civil Rights Evaluation Tool from DHS or its awarding component agency. After the initial submission for the first award under which this term applies, recipients are required to provide this information once every two (2) years as long as they have an active award, not every time an award is made. Recipients should submit the completed tool, including supporting materials, to CivilRightsEvaluation@hq.dhs.gov. This tool clarifies the civil rights obligations and related reporting requirements contained in the DHS Standard Terms and Conditions. Subrecipients are not required to complete and submit this tool to DHS. The evaluation tool can be found at <https://www.dhs.gov/publication/dhs-civil-rights-evaluation-tool>.
6. The DHS Office for Civil Rights and Civil Liberties will consider, in its discretion, granting an extension if the recipient identifies steps and a timeline for completing the tool. Recipients should request extensions by emailing the request to CivilRightsEvaluation@hq.dhs.gov prior to expiration of the 30-day deadline.

Article XVIII - Procurement of Recovered Materials

States, political subdivisions of states, and their contractors must comply with Section 6002 of the Solid Waste Disposal Act, Pub. L. No. 89-272 (1965), (codified as amended by the Resource Conservation and Recovery Act, 42 U.S.C. section 6962.)

The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection

Agency (EPA) at 40 C.F.R. Part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition.

Article XIX - Terrorist Financing

Recipients must comply with E.O. 13224 and U.S. laws that prohibit transactions with, and the provisions of resources and support to, individuals and organizations associated with terrorism. Recipients are legally responsible to ensure compliance with the Order and laws.

Article XX - Civil Rights Act of 1964 - Title VI

Recipients must comply with the requirements of Title VI of the Civil Rights Act of 1964 (codified as amended at 42 U.S.C. section 2000d et seq.), which provides that no person in the United States will, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance. DHS implementing regulations for the Act are found at 6 C.F.R. Part 21 and 44 C.F.R. Part 7.

Article XXI - Prior Approval for Modification of Approved Budget

Before making any change to the DHS/FEMA approved budget for this award, you must request prior written approval from DHS/FEMA where required by 2 C.F.R. Section 200.308. DHS/FEMA is also utilizing its discretion to impose an additional restriction under 2 C.F.R. Section 200.308(e) regarding the transfer of funds among direct cost categories, programs, functions, or activities. Therefore, for awards with an approved budget where the Federal share is greater than the simplified acquisition threshold (currently \$250,000), you may not transfer funds among direct cost categories, programs, functions, or activities without prior written approval from DHS/FEMA where the cumulative amount of such transfers exceeds or is expected to exceed ten percent (10%) of the total budget DHS/FEMA last approved. You must report any deviations from your DHS/FEMA approved budget in the first Federal Financial Report (SF-425) you submit following any budget deviation, regardless of whether the budget deviation requires prior written approval.

Article XXII - Acknowledgement of Federal Funding from DHS

Recipients must acknowledge their use of federal funding when issuing statements, press releases, requests for proposal, bid invitations, and other documents describing projects or programs funded in whole or in part with federal funds.

Article XXIII - Acceptance of Post Award Changes

In the event FEMA determines that changes are necessary to the award document after an award has been made, including changes to period of performance or terms and conditions, recipients will be notified of the changes in writing. Once notification has been made, any subsequent request for funds will indicate recipient acceptance of the changes to the award. Please call the FEMA/GMD Call Center at (866) 927-5646 or via e-mail to ASK-GMD@fema.dhs.gov if you have any questions.

Article XXIV - Rehabilitation Act of 1973

Recipients must comply with the requirements of Section 504 of the Rehabilitation Act of 1973, Pub. L. No. 93-112 (1973), (codified as amended at 29 U.S.C. section 794,) which provides that no otherwise qualified handicapped individuals in the United States will, solely by reason of the handicap, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.

Article XXV - False Claims Act and Program Fraud Civil Remedies

Recipients must comply with the requirements of the False Claims Act, 31 U.S.C. sections 3729-3733, which prohibits the submission of false or fraudulent claims for payment to the federal government. (See 31 U.S.C. sections 3801-3812, which details the administrative remedies for false claims and statements made.)

Article XXVI - Nondiscrimination in Matters Pertaining to Faith-Based Organizations

It is DHS policy to ensure the equal treatment of faith-based organizations in social service programs administered or supported by DHS or its component agencies, enabling those organizations to participate in providing important social services to beneficiaries. Recipients must comply with the equal treatment policies and requirements contained in 6 C.F.R. Part 19 and other applicable statutes, regulations, and guidance governing the participations of faith-based organizations in individual DHS programs.

Article XXVII - Lobbying Prohibitions

Recipients must comply with 31 U.S.C. section 1352, which provides that none of the funds provided under a federal financial assistance award may be expended by the recipient to pay any person to influence, or attempt to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any federal action related to a federal award or contract, including any extension, continuation, renewal, amendment, or modification.

Article XXVIII - Education Amendments of 1972 (Equal Opportunity in Education Act) - Title IX

Recipients must comply with the requirements of Title IX of the Education Amendments of 1972, Pub. L. No. 92-318 (1972) (codified as amended at 20 U.S.C. section 1681 et seq.), which provide that no person in the United States will, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any educational program or activity receiving federal financial assistance. DHS implementing regulations are codified at 6 C.F.R. Part 17 and 44 C.F.R. Part 19.

Article XXIX - Age Discrimination Act of 1975

Recipients must comply with the requirements of the Age Discrimination Act of 1975, Pub. L. No. 94-135 (1975) (codified as amended at Title 42, U.S. Code, section 6101 et seq.), which prohibits discrimination on the basis of age in any program or activity receiving federal financial assistance.

Article XXX - National Environmental Policy Act

Recipients must comply with the requirements of the National Environmental Policy Act of 1969 (NEPA), Pub. L. No. 91-190 (1970) (codified as amended at 42 U.S.C. section 4321 et seq.) and the Council on Environmental Quality (CEQ) Regulations for Implementing the Procedural Provisions of NEPA, which require recipients to use all practicable means within their authority, and consistent with other essential considerations of national policy, to create and maintain conditions under which people and nature can exist in productive harmony and fulfill the social, economic, and other needs of present and future generations of Americans.

Article XXXI - Assurances, Administrative Requirements, Cost Principles, Representations and Certifications

DHS financial assistance recipients must complete either the Office of Management and Budget (OMB) Standard Form 424B Assurances - Non-Construction Programs, or OMB Standard Form 424D Assurances - Construction Programs, as applicable. Certain assurances in these documents may not be applicable to your program, and the DHS financial assistance office (DHS FAO) may require applicants to certify additional assurances. Applicants are required to fill out the assurances applicable to their program as instructed by the awarding agency. Please contact the DHS FAO if you have any questions.

DHS financial assistance recipients are required to follow the applicable provisions of the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards located at Title 2, Code of Federal Regulations (C.F.R.) Part 200, and adopted by DHS at 2 C.F.R. Part 3002.

Article XXXII - USA PATRIOT Act of 2001

Recipients must comply with requirements of Section 817 of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (USA PATRIOT Act), Pub. L. No. 107-56, which amends 18 U.S.C. sections 175-175c.

Article XXXIII - Non-Supplanting Requirement

Recipients receiving federal financial assistance awards made under programs that prohibit supplanting by law must ensure that federal funds do not replace (supplant) funds that have been budgeted for the same purpose through non-federal sources.

Article XXXIV - Drug-Free Workplace Regulations

Recipients must comply with drug-free workplace requirements in Subpart B (or Subpart C, if the recipient is an individual) of 2 C.F.R. Part 3001, which adopts the Government-wide implementation (2 C.F.R. Part 182) of Sec. 5152-5158 of the Drug-Free Workplace Act of 1988 (41 U.S.C. sections 8101-8106).

Article XXXV - Universal Identifier and System of Award Management

Recipients are required to comply with the requirements set forth in the government-wide financial assistance award term regarding the System for Award Management and Universal Identifier Requirements located at 2 C.F.R. Part 25, Appendix A, the full text of which is incorporated here by reference.

Article XXXVI - Reporting Subawards and Executive Compensation

Recipients are required to comply with the requirements set forth in the government-wide award term on Reporting Subawards and Executive Compensation located at 2 C.F.R. Part 170, Appendix A, the full text of which is incorporated here by reference in the award terms and conditions.

Article XXXVII - Energy Policy and Conservation Act

Recipients must comply with the requirements of the Energy Policy and Conservation Act, Pub. L. No. 94- 163 (1975) (codified as amended at 42 U.S.C. section 6201 et seq.), which contain policies relating to energy efficiency that are defined in the state energy conservation plan issued in compliance with this Act.

Article XXXVIII - Whistleblower Protection Act

Recipients must comply with the statutory requirements for whistleblower protections (if applicable) at 10 U.S.C section 2409, 41 U.S.C. section 4712, and 10 U.S.C. section 2324, 41 U.S.C. sections 4304 and 4310.

Article XXXIX - Federal Debt Status

All recipients are required to be non-delinquent in their repayment of any federal debt. Examples of relevant debt include delinquent payroll and other taxes, audit disallowances, and benefit overpayments. (See OMB Circular A-129.)

Article XL - Use of DHS Seal, Logo and Flags

Recipients must obtain permission from their DHS FAO prior to using the DHS seal(s), logos, crests or reproductions of flags or likenesses of DHS agency officials, including use of the United States Coast Guard seal, logo, crests or reproductions of flags or likenesses of Coast Guard officials.

Article XLI - Notice of Funding Opportunity Requirements

All the instructions, guidance, limitations, and other conditions set forth in the Notice of Funding Opportunity (NOFO) for this award are incorporated here by reference in the award terms and conditions. All recipients must comply with any such requirements set forth in the program NOFO.

Article XLII - SAFECOM

Recipients receiving federal financial assistance awards made under programs that provide emergency communication equipment and its related activities must comply with the SAFECOM Guidance for Emergency Communication Grants, including provisions on technical standards that ensure and enhance interoperable communications.

Article XLIII - Operation Stonegarden Program Hold

The recipient is prohibited from drawing down OPSG funding under this award or reimbursing OPSG subrecipients of this award until each unique, specific, or modified county level, tribal, or equivalent Operations Order or Fragmentary Order (Frago) has been reviewed by FEMA/GPD and Customs and Border Protection/United States Border Patrol (CBP/USBP). The recipient will receive the official notification of approval from FEMA/GPD.

Article XLIV - Funding Hold: SHSP National Priorities

FEMA has placed a funding hold on the following investments under the national priority areas, and \$1,346,200 of SHSP funds is on hold in the FEMA financial systems. Until the hold is released, the recipient is prohibited from drawing down funds or reimbursing subrecipients for, and the subrecipients are prohibited from obligating or expending SHSP funds for the costs or activities identified below. The hold only applies to the amount of funds identified for each SHSP investment under the national priority areas below. To release this hold, additional information is required for the investments identified below which must be submitted in the December 2020 Biannual Strategy Implementation Report (BSIR) in a manner consistent with GPD Information Bulletin No. 447.

Cybersecurity: \$336,550
Soft Targets/Crowded Places: \$336,550

Information Sharing and Cooperation: \$336,550
Emerging Threats: \$336,550

If you have questions about this funding hold or believe it was placed in error, please contact the DHS/FEMA Headquarters Preparedness Officer.

BUDGET COST CATEGORIES

Personnel	\$466,958.85
Fringe Benefits	\$140,087.45
Travel	\$14,076.00
Equipment	\$0.00
Supplies	\$9,134.00
Contractual	\$14,941,867.04
Construction	\$0.00
Indirect Charges	\$85,714.66
Other	\$0.00

Obligating Document for Award/Amendment

1a. AGREEMENT NO. EMW-2020-SS-00080-S01
 2. AMENDMENT NO. ***
 3. RECIPIENT NO. 916001095G
 4. TYPE OF ACTION AWARD
 5. CONTROL NO. WX03438N2020T , WX03434N2020T , WX03435N2020T

6. RECIPIENT NAME AND ADDRESS
 Washington Military Department
 Building 20
 Camp Murray, WA, 98430 - 5122
 7. ISSUING FEMA OFFICE AND ADDRESS
 FEMA-GPD
 400 C Street, SW, 3rd floor
 Washington, DC 20472-3645
 POC: 866-927-5646
 8. PAYMENT OFFICE AND ADDRESS
 FEMA Finance Center
 430 Market Street
 Winchester, VA 22603

9. NAME OF RECIPIENT PROJECT OFFICER
 Gail Cram
 10. NAME OF FEMA PROJECT COORDINATOR
 Central Scheduling and Information Desk
 Phone: 800-368-6498
 Email: Askcsid@dhs.gov

11. EFFECTIVE DATE OF THIS ACTION
 09/01/2020
 12. METHOD OF PAYMENT
 PARS
 13. ASSISTANCE ARRANGEMENT
 Cost Reimbursement
 14. PERFORMANCE PERIOD
From: 09/01/2020
To: 08/31/2023
Budget Period
 09/01/2020 08/31/2023

1 5. DESCRIPTION OF ACTION
 a. (Indicate funding data for awards or financial changes)

PROGRAM NAME ACRONYM	CFDA NO.	ACCOUNTING DATA (ACCS CODE) XXXX-XXX-XXXXXX-XXXXX-XXXX-XXXX-X	PRIOR TOTAL AWARD	AMOUNT AWARDED THIS ACTION + OR (-)	CURRENT TOTAL AWARD	CUMULATIVE NON-FEDERAL COMMITMENT
Homeland Security Grant Program	97.067	2020-FA-GG02-P410- -4101-D	\$0.00	\$2,676,838.00	\$2,676,838.00	See Totals
Homeland Security Grant Program	97.067	2020-FA-GG01-P410- -4101-D	\$0.00	\$6,731,000.00	\$6,731,000.00	See Totals
Homeland Security Grant Program	97.067	2020-FA-GH01-P410- -4101-D	\$0.00	\$6,250,000.00	\$6,250,000.00	See Totals
			\$0.00	\$15,657,838.00	\$15,657,838.00	\$0.00

b. To describe changes other than funding data or financial changes, attach schedule and check here.
 N/A

16 a. FOR NON-DISASTER PROGRAMS: RECIPIENT IS REQUIRED TO SIGN AND RETURN THREE (3) COPIES OF THIS DOCUMENT TO FEMA (See Block 7 for address)

Homeland Security Grant Program recipients are not required to sign and return copies of this document. However, recipients should print and keep a copy of this document for their records.

16b. FOR DISASTER PROGRAMS: RECIPIENT IS NOT REQUIRED TO SIGN

This assistance is subject to terms and conditions attached to this award notice or by incorporated reference in program legislation cited above.

17. RECIPIENT SIGNATORY OFFICIAL (Name and Title)
 Gail Cram,

DATE
 Sun Sep 13 19:38:31 GMT 2020

18. FEMA SIGNATORY OFFICIAL (Name and Title)

DATE
 Tue Aug 25 18:08:42 GMT 2020



SHENAUZ SUBRINA WONG, Assistance Officer

WORK PLAN

FFY20 Homeland Security Grant Program (HSGP) Operation Stonegarden (OPSG)

The OPSG Program provides funding to support joint efforts to secure the United States' borders along routes of ingress/egress to and from international borders, to include travel corridors in states bordering Mexico and Canada, as well as states and territories with international water borders. State, local, tribal, and territorial (SLTT) law enforcement agencies utilize their inherent law enforcement authorities to support the border security mission and do not receive any additional authority as a result of participation in OPSG.

Per the FY20 Preparedness Grants Manual, responsibilities of the Subrecipient include:

- Conduct operations on an as-needed basis throughout the length of the grant performance period;
- Integrate law enforcement partners from contiguous counties and towns into their tactical operations to expand the layer of security beyond existing areas;
- Ensure all required reports, including reports from friendly forces, are submitted to Border Patrol and the State Administrative Agency (SAA), when applicable, in the proper format and within established timeframes;
- Ensure applicable OPSG derived data and applicable intelligence is shared with the designated fusion center in the state or high-risk urban areas;
- Request instruction and information from the SAA, when applicable, and/or Border Patrol and other Federal law enforcement agencies regarding techniques, methods, and trends used by transnational criminal organizations in the area;
- Provide the SAA and Border Patrol a single point of contact that maintains subject-matter expertise in OPSG who can coordinate, collect, and report operational activities within the established reporting procedures; and
- Assist as required with the coordination, management, and operational aspects of the grant.

Attachment E includes the Budget.

The Budget consists of the 20OPSG Operation Order Approval Letter and the Personnel Cap Waiver Approval Letter addressed to Adjutant General Daugherty on behalf of the Subrecipient.

- Personnel expenditures will not exceed 50% of the agreement award unless a waiver has been approved by FEMA. Once a Personnel Cap Waiver Approval Letter is received, the Subrecipient will be held to the personnel amount indicated in the letter. Expenditures above the approved amount will not be reimbursed unless and only after a revised approval letter is received from FEMA.
- A current approved Indirect Cost Rate Agreement must be provided to the SAA prior to requesting reimbursement of indirect costs. If the approved Indirect Cost Rate Agreement is updated, the updated Agreement must be submitted to the SAA before costs will be reimbursed.
- OPSG funds shall not be used to supplant inherent routine patrols and law enforcement operations or activities not directly related to providing enhanced coordination between local, state, tribal, and Federal law enforcement agencies.
- Cumulative transfers between budget categories in excess of 10% of the Grant Agreement amount will not be reimbursed without prior written authorization from the Department. All budget modifications must be validated by USBP concurrence and any applicable approvals.

BUDGET

U.S. Department of Homeland Security
Washington, DC 20472



FEMA

March 8, 2021

Bret Daugherty Adjutant
General
Washington Military Department Militia
Drive, Building 1
Camp Murray, WA 98430-5122

Based on the Department of Homeland Security, Federal Emergency Management Agency's (FEMA) Operation Stonegarden Grant Program (OPSG) guidelines and special conditions associated with this program, the below referenced Operations Order as submitted is approved:

Operations Order No: 21-BLWBLW-10-008 V0
Fiscal Year: 2020
Amount Approved: \$416,000.00
Operations Order Dates: 09/01/2020 to 08/31/2023
Recipient: Whatcom County, WA

Expenditures from the Operations Order (OPORD) that were reviewed and approved by FEMA and U.S. Customs and Border Protection/Border Patrol (CBP) are outlined below. These expenses will assist the County in conducting border centric, intelligence driven operations with the goal of reduction or elimination of threat, risk and vulnerability along our Nation's borders. Please see below for all approved costs for this OPORD, and refer to the OPORD for specific items.

Category	Amount
Overtime:	\$281,135.70
Fringe:	\$44,713.65
Equipment:	\$27,769.00
Fuel:	\$14,792.90
Maintenance:	\$0
Mileage:	\$22,986.75
Travel:	\$0
County M&A:	\$14,202.00
State M&A:	\$10,400.00
Indirect Costs:	\$0
Total	\$416,000.00

Please find the below special conditions associated with OPSG and retain this letter for your grant files. If you have any questions, please feel free to contact me at (202) 802-2755.

FOR OFFICIAL USE ONLY – LAW ENFORCEMENT SENSITIVE

Sincerely,

DELROY A DOWDEN

Digitally signed by DELROY A DOWDEN
Date: 2021.03.08 10:59:19 -05'00'

Delroy Dowden on behalf of Lindsey Tomes
Preparedness Officer
U.S. Department of Homeland Security Federal
Emergency Management Agency
Grant Programs Directorate

Cc: U.S. Customs and Border Protection/ Border Patrol

The following Special Conditions are associated with this Operation Stonegarden award:

1. Construction and construction-type activities are prohibited.
2. Lethal or less than lethal forces including, but not limited to: weapons, firearms, ammunition and tasers are prohibited.
3. Per the *Personnel Reimbursement for Intelligence Cooperation and Enhancement (PRICE) of Homeland Security Act* (Public Law 110-412), the sum of all personnel related expenses shall not exceed 50% of the recipient's allocation without first obtaining a waiver from the FEMA Administrator.
4. All participating agencies shall monitor, review and track expenditures of OPSG funds under individual Operations Orders issued. Participating agencies shall not obligate, and/or encumber OPSG grant funds beyond the total of their allocation issued by FEMA.
5. The Operations Order has been reviewed and approved under the Environmental and Historic Preservation Program (EHP) guidelines as being categorically excluded from further EHP review.
6. Recipients must submit a letter of justification for all proposed vehicles or equipment items in excess of \$100,000. This justification will be reviewed by CBP and FEMA.

FOR OFFICIAL USE ONLY – LAW ENFORCEMENT SENSITIVE



FEMA

October 8, 2020

Bret Daugherty
Adjutant General
Washington Military Department
MS: TA-20 Building 20
Camp Murray, WA 98430-5122

Dear Adjutant General Daugherty:

The Federal Emergency Management Agency (FEMA) has reviewed the request submitted by Washington Military Department (WMD) to waive the 50 percent Personnel Cap imposed by Section 2008 of the *Homeland Security Act of 2002*, Public Law 107-296, as amended (6 U.S.C. § 609). WMD is retaining 2.5 percent for M&A at \$66,920.95. The following counties have requested to expend up to 85 percent of their total FY 2020 Operation Stonegarden allocations, award number EMW-2020-SS-00080, on operational overtime and related personnel costs.

County	FY 2020 OPSG Allocation	85% PCAP Maximum
Adams	\$75,000.00	\$63,750.00
Clallam	\$455,000.00	\$386,750.00
Ferry	\$130,000.00	\$110,500.00
Island	\$208,386.00	\$177,128.10
Jamestown Sklallam Tribe	\$80,000.00	\$68,000.00
Lower Elwha Tribe	\$75,000.00	\$63,750.00
Makah	\$77,018.00	\$65,465.30
Nooksack	\$110,262.00	\$93,722.70
Okanogan	\$250,000.00	\$212,500.00
Pend Oreille	\$155,232.00	\$131,947.20
Quileute	\$74,825.00	\$63,601.25
San Juan	\$165,750.00	\$140,887.50
Spokane	\$155,250.00	\$131,962.50
Stevens	\$175,000.00	\$148,750.00
Swinomish	\$74,115.00	\$62,997.75
Whatcom	\$416,000.00	\$353,600.00
Total	\$2,676,838.00	\$2,275,312.30

This request is consistent with the terms and conditions of the grant award and is necessary for the continued success of border security operations. This request is therefore approved pursuant to the waiver authority provided by 6 U.S.C § 609(b)(2)(B).

As a reminder, if any subrecipient's approved or initial revised budget will exceed 85 percent in personnel costs, they are required to submit a waiver request as described in section III.C.3 of Information Bulletin 421b. Please contact your Preparedness Officer, Lindsey Tomes, at lindsey.tomes@fema.dhs.gov if you have any questions.

Sincerely,



Stacey N. Street
Director
Office of Grants Administration

Cc : Mike O'Hare, Regional Administrator, Region X
Kerry L. Thomas, Director, Preparedness Grants Division
Patrick Marcham, Grants Division Director, Region X
Virginia Warren, Deputy Director, Preparedness Grants Division
Alexander R. Mrazik, Jr., Branch Chief, Preparedness Grants Division
Kimberley Marshall, Section Chief, Preparedness Grants Division
Lindsey Tomes, Preparedness Officer, Preparedness Grants Division

**Whatcom County Sheriff's Office
20OPSG Timeline**

Date	Task
September 1, 2020	Grant Agreement Start Date
March 8, 2021	Operations Order approved by FEMA
October 1, 2021	Estimated date work will begin
NLT January 31, 2022	Submit Reimbursement Request
NLT April 30, 2022	Submit Reimbursement Request
NLT July 31, 2022	Submit Reimbursement Request
NLT October 31, 2022	Submit Reimbursement Request
NLT January 31, 2023	Submit Reimbursement Request
NLT February 24, 2023	In collaboration with U.S. Border Patrol, assess status of award. Determine if additional time is needed to complete operations and/or if there is a need to submit a FRAG Order changing the approved Operations Order.
March 31, 2023	Grant Agreement End Date. All work ceases.
NLT May 15, 2023	Submit Final Reimbursement Request and Closeout Report. Reports are due before final invoice will be reimbursed.

Grant Performance Period: September 1, 2020 - August 31, 2023



Whatcom County

COUNTY COURTHOUSE
311 Grand Avenue, Ste #105
Bellingham, WA 98225-4038
(360) 778-5010

Agenda Bill Master Report

File Number: **AB2021-253**

File ID:	AB2021-253	Version:	1	Status:	Agenda Ready
File Created:	04/13/2021	Entered by:	THelms@co.whatcom.wa.us		
Department:	County Executive's Office	File Type:	Contract		
Assigned to:	Council Finance and Administrative Services Committee			Final Action:	
Agenda Date:	05/04/2021			Enactment #:	

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

TITLE FOR AGENDA ITEM:

Request authorization for the County Executive to enter into a contract amendment between Whatcom County and G6 Hospitality to extend the lease through September, 2021 in an amount not to exceed \$60,000 per month

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

Request authorization for the County Executive to enter into a contract amendment between Whatcom County and G6 Hospitality to extend the lease through September, 2021 in an amount not to exceed \$60,000 per month

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
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Attachments: Staff Memo, Contract Information sheet, Proposed Amendment 3



MEMORANDUM

TO: Whatcom County Council
FROM: Tyler Schroeder, Deputy Executive
RE: Lease Extension for Isolation and Quarantine Facility
DATE: 04/22/2021

The County Executive requests authorization to enter into a contract amendment between G6 Hospitality for the extended use of the hotel as an isolation and quarantine (I&Q) facility through September 30, 2021.

▪ **Background and Purpose**

In April, 2020 Whatcom County entered into a lease agreement with G6 Hospitality for the provision of an Isolation and Quarantine Facility. In February, a request for proposal (RFQ #2021-07) was advertised for a COVID Temporary Housing Facility. Twenty-three establishments were sent direct invitations to respond. The Planning Section of Whatcom Unified Command also worked with Bellingham/Whatcom County Tourism to promote the RFQ to area lodging facilities.

With no responses received for the RFP, the Administration believes it is in the public's best interest to extend the lease agreement through September, 2021. Thankfully, COVID outbreaks are decreasing and numbers are down. However, there still remains a community need for an isolation and quarantine facility that can be used for residents that don't have the opportunity or resources to self-quarantine such as our homeless population and agricultural workers that will be coming to our community to work over the summer.

The extension of this lease for an I&Q facility will continue to help prevent further spread of the COVID-19 virus throughout the larger community.

▪ **Funding Amount and Source**

The amendment extends the current lease for an additional four months through September 30, 2021 and increases the reimbursement by \$10,000 for each month, for a total of \$60,000/month, and it is anticipated to be through the American Rescue Plan Act funds or FEMA whichever works in the best interest of the County.

Please contact Tyler Schroeder at extension 5207, if you have any questions or concerns regarding the terms of this agreement.

AMENDMENT NO. 3
TO
FACILITY USE AGREEMENT

Between G6 Hospitality Property LLC and Whatcom County, Washington

This Third Amendment is made to the Facility Use Agreement between G6 Hospitality Property LLC (“Owner”) and the Whatcom County, Washington (“County”), covering the property located at 3701 Byron Avenue, Bellingham, Washington, dated April 8, 2020 and amended on June 24, 2020 and November 9, 2020 (collectively, the “Agreement”). The following modified terms and conditions are made a part of the Agreement effective on April __, 2021.

The parties agree as follows:

1. Pursuant to Section 3.2 (Additional Term(s)) of the Agreement, the parties agree to extend the term through September 30, 2021.
2. Beginning June 1, 2021, the Base Rent will increase to SIXTY THOUSAND and 00/100 DOLLARS (\$60,000.00).
3. All other terms and conditions in the Agreement, not amended above, will remain in effect. Any change to this Third Amendment is subject to written acceptance by the parties.

G6 HOSPITALITY PROPERTY LLC,
A DELAWARE LIMITED LIABILITY COMPANY

WHATCOM COUNTY, WASHINGTON

By: _____

By: _____

Name: Robert Palleschi

Name: Satpal Sidhu

Title: CEO

Title: Whatcom County Executive

Date: _____

Date: _____



Whatcom County

COUNTY COURTHOUSE
311 Grand Avenue, Ste #105
Bellingham, WA 98225-4038
(360) 778-5010

Agenda Bill Master Report

File Number: AB2021-254

File ID:	AB2021-254	Version:	1	Status:	Agenda Ready
File Created:	04/13/2021	Entered by:	FBurkhar@co.whatcom.wa.us		
Department:	Sheriff's Office	File Type:	Interlocal		
Assigned to:	Council Finance and Administrative Services Committee			Final Action:	
Agenda Date:	05/04/2021			Enactment #:	

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

TITLE FOR AGENDA ITEM:

Request authorization for the County Executive to enter into an interlocal agreement between Whatcom County and the Mount Baker School District to lease tower access at the Kendall Elementary School Tower Site, in the amount of \$0.00

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

See Staff Memo

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
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Attachments: Staff Memo, Contract

**WHATCOM COUNTY
SHERIFF'S OFFICE**

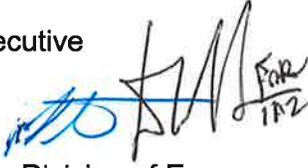
BILL ELFO
SHERIFF



PUBLIC SAFETY BUILDING
311 Grand Avenue
Bellingham, WA 98225-4038
(360) 778-6600

MEMO

To: Satpal Singh Sidhu, County Executive

From: Sheriff Bill Elfo, Director
John Gargett, Deputy Director 
Whatcom County Sheriff's Office Division of Emergency Management

Subject: Whatcom County Integrated Public Safety Radio Network
Kendall Elementary School Tower Site Lease

Date: April 12, 2021

Enclosed is the lease between Whatcom County and the Mount Baker School District for leasing tower access and equipment space at the Kendall Elementary School Tower Site.

- Background and Purpose

The Whatcom County Integrated Public Safety Radio Network, used by all first responder agencies county-wide, utilize multiple communications sites to provide coverage for Whatcom County. All tower leases have been previously managed by the Whatcom County Council of Governments through the NWLERN contract, which expired 12/31/2020. Management of all tower leases has reverted to Whatcom County.

The lease for the Kendall Elementary School Tower Site has expired and needs to be renewed. This lease allows Whatcom County the continued ability to maintain communications for first responders.

The performance period for this lease runs from January 1, 2021 through July 31, 2025.

- Funding Amount and Source

\$0.00. Per article 3.B.(page 4), "The Base Rent ... during the Lease shall be at no cost."
Funding comes from the Sheriff's Office Division of Emergency Management Public Safety Radio System budget.

If you have questions, please contact John Gargett (360-778-7160).

NONEXCLUSIVE COMMUNICATIONS SITE LEASE

THIS NONEXCLUSIVE COMMUNICATIONS SITE LEASE ("Lease") is entered into effective as of the first day of January 2021 by and among Mount Baker School District, a Washington municipal corporation, ("Lessor"), and Whatcom County Sheriff's Office ("Lessee").

WHEREAS, Lessor owns and operates public school on the real property located at 7547 Kendall Road Maple Falls, Washington commonly known as Kendall Elementary School (the "Tower Site");

WHEREAS, Lessee desires to obtain a nonexclusive right to enter upon and to use the Tower Site for the purpose of installing, operating, and maintaining radio communications facilities to be used by Lessee in providing emergency services to the general public in Whatcom County, Washington; and,

WHEREAS, Lessor and Lessee have agreed to the terms of this Lease pursuant to which Lessor has agreed to grant to Lessee the nonexclusive right to enter upon and to use the Tower Site for the purpose of installing, operating, and maintaining radio communications facilities to be used by Lessee in providing emergency services to the general public in Whatcom County, WA.

NOW THEREFORE, in consideration of the covenants and agreements hereinafter stated; the Parties mutually agree as follows:

1. **GRANT OF LEASE.** Lessor hereby grants to Lessee a nonexclusive right, subject to the terms and conditions set out in this Lease, providing Lessee with the right to enter upon and to use the Tower Site for the purpose of installing, operating, and maintaining radio communications facilities to be used by Lessee in providing emergency services to the general public in Whatcom County, Washington. Lessee and Lessor shall have the rights and obligations with respect to Lessee's use of the Tower Site set out in this Section 1 and as otherwise set out in this Lease.

A. **Right of Access.**

1. During the Lease Term, Lessee and its authorized contractors and agents shall have a non-exclusive right of entry and access to the Tower Site and the communications building located on the Tower Site (the "Communications Building") through existing gates and entrances and over existing roads and driveways for the purpose of the installation, maintenance, operation, and removal of telecommunication hardware, antennas, base stations, transmitters, and associated communication equipment ("Lessee's Facilities") to be used by Lessee in providing emergency services

to the general public in Whatcom County, Washington. Lessee shall have access to the Tower Site at all times and without advance notice to Lessor.

2. All individuals entering upon the Tower Site on behalf of Lessee shall carry identification credentials provided by Lessor at all times they are on the Tower Site.

B. Lessee's Permitted Installations.

1. Lessee shall have (i) the right to install, operate, and maintain inside the Communications Building one 19-inch hardware rack and radio communications hardware located on that rack.

2. Lessee shall have (i) the right to install, operate, and maintain on the antenna tower (the "Tower") located on the Tower Site 1 (one) seventy-two-inch directional antenna, cabling connecting Lessee's antenna on the Tower to Lessee's radio hardware located in the Communications Building. No part of any equipment or hardware installed by Lessee on the Tower shall exceed the height of the Tower; i.e., one hundred ninety (190) feet above the ground or obstruct FAA warning lights.

3. All above-ground work on the Tower Site shall be performed by Lessee and its approved contractors in compliance with NATE CTS certification or its equivalent and ANSI/ASSE Z359 fall protection standards following all current regulations.

4. The exact location of all equipment installed by Lessee on the Tower Site shall be approved by Lessor in advance of its installation. Such equipment shall be installed pursuant to plans approved by Lessor in advance of the installation, which approval Lessor shall not unreasonably deny, provided that Lessee's equipment and use of the Tower Site shall not interfere with Lessor's own use of the Tower Site.

5. Lessee shall provide, at its sole expense, all hardware and equipment for which Lessee have the right to install, operate, and maintain on the Tower Site under this Lease and shall maintain such hardware and equipment and its integrity and safety at its sole cost.

6. Lessee shall use appropriately licensed contractors to perform all installation and maintenance work permitted on the Tower Site by this Lease, and all such contractors shall be approved by Lessor in advance of their performing work on the Tower Site, which approval Lessor may grant or deny in the reasonable exercise of its discretion. All installation and maintenance work performed by Lessee and its contractors on the Tower Site shall be performed under Lessor's supervision.

7. Lessee shall repair, at its sole expense, any damage to the Tower Site and to property on the Tower Site not owned by Lessee that may result from the activities of Lessee or its contractors. Such damage shall be repaired within fifteen (15) days to Lessor's sole satisfaction.

8. All equipment installed by Lessee on the Tower Site shall be and shall remain the property of Lessee during the term of this Lease and any extension. At the termination of this Lease, Lessee shall remove all of its equipment from the Tower Site and shall repair any damage to the Tower Site that may have resulted from its use of the Tower Site and from its installation, operation, maintenance, and removal of its equipment on the Tower Site.

2. LEASE TERM.

A. **Initial Term.** The initial term of this lease shall commence on the effective date first set out above (the "Effective Date") and expire at 11:59 p.m. local time on July 31, 2025 unless sooner terminated in accordance with the provisions of this Lease. The initial term of this Lease ("Initial Term"), together with all renewals thereof, are referred to herein as the "Term."

B. **Renewal Terms.** Provided that Lessee has not been in material default under this Lease beyond any required notice and cure period, and further provided neither Lessor nor Lessee have elected to terminate this Lease as otherwise provided herein, Lessee shall have two (2) options to renew this Lease for an additional period of five (5) years each, upon the terms and conditions of this Lease (each, a "Renewal Term"). Such option may be exercised by Lessee on or before the date that is one (1) year prior to the expiration of the Initial Term, or subsequent Renewal Term, by delivery to Lessor of written notice of Lessee's election to renew the Lease.

C. **Lessor Termination Right.** Lessor shall have the right to terminate this Lease and cancel any remaining Renewal Terms upon the expiration of the Initial Term, or upon the termination of any succeeding Renewal Term. Such termination right may be exercised by Lessor on or before the date that is one (1) year prior to the expiration of the Initial Term, or any succeeding Renewal Term, by delivery to Lessee of written notice of Lessor's election to terminate this Lease.

D. **Lessee Termination Right.** Lessee may terminate this Lease at any time conditioned upon one hundred eighty (180) days advance notice to Lessor, provided Lessee has no outstanding rent due to Lessor, and has removed all equipment and improvements required to be removed under this Lease from the Tower Site at the termination of this Lease.

3. **RENT.** Lessee shall pay to Lessor a minimum annual rent ("Base Rent") as set forth in this Section 3. All sums payable to Lessor under this Lease shall be paid in lawful money of the United States, at the address specified in Section 18 below, or such other address as Lessor may from time-to-time specify by written notice to Lessee.

A. **Lease Year.** As used in this Lease, the term "Lease Year" means each consecutive twelve (12) month period during the Term, commencing on the Effective Date, and expiring twelve months thereafter.

B. **Base Rent.**

1. The Base Rent payable for Lessee's rights with respect to Lessee's rights under Sections 1(B)(1)(i) (one 19-inch hardware rack) and 1(B)(2)(i) (one 72-inch directional antenna) and 5(A) Electrical service) during the Lease shall be at no cost. All Base Rent shall be paid in advance on or before the first day of each Lease Year during the Term.

4. **USE.**

A. **Permitted Use.** The radio Tower Site is to be used by Lessee for the installation, removal, operation, repair, replacement, and maintenance of the Lessee's Facilities used in providing emergency services to the general public in Whatcom County, Washington, and for broadcasting operations related thereto, and for no other purpose without the consent of Lessor. The installation, removal, operation, repair, maintenance of the Lessee's Facilities, and Lessee's broadcasting operations shall be conducted in accordance with the terms and conditions of this Lease and the standards imposed by the Federal Communications Commission ("FCC") and any other governmental body or agency as shall have jurisdiction over the Lessee's Facilities or with any activities of Lessee on the Tower Site.

B. **Compliance with Laws.** Lessee shall comply with all laws concerning the Tower Site or Lessee's use of the Tower Site, including, without limitation, the obligation, at Lessee's expense, to alter, maintain, or restore the Tower Site, in compliance and conformity with all laws relating to the condition, use, or occupancy of the Tower Site during the Term.

C. **No Exclusive Use.** Lessor shall have the right for itself and its affiliates to use the Tower Site, including but not limited to space in the Communication Building and the Tower, and to lease or otherwise grant the right to use the Tower Site to any other person or entity for any purpose, including but not engaging in any form of radio broadcasting and/or electromagnetic communication. The use by Lessee of the Tower Site shall be, and is, subject to the exercise of rights by Lessor and third parties using or

the Tower Site to the extent that the exercise by Lessor and such third parties of their respective rights does not violate or conflict with rights granted to the Lessee hereunder.

D. Interference.

1. Lessee shall not take any action or install or utilize the Lessee's Facilities in any manner that Interferes with any other person's broadcasting signal (or receiving ability) on the Tower Site or on any immediately adjacent parcels of real property. As used in this Lease, the terms "Interfere" and "Interference" means (i) a condition existing that constitutes interference within the meaning of the provisions of the recommended practices of the Electronics Industry Association and the rules and regulations of the FCC then in effect, or (ii) a material impairment of the quality of receiving ability, or material impairment of sound or picture signals of a broadcasting activity, to the extent such receiving or broadcasting activities are now or hereafter conducted on the Tower Site or on any immediately adjacent parcels of real property.

2. Lessor shall notify Lessee of Lessee's Interference in writing ("Interference Notice"). Upon receipt of notification, Lessee shall (x) take Reasonable efforts necessary to identify and rectify the Interference, and (y) cease the operation of the source of such Interference or reduce operating power to eliminate the Interference until the Interference is fully rectified. In the event Lessee fails to cease operation of the source of such Interference or reduce operating power to eliminate the Interference within forty-eight (48) hours or receipt of the Interference Notice, Lessor may, at its option, disconnect power to the Lessee's Facilities. If Lessor does not exercise its option to disconnect power and if Lessee fails to correct and eliminate the interference within fifteen (15) days of receipt of the Interference Notice, Lessee shall be in Default hereunder and Lessor may exercise any and all remedies provided for herein. Lessee shall pay any costs incurred as a consequence of its exercise of remedies hereunder.

3. Lessor shall use all reasonable efforts to ensure that other parties that install equipment on or use the Tower Site after the Effective Date of this Agreement do not cause interference to the operation of the Lessee's Facilities ("Objectionable Interference"). Should Objectionable Interference be experienced by Lessee, Lessee shall provide notice in writing of such Objectionable Interference to Lessor, and Lessor shall cooperate with Lessee in identifying the source of the Objectionable Interference and in causing the responsible party to take such reasonable steps necessary to eliminate the Objectionable Interference.

5. UTILITIES.

A. **Electrical Service for Lessee's Use.** Lessor shall provide Lessee, at Lessor's expense, electrical service and appropriate environmental cooling and heating of the Communications Building up to 800 kWh per month. Power usage over 800 kWh per

month may be billed to Lessee at Lessors discretion. Lessor shall have no other obligation to provide utilities to the Tower Site or for the use of Lessee.

B. Lessor's Limitation of Liability Regarding Electrical Service. In no event shall Lessor be liable for the quality, quantity, failure or interruption of electrical service to the Tower Site or damages resulting directly or indirectly therefrom by reason of or resulting from any accident, or the need or priority of repairs or improvements, or by reason of orders of any military, civil or governmental authority, or riots, insurrections or invasions, or any other reason beyond the control of Lessor.

6. CARE OF TOWER SITE. Lessee shall use all reasonable precautions to prevent waste, damage, or injury to the Tower Site or to the equipment of others located on the Tower Site. During the Term, Lessee, at its expense, shall cause the Lessee's Facilities at the Tower Site to be kept in good condition and repair and in accordance with reasonable engineering standards and requirements of the FCC and all other public authorities with jurisdiction over the Tower Site. Lessee shall, at its expense, repair any damage it or its agents or contractors cause to the Tower Site, reasonable wear and tear excepted. In the event Lessee fails to so maintain or repair the Tower Site or the Lessee's Facilities, Lessor shall deliver notice of such failure to Lessee. In the event Lessee fails to thereafter repair or maintain the Tower Site or Lessee's Facilities within fifteen (15) days from Lessee's receipt of Lessor's notice, Lessor may cause the Lessee's Facilities or the Tower Site to be repaired – in which case, Lessee shall reimburse Lessor for the reasonable costs incurred in connection therewith within ten (10) days after Lessor delivers an invoice to Lessee therefor. Lessee's use of the Tower Site shall not unnecessarily interrupt Lessor's use of the Tower Site, nor disrupt existing utilities, and/or other Lessee of the Tower Site.

7. ENVIRONMENT.

A. Limitation on Use of Hazardous Substances. With the exception of Hazardous Substances that are legally used in the normal course of its business, Lessee will not bring to, transport across or dispose of any Hazardous Substances on the Tower Site. Lessee may keep on the Tower Site substances used in backup power units (such as batteries and diesel generators) commonly used in the communications industry. Lessee's use of any approved substances constituting Hazardous Substances must comply with all applicable laws, ordinances and regulations governing such use.

B. Indemnity. If Lessee breaches the obligations stated in the preceding section, then Lessee shall indemnify, defend and hold the Lessor harmless from any and all claims, judgments, damages, penalties, fines, costs, liabilities or losses including, without limitation, diminution in the value of the Tower Site, damages for the loss or restriction on use of the Tower Site, or elsewhere, and sums paid in settlement of claims,

attorneys' fee, consultant fees and expert fees incurred or suffered by Lessor as a result of Lessee's acts either during or after the Term. These indemnifications by Lessee include, without limitation, costs incurred in connection with any investigation of site conditions or any clean-up, remedial, removal or restoration work, whether or not required by any federal, state or local governmental agency or political subdivision, because of Hazardous Substances present on the Tower Site or in soil or ground water on or under the Tower Site. Lessee shall immediately notify Lessor of any inquiry, investigation or notice that Lessee may receive from any third party regarding the actual or suspected presence of Hazardous Substances on the Tower Site.

C. Notwithstanding the foregoing or any other provision in this Lease, Lessee shall not be liable or responsible for any environmental condition, including the release of Hazardous Substances, that existed before the execution of this Lease.

D. **Hazardous Materials Defined.** As used herein, the term "Hazardous Substances" means any hazardous, dangerous, toxic or harmful substance, material or waste including biomedical waste which is or becomes regulated by any local government authority, the State of Washington or the United States Government, due to its potential harm to the health, safety or welfare of humans or the environment.

8. ASSIGNMENT OR SUBLEASE.

A. **Lessee's Assignment.** Lessee may not sublet any rights to access or use the Tower Site granted by Lessor under this Lease. Lessee may assign all its rights under this Lease only (i) to governmental entities whose sole purpose for using the Tower Site is to provide emergency services to the general public in Whatcom County, Washington, (ii) in its entirety, and (iii) with the prior written consent of Lessor, which consent Lessor shall not unreasonably withhold or delay. If at any time Lessee desires to assign this Lease, Lessee shall submit a written request to Lessor, including with the request the identification of the proposed assignee, a description of its proposed use of the Tower Site, and a statement of the terms upon which the assignment is proposed to be made. Lessee will promptly, on request, submit to Lessor such further reasonable documentation relative to the proposed assignment or sublease as Lessor may request. In the event that Lessor grants consent to any assignment of this Lease, the assignment may be conditioned on reasonable conditions imposed by Lessor. Any assignee shall be subject to all of the terms and conditions of this Lease, including those terms and conditions applicable to permitted use and assignment. No assignment shall, to any extent, impair, limit, or qualify the continuing obligation of Lessee to perform all of the obligations of the Lessee under this Lease as if the assignment had not taken place. Any purported assignment or subletting without full compliance with this Section shall constitute a Default and shall vest no rights in the purported assignee or subtenant.

B. **Lessor's Assignment.** Lessor shall have the right to assign its rights and duties hereunder at any time without the consent of Lessee.

9. INDEMNITY AND INSURANCE.

A. Insurance.

1. At all times during the Term, Lessee shall carry (a) commercial general liability insurance, insuring both Lessee and Lessor, with not less than Two Million Dollars (\$2,000,000.00) single limit coverage per occurrence. (b) "all risk" property insurance on the Tower Site and the Lessee's Facilities in an amount equal to the full replacement value thereof, (c) workers' compensation insurance in statutorily-required amounts, and (d) automobile liability insurance for all owned, leased, non-owned, and hired automobiles used in connection with Lessee's activities on the Tower Site at no less than One Million Dollars (\$1,000,000) per occurrence combined single limit for injury or property damage.

2. All of Lessee's insurance required hereunder shall be with insurance carriers licensed to do business in the State of Washington, and rated no lower than A- with a Financial Size Category (FSC) not less than X in the most current edition of A.M. Best's Property-Casualty Key Rating Guide. Lessee shall deliver to Lessor certificates evidencing the insurance required to be maintained by Lessee hereunder on an annual basis. Without limitation upon the other terms and provisions of this Section 10, each insurance policy maintained by Lessee with respect to the Tower Site shall be endorsed to provide (i) that in the event of cancellation, non-renewal or material modification, Lessor shall receive 30-days advance written notice thereof and (ii) that Lessor shall receive renewal Certificates of Insurance no later than 30-days in advance of each renewal.

3. Lessee may satisfy the insurance obligations set forth in this Section by maintaining a self-insurance program or participating in a governmental entity risk pool satisfying the minimum requirements set forth in this Section. Lessee shall provide Lessor with such evidence as Lessor may reasonably require of such substitutes for commercial liability insurance.

4. Notwithstanding any other provision of this Lease, Lessor and Lessee hereby release each other and each other's employees and agents from and against any and all liability (to the other or anyone claiming through or under them by way of subrogation or otherwise) for any loss or damage that is coverable by insurance required to be carried by that party under this Lease, even if such loss or damage shall have been caused by the fault or negligence of the other party, or anyone for whom such party is responsible. Because the provisions of this Section will preclude the assignment of any claim mentioned herein by way of subrogation or otherwise to an insurance company or

any other person, each party to this Lease shall give to its insurers notice of the terms of the mutual releases contained in this Section, and have the insurance required under this Lease properly endorsed, if necessary, to prevent the invalidation of insurance coverage by reason of the mutual releases contained in this Section.

B. **Indemnity.** Lessor shall not be liable for injury, including death, to any person, or for damage to any property, regardless of how such damage may be caused, sustained or alleged to have been sustained by Lessee or others as a result of the Lessee's activities on the Tower Site. Lessee shall indemnify and hold harmless Lessor from and against any and all claims arising from Lessee's use of the Tower Site, or the conduct of its business on the Tower Site, and shall further indemnify and hold Lessor harmless from and against any and all claims arising from any breach or default by Lessee in the performance of its obligations hereunder, and from and against any and all costs, expenses and liabilities incurred in connection with such claim. The provisions of this section shall survive the expiration or earlier termination of this Lease.

10. ALTERATIONS AND IMPROVEMENTS.

A. **Sole Risk.** The risk of loss or damage to Lessee's Facilities and any improvements and personal property of Lessee of every kind or description which may at any time be on the Tower Site shall be Lessee's risk or the risk of those claiming under Lessee, and Lessor shall not be liable for damage to or theft of or misappropriation of such property, any injury or damage to persons or property resulting from or related to the Lessee's Facilities or personal property or any latent defect in any improvements located upon the Tower Site; provided, however, the foregoing limitation on Lessor's liability shall not apply to Lessor's acts of gross negligence and/or willful misconduct.

B. **No Improvements or Alterations.** Lessee shall have no right to make changes and alterations to the Tower Site except as expressly authorized by this Lease.

C. **Liens.** Lessee has no authority or power to cause or permit any lien or encumbrance of any kind whatsoever, whether created by act of Lessee, operation of law or otherwise, to attach to or be placed upon Lessor's title or interest in the Tower or the Tower Site, and any and all liens and encumbrances created by Lessee shall attach to the Lessee's Facilities only. Lessee covenants and agrees not to suffer or permit any lien of mechanics, suppliers, materialmen or others to be placed against the Tower Site or the Tower Site, or any portion thereof, and Lessee covenants and agrees within thirty (30) days after written notice by any entity of the filing of such lien to cause it to be release and removed of record. If Lessee shall fail to cause such lien or encumbrance to be discharged, then, in addition to any other right or remedy, Lessor may, but shall not be obligated to, discharge the same either by procuring the discharge of the lien by payment, deposit or by bonding proceedings. Any amounts paid by Lessor to remove or otherwise satisfy a lien created by Lessee, and all reasonable costs and expenses, including

reasonable attorneys' fees, incurred by Lessor in connection therewith, shall bear interest from the date that the cost was incurred by Lessor at the rate of one and one-half percent (1-1/2%) per month until paid and shall be reimbursed by Lessee immediately upon demand by Lessor.

11. **TAXES.** Lessor shall pay all real estate taxes, assessments, or levies assessed or imposed against the Tower Site. Lessee shall pay all personal property or other taxes imposed against the Lessee's Facilities.

12. **DAMAGE, DESTRUCTION, AND CONDEMNATION.** If Lessee reasonably determines that the Tower Site is damaged or destroyed (unless such damage or destruction is caused by the acts or omissions of Lessee) or is condemned, such that the Tower Site is rendered unsuitable for Lessee's use in providing emergency services to the general public in Whatcom County, Washington, then Lessee shall provide written notice to Lessor within thirty (30) days of such damage or destruction of its intent to terminate this Lease. If any portion of the Tower Site is damaged, destroyed or condemned and Lessee does not terminate this Lease under the provisions of the immediately preceding sentence, then this Lease shall remain in full force and effect. If any portion of the Tower Site or Lessee's Facilities is damaged or destroyed as a result of the acts or omissions of Lessee, this Lease shall remain in full force and effect, and Lessee shall promptly repair such damage or destruction at Lessee's sole expense.

13. **SURRENDER OF TOWER SITE.** Upon the termination of this Lease for any reason, Lessee shall, at its sole expense, remove all equipment and other property owned by Lessee or placed by Lessee on the Tower Site not later than sixty (60) days following the termination of this Lease.

14. **QUIET ENJOYMENT.** Lessor covenants that Lessee shall and may peacefully have, hold and enjoy the Tower Site, subject to the provisions of this Lease, provided Lessee pays the Rent herein recited and performs all of Lessee's covenants and agreements herein contained.

15. **DEFAULT.**

A. **Events of Default.** The occurrence of any one or more of the following events will constitute events of default (each, a "Default" or "Event of Default"):

1. Lessee fails to pay any Rent payable by Lessee under this Lease within 10 business days after Lessee's receipt of written notice from Lessor that such payment is past due. However, if Lessor has provided more than two (2) such notices in any Lease Year, then for the remainder of that Lease Year, it will be an Event of Default if Lessee fails to pay any Rent payable by Lessee under this Lease within five (5) business days after such payment is due (without any notice);

2. Lessee breaches or violates any provision of this Lease that is described in such provision as a "Default" or "Event of Default" or for which a specific performance or notice and cure period is provided and Lessee fails to perform such action or cure such violation within the time period therein provided;

3. Lessee abandons or vacates the Lessee's Facilities and the Tower Site (which shall be construed to mean Lessee has not conducted its business on the Tower Site for a period of time exceeding forty-five (45) days), unless such abandonment or vacation is excused under other provisions of this Lease; or

4. Lessee fails promptly and fully to perform any other of its promises, covenants or agreements in this Lease within thirty (30) days after receipt of written notice thereof from Lessor; provided, however, if the breach is of such a nature that it cannot be cured within such period, then Lessee will have such additional time as may be reasonably necessary to cure that breach provided Lessee (i) commences to cure that breach within ten (10) days after receipt of written notice thereof from Lessor and (ii) thereafter diligently pursues such cure to completion.

B. Remedies of Lessor. Upon the occurrence of any Event of Default, Lessor will have the right to pursue and enforce any and all rights and remedies available to Lessor hereunder or at law or in equity, including, without limitation, the following: (1) to terminate this Lease; (2) cure any such default and invoice Lessee for the costs and expenses of the same, which invoice shall be payable within thirty (30) days of its receipt by Lessee; and (3) if Lessee remains in Default beyond any applicable cure period, whether or not Lessor shall have terminated this Lease, Lessor may demand immediate removal by Lessee of the Lessee's Facilities from the Tower Site, and if Lessee fails to do so within thirty (30) days of Lessor's demand, Lessor may remove and store all of Lessee's property at Lessee's sole cost. In such event, Lessor shall not be liable to Lessee for damage to the Lessee's Facilities in the course of such removal, and Lessee shall reimburse Lessor for any damages to the Tower Site or Tower Site caused by such removal. Lessor's exercise of any particular remedy shall not preclude Lessor from exercising any other remedy available to Lessor, whether under this Lease, at law or in equity.

C. Lessor Default; Limitation on Lessor's Liability. Lessor will not be in default of any provision of this Lease prior to the expiration of not less than thirty (30) days (plus such additional time as may reasonably be required to cure Lessor's failure, if such default reasonably cannot be cured within such thirty (30) days) after written notice from Lessee specifying Lessor's failure. All obligations of Lessor under this Lease will be binding upon Lessor only during the period of its ownership of the Tower Site and not thereafter. The term "Lessor" in this Lease will mean only the owner of the Tower Site so long as it owns the Tower Site, and in the event of the transfer by such owner of its

interest in the Tower Site, such owner will thereupon be released and discharged from all obligations of Lessor thereafter accruing, but such obligations will be binding during the Term upon each new owner for the duration of such owner's ownership.

16. SUBORDINATION.

A. **Lease Subordinate.** Upon written request by Lessor, Lessee agrees to subordinate its rights under this Lease to the lien of all mortgages (regardless of whether such mortgages now exist or may hereafter be created) with regard to all or any part of the Tower Site, and to any and all advances to be made thereunder and all modifications, consolidations, renewals, replacements and extensions thereof provided the mortgagee(s) shall agree to recognize the Lease of Lessee (if Lessee is not then in default hereunder) in the event of foreclosure under any such mortgage.

B. **Sale of Tower Site.** Lessee shall, in the event of the sale or transfer of Lessor's interest in the Tower Site, or in the event of any proceedings brought for the foreclosure of any mortgage covering the Tower Site, attorn and by the execution of this Lease does so attorn to and recognize such purchaser or assignee or mortgagee as Lessor under this Lease.

C. **Certificates.** Lessee agrees that, upon the request of Lessor or any such assignee or mortgagee, Lessee shall, within ten (10) business days from Lessor's request, execute and deliver whatever instruments may be required to carry out the intent of this section. Failure to do so shall be an Event of Default hereunder.

17. **SERVICE INTERRUPTIONS.** Lessor shall incur no liability to Lessee for any act or failure to act if prevented by war, fires, accidents not as a result of Lessor's own gross negligence or willful misconduct, acts of God, or other causes beyond its control, including but not limited to, temporary or intermittent service interruptions resulting from maintenance and repair work to the Communications Building, the Tower, facilities of Lessor, or other Lessee of the Tower Site, or alterations to the Communications Building, the Tower, or the Tower Site performed by Lessor, any other Lessee of the Tower Site, or required by any governmental authority. Except as otherwise provided in Section 12 of this Lease, any delay, disruption or hindrance caused to Lessee, its transmissions or business that is occasioned by maintenance, repair work, or any other commercially reasonable purpose by Lessor, any other Lessee of the Tower Site, or any governmental authority shall not affect or impair Lessee's obligation to pay Monthly Base Rent hereunder, so long as the party conducting such work acts in accordance with commercially reasonable engineering practices.

18. **NOTICES.** Except as otherwise specifically set forth herein, any demand, request or notice which either party hereto desires, or may be required to may or deliver to the other, shall be in writing and shall be deemed given when personally delivered, or on the next business day and when delivered by an overnight delivery service which issues

receipts (such as Federal Express), or when received by facsimile at the facsimile number shown below, or three (3) days after being deposited in the United States mail, in registered or certified form, return receipt requested, addressed as follows:

Lessor:

Mount Baker School District
PO Box 95
Deming, WA 98244
Attn.: Ben Thomas
Telephone No.: (360) 617-4604
Email: bthomas@mtbaker.wednet.edu

Lessee:

Whatcom County Sheriff's Office
311 Grand Avenue, Public Safety Building
Bellingham, WA 98225
Attn.: Communications Manager, Division of Emergency Management
Telephone No.: 360-676-6681
Email address: wcsodem@co.whatcom.wa.us

Or to such other address, facsimile number and/or person as either party may communicate to the other by like written notice.

19. **SEVERABILITY.** It is the intention of the Lessor and Lessee that this Lease comply with FCC rules, regulations and policies and the applicable state and local laws and regulations and any covenants or restrictions of record. If any term of this Lease is found to be void or invalid, such invalidity shall not affect the remaining terms of this Lease, which shall continue in full force and effect. The parties shall agree that if any provisions are deemed not enforceable, they shall be deemed modified to the extent necessary to make them enforceable.

20. **BROKERS.** Lessee warrants that it has dealt with no broker, commission agent, finder or other person or entity with respect to this Lease, and Lessor warrants that it has dealt with no broker, commission agent, finder or other person or entity with respect to this Lease. Each party shall indemnify and hold harmless the other party from any and all claims, actions, damages, costs, expenses, and liability whatsoever, including reasonable attorney's fees that may arise from any claims for commission or finder's fees in connection with this Lease or the Tower Site.

21. **ENTIRE AGREEMENT.** This Lease and all exhibits attached hereto constitute the entire agreement between Lessor and Lessee regarding the subject matter of this Lease.

There are no terms, obligations, covenants or conditions other than those herein contained. No modification or amendment to this agreement shall be valid or effective unless evidenced by an agreement in writing between the parties hereto. No waiver by any party of any right, default, misrepresentation, or breach of warranty or covenant under this Lease shall be effective unless in writing and signed by the waiving party. No such waiver shall be deemed to extend to any prior or subsequent right, default, misrepresentation, or breach of warranty or covenant under this Lease, or affect in any way any rights arising by virtue of any prior or subsequent such occurrence.

22. **GOVERNING LAW; VENUE; ATTORNEYS FEES.** This Lease and all rights and liabilities of the parties hereunder shall be construed and governed by the laws of the State of Washington. In the event of a dispute between the parties hereto concerning the terms of this agreement, or any action or cause of action in connection therewith may be had in Whatcom County, Washington, and the prevailing party as to such action shall be entitled to receive a reasonable attorney fee as determined in the court in such action. This Lease shall be binding on and inure to the benefit of the successors and permitted assignees of the respective parties. Time is of the essence of this Lease.

WHATCOM COUNTY:
Recommended for Approval:



Bill Elfo, Sheriff

04/12/21

Date

Lessor:

MOUNT BAKER SCHOOL DISTRICT

By: *[Signature]*
Name: Mary Sewright
Its: Superintendent
Date: 4-1-21

STATE OF WASHINGTON

COUNTY OF Whatcom

ss.

**Notary Public
State of Washington
Kristi Baklund
Commission Expires 11/30/21**

I certify that I know or have satisfactory evidence that Mary Sewright is the person who appeared before me, and said person acknowledged that said person signed this instrument, on oath stated that said person was authorized to execute the instrument and acknowledged it as the Superintendent of Mount Baker School District, a Washington corporation, and that it executed the within and foregoing instrument to be its free and voluntary act for the uses and purposes mentioned in the instrument.

Dated this 1 day of April, 2021.

Kristi Baklund

Notary public in and for the State of Washington,
residing at Deming.

Printed name: KRISTI BAKLUND

My appointment expires 11/30/21.



Whatcom County

COUNTY COURTHOUSE
311 Grand Avenue, Ste #105
Bellingham, WA 98225-4038
(360) 778-5010

Agenda Bill Master Report

File Number: **AB2021-262**

File ID:	AB2021-262	Version:	1	Status:	Agenda Ready
File Created:	04/20/2021	Entered by:	JThomson@co.whatcom.wa.us		
Department:	Health Department	File Type:	Contract		
Assigned to:	Council Finance and Administrative Services Committee			Final Action:	
Agenda Date:	05/04/2021			Enactment #:	

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

TITLE FOR AGENDA ITEM:

Request authorization for the County Executive to enter into a contract amendment between Whatcom County and Opportunity Council to provide rental assistance for people with co-occurring disorders in the amount of \$15,000 for a total amended contract amount of \$84,843

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

See attachments

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
-------	--------------	---------	----------

Attachments: Staff Memo, Proposed Amendment



MEMORANDUM

TO: Satpal Sidhu, County Executive
FROM: Erika Lautenbach, Director
RE: Opportunity Council – CJTA Rental Assistance Contract Amendment #4
DATE: April 20, 2021

Attached is a contract amendment between Whatcom County and Opportunity Council for your review and signature.

- **Background and Purpose**

Whatcom County seeks to increase housing opportunities for people with criminal charges who are challenged with substance use disorders (SUD), are experiencing homelessness or are discharging from institutions, or who need a viable, clean and sober living environment. This contract provides up to six months of funding for rental assistance for people with co-occurring disorders (serious mental illness and SUD). This amendment increases funding by \$15,000 for rental assistance and associated staff time and allows reimbursement for the Contractor to serve eligible individuals affected by the Blake decision (described in the Scope of Work (II.)), who would otherwise not receive services under this contract.

- **Funding Amount and Source**

Funding for this contract period (07/01/2020 – 06/30/2021), may not to exceed \$84,843 and funding for the entire contract period (01/01/2019 – 06/30/2021) may not exceed \$238,159. Funding is provided by the Criminal Justice Treatment Account (CJTA) through the Washington State Health Care Authority. These funds are included in the 2021 budget. Council approval is required as additional funding exceeds 10% of the approved budget.

Please contact Anne Deacon, Human Services Manager at 360-778-6054 (adeacon@co.whatcom.wa.us) or Kathleen Roy, Assistant Director at 360-778-6007 (kroy@co.whatcom.wa.us), if you have any questions or concerns regarding this request.



**WHATCOM COUNTY
CONTRACT INFORMATION SHEET**

Whatcom County Contract Number:
201811023 – 4

Originating Department:		85 Health	
Division/Program: (i.e. Dept. Division and Program)		8550 Human Services / 855060 Substance Abuse Program	
Contract or Grant Administrator:		Jackie Mitchell	
Contractor's / Agency Name:		Opportunity Council	
Is this a New Contract?	If not, is this an Amendment or Renewal to an Existing Contract?		Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	If Amendment or Renewal, (per WCC 3.08.100 (a)) Original Contract #:		201811023
Does contract require Council Approval?	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	If No, include WCC:	
Already approved? Council Approved Date:		(Exclusions see: Whatcom County Codes 3.06.010, 3.08.090 and 3.08.100)	
Is this a grant agreement?	If yes, grantor agency contract number(s):		CFDA#:
Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>			
Is this contract grant funded?	If yes, Whatcom County grant contract number(s):		201909026
Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>			
Is this contract the result of a RFP or Bid process?	If yes, RFP and Bid number(s):		Contract Cost Center: 675600
Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>			
Is this agreement excluded from E-Verify?	No <input type="checkbox"/> Yes <input checked="" type="checkbox"/>		
If YES, indicate exclusion(s) below:			
<input checked="" type="checkbox"/> Professional services agreement for certified/licensed professional.			
<input type="checkbox"/> Contract work is for less than \$100,000.		<input type="checkbox"/> Contract for Commercial off the shelf items (COTS).	
<input type="checkbox"/> Contract work is for less than 120 days.		<input type="checkbox"/> Work related subcontract less than \$25,000.	
<input type="checkbox"/> Interlocal Agreement (between Governments).		<input type="checkbox"/> Public Works - Local Agency/Federally Funded FHWA.	
Contract Amount:(sum of original contract amount and any prior amendments):		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: <ol style="list-style-type: none"> 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. 	
\$	223,159		
This Amendment Amount:			
\$	15,000		
Total Amended Amount:			
\$	238,159		
Summary of Scope: This contract provides up to six months of rental assistance for people with co-occurring or substance use disorders.			
Term of Contract:	1 Year	Expiration Date:	06/30/2021
Contract Routing:	1. Prepared by:	JT	Date: 03/10/2021
	2. Health Budget Approval	KR	Date: 04/19/2021
	3. Attorney signoff:	RB	Date: 04/19/2021
	4. AS Finance reviewed:	M Caldwell	Date: 4/20/21
	5. IT reviewed (if IT related):		Date:
	6. Contractor signed:		Date:
	7. Submitted to Exec.:		Date:
	8. Council approved (if necessary):	AB2021-	Date:
	9. Executive signed:		Date:
	10. Original to Council:		Date:

WHATCOM COUNTY CONTRACT AMENDMENT

PARTIES:

Whatcom County
Whatcom County Health Department
509 Girard Street
Bellingham, WA 98225

AND CONTRACTOR:
Opportunity Council
1111 Cornwall Avenue
Bellingham, WA 98225

CONTRACT PERIODS:

Original:	01/01/2019 – 06/30/2019	Amendment #3:	07/01/2020 – 06/30/2021
Amendment #1:	07/01/2019 – 06/30/2020	Amendment #4:	04/01/2021 – 06/30/2021
Amendment #2:	07/01/2020 – 06/30/2021		

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

DESCRIPTION OF AMENDMENT:

1. Amend Exhibit A – Scope of Work, to include a definition of the Blake Decision law suit and CJTA eligibility requirements that have been revised as a result of that suit. This amendment also includes a quarterly reporting schedule and reimbursement of motel stays and damages or repairs. A revised Exhibit A is attached.
2. Amend Exhibit B – Compensation, to increase funding by \$15,000; revised Exhibit B is attached.
3. Funding for this contract period (07/01/2020 – 06/30/2021) is not to exceed \$84,843.
4. Funding for the total contract period (01/01/2019 – 06/30/2021) is not to exceed \$238,159.
5. All other terms and conditions remain unchanged.
6. The effective start date of the amendment is 04/01/2021.

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 AMENDMENT HEREBY ACKNOWLEDGE AND ACCEPT THE TERMS AND CONDITIONS OF THIS AMENDMENT. Each signatory below to this Contract warrants that he/she is the authorized agent of the respective party; and that he/she has the authority to enter into the contract and bind the party thereto.

APPROVAL AS TO PROGRAM: _____
Anne Deacon, Human Services Manager Date

DEPARTMENT HEAD APPROVAL: _____
Erika Lautenbach, Health Department Director Date

APPROVAL AS TO FORM: _____
Royce Buckingham, Prosecuting Attorney Date

FOR THE CONTRACTOR:

Greg Winter, Executive Director		
Contractor Signature	Print Name and Title	Date

FOR WHATCOM COUNTY:

Satpal Singh Sidhu, County Executive Date

CONTRACTOR INFORMATION:

Opportunity Council
1111 Cornwall Avenue
Bellingham, WA 98225
Greg_winter@oppco.org

EXHIBIT "A"
SCOPE OF WORK – Amendment #4

I. Background

The purpose of this contract is to provide up to six months of rental assistance for people with substance use disorders (SUDs) who are in the criminal justice system. Whatcom County lacks housing assistance options for people with SUD who have criminal charges who are homeless and discharging from institutions, or who need a viable clean and sober living environment in order to initiate or maintain recovery.

The consequence of limited access to housing leaves people with SUDs at risk of relapsing and recycling through homelessness and the criminal justice system. This contract will provide people with SUDs (including people with co-occurring mental health disorders) access to rental assistance for up to six months.

II. Definitions

"Blake Decision" – The Washington Supreme Court made a recent ruling in the case of **State v. Blake** (Shannon B.), No. 96873-0. The decision struck down a major law in Washington which criminalized drug possession. The decision will impact many people who have been charged with a simple felony drug charge in the past and the present, and could result in those individuals not receiving services for which they would have been eligible had the charge remained in place.

Criminal Justice Treatment Account (CJTA) – A fund designated by state law to treat certain non-violent drug offenders who have an SUD that if not treated is likely to result in addiction or is already addiction. Eligibility for CJTA is further described in the contract.

Co-Occurring Disorder (COD) — In this contract, COD is used to indicate a instances where both mental health disorder and substance use disorders

Diagnostic and Statistical Manual 5 (DSM5) – The current standard manual used for the classification of and diagnosis of mental disorders.

Serious Mental Illness (SMI) — The term "serious mental illness" consists of DSM-5 diagnosed conditions such as bipolar disorder, schizophrenia, and schizoaffective disorder.

Recovery – A process of change through which individuals improve their health and wellness, live a self-directed life, and strive to reach their full potential. (SAMHSA)

Release of Information (ROI) – This is written form for client consent to share information with other people or entities who are involved with the client's care. ROIs are required by federal regulations such as 42 Part 2 CFR and by Health Insurance and Portability Act (HIPAA) and are designed to protect client confidentiality. (See the following links for more information: <https://www.ecfr.gov/cgi-bin/text-idx?rgn=div5&node=42:1.0.1.1.2> and <https://www.hhs.gov/hipaa/index.html>)

Substance Use Disorder (SUD) – A diagnostic classification in the DSM-5 which combines substance abuse and addiction into a single disorder (or set of disorders) which is measured along a continuum from mild to severe depending on symptoms.

Rental Assistance—Funding provided to support rental needs for individuals served on this contract.

Substance Abuse and Mental Health Administration (SAMHSA) – A federal organization that provides funding, key policy decisions, oversight, data and information related to substance abuse and mental health issues and services.

III. Statement of Work

The Contractor will accept referrals from therapeutic court programs, GRACE Care Coordinators, SUD case managers, and treatment providers for people who have been identified as eligible for housing assistance under CJTA criteria noted below.

Individuals qualify for housing under CJTA if they meet the following conditions:

1. Have a charge filed upon them by a prosecuting attorney in Washington State or a charge which was vacated or expunged due to the Washington Supreme Court Blake Decision.
2. Are a Whatcom County resident.
3. Have a substance use disorder which could worsen if not treated
4. Have completed a course of SUD treatment and need housing for up to six months (A waiver is required for extensions beyond six months) or require housing prior to treatment for the purposes of coordinating care.
5. Must be enrolled in an ongoing outpatient, case management or care coordination program throughout the course of their housing stay.
6. Qualify for income eligibility at or below 220% of Federal Poverty Level, if not on Medicaid.

The Contractor will prioritize referrals in the following order:

- A. Drug Court participants or Mental Health Court members;
- B. Ground Level Response and Coordinated Engagement (GRACE) members, Law Enforcement And Diversion (LEAD) Whatcom Community Detox or SUD treatment providers' clients or other care coordination/case management programs as approved by the Contract Administrator.

Referral Process:

The Contractor may receive referrals for individuals who are screened and assessed by the referent as eligible for CJTA. The Contractor shall work with the County and with referents on a screening form and a referral procedure. The Contractor shall ensure that each referent has a copy of the screening and eligibility criteria, and that referents submit documented eligibility and a release of information to the Contractor.

In addition, the Contractor shall participate in meetings designed to improve each of the following: the referral system, communication between community partners, and discharge procedures. The Contractor will secure brief Memorandums of Agreements (MOA) with referents which outline the referral requirements and any procedures necessary to ensuring a smooth referral process.

IV. Program Requirements

Allowable Expenses –Rental Assistance – The Contractor shall issue rental assistance based on the following:

1. Monthly rent and utilities and any combination of first and last months' rent for up to six (6) months.
 - a. The Contractor may grant a waiver for up to three months at a time, for up to six more months in total. The Contractor will work with the County to ensure criteria are in place for waiver standardization.
 - b. Rent may only be paid one (1) month at a time, although rental arrears, pro-rated rent and last month's may be included with the first month's payment.
2. Security deposits and utility deposits for a household moving into a new unit.
3. CJTA rental assistance may be used for move-in costs including, but not limited to, deposits and first month's

rent associated with housing, including project- or tenant-based housing.

4. Application fees, background and credit check fees for rental housing.
5. Lot rent for RV or manufactured home.
6. If approved by the Contract Administrator, the following may also be provided under this contract:
 - i. Hotel/Motel vouchers.
 - ii. Payment for damages and necessary repairs to hotel/motel rooms or property.

V. Discharge

Once the participant has departed from housing, regardless of the reason, the Contractor will secure a completed discharge form from the referent/case manager. The discharge form serves as a communication tool to help manage rental assistance resources and will contain basic information for tracking outcomes. This form will be developed by the Contractor in partnership with the County within 60 days of the contract execution.

VI. Outcomes & Reporting Requirements

The Contractor will submit a quarterly CJTA Programmatic Treatment Report to the State Health Care Authority Secure File Transfer (SFT) system on the 15th of the month following the end of the quarter. Other instructions are discussed in Exhibit D – Washington State Health Care Authority Data Use, Security, and Confidentiality Requirements.

The following quarterly schedule shows the dates the Treatment Report is due:

1st quarter, July 1-September 30- submitted by October 15th

2nd quarter, October 1-December 1 – submitted by January 15th

3rd quarter, January 1-March 31 – submitted by April 15th

4th quarter, April 1-June 30 – submitted by July 15th

**EXHIBIT “B” – Amendment #4
(COMPENSATION)**

- I. **Budget and Source of Funding:** The source of funding for this contract, in the amount not to exceed \$84,843 is the Criminal Justice Treatment Account passed through the Washington State Health Care Authority. The budget for this contract is as follows:

Cost Description	Documents Required Each Invoice	Budget
Rental Assistance—CJTA	Expanded GL Report for the period plus documentation including client ID, payee, and amount of payment. For Rental Assistance-Rent Subsidy, itemize payee for-profit / non-profit status	\$72,283
Coordinated Entry Staff time	Expanded GL Report for the period	\$3,220
Supplies, printing	Expanded GL Report for the period	\$250
Subtotal		\$75,753
Indirect Costs @ 12% (per current cost allocation plan)		\$9,090
TOTAL		\$84,843

The contractor may transfer funds among budget line items in an amount up to 10% of the total budget; however, administration cannot exceed the current approved indirect cost allocation rate. Changes to the line item budget that exceed 10% of the contract amount must be approved in writing by the County.

II. **Invoicing**

1. The Contractor shall submit itemized invoices on a monthly/quarterly basis in a format approved by the County. Monthly invoices must be submitted by the 15th of the month following the month of services. Invoices submitted for payment must include the items identified in the table above.
2. The Contractor shall submit invoices to (include contract/PO #) HL-BusinessOffice@co.whatcom.wa.us.
3. Payment by the County will be considered timely if it is made within 30 days of the receipt and acceptance of billing information from Contractor. The County may withhold payment of an invoice if the Contractor submits it more than 30 days after the expiration of this contract.
4. Invoices must include the following statement, with an authorized signature and date:

I certify that the materials have been furnished, the services rendered, or the labor performed as described on this invoice.

5. Duplication of Billed Costs or Payments for Service: The Contractor shall not bill the County for services performed or provided under this contract, and the County shall not pay the Contractor, if the Contractor has been or will be paid by any other source, including grants, for those costs used to perform or provide the services in this contract. The Contractor is responsible for any audit exceptions or disallowed amounts paid as a result of this contract.



Whatcom County

COUNTY COURTHOUSE
311 Grand Avenue, Ste #105
Bellingham, WA 98225-4038
(360) 778-5010

Agenda Bill Master Report

File Number: **AB2021-272**

File ID:	AB2021-272	Version:	1	Status:	Agenda Ready
File Created:	04/23/2021	Entered by:	MKeeley@co.whatcom.wa.us		
Department:	Human Resources Division	File Type:	Contract		
Assigned to:	Council Finance and Administrative Services Committee			Final Action:	
Agenda Date:	05/04/2021			Enactment #:	

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

TITLE FOR AGENDA ITEM:

Request authorization for the County Executive to renew a Collective Bargaining Agreement between Whatcom County and the Deputy Sheriff's Guild for the period of January 1, 2022 through December 31, 2022

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

Please refer to Staff Memo for background

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
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Attachments: Staff Memo, Deputy Sheriff's Guild CBA Extension



MEMO TO: County Council Members

CC: Satpal Sidhu, County Executive
Tyler Schroeder, Deputy Executive

FROM: Melissa Keeley, Employee Relations Manager

DATE: April 26, 2021

SUBJECT: Deputy Sheriff's Guild Collective Bargaining Agreement – One-Year Extension

The County and Union have agreed to a one-year extension of the 2020-2021 Collective Bargaining Agreement (CBA) through 2022 with a 2.75% wage increase for 2022. All other terms and conditions of the CBA will be renewed and extended through 2022.

We are pleased to have bargained a quick settlement because it gives both parties a period of continuity during uncertain times.

I'm available to answer any questions at extension 5309 or by email.

**WHATCOM COUNTY CONTRACT
INFORMATION SHEET**

Whatcom County Contract No. _____

Originating Department:	Administrative Services
Division/Program: <i>(i.e. Dept. Division and Program)</i>	Human Resources (HR)
Contract or Grant Administrator:	Melissa Keeley, Employee Relations Manager
Contractor's / Agency Name:	Collective Bargaining Agreement between Whatcom County and Deputy Sheriff's Guild

Is this a New Contract? If not, is this an Amendment or Renewal to an Existing Contract? Yes No
 Yes No If Amendment or Renewal, (per WCC 3.08.100 (a)) Original Contract #: 201912008

Does contract require Council Approval? Yes No If No, include WCC: _____
 Already approved? Council Approved Date: _____ (Exclusions 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? Contract _____
 Yes No If yes, RFP and Bid number(s): _____ Cost Center: _____

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. Goods and services provided due to an emergency
 Contract work is for less than \$100,000. Contract for Commercial off the shelf items (COTS).
 Contract work is for less than 120 days. Work related subcontract less than \$25,000.
 Interlocal Agreement (between Governments). Public Works - Local Agency/Federally Funded FHWA.

Contract Amount:(sum of original contract amount and any prior amendments): \$ _____	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.
This Amendment Amount: \$ _____	
Total Amended Amount: \$ _____	
Summary of Scope:	

2022 Extension of 2020-2021 Collective Bargaining Agreement between Whatcom County and the Deputy Sheriff's Guild

Term of Contract: One Yer	Expiration Date: 12/31/2022
---------------------------	-----------------------------

Contract Routing:	1. Prepared by: <u>Melissa Keeley</u>	Date: <u>4/23/21</u>
	2. Attorney signoff: <u>George Roche</u>	Date: <u>4/23/21</u>
	3. AS Finance reviewed: <u>Brad Bennett</u>	Date: <u>4/23/21</u>
	4. IT reviewed (if IT related): _____	Date: _____
	5. Contractor signed: _____	Date: _____
	6. Submitted to Exec.: _____	Date: _____
	7. Council approved (if necessary): _____	Date: _____
	8. Executive signed: _____	Date: _____
	9. Original to Council: _____	Date: _____

**LETTER OF UNDERSTANDING
BY AND BETWEEN
WHATCOM COUNTY, WASHINGTON
AND
WHATCOM COUNTY DEPUTY SHERIFF'S GUILD**

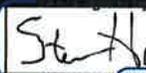
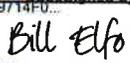
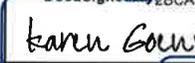
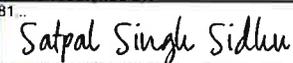
This Letter of Understanding is by and between Whatcom County ("the County") and the Whatcom County Deputy Sheriff's Guild ("the Guild") regarding the Collective Bargaining Agreement ("CBA") dated January 1, 2020 - December 31, 2021.

The parties have met, conferred, and bargained as required by law to extend the CBA through December 31, 2022 as follows:

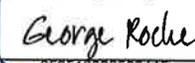
The parties agree to renew all terms and conditions of the 2020-2021 CBA along with the following modifications as provided below:

1. Effective the first full pay period in January 2022, each wage step in all ranges of the 2021 hourly matrix shall be increased by two and three quarters (2.75%).
2. The Parties agree to continue negotiations in good faith during 2022 for a 2023 Agreement.
3. This LOU may be amended at any time with mutual agreement of the County and the Union.

The foregoing being the agreement of the Parties is in addition to such other provisions in the CBA. This Letter of Understanding shall be effective as of the date of Council approval and shall supersede any conflicting provision in the CBA.

Name	Signature	Date
Steve Harris, Guild President		4/21/2021
Bill Elfo, Sheriff		4/23/2021
Karen Goens, HR Manager		4/23/2021
Satpal Sidhu, County Executive		4/27/2021

Approved as to Form:



 George Roche, Senior Civil Deputy Prosecuting Attorney

4/23/2021

 Date

Date Approved by Council: _____



Whatcom County

COUNTY COURTHOUSE
311 Grand Avenue, Ste #105
Bellingham, WA 98225-4038
(360) 778-5010

Agenda Bill Master Report

File Number: AB2021-269

File ID:	AB2021-269	Version:	1	Status:	Agenda Ready
File Created:	04/22/2021	Entered by:	CStrong@co.whatcom.wa.us		
Department:	Planning and Development Services Department	File Type:	Discussion		
Assigned to:	Council Planning and Development Committee	Final Action:			
Agenda Date:	05/04/2021	Enactment #:			

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

TITLE FOR AGENDA ITEM:

Discussion with Planning Department staff on a proposal to hire a consultant to develop a feasibility study for creating an offsite buffer mitigation program

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

See memo

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
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Attachments: Staff Memo



Memorandum

TO: The Honorable County Council
The Honorable Satpal Sidhu, County Executive

FROM: Cliff Strong, Senior Planner

THROUGH: Mark Personius, Director

DATE: April 15, 2021

SUBJECT: Off-Site Critical Area Buffer Mitigation Program Proposal

Goal

Whatcom County is exploring development of a program that would—under certain circumstances—facilitate mitigation for critical area (wetlands and Fish and Wildlife Habitat Conservation Areas (FWHCA)) buffer impacts to occur offsite, on properties where—when coordinated—such mitigation would provide greater ecological lift at a landscape scale over the small, fragmentary, on-site mitigation most commonly implemented.

An offsite buffer mitigation program would provide a clear path and ready-made venue for private property owners, developers, land use contractors, and public entities to offset wetland buffer impacts from development projects that would likely consist of the following options:

- Design and install buffer mitigation on a selected property (or properties) well suited for ecological enhancement or restoration in advance of an impact and then sell credits based on the cost (similar to a mitigation bank); or,
- Design a mitigation plan for the selected property (or properties), figure out the cost of implementing, collect mitigation fees to pay for it, and install the mitigation as monies come in (a.k.a., “in lieu fee” program); or,
- Design a mitigation plan for the property (or properties) and then allow developers to install mitigation on the property(ies) in a planned and coordinated fashion (a.k.a., “off the shelf” mitigation).

Current Practice

To “mitigate” means to make less harsh or hostile. Environmental mitigation is an action or activity intended to remedy, reduce, or offset known negative impacts to the environment.

Through our project permit review process, Whatcom County Planning and Development Services (PDS) applies the mitigation requirements of the Critical Areas Ordinance (CAO, WCC Chapter 16.16) and the Shoreline Master Program (WCC Title 23), using the mitigation sequencing of WCC 16.16.260. The

mitigation sequence consists of five measures, in preferential order, aimed at minimizing adverse impacts through project design, best management practices, and/or direct functional lift to maintain no loss of ecological function, values, and/or ecosystem-wide processes.

WCC 16.16.260 (General mitigation requirements)

1. When an alteration or impact to a critical area or buffer is proposed, the applicant shall conduct an alternatives/mitigation sequencing analysis and demonstrate that all reasonable efforts have been taken to mitigate adverse impacts in the following prioritized order:
 - a. *Avoiding the adverse impact* altogether by not taking a certain action or parts of an action, or moving the action.
 - b. *Minimizing adverse impacts by limiting the degree or magnitude of the action* and its implementation by using appropriate technology and engineering, or by taking affirmative steps to avoid or reduce adverse impacts.
 - c. *Rectifying the adverse impact* by repairing, rehabilitating, or restoring the affected environment.
 - d. *Reducing or eliminating the adverse impact over time* by preservation and maintenance operations during the life of the action.
 - e. *Compensating for the adverse impact* by replacing, enhancing, or providing similar substitute resources or environments and monitoring the adverse impact and the mitigation project and taking appropriate corrective measures.
2. Mitigation shall be provided for all unavoidable adverse alterations of a critical area or buffer. Mitigation for individual projects may include a sequenced combination of the above measures as needed to achieve the most effective protection, compensation for buffer functions and values, or mitigation for critical area functions and values.

For wetland buffer mitigation, additional rules apply regarding design and location of the mitigation. Buffers may be reduced (WCC 16.16.640 Wetland Buffer Reduction), averaged (WCC 16.16.650 Wetland Buffer Averaging), or, in certain circumstances, increased (WCC 16.16.660 Wetland Buffer Increases). Additionally, WCC 16.16.680 (Wetland Mitigation) subsection (f) requires that:

Compensatory mitigation shall be provided onsite or offsite in the location that will provide the greatest ecological benefit and have the greatest likelihood of success; provided, that mitigation occurs as close as possible to the impact area and within the same watershed as the permitted alteration. This provision may be waived upon demonstration through a watershed- or landscape-based analysis that mitigation within an alternative subbasin of the same basin would have the greatest ecological benefit and the greatest likelihood of success; provided, that limiting functions shall not be removed from sensitive watersheds identified in WCC Title 20. Mitigation shall occur within WRIA 1 or 3.

This section basically says that if one does offsite mitigation, it has to be as close as possible to the impact, so that the mitigation benefits the disturbed watershed. Note, however, that it does allow for offsite mitigation to occur within a different sub-basin if it can be shown to have “the greatest ecological benefit and the greatest likelihood of success.”

For Habitat Conservation Area buffer mitigation, similar rules apply: 16.16.740 Habitat conservation area buffers – Standards, subsection (D) allows reduction, subsection (E) allows averaging, and

subsection (F) allows for increases. Additionally, WCC 16.16.760 (Habitat conservation areas – Mitigation standards), subsection (B)(4) requires:

Mitigation shall be provided on site whenever feasible. Offsite mitigation in a location that will provide a greater ecological benefit to the species and/or habitats affected and have a greater likelihood of success may be accepted at the discretion of the technical administrator.

Mitigation shall occur as close to the impact site as possible. As mitigation is moved further away from the impacted habitat, the technical administrator may increase the amount of mitigation required. If offsite mitigation is proposed, the applicant must demonstrate through an alternatives/mitigation sequencing analysis (WCC 16.16.260) that the mitigation will have greater ecological benefit.

Current Outcome

Unincorporated Whatcom County contains many critical area constrained properties. The mitigation sequencing requirements of the CAO (required by state law) often result in protracted site plan and design review challenges during the permit review process—frustrating both property owners and staff. This is especially true:

- (1) when there's not enough room to put all required mitigation on-site;
- (2) where the mitigation area is so small or isolated it provides minimal ecological benefit; and/or,
- (3) where the mitigation area has a high likelihood of being re-disturbed after the 5-year monitoring has ended (e.g., someone's backyard).

In such cases, it would be better to concentrate such mitigation in areas where it could provide more significant ecosystem benefits and has a higher likelihood of persisting over time. Though the code currently allows offsite mitigation, it is infrequently used, as it is often deemed too expensive or too logistically challenging (or both) for most small builders and homeowners to do. PDS believes implementing a publically facilitated off-site buffer mitigation program would improve critical area permitting efficiencies, facilitate faster permit review timelines, and support greater countywide net ecological gain.

General Program Concept

At the request of the County Executive, Planning and Development Services is exploring development of an offsite critical area buffer mitigation program. Such a program would be designed to allow the County to facilitate ecosystem restoration and enhancement by obtaining (either by purchase or acceptance of) permanent conservation easements and/or obtaining and restoring fee title properties that contain wetlands, fish and wildlife habitat conservation areas, and/or streams with degraded buffers. An offsite mitigation program would provide a clear path and ready-made venue for private property owners, developers, land use contractors, and public entities to offset wetland buffer impacts from development that could consist of the following options:

- Design and install buffer mitigation on a selected property (or properties) well suited for ecological enhancement or restoration in advance of an impact and then sell credits based on the cost (similar to a mitigation bank); or,

- Design a mitigation plan for the selected property (or properties), figure out the cost of implementing, collect mitigation fees to pay for it, and install the mitigation as monies come in (a.k.a., “in lieu fee” program); or,
- Design a mitigation plan for the selected property and then allow developers to install mitigation on the property(ies) in a planned and coordinated fashion (a.k.a., “off the shelf” mitigation).

A “buffer only” mitigation program is a relatively new concept and we would need to explore implementing options through a feasibility study (see Proposed Action).

Please note that we are not proposing that the County develop a mitigation “bank” per se. A mitigation bank, as addressed in state law and our CAO, allows for offsite mitigation for impacts to both critical areas¹ and their buffers. Because mitigation banks can be used to offset impacts to the critical areas themselves (such as wetland fill to waters of the state or U.S.) there is a statute-prescribed process for developing one that requires coordination with and approval from the Department of Ecology, the U.S. Army Corps of Engineers, and other watershed managers (i.e., the Tribes). These mitigation banks typically take at least five years to establish and must go through a rigorous review and approval process. Furthermore, the Lummi Nation already has an operational bank (though temporarily closed until additional advanced mitigation is installed) and the City of Bellingham is developing one within its service area that includes the Ten Mile, Squalicum and Silver Creek sub-basins within unincorporated Whatcom County². Thus we are proposing to develop a mechanism that mitigates only for buffer impacts while restoring and enhancing environmental systems at landscape scale. According to the Department of Ecology such a mechanism would not be subject to the state and federal “mitigation bank” requirements for coordination and approval and would only need County Council approval.

Issues That Would Need to be Addressed

Please understand that this is just a conceptual proposal, and that there are many issues that would need to be evaluated as part of designing the program, as discussed below.

Potential Users

Because larger projects typically have enough room on their property to do onsite mitigation, we believe that the predominant users of such a program would be:

- Homeowners and small-scale builders building or expanding individual homes and accessory structures.
- Farmers not participating in CPAL
- Whatcom County Public Works has also expressed an interest, as they often need to mitigate for small impacts caused by road, bridge or stormwater projects, where there often isn’t enough room to do so onsite given the linear nature of such projects.

¹ Wetlands, streams, fish and wildlife habitat conservation areas, geologically hazardous areas, and critical aquifer recharge areas.

² The County has been in discussions with the City of Bellingham about potential partnering opportunities with their proposed bank but it would only apply to potential development impacts within their specific service area.

- Similarly, Puget Sound Energy, WSDOT, pipeline operators, school districts, diking districts, the Port of Bellingham, or other such entities might have such a need.

And there certainly may be other customer classes that would benefit from such a program. Who these folks are and what they're needs might be would need to be ascertained as part of the program's feasibility study. This could be accomplished by—among other things—analyzing past permit data and speaking with and gathering data from various interest groups.

Potential Demand

At this point, we only have anecdotal and experiential information about how much demand there might be for such a program. From processing permits we do know that there are many small, private projects approved wherein the applicant is required to mitigate for small amounts of buffer impacts but where there is little room to do so, it's small and isolated, or it's in a location that is not accessible for ensuring that it isn't disturbed after the required 5-year monitoring period. We also know there are critical area constrained lands within the Birch Bay UGA that present significant challenges to achieving full urban development buildout. Similarly, there are probably a substantial number of public projects, undertaken by Public Works, the various diking districts, the Port of Bellingham, WSDOT, etc. that have similar needs (i.e., small buffer mitigation requirements). However, we don't have empirical data to estimate the demand for such a system yet, and that would need to be developed. Knowing what the demand is, and where it's located would help us understand how much property would be needed, and where it should be located.

Ownership and Management

We would need to determine whether this would be a program owned and managed by the County, by a non-profit third party (such as the Whatcom Land Trust or Nooksack Salmon Enhancement Association (NSEA)), or by a for-profit third party (which is common for mitigation banks).

If owned and managed by the County, we would need to purchase the property, develop the property- specific mitigation plan for each property, purchase the equipment and materials, install the mitigation, and have staff dedicated to the project. If owned and managed by a third party, we would not. Furthermore, some of our local non-profit third parties may already have control over properties that could serve as the mitigation sites, which might reduce the final costs while furthering the interests of the third party by advancing their (which are also our) restoration goals.

If the advanced mitigation is achieved through enactment of a conservation easement, the County could be a co-benefactor of the easement in partnership with a local conservation organization, such as the Whatcom Land Trust, which could facilitate ongoing monitoring and enforcement, and the property itself could remain in private ownership. Enactment of a conservation easement under this effort could complement other existing County programs such as the Purchase of Development Rights Program, the River and Flood Program, and Lake Whatcom Management Program.

Anticipated Costs

At this time we do not have an estimate of the costs associated with implementing such a program. However, we anticipate expenditures could include:

- Property or easement purchase
- Developing property- specific mitigation plans for each property
- Equipment and materials to conduct mitigation actions

- Regulatory structure and amendments needed to implement the program
- Administration/Overhead/Staffing

Based on the answers to the questions posed above, a feasibility study should be able to estimate rough costs for these and provide estimates of what would need to be charged for the mitigation.

Proposed Action

PDS requests that Council approve a \$100,000 supplementary budget amendment through an additional service request (ASR) to hire a consultant to develop a feasibility study for creating an offsite buffer mitigation program, addressing the issues raised above. Developing a feasibility study should provide Council and staff the information needed to decide whether and how to move forward in creating such a program. We expect that this would take from 8-12 months to develop once a contract is initiated.

Depending on whether and how Council decides to proceed once the feasibility study is completed, we would expect to propose a future budget amendment for funds to create and implement the program.



Whatcom County

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Agenda Bill Master Report

File Number: **AB2021-270**

File ID:	AB2021-270	Version:	1	Status:	Agenda Ready
File Created:	04/22/2021	Entered by:	CStrong@co.whatcom.wa.us		
Department:	Planning and Development Services Department	File Type:	Discussion		
Assigned to:	Council Planning and Development Committee	Final Action:			
Agenda Date:	05/04/2021	Enactment #:			

Primary Contact Email: [Click here to enter text.](#)

TITLE FOR AGENDA ITEM:

Discussion on potential affordable housing amendments, including tiny homes, to the Whatcom County Code

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

The Council has expressed an interest in increasing affordable housing options, in particular by amending the Whatcom County Code to allow for use of tiny homes, and also by allowing duplexes in Planned Unit Developments. Staff has developed some draft language for both of these and wishes to know whether the Council agrees with the tack taken before scheduling review and a hearing with the Planning Commission.

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
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Attachments: Staff Memo, Proposed amendments



Memorandum

TO: The Honorable Whatcom County Council
The Honorable Satpal Sidhu, Whatcom County Executive

FROM: Cliff Strong, Senior Planner

THROUGH: Mark Personius, Director

DATE: April 19, 2021

SUBJECT: Tiny Homes

The Council has expressed interest in increasing affordable housing options, in particular by amending the Whatcom County Code to allow for the siting of tiny homes within mobile home or RV parks or on individual lots, as newly authorized under amendments to RCW 58.17.040 via ESSB 5383. Staff has developed draft language for your review to implement this approach. We are also proposing amendments to the Planned Unit Development (PUD) code to allow and encourage duplexes in urban growth areas. Staff would appreciate Council's input into these proposals prior to initiating the public review process with the Planning Commission.

Tiny Homes

What are Tiny Homes?

To decipher how best to develop the regulatory structure to allow tiny homes, staff first had to understand what tiny homes are. Are they homes? Mobile homes? Or are they recreational vehicles (RVs), or something else?

To do this, we identified the key characteristics of existing types of units as well as the various types of tiny homes. Broadly, but in more detail in Table 1, these characteristics have to do with what type of state or federal license or certification they can obtain, whether or not they're self-contained (meaning, do they need to be connected to utilities to operate?), and whether they have chassis/wheels, all of which have to do with whether they are intended or can be used for long-term or short-term use. There are other differences, like how much insulation they have or whether they have basic sanitary necessities such as toilets, showers, and sinks, but the characteristics we've used suffice for classification.

Based on this analysis, we have identified four types of tiny homes, each corresponding to one of our existing unit types. The two that are intended for long-term residential use are:

- *Site-Built Tiny Homes* are analogous to standard site-built homes, except that they're smaller (< 400 sq. ft.). They are built on-site, are not self-contained, are intended for long-term use, and would have to meet the International Residential Code (IRC) standards.
- *Manufactured Tiny Homes* are analogous to standard mobile (or manufactured) homes, except that they're smaller. They are built at a manufacturing plant and transported to their final site. They are not self-contained, are intended for long-term use, and would have to meet the IRC standards *or* be HUD certified *and* be L&I certified as a permanent dwelling unit. Like standard mobile homes, they're manufactured with a chassis and wheels for transport to their final

location, though the wheels are generally removed and the unit placed on a permanent foundation.

The other types of tiny homes that are getting a lot of interest are Tiny Homes on Wheels (or THOWs, and yes, a real acronym), which have a chassis and wheels and can be towed by a vehicle. But because of their construction standards, they are only intended and can only be certified for short-term recreational use. But even among them, based on key characteristics, there are two different types. We're calling them:

- *Type 1 Tiny Home on Wheels* are analogous to park model trailers. They cannot meet the IRC standards nor be certified by HUD for long-term residential use, but can be certified by L&I for short-term recreational use. They are not self-contained so must be hooked up to utilities.
- *Type 2 Tiny Home on Wheels* are analogous to RVs. They are similar to Type 1 THOWs, but *are* self-contained, meaning they have tanks to hold water and sewage and have batteries for power so that they don't always need to be connected to utilities, and can be L&I certified for short-term recreational use. They must be licensed by the state Department of Licensing for transport on the highways.

Proposed Tiny Home Regulatory Structure

Based on these characteristics, each of these four types of tiny homes corresponds or is analogous to a type of (either long- or short-term) residence that the County already regulates. Thus, to simplify or streamline the means to regulate these units, we can just define each of these types of tiny homes as one of our existing types and they would be regulated under existing regulations for that type.

So we're proposing to add definitions for each of the types: "Tiny Homes," with subcategories for "site-built tiny homes" and "manufactured tiny homes"; and "Tiny Homes on Wheels," with subcategories for "Type 1 THOWs" and "Type 2 THOWs" (see Exhibit A, §20.97.435.03 & §20.97.435.04). Then we're proposing to amend the definitions for "Mobile Home" to include "Manufactured Tiny Homes" (Exhibit A, §20.97.250), "Recreational Vehicle" to include "Type 2 THOWs" (Exhibit A, §20.97.335), and "Park Model Trailer" to include "Type 1 THOWs" (Exhibit A, §20.97.292) (plus some grammatical edits).

With these definitional amendments, each of these tiny home types would then be allowed wherever their existing corresponding standard type is allowed under existing code:

- Site-built tiny homes would be allowed wherever and under whatever circumstances and standards standard site-built homes are allowed (either as a primary use or an accessory dwelling unit (ADU));
- Manufactured tiny homes would be allowed wherever and under whatever circumstances and standards standard mobile (or manufactured) homes are allowed (as a primary use, an ADU, or in a mobile home park);
- Type 1 THOWs would be allowed wherever and under whatever circumstances and standards park model trailers are allowed (as temporary guest lodging or in an RV park in a space designated for park models, meaning they have utility hookups); and,
- Type 2 THOWs would be allowed wherever and under whatever circumstances and standards recreational vehicles are allowed (as temporary guest lodging or in an RV park).

Apart from these definitional amendments, staff is also proposing to clarify our Mobile Home and RV Park Standards. First, we're proposing to separate the two into distinct sections. We're also identifying the process by which such a park can be permitted (binding site plan or condominium), and that CC&R's must be submitted and approved (so that we can ensure long-term maintenance and operations are

dealt with properly). Apart from that, we're keeping the rules that applied to both in both, but putting the rules that only apply to one type of park in their respective sections. (See Exhibit A, §20.80.950 and §20.80.955.)

Under the proposed regulations, one could develop a mobile home park for mobile homes, manufactured tiny homes, or a mix of the two and an RV park for RV's, THOWs (as applicable), or a mix of the two. Mobile home parks are allowed as a conditional use in the Resort Commercial (RC), Urban Residential Mixed (UR-MX), and Urban Residential – Medium Density (URM) Districts. Recreational vehicle (RV) parks are allowed as a conditional use in the Resort Commercial (RC), Tourist Commercial (TC), and Point Roberts Special Districts.

And regarding building permit requirements, note also that the Council already adopted the new International Residential Code, including Appendix Q, which contains the building code rules for tiny homes.

Allowing Duplexes in Planned Unit Developments

Another amendment proposed as a way to increase affordable housing options is to allow duplexes in certain zones when a project is developed as a Planned Unit Development (PUD) (WCC Chapter 20.85). PUDs:

- Allow certain uses beyond those allowed in the underlying zone when a project is developed as a planned neighborhood community;
- Can only be developed within Urban Growth Areas and have to be at least two acres in size (except under certain conditions listed in WCC 20.85.020);
- Have additional standards for buffering, open space, circulation, access, parking, storage, and utilities;
- Allow for increased densities (WCC 20.85.108);
- Allow a relaxation of dimensional standards (WCC 20.85.109); and,
- Can only be approved by Council.

Currently PUDs allow single-family and multi-family residential uses, but not duplexes. To rectify this incongruity and help promote affordable housing, staff is proposing amendments to WCC 20.85.050. While most of the changes shown in Exhibit A are just cleaning up the grammar, the two that are policy changes are where “duplexes” has been added to 20.85.053(1) and (2).

Table 1. Defining characteristics of the various types of "homes" and where they're allowed

	Site-Built Home	Site-Built Tiny Home	Manufactured (Mobile) Home	Manufactured Tiny Home	Park Model Trailer	Type 1 Tiny Home on Wheels	Recreational Vehicle	Type 2 Tiny Home on Wheels
Characteristic								
• Meets IRC standards for permanent dwelling unit	Yes	Yes	Yes	Yes	No	No	No	No
• OR Is HUD certified	No	No	Yes	Yes	No	No	No	No
• Is L&I certified for Use ¹	No	No	Yes, as a permanent dwelling unit	Yes, as a permanent dwelling unit	Yes, for recreational use	Yes, for recreational use	Yes, for recreational use	Yes, for recreational use
• Is DOL licensed	No	No	No	No	No	No	Yes	Yes
• Is self-contained (wastewater, water, power) (if not, must be connected to hook-ups)	No	No	No	No	No	No	Yes	Yes
• Has chassis/wheels	No	No	Yes when manufactured, but wheels removed once sited	Yes when manufactured, but wheels removed once sited	Yes, though wheels may be removed	Yes, though wheels may be removed	Yes	Yes
• Is intended/licensed for long-term or short-term residential use	long-term	long-term	long-term	long-term	short-term	short-term	short-term	short-term
Where allowed/Permit Type²								
• As a primary structure on individual lot	Yes/ BP	Yes/ BP	Yes/ BP	Yes/ BP	No	No	No	No
• As an accessory structure (ADU) to an SFR	Yes/ ADM	Yes/ ADM	Yes/ ADM	Yes/ ADM	No	No	No	No
• As temporary ³ guest lodging	No	No	No	No	Temporarily/ ADM	Temporarily/ ADM	Temporarily/ P	Temporarily/ P
• In a Mobile Home Park	No	No	Yes/ BP	Yes/ BP	No ⁴	No	No ⁴	No
• In an RV Park ⁵	No	No	No	No	Temporarily, in P/M designated space/ P	Temporarily, in P/M designated space/ P	Temporarily/ P	Temporarily/ P

Footnotes:

1 – Certified as a permanent dwelling unit or for recreational use, as noted.

2 – P = Permitted; ADM – Administrative Approval Use; BP = Building Permit

3 – On individual lots, the maximum length of stay of any recreational vehicle on a lot may not exceed a total of 120 days per calendar year; provided, that no accessory guest RV shall remain on the subject lot for more than 14 consecutive days nor more than 30 days total per calendar year.

4 – There are a few nonconforming (grandfathered) mobile home parks that do allow park model trailers, but in new RV parks, park models are not allowed.

5 – In RV Parks the maximum length of stay may not exceed 180 days for any one-year time period.

Exhibit A: Proposed Amendments to the Whatcom County Code to Allow and Regulate Tiny Homes & to Allow Duplexes in Planned Unit Developments

Regarding Tiny Homes:

TITLE 20 ZONING

Chapter 20.80 Supplementary Requirements

20.80.950 Mobile Home (including Manufactured Tiny Home) and Recreational Vehicle Park Standards. [CES1]

All mobile home ~~and recreational vehicle~~ parks shall meet the following standards:

- (1) ~~Mobile home parks shall be developed through either a Binding Site Plan pursuant to WCC Title 21 (Land Division) or by condominium pursuant to Chapter 64.34 RCW (Condominium Act).[CES2] In either case:~~
 - ~~(a) An organization or individual with proper funding to maintain common facilities and operate the parks shall be provided.~~
 - ~~(a)(b) A declaration of covenants addressing and ensuring long-term compliance with the appropriate requirements herein shall be submitted for review and approval.~~
 - ~~(c) Each rental or lease space shall be numbered on the site plan and the number shall be prominently displayed on the site.~~
- (2) Where not specified by the applicable zoning district, mobile home parks shall have:
 - (a) A maximum density of ~~seven-7~~ lease spaces per acre when public water and sewer are provided;
 - (b) A maximum density of ~~three-3~~ lease spaces per acre when public water and sewer are not provided;
 - (c) A minimum parcel size of ~~two-2~~ acres.
- ~~(3) Where not specified by the applicable zoning district, recreational vehicle parks shall have:~~
 - ~~(-) A maximum density of 15 lease spaces per acre when public water and sewer are provided;~~
 - ~~(-) A maximum density of seven lease spaces per acre when public water and sewer are not provided;~~
 - ~~(-) A minimum parcel size of two acres.~~
- ~~(7)(3)~~ Mobile home parks shall provide storage area for boats, recreational vehicles, and other large items. Recreational vehicle parks may provide such storage areas. Said storage areas shall be screened consistent with these standards.
- ~~(8)(4)~~ ~~Recreational vehicles set up for occupancy shall be at least 10 feet from each other and any structures on the property. Whether or not intended for occupancy, they shall be at least 10 feet from all structures not on the same property.~~ Within a mobile home park, no mobile home, other major structure, or outdoor storage shall be located closer than 20 feet to the perimeter of the site.

~~(9)~~(5) Along the edges of mobile home parks, walls or vegetative screening shall be provided where needed to protect residents from undesirable views, lighting, noise, or other off-site influences, or to protect occupants of adjoining property from potentially adverse influences within the mobile home park. In particular, extensive off-street parking areas and service areas for loading and unloading other than passenger vehicles, and for storage and collection of trash and garbage, shall be screened.

~~(10)~~A 30-foot landscaped buffer area or screening composed of suitable native vegetation shall be placed around all common storage areas and at all perimeters of any recreational vehicle park. The purpose of said buffer is to protect on a year-round basis the adjacent property or roadways from unsightliness, visual distraction and/or noise impacts. The buffer area may be reduced where it can be demonstrated that alternative screening can adequately accomplish the purposes stated in this subsection. Perimeter buffers shall be supplemented by a fence or other device where trespass is a potential problem. No structures, development or other activities shall occur within any buffer areas; provided, that trails may be located within those buffer areas which are at least 50 feet in width.

~~(11)~~(6) There shall be landscaping developed consistent with WCC 20.80.300 (Landscaping) within open areas of ~~the mobile home park and recreational vehicle~~ parks not otherwise used for park purposes. Such open areas and landscaping shall be continually and properly maintained.

~~(12)~~(7) Mobile homes ~~and recreational vehicle~~ parks shall keep ~~40% percent~~ of the site free of buildings, structures, parking areas, and other impervious surfaces.

~~(13)~~An organization or individual with proper funding to maintain common facilities and operate the parks shall be provided.

~~(14)~~(8) On-site recreational amenities with at least one substantial facility serving the users of a park or identified area shall be provided. Such substantial facilities may include tennis courts, children's play areas with equipment, or a swimming pool. The type and size of facility shall be appropriate to the type and amount of clientele being served.

~~(15)~~Maximum length of stay in recreational vehicle parks shall not exceed 180 days for any one year time period.

~~(16)~~(9) Interior roads within mobile home ~~and recreational vehicle~~ parks shall be private, unless the County Engineer determines that the development of public roads is necessary.

~~(17)~~(10) For each mobile home space there shall be provided and maintained at least two parking spaces conforming ~~with to zoning ordinance~~ the requirements of WCC 20.80.500, et seq. (Off-Street Parking and Loading Requirements). In addition to occupant parking, guest and service parking shall be provided within the boundaries of the park at a ratio of one parking space for each two mobile home spaces.

~~(18)~~(11) There shall be a minimum of 10 feet of separation maintained between all mobile homes on the site. Accessory structures may be located no closer than 10 feet to any mobile home or five feet to other accessory structures.

~~(12)~~Each rental space shall be numbered on the site plan and the number shall be prominently displayed on the site. ^[CES3] All mobile home parks shall comply with WCC Chapter 24.04 (Recreational Vehicle Park and Subdivision Rules) regarding utility provision. Utility (wastewater, water, electricity) hook-ups shall be provided for each rentable or leasable space.

20.80.955 Recreational Vehicle (including Tiny Homes on Wheels) Park Standards.

All recreational vehicle parks shall meet the following standards:

- (1) Recreational vehicle parks shall be developed through either a Binding Site Plan pursuant to WCC Title 21 (Land Division) or by condominium pursuant to Chapter 64.34 RCW (Condominium Act).^[CES4] In either case:
 - (a) An organization or individual with proper funding to maintain common facilities and operate the parks shall be provided.
 - (b) A declaration of covenants addressing and ensuring long-term compliance with the appropriate requirements herein shall be submitted for review and approval.
 - (c) Each rental or lease space shall be numbered on the site plan and the number shall be prominently displayed on the site.
- (2) Where not specified by the applicable zoning district, recreational vehicle parks shall have:
 - (a) A maximum density of 15 lease spaces per acre when public water and sewer are provided;
 - (b) A maximum density of 7 lease spaces per acre when public water and sewer are not provided;
 - (c) A minimum parcel size of 2 acres.
- (3) Recreational vehicles set up for occupancy shall be at least 10 feet from each other and any structures on the property. Whether or not intended for occupancy, they shall be at least 10 feet from all structures not on the same property.^[CES5]
- (4) A 30-foot landscaped buffer area or screening composed of suitable native vegetation shall be placed around all common storage areas and at all perimeters of any recreational vehicle park. The purpose of said buffer is to protect on a year-round basis the adjacent property or roadways from unsightliness, visual distraction, and/or noise impacts. The buffer area may be reduced where it can be demonstrated that alternative screening can adequately accomplish the purposes stated in this subsection. Perimeter buffers shall be supplemented by a fence or other device where trespass is a potential problem. No structures, development, or other activities shall occur within any buffer areas; provided, that trails that are at least 5 feet in width may be located within those buffer areas.
- (5) There shall be landscaping developed consistent with WCC 20.80.300 (Landscaping) within open areas of recreational vehicle parks not otherwise used for park purposes. Such open areas and landscaping shall be continually and properly maintained.
- (6) Recreational vehicle parks shall keep 40% of the site free of buildings, structures, parking areas, and other impervious surfaces.
- (7) On-site recreational amenities with at least one substantial facility serving the users of a park or identified area shall be provided. Such substantial facilities may include tennis courts, children’s play areas with equipment, or a swimming pool. The type and size of facility shall be appropriate to the type and amount of clientele being served.
- (8) Maximum length of stay in recreational vehicle parks shall not exceed 180 days for any one-year time period.
- (9) Interior roads within recreational vehicle parks shall be private, unless the County Engineer determines that the development of public roads is necessary.
- (10) All recreational vehicle parks shall comply with WCC Chapter 24.04 (Recreational Vehicle Park and Subdivision Rules) regarding utility provision. Utility (wastewater, water, electricity) hook-ups shall be provided for each rentable or leasable space designated for park model trailers^[CES6] and Type 1

THOWs. Spaces designated solely for self-contained recreational vehicles may use communal facilities.

Chapter 20.97 Definitions

20.97.250 Mobile Home (a.k.a, Manufactured Home).

“Mobile home” means a dwelling unit designed for long-term human habitation by one family and having complete living facilities; constructed and fabricated into a complete unit at a factory and capable of being transported to a location of use on its own chassis and wheels; identified by a model number and serial number by its manufacturer; and designed primarily for placement on an impermanent footing. This includes manufactured tiny homes (see “Tiny Home.”) A unit ~~which~~ that was originally built as a mobile home but ~~which~~ has substantially lost its mobility ~~through~~ by being placed on a permanent footing, the tongue and axle removed, skirting is installed, and ~~which~~ that wholly meets state standards for such units, shall not be considered to be a mobile home and shall be treated as a single-family dwelling for the purpose of this ~~ordinance code only when it is fixed to a permanent footing and tongue and axle have been removed and skirting installed.~~

20.97.255 Mobile Home Park.

“Mobile home park” means any parcel or adjacent parcels of land in the same ownership ~~which~~ that is ~~utilized~~ used for occupancy by more than two mobile homes. This term shall not be construed to mean campgrounds, recreational vehicle parks, or tourist facilities for camping.

20.97.292 Park Model Trailer.

“Park model trailer” means a trailer designed to provide seasonal or temporary living quarters; ~~which are not self-contained and thus may need to be used with~~ temporarily connected ~~connections~~ to utilities ~~necessary~~ for operation of installed fixtures and appliances; ~~it~~ has a gross trailer area not exceeding 400 square feet; ~~or~~ and is approved by the state as a park model trailer. This includes Type 1 THOWs (see “Tiny Home on Wheels”).

20.97.335 Recreational Vehicle.

“Recreational vehicle” means a motor vehicle, or portable structure capable of being transported on ~~the~~ highways by a motor vehicle; ~~that is~~ designed and intended for casual or short-term human occupancy for travel, recreational, and vacation uses without a permanent foundation; identified by a model number (RV), serial number, and vehicle registration number; and equipped with limited water storage and other self-contained living facilities. For the purposes of these regulations, the term “recreational vehicle” shall include self-contained campers, motor-homes, Type 2 Tiny Home on Wheels, and travel trailers, ~~and~~ but shall not include park model trailers or Type 1 Tiny Home on Wheels, as they are not self-contained units.

20.97.340 Recreational Vehicle Park.

“Recreational vehicle park” means a parcel of private land in which three or more contiguous sites are primarily for occupancy by recreational vehicles for travel, recreation, or vacation uses. ~~For~~ Within

mobile home parks, only spaces that are designated and/or are used for recreational vehicles shall constitute a recreational vehicle park. ~~Recreational vehicles set up for occupancy shall be at least 10 feet from each other and any structures on the property. Whether or not intended for occupancy, they shall be at least 10 feet from all structures not on the same property.~~ [CES7]-For the purposes of these regulations, the term “recreational vehicle park” shall include camping clubs.

20.97.435.03 Tiny Home.

A tiny home is a dwelling unit that is 400 square feet or less in floor area (excluding sleeping lofts [CM8]). For the purposes of this code there are two types of tiny homes, as described below. For Tiny homes on Wheels see WCC 20.97.435.04.

1. *Site-Built Tiny Home.* A tiny home built on-site on a permanent foundation that meets the minimum requirements of the International Residential Code (IRC), including provisions of Appendix Q, and is reviewed and inspected by Whatcom County. For the purposes of this code they are equivalent to and are permissible under the same rules as any standard single-family dwelling.
2. *Manufactured Tiny Home.* A factory-built tiny home bearing a certification tag from the Washington State Department of Labor and Industries (L&I) or other approved third party inspection agency stating it is approved for use as a single-family residence per the current edition of the International Residential Code (IRC) or Housing and Urban Development (HUD) requirements. Manufactured tiny homes usually have wheels and a chassis when they come out of the factory, and typically have the wheels removed prior to placing it on its manufacturer-approved foundation. For the purposes of this code they are equivalent to and are permissible under the same rules as any standard mobile home.

20.97.435.04 Tiny Home on Wheels (THOWs)

A Tiny Home on Wheels is a portable structure licensed to be transported on the highways by a motor vehicle; designed and intended for casual or short-term human occupancy for travel, recreational, vacation and other temporary uses without a permanent foundation; in a space of 400 square feet or less in floor area (excluding sleeping lofts). For the purposes of this code there are two types of tiny homes on wheels, as described below.

1. *“Type 1 THOW”* is a THOW that is not self-contained, and thus needs to be temporarily connected to utilities necessary for operation of installed fixtures and appliances. For the purposes of this code they are equivalent to and are permissible under the same rules as for Park Model Trailers.
2. *“Type 2 THOW”* is a THOW that is self-contained and may use communal utility services (water, wastewater). For the purposes of this code they are equivalent to and are permissible under the same rules as for Recreational Vehicles (RVs).

Regarding Duplexes in Urban Zones via Planned Unit Developments:

Title 20 ZONING

Chapter 20.85 Planned Unit Developments (PUD)

20.85.050 Permitted Uses.

.051 Uses ~~outright permitted~~ allowed in a planned unit development shall include those permitted, accessory, and conditional uses allowed in the underlying zone district(s), ~~as well as and~~ such other uses as provided in WCC 20.85.052 ~~to through~~ 20.85.055. For areas located within a Water Resource Protection Overlay District, the more restrictive use provisions of Chapter 20.71 WCC shall apply.

.052 In addition to the uses allowed in the underlying zone, the following uses shall be allowed outright ~~where~~ when they are only serving the planned unit development and ~~where~~ all other applicable standards are met:

- (1) Community buildings;
- (2) Indoor recreation facilities, including athletic clubs or fitness centers, racquetball courts, swimming pools, tennis courts, or other similar uses;
- (3) Outdoor recreation facilities, including swimming pools, tennis courts, recreational trails, or similar use; and
- (4) Recreational vehicle storage areas.

.053 ~~Even though they may not be allowed in the underlying zone(s), Aa~~ planned unit development may also authorize add the following additional land uses ~~activities, as follows;~~ provided the criteria of WCC 20.85.054 are met:

- (1) ~~For~~ In the Urban Residential and Rural zones, duplexes and ~~(CES9)~~ multifamily dwellings consistent with the density requirements of the underlying zone, except as that may be modified by the provisions of WCC 20.85.108 (Density Increases). The number of units attached may be greater than would otherwise be allowed by the underlying zoning;
- (2) ~~In For~~ the Urban Residential and Urban Residential Medium zones, duplexes and ~~(CES10)~~ those uses allowed in the Neighborhood Commercial zone ~~are may~~ also be permitted. In addition, both resort- and non-resort-oriented transient accommodations, such as inns or hotels, may be permitted; provided, that:
 - (a) The total number of sleeping units shall not exceed ~~50% percent~~ of the total number of dwelling units that would be allowed on the property by the underlying zone regulations;
 - (b) Each sleeping unit shall count as one dwelling unit for the purpose of determining the total number of dwelling and sleeping units, in combination, permitted on the property;
 - (c) It can be demonstrated that the overall development will not generate more traffic than conventional residential development at the density allowed in the zone;
- (3) ~~In For~~ the General Commercial zone, those uses allowed in the Urban Residential Medium zone are ~~appropriate~~ allowed;
- (4) ~~In For~~ the Resort Commercial zone:

- (a) Multiple single-family dwellings per lot are permitted if developed as condominiums under state law; and
- (b) Single-family attached dwellings (at a base gross density of ~~seven~~ 7 units/acre); ~~and.~~
- (5) ~~In For~~ the Light Impact Industrial zone, those uses allowed in the Urban Residential Medium, Neighborhood Commercial, ~~and/or~~ General Commercial zones are ~~appropriate~~ allowed.

.054 In order ~~to expand for those additional~~ uses ~~listed~~ allowed in WCC 20.85.053 to be authorized, the applicant ~~shall~~ must demonstrate:

- (1) That the primary land use activity of the planned unit development ~~shall be those uses~~ is one allowed by the underlying zone district;
- (2) That the ~~expanded~~ additional uses will benefit and serve the residents or employees of the proposed planned unit development; and
- (3) That all other applicable approval criteria and standards are met.

.055 Where a proposed development is located in two or more zone districts, the uses allowed in the applicable districts may be located on any portion of the site; provided, that all applicable standards are met.

.056 For purposes of determining appropriate standards, the requirements of the zone district allowing the use would apply. If the use is allowed by two or more districts, the lesser standards would apply.



Whatcom County

COUNTY COURTHOUSE
311 Grand Avenue, Ste #105
Bellingham, WA 98225-4038
(360) 778-5010

Agenda Bill Master Report

File Number: **AB2021-257**

File ID:	AB2021-257	Version:	1	Status:	Agenda Ready
File Created:	04/16/2021	Entered by:			
Department:		File Type:	Request for Motion		
Assigned to:	Council Planning and Development Committee	Final Action:			
Agenda Date:	05/04/2021	Enactment #:			

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

TITLE FOR AGENDA ITEM:

Discussion and Council motion to approve the Public Participation Plan for Whatcom County Comprehensive Plan and Development Regulation Amendments

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

The Growth Management Act requires counties to develop public participation programs for comprehensive plan and development regulation amendments. A draft Public Participation Plan for Whatcom County Comprehensive Plan and Development Regulation Amendments has been developed for Council review and approval. This plan will guide public participation efforts relating to comprehensive plan and development regulation amendments.

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
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Attachments: Staff Memo, Draft - Public Participation Plan



Memorandum

April 16, 2021

TO: The Honorable Satpal Sidhu, Whatcom County Executive
The Honorable Whatcom County Council

FROM: Matt Aamot, Senior Planner

THROUGH: Mark Personius, Director

RE: Draft Public Participation Plan

The Growth Management Act (GMA) requires counties to develop public participation programs for comprehensive plan and development regulation amendments. The Whatcom County Council approved the 2020 Public Participation Plan last October, after review by the Planning Commission (the Plan was updated a little later last year because of the COVID-19 meeting restrictions earlier in the year).

The Public Participation Plan identifies statutory requirements (GMA provisions) and lists docketed comprehensive plan and development regulation amendments that have been initiated for further review by the County Council.

The Plan classifies proposed comprehensive plan and development regulation amendments as level 1, 2 or 3 projects for determining the public participation approach. The process for each level is summarized below:

Level 1 – Requires a staff report, notice in the newspaper, posting the proposal on the website, and sending it to the County’s e-mail list. Planning Commission holds a public hearing and issues a recommendation. County Council holds a public hearing and makes final decision.

Level 2 – Requires all Level 1 processes, plus developing alternatives (when appropriate) and review by an advisory committee, County department, City, or agency.

Level 3 – Requires all Level 2 processes, plus a town hall meeting.

Proposed changes from last year's Public Participation Plan include:

1. Inserting New Docketed Amendments - Inserting the new comprehensive plan and development regulation amendments that the County Council initiated for review in 2021 (Resolution 2021-007).
2. Removing Amendments - Deleting amendments that were previously initiated but have completed the review process or were withdrawn.

Notice of the Planning Commission hearing was published in the Bellingham Herald on March 25, 2021, sent to the County's e-mail list on March 26, 2021, and posted on the County website on March 26, 2021.

The Planning Commission held a public hearing and recommended approval of the draft Public Participation Plan on April 8, 2021.

Thank you for your review and consideration of the proposal. We look forward to discussing it with you.

Public Participation Plan

Whatcom County Comprehensive Plan and Development Regulation Amendments

Recommended Planning Commission – April 8, 2021

~~Approved by County Council~~

~~October 13, 2020~~

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Chapter 1. Introduction

This Public Participation Plan (PPP) is intended to guide the County in reviewing comprehensive plan and development regulation amendments. The Plan is required by state law (RCW 36.70A.140), which indicates:

“Comprehensive plans – Ensure public participation. Each county and city that is required or chooses to plan under RCW 36.70A.040 shall establish and broadly disseminate to the public a public participation program identifying procedures providing for early and continuous public participation in the development and amendment of comprehensive land use plans and development regulations implementing such plans. The procedures shall provide for broad dissemination of proposals and alternatives, opportunity for written comments, public meetings after effective notice, provision for open discussion, communication programs, information services, and consideration of and response to public comments. . . .”

The bolded sentence of RCW 36.70A.140 above guided the County in developing this PPP. Prior to implementation, this plan will have been reviewed by the planning commission and the county council, with opportunity for the public to comment. The plan will be implemented as adopted.

The issues that will be considered as part of County’s review and amendment of the comprehensive plan and development regulations are divergent and far-reaching. A one-size-fits-all approach to this public participation plan for all of these very different types of issues would not be effective and would do a disservice to the residents of Whatcom County.

This PPP outlines the public participation approach that will be taken with each issue rather than a generic overall approach. The objective of this plan is to provide a clear process for each

issue so residents can easily determine how best to be involved in the issues they care about most.

There are other planning issues that require public participation that may not be mentioned in this plan, including standard map and text amendments to Title 20 Zoning that are initiated for review after approval of this plan. At minimum, these items will be processed as Level 1 projects. If additional public participation is required or another approach is appropriate, the Planning and Development Services Department will upgrade the item to a more vigorous approach. Please see Chapter 4 for more information about public participation approaches.

Ongoing programs administered through the Planning Department also provide opportunities for public participation through their respective advisory committees. The Agricultural Advisory Committee, Purchase of Development Rights Oversight Committee, Forestry Advisory Committee, Surface Mining Advisory Committee, and Wildlife Advisory Committee meet as needed to assist in the administration of their programs, and may recommend amendments to the comprehensive plan and County Code. These advisory committee meetings are open to the public. More information on these programs can be found at: <http://www.whatcomcounty.us/210/Boards-Commissions> .

The PPP is designed to meet the following objectives:

- Provide a roadmap for the public, outlining a clear and accessible public process for comprehensive plan and development regulation amendments;
- Ensure input is sought from a broad base of public participants and is elicited in a timely fashion, considered, and incorporated as appropriate into review of Comprehensive Plan and Development Regulation amendments; and
- Make a concerted and continuous effort to ensure that elected officials and staff are fully aware of and understand community and stakeholder concerns.

1.1. Public Participation Plan Format

To meet PPP objectives consistent with GMA goals this document:

- Outlines the **issues** that will be considered (Chapter 2);
- Identifies the potential project **participants** in the comprehensive planning process (Chapter 3), and;
- States the **approach** that will be taken with each issue (Chapter 4).

1.2. Remote Participation

The County should identify methods for remote public participation for all public hearings (for example, on-line or telephonic participation).

Chapter 2. The Issues

The issues that Comprehensive Plan and development regulation amendments will address can be divided into two categories: statutory requirements and docketed requests. This section of the PPP outlines these issues, within these categories. Each issue has been assigned a number beginning first with an “S” or “D” for “statutory” or “docket” respectively. These numbers will carry with each issue to Chapter 4 of this document. Chapter 4 will go into greater detail on the public participation approach that the County will take on each of these issues.

2.1. Statutory Requirements

The Growth Management Act (GMA) requires Whatcom County to address certain issues in the comprehensive plan and/or development regulations. The following is a current list of identified statutory requirements:

- S-1. **Forest Practices** (RCW 36.70A.570, amended in 2007 by SHB 1409) – Relating to the transfer of jurisdiction over conversion-related forest practices to local governments. For counties planning under the GMA, if more than 25 Class IV applications had been filed with the DNR between certain dates, then the county, and the cities within it, are required to adopt forest practices approval ordinances.
- S-2. **Utilities to Schools in Rural Areas** (RCW 36.70A, amended in 2017 by HB 2243) – The State Legislature amended the GMA to indicate it does not prohibit extension of public facilities and utilities to serve a school in a rural area if certain conditions are met.
- S-3. **Buildable Lands / Review and Evaluation Program** (RCW 36.70A.070, .115, .215, amended in 2017 by ESSSB 5254) – Whatcom County is now subject to the buildable lands (review and evaluation) program requirements of the GMA, which formerly only applied to six large counties in the state. ~~This bill~~ The GMA requires the County, in conjunction with the cities, to ~~address a number of issues, which include updating the County-wide~~

~~Planning Policies. Additionally, the County will~~ issue a buildable lands report that compares growth assumptions in the comprehensive plan with actual growth that has occurred and, if necessary, develop reasonable measures to reconcile any inconsistencies. This process involves determining if there is sufficient suitable land to accommodate growth projections. ~~It is anticipated that the Countywide Planning Policies will be reviewed in 2020-21.~~ The buildable lands report is due by June 30, 2022. This report must be considered in the next countywide Comprehensive Plan and development regulation update, which is due by June 30, 2025.

- S-4. **Shoreline Management Program Update** (RCW 90.58.080). Review and, if necessary, revise the Whatcom County Shoreline Management Program to assure it complies with applicable law and guidelines and to assure consistency with the County's comprehensive plan and development regulations. The Shoreline Management Program update is due by June 30, 2020.

2.2. Docketed Amendment Requests

The items in this section were initiated for further review by the County Council under Resolution ~~2021-007~~~~2020-027~~. As with statutory requirements in the previous section, this list will be updated on an annual basis.

D-1. **Battery Energy Storage Systems** (PLN2021-000001) - Amend the Whatcom County Zoning Code by adding a definition of Battery Energy Storage System (BESS) and modifying the definition of Public Utility (WCC 20.97), amending the Rural zone to allow BESS as a conditional use and increase lot coverage for BESS (WCC 20.36), and adding BESS as a conditional use in the Public Utilities chapter (WCC 20.82)

D-2. **TDR Receiving Area** (PLN2021-00002) - Amend the Whatcom County Comprehensive Plan, Zoning Text, and /or Zoning Map to designate approximately 23.77 acres, zoned Rural one dwelling/five acres (R5A), as a transfer of development rights receiving area pursuant to WCC 20.89.051. A maximum of 3 development rights would be transferred from the Lake Whatcom Watershed to the subject site.

D-3. **Temporary Homeless Facilities** (PLN2021-00003) - Amend the Whatcom County Code to allow establishment and operation of temporary homeless facilities in accordance with Ordinance 2020-053.

D-4. **Wireless Communication Facilities** (PLN2021-00005) - Review and update the Zoning Code provisions relating to Wireless Communication Facilities (WCC 20.13) to ensure consistency with Federal rules.

D-5. **Whatcom County Code Amendments** (PLN2021-00006) - Review and revise the Whatcom County Zoning Code and other sections of the County Code to implement Comprehensive Plan policies and/or address issues identified in the administration of the

codes. Revisions needed to achieve consistency with the Growth Management Act may also be considered.

D-6. **Bellingham UGA Expansion** (PLN2021-00007) - Amend the Whatcom County Comprehensive Plan by expanding the Bellingham Urban Growth Area (UGA) on 339 acres (the site is currently designated as UGA Reserve). Rezone this land to Urban Residential - Mixed (URMX) and commercial zoning.

D-7. **Lake Whatcom Watershed Overlay District Amendments** (PLN2021-00008) - Amend the Lake Whatcom Watershed Overlay District (WCC 20.51) and the definition of significant tree (WCC 20.97.436.4) to improve compliance with the Total Maximum Daily Load by further reducing phosphorus loading impacts from development and improve tree protection measures.

D-8. **Marijuana Growing and Processing** (PLN2021-00009) - Review and revise Whatcom County Code relating to marijuana growing and processing in rural areas. Consider impacts of marijuana growing and processing facilities in rural areas, and evaluate growing and processing facilities as an agricultural or non-agricultural use. Consider compatibility with GMA and County Comprehensive Plan.

D-9. **Six-Year Capital Improvement Program Amendment** (PLN2021-00010) - Amend the Six-Year Capital Improvement Program by adding the Whatcom Unified Emergency Coordination Center Re-Roof Project.

D-10. **Affordable Housing Amendments** (PLN2021-00011) - Amend the Whatcom County Code to allow certain affordable housing alternatives, including tiny homes under certain circumstances and duplexes in urban zones via Planned Unit Developments.

~~D-1. **Capital Facilities Planning** (PLN2020-00002) - Amend the capital facilities element of the Whatcom County Comprehensive Plan, including the Six-Year Capital Improvement Program (Appendix F).~~

D-112. **Neighborhood Commercial to Residential Rezone** (PLN2020-00003) - Rezone approximately 1.25 acres from Neighborhood Commercial (NC) to Residential Rural (RR-1).

D-123. **Rural Forestry Designation and Text Amendment** (PLN2020-00004) - Amend the comprehensive plan designation from Mineral Resource Lands (MRL) to Rural Forestry on approximately 66 acres in the Nooksack Falls exclave (off Mt. Baker Hwy). Amend the Zoning Code to allow certain conditional uses in the Nooksack Falls exclave within the Rural Forestry zone (WCC 20.42.155).

~~D-4. **Whatcom County Code Amendments** (PLN2020-00005) - Review and revise the Whatcom County Zoning Code and other sections of the County Code to implement Comprehensive Plan policies and/or address issues identified in the administration of the codes. Revisions needed to achieve consistency with the Growth Management Act may also be considered.~~

D-~~135~~. **Shoreline Program Update** (PLN2020-00006) - Update the Whatcom County Shoreline Management Program (Title 23). Move the goals and policies of the Shoreline Management Program to the Whatcom County Comprehensive Plan. NOTE: This is the same project as S-4 above.

~~D-6. —Countywide Planning Policy Amendments (PLN2020-00007)—Amend the Countywide Planning Policies (CWPPs) by adding new sections relating to the Review and Evaluation Program (Buildable Lands), Dispute Resolution Procedures, and Countywide Planning Policy Amendment Procedures. The CWPPs are inserted into Appendix C of the Whatcom County Comprehensive Plan. NOTE: This includes some of the work set forth in project S-3 above.~~

D-~~147~~. **MRL Expansion – Breckenridge Rd.** (PLN2019-00002) - Amend the comprehensive plan designation from Rural to Mineral Resource Lands (MRL) and amend the zoning map to expand a MRL overlay zone on approximately 22.8 acres off Breckenridge Rd., east of Nooksack. The underlying zoning is Rural one dwelling/five acres (R5A).

D-~~158~~. **Lummi Island Ferry Amendments** (PLN2019-00004) - Amend Whatcom County Comprehensive Plan provisions relating to the Lummi Island Ferry. Modify Policy 6A-1 relating to ferry level of service and delete Policy 6C-9 relating to a ferry feasibility study as shown in Resolution 2018-026.

D-~~169~~. **Density Credit Program - Zoning Code Amendments** (PLN2019-00005) - Amend the Whatcom County Zoning Code to implement the following recommendations contained in the TDR/PDR Multi-Stakeholder Work Group Final Report dated October 3, 2018: (1) modify the UR4 zone in the Birch Bay Urban Growth Area to allow increased density if density credits are purchased and (2) modify the code to allow larger accessory dwelling unit size if density credits are purchased.

~~D-10. —Point Roberts Subarea Plan and Point Roberts Special District (PLN2019-00007)—Review and, if needed, revise the Point Roberts Subarea Plan and the Point Roberts Special District (WCC 20.72).~~

D-~~174~~. **Surface Mining Pipeline Buffer** (PLN2019-00010) - Amend the Whatcom County Comprehensive Plan and Whatcom County Code to determine the minimum safe distance to allow surface mining to be conducted from a petroleum pipeline to ensure a pipeline will not become exposed or rupture during an earthquake event and contaminate an aquifer. Determination should be based on independent sources where possible and assume a magnitude 9.0 or greater earthquake could occur.

D-~~182~~. **Surface Mining of Dry Meander Zones** (PLN2019-00011) - Amend the Whatcom County Comprehensive Plan and Whatcom County Code to allow the seasonal extraction of sand and gravel from dry upland areas located within the 1,000 year meander zone of the Nooksack River, provided that such extraction has no negative impact on salmon spawning habitat. The intent is to (a) reduce the conversion of land currently used for farming, forestry and wildlife habitat into gravel pits, and (b) safely remove some of the significant sediment load

that enters the Nooksack every year in an effort to reduce flooding and the need to build higher flood prevention berms along the river as the climate continues to change.

D-~~193~~. **Density Credit Program – Comprehensive Plan Amendments** (PLN2018-00002) - Amend the Whatcom County Comprehensive Plan to reflect a shift in emphasis from a traditional transfer of development rights program to a density credit program. Density credits allow development incentives, such as increased density, in exchange for a voluntary contribution towards preserving agricultural lands and open space.

D-~~2014~~. **Repeal Cherry Point-Ferndale Subarea Plan (PLN2018-00003)** - Repeal the Cherry Point-Ferndale Subarea Plan, which was adopted in 1981. The proposal would also amend related provisions in the Whatcom County Comprehensive Plan and Zoning Code.

D-~~2145~~. **CAO On-Going Agriculture** (PLN2018-00005) - The Critical Areas Ordinance (CAO) was adopted by the County Council in December 2017 (Ordinance 2017-077). Section 4(a) of this Ordinance states “Planning and Development Services staff shall work with the farming community to develop creative solutions that would allow farmers to maintain or attain ‘ongoing agriculture’ status pursuant to applicable laws.

D-~~2216~~. **Wind Energy System Amendments** (PLN2018-00008) - Review and, if needed, revise WCC 20.14 Wind Energy Systems.

D-~~2317~~. **Cherry Point Amendments** (PLN2018-00009) - Amend the Whatcom County Comprehensive Plan and Whatcom County Code to address ways the County may limit the negative impacts on public safety, transportation, the economy, and the environment from crude oil, coal, liquefied petroleum gases, and natural gas exports from the Cherry Point Urban Growth Area, in accordance with Whatcom County Comprehensive Plan Policy 2CC-16. [Some of the amendments apply to various land uses on a countywide basis.](#)

D-~~2418~~. **Sustainable Salmon Harvest Goal** (PLN2018-00010) - Amend the Comprehensive Plan to create a new policy to work with Lummi and Nooksack Nations, the State Department of Fish and Wildlife (WDFW) and other stakeholders to establish a sustainable salmon harvest goal for the county.

D-~~2519~~. **Mineral Resource Lands County-wide Designation Process** (PLN2017-00004) - Through a county-led countywide assessment, seek to identify and designate potential commercially significant mineral resource lands, to meet future demand, compatible with water resources, agricultural lands, forest lands and other GMA goals pursuant to Comprehensive Plan Policy 8R-1.

~~D-20. **Wireless Communication Facilities** (PLN2016-00006) - Review and update provisions in WCC 20.13 (Wireless Communication Facilities) to ensure consistency with: (1) New 2015 FCC rules (80 FR 1238) which are designed to implement and enforce Section 6409(a) of the Middle Class Tax Relief and Job Creation Act of 2012 and (2) New 2018 FCC rules entitled “Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Investment.”~~

D-~~264~~. **Sign Regulations Update** (PLN2016-00009) - Review and revise Whatcom County Code 20.80.400 (Sign Regulations), including updating the code for consistency with the U.S. Supreme Court's decision in *Reed v. Town of Gilbert* (2015).

D-~~272~~. **Vacation Rental Regulations** (PLN2014-00020/PLN2016-00011) - Amend Whatcom County Code Title 20 (Zoning) & Title 23 (Shoreline Management Program) to allow vacation rentals under certain conditions as a use within certain zones and shoreline designations.

D-~~283~~. **Code Enforcement Amendments** (PLN2015-00003) - Create a new Whatcom County Code (WCC) Chapter 22.15, called "Code Compliance Procedures," to establish an efficient system to address enforcement of building, critical areas and zoning codes. The proposal would consolidate the existing code enforcement provisions from WCC 15, 16.16, and 20 into a new WCC 22.15. The proposed amendments include provisions that would allow the County to record a document at the Whatcom Auditor's office indicating that there is a code violation on a property.

~~D-24. **Boundary Line Adjustments** (PLN2014-00001) - Amend Section 20.83.110 of the Whatcom County Zoning Ordinance relating to boundary line adjustments. The amendment would allow boundary line adjustments to nonconforming parcels to resolve encroachments such as fences, trees and other occupational indicators. The amendment would also allow boundary line adjustments that modify the boundaries between two nonconforming parcels based upon land owner preferences, as long as the smallest parcel is not decreased in size.~~

D-~~295~~. **Weddings and Special Events** (PLN2014-00016) - Amend the Official Whatcom County Zoning Ordinance (Title 20) to allow for "Weddings and Special Events" in specific zone districts through an approved Conditional Use Permit (CUP). Authorization to approve this amendment will result in the county needing to define "Special Events" under the "Definitions" section of WCC 20.97 and an additional amendment made to the "Parking Space Requirements" under WCC 20.80.580.

D-~~3026~~. **Agricultural Strategic Plan Implementation** (PLN2012-00007) - Resolution 2018-027 was approved by the County Council on 8/8/2018 declaring support for the updated Whatcom County Agricultural Strategic Plan. Immediate priorities in this plan include reviewing designation of Agricultural Lands of Long-term Commercial Significance and the agricultural zoning code. Reviewing the Rural Study Areas as listed in the 2007 Rural Land Study and making recommendations for possible changes in accordance with Resolution 2009-040 (100,000 acre target), Resolution 2018-027 (Updated Agricultural Strategic Plan) and RCW 36.70A.170 and .177 will be included. Other short-term and medium-term priorities in this plan include development of policies and regulations that provide for protection of the best agricultural areas while supporting development at zoned densities and continued work on development of the Natural Resource Marketplace. These activities may lead to proposed changes to the agricultural portions of the Comprehensive Plan and zoning regulations.

D-~~3127~~. **Mineral Resource Lands Expansion - North Star Rd.** (PLN2012-00009) - Consider proposal to amend the comprehensive plan designation from Rural to Mineral Resource Lands (MRL) and amend the zoning map to expand a MRL overlay zone on

approximately 19.7 acres on the west side of North Star Rd., south of Brown Rd. The underlying zoning is Rural one dwelling/five acres (R5A).

2.3. Comprehensive Plan and Development Regulation Appeals

The Whatcom County Council may address appeals brought to the Growth Management Hearings Board (GMHB) or the courts. Public participation for settlement activities that will result in an ordinance amending the comprehensive plan and/or development regulations will include, at a minimum:

- Posting an initial draft proposal on the County website and sending it to anyone requesting notification at least 30 days prior to the public hearing. Posting any revised draft on the County website and sending it to anyone requesting notification at least 10 days prior to the public hearing.
- If urban growth areas are being modified, sending the draft proposal to cities and any citizen planning groups for non-City UGAs at least 30 days prior to the public hearing. Sending any revised draft to cities and any citizen planning groups for non-City UGAs at least 10 days prior to the public hearing.
- Publishing notice of the hearing in the newspaper and the on County website and, if urban growth areas are being modified, e-mailing notice to cities at least 10 days prior to the public hearing; and
- Holding a public hearing.

Chapter 3. Project Participants

The Public Participation Plan is designed to reach all audiences that may have an interest in Comprehensive Plan and development regulation amendments. It is also designed to reach out to other groups and individuals – those that may not yet have an interest or be inclined to participate – to encourage their awareness, understanding and involvement in the process. The PPP also promotes use of existing communication networks to encourage involvement in the Whatcom County Comprehensive Plan and development regulation amendment process.

3.1. The Public

The general public is defined as members of the community including residents, groups, property owners, farmers, business owners and any others that might be interested in the Comprehensive Plan and development regulation amendments. The following sections contain a breakdown of some specific types of community groups and organizations that the County will attempt to engage in the process.

3.1.1. Interested Property Owners and Developers

Interested property owners and developers are defined as members of the community that have an interest in growth and development regulations, especially as they relate to their private property rights. They may have an interest in developing or preserving their property. This might include farmers, real estate and development groups and other related professionals.

3.1.2. Community Organizations

Community organizations are loosely defined as groups, associations, or committees that come together for a common interest or cause. This includes service groups, environmental groups, chambers of commerce, non-profit organizations, advocacy groups, community councils, neighborhood associations, local granges, social service organizations, religious organizations,

and others. Community organizations also include groups that are centered around non-city UGAs like the Birch Bay steering committee and others.

3.1.3. Other Groups and Individuals

WAC 365-196-600(4) states that “Each county or city should try to involve a broad cross-section of the community, so groups not previously involved in planning become involved.” People may add themselves to County e-mail lists on the “Notify Me” site at:

<http://www.co.whatcom.wa.us/list.aspx>

3.2. Governmental/Quasi-Governmental Groups

Governmental and quasi-governmental groups are defined as organizations that have a connection to local government, including Whatcom Council of Governments; Whatcom County Council; City Councils; Whatcom County and individual cities’ Planning Commissions; area tribes; local special purpose districts; citizen advisory committees and others. Groups typically consist of elected officials, appointed or volunteer community members, or jurisdictional staff. Table 1 below shows a selected group of advisory committees that may be asked to comment on comprehensive plan and development regulation amendments.

Table 1: Selected Whatcom County Advisory Boards/Committees and Commissions

Agricultural Advisory Committee	Portage Bay Shellfish Protection District Advisory Committee
Bicycle/Pedestrian Advisory Committee	Public Health Advisory Board
Birch Bay Shellfish Protection District Advisory Committee	Purchase of Development Rights Oversight Committee
Birch Bay Watershed and Aquatic Resources Management Advisory Committee	Rural Library Board
Business and Commerce Advisory Committee	Surface Mining Advisory Committee
Development Standards Technical Advisory Committee	Whatcom County Family & Community Network
Climate Impact Advisory Committee	Whatcom County Housing Advisory Committee
Drayton Harbor Shellfish Protection District Advisory Committee	Whatcom Council of Governments: Citizens’ Transportation Advisory Group
Flood Control Zone District Advisory Committee	Whatcom Transportation Authority’s Citizen Advisory Panel
Flood Control Sub-Zone District Advisory Committee	Wildlife Advisory Committee
Marine Resource Committee	WRIA 1 -Management Team
Forestry Advisory Committee	WRIA 1 - Planning Unit
Parks and Recreation Committee	

3.2.1. Planning Commission

Implementation of the GMA as it relates to public participation is covered within WAC 365-196-600 “Public Participation.” WAC 365-196-600(3)(c) states: “The public participation program should clearly describe the role of the planning commission, ensuring consistency with requirements of chapter 36.70, 35.63, or 35A.63 RCW.” RCW 36.70 is the Planning Enabling Act, which requires:

- Notice of the time, place and purpose of any public hearing shall be given by one publication in a newspaper of general circulation in the county at least ten days before the hearing (RCW 36.70.390 and .590).
- A recommendation of approval of comprehensive plan or official control (e.g. development regulation) amendments shall be by the affirmative vote of not less than a majority of the total members of the planning commission. Such approval shall be by a recorded motion which shall incorporate the findings of fact of the planning commission and the reasons for its action (RCW 36.70.400 and .600).

The Planning Commission is an appointed group of citizens that work directly with Planning and Development Services to craft legislation and make recommendations to the County Council. They also hear and make recommendations on applications for amendments to the Whatcom County Code and the Comprehensive Plan from private individuals, agencies and other applicants. Currently, the Planning Commission hears from the public primarily during public hearings and through written correspondence.

It is the goal that most town hall meetings, open houses and other public participation activities will occur with some involvement of the Planning Commission. In this way, the Planning Commission will hear straight from the public on each issue and will be more involved in crafting policies, earlier in the process. The public is encouraged to communicate with planning commissioners through the email and mailing address listed in Chapter 5 of this document in addition to attending planning commission meetings.

3.3. The Cities

Whatcom County will continue to engage with the Cities on issues of common interest, including the buildable lands (review and evaluation) program and UGA planning.

Chapter 4. Public Participation Approach

4.1. Overall Approach

The Washington Administrative Code (WAC) provides guidelines and rules for public involvement in comprehensive planning. WAC 365-196-600 “Public Participation” states that “The public participation program should clearly describe the role of the planning commission, ensuring consistency with requirements of chapter 36.70, 35.63, or 35A.63 RCW.”

Through this public participation program the planning commission will act as a central hub for many public participation activities. In this way, the planning commission will have maximum exposure to the public perspective no matter how complex or minute the issue.

Starting in section 4.2, issues are broken down into 3 types for the purposes of public participation. Each type of issue has a different approach and the approach is described in each section. All the issues retain the numbers assigned to them in Chapter 2, so if more information is needed about an issue, the reader may refer back to Chapter 2.

4.2. Level 1 Issues

Level 1 issues are generally less complicated, have already been through extensive public process or are quasi-judicial actions¹. This level is also appropriate for most standard map and text amendments to Title 20 Zoning. A more vigorous public participation approach may be assigned at the discretion of the Planning and Development Services Department, which may include referring the proposal to an advisory committee for review.

4.2.1. Approach

Level 1 issues will be subject to the public process required by the code. Typically, they will follow this process:

- 1) **Proposal:** Staff generates a proposal or a recommendation on an application.
- 2) **Proposal posted:** Proposal is posted to the website and announced through email list. Legal notice will be given as required and applicable. Public may make comment to the Planning Commission via email and/or US mail.
- 3) **Public hearing:** Planning Commission holds public hearing on issue.
- 4) **Work session and recommendation:** Planning Commission conducts work session on issue and recommends action to the County Council. Public may make comment to the County Council via email and/or US mail.
- 5) **County Council:** County Council will review the recommendation of the Planning Commission and hold a work session in committee and a public hearing. The Council will approve the recommendation, modify, or deny.

4.2.2. Level 1 Projects

S-1. **Forest Practices** (RCW 36.70A.570, SHB 1409)

S-2. **Utilities to Schools in Rural Areas** (RCW 36.70A, amended in 2017 by HB 2243)

S-3/~~D-6~~. **Buildable Lands / Review and Evaluation Program** (RCW 36.70A.070, .115, .215, amended in 2017 by ESSSB 5254), ~~including Countywide Planning Policies (PLN2020-00007)~~

D-1. **Battery Energy Storage Systems** (PLN2021-000001)

D-2. **TDR Receiving Area** (PLN2021-00002)

D-3. **Temporary Homeless Facilities** (PLN2021-00003)

¹ Quasi-judicial actions of local decision-making bodies are “those actions of the legislative body, planning commission, hearing examiner, zoning adjuster, board of adjustment, or boards which determine the legal rights, duties, or privileges of specific parties in a hearing or other contested case proceeding” (RCW 42.36.010). These require adjudication in a court-like process, in which the guidelines for public participation are different from other actions. Notice requirements for quasi-judicial rezones are set forth in the Whatcom County Code.

- D-4. Wireless Communication Facilities (PLN2021-00005)
- D-5. Whatcom County Code Amendments (PLN2021-00006)
- D-7. Lake Whatcom Watershed Overlay District Amendments (PLN2021-00008)
- D-8. Marijuana Growing and Processing (PLN2021-00009)
- D-9. Six-Year Capital Improvement Program Amendment (PLN2021-00010)
- D-10. Affordable Housing Amendments (PLN2021-00011)
- ~~D-1. Capital Facilities Planning (PLN2020-00002)~~
- D-112. Neighborhood Commercial to Residential Rezone (PLN2020-00003)
- D-123. Rural Forestry Designation and Text Amendments – Nooksack Falls (PLN2020-00004)
- ~~D-4. Whatcom County Code Amendments (PLN2020-00005)~~
- D-147. MRL Expansion – Breckenridge Rd. (PLN2019-00002)
- D-158. Lummi Island Ferry Amendments (PLN2019-00004)
- D-169. Density Credit Program - Zoning Code Amendments (PLN2019-00005)
- ~~D-10. Point Roberts Subarea Plan and Point Roberts Special District (PLN2019-00007)~~
- D-1913. Density Credit Program – Comprehensive Plan Amendments (PLN2018-00002)
- D-2014. Repeal Cherry Point-Ferndale Subarea Plan (PLN2018-00003)
- D-2115. CAO On-Going Agriculture (PLN2018-00005)
- ~~D-20. Wireless Communication Facilities (PLN2016-00006)~~
- D-261. Sign Regulations Update (PLN2016-00009)
- D-272. Vacation Rentals (PLN2014-00020/PLN2016-00011)
- D-2823. Code Enforcement Amendments (PLN2015-00003)
- ~~D-24. Boundary Line Adjustments (PLN2014-00001)~~
- D-2925. Weddings and Special Events (PLN2014-00016)
- D-3127. Mineral Resource Lands Expansion – North Star Rd. (PLN2012-00009)

4.3. Level 2 Issues

Level 2 issues require a little more than the code-required public process. The issues in this category are of a sensitive or political nature and/or the public has come out to oppose or support them in the past. They are generally more complicated.

4.3.1. Approach

Typically, level 2 issues will follow this process:

- 1) **Alternatives:** Staff generates alternative approaches to the issue, when applicable.
- 2) **Alternatives posted:** Alternatives are posted to the website and announced through email list.
- 3) **Advisory Committee/Agency/City Review and Comment:** The alternatives will be submitted to the appropriate advisory committee, department, city or agency for review and comment.
- 4) **Proposal:** Staff generates a proposal considering any feedback received on the alternatives.
- 5) **Proposal posted:** Proposal is posted to the website and announced through email list and legal notice as required and applicable. Public may make comment to the Planning Commission via email and/or US mail.
- 6) **Public hearing:** Planning Commission holds public hearing on issue.
- 7) **Work session:** Planning Commission conducts work session on issue and recommends action to the County Council. Public may make comment to the County Council via email and/or US mail.
- 8) **County Council:** County Council will review the recommendation of the Planning Commission and hold a work session in committee and a public hearing. The Council will approve the recommendation, modify, or deny.

4.3.2. Level 2 Projects

D-6. **Bellingham UGA Expansion (PLN2021-00007)**

D-~~2216~~. **Wind Energy System Amendments (PLN2018-00008)**

D-~~2418~~. **Sustainable Salmon Harvest Goal (PLN2018-00010)**

D-~~3026~~. **Agricultural Strategic Plan Implementation (PLN2012-00007).** Coordination with the Agriculture Advisory Committee and applicable Cities.

4.4. Level 3 Issues

These issues are generally more complicated and are of interest to the general public. All of these issues will have many opportunities for public comment, including a town-hall style meeting where people are able to openly share their feelings on the alternatives proposed or just the issue in general. When appropriate, town hall meetings will be planned close to areas that will be or are being impacted by the issue.

4.4.1. Approach

Typically, level 3 issues will follow this process:

- 1) **Alternatives:** Staff generates alternative approaches to the issue, when appropriate.
- 2) **Alternatives posted:** Alternatives are posted to the website and announced through email list.
- 3) **Advisory Committee/Agency/City Review and Comment:** The alternatives will be submitted to the appropriate advisory committee, department, city or agency for review and comment.
- 4) **Town hall meeting(s):** A town hall style meeting(s) is held to seek public input on the issue and the proposed alternatives. When appropriate, the meeting is held in a location that is reasonably located near an area affected by the issue. Planning Commission may be in attendance at this town hall meeting. Announcements of town hall meetings will be done through the website, email list, media releases, and local postings as appropriate.
- 5) **Proposal:** Staff generates a proposal considering feedback received on the alternatives, including feedback heard at the town hall meeting.
- 6) **Proposal posted:** Proposal is posted to the website and announced through email list. Legal notice will be given as required and as appropriate. Public may make comment to the Planning Commission via email and/or US mail.
- 7) **Public hearing:** Planning Commission holds public hearing on issue.
- 8) **Work session:** Planning Commission conducts work session on issue and recommends action to the County Council. Public may make comment to the County Council via email and/or US mail.
- 9) **County Council:** County Council will review the recommendation of the Planning Commission and hold a work session in committee and a public hearing. The Council will approve the recommendation, modify, or deny.

4.4.2. Level 3 Projects

D-~~1744~~ Surface Mining Pipeline Buffer (PLN2019-00010)

D-~~1842~~ Surface Mining of Dry Meander Zones (PLN2019-00011)

D-~~2347~~ Cherry Point Amendments (PLN2018-00009)

D-~~2549~~. Mineral Resource Lands County-wide Designation Process (PLN2017-00004)

S-4/D-~~135~~. Shoreline Management Program Update (PLN2020-00006)

It is anticipated that projects D-~~1744~~ and D-~~1842~~ will be incorporated into review of project D-~~2549~~.

Chapter 5. Conclusion

This public participation plan will guide the review of comprehensive plan and development regulations amendments. It is a living document that should be updated as conditions change or new methods are discovered. This public participation plan meets the requirements of the RCW and the requirements of the WAC. Specifically, the Planning and Development Services Department hopes that this public participation program will “involve a broad cross-section of the community, so groups not previously involved in planning become involved” as WAC 365-196-600(4) suggests it should.

To provide written feedback on this public participation plan, please contact Planning and Development Services at pds@co.whatcom.wa.us ~~aubil@co.whatcom.wa.us~~. If you wish to provide comment on any issue to the Planning Commission or County Council, please utilize the following addresses:

~~Whatcom County Planning and Development Services
5280 Northwest Drive
Bellingham, WA 98226~~

Whatcom County Planning Commission
c/o Secretary
5280 Northwest Drive
Bellingham, WA 98226
PDS_Planning_Commission@co.whatcom.wa.us

County Council
311 Grand Ave, Ste 105
Bellingham, WA 98225
council@co.whatcom.wa.us



Whatcom County

COUNTY COURTHOUSE
311 Grand Avenue, Ste #105
Bellingham, WA 98225-4038
(360) 778-5010

Agenda Bill Master Report

File Number: AB2020-219

File ID:	AB2020-219	Version:	1	Status:	Agenda Ready
File Created:	05/13/2020	Entered by:	DBrown@co.whatcom.wa.us		
Department:	Council Office	File Type:	Discussion		
Assigned to:	Council Committee of the Whole	Final Action:			
Agenda Date:	05/04/2021	Enactment #:			

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

TITLE FOR AGENDA ITEM:

Discussion and update on strategies and other items related to COVID-19 (Council and Health Board)

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

Discussion and update on strategies and other items related to COVID-19 (Council and Health Board)

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
05/19/2020	Council	DISCUSSED	
06/02/2020	Council	DISCUSSED	
06/16/2020	Council Committee of the Whole	DISCUSSED	
06/16/2020	Council Committee of the Whole	DISCUSSED	
06/23/2020	Council Special Committee of the Whole	DISCUSSED AND MOTION(S) APPROVED	
07/07/2020	Council Committee of the Whole	DISCUSSED	
07/21/2020	Council Committee of the Whole	DISCUSSED	
08/05/2020	Council Committee of the Whole	DISCUSSED	
09/15/2020	Council Committee of the Whole	DISCUSSED	
09/29/2020	Council Committee of the Whole	DISCUSSED	
10/13/2020	Council Committee of the Whole	DISCUSSED	
10/27/2020	Council Committee of the Whole	DISCUSSED	
11/10/2020	Council Committee of the Whole	DISCUSSED	
11/24/2020	Council Committee of the Whole	DISCUSSED	

Agenda Bill Master Report Continued (AB2020-219)

12/08/2020	Council Committee of the Whole	DISCUSSED
01/12/2021	Council Committee of the Whole	DISCUSSED
01/26/2021	Council Committee of the Whole	DISCUSSED
02/09/2021	Council Committee of the Whole	DISCUSSED
02/23/2021	Council Committee of the Whole	DISCUSSED
03/09/2021	Council Committee of the Whole	DISCUSSED
03/23/2021	Council Committee of the Whole	DISCUSSED
04/06/2021	Council Committee of the Whole	DISCUSSED
04/20/2021	Council Committee of the Whole	DISCUSSED

Attachments:



Whatcom County

COUNTY COURTHOUSE
311 Grand Avenue, Ste #105
Bellingham, WA 98225-4038
(360) 778-5010

Agenda Bill Master Report

File Number: AB2021-265

File ID:	AB2021-265	Version:	1	Status:	Agenda Ready
File Created:	04/21/2021	Entered by:	AHester@co.whatcom.wa.us		
Department:	Public Works Department	File Type:	Discussion		
Assigned to:	Council Committee of the Whole	Final Action:			
Agenda Date:	05/04/2021	Enactment #:			

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

TITLE FOR AGENDA ITEM:

Discussion with Public Works Department staff regarding franchise committee assignments prior to public hearings

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

Discussion with Public Works Department staff regarding franchise committee assignments prior to public hearings

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
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Attachments:



Whatcom County

COUNTY COURTHOUSE
311 Grand Avenue, Ste #105
Bellingham, WA 98225-4038
(360) 778-5010

Agenda Bill Master Report

File Number: AB2021-260

File ID:	AB2021-260	Version:	1	Status:	Agenda Ready
File Created:	04/20/2021	Entered by:	AGeLeyns@co.whatcom.wa.us		
Department:	Health Department	File Type:	Presentation		
Assigned to:	Council Committee of the Whole			Final Action:	
Agenda Date:	05/04/2021	Enactment #:			

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

TITLE FOR AGENDA ITEM:

Presentation from Human Services Manager on efforts to expand responses to people experiencing a behavioral health crisis

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
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Attachments: Presentation

Behavioral Health Crisis Response Expansion

Anne Deacon, Human Services Manager



Why are we doing this?



911 is called for many reasons because it is the default phone number for many people

Law Enforcement may not be the most appropriate or effective response to people who are experiencing a behavioral health crisis

If no crime involved and no safety risks, then perhaps no need for Law Enforcement to respond

Program Design Goals



1. Improve outcomes for people experiencing behavioral health crises
2. Enhance integrated systems of BH response & support
3. Safely reduce unnecessary law enforcement dispatches to people who are experiencing a behavioral health crisis

Planning & Design Work



A dedicated committee worked collaboratively for past few months

Participants include City/County Councilmembers, BPD, Sheriff, BFD, EMS, Dispatch, Treatment Providers, MCOT, GRACE, County Human Services

Collected and analyzed quantitative and qualitative data, researched and interviewed other programs and effective practices

- 60 people interviewed during 17 separate sessions, almost 20 hours of interviews

What does the data say?



“Behavioral Health” calls to 911 = 11% of all LE calls (2,700)

Total LE calls in 2020 = 24,587

Officers anecdotally report “80% - 90%” of all 911 calls involve response to someone with “behavioral health” issues

- This overgeneralization does not imply that LE should not respond

Only 34.88% of reported BH calls (983), started as BH-related and ended as BH-related (less than 4% of all LE calls)

- Average of 2.69 calls/day start and end as BH-related calls

Further Information



Mental Illness is an equal opportunist – impacting law-abiding residents as well as those with criminal intent

Not all behavioral health crisis calls to LE can be managed effectively or appropriately with a response by a BH Professional

The low predictability of 911 behavioral health-related calls alerts us to prioritize safety of an unarmed response team

Need to gather further data in the field to inform 911 Dispatch in order to prevent harm and improve call reporting

Program Design Phases



Phase One will focus on data collection in the field – within city of Bellingham

Implement a co-responder model for Phase One

- Team includes a **Behavioral Health Professional** and a **BPD Officer**
- Will initially divert the second GRACE ICM to this project phase
- This phase is already funded

Data collected will inform Dispatch on types of calls most appropriate for alternative response team

- Dispatch from Prospect System ultimately?
- May be helpful in altering the manner in which LE and Dispatch classify/record information
- Other programs in the country suggest that Welfare Checks under certain circumstances may be most appropriate for diversion from LE response



Program Design Phases



Phase Two Proposal will launch the Alternative Response Team

ART likely dispatched out of Prospect arm of 911

- Team will consist of a **Behavioral Health Professional** and an **EMT**

ART will operate at peak hours sometime between 10 AM – 9PM

- Goal is for two teams covering seven days per week



Program Structure



ART will operate under the auspices of the GRACE program

GRACE focuses on preventing crises for identified familiar faces

- Well-established and respected in the community as a primary outreach and care coordination program
- “Tertiary Prevention” – responds to & supports those who call 911 frequently

ART will serve as a distinct and separate component of GRACE

- Focused on initial crisis response

Additional services will provide follow-up support to ART

- MCOT is a current partner & LWC grant will partner to stabilize people



Proposed Estimated Budget



One-time Capital Costs (vehicle)	<u>\$166,351</u>
One team 4 days/week	\$269,700
Two teams 7 days/week (additional cost)	<u>\$238,200</u>
TOTAL Annual Operations less vehicle	\$507,900
WhatComm Dispatch personnel 1.75 FTE to cover 7 days/week	\$162,750
TOTAL ANNUAL OPERATIONS	\$670,650
Total Investment of first year launch by City of Bellingham	\$837,001



Whatcom County Program Design

Geography of the county presents a challenge to using this model outside of city limits

Sheriff's Department recommends a Co-Responder Model

- Pair a Deputy with a Behavioral Health Professional
- Consider the "IMPACT" Model operated by Compass Health
 - Majority of funding for this model is provided by MCOs and ASO
- Close collaboration between Compass Health and GRACE will be critical
- Workforce recruitment and retention still a challenge

Considerations



How do we coordinate ART with current programs doing similar work?

The Mobile Crisis Outreach Team (MCOT) currently responds to people experiencing a behavioral health crisis

- Average dispatches per month = 150 (~ 5/day)
- Dispatched through LE and Crisis Line, as well as direct referrals
- Two-hour maximum response time, not always immediate
- Includes Designated Crisis Responders (DCRs)

Other Considerations



Build upon what we have/Coordinate with current programs and initiatives?

Many requests to expand the GRACE program due to positive outcomes

- Law Enforcement, PeaceHealth Hospital, EMS, Jail, Treatment and Housing Providers
- Add another component to GRACE program: initial crisis response

State legislature considering the creation of a 988 number for behavioral health crisis calls, with possibility for dispatching Crisis Responders

- Thereby diverting from 911 over time
- Need to stay aware of this evolving initiative and potential impacts

Next Steps?



Launch Phase One

- Funding from COB currently in place for this phase
- Collect and analyze data
 - Inform Dispatch, call reporting, and response needs
- Continue to plan for Phase Two

Vet the Program Design further?

- Have we responded to the expectations?
- Have we adequately educated the public?
- Can we do this successfully?

Consider Workforce Challenges

- Ensure the recruitment of qualified professionals



Whatcom County

COUNTY COURTHOUSE
311 Grand Avenue, Ste #105
Bellingham, WA 98225-4038
(360) 778-5010

Agenda Bill Master Report

File Number: AB2021-268

File ID:	AB2021-268	Version:	1	Status:	Agenda Ready
File Created:	04/22/2021	Entered by:	AGeleyns@co.whatcom.wa.us		
Department:	Health Department	File Type:	Presentation		
Assigned to:	Council Committee of the Whole			Final Action:	
Agenda Date:	05/04/2021			Enactment #:	

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

TITLE FOR AGENDA ITEM:

Presentation from Human Services Manager on the recommendations from the Homeless Strategies Workgroup

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

See attachment

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
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Attachments: Staff Memo, Shelter Inventory, Point-in-Time Count Data, Identified Needs and Gaps, Recommendations, Accomplishments List



Memorandum

TO: SATPAL SIDHU, COUNTY EXECUTIVE

FROM: Anne Deacon, Human Services Manager

DATE: APRIL 21, 2021

RE: HOMELESS STRATEGIES WORKGROUP RECOMMENDATIONS

During the May 4, 2021, County Council Committee of the Whole, staff will present recommendations from the Homeless Strategies Workgroup (HSW), approved at their April 16, 2021 meeting.

Staff from the city of Bellingham and County Human Services, with guidance from the HSW, completed a needs assessment that included an inventory of current shelter options operated throughout the county and available to people who are experiencing homelessness. Quantitative and qualitative data on unmet needs and gaps was then collected and analyzed. This work included reviewing current trends, the recent Point-in-Time count data, and multiple interviews with stakeholders which included people with lived experience.

Upon completion of the inventory of services and the identification of needs and gaps, a set of recommendations was created. These recommendations were based upon the prior work noted as well as research of best or promising practices, with consideration of potential resources available.

Whatcom County Resolution 2017-055 established the Homeless Strategies Workgroup, and was amended in July 2019. Both resolutions resolved in part, "...The workgroup shall determine its own meeting schedule, but shall attempt to complete its work as expeditiously as possible." The COVID pandemic may have slowed the work of the HSW due to unexpected challenges, but the recommendations to County Council are now complete and ready for review. The HSW has met its obligations as set forth in resolution(s), and submits these recommendations for approval and subsequent action by the county.

In order to assure continued accountability of progress in these recommendations, the Whatcom County Housing Advisory Committee (WCHAC) can assume that responsibility as it aligns with their current role, and already provides that oversight. The WCHAC was established by an Interlocal Agreement between the county and all seven cities, and includes membership from homeless advocates, small cities, city of Bellingham, Tribal Nation, housing developers, and homeless housing providers. Regular reports on progress of the HSW recommendations will be provided to the County Council and upon request.



WHATCOM COUNTY SHELTER/INTERIM HOUSING INVENTORY

Provider Agency	Program Name	Description	Nightly units or beds available	Population served/ Barrier Level?	Drop-in or scheduled admission	Location	City/ County Funding
DVSAS	Shelter Program	Large communal-living house & apartments	17 units (37 individuals max)	Survivors of DV; Low Barrier	Drop-In	Bellingham	Yes
Engedi Refuge	Engedi House	Privately funded and faith-based. Shared home for survivors of sexual exploitation	6 beds	Survivors of sex trafficking; medium barrier	Referrals from network	Lynden	No
Homes NOW	Unity Village & Swift Haven	Tiny home encampments with shared kitchen and porta-potties	45 beds	Single adults; medium barrier	Application required; intake screening	Fairhaven and Bellingham	In-kind donation (land)
Interfaith Coalition	Family Promise / Emergency Shelter	Houses for families experiencing homelessness	4 family units	Families with Children; Low Barrier	Coordinated Entry	Bellingham, Ferndale	Yes
Interfaith Coalition	Transitional Housing	Transitional family housing	1 family unit	Families with Children; Low-Barrier	Coordinated Entry	Various	Yes
LMM	Agape Program	Private bedrooms for moms with kids and double rooms for single women; shared kitchen & bathroom; meals provided; 1 medical respite bed	8 units for moms w/ children and 22 beds for single women (60 beds total)	Single moms w/ kids; single women without kids; medium barrier	Application Required; intake screening	F & Holly St.	No
LMM	Base Camp	Large night-by-night facility for adults; men's and women's sleeping areas, shared bathrooms & laundry service; meals provided	190 Beds	Adults; Low Barrier	Drop-In	Cornwall Ave.	Yes

WHATCOM COUNTY SHELTER/INTERIM HOUSING INVENTORY

LMM	Ascent Program	Shelter and services for people in recovery from SUDs; a specialized care dorm for people with behavioral health needs; 1 medical respite bed; meals provided	43 beds	Adult men; medium barrier	Application required; intake screening	F & Holly St.	No
CTK	Winter Overflow	Overnight shelter during the winter months at former Drop-in Center location	30 beds	Singles typically; Depends on operator	Drop-In	Holly Street	Yes
Lummi Stepping Stones	Emergency Shelter	Program uses a pair of large homes with bunk beds		Tribal adults and families with children; low barrier	Drop-In	Lummi Nation	No
Lummi Victims of Crime	Emergency Shelter	?		Tribal survivors of DV, including children; low barrier	Drop-In	Lummi Nation	No
Lydia Place	Gladstone Campus	Transitional housing for up to 18 individuals (women w/ children) who are members of 5 households.	5 units (maximum of 18 people)	Women with children; low barrier	Coordinated Entry	Bellingham	Yes
New Way Ministries	Housing Program	Privately funded and faith based. Transitional Housing	23 families	Screened by New Way; Medium Barrier	Application through New Way Ministries	Lynden	No
NWYS	PAD Shelter	Private bedrooms with shared facilities	4 (during COVID)	Minors (13-17 years old); low barrier	Drop-In	Bellingham	Yes
NWYS	Husly Shelter	4 bedroom home used for transitional housing	4 beds	Young adults (18-24); low barrier		Bellingham	Yes
Opportunity Council	Partnership House	2-unit duplex for transitional housing	2 units	Families with children; low barrier	Coordinated Entry	Bellingham	Yes

WHATCOM COUNTY SHELTER/INTERIM HOUSING INVENTORY

Sun Community Services	Sun House	Emergency shelter in large house for adults with mental illness and history of institutionalization	9 beds	Single adults; low barrier	Coordinated Entry	Bellingham	Yes
YWCA	Transitional Housing	Medium-length stays; single adults have private bedrooms and shared facilities	27 beds	Single adult women; low barrier	Coordinated Entry	Bellingham	Yes
YWCA	Emergency Housing	Short-length stays; single adults in "alcoves"; shared facilities	9 beds	Single adult women; low barrier	Coordinated Entry	Bellingham	Yes
YWCA	Senior Emergency Housing	Short-length stays; single adults in large room w/ dividers	5 beds	Single women aged 55+; low barrier	Coordinated Entry	Bellingham	Yes
TOTAL BEDS or "households" served			454 Household – up to 516 beds depending upon family size				

Point-in-Time Count Data

Where staying	2021 Households	2020 Households	2021 Persons	2020 Persons
ES	355	308	551	380
Transitional housing	79	71	93	109
Unsheltered	191	176	218	218
Grand Total	625	555	862	707

Where staying, including motel separate from ES	2021 Households	2020 Households	2021 Persons	2020 Persons
Emergency	267	300	299	356
Emergency - Motel	88	8	252	24
Transitional	79	71	93	109
Unsheltered	191	176	218	218
Grand Total	625	555	862	707

IDENTIFIED SHELTER NEEDS AND GAPS

POPULATION/ISSUE	SUPPORTING INFORMATION
1. Families with Children	65 – 85 FWC residing in motels currently is not conducive to long-term well-being of children
2. Young Adults (18-24)	Young adults are more vulnerable living unsheltered. Last year approximately 20 young adults utilized a shelter dedicated to their age group.
3. Elderly women (55+)	This population has experienced an increase in living unsheltered and tend to be more vulnerable.
4. Medically Fragile and/or cognitive decline (Alzheimer's, dementia, etc.)	Medical care at an inpatient level is no longer needed, but exiting to homelessness may exacerbate one's condition. Need a step-down facility to extend care at a lower level.
5. Special Populations at risk	Some populations face higher risk of harassment and potential harm and would benefit from shelter opportunities that promote safety and security. (LGBTQ, BIPOC, Disabled)
6. Small Tent Encampments	Approximately 80 – 90 small encampments are located throughout the county. Access to waste removal and toilet facilities is limited or non-existent. A number of people who are camping may not be interested in accepting other forms of shelters offered by government or private organizations.
7. Tiny Homes	In order to qualify as "shelter" as defined by HUD/Commerce, the following criteria must be met: a) ability to adjust living structure to climate (heat, opening window, fan); b) semi-permanent structure to prepare or eat food; c) living structure must have four walls, ceiling and a door that closes (lockable?); d) must have reasonable access to sanitation facilities (less than 100 yards away, with ability to shower, with hot & cold running water, and toilets; e) electricity to the living unit.
8. Local Governments may not be able to provide every type of shelter desired	Need to identify humane responses to people living unsheltered who may not utilize shelter options that are available to them.
9. Under-utilization of available shelters	During the past winter as many as 80 beds on a given night were not utilized.
10. Methamphetamine Use	Use of methamphetamine poses unique challenges to offering shelter and housing to people who use the drug. Symptoms of use include aggression, volatility, and contamination of living/shelter units.
11. Shelter availability in neighboring counties	Skagit County does not have a night-by-night/quick access shelter for its residents similar to Base Camp. (They have increased access to motel stays, created access to shelter for 12 FWC, purchased 80 tiny homes, and other efforts.) Skagit residents are referred to Whatcom resources at times.
12. Point in Time (PIT) Count	2021 count of people living unsheltered mirrored the 2020 count. 218 living unsheltered. (NOTE: ~80 vacancies in shelter spots during count). Had 171 more spots available in 2021. See Data.

Recommendations for Consideration by the Homeless Strategies Workgroup

OVERARCHING GOALS

Clarify extent of local government support

Prioritize most vulnerable populations

Consider strategies and actions appropriate for local governments to support

Build upon current resources where possible

Invest in long-term permanent solutions over temporary crisis solutions when resources are inadequate to do both

Proposed Recommendation	Action Steps & Potential Funding Sources	SHORT TERM
<i>Provide motel stays for families with children</i>	<ul style="list-style-type: none"> • Consider up to \$100,000/month to serve 50 families during the months of November through March (and possibly more during pandemic). • Research what COVID Recovery monies may be available to support these stays 	
<i>Establish Overflow Winter Shelter to offer individuals when Base Camp is full</i>	<ul style="list-style-type: none"> • Expand time span to include November and March • Plan for 30 additional spots, and consider whether it is a possible option for an identified special population 	
<i>Establish Severe Weather Shelters to offer individuals who typically don't utilize shelters when Base Camp and Overflow Winter Shelter capacity has been reached</i>	<ul style="list-style-type: none"> • Utilize previously agreed upon guidelines for opening these temporary shelters • Recruit volunteer organizations to operate • Ask potential operators what they need from local government in order to operate a Shelter 	
<i>Establish a data collection process to assist in ongoing analysis and planning</i>	<ul style="list-style-type: none"> • Focus initially on night-by-night shelters to determine utilization trends and needs • Consider needs of most vulnerable populations: <ul style="list-style-type: none"> a. Families with children b. Needs of individuals aged 18–24-years may require an investment in separate shelter location, or designated space within current shelters <ul style="list-style-type: none"> i. Explore actual need/potential utilization of a young adult location (previous utilization was low) ii. Determine how a young-adult shelter aligns with the current Ground Floor program c. Needs of elders, people living with serious mental illness, LGBTQ, and BIPOC <ul style="list-style-type: none"> i. Follow YWCA efforts in process, Sun House, other options d. Continue to support the Homeless Outreach Team and review their qualitative data on needs of the people they are serving 	
<i>Support continuation of current Specialty Shelters</i>	<ul style="list-style-type: none"> • Reference Shelter Inventory 	
<i>Support continuation of current Tiny Home Villages as well as the pending village contracted by City of Bellingham</i>	<ul style="list-style-type: none"> • No further investments in the number of taxpayer-supported tiny home encampment sites without in-depth research to ensure the need exists (vs. wants), and that the response is the best practice for the situation • Ensure Tiny Home encampments supported by government qualify as “Shelters” • Review other options for singles and couples that provide in-unit access to plumbing, heat, and meal preparation 	
<i>Encourage local elected officials to work with Skagit and Island counties to increase shelter capacity for their residents</i>		

Recommendations for Consideration by the Homeless Strategies Workgroup

LONG TERM

<i>Interim housing units for families with children as an alternative to motel stays</i>	<ul style="list-style-type: none"> • Explore long-term solution to replace the need for such a significant investment in motel stays and provide a better alternative for children and parents. • Develop need, scope and feasibility for an interim housing complex: <ul style="list-style-type: none"> a. Some families may return to shared living post pandemic. • Seek and procure community partner for operations • Identify long-term operational funding • Consider whether proposed state budget for capital support for shelters should/can be used to develop this interim solution
<i>Establish shelter and services for people who are medically fragile</i>	<ul style="list-style-type: none"> • Support Unity Care and Peace Health’s partnership to build and operate Way Station, which is in planning, design and funding stage. <ul style="list-style-type: none"> a. Way Station would serve up to 20 individuals b. Co-locate medical services c. Co-locate hygiene services d. Co-locate support services/case management
<i>Relocation of Base Camp to permanent home</i>	<ul style="list-style-type: none"> • Identify funding sources to support construction costs, where appropriate • Encourage section(s) dedicated to vulnerable populations and encourage coordination with other partner agencies

DRAFT

Homeless Strategies Workgroup
COMMUNITY ACCOMPLISHMENTS*

2020 - 2021

- 1. Temporarily relocated Lighthouse Mission Drop-In Center to Bellingham High School**
 - Under Whatcom Unified Command, city and county staff worked to relocate shelter to comply with pandemic-related requirements

- 2. Basecamp – Lighthouse Mission opened a year-round 200 bed shelter with additional services**
 - The City, with financial partnership from the County, moved the former Drop-In Center from the High School to a new location
 - Basecamp provides 200 beds, with built-in storage for belongings, all in compliance with social distancing
 - 3-year contract with one additional year renewal option
 - Additional services are available including shower, lockers, meals, and laundry

- 3. Civic Shower program offered twice weekly at Arne Hanna aquatic center**
 - Twice weekly free shower program operated by Arne Hanna staff provides showers for 15-20 people during each opening period

- 4. Overflow winter shelter space at the former Holly St Drop-In Center**
 - Lighthouse Mission Ministries, in partnership with Christ the King Church, expanded its capacity during the winter by 30 beds

- 5. Tiny home villages**
 - Road 2 Home and Low Income Housing Institute (LIHI) to operate Gardenview Tiny Home Village at the City's Woburn Street property including 30 units (pending opening)
 - Homes Now operates Unity Village (extended permit) and Swifthaven, 45 units
 - Whatcom County purchased 20 modular buildings for tiny home villages
 - City of Bellingham provided land and issued RFP for operators, leading to a commitment of funding for Gardenview operations and case management

- 6. Point-In-Time count completed with staff and volunteers trained in past years**
 - Annual count was not required to be as widespread this year, but our community chose to expand the count beyond requirements and conduct a more comprehensive count

- 7. PAD Shelter remained open during the pandemic to serve four minors ages 13-17**

8. The community dramatically increased support for motel stays for homeless families with children

- The Homeless Service Center and service providers saw a drastic increase in demand for shelter services for families with children, which was addressed by service providers (primarily Lydia Place and Opportunity Council) stepping up to say ‘yes’ and increased funding for motels coming from the County, City, foundations and private donors

9. YWCA provided additional emergency shelter to women

- Using space made available due to pandemic closures, 9 beds

10. \$4 million in state funding for Respite Center

- Unity Care NW in partnership with the County, Peace Health, and the Opportunity Council received funding to open a respite care center (rest stop) with medical care and coordinated case management.
- County offers existing office space to house the respite center.

11. Federal assistance for low-income renters

- Millions from the federal government has been made available for rent assistance, which the community has worked hard to make broadly available and accessible, and also to pair with programs that serve homeless-on-entry households

2019 - 2020

12. Year-Round Drop-in Shelter with case management

- Lighthouse Mission had space for 190 people year-round, and were open 24/7. They served breakfast, lunch and dinner daily, and coordinate with services from partnering organizations.

13. Day Center & Shelter

- Northwest Youth Services operated The Ground Floor, a day center hosted at First Congregational Church, serving youth and young adults ages 24 and younger. Whatcom County and the City of Bellingham provided additional funding for shelter supplies, staff, and operations. Facilities offer restrooms, showers, meals, and case management services.

14. Temporary Winter Shelter

- Opportunity Council and City of Bellingham operated a winter shelter for women at Civic Stadium, for up to 35-40 women, check was at Lighthouse Mission, transport to site and back. Hours were 7am-7pm. Dec 1, 2019 –Feb 29, 2020.
- Northwest Youth Services operated a youth winter shelter at First Congregational Church, for up to 35 youths ages 13-24 Dec 2019 – Feb 2020.

15. Severe Weather / Emergency Shelters

- Christ the King Church provided shelter capacity for 60 people (men and people with special health needs)
- Fountain Community Church hosted shelter capacity for 60 people with no restrictions. They provided space, materials, and staff/volunteers
- Garden Street Methodist Church offered shelter capacity for 15 people (families)
- Seventh Day Adventist offered shelter capacity for 30 people (men, women, families)
- Daily shelter updates available were available by phone at 360-788-7983
- Whatcom County issued a call for partners for shelters with an aim to identify secular organizations, but no secular organizations came forward.
- Whatcom County worked to coordinate messaging around shelters during winter weather

16. Training for Shelter Volunteers

- Whatcom County Health Department and the Opportunity Council trained 60 shelter volunteers at 4 trainings in fall 2019.

17. Small Specialized Shelters

- Youth - NWYS The PAD
- Domestic Violence - DVSAS year-round emergency shelter
- Women, emergency/transitional housing - YWCA
- Mental health - Sun Community Services operates Sun House
- Families - Interfaith/Family Promise
- Native Americans - Lummi Stepping stones operated 2 shelters and a tiny home village

18. Laundromat

- City of Ferndale opened a community laundromat in Pioneer Marketplace and offered 1,000 vouchers.

19. Restrooms

- City of Ferndale - 24-hour bathroom at Star Park.
- Lighthouse Mission had 2 porta-potties at the Drop-In Center.
- The City of Bellingham had located 3 porta-potties.
- The City of Bellingham completed 24-hour access restrooms at Maritime Heritage Park.
- Northwest Youth Services operated a day center at First Congregational Church

20. Showers

- Lighthouse Mission had a shower trailer that was added to their Outreach program in Winter 2019 (Shower Connect) and provided 2,500 showers, 4 days a week at 4 different sites furthering homeless relationship building and inclusion, and fostering next steps in services.

- HomesNow has a shower truck for tiny home residents. Once a month takes shower trailer to Maritime Heritage Park for a summit. Offers 1,500 showers per year
- YMCA offers a limited number of shower passes – they are at capacity

21. Lockers

- BasicsPNW ran a locker truck every Saturday into May 2019 at Maritime Heritage Park (on hold to focus on establishing permanent locker project)

22. Garbage Collection

- City of Bellingham, Public Works offered dumpsters for homeless community to discard their belongings when needed. There were 3 dumpsters available as part of a pilot program, including one at the dead end of Cornwall Ave, one 1 across the street from City Hall, and one at James and Woodstock by Kmart pond. The dumpsters at Woodstock and across from City Hall were considered for removal because of the abuse. The dumpster at the end of Cornwall had been utilized by the intended user group, which had taken on the responsibility for keeping it clean and making sure that it is used correctly. Dumpsters were emptied twice a week, and the solid waste fund paid for the operations, which totaled \$14,200 a year plus damages. There were challenges with dumping (construction materials and large furniture) and policing. City staff recommended discontinuing all but the Cornwall dumpster.

23. Crisis Stabilization Center

- Whatcom County construction of the Crisis Stabilization Facility. Ground breaking: October 2019

24. Tiny Home Villages

- Update codes to allow for temporary tiny home villages
 - City of Bellingham adopted an ordinance regulating tiny home villages.
 - Whatcom County adopted an ordinance regulating tiny home villages.
 - HomesNow completed Winterhaven behind Bellingham City Hall (vacated), SpringHaven in Sunnyland (vacated) and Unity Village at Post Point location – lease is through April 30, 2020 (extended).

25. Communications to Homeless population

- Whatcom County and City of Bellingham Staff coordinated to develop information about winter and severe weather shelters. Information was posted online and a telephone hotline offered a regularly updated message about shelters and check in process.
- HomesNow has an online dashboard of information.
- Lighthouse Mission distributes information with the approximately 400 people they see daily
- Opportunity Council, Homeless Services Center – offers services and information to clients
- Opportunity Council manages online Community Resource Guide:
<https://internal.opcco.org/resources/guide.php>
- GRACE team can distribute information to clients

26. Communications to the general public

- Joint editorial on homelessness released in November 2019

27. Safe Parking

- City of Bellingham City Council approved a request from staff to 1) attempt to find a partner to initiate a Safe Parking Pilot Program; and 2) fund (fully or in part) such a program. (1/27/2020)
- Confirmed with First Baptist that they are not able to expand services at this time.
- City of Ferndale acknowledges many park overnight in parking lots at parks

28. Social Inclusion

- Lighthouse Mission launched Street Connect in Spring 2018 doing evening outreach to homeless camps and individuals throughout Bellingham. It's year-round, 4 nights a week. They've seen a 15-20% increase in guests accessing the Drop-in Center, which they attribute to the effectiveness of their outreach.
- Opportunity Council runs a Homeless Outreach Team

29. Landlords

- Landlord Liaison
 - The Opportunity Council works with landlords who have existing units. Both the City of Bellingham and Whatcom County are funding this position through the OC.
 - Housing Authority also has a similar position specific to their voucher programs

30. Case Management

- Light Touch case management services available for those with lower vulnerability, more social/job skills to get them on their feet and housed quickly.
 - Opportunity Council pursued and received a capacity building foundation grant to pay for 0.5 FTE of light touch services. The City provided funding to continue light touch & diversion services.

** Summary document created by County Council staff, with input from HSW Members, County Health Department and City of Bellingham staff. This is not intended to be a complete summary of accomplishments, just some highlights.*



Whatcom County

COUNTY COURTHOUSE
311 Grand Avenue, Ste #105
Bellingham, WA 98225-4038
(360) 778-5010

Agenda Bill Master Report

File Number: MIN2021-034

File ID:	MIN2021-034	Version:	1	Status:	Agenda Ready
File Created:	04/13/2021	Entered by:	KFelbing@co.whatcom.wa.us		
Department:	Council Office	File Type:	Minutes Consent		
Assigned to:	Council			Final Action:	
Agenda Date:	05/04/2021			Enactment #:	

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

TITLE FOR AGENDA ITEM:

Water Work Session for April 13, 2021

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

None

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
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Attachments: Draft Minutes Water Work Session Apr 13 2021

Whatcom County Council Water Work Session

**COUNTY COURTHOUSE
311 Grand Avenue, Ste #105
Bellingham, WA 98225-4038
(360) 778-5010**



Minutes - Draft Minutes

VIRTUAL MEETING - VIEW ONLINE

Tuesday, April 13, 2021

10:30 AM

Virtual Meeting

COUNCILMEMBERS

Rud Browne
Barry Buchanan
Tyler Byrd
Todd Donovan
Ben Elenbaas
Carol Frazey
Kathy Kershner

CLERK OF THE COUNCIL

Dana Brown-Davis, C.M.C.

Call To Order

Council Chair Barry Buchanan called the meeting to order at 10:33 a.m. in a virtual meeting.

Roll Call

Present: 6 - Rud Browne, Barry Buchanan, Tyler Byrd, Todd Donovan, Ben Elenbaas and Carol Frazey

Absent: 1 - Kathy Kershner

Overview of 2021 Flood Control Zone District Capital Projects

The following people spoke:

- Gary Stoyka, Public Works Department
- Paula Harris, Public Works Department

Harris gave a presentation and answered questions about the Abbott project and how the Council can help with challenges of the Lynden Levee project.

Water Resources Update

Gary Stoyka, Public Works Department, updated the Councilmembers on the following:

- Adjudication/water settlement process and funding
- The Regional Water Supply planning process
- The Groundwater Model Peer Review
- Work with Whatcom Water Alliance and Whatcom Conservation District on domestic and agriculture water use efficiency
- Agenda topics of the Watershed Management Board and the WRIA 1 Planning Unit
- Funding for construction of the Kenny Creek culvert replacement from the House Capital budget
- Locations for Lake Whatcom Aquatic Invasive Species inspections
- A redesign and refurbishment of the South Bay boat launch

Sudden Valley Community Association Memorandum of Understanding

Kraig Olason, Public Works Department, gave a presentation and answered whether the agreement is project-specific, whether there are other opportunities in the watershed to improve the conveyance ahead of putting in vaults, using energy dissipation as erosion control, whether this is a model that can be used in other areas, and whether there is any cost sharing for the build out of the project.

Other Business

There was no other business.

Adjournment

The meeting adjourned at 11:23 a.m.

ATTEST:

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WA

Dana Brown-Davis, Council Clerk

Barry Buchanan, Council Chair

Kristi Felbinger, Minutes Transcription



Whatcom County

COUNTY COURTHOUSE
311 Grand Avenue, Ste #105
Bellingham, WA 98225-4038
(360) 778-5010

Agenda Bill Master Report

File Number: MIN2021-035

File ID:	MIN2021-035	Version:	1	Status:	Agenda Ready
File Created:	04/19/2021	Entered by:	KFelbing@co.whatcom.wa.us		
Department:	Council Office	File Type:	Minutes Consent		
Assigned to:	Council			Final Action:	
Agenda Date:	05/04/2021			Enactment #:	

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

TITLE FOR AGENDA ITEM:

Special Council for April 15, 2021

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

None

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
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Attachments: Draft Minutes Special Council Apr 15 2021

Whatcom County Council (Special)

**COUNTY COURTHOUSE
311 Grand Avenue, Ste #105
Bellingham, WA 98225-4038
(360) 778-5010**



Minutes - Draft Minutes

**VIRTUAL MEETING - CHERRY POINT (TO PARTICIPATE, SEE
INSTRUCTIONS AT www.whatcomcounty.us/joinvirtualcouncil OR CALL**

360.778.5010)

Thursday, April 15, 2021

2 PM

Virtual Meeting

COUNCILMEMBERS

Rud Browne
Barry Buchanan
Tyler Byrd
Todd Donovan
Ben Elenbaas
Carol Frazey
Kathy Kershner

CLERK OF THE COUNCIL

Dana Brown-Davis, C.M.C.

Call To Order

Council Chair Barry Buchanan called the meeting to order at 2 p.m. in a virtual meeting.

Roll Call

Present: 7 - Rud Browne, Barry Buchanan, Tyler Byrd, Todd Donovan, Carol Frazey, Ben Elenbaas and Kathy Kershner

Absent: None

Committee Discussion

1. [AB2020-345](#) Discussion of proposed Cherry Point amendments

Approximate Timestamp: 00:01:06

The following stakeholder group members and other representatives were present:

- Pam Brady, BP
- Jeff Chalfant, BP
- Cindy Chapman, BP
- Gavin Carscallen, Petrogas
- Andrew Gamble, Petrogas
- Brad Brown, Phillips 66
- Scott Irwin, Phillips 66 Contractor
- Tim Johnson, Phillips 66
- Holli Johnson, Western States Petroleum Association (WSPA)
- Trevor Smith, Laborers Local 292
- Crispina O'Connor, ERM
- Carl Weimer
- Shannon Wright RE Sources
- Rick Eggerth, Independent Consultant
- Johan Hellman, BNSF Railway
- Matt Krogh, Stand.earth
- Edward Ury

Brad Brown, Phillips 66, briefed the Councilmembers on the code language proposal for the Cherry Point Comprehensive Plan and Code amendments and answered questions.

Approximate Timestamp: 00:08:42

Councilmembers and the following people discussed proposed language in

Whatcom County Code (WCC) 20.68.050 and WCC 20.68.068 Subsection 21 (Inter-refinery shipments of refined products and Intermediate Materials such as unfinished oils and blendstocks):

- Brad Brown, Phillips 66
- Jeff Chalfant, BP
- Satpal Sidhu, County Executive

Browne moved that they ask the stakeholder group to come up with alternative language WCC 20.68.068 Subsection 21 and revise the definition of committed inter-refinery shipments to exclude large volumes of refined fuels as a primary function. The motion was seconded by Frazey.

Councilmembers discussed whether they should vote on accepting the work of the stakeholder group first, Browne's motion, and how the motion might be worded differently.

Donovan moved that the stakeholder group come back to the Council with a narrower definition and code language defining inter-refinery shipments to address the concerns discussed in the meeting today.

Browne withdrew his motion and accepted Donovan's motion as an alternative.

Councilmembers and Brown discussed Donovan's motion and when such language might come back to the Council.

The motion carried by the following vote:

Aye: 4 - Browne, Buchanan, Donovan, and Frazey

Nay: 3 - Byrd, Elenbaas, and Kershner

Approximate Timestamp: 01:04:39

Donovan stated he would like to discuss an amendment to language in WCC 20.68.207 (Coal-fired power plants) so that it is expanded to new facilities that are primarily burning fossil fuels but he did not make a motion.

Councilmembers discussed the proposed amendment.

The following people answered questions about gas-fired power plants and co-generation plants:

- Matt Aamot, Planning and Development Services Department

- Brad Brown, Phillips 66

Browne moved to create a new section 20.68.090 that cogeneration of power from byproducts of refining is a permitted use. The motion was seconded by Byrd.

Councilmembers discussed the motion.

Aamot answered whether there is already code language addressing this.

Browne withdrew his motion with the condition that the Stakeholders have an understanding that the Council is interested in this topic and they can add it to their list.

Dana Brown-Davis, Clerk of the Council, answered a question about withdrawing the motion.

Byrd withdrew his second so the motion was withdrawn.

Approximate Timestamp: 01:31:44

Browne moved to amend 16.08.090 Subsection E to add “and the County Council” as follows:

The form of the worksheet shall be prepared and updated as needed ~~once per year~~ by the SEPA Responsible Official in consultation with the Planning Commission and the County Council ~~and taking into account the comments of the Climate Impacts Advisory Group and its members.~~

The motion was seconded by Frazey.

Councilmembers discussed the motion and the following people answered questions:

- Mark Personius, Planning and Development Services Department Director
- Royce Buckingham, Prosecuting Attorney’s Office

The motion carried by the following vote:

Aye: 7 - Buchanan, Byrd, Donovan, Elenbaas, Frazey, Kershner, and Browne

Nay: 0

Approximate Timestamp: 01:41:34

Browne moved to amend WCC 16.08.160 (Substantive authority) Subsection E (Relationship to Federal, State and Regional Regulations) as follows:

The County ~~needs~~shall not so defer if such regulations did not anticipate or are otherwise inadequate to address a particular impact of a project **or would be less restrictive than County Code.**

The motion was seconded by Donovan.

The following people spoke

- Royce Buckingham, Prosecuting Attorney's Office
- Karen Frakes, Prosecuting Attorney's Office

Browne amended his motion to replace the word "need" with "shall" as follows:

The County ~~needs~~shall not so defer if such regulations did not anticipate or are otherwise inadequate to address a particular impact of a project **or would be less restrictive than County Code.**

Councilmembers and the attorneys discussed the motion and the following people also spoke:

- Brad Brown, Phillips 66
- Mark Personius, Planning and Development Services Department Director
- Matt Aamot, Planning and Development Services Department

The amended motion carried by the following vote:

Aye: 4 - Donovan, Frazey, Browne, and Buchanan

Nay: 3 - Byrd, Elenbaas, and Kershner

Approximate Timestamp: 01:57:05

Frazey spoke about prohibited uses and the previous discussion on new facilities.

Elenbaas moved to accept the recommendations of the stakeholder group

as presented, minus already passed motions from this meeting.

Kershner seconded and **suggested** a friendly amendment to rephrase the motion to change “minus already passed motions from this meeting” to “with the passed amendments”.

Elenbaas accepted the friendly amendment to accept the recommendations of the stakeholder group as presented with the passed amendments.

Karen Frakes, Prosecuting Attorney's Office, and Councilmembers discussed the motion.

Browne asked and the following people answered questions about insurance and liability:

- Brad Brown, Phillips 66
- Scott Irwin, Phillips 66 Contractor
- Cindy Chapman, BP
- Rick Eggerth, Independent Consultant

Councilmembers discussed the topic.

Elenbaas moved that they accept the stakeholder's proposed language on insurance. The motion was seconded by Byrd.

Clerk's note: There was already a motion on the floor at this time.

Councilmembers and the speakers discussed the motion with the following people:

- Rick Eggerth, Independent Consultant
- Scott Irwin, Phillips 66 Contractor
- Johan Hellman, BNSF Railway
- Karen Frakes, Prosecuting Attorney's Office

Elenbaas stated he did not want to withdraw his first motion and **restated the motion** to accept the recommendations of the stakeholder group as presented with the amendments passed today and excluding what the Council has directed them to address. The motion was seconded by Kershner.

Councilmembers discussed the motion and the following person spoke:

- Rick Eggerth, Independent Consultant

Elenbaas restated his original motion to accept the recommendations of the stakeholder group as presented with the amendments passed today and excluding what the Council has directed them to address.

Browne suggested a friendly amendment to forward the document to the Planning and Development Services Department (PDS) for cleanup with the understanding that the issues the Council has already asked the stakeholder group to address will be brought back to the Council.

Elenbaas accepted the friendly amendment and stated it would go to PDS next for them to incorporate into a clean version for PDS and legal review.

Donovan clarified that the motion does not preclude them from taking recommendations from PDS and legal to make further changes but nothing beyond what they discussed today.

Elenbaas agreed and stated if PDS comes up with something they think we need input on, the Council can ask for more input.

Donovan stated he would bring up WCC 20.68.207 and whether they want the prohibition to be coal-fired plants or fossil fuel plants generally and assumes that topic is still on the table.

Elenbaas' motion carried by the following vote:

Aye: 5 - Donovan, Elenbaas, Kershner, Buchanan, and Byrd

Nay: 2 - Frazey and Browne

Approximate Timestamp: 03:16:30

Karen Frakes, Prosecuting Attorney's Office discussed with Councilmembers the contract with Cascadia Law, how the Council would like to spend the money they allocated to it if at all, and how it might relate to the timing of the interim Ordinance.

The following Person also spoke about whether information from the stakeholder group could be brought to the Council by the next regular Council meeting date:

- Brad Brown, Phillips 66

Councilmembers thanked the stakeholder group for their work.

This agenda item was DISCUSSED AND MOTION(S) APPROVED.

Items Added by Revision

There were no agenda items added by revision.

Other Business

There was no other business.

Adjournment

The meeting adjourned at 5:31 p.m.

ATTEST:

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WA

Dana Brown-Davis, Council Clerk

Barry Buchanan, Council Chair

Kristi Felbinger, Minutes Transcription



Whatcom County

COUNTY COURTHOUSE
311 Grand Avenue, Ste #105
Bellingham, WA 98225-4038
(360) 778-5010

Agenda Bill Master Report

File Number: MIN2021-037

File ID:	MIN2021-037	Version:	1	Status:	Agenda Ready
File Created:	04/21/2021	Entered by:	KFelbing@co.whatcom.wa.us		
Department:	Council Office	File Type:	Minutes Consent		
Assigned to:	Council			Final Action:	
Agenda Date:	05/04/2021			Enactment #:	

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

TITLE FOR AGENDA ITEM:

Committee of the Whole Executive Session for April 20, 2021

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

None

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
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Attachments: Draft Minutes Committee of the Whole Exec Apr 20 2021

**Whatcom County
Council Committee of the Whole-Executive Session**

COUNTY COURTHOUSE
311 Grand Avenue, Ste #105
Bellingham, WA 98225-4038
(360) 778-5010



Committee Minutes - Draft Minutes

VIRTUAL MEETING - ENDS NO LATER THAN 9:15 A.M. (TO
PARTICIPATE, SEE INSTRUCTIONS AT
www.whatcomcounty.us/joinvirtualcouncil OR CALL 360.778.5010)
Tuesday, April 20, 2021

9 AM

Virtual Meeting

COUNCILMEMBERS

Rud Browne
Barry Buchanan
Tyler Byrd
Todd Donovan
Ben Elenbaas
Carol Frazey
Kathy Kershner

CLERK OF THE COUNCIL

Dana Brown-Davis, C.M.C.

Call To Order

Council Chair Barry Buchanan called the meeting to order at 9:02 a.m. in a virtual meeting.

Roll Call

Present: 6 - Barry Buchanan, Tyler Byrd, Todd Donovan, Carol Frazey, Ben Elenbaas and Kathy Kershner

Absent: 1 - Rud Browne

Committee Discussion

Attorney Present: Karen Frakes.

Buchanan stated that discussion of agenda item one may take place in executive session pursuant to RCW 42.30.110(1)(i). Executive session will conclude no later than 9:15 a.m. If the meeting extends beyond the stated conclusion time, Council staff will make a public announcement.

Byrd moved to go into executive session until no later than 9:15 a.m. to discuss the agenda items pursuant to the RCW citations as announced by the Council Chair. The motion was seconded Frazey.

The motion carried by the following vote:

Aye: 6 - Buchanan, Byrd, Donovan, Elenbaas, Frazey, and Kershner

Nay: 0

Absent: 1 - Browne

1. [AB2021-251](#) Discussion of pending litigation with Civil Deputy Prosecutor George Roche, re: Anderson as Personal Rep. of the Estate of Kirk Powless, et al v. Whatcom County, et al, US District Court for the Western District of Washington No. 2:20-cv-01125. [Discussion of this item may take place in executive session (closed to the public) pursuant to RCW 42.30.110(1)(i)]

This agenda item was DISCUSSED.

Items Added by Revision

There were no agenda items added by revision.

Other Business

There was no other business.

Adjournment

The meeting adjourned at 9:08 a.m.

ATTEST:

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WA

Dana Brown-Davis, Council Clerk

Barry Buchanan, Council Chair

Kristi Felbinger, Minutes Transcription



Whatcom County

COUNTY COURTHOUSE
311 Grand Avenue, Ste #105
Bellingham, WA 98225-4038
(360) 778-5010

Agenda Bill Master Report

File Number: MIN2021-039

File ID:	MIN2021-039	Version:	1	Status:	Agenda Ready
File Created:	04/23/2021	Entered by:	KFelbing@co.whatcom.wa.us		
Department:	Council Office	File Type:	Minutes Consent		
Assigned to:	Council			Final Action:	
Agenda Date:	05/04/2021			Enactment #:	

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

TITLE FOR AGENDA ITEM:

Regular County Council for April 20, 2021

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

None

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
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Attachments: Draft Minutes Council Apr 20 2021

Whatcom County Council

**COUNTY COURTHOUSE
311 Grand Avenue, Ste #105
Bellingham, WA 98225-4038
(360) 778-5010**



Minutes - Draft Minutes

**VIRTUAL MEETING (TO PARTICIPATE, SEE INSTRUCTIONS AT
www.whatcomcounty.us/joinvirtualcouncil OR CALL 360.778.5010); AGENDA**

REVISED 4.19.2021 & 4.20.2021

Tuesday, April 20, 2021

6 PM

Virtual Meeting

COUNCILMEMBERS

Rud Browne
Barry Buchanan
Tyler Byrd
Todd Donovan
Ben Elenbaas
Carol Frazey
Kathy Kershner

CLERK OF THE COUNCIL

Dana Brown-Davis, C.M.C.

COUNTY COUNCIL

CALL TO ORDER

Council Chair Barry Buchanan called the meeting to order at 6:02 p.m. in a virtual meeting.

ROLL CALL

Present: 7 - Rud Browne, Barry Buchanan, Tyler Byrd, Todd Donovan, Ben Elenbaas, Carol Frazey, and Kathy Kershner

Absent: None

FLAG SALUTE

ANNOUNCEMENTS

COUNTY EXECUTIVE'S REPORT

Satpal Sidhu, County Executive, reported on the following:

- National volunteer week
- Administrative professional's appreciation day acknowledgements
- COVID-19 vaccination progress in Whatcom County and doses available this weekend at the Community Vaccination Clinic
- The George Floyd trial verdict and the formation of a Racial Equity Commission
- The State budget and how it can help bolster the Whatcom County economy for the next couple years

MINUTES CONSENT

Donovan moved to accept the minutes consent items. The motion was seconded by Byrd (see votes on individual items below).

1. [MIN2021-030](#) Health Board for March 30, 2021

Donovan moved and Byrd seconded that the Minutes Consent be APPROVED BY CONSENT. The motion carried by the following vote:

Aye: 7 - Browne, Buchanan, Byrd, Donovan, Elenbaas, Frazey, and Kershner

Nay: 0

Absent: 0

2. [MIN2021-031](#) Committee of the Whole Executive Session for April 6, 2021

Donovan moved and Byrd seconded that the Minutes Consent be

APPROVED BY CONSENT. The motion carried by the following vote:

Aye: 7 - Browne, Buchanan, Byrd, Donovan, Elenbaas, Frazey, and Kershner

Nay: 0

Absent: 0

3. [MIN2021-032](#) Committee of the Whole for April 6, 2021

Donovan moved and Byrd seconded that the Minutes Consent be APPROVED BY CONSENT. The motion carried by the following vote:

Aye: 7 - Browne, Buchanan, Byrd, Donovan, Elenbaas, Frazey, and Kershner

Nay: 0

Absent: 0

4. [MIN2021-033](#) Regular County Council for April 6, 2021

Donovan moved and Byrd seconded that the Minutes Consent be APPROVED BY CONSENT. The motion carried by the following vote:

Aye: 7 - Browne, Buchanan, Byrd, Donovan, Elenbaas, Frazey, and Kershner

Nay: 0

Absent: 0

PUBLIC HEARINGS

1. [AB2021-171](#) Ordinance granting Trans Mountain Pipeline (Puget Sound) LLC, a non-exclusive franchise for pipeline facilities

Council staff played a short instructional video about how to speak at the meeting.

Andrew Hester, Public Works Department, briefed the Councilmembers.

Buchanan opened the Public Hearing and the following person spoke:

- Phil Sharpe

Hearing no one else, Buchanan closed the Public Hearing.

Byrd moved and Elenbaas seconded that the SUBSTITUTE Ordinance Requiring a Public Hearing be ADOPTED.

Councilmembers discussed the motion and why this item was not discussed in a Committee with the following people:

- Dana Brown-Davis, Clerk of the Council
- Christopher Quinn, Prosecuting Attorney's Office

Councilmembers discussed the motion and the process for considering this and other franchise agreements.

Brown-Davis stated that this is a substitute ordinance and Quinn briefed the Councilmembers on the substitute.

Byrd's motion that the SUBSTITUTE Ordinance Requiring a Public Hearing be ADOPTED carried by the following vote:

Aye: 6 - Browne, Buchanan, Byrd, Elenbaas, Frazey, and Kershner

Nay: 0

Absent: 0

Abstain: 1 - Donovan

Enactment No: ORD 2021-020

2. [AB2021-193](#) Ordinance establishing a speed limit on Northshore Road

Doug Ranney, Public Works Department, briefed the Councilmembers.

Buchanan opened the Public Hearing and, hearing no one, closed the Public Hearing.

Byrd moved and Frazey seconded that the Ordinance Requiring a Public Hearing be ADOPTED.

Councilmembers discussed the item with staff.

Byrd's motion that the Ordinance Requiring a Public Hearing be ADOPTED carried by the following vote:

Aye: 7 - Browne, Buchanan, Byrd, Donovan, Elenbaas, Frazey, and Kershner

Nay: 0

Absent: 0

Enactment No: ORD 2021-021

3. [AB2021-195](#) Ordinance establishing a speed limit on several roads in the Wisner Lake Area

Doug Ranney, Public Works Department, briefed the Councilmembers.

Buchanan opened the Public Hearing and, hearing no one, closed the Public

Hearing.

Byrd moved and Kershner seconded that the Ordinance Requiring a Public Hearing be ADOPTED. The motion carried by the following vote:

Aye: 7 - Browne, Buchanan, Byrd, Donovan, Elenbaas, Frazey, and Kershner

Nay: 0

Absent: 0

Enactment No: ORD 2021-022

4. [AB2021-230](#) Ordinance imposing an interim moratorium on the acceptance and processing of permit applications for new or expanded recreational cannabis growing and/or processing facilities which are proposed to operate outdoors or in greenhouses
- Mark Personius, Planning and Development Services Department Director, briefed the Councilmembers.

Buchanan opened the Public Hearing and the following people spoke:

- Rainbow Medicine Walker
- Mark Ambler
- Holly Koon
- Carson Warner

Hearing no one else, Buchanan closed the Public Hearing.

Donovan moved and Browne seconded that the SUBSTITUTE Ordinance Requiring a Public Hearing be ADOPTED.

Councilmembers discussed the motion, the difference between this ordinance and the similar ordinance adopted at the last regular County Council meeting, whether the industry should police itself, and whether the problem is with enforcement.

The following people answered questions:

- Karen Frakes, Prosecuting Attorney's Office
- Mark Personius

Dana Brown-Davis, Clerk of the Council, stated this is a substitute version.

Donovan's motion that the SUBSTITUTE Ordinance Requiring a Public Hearing be ADOPTED carried by the following vote:

Aye: 5 - Browne, Buchanan, Byrd, Donovan, and Frazey

Nay: 2 - Elenbaas, and Kershner

Absent: 0

Enactment No: ORD 2021-023

OPEN SESSION (20 MINUTES)

Council staff played a short instructional video about how to speak at the meeting.

The following people spoke:

- Mark Ambler
- Markis Dee Stidham
- Tom Doran
- Nancy Bergman
- Misty Flowers
- Barbara Powers
- Natalie Chavez
- Eve Smason-Marcus
- Sanja Pisker
- Melissa Wisener

Browne spoke about the number of programs for homeless individuals in Whatcom County.

CONSENT AGENDA

(From Council Finance and Administrative Services Committee)

Browne reported for the Finance and Administrative Services Committee and ***moved*** to approve Consent Agenda items one through three.

Councilmembers discussed and voted on those items (see votes on individual items below).

1. [AB2021-229](#) Request authorization for the County Executive to enter into a contract between Whatcom County and Western Washington University to provide planning support for the Whatcom County Natural Hazards Mitigation Plan 2021 update, in the amount of \$49,254

Browne reported for the Finance and Administrative Services Committee and moved that the Contract be AUTHORIZED BY CONSENT. The motion carried by the following vote:

Aye: 6 - Browne, Buchanan, Byrd, Donovan, Frazey, and Kershner

Nay: 1 - Elenbaas

Absent: 0

2. [AB2021-236](#) Request authorization for the County Executive to award bid #21-09 and enter into a contract between Whatcom County and Granite Construction, Inc. for hot mix asphalt prelevel at various locations in an amount not to exceed \$438,649.00

Browne reported for the Finance and Administrative Services Committee and moved that the Bid Award be AUTHORIZED BY CONSENT. The motion carried by the following vote:

Aye: 6 - Browne, Buchanan, Byrd, Donovan, Frazey, and Kershner

Nay: 1 - Elenbaas

Absent: 0

3. [AB2021-250](#) Request authorization for the County Executive to enter into an interlocal agreement between Whatcom County and Fire Protection District No. 11 to establish a gurney use agreement

Browne reported for the Finance and Administrative Services Committee and moved that the Interlocal be AUTHORIZED BY CONSENT. The motion carried by the following vote:

Aye: 6 - Browne, Buchanan, Byrd, Donovan, Frazey, and Kershner

Nay: 1 - Elenbaas

Absent: 0

OTHER ITEMS

(From Council Finance and Administrative Services Committee)

1. [AB2021-206](#) Ordinance closing Law Library/Elections Remodel Fund 376

Browne reported for the Finance and Administrative Services Committee and moved that the Ordinance be ADOPTED. The motion carried by the following vote:

Aye: 7 - Browne, Buchanan, Byrd, Donovan, Elenbaas, Frazey, and Kershner

Nay: 0

Absent: 0

Enactment No: ORD 2021-024

2. [AB2021-207](#) Ordinance closing the East Whatcom Regional Resource Center Construction Fund

334

Browne reported for the Finance and Administrative Services Committee and moved that the Ordinance be ADOPTED. The motion carried by the following vote:

Aye: 7 - Browne, Buchanan, Byrd, Donovan, Elenbaas, Frazey, and Kershner

Nay: 0

Absent: 0

Enactment No: ORD 2021-025

3. [AB2021-215](#) Ordinance amending the 2021 Whatcom County Budget, request no. 6, in the amount of \$583,944

Browne reported for the Finance and Administrative Services Committee and **moved** that the Ordinance be ADOPTED.

Councilmembers discussed the motion.

Browne's motion that the Ordinance be ADOPTED carried by the following vote:

Aye: 4 - Browne, Buchanan, Donovan, and Frazey

Nay: 3 - Byrd, Elenbaas, and Kershner

Absent: 0

Enactment No: ORD 2021-026

4. [AB2021-223](#) Request authorization for the County Executive to enter into an interlocal agreement amendment between Whatcom County and the Washington State Department of Health to fund various public health services, in the amount of \$2,928,061 for a total amended contract amount of \$15,145,319

Browne reported for the Finance and Administrative Services Committee and moved that the Interlocal be AUTHORIZED. The motion carried by the following vote:

Aye: 7 - Browne, Buchanan, Byrd, Donovan, Elenbaas, Frazey, and Kershner

Nay: 0

Absent: 0

5. [AB2021-225](#) Request authorization for the County Executive to enter into interlocal agreement amendment #1 to Interlocal Funding Agreement with the City of Bellingham for support of US Geological Survey's Development of the Coastal Storm Modeling System (COSMOS) across the Whatcom County Shoreline

Browne reported for the Finance and Administrative Services Committee and moved that the Interlocal be AUTHORIZED. The motion carried by the following vote:

Aye: 7 - Browne, Buchanan, Byrd, Donovan, Elenbaas, Frazey, and Kershner

Nay: 0

Absent: 0

6. [AB2021-231](#) Request authorization for the County Executive to enter into a Local Agency Agreement & Project Prospectus between Whatcom County and Washington State Department of Transportation for Marine Drive (Locust Ave to Alderwood Ave) Reconstruction and Bicycle/Pedestrian Improvement in the amount of \$2,509,695

Browne reported for the Finance and Administrative Services Committee and **moved** that the Contract be AUTHORIZED.

Jon Hutchings, Public Works Department Director, answered a question.

Browne's motion that the Contract be AUTHORIZED carried by the following vote:

Aye: 7 - Browne, Buchanan, Byrd, Donovan, Elenbaas, Frazey, and Kershner

Nay: 0

Absent: 0

7. [AB2021-239](#) Request approval for the County Executive to enter into an Interagency Agreement with Western Washington University to Support Coordination of Climate Change Planning Efforts funded through a Washington Dept of Commerce grant in the amount of \$20,000

Browne reported for the Finance and Administrative Services Committee and moved that the Agreement be AUTHORIZED. The motion carried by the following vote:

Aye: 6 - Browne, Buchanan, Byrd, Donovan, Frazey, and Kershner

Nay: 1 - Elenbaas

Absent: 0

8. [AB2021-246](#) Request authorization for the County Executive to enter into a contract between Whatcom County and Chuckanut Health Foundation to create recommendations on the establishment of a countywide Racial Equity Commission in the amount of \$90,000

Browne reported for the Finance and Administrative Services Committee and **moved** that the Contract be AUTHORIZED.

Satpal Sidhu, County Executive, answered where the funding for this item is coming from and what the funding will provide, the scope of the work for the commission, and the Council's role in the scope and in creating the commission.

Councilmembers discussed the motion and Sidhu and Browne shared personal experiences.

Browne's motion that the Contract be AUTHORIZED carried by the following vote:

Aye: 7 - Browne, Buchanan, Byrd, Donovan, Elenbaas, Frazey, and Kershner

Nay: 0

Absent: 0

9. [AB2021-247](#) Request authorization for the County Executive to enter into an interlocal agreement with the City of Bellingham to support, develop and fund a process to create recommendations on the establishment of a county-wide Racial Equity Commission in an amount not to exceed \$45,000

Browne reported for the Finance and Administrative Services Committee and moved that the Interlocal be AUTHORIZED. The motion carried by the following vote:

Aye: 7 - Browne, Buchanan, Byrd, Donovan, Elenbaas, Frazey, and Kershner

Nay: 0

Absent: 0

(From Committee of the Whole)

10. [AB2021-209](#) Resolution regarding permanent affordability of childcare in Whatcom County
Buchanan reported for the Committee of the Whole and *moved* to approve the letter as amended in Committee. The motion was seconded by Browne.

The motion carried by the following vote:

Aye: 7 - Kershner, Browne, Buchanan, Byrd, Donovan, Elenbaas, and Frazey

Nay: 0

This agenda item was DISCUSSED AND MOTION(S) APPROVED.

ITEMS ADDED BY REVISION

1. [AB2021-255](#) Appointment to the Business and Commerce Advisory Committee - Higher Education vacancy, applicant(s): Eva Schulte

Frazey moved and Browne seconded that the Council Appointment Requiring Introduction be INTRODUCED.

Dana Brown-Davis, Clerk of the Council, answered questions.

Frazey's motion that the Council Appointment Requiring Introduction be INTRODUCED carried by the following vote:

Aye: 7 - Browne, Buchanan, Byrd, Donovan, Elenbaas, Frazey, and Kershner

Nay: 0

Absent: 0

ITEMS ADDED BY REVISION

[AB2021-227](#) 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

Donovan moved and Frazey seconded that the Ordinance Requiring a Public Hearing be INTRODUCED FOR PUBLIC HEARING. The motion carried by the following vote:

Aye: 5 - Browne, Buchanan, Byrd, Donovan, and Frazey

Nay: 2 - Elenbaas, and Kershner

Absent: 0

INTRODUCTION ITEMS

Donovan moved to introduce items one through three. The motion was seconded by Byrd (see votes on individual items below).

Kershner moved to refer AB2021-244 to the Public Works and Health Committee. The motion was seconded by Byrd.

Dana Brown-Davis, Clerk of the Council, stated that item was discussed in committee today.

Kershner withdrew her motion.

1. [AB2021-243](#) Ordinance ordering the closure of a portion of Manley Road to motorized vehicular traffic

Donovan moved and Byrd seconded that the Ordinance Requiring a Public Hearing be INTRODUCED FOR PUBLIC HEARING. The motion carried by the following vote:

Aye: 7 - Browne, Buchanan, Byrd, Donovan, Elenbaas, Frazey, and Kershner

Nay: 0

Absent: 0

2. [AB2021-244](#) Resolution adopting the Whatcom County Americans with Disabilities Act (ADA) Transition Plan within the Public Rights-of-Way

Donovan moved and Byrd seconded that the Resolution Requiring a Public Hearing be INTRODUCED FOR PUBLIC HEARING. The motion carried by the following vote:

Aye: 7 - Browne, Buchanan, Byrd, Donovan, Elenbaas, Frazey, and Kershner

Nay: 0

Absent: 0

3. [AB2021-245](#) Resolution supporting a Community Development Block Grant (CDBG) Public Services Grant application

Donovan moved and Byrd seconded that the Resolution Requiring a Public Hearing be INTRODUCED FOR PUBLIC HEARING. The motion carried by the following vote:

Aye: 7 - Browne, Buchanan, Byrd, Donovan, Elenbaas, Frazey, and Kershner

Nay: 0

Absent: 0

COMMITTEE REPORTS, OTHER ITEMS, AND COUNCILMEMBER UPDATES

Buchanan reported for the Committee of the Whole Executive Session.

Donovan read the following *motion* from Committee of the Whole Executive Session.

I hereby move to approve defense and indemnification of Chris Freeman and Caleb Erickson, named as defendants in *Anderson as Personal Rep. of Estate of Kirk Powless, et al. v. Whatcom County, et al.*, US District Court for the Western District of Washington No. 2:20-cv-01125.

The motion carried by the following vote:

Aye: 7 - Donovan, Elenbaas, Frazey, Kershner, Browne, Buchanan, and Byrd

Nay: 0

Karen Frakes, Prosecuting Attorney's Office, stated the whole motion was

not read as it did not include the findings.

Byrd reread the entire motion and **moved** the following:

I hereby move to approve defense and indemnification of Chris Freeman and Caleb Erickson, named as defendants in *Anderson as Personal Rep. of Estate of Kirk Powless, et al. v. Whatcom County, et al.*, US District Court for the Western District of Washington No. 2:20-cv-01125.

The County Council met in executive session concerning the lawsuit Anderson as Personal Representative of Estate of Kirk Powless, et al. v. Whatcom County, et al., US District Court for the Western District of Washington No. 2:20-cv-01125. Pursuant to Whatcom County Code 2.56, the Council hereby finds the following:

- A. Chris Freeman and Caleb Erickson were acting in a matter in which the county had an interest;
- B. Chris Freeman and Caleb Erickson were acting in the discharge of a duty imposed or authorized by law;
- C. Chris Freeman and Caleb Erickson acted in good faith. The officers, officials, agents or employees will be defended and indemnified pursuant to and consistent with the provisions in WCC Chapter 2.56.

The motion was seconded by Donovan.

Councilmembers discussed the motion and Dana Brown-Davis, Clerk of the Council, stated they need to vote to reconsider the original motion.

Buchanan moved to reconsider Donovan's original motion. The motion was seconded by Byrd.

The motion to reconsider carried by the following vote:

Aye: 7 - Elenbaas, Frazey, Kershner, Browne, Byrd, Buchanan, and Donovan

Nay: 0

The motion as stated by Tyler Byrd and seconded by Donovan carried by the following vote:

Aye: 7 - Frazey, Kershner, Browne, Buchanan, Byrd, Donovan, and Elenbaas

Nay: 0

Councilmembers continued to give committee reports and spoke about other issues including concerns about HIPPA compliance as it relates to

COVID-19 information released over the phone.

Tyler Schroeder, Executive's Office, answered a question about reports that states that have lifted mask mandates have lower case rates of COVID-19.

ADJOURN

The meeting adjourned at 9:05 p.m.

ATTEST:

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WA

Dana Brown-Davis, Council Clerk

Barry Buchanan, Council Chair

Kristi Felbinger, Minutes Transcription



Whatcom County

COUNTY COURTHOUSE
311 Grand Avenue, Ste #105
Bellingham, WA 98225-4038
(360) 778-5010

Agenda Bill Master Report

File Number: MIN2021-040

File ID:	MIN2021-040	Version:	1	Status:	Agenda Ready
File Created:	04/27/2021	Entered by:	KFelbing@co.whatcom.wa.us		
Department:	Council Office	File Type:	Minutes Consent		
Assigned to:	Council			Final Action:	
Agenda Date:	05/04/2021			Enactment #:	

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

TITLE FOR AGENDA ITEM:

Committee of the Whole for April 20, 2021

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

None

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
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Attachments: Draft Minutes Committee of the Whole Apr 20 2021

**Whatcom County
Council Committee of the Whole**

COUNTY COURTHOUSE
311 Grand Avenue, Ste #105
Bellingham, WA 98225-4038
(360) 778-5010



Committee Minutes - Draft Minutes

VIRTUAL MEETING - ENDS NO LATER THAN 5 P.M. (TO
PARTICIPATE, SEE INSTRUCTIONS AT
www.whatcomcounty.us/joinvirtualcouncil OR CALL 360.778.5010)
Tuesday, April 20, 2021

1:40 PM

Virtual Meeting

COUNCILMEMBERS

Rud Browne
Barry Buchanan
Tyler Byrd
Todd Donovan
Ben Elenbaas
Carol Frazey
Kathy Kershner

CLERK OF THE COUNCIL

Dana Brown-Davis, C.M.C.

Call To Order

Council Chair Barry Buchanan called the meeting to order at 1:41 p.m. in a virtual meeting.

Roll Call

Present: 7 - Rud Browne, Barry Buchanan, Tyler Byrd, Todd Donovan, Carol Frazey, Ben Elenbaas and Kathy Kershner

Absent: None

Committee Discussion

1. [AB2020-219](#) Discussion and update on strategies and other items related to COVID-19 (Council and Health Board)

Staff was not yet available to speak about this item so Councilmembers went to the next item. See action and discussion on this item below after AB2021-209.

Committee Discussion and Recommendation to Council

1. [AB2021-209](#) Resolution regarding permanent affordability of childcare in Whatcom County
Browne moved to recommend approval of the letter to the full Council then he and Frazey briefed the Councilmembers.

Kershner suggested reordering the questions and stated she would work with Frazey before the evening meeting.

Browne suggested that they change the word “would” to “could” in question number one.

Browne moved that they amend the letter to follow Kershner's recommendation for the sequence of the questions and to amend question #1 as follows:

1. If this resolution was enacted, how ~~would~~ **could** it negatively impact child care in Whatcom County?

The motion was seconded by Kershner.

Councilmembers discussed the wording of the letter, other ideas, and who the letter would be sent to.

Browne restated his motion to amend the order of the questions at the end of the letter per Kershner's recommendations and to amend question #1 as

follows:

1. If this resolution was enacted, how ~~would~~ could it negatively impact child care in Whatcom County?

The motion to amend carried by the following vote:

Aye: 7 - Kershner, Browne, Buchanan, Byrd, Donovan, Elenbaas, and Frazey

Nay: 0

Councilmembers continued to discuss the letter.

The motion to recommend approval of the letter as amended carried by the following vote:

Aye: 7 - Browne, Buchanan, Byrd, Donovan, Elenbaas, Frazey, and Kershner

Nay: 0

Clerk's note: There was not a recommendation forwarded to the Council for the Resolution.

This agenda item was FORWARDED TO COUNCIL WITH RECOMMENDED MOTION(S).

Committee Discussion

1. [AB2020-219](#) Discussion and update on strategies and other items related to COVID-19 (Council and Health Board)

Cindy Hollinsworth, Health Department, updated the Councilmembers on the average daily case rate and hospitalization rate of COVID-19, the level of case rates per age group, the rate of vaccination in the county, and the community vaccination center.

She answered questions about whether the county is experiencing a significant number of COVID-19 variant viruses, whether there are incidences of breakthrough cases in people who have been fully vaccinated, whether there is any evidence of the Brazilian variant showing up in Washington state, how the supply and allocation of vaccine types has been changed as a result of questions in the media about adverse reactions, whether there is a difference in the vaccine between the first and second doses, whether excess doses could be shared with Canada, and whether there are any vaccine doses that are going unused in the community.

This agenda item was DISCUSSED.

Committee Discussion

1. [AB2020-345](#) Discussion of proposed Cherry Point amendments

Approximate Timestamp: 00:55:35

Brad Brown, Philips 66, briefed the Councilmembers on adjustments to language in 20.68.068 (21). He presented two options as stated in an email to Council:

Original (April 12th proposal):

(21) Inter-refinery shipments of refined products and Intermediate Materials such as unfinished oils and blendstocks;

Option 1: Adjust language as follows:

(21) Inter-refinery shipments of refined products and Intermediate Materials such as unfinished oils and blendstocks, **excluding transshipment of such materials by a Fossil Fuel Refinery**

Option 2:

Move language without changes to be an Accessory Use under 20.68.100 (reference page 17 in the April 12th proposal).

The following people spoke and answered questions:

- Matt Aamot, Planning and Development Services Department
- Brad Brown, Philips 66

Elenbaas moved approval of Option 2 Accessory Use. The motion was seconded by Kershner.

The following people discussed the motion with Councilmembers:

- Matt Aamot, Planning and Development Services Department
- Karen Frakes, Prosecuting Attorney's Office
- Brad Brown, Philips 66

The motion carried by the following vote:

Aye: 7 - Buchanan, Byrd, Donovan, Elenbaas, Frazey, Kershner, and Browne

Nay: 0

Approximate Timestamp: 01:13:22

The following people discussed with Councilmembers a question posed in an email by Planning and Development Services Department (PDS) about whether the County will take the stakeholder group's draft affidavit at face value or will require review by a third-party engineer working on behalf of the County to verify the information provided by industry:

- Matt Aamot, Planning and Development Services Department
- Brad Brown, Phillips 66
- Karen Frakes, Prosecuting Attorney's Office
- Satpal Sidhu, County Executive

Donovan moved that they accept the stakeholder's proposal to have an affidavit. The motion was seconded by Byrd.

Councilmembers and the speakers discussed the motion.

The motion carried by the following vote:

Aye: 7 - Byrd, Donovan, Elenbaas, Frazey, Kershner, Browne, and Buchanan

Nay: 0

Approximate Timestamp: 01:44:04

Donovan moved to amend Whatcom County Code 20.68.060 as follows:

.060 Stationary thermal power plants with generating capacity of less than 250,000 kilowatts, floating thermal power plants with generating capacity of less than 50,000 kilowatts, and other power plants utilizing renewable resources from solar, wind (Chapter 20.14 WCC) or water sources, ~~except that coal-~~ **fossil fuel-fired power plants are-prohibited.**

And Whatcom County Code 20.68.207 as follows

~~Coal-~~ **fossil fuel** fired power plants.

The motion was seconded by Frazey.

Councilmembers discussed the motion.

The motion failed by the following vote:

Aye: 3 - Donovan, Frazey, and Buchanan

Nay: 4 - Elenbaas, Kershner, Browne, and Byrd

Approximate Timestamp: 01:57:04

Karen Frakes, Prosecuting Attorney's Office, spoke about next steps and working with Cascadia Law.

Dana Brown-Davis, Clerk of the Council, asked how the Council would like to move forward with the interim ordinance and whether a new moratorium should be introduced tonight.

Elenbaas moved that they not have Cascadia law not weigh in on the current version and that the County's in-house legal team be the legal yea or nay on it. The motion failed for lack of a second.

Frazey moved to move forward on introducing a moratorium tonight. The motion was seconded by Browne.

The motion carried by the following vote:

Aye: 5 - Frazey, Browne, Buchanan, Byrd, and Donovan

Nay: 2 - Elenbaas and Kershner

Councilmembers and Frakes discussed what the scope of work will be for Cascadia Law.

This agenda item was DISCUSSED AND MOTION(S) APPROVED.

Items Added by Revision

There were no agenda items added by revision.

Other Business

There was no other business.

Adjournment

The meeting adjourned at 3:45 p.m.

ATTEST:

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WA

Dana Brown-Davis, Council Clerk

Barry Buchanan, Council Chair

Kristi Felbinger, Minutes Transcription



Whatcom County

COUNTY COURTHOUSE
311 Grand Avenue, Ste #105
Bellingham, WA 98225-4038
(360) 778-5010

Agenda Bill Master Report

File Number: AB2021-243

File ID:	AB2021-243	Version:	1	Status:	Introduced for Public Hearing
File Created:	04/08/2021	Entered by:	RMcconne@co.whatcom.wa.us		
Department:	Public Works Department	File Type:	Ordinance Requiring a Public Hearing		
Assigned to:	Council	Final Action:			
Agenda Date:	05/04/2021	Enactment #:			

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

TITLE FOR AGENDA ITEM:

Ordinance ordering the closure of a portion of Manley Road to motorized vehicular traffic

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

See attached memo

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
04/20/2021	Council	INTRODUCED FOR PUBLIC HEARING	Council

Attachments: Staff memo, Proposed ordinance, Supporting Docs - Letters of Support



Jon Hutchings
Director

MEMORANDUM

To: The Honorable Satpal Singh Sidhu, Whatcom County Executive and
The Honorable Members of the Whatcom County Council

Through: Jon Hutchings, Public Works Director

From: James P. Karcher, P.E., County Engineer *JK*
Douglas W. Ranney, P.E., Engineering Manager *DWR*

Date: April 07, 2021

Re: Ordinance to close a portion of Manley Road to Motorized Vehicular Traffic

Requested Action

Consideration of an Ordinance to close a portion of Manley Road, approximately 0.98 miles northwest of Pacific Highway off Nulle Road/Old Highway 99, to motorized vehicular traffic.

Background and Purpose

Whatcom County received a request from several residents near the end of Manley Road to close a portion of Manley Road. The letter from the residents states that trespassing, garbage dumping, trail building on private property, poaching, shooting and drug dealing occur in this area.

The residents and adjacent property owners (the "applicants"), through letters of support, request closure of Manley Road from approximately 0.98 miles northwesterly of Pacific Highway to the end of Whatcom County right-of-way of Manley Road to motorized vehicular traffic. Pedestrians and bicyclists will still be able to access and use the section of Manley Road. The applicants will purchase and install a vehicle gate with pedestrian entrance and erect signs, all of which must be approved by the County through a Revocable Encroachment Permit application per County ordinance. The County will continue to maintain Manley Road past the gate to allow for pedestrian and bicyclist use.

Information

The Public Works Department, in collaboration with the Fire Marshall and Sheriff, recommend the closure of this portion of Manley Road to motorized vehicular traffic. We request that the County Council review, introduce and adopt the proposed ordinance to close the road to motorized vehicular traffic at approximately 0.98 miles northwesterly of Pacific Highway to the end of the Manley Road right-of-way.

Please contact Douglas Ranney, Engineering Services Manager at extension 6255 with any questions regarding this ordinance.

ORDINANCE NO. _____

ORDERING THE CLOSURE OF A PORTION OF MANLEY ROAD TO MOTORIZED VEHICULAR TRAFFIC

WHEREAS, the Whatcom County Council has been requested by residents of Manley Road and adjacent property owners to close a portion of Manley Road to motorized vehicular traffic northwesterly of Pacific Highway; and

WHEREAS, the closure is requested because illegal dumping has taken place in that area for many years and efforts to stop the dumping have been ineffective, and because of frequent trespass and illegal activities on adjoining vacant property; and

WHEREAS, Manley Road dead ends with no residential structures beyond the proposed closure location; and

WHEREAS, the County Council held a public hearing on the proposed closure on May 4, 2021, and is authorized to close the road according to the provisions of RCW 36.32.120.

NOW, THEREFORE, BE IT ORDAINED by the Whatcom County Council that the Public Works Department is hereby directed, subject to further consideration for re-establishing access for adjoining property owners, to close Manley Road to motorized vehicular traffic from approximately 0.98 miles northwesterly of Pacific Highway to the end of the Manley Road right-of-way; and

BE IT FURTHER ORDAINED that as a condition of closure, the requesting Manley Road residents will install proper signs, vehicle and pedestrian gate, allowing pedestrian and non-motorized access along said portion of Manley Road, as approved by Whatcom County Public Works through a Revocable Encroachment Permit. The County will continue to maintain Manley Road past the gate to allow for pedestrian and bicyclist use.

ADOPTED this ____ day of _____, 2021.

ATTEST:

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

Dana Brown-Davis, Clerk of the Council

Barry Buchanan, Council Chair

APPROVED AS TO FORM:

() Approved () Denied

Approved by Christopher Quinn by email/DR
Christopher Quinn
Sr. Deputy Prosecuting Attorney,
Civil Division

Satpal Singh Sidhu, Executive

Date: _____

Request For Permission To Install Gate

Dear Whatcom County Road Engineer,

I'm writing on behalf of a number of residents along Manley Rd. in Bellingham who wish to petition for installation of a gate across Manley Rd. between the addresses 641 and 642 (see attached map).

In recent years our community has noticed a very large increase in the number of cars and people traveling down our dead end road and doing various things that include trespassing, garbage dumping, overnight camping with fires, trail building on private property which includes alteration of creeks and wetland areas, poaching, shooting near homes, drug dealing etc.

There are no public lands along Manley Rd. which means there is no reason for the public to go down there. Fire safety is of utmost concern in this area due to the dry forest conditions, large quantities of fuel and proximity to our residences. People camping and having fires is dangerous. Soil stability in this area is also of major concern and improperly built trails can play a major role in landslides and runoff in this designated "critical" area of Lake Samish watershed. Timberland destruction and tree molestation on these privately owned tree farms should not be tolerated and high speed traffic on this very small dead end road has already resulted in 2 dogs being hit, hopefully it's never a person. Beyond the site of the proposed gate which extends about ½ a mile includes no turnaround for fire trucks or other large vehicles which contributes to the safety concerns and also presents challenges for road maintenance crews.

In conversations with the Whatcom County Sheriff during a trash dumping investigation, he suggested we put a gate in to stop this traffic from going to the end of the road and that sparked a conversation amongst neighbors where we decided to try and install this gate which we've agreed to pay for. I contacted the county Traffic Engineer and he supported the idea and helped line out the process for getting permission for the gate which includes letters of support from landowners and local agricultural businesses. Please find these letters of support attached.

As you can see, there is nearly unanimous support for this gate which brings nothing but upside to our landowners, timber managers, sheriff's department, fire department and other stakeholders in this area. We ask that you pass an ordinance to allow for the installation of this needed gate which will be funded privately by the local residents. We will apply for a right-of-way permit through Public Works for installation of the gate.

Thank you for your support in helping to make this area safer for our families and ending the destruction of property and our land.

David Vitt 642 Manley Rd. Bellingham WA, 98229 360-739-3608 Davidvitt@gmail.com	Sean Campbell 641 Manley Rd. Bellingham WA, 98229 360-305-9973 samishmarine@gmail.com m	Tim Sciumbato 635 Manley Rd. Bellingham WA, 98229 360-770-4930 sciumbato3@msn.com	Josh Poulsen 380 and 400 Manley Rd Bellingham WA, 98229 406-209-1556 josh.poulsen@gmail.com
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Signed:

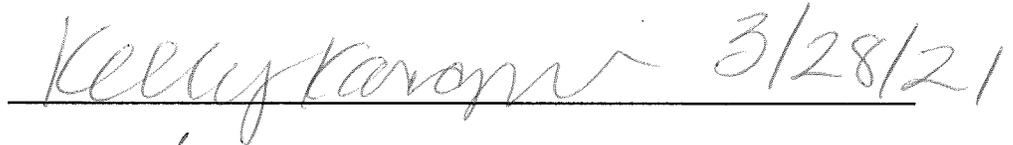
Dated:

David Vitt



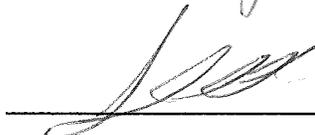
3/28/21

Kelly Kangas



3/28/21

Sean Campbell



3/24/21

Chelsey Campbell



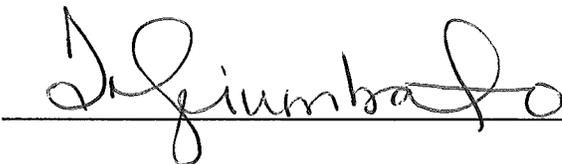
3-24-21

Tim Sciumbato



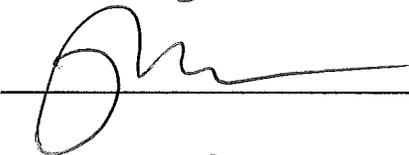
3-24-21

Tiffany Sciumbato



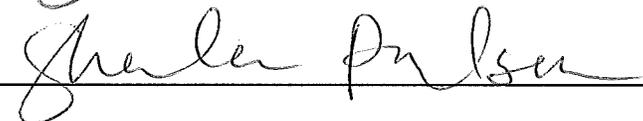
3.24.21

Josh Poulsen



3.24.21

Shala Poulsen



3/24/21



Manley Road Proposed Gate Location

DEPARTMENT OF PUBLIC WORKS
322 N. COMMERCIAL ST., SUITE 301
BELLINGHAM, WA 98225
(360) 778-6210



SYMBOL LEGEND



NEW GATE LOCATION



SHEET: 01 OF 01



April 7, 2021

James P. Karcher
County Engineer
Whatcom County Public Works
322 N. Commercial Street, Suite 301
Bellingham, WA 98225

Dear Jim,

I've been asked to respond to a request from residents of Manley Road and adjacent forest property owners to install a gate on Manley Road approximately 0.98 miles northwest of Pacific Highway.

The Fire Authority supports installation of this gate as outlined where the gate will have a spot on it that allows for Fire Authority access when needed. This gate and lock system is similar to others used throughout the Fire Authority's service area and allows for emergency access and limits the potential for unauthorized uses.

Should you need any further information please feel free to contact me.

Sincerely,

A handwritten signature in blue ink that reads "Rod Topel".

Rod Topel
Fire Chief

WHATCOM COUNTY
Planning & Development Services
5280 Northwest Drive
Bellingham, WA 98226-9097
360-676-6907, TTY 800-833-6384
360-738-2525 Fax



Mark Personius, AICP
Director

Memorandum

To: Douglas W. Ranney, P.E., Engineering Manager

Through: Mark Personius, Director/Fire Marshal

From: Curtis Metz, Building Services Division Manager/Deputy Fire Marshall

CC: Jon Hutchings, Public Works Director
James P. Karcher, P.E., County Engineer
Rodney Vandersypen, Senior Engineering Technician

Date: April 07, 2021

Re: Manley Road Gate – Letter of Closure Request

Thank you for your request regarding proposed gate installation at approximately 0.98 miles northwesterly of Pacific Highway off Nulle Road/Old Highway 99. The gate is proposed to be installed across and within the public right-of-way of Manley Road.

Based in part on the determination of Assistant Fire Chief Mitch Nolze of South Whatcom Fire Authority that the existing adjacent area is sufficient for an emergency vehicle turn-around; and based on the fact that no buildings or structures exist beyond the location of the gate, the Fire Marshal's Office would support the County Engineer in a determination which supports the installation of a gate at this location.

Feel free to contact me if you have any questions.

Letter of Support

To Mr. James P. Karcher, P.E., County Engineer, Whatcom County Public Works Engineering

Please allow this letter to formalize our support of the installation of a gate across Manley Rd. to prevent further illegal activity on our land. The residents on the road are leading this effort to install the gate between 641 Manley and 642 Manley Rd. We believe this will go a long way to prevent pollution, poaching, fire and trespassing.

Thanks for your attention to this matter,

Company Bertch Timberlands
Address 501 B South 2nd
Mt. Vernon, Wa 98273

Signed Gordon Iverson
Printed Gordon Iverson, Forester
Date 3-9-21
Phone Number 360 220-3366
Email _____

Letter of Support

Whatcom County Council and to whom this may pertain,

Please allow this letter to formalize our support of the installation of a gate across Manley Rd. to prevent further illegal activity on our land. The residents on the road are leading this effort to install the gate between 641 Manley and 642 Manley Rd. We believe this will go a long way to prevent pollution, poaching, fire and trespassing.

Thanks for your attention to this matter,

Company Bloedel Timberlands
Address 1938 Fairview Ave E
Seattle, WA 98102

Signed 
Printed Bagley Wright
Date 1/18/21
Phone Number (360) 599-0028
Email Bagleywright@gmail.com

Letter of Support

Whatcom County Council and to whom this may pertain,

Please allow this letter to formalize our support of the installation of a gate across Manley Rd. to prevent further illegal activity on our land. The residents on the road are leading this effort to install the gate between 641 Manley and 642 Manley Rd. We believe this will go a long way to prevent pollution, poaching, fire and trespassing.

Thanks for your attention to this matter,

Company: **Trans Mountain Pipeline (Puget Sound) LLC**

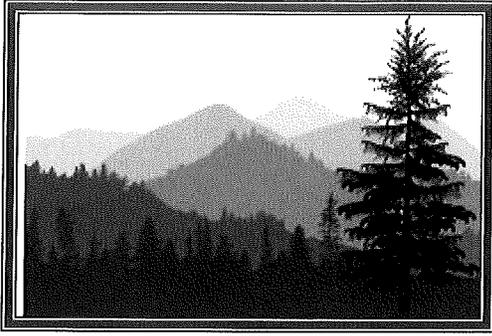
Address: **1009 E. Smith Road, Bellingham, WA 98226**

Justification:

Trans Mountain Pipeline (Puget Sound) LLC ("Trans Mountain") would support the gate on the following grounds:

1. The gate would help prevent from unauthorized activities on the pipeline right-of-way (camping, driving, etc.);
2. There is a dead end and another gate about a quarter mile further down the road; and
3. Trans Mountain would like to work with its neighbours/landowners collaboratively.

Signed *Maria Frankova*
Printed MARIA FRANKOVA / TRANS MOUNTAIN PIPELINE
(PUGET SOUND) LLC
Date Feb. 3/2021
Phone Number 778-875-9716 / 604-268-3094
Email Maria_Frankova@transmountain.com



WEFER TREE FARM, INC.

February 12, 2021

Jim Karcher, P.E.
County Engineer
Whatcom County Public Works Engineering
322 N Commercial St. Suite 301
Bellingham, WA 98225

Dear Jim:

Wefer Tree Farm has been contacted by some neighbors here at Lake Samish who are experiencing issues on the southern end of Manley Road between the last houses and the southern gate on our Tree Farm.

A number of years ago, we also experienced issues on the north end of Manley Road – dumping household trash and a full load of tires which I believe Jon Hutchings came out and looked at along with trespassing. The result was that a gate was re-established at the north end of Manley Road with TransMountain, Bloedel Timberlands, South Whatcom Fire Authority, Whatcom County and Wefer Tree Farm being provided access to the road. All other motorized vehicular traffic, other than easement access, was no longer allowed.

We would like to provide this letter as our support of the installation of a gate across Manley Road between 641 and 642 Manley Road to help prevent trespassing, other illegal activities and erosion and also to increase fire safety. It is our understanding that the residents that are submitting the request for a gate will be funding the construction and installation of the gate. Wefer Tree Farm will, of course, need a key for gate access so we can utilize the south end of Manley Road for access and egress from our property. This is particularly important for us when we are logging and need to transport loads south to log yards.

Appreciate your time Jim and congratulations on the promotion.

Sincerely,

Wendy Wefer-Clinton
General Partner Representative
823 E. Lake Samish Dr.
Bellingham, WA 98229



Whatcom County

COUNTY COURTHOUSE
311 Grand Avenue, Ste #105
Bellingham, WA 98225-4038
(360) 778-5010

Agenda Bill Master Report

File Number: **AB2021-244**

File ID:	AB2021-244	Version:	1	Status:	Introduced for Public Hearing
File Created:	04/08/2021	Entered by:	RMcconne@co.whatcom.wa.us		
Department:	Public Works Department	File Type:	Resolution Requiring a Public Hearing		
Assigned to:	Council	Final Action:			
Agenda Date:	05/04/2021	Enactment #:			

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

TITLE FOR AGENDA ITEM:

Resolution adopting the Whatcom County Americans with Disabilities Act (ADA) Transition Plan within the Public Rights-of-Way

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

See attached memo

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
04/20/2021	Council	INTRODUCED FOR PUBLIC HEARING	Council

Attachments: Staff memo, Proposed Resolution with Exhibit A



Memorandum

To: The Honorable Satpal Singh Sidhu, Whatcom County Executive and
The Honorable Members of the Whatcom County Council

Through: Jon Hutchings, Director

From: James P. Karcher, P.E., County Engineer *JPK*

Date: April 6, 2021

Re: **Resolution Adopting the Whatcom County Americans With Disabilities Act (ADA) Transition Plan Within the Public Rights-of-Way**

Requested Action

Public Works respectfully requests that the County Council and County Executive approve the proposed resolution to adopt the Whatcom County ADA Transition Plan within the Public Rights-of-Way.

Background and Purpose

The Americans with Disabilities Act was enacted on July 26, 1990 and provides comprehensive civil rights to persons with disabilities. To satisfy the requirements of ADA Title II Part 35, Subpart D, the Whatcom County Department of Public Works initiated the drafting of a Transition Plan to outline modifications and efforts that must be made to correct findings of non-compliance with ADA standards.

The County held an official 30-day public comment period of the draft ADA Transition Plan that ended March 31, 2021 and no additional feedback from the public and interested groups was received that required modifications to the Whatcom County ADA Transition Plan within Public Rights-of-Way. This was considered to be a result from the substantial public outreach that was previously made to the public, which can be found in Appendix D, of this plan.

Information

This resolution will establish and guide the future planning and implementation of necessary accessibility improvements within the public rights-of-way.

Please contact Douglas Ranney II, P.E., Engineering Services Manager at extension 6255 with any questions regarding this resolution.

RESOLUTION NO. _____

**A RESOLUTION ADOPTING THE WHATCOM COUNTY AMERICANS WITH
DISABILITIES ACT (ADA) TRANSITION PLAN WITHIN PUBLIC RIGHTS-OF-WAY**

WHEREAS, the Americans with Disabilities Act was enacted on July 26, 1990 and provides comprehensive civil rights to persons with disabilities; and

WHEREAS, to satisfy the requirements of ADA Title II Part 35, Subpart D, the Whatcom County Department of Public Works initiated the drafting of a Transition Plan to outline modifications and efforts that must be made to correct findings of non-compliance with ADA standards; and

WHEREAS, Title II of the ADA requires public entities to provide an opportunity to interested parties, including individuals with disabilities or organizations representing individuals with disabilities to participate in the development of the transition plan, and

WHEREAS, the County held an official 30-day public comment period of the draft ADA Transition Plan and incorporated feedback from the public and interested groups into the Whatcom County ADA Transition Plan Within Public Rights-of-Way in attached Exhibit A;

NOW, THEREFORE, BE IT RESOLVED by the Whatcom County Council that the Whatcom County ADA Transition Plan Within Public Rights-of-Way, attached hereto as Exhibit A, is hereby adopted.

ADOPTED this ____ day of _____, 2021.

ATTEST:

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

Dana Brown-Davis, Clerk of the Council

Barry Buchanan, Council Chair

APPROVED AS TO FORM:

Approved by Christopher Quinn by email/DH
Sr. Deputy Prosecuting Attorney,
Civil Division

Satpal Singh Sidhu, Executive

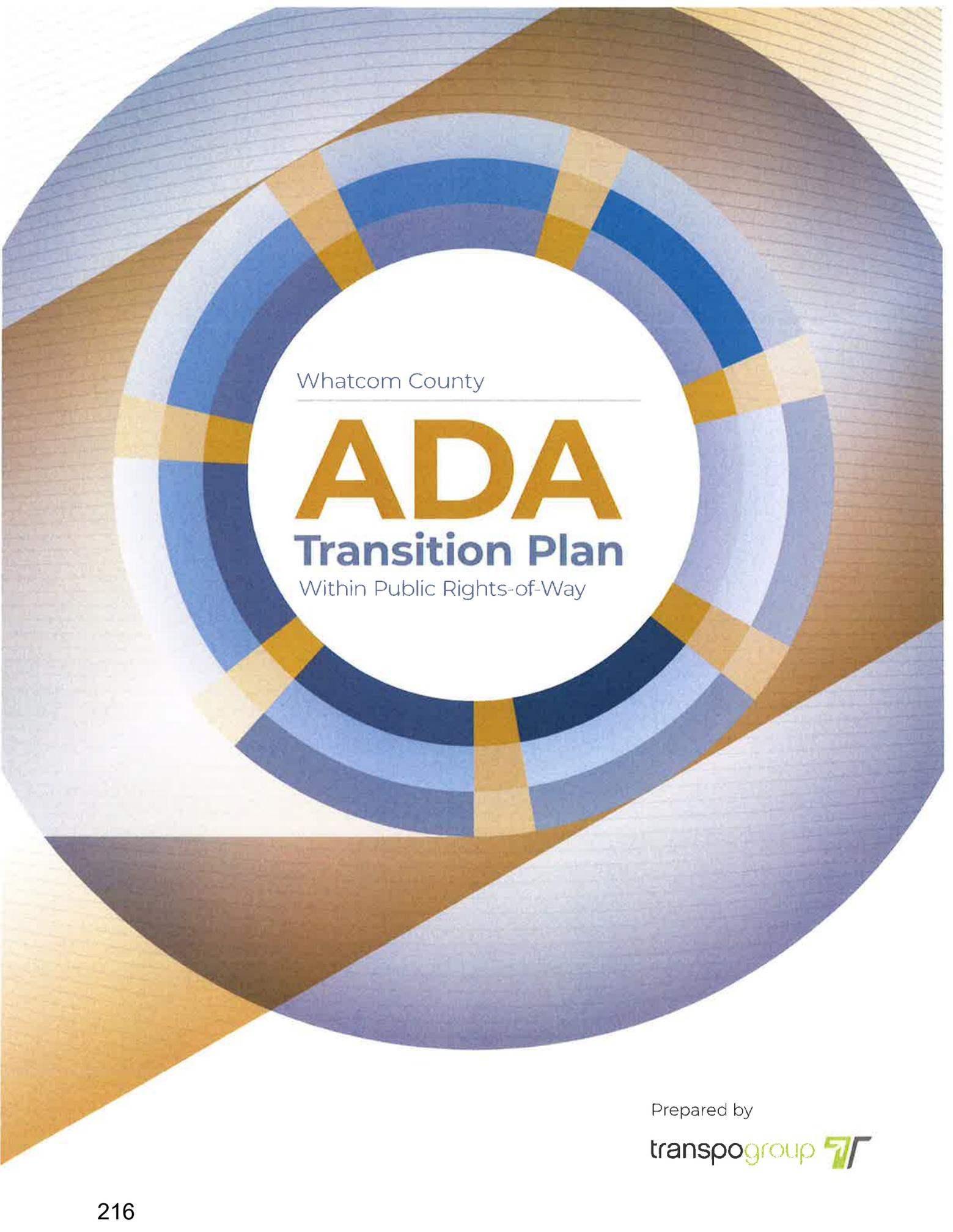
() Approved () Denied

Date: _____

Exhibit A:

**Whatcom County ADA Transition Plan Within Public
Rights-of-Way**

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Whatcom County

ADA

Transition Plan

Within Public Rights-of-Way

Prepared by

transpogroup 

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Whatcom County

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This plan can be made available in an alternate format by emailing the Human Resources Manager, ADA Coordinator, at hr@co.whatcom.wa.us or by calling 360-778-5300. Persons who are deaf or hard of hearing may make a request by calling the Washington State Relay at 711.

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Appendix C – Maximum Extent Feasible Template

Appendix D – Public Involvement

Appendix E – GIS Inventory

Appendix F – Cost Estimate Backup

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Executive Summary

This Americans with Disabilities Act Self-Evaluation and Transition Plan establishes the Whatcom County's ongoing commitment to providing equal access for all, including those with disabilities. In developing this plan, Whatcom County has undertaken a comprehensive evaluation of its facilities and programs within the public rights-of-way to determine what types of access barriers exist for individuals with disabilities. This plan will be used to help guide future planning and implementation of necessary accessibility improvements.

Both the Self-Assessment and the Transition Plan are required elements of the federally mandated ADA Title II, which requires that government agencies provide equal access to programs and services they offer. While the ADA applies to all aspects of government services, **this document focuses on Whatcom County Public Facilities, within public right-of-way. This includes sidewalks, curb ramps, pedestrian pushbuttons, and other public facilities.**

This document summarizes the Self-Assessment, which includes an accessibility assessment of pedestrian facilities as well as practices and procedures which relate to them, such as curb ramp design standards. It also contains a Transition Plan, which identifies a schedule for the removal of barriers and identifies how the County will address requests for accommodations in a consistent manner, see section 5.3 for schedule details.

The County's objective is to remove physical barriers associated with access to public park facilities, building interior pathways, park trails, sidewalks and curb ramps, in association with the Transportation Improvement Program (TIP). The County is committed to removing these barriers as soon as possible, the county will implement a program that will remove the highest priority barriers. In addition, the county is committed to ensuring continued ADA compliance for all capital improvement projects, permitted development, and any other right-of-way construction projects.

1 Introduction

1.1 Plan Requirements and Standards

The Americans with Disabilities Act (ADA) was enacted on July 26, 1990 and provides comprehensive civil rights protections to persons with disabilities in the areas of employment, state and local government services, and access to public accommodations, transportation, and telecommunications.

Counties and other government agencies are required to have an ADA self-assessment and transition plan when they grow beyond a threshold of 50 employees. Accessibility requirements extend to all public facilities. The scope of this plan is focused on accessibility within the public rights-of-way, selected public buildings and parks.

There are five titles, or parts, to the ADA of which Title II is most pertinent to travel within the public rights-of-way and government buildings. Title II of the ADA requires Public Entities to make their existing “programs” accessible “except where to do so would result in a fundamental alteration in the nature of the program or an undue financial and administrative burden.” Public rights-of-way, public government buildings, and public parks all fall within the County’s programs.

This effort was initiated by Whatcom County to satisfy the requirements of ADA Title II Part 35, Subpart D – Program Accessibility § 35.150 (d)(3) which states:

The plan shall, at a minimum—

- (i) Identify physical obstacles in the public entity’s facilities that limit the accessibility of its programs or activities to individuals with disabilities;
- (ii) Describe in detail the methods that will be used to make the facilities accessible;
- (iii) Specify the schedule for taking the steps necessary to achieve compliance with this section and, if the time period of the transition plan is longer than one year, identify steps that will be taken during each year
- (iv) Indicate the official responsible for implementation of the plan.

The 2010 ADA Standards for Accessible Design (ADAS), is the standards document in which all federal ADA standards are collectively held. The 2010 ADAS and regulations from the 28 CFR Part 36 replaced the 1991 ADA (ADA Accessibility Guidelines (ADAAG)).

The Draft Guidelines for Accessible Public Rights-of-Way was first published by the US Access Board in 2005. The US Access Board’s Proposed Guidelines for Pedestrian Facilities in the Public Right-of-Way, or PROWAG, was published for comment in 2011. Both the 2005 and 2011 guidelines have not yet been adopted as standards. Despite this delay, many public entities currently use the draft PROWAG as ‘best practice’ for features within the public rights-of-way and this practice has been endorsed by the Federal Highway Administration (FHWA) and the US Access Board. The public right-of-way facilities

evaluated under this plan were evaluated against the 2010 ADAS and PROWAG.

1.2 Background

In 1995 Whatcom County Council adopted an ADA Transition Plan and Self-Evaluation, and in 1999 an update to the ADA Transition Plan and Self-Evaluation were adopted. The initial 1995 plan included a statement of requirements, an implementation schedule, a survey of county facilities, and a self-evaluation plan. The 1999 update includes the same elements as well as transition plan notes and updated information for facilities. The transition plans identified 23 facilities for survey and barrier removal. The county removed all barriers identified in the plan and update in accordance with the plan guidelines. The previous plan and update focus on providing access to public buildings and specific programs, but do not provide a robust review of the pedestrian facilities within the public right-of-way.

1.3 Plan Structure

The structure of this plan was organized to closely follow federal ADA transition plan requirements. This includes:

Chapter 1 – Introduction

Chapter 2 – Self-Assessment

Documents self-assessment findings including physical barriers as well as practices or design standards that result in accessibility barriers.

Chapter 3 – Stakeholder Engagement

Documents public engagement efforts.

Chapter 4 – Barrier Removal

Describes both programs and mechanisms the County will use to remove accessibility barriers and identifies a number of detailed recommendations the County should

implement to remove accessibility barriers moving forward.

Chapter 5 – Implementation Outlines a schedule for the transition plan, including prioritization of projects, planning level cost estimates and potential funding sources.

Chapter 6 - Current Practices Provides the County with a location to store important and evolving plan information such as where and how this plan should be accessible, annual performance tracking, identification of the official responsible and other items that will change over time.

Best practices were identified and incorporated throughout the planning process beginning with the Scope of Work.

Several associated appendix items are included along with the plan.

Appendix A – Barrier Audit

Appendix B – APS Policy

Appendix C – Maximum Extent Feasible Template

Appendix D – Public Involvement

Appendix E – GIS Inventory

Appendix F – Cost Estimate Backup

2 Self-Assessment

Title II of the Americans with Disabilities Act (ADA) requires that jurisdictions evaluate services, programs, policies, and practices to determine their compliance with the nondiscrimination requirements of the ADA.

This section describes the data collection process and resulting inventory of physical facilities such as sidewalks and curb ramps within the County's public rights-of-way. The inventory and self-assessment process are described in these sections.

2.1 Policy, Practices and Design Standards

Practices and design standards that meet accessibility standards are essential to ensure new or upgraded pedestrian facilities are accessible and that these upgrades contribute to the removal of accessibility barriers throughout the County. This section summarizes a review of County's practices and design standards for barriers and includes major findings of this work. Complete documentation of this work can be found in Appendix A. The audit was conducted in February of 2020.

2.1.1 Method

Whatcom County maintains adopted design standards for pedestrian facilities. These standards are used for County funded projects as well as privately designed and constructed projects within the public right-of-way. The Whatcom County Street Design Standards were audited for compliance with ADA guidelines found in the 2010 ADAS and the Public Rights-of-Way Accessibility Guidelines (US Access Board, 2005).

2.1.2 Findings

As a result of the standards review several recommendations were made to update these guidance documents to adhere to ADA standards. The code mostly references the RCWs regarding ADA standards, which is appropriate to clarify legal requirements. For many items' additional references to the WSDOT Design Manual will provide the necessary detail to make sure the county standards are compliant with ADA standards. Additionally, there were a few discrepancies between the Whatcom County Code, Road Standards and Standard Drawings. These recommendations are grouped into several categories including: Sidewalks, Crosswalks, Curb Ramps, and Signals, these can be found in Appendix A.

2.2 Physical Barrier

2.2.1 Data Collection

A self-assessment of all facilities within the public right-of-way was conducted and employed a robust data collection effort that included 8 attributes for sidewalks, 22 attributes for curb ramps, 17 attributes for signal pushbuttons, 4 for crosswalks, 7 attributes for bus stops, 14 for ADA accessible parking aisles and stalls, and 10 attributes for barriers/hazards. These attributes were collected in the field with individuals trained in ADA data collection methods. Data was collected over a four-month period.

A qualitative assessment was also conducted for the accessibility of the Whatcom Chief Ferry from Gooseberry Point to Lummi Island. This assessment occurred in October of 2020 and included a site visit and interviews with Ferry operators and County staff.

2.2.1.1 Process

Data inventory for public ROW features was collected using mobile tablet units and other smart devices with GIS geodatabase information. Attributes for features in the public ROW were collected by a consultant from July to September 2019.

Consultant staff conducted field and data collection under supervision to ensure consistent and accurate measurement of sidewalk and curb ramp measurements as well as correct recording of information using a GIS database.

Data collection staff were provided a tape measure (to measure dimensions for features such as widths of curb ramps and sidewalks), and a smart level to efficiently and accurately measure slopes. Data collectors used mobile units with the Collector for ArcGIS application installed to record the measurements and traits of each feature.

For sidewalks, cross slopes were measured at each end of the segment and once in the middle. The running slope was measured at similar locations excluding within curb ramps and driveways, with the steepest measurement being the one recorded. The predominant sidewalk width was recorded for the length of the block from one intersection to the next. In addition, a separate database was developed to inventory specific pedestrian access route (PAR) barriers including:

- Horizontal and Vertical Discontinuities
- Fixed, Movable, or Protruding Objects
- Non-Compliant Driveways

For curb ramps, both existing and missing curb ramps were identified. When measures of the same attribute, such as flare slope (typically each ramp has two flares), differed, the worst measure for accessibility was recorded.

To improve the collection process for curb ramps, an optimization method was developed. The elements of curb ramps that often create



the largest barriers when out of compliance were first measured. If any of these measurements were non-compliant, the data collector stopped taking measurements of other elements on the curb ramp. This method allows

the County to quickly identify which ramps create larger barriers to users and would need to be replaced without collecting data that was deemed irrelevant if the curb ramp needed full replacement. This helped reduce data collection time while still providing the County with accurate data for decision making

The physical inventory included;

- over 53 miles of existing sidewalks, paved shoulder walkways, paved separated walkways
- 1091 curb ramps
- 24 signal pushbuttons
- 261 bus stops
- 2 accessible parking stalls
- over 1850 hazards

The attributes of each feature type were developed using WSDOT's Field Guide for Accessible Public Rights of Way along with the United States Access Board's PROWAG as a baseline, with edits based on feedback from County staff. Appendix E and the GIS data base show the exact location of each inventory item surveyed and identify non-compliant facilities.

2.2.2 Findings

The following sections detail the primary barriers inventoried and analyzed for ADA compliance. The barriers found applied to different features including curb ramps, sidewalks, discontinuities and obstacles in pedestrian routes, and pedestrian pushbuttons. State and Federal regulations dictate that curb ramps and sidewalks be ADA compliant. The result of the inventory analysis showed that most ADA features within the public right-of-way are in need of improvement to meet requirements.

2.2.2.1 Curb Ramps

The data collected to evaluate curb ramp compliance was divided into three overarching

categories: compliant, minor non-compliant and major non-compliance. A ramp was found to be compliant only if all collected features of the ramp met the required accessibility standards. Both non-compliant categories represent barriers to accessibility that will require attention such as, reconstruction or new ramps. While compliant ramps require no modification. The majority of the existing curb ramps were found to be non-compliant based on current ADA requirements. A ramp was found to be a major non-compliance, if the ramp width was too narrow or if the run or cross slopes were overly steep. A ramp was found to be a minor non-compliance if the barrier was easily removed with maintenance, or if run or cross slopes were only slightly steeper than standard. Figure 2-1 shows a sample of the curb ramps surveyed in the County and the percentage of non-compliant to compliant curb ramps within the County. All non-compliant curb ramps will need to be addressed and all barriers removed, minor and major non-compliances are used to show the level of severity of curb ramp barriers. Compliant, minor non-compliant, and major non-compliant curb ramps are shown in blue, yellow, and red, respectively.

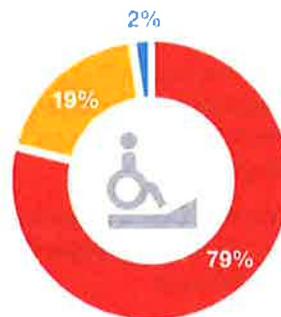


Figure 2-1 Percentage of Major and Minor Non-Compliant Curb Ramps and Compliant Curb Ramps

2.2.2.2 Sidewalks

Most sidewalks in the Whatcom County are non-compliant based on ADA requirements. The most frequent reasons for non-compliant sidewalk segments are:

- The sidewalk width is too narrow
- The cross slope of the sidewalk is too steep
- The sidewalk has fixed/non-fixed barriers and other discontinuities that impede required usable pedestrian space
- Non-compliant driveways intersect the sidewalk

Figure 2-2 shows a sample of the sidewalks surveyed in the County and demonstrates the percentage of sidewalk length that is compliant and non-compliant throughout the County. Non-compliant sidewalks are broken into two categories, minor and major non-compliant. For example; a sidewalk is considered to be a major non-compliance if the width is too narrow, or if the cross or run slopes are overly steep. A sidewalk segment with cross or run slopes only

slightly steeper than standard were considered minor non-compliances. All non-compliant sidewalk segments will need to be addressed and all barriers removed, minor and major non-compliances are used to show the level of severity of sidewalk barriers. Compliant, minor non-compliant, and major non-compliant sidewalks are shown in blue, yellow, and red, respectively.

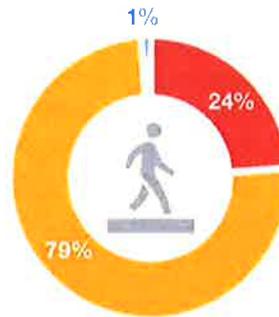


Figure 2-2 Percentage of Major and Minor Non-Compliant Sidewalk and Compliant Sidewalk

2.2.2.3 Pedestrian Pushbuttons

Accessible Pedestrian Signals (APS) and Pushbuttons is an integrated system that communicates to pedestrians in a visual, audible, and vibrotactile manner. There are 24 pushbuttons in the Whatcom County, 18 of these pushbuttons are non-APS style and therefore do not meet current ADA requirements. The remaining 6 pushbuttons are APS style but will require some modifications to be fully compliant. There are two categories of required upgrades, buttons that need to be relocated and reprogrammed, and non-APS buttons that need to be replaced. Figure 2-3 shows a sample of the pedestrian pushbuttons surveyed in the County and demonstrates the percentage of pushbuttons in each category throughout the County. APS style and non-APS

style pushbuttons are shown in blue and red, respectively.

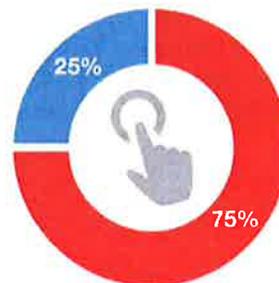


Figure 2-3 Percentage of APS Style and Non-APS Style Pushbuttons

2.2.2.4 Whatcom Chief Ferry

The Whatcom Chief Ferry is primarily a commuter ferry for the residents of Lummi Island. It is also the only access point for the island for tourists and other visitors. The ferry makes approximately 40 round trips per day between Gooseberry Point and Lummi Island. The existing ferry allows for walk-on passengers but the ferry docks have very limited pedestrian facilities. Walk-on passengers must use the vehicular roadways and ramps to board and disembark the ferry. With regards to accessibility, these roadways and ramps have several barriers including vertical and horizontal discontinuities, non-compliant slopes, non-compliant ramps, and no designated pedestrian route.

Both docks have parking spaces marked as accessible that are used sporadically. There is also a bus stop on the Gooseberry Point side. Restrooms are present at the Lummi Island dock but not at the Gooseberry Point dock. There are no dedicated pedestrian facilities between these features and the ferry docks and pedestrians use the adjacent roadway pavement to access these facilities.

The ferry itself has a small indoor passenger area but no accessible ingress or egress point. There are several large vertical hazards between the loading point and the passenger compartment.

In addition to the vehicular ferry, a passenger only ferry is also used for several weeks in the fall while the vehicular ferry is in dry dock for maintenance. This boat was not assessed as part of the self-assessment but interviews with ferry and county staff indicate that accessibility is a challenge with the passenger ferry as well. In particular, ingress and egress to the ferry can be challenging and the ferry is not able to accommodate larger powered wheelchairs.

As of the publication of this report the County has a preliminary design for a new ferry and is working to obtain funding. The new ferry will address the accessibility issues mentioned above and will be more accessible. As these plans are implemented, it is recommended that the County also remove barriers at both docks to provide a fully accessible route for pedestrians.

2.3 GIS Inventory Database

As a part of the self-assessment an extensive GIS database was created to assist with tracking progress through barrier removal. The database contains each attribute that was inventoried and all data that was collected for each attribute.

This database was provided to the county and will be used and updated in the ongoing efforts to bring the county into compliance with the ADA standards.

3 Stakeholder Engagement

Public and stakeholder input is an essential element in the transition plan development and self-evaluation processes. ADA implementation regulations require public entities to provide an opportunity to interested persons, including individuals with disabilities or organizations representing individuals with disabilities, to participate in the self-evaluation process and development of the transition plan by submitting comments (28 CFR 35.105(b) and 28 CFR 35.150(d)(1)). There were three primary goals for the public outreach activities prior to adopting the plan:

- Meet Title II requirements for public comment opportunity.
- Inform the public about the County's plan and processes regarding removal of barriers to accessibility within the right-of-way. Provide information to assist interested parties to understand the issues faced by the County, alternatives considered and planned actions.
- Obtain public comment to identify any errors or gaps in the proposed accessibility transition plan for the public rights of way, specifically on prioritization and grievance processes.

3.1 Engagement Methods

3.1.1 Public Meeting

A public meeting was held at Luke's Community and Education Center on July 30, 2019. The meeting was widely advertised on the Whatcom County Web Page, local radio, and to attendees and speakers at a Whatcom County Hearing on June 18th, 2019. Despite adequate advertisement and public notification less than 10 members of the community were in

attendance. The objective of this event was to reach a broad cross-section of community members to introduce them to the plan, ask them about barriers and gaps in the public right-of-way, to start to define what is most important to the public. Materials included a large map of the County and a board defining potential priorities. Participants were able to use the figures to provide input on priority infrastructure and locations. A full account of the findings can be found in Appendix A.

3.1.2 On-Line Survey

With the assistance of a consultant, Whatcom County developed a 19-question on-line survey that was available from June 30, 2019 – August 30, 2019. The survey gathered community feedback from over 90 community members. The survey asked for specific feedback on several important items related to accessibility. Participants were asked to identify barriers they have experienced on pedestrian facilities in the County, as well as types of barriers, barrier locations, and other accessibility issues. There was a detectable difference between perceived barriers for persons with disabilities, and those without disabilities. Persons with disabilities showed hospitals and park access as their highest priorities, while those without put a higher emphasis on community services. Appendix A contains a detailed summary of all comments received.

3.1.3 Focus Group

The County hosted two 90-minute focus groups on October 1st and 3rd of 2019. The focus group meetings were offered to interested members of the community to review the initial comments received to date through the open house and survey as well as provide deeper feedback on aspects of

accessibility in the County including specific locations, types of issues, and priorities.

The focus group was provided with a facilitation guide as well a map of the County showing the transit routes, a set of priorities, the PowerPoint and flip charts. Appendix A contains a detailed summary of all comments received.

3.2 Meeting ADA Standards

Per 28 CFR 35.150(d)(1), public involvement is required as follows: A public entity shall provide an opportunity to interested persons, including individuals with disabilities or organizations representing individuals with disabilities, to participate in the development of the transition

plan by submitting comments. A copy of the transition plan shall be made available for public inspection.

The Draft Whatcom County Transition Plan was made available for public review and comment for a period during the months of March and April 2021. A link to the draft plan was provided on the County's project website.

Title VI Nondiscrimination Law

Title VI of the Civil Rights Act of 1964 is a Federal statute and provides that no person shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance. This includes matters related to language access or limited English proficient (LEP) persons.

4 Barrier Removal

Removal of accessibility barriers is the primary purpose of ADA transition plans. The following section documents the primary methods of barrier removal the County currently has in place. This section also provides recommended changes to County policies, practices and design standards to comply with state and federal requirements related to ADA accessibility.

4.1 Barrier Removal Methods

The County currently has a limited number of methods to remove accessibility barriers in the public right-of-way. Current methods of barrier removal are indirect and are usually related to other programs and projects conducted as part of the Capital Improvement Plan. These projects, when impacting existing pedestrian facilities, will upgrade these facilities when required. Occasionally, permitted development will result in the reconstruction of pedestrian facilities and removal of barriers. However, barrier removal through this method is rare and not consistent year-to-year.

4.2 Barrier Removal Recommendations

An assessment of County policies, practices and design standards, as documented in Chapter 2, was conducted to understand the process that results in barriers to accessibility. This assessment was informed through a review of adopted County plans, field observations, discussions with County staff and a detailed design audit of the County's Public Works Standards (see Appendix D).

The recommendations included below were developed in response to this assessment and

have been written in such a way that recommended actions are clearly identified and progress on each specific recommendation can be easily tracked and updated.

Recommendation 1: Identify an official responsible for Transition Plan implementation within the Public Works Department

Status: Completed

As part of the transition planning process, an individual has been identified as the official responsible (see Section 6.1 for more information). This position, often referred to as the "ADA Coordinator", is one of the four major federal requirements for every ADA transition plan. The ADA Coordinator is responsible for facilitating County transition planning such as responding to grievance requests. They also function as a central figure for organizing the various programs and departments within the County to maintain a consistent approach to barrier removal and ADA standards enforcement in multiple aspects of County operations.

Recommendation 2: Update County budget to include a line item for ADA barrier removal

Status: Pending

Prior to the implementation of this plan, the County did not have any budget allocated for removal of barriers to accessibility within their jurisdiction. In order to fund the removal of the barriers identified in this plan, it is recommended that the County council approve budget to remove existing barriers. A proposal to allocate \$250,000 annually is being reviewed by the County council.

**Recommendation 3:
Update County design standards to
match ADA Standards**

Status: Pending

County practice and design standards must comply with federal ADA guidance. If standards are not updated and enforced, new or reconstructed pedestrian facilities may not be constructed to current accessibility standards, requiring costly revision, and increasing the duration it will take the County to remove accessibility barriers.

A detailed audit of County design standards using the 2010 ADAS and Proposed Accessible Guidelines for Pedestrian Facilities in the Public Right-of-Way 2005 (PROWAG) was conducted to inform Chapter 2. This audit, which is included in Appendix D, recommends several specific changes to the County's Development Standards and Standard Drawings.

**Recommendation 4:
Educate County staff, consultants, and
contractors on ADA standards**

Status: On-going

Transition plans are often a learning experience for County staff, consultants, and contractors alike since they change existing practices and expectations. The County should use updates to the County's design standards as an opportunity to teach and learn about accessibility and the barriers that those with limited mobility or sight experience when traveling in the County's public right-of-way. Education can take many forms from review of updated design standards with key individuals such as field inspectors and contractors, development and review of County specific design standards or checklists with County engineers, or training from groups that serve those with disabilities.

**Recommendation 5:
Adopt a Countywide Accessible
Pedestrian Signal (APS) policy**

Status: Pending

Accessible Pedestrian Signal (APS) policies serve as a means for cities to be consistent with ADA requirements at traffic signals. The APS policy covers the location and means of communication for APS devices that "communicate information about pedestrian timing in nonvisual formats such as audible tones, verbal messages, and/or vibrating surfaces" (MUTCD). Because the City of Bellingham Public Works staff maintain the County's signal systems, it is recommended that the county adopt the City of Bellingham's APS policy. The City's APS policy is included in Appendix B.

**Recommendation 6:
Provide more accessible options for
community members to participate in
grievance process for barriers to
accessibility**

Status: Pending

Public entities subject to Title II of the ADA are required to adopt and publish a grievance procedure as part of their transition plan. A grievance process allows community members to formally report denial of access to a County facility, program, or activity based on disability.

Currently, The Whatcom County Code section 2.86 discusses the procedure for filing complaints and grievances pertaining to ADA compliance. The County uses a three-step process, with complaints being addressed first by the ADA Coordinator, then the ADA Compliance Committee, and finally, if still not resolved, to the County Council. While this approach is consistent with the Title II requirements, there is an opportunity to make the process itself more accessible. The procedure currently requires submitting a written complaint to the County ADA coordinator. The County's ADA webpage should be utilized to provide multiple options for requesting service and filing grievances including and accessible on-line form, and

phone, email, and in-person options for these requests.

In addition, it is recommended that the first step of the grievance process include notification to the appropriate County department. Including staff from the appropriate department will help provide the ADA Coordinator with the needed expertise to address the complaint. This will also provide a valuable feedback loop between the County staff and the public.

**Recommendation 7:
Develop a consistent and centralized MEF documentation database**

Status: Underway

Maximum extent feasible (MEF) is policy that dictates that alterations that could affect the usability of a facility in the public right-of-way must be made in an accessible manner to the maximum extent feasible. ADA Standards for Accessible Design (2010) dictates that:

Each facility or part of a facility altered by, on behalf of, or for the use of a public entity in a manner that affects or could affect the usability of the facility or part of the facility shall, to the maximum extent feasible, be altered in such manner that the altered portion of the facility is readily accessible to and usable by individuals with disabilities, if the alteration was commenced after January 26, 1992.

Whatcom County should adopt a MEF documentation process and standard template for the documentation of maximum extent feasible when addressing new or altered construction. Each project to remove barriers should be evaluated to determine if improvements to the facility in the public right-of-way are feasible in the engineering design phase. Some barriers may be infeasible to remove or may be removable only to a point.

Where this is the case the County should document the reason for the variation from accessibility standards. This documentation should be stored in a centralized location and be linked to the County's GIS ADA self-assessment database and/or asset management software to ensure consistency of data.

Consolidation of past MEF records into this data is also recommended. A template example has been provided in Appendix C.

**Recommendation 8:
Develop performance measures and processes to track removal of barriers**

Status: Pending

The primary purpose of an ADA transition plan is to develop a plan for removal of accessibility barriers. In order to show progress towards this requirement, the County should develop a process of tracking barrier removal on a year by year basis. It is recommended that the County actively update the GIS ADA self-assessment database developed for this plan, tracking how and when ADA barriers are removed. This data can be used to provide annual updates on progress and demonstrate to the public as well as federal regulators that the County is making progress to meet Title II requirements.

**Recommendation 9:
Whatcom Chief Ferry replacement and dock improvements.**

Status: Underway

The County should continue to pursue funding to replace the existing boat with a new, more accessible ferry.

The County should also create a plan to remove the accessibility barriers at both dock locations. Improvements to be considered should include;

- Additional signing to direct pedestrians to the pedestrian staging area

- Designated and accessible pedestrian access route between accessible parking, pedestrian staging area, restrooms, and passenger area on ferry
- Lighting for the pedestrian access routes and staging areas

5 Implementation

5.1 Approach

Development of an implementation plan and transition schedule included three steps once the Countywide barrier assessment was complete. First, all facilities with an identified barrier were prioritized. Next, a planning level cost estimate was developed to provide an estimate of the financial resources needed to remove all barriers. Finally, a schedule was developed based on a \$250,000 annual budget for barrier removal. This schedule will help inform recommendations for additional funding for barrier removal, see section 5.3.3 for schedule details.

5.2 Prioritization

To focus the County's efforts toward facilities that pose the largest barrier within the public right-of-way, an analysis of the accessibility of each pedestrian facility and its location was completed. The result of this analysis is a prioritized list of projects, with the highest benefit projects identified for removal first.

To complete this assessment for the public right-of-way, a multi-criteria analysis was conducted to determine which facilities do

not meet existing sidewalks and curb ramp standards. Each attribute collected in the field was compared against 2010 ADAS and PROWAG requirements as outlined in Chapter 2.

If the facility does not meet ADA requirements or best practices, or is located near public destinations, points were assigned, with the number of points dependent on the relative importance or proximity. Sidewalks or curb ramps with poor compliance and several proximate destinations received a high score and are prioritized for removal while facilities farther from public destinations have lower scores, and compliant features receive a score of zero.

5.2.1 Accessibility Index Score

Several criteria were used to establish the extent to which each pedestrian facility did or did not present a barrier to accessible mobility. Tables 5-1 and 5-7 shows these criteria, the threshold used to identify them as a barrier, and the score used to indicate the severity of each barrier relative to each other. Facilities with a higher Accessibility Index Score (AIS) represent a large accessibility barrier.

Table 5-1 Sidewalk, Accessibility Index Score Value

SIDEWALK ACCESSIBILITY INDEX SCORE	CRITERIA	THRESHOLD	SCORE	
Sidewalks	Width	< 60 inches or < 48 inches with no sidewalk pull-outs	4	
	Cross Slope Issue	> 2%	1	
	Cross Slope Issue	> 2.4%	1	
	Cross Slope Issue	> 3%	2	
	Condition	< Average	3	
	Vertical Discontinuity Issue > ¼ inch and ≤ ½ inch without bevel or >½ inch	Barriers Present ≥1	1	
	Vertical Discontinuity Issue	Barriers Present ≥5	1	
	Vertical Discontinuity Issue	Barriers Present ≥10	1	
	Horizontal Discontinuity Issue > ½ inch	Barriers Present ≥1	1	
	Horizontal Discontinuity Issue	Barriers Present ≥5	1	
	Horizontal Discontinuity Issue	Barriers Present ≥10	1	
	Fixed Obstacles	Barriers Present ≥1	1	
	Fixed Obstacles	Barriers Present ≥2	1	
	Fixed Obstacles	Barriers Present ≥3	1	
	Moveable Obstacles	Barriers Present ≥1	1	
	Moveable Obstacles	Barriers Present ≥2	1	
	Moveable Obstacles	Barriers Present ≥3	1	
	Protruding Obstacles	Barriers Present ≥1	1	
	Protruding Obstacles	Barriers Present ≥2	1	
	Protruding Obstacles	Barriers Present ≥3	1	
	Non-Compliant Driveways Non-Compliant >2% cross-slope, and/or Non-Concurrent Grade Break and/or >8.3% Running Slope	Barriers Present ≥1	1	
	Non-Compliant Driveways	Barriers Present ≥2	1	
	Non-Compliant Driveways	Barriers Present ≥3	1	
	Maximum Sidewalk (AIS) Score			30

Table 5-2 Curb Ramp Accessibility Index Score Value

CURB RAMP ACCESSIBILITY INDEX SCORE	RATING CRITERIA	POSSIBLE SCORE
Ramp Width (Max. Score)	< 48 inches	30
Ramp Running Slope (Max. Score)	> 8.3% (< 15 feet), or >5% (Blended)	30
Ramp Cross Slope (Max. Score)	> 2%	30
Ramp Type (Max. Score)	Non-Compliant Type	30
Accessible Path	No	2
Turning Space	None or width < full width of ramp or length < 48 inches	5
Turning Space Turning Slope	> 2%	3
Flare Slope	> 10%	2
Receiving Ramp	No	2
Truncated Domes (DWS)	No	3
Truncated Domes (DWS Placement)	Other than Back of Curb	1
Truncated Domes (DWS Depth)	< 2 feet	1
Truncated Domes (DWS Width)	Less than Full Width of Curb Ramp	1
Grade Break	Not Concurrent	2
Counter Slope	> 5%	2
Lip	> ¼ inch	2
End in Crosswalk	No	2
Roadway Clear Space	< 4ft x 4ft	2
TOTAL CURB RAMPS ACCESSIBILITY SCORE (AIS)		30

Table 5-3 Signal Push Buttons Accessibility Index Score Value

SIGNAL PUSH BUTTONS ACCESSIBILITY INDEX SCORE	RATING CRITERIA	POSSIBLE SCORE
Curb Distance	Pushbutton less than 10 feet from curb = No	2
Crosswalk Extension Distance	Pushbutton less than 5 feet from the extension of the crosswalk line = No	2
Force Less Than 5lbs	Pushbutton Force less than 5 pounds = No	2
Vibe Feedback	Pushbutton provide vibratory feedback when pushed = No	2
Button Size and Visual Contrast	Pushbutton size meets minimum 2-inch diameter with visual contrast from housing = No	2
Distance of 2 Buttons on Same Corner	Distance between pushbuttons on the same corner less than 10 feet and audible indication of WALK interval in speech = No, or distance greater than 10 feet and indication of WALK interval in both speech or tone = No	2
Reach Depth from Landing	Reach depth from pushbutton to the landing is less than 10 inches = No	2
Mounting Height	Mounting height of pushbutton from landing area is < 42 inches or > 48 inches	2
Tactile Arrow	Tactile Arrow provided = No	2
Directional Arrow	Directional arrow on pushbutton face, housing or mounting & pushbutton with parallel orientation to crosswalk direction = No	2
Level Clear Space	Level clear space provided at pushbutton (min. 30" x 48") landing area provided with less than a 2% cross slope in any direction = No	2
Both Audible Tone during "Walk" Cycle and Audible Speech during "Walk" Cycle	Audible indication of WALK interval in tone = No and Audible indication of WALK interval in speech = No	2
Locator Tone during "Don't Walk" Cycle	Locator tone operates during DON'T WALK and flashing DON'T WALK intervals = No	2
Braille Street Name	Braille correctly showing street name = No and audible indication of street name at any time = No	2
APS Style Housing	Housing is APS Style = No	2
TOTAL SIGNAL PUSH BUTTONS ACCESSIBILITY SCORE (AIS)		30

Table 5-4 Parking Stall Accessibility Index Score Value

PARKING STALL ACCESSIBILITY INDEX SCORE	RATING CRITERIA	POSSIBLE SCORE
Stall Width	If regular stall, < 96 inches. If van accessible stall, < 132 inches and adjacent aisle is < 96 inches.	4
Stall Turning Slope	> 2%	4
Stall Pavement Marking	No Marking	3
Sign Present	No Sign	2
Sign Height	< 60 inches	1
Wheel stop or Curb Present	No Wheel stop/Curb (and not a parallel stall)	2
Vertical Clearance	< 98 inches and a van accessible parking stall	2
Adjacent Walkway Width	For parallel on-street parking with a sidewalk ≤ 14 feet wide nearby, stall is not at end of block. If sidewalk is > 14 feet wide, no access aisle provided in road parallel to stall or access aisle is < 5 feet wide.	2
Connected to Access Aisle (Max. Score)	No Access Aisle	10
Connected to Accessible Path	Not Connected	2
Access Aisle Width	< 60 inches	3
Access Aisle Turning Slope	> 2%	3
Pavement Marking	No Hatching	2
TOTAL PARKING STALLS ACCESSIBILITY SCORE (AIS)		30

Table 5-5 Railroad Crossing Accessibility Index Score Value

RAILROAD CROSSING ACCESSIBILITY INDEX SCORE	RATING CRITERIA	POSSIBLE SCORE
Flange Gap	> 3 inches wide	10
DWS	No DWS	10
DWS Placement	< 6 feet or > 15 feet from edge of nearest rail, or No DWS	10
TOTAL RAILROAD CROSSING ACCESSIBILITY SCORE (AIS)		30

Table 5-6 Crosswalk Accessibility Index Score Value

CROSSWALK ACCESSIBILITY INDEX SCORE	RATING CRITERIA	POSSIBLE SCORE
Width	< 6 feet	6
Run Slope	> 5%	12
Cross Slope	> 2% at Stop/Yield Controlled Intersections or > 5% at other types of crossings	12
TOTAL CROSSWALK ACCESSIBILITY SCORE (AIS)		30

Table 5-7 Bus Stop Accessibility Index Score Value

BUS STOP ACCESSIBILITY INDEX SCORE	RATING CRITERIA	POSSIBLE SCORE
Boarding Area Dimensions	< 5'x8' or no boarding area	8
Condition	Poor	5
Boarding Area Cross Slope	> 2%	5
Boarding Area Run Slope	> 5% and not similar to roadway grade	4
Accessible Route Slope	> 5% and not similar to roadway grade (if separation between boarding area and shelter)	4
Shelter Cross Slope	> 2% (If there is a shelter)	4
TOTAL BUS STOP ACCESSIBILITY SCORE (AIS)		30

5.2.2 Location Index Score

A number of popular community destinations - such as schools, transit and parks - are used to identify high priority pedestrian facilities within the County. This is done by determining which pedestrian facilities fall within a specified proximity of one or more of these destinations.

Pedestrian facilities within the identified proximity are assigned points based on each destination they are close to, as shown in Table 5-8. This measure is called the Location Index Score (LIS), which identifies high pedestrian generating overlapping areas. Ultimately the more pedestrian generators, the higher the score.

Community Defined Destinations identified during the public outreach process consisted of general land uses as well as specific locations that participants identified as issues. Specific locations included facilities like sidewalks, curb ramps, crosswalks and signals that individuals had identified as barriers.

Table 5-8 Location Index Score Value

LOCATION CRITERIA	RATING CRITERIA	POSSIBLE SCORE
Schools		
Proximity to Schools	Within 1/8-mile radius of school	5
Walk-To-School Route Proximity	Within 1/2-mile radius of school	5
Parks		
	Within 1/8-mile radius of park	5
Transit		
Park and Ride	Within 1/8-mile of park and ride	5
Bus Stops	Within 1/8-mile of transit stop	5
Traffic Signal/Roundabout		
	Within 1/8-mile of signal or roundabout	5
Public Buildings		
	Within 1/8-mile of location	5
Downtown / Urban / Commercial Business Centers		
	Within 1/4-mile radius of Downtown, Urban and Commercial Business Center Zoning	5
Community Defined Destinations (defined by Stakeholder/Public Engagement*)		
	Within 1/8-mile of location	5
TOTAL LOCATION INDEX SCORE (LIS)		45

* Note: Community Defined Destinations to be identified based on public outreach, ADA surveys, etc. on what locations are more important, thus giving extra weight to those community defined destinations. (To be determined)

5.2.3 Barrier Removal Priorities

By combining the Accessibility Index Score and Location Index Score or Facility Use Index Score together, a Composite Index Score was developed. Together, these measures prioritize barrier removal at locations where pedestrian facilities present a barrier and where pedestrians would be expected.

Facilities with the highest score should be addressed first (46+ points) and represent facilities that present a clear physical barrier and are in high demand areas. The next levels of

priority are 'high' (31-45 points) and 'medium' (16-30 points). Facilities with the lowest scores should be address last (1 to 15 points), have minor barriers, and are in locations where pedestrian demand would be expected to be lower. These scores are relative, comparing one facility to the other. The ranges for medium and high priority were defined based on review of the identified barriers and assessment of the relative barrier they present. It should be noted that while some barriers have a lower priority, they still should be removed.

5.3 Transition Plan Cost and Schedule

A key requirement of an ADA Transition Plan is development of a schedule which shows how long it will take the County to remove accessibility barriers. Understanding the financial resources needed to remove accessibility barriers is essential for developing such a schedule.

Cost estimates for each barrier were developed to assist in determining a schedule for the completion of the barrier removal process as a tool to help the County plan funding for the full removal of barriers over the coming years.

5.3.1 Process

Unit costs were developed to address ADA barriers described in Chapter 2. The unit costs were developed using recent bid tabulations, input from County staff, and planning level assumptions concerning each ADA barrier type.

ADA deficiencies were totaled using their respective unit of measurement: for example, square yards for sidewalks, and number of facilities for curb ramps.

To avoid overestimation of non-compliant facilities, assumptions were made when necessary to address the repeatability of the unit cost and the quantities for each item. For example, a sidewalk segment with a non-compliant cross-slope that will require full replacement will not also require vertical discontinuity repair.

A final cost estimate was determined using information from the data inventory and calculated using current year construction costs.

5.3.2 Planning Level Cost Estimate

A planning level cost estimate to remove all identified barriers was developed based on the process described above. This overall cost includes construction, design, mobilization, and other construction related contingencies, but does not include County staffing needed for project management. Table 5-9 shows a summary of each activity associated with barrier removal and the applicable cost of removing the specified amount of deficiencies.

Table 5-9 – Planning Level Cost Estimate Within the Public Right-of-way

ADA DEFICIENCY	IMPROVEMENT TYPES	TOTAL QUANTITY	TOTAL PRICE
Sidewalks			
Non-Compliant Sidewalk	Reconstruct existing sidewalk or paved shoulder walkway	135,807 SY	\$19,692,029
Non-Compliant Driveway	New driveway with sidewalk	995	\$2,885,500
Subtotal			\$22,578,000
Maintenance/Miscellaneous			
Non-Compliant Horizontal Discontinuity	Sidewalk crack sealing/grouting (10 LF of sidewalk per horizontal discontinuity)	120 LF	\$600
Fixed Obstacles	Relocation of obstacles including utility pole, mailbox, tree trunk, etc.	18	\$54,000
Moveable Obstacles	Relocation of obstacles including tree/bush (prunable), message boards, parked cars, etc.	129	\$25,800
Protruding Obstacles	Relocation of obstacles including of bush/tree, signs, awnings etc.	216	\$108,000
Subtotal			\$189,000
Curb Ramps			
Missing Curb Ramps	New curb ramp	368	\$2,208,000
Non-compliant ramp (running slope, cross slope, ramp width, flare slope, lip, grade break, etc.)	Reconstruct existing ramp	674	\$4,044,000
Curb Ramps without Detectable Warning Surface (DWS) or DWS is Non-Compliant	Install/replace detectable warning surface	19	\$19,600
Curb ramp at marked crosswalk does not end within crosswalk.	Rechannelize crosswalk.	3	\$3,300
Subtotal			\$6,275,000
Pushbuttons			
Non-APS Pushbutton and Pushbutton are Located Incorrectly	Install new pole and pushbutton	15	\$75,000
Pushbutton is non-APS but is located within 5ft crosswalk extension, 10ft from curb, compliant reach depth, and adjacent to compliant clear space.	Install new pushbutton	9	\$18,000
Subtotal			\$93,000
Bus Stops			
Non-compliant bus shelter turning space cross slope	Replace Bus Shelter Pad (7.5SY per occurrence)	100 SY	\$18,000
Subtotal			\$18,000
Accessible Parking Improvements			
Non-compliant parking stall/parking aisle slope.	Grind surface and/or add asphalt lift.	2 EA	\$4,000
Subtotal			\$4,000
Total			\$29,157,000
Contingency @ 20%			\$5,832,000
Design @ 12%			\$3,499,000
Mobilization @ 8%			\$2,333,000
TESC + Traffic Control @ 12%			\$3,499,000
Construction Management @ 20%			\$5,832,000

Public Right-of-Way: **TOTAL 2020 DOLLARS \$50,160,000**

5.3.3 Schedule

Based upon the self-evaluation, planning-level cost estimates, and existing funding programs, a schedule for barrier removal was developed. Table 5-10 below shows barriers at each priority level as a percentage and the total cost to remove those barriers. Highest priority barriers represent a significant barrier to accessibility in areas with high demand for accessibility. The majority of barriers in the high and very high priority categories are curb ramps and pedestrian pushbuttons located in high priority locations. Lower priority barriers represent lesser barriers to accessibility in areas with lower pedestrian demand. The barriers in the low and medium priority categories are primarily lesser barriers to accessibility such as moveable obstacles, horizontal discontinuities and protruding obstacles. It should be noted that while some barriers have a lower priority, they still should be removed.

Table 5-10 Public Right-of-Way Barrier Removal Prioritization and Cost

	Low Priority Barriers (1-15 points)	Medium Priority Barriers (16-30 points)	High Priority Barriers (31-45 points)	Very High Priority Barriers (46+ points)
Percentage	32%	45%	21%	2%
Total Cost	\$16,133,000	\$22,679,000	\$10,286,000	\$1,062,000

A plan should be developed to target removal of the highest priority barriers. The 'very high' priorities consist of 2% of the existing barriers and are estimated to cost a total of \$1,062,000 to remove. By removing the highest priority barriers first, the County is working to provide the best access to the most needed programs, in the shortest timeframe possible. After the highest priority barriers are removed the County should continue to remove the high priority, medium priority, and low priority barriers. The County should create a 5-year barrier removal program with a list of projects to remove specific barriers. The 5-year program should focus on the highest priority barriers. The purpose of the 5-year program is to make progress in barrier removal but also to provide a way to reassess the larger plan and measure incremental progress. At the end of the 5-year program the County should reevaluate their progress with barrier removal and the annual budget. . If progress is slower than anticipated additional funding may be required. If progress is faster than anticipated a shorter timeline may be achievable.

The County has proposed an annual budget of \$250,000, distributed between Maintenance and Operations (\$50,000), capital improvements for barrier removal (\$150,000) and project selection/design (\$50,000). With the approved budget of \$250,000 per year, it is anticipated that the removal of the highest priority barriers will be completed within the first 5-year program.

6 Current Practices

This chapter documents key pieces of information which are critical for ongoing plan implementation. This information is likely to change over the lifetime of the plan such as the official responsible for plan oversight or progress report on barrier removal. This section is meant to act as a “living document” which should be updated to represent current practices or information.

This section is updated as of: February 2020

6.1 Official Responsible

- Official Responsible – Human Resources Manager, ADA Coordinator
- Mailing Address – 311 Grand Avenue, Bellingham, WA 98225
- Phone Number – 360-778-5300
- Email – hr@co.whatcom.wa.us

6.2 Current Funding Information

- \$250,000 annual funding distributed between Maintenance and Operations (\$50,000), capital improvements for barrier removal (\$150,000) and project selection/design (\$50,000)

6.3 Update of Design Standards and Training

- To be Completed

6.4 APS Policy

- By adopting this transition plan the APS policy shown in Appendix B is adopted.

6.5 Current Grievance Process

- See Whatcom County Code section 2.86 and <https://www.whatcomcounty.us/259/Americans-With-Disabilities-Act-Compliance>

6.6 Maximum Extent Feasible Database and Process

- See Appendix C

6.7 Barrier Removal Performance Monitoring

The plan is currently less than a year old, so it represents the most recent available data.

Appendix A - Barrier Audit

MEMORANDUM

Date:	February 11, 2021	TG:	1.19049.00
To:	David Hower, Whatcom County		
From:	Ryan Peterson PE, PTOE – Transpo Group		
cc:	James Karcher PE, Douglas Ranney PE – Whatcom County		
Subject:	Whatcom County ADA Accessibility Standards Review		

Practices and design standards that meet accessibility standards are essential to ensure new or upgraded pedestrian facilities are accessible and that these upgrades contribute to the removal of accessibility barriers throughout the County.

The following Whatcom County documents were reviewed against current accessibility standards:

- Whatcom County Development Standards and Standard Drawings, October 14, 2019
- Whatcom County Code

In conversation with County staff, an approach to the standards review was developed that included a focus on referencing other accessibility standards, rather than providing substantial detail within Whatcom County standards. This was done for several reasons including the lack of County resources to research changes to accessibility standards and update County standards on a regular basis. The review of County standards relies heavily on WSDOT standards, particularly Chapter 1510 of the WSDOT Design Manual. Where applicable, recommendations have been made to reference this standard in lieu of providing substantial detail that would be redundant with the WSDOT Design Manual.

This memo summarizes a review of Whatcom County’s policies and design standards for barriers and includes major findings of this work. The memorandum is organized by facility type.

Sidewalks and Pathways

Whatcom County Code mentions sidewalks in various sections and provides guidance on design relative to the different land use zones within the County. These references are not accessibility related. Where specific design requirements are called out, they do not violate current accessibility standards. No modifications to the County Code related to sidewalks are recommended.

Most of the design guidance for sidewalks in Whatcom County is contained in Section 508, *Roadside Features*, of Whatcom County Development Standards and corresponding Standard Plans. Sections 508.A and 508.B address sidewalks and pathways and the following modifications are recommended:

Section 508.A, Urban Pedestrian Facilities

- Section 508.A.4 – Change the wording of this section to “Pedestrian Access Routes (PARs) as defined by Chapter 1510 of the WSDOT Design Manual shall be provided on one side of new and existing perimeter public roads adjoining any development which creates, in the professional judgement of the County Engineer, the potential for significant additional pedestrian movement and the roadway traffic has an ADT of over 400 vehicles. This PAR shall have a firm, stable, and slip-resistant surface and may be incorporated into the shoulder of the roadway. The PAR shall meet all applicable accessibility requirements as shown in the WSDOT Design Manual Chapter 1510.”
- Section 508.A.5 – Change the wording of this paragraph to read “Sidewalks shall be constructed with Class 3000 cement concrete per WSDOT Standard Specifications and be constructed per WSDOT Design Manual Sections 1510.05 – 1510.08 and corresponding WSDOT standard plans. Construction tolerances should be accounted for during design to insure the final constructed sidewalk meets all accessibility requirements. Sidewalks shall be light brush finished and curing compound shall be applied to all finished concrete

surfaces per WSDOT Standard Specifications. Subgrade compaction shall meet the requirements outlined in Section 511.E, Concrete Testing. Sidewalks in cut sections shall be drained as shown on Standard Drawing 508.A-2."

- Delete Sections 508.A.6, 508.A.7 in their entirety.
- Standard Drawing 508.A-1 – Most of the information in this County standard drawing is redundant with WSDOT Standard Plan F-30.10. It is recommended that this standard plan be deleted and information specific to Whatcom County be incorporated into Section 508.A.5 as described above.

Section 508.B, Rural Pedestrian Facilities

- Section 508.B.1 - Change reference to walkways to "Pedestrian Access Routes (PARs) as defined by Chapter 1510 of the WSDOT Design Manual". Change all subsequent references to walkways in Section 508.B to "PAR"
- Section 508.B.3 – Change wording to read "Minimum PAR improvements shall consist of a firm, stable, and slip resistant material. Material other than cement concrete and asphalt pavement must be approved by the County Engineer. When the PAR is incorporated into the road shoulder, the typical roadway section shall govern. PAR may be combined with bikeway."
- Delete Section 508.B.4 in its entirety.

Driveway Approaches

Whatcom County Code contains several requirements for driveways in various sections. These requirements are general in nature and generally identify where and when driveways are to be installed. No specific information to accessibility is referenced in the County Code and no modifications are recommended.

Section 508.D of Whatcom County Development Standards and associated Standard Plans address driveway approaches. The following modifications are recommended:

- Add the following sentence to the end of Section 508.D.3.a: "When a Pedestrian Access Route or sidewalk is present on the arterial/collector street, a Pedestrian Access Route meeting accessibility criteria as defined in WSDOT Design Manual Chapter 1510 shall be provided through the driveway."

Curb Ramps

References to curb ramps in the County Code are again, general in nature and do not specifically address accessibility. No modifications are recommended.

Section 508.G of Whatcom County Development Standards and associated standard plans address curb ramp requirements. The following modifications are recommended:

- Section 508.G – Change wording to read "Curb ramps shall be installed at all legal pedestrian crossings including intersections and mid-block pedestrian crossings where a Pedestrian Access Route as defined in WSDOT Design Manual Chapter 1510 is provided on both sides of the street and where a transition from sidewalk to pavement grade is required. At-grade pedestrian facilities shall not require a curb ramp. Curb ramps shall be constructed per the WSDOT Design Manual, Chapter 1510.09 and associated WSDOT Standard Plans."
- Standard Drawings 508.G-1 through 508.G-5 – These standard drawings are redundant with WSDOT Standard Plans F-40.12, F-40.14, F-40.15, F-40.16, and F-45.10. It is recommended that these standard plans be deleted.

Pedestrian Signals

Pedestrian signals are not addressed in either Whatcom County Code or Development Standards. It is recommended that the following modification be made:



- Add sub-section of Section 508A titled *Pedestrian Signals* that states: "All traffic signals within Whatcom County, including pedestrian signals and beacons, shall be built in accordance with City of Bellingham standards. All new traffic signals shall be constructed in accordance with City of Bellingham design standards and standard plans. All new pedestrian signal elements, where applicable, shall be accessible, including countdown pedestrian signal heads and Accessible Pedestrian System (APS) pushbuttons. For retrofits, the City of Bellingham's APS Policy shall be followed to determine the scope for accessibility upgrades to the signal system."

Other Pedestrian Facilities

Other facilities of the pedestrian network like handrails, access ramps, and transit stops are not mentioned in any detail within Whatcom County Code and Development Standards. The following is a recommended modification to address this omission:

- Add sub-section of Section 508A titled *Other Pedestrian Facilities* that states "All other pedestrian facilities including handrails, transit stops, access ramps, etc. shall be constructed per WSDOT Design Manual Section 1510.15."

Appendix B - APS Policy



City of Bellingham
Public Works Department
104 W. Magnolia Street
Bellingham, WA 98225

MEMORANDUM

TO: BRENT BALDWIN, PAUL REED, FREEMAN ANTHONY, JESSICA BENNETT, STEVE DAY,
CRAIG MUELLER, LARRY SCHOLTEN, SAM SHIPP

FROM: KIM BROWN

CC: CHAD SCHULHAUSER, ERIC JOHNSTON, MIKE OLINGER

SUBJECT: ACCESSIBLE PEDESTRIAN SIGNALS AND PUSHBUTTONS (APS) INSTALLATION

DATE: 30 OCTOBER 2018

Intent:

Title II of the Americans with Disabilities Act (ADA) requires state and local governments to provide "effective communication" for those using or accessing public programs, services, and activities. For pedestrians living with visual and/or hearing impairments, audible and vibrotactile communication may be provided by means of Accessible Pedestrian Signals and Pushbuttons (APS) at signalized intersections. These signals can provide information in an "effective" or accessible format to assist in making signalized street crossings easier to use for all pedestrians.

Purpose:

The purpose of this policy is to establish reasonable and consistent policy for installing APS.

Policy:

The City of Bellingham will install APS under the following conditions:

- New construction: All new construction of traffic signal projects, including HAWKS and enhanced crosswalks, requires installation of APS when pedestrian signals are installed.
- Alteration: Existing pedestrian signals shall be upgraded to APS when the signal controller and software are altered or any individual signal or pedestrian head is replaced.
- Citizen requests: Individuals living with disabilities or those who directly care for individuals living with disabilities can request installation of APS at signalized intersections, including HAWKS and enhanced crosswalks. Requests will be logged and considered for improvement outside of a new construction or alteration project.
- In addition to the above conditions, signalized intersections will be retrofitted with APS according to the City's ADA Transition Plan prioritization process.

Technical Requirements:

APS shall be installed in compliance with technical requirements specified in Section 4E.08 through 4E.13 of the 2009 Manual on Uniform Traffic Control Devices (MUTCD) and Section R403 of the Proposed Guidelines for Pedestrians Facilities in the Public Right of Way (PROWAG DRAFT 2011).

Appendix C - Maximum Extent Feasible

Maximum Extent Feasible (MEF) Template – Public Right-of-Way Facilities

Project Description:

Barrier Type for MEF Evaluation

- New Construction Project - with proposed accessible route features requiring MEF evaluation
- Reconstruction Project – with existing accessible route barriers for MEF evaluation
- Isolated Accessible Route Barrier identified by Maintenance & Operations or public

Roadway/Accessible Route Parameters

- Roadway Classification:
- Design Speed/Posted Speed:
- Design Year ADT:
- Truck Percentage:
- Pedestrian related crash history:
- Within Urban Growth Area?:
- Facilities verified to be within right of way?:
- CRP #:

Existing Pedestrian Facilities – general description (include a summary of the proposed pedestrian features throughout project, i.e. types of facilities, connections to existing facilities, etc.)

Pedestrian Design Standards – cover the following subjects

- Discuss the criteria that apply to the pedestrian elements on the project that will be built to the Maximum Extent Feasible
- Include reference(s) to the appropriate PROWAG/ADA section(s) and Whatcom County Public Works Standards [including revision date]

Alternative(s) analysis – were there alternatives considered and why were they not selected? needed for new construction projects only

Proposal – cover the following subjects

- What features will remain that meet guidelines (Only applicable to features associated with barriers that are being evaluated for feasibility of removal, or justification being provided per the MEF process. For example, if an intersection has four corners and only one is altered to the MEF, only include information about that one corner)

- What features are being built to guidelines
- What is being built to the maximum extent feasible

Justification

- Discussion of what constraints/challenges there are to meet full design level

Additional Benefits – examples include improving pedestrian connections, improved safety, better traffic operations, etc.

Attachments Included:

- Vic Map
- Plan Sheet(s), description: _____
- Feasibility /Justification Cost Estimate
- Other: _____

Appendix D - Public Involvement

WHATCOM COUNTY

ADA TRANSITION PLAN

PUBLIC INVOLVEMENT AND FEEDBACK

PREPARED FOR: Jim Karcher and Dave Hower, Whatcom County
PREPARED BY: Jeanne Acutanza, Acutanza STS
CC: Ryan Peterson, Transpo Group
DATE: December 2, 2019 FINAL

Introduction

In developing an ADA (Americans with Disabilities Act) Transition Plan for Whatcom County, a key initial step is outreach to people with disabilities or those who support people with disabilities. The goal of this outreach is to gain feedback on current pedestrian facilities within the public right-of-way in Whatcom County, specifically those not in the incorporated areas of Cities like Bellingham, that provide access to community and government services. This draft memo outlines the community outreach process used to support development of the ADA Transition Plan and feedback we have received to date. This memo summarizes outreach efforts through a public meeting, survey, and more in-depth focus groups.

Promotion and advertising for outreach

Outreach to solicit participants and encourage input at the open house, online open house, and survey included outreach to local community service providers and advocacy groups. Specific outreach to organizations serving and advocating for individuals with disabilities included:

- Whatcom County Main Web Page
- Whatcom County Public Works Page
- KGMI Radio
- Attendees and speakers at Whatcom County Hearing on June 18, 2019

An invitation to participate in a more in-depth focus group was solicited at the open house, through the online survey, and personal outreach. This focus group reviewed this summary and provided comments. Part of the focus group feedback was to seek input on ADA issues at bus stops from the school districts. This summary includes feedback from the transportation services of the Blaine, Lynden and Bellingham School Districts.

How were members of the public involved?

To garner feedback from the community, Whatcom County hosted an in-person Open House on July 30, an online survey that was available to the public from July 30 through August 31, and two focus group meetings for interested community members held on October 1 and 3.

Feedback for each element of outreach resulted in the identification of general and specific issues. Community members were also asked about priorities and which issues and areas are most important to them.

Public Meeting July 30, 2019

A community public meeting was held on July 30 at St. Luke's Community and Education Center from 5:30 p.m. to 7:30 p.m. The room is accessible using elevators and the library is centrally located in Bellingham with good transit service. Sign language interpreters were on hand and staff engaged members of the community to provide feedback on maps and boards. Outreach boards were provided to help educate the public on ADA at the meeting. Images of the open house boards are provided in **Attachment A**. While the meeting was broadly advertised, less than 10 people attended the public meeting with very limited feedback. It should be noted that the City of Bellingham, located within Whatcom County is also updating their ADA Transition Plan with their outreach activities, including an open house, occurring roughly one month ahead of this meeting.

On-Line Survey June 30 through August 30, 2019

A 19-question survey was open from the time of the open house meeting on July 30 through August 30, 2019.

The survey was accessed 93 times and asks respondents how they travel, where they live, why they travel in Bellingham, whether they had a disability or support someone with a disability, and whether an accessibility issue ever prevented them from being able to participate or obtain services in Bellingham. Questions regarding demographics were optional. The survey did not specifically ask where respondents live but did request a ZIP code for each respondent. Of those responding to the survey, roughly one third were located largely within the City of Bellingham ZIP codes, one third were located in ZIP codes shared by the City and County unincorporated areas and one third were in the County and outside of Bellingham

The survey also asked for specific feedback on the types of pedestrian facility barriers people experience, the types of public services where access is most important for them, and specific locations where there are barriers or other accessibility issues.

It was also possible to discern differences between the priorities of those with disabilities, those that support people with disabilities, and those who do not have disabilities. Specifically, the top-line survey summary suggests that those with disabilities or supporting someone with a disability clearly experience more barriers in pedestrian facilities than those without disabilities. Those with disabilities and supporting those with disabilities noted priority locations as hospitals and city parks, while those without disabilities prioritized community services and hospitals slightly higher. Access to city parks was

notably a higher priority for those with disabilities as compared to those without disabilities or those supporting people with disabilities.

The survey questions are provided in **Attachment B**. Top-line summaries breaking down respondent types, demographics, and transportation patterns are provided in **Attachment C**.

Respondents reported issues at 100 locations including sidewalks, curb ramps, crosswalks at signals, ADA parking and with access to transit. **Attachment D** provides a list of issues collected through the surveys.

Focus Group Meetings October 1 and 3, 2019

Purpose

Two focus group meetings each 90 minutes long were held on October 1 and 3 in different areas of the County. The focus group meetings were offered to interested members of the community to review the initial comments received to date through the open house and survey as well as provide deeper feedback on aspects of accessibility in the County including specific locations, types of issues, and priorities.

Meetings Attendees and Locations

The first meeting was held at the Whatcom County Civic Annex, 332 N. Commercial Street on Tuesday, October 1 - 3:30 – 5 p.m. This location is located within the City of Bellingham, near transit services and the building is accessible. In addition to a sign language interpreter, five members of the public participated. The group included people with disabilities, people that support others with disabilities or work on infrastructure projects.

The second meeting was held in unincorporated Whatcom County at the Whatcom County Planning and Public Works offices at 901 W. Smith Road on Thursday, October 3 - 3:30 – 5 p.m. This location is an older building but is accessible and transit is provided nearby. In addition to a sign language interpreters and representative from Whatcom Transit (Janet Malley), five members of the public participated. The group included people with disabilities, and people that support those with disabilities.

Different locations were offered to provide opportunities for broader outreach and in different areas of the County. Whatcom County staff (Jim Karcher and David Hower), as well as members of the consultant team (Ryan Peterson and Jeanne Acutanza) also attended.

Meeting agenda

The focus group was facilitated by County and consultant staff. A draft focus group guide is included in **Appendix E**. Comments and discussion were recorded for all participants.

The focus group agenda is described below:

- **Welcome and acknowledge participants and provide brief purpose of meeting**
- **Review Ground Rules**
- **Self-Introductions**

- **Discussion of the survey results and review of materials**
- **Workshop and in-depth discussion**

Background and survey results

This ADA transition plan is heavily reliant on public perspectives and feedback, particularly by those with disabilities or supporting those with disabilities. This plan will be focused on identifying barriers in pedestrian facilities in the public right-of-way and prioritizing, scheduling and identifying funding for the removal of those barriers.

Discussion

After the review of survey top-line results, the group discussed issues and comments. These comments are transcribed from the recording and were summarized and categorized below in four areas:

1. Comments and issues on specific topics
2. Comments and issues at specific locations
3. Comments and issues that may not be addressed by the plan and
4. Priorities

General Comments and issues on specific topics

Some comments were raised related to specific issues. Where they overlapped, they were combined into the topics below:

Additional outreach – Additional outreach at schools or with bus drivers was suggested to gain specific feedback about students with disabilities and at facilities that serve those with disabilities, specifically Spinal Cord Injury support groups.

Less Walking, Limited Sidewalks, and More Driving in the County – Because of the rural nature of most of the County, a more significant portion of travel is done through driving and parking. In some urbanizing or growth areas, sidewalks and crosswalks are not available but should be considered. Speeds in rural, even urbanizing areas are a challenge for pedestrians, especially for crossing roadways. The County maintains few traffic signals, and signal-controlled crosswalks are infrequent. Because driving is an important mode of travel, the number of ADA parking spaces and the design are essential for providing access to community services and government buildings.

Schools – Walking to schools in the unincorporated counties can be challenging and not safe, where there are few sidewalks, and crosswalks. Because there are limited sidewalks, curb ramps are not a challenge. While a safe route to school programs should be part of all school plans, many schools may not have them because walking to school is considered unsafe. There have been cases of pedestrian fatalities near schools. If safe routes are developed, even off-road, they should be developed as accessible, especially where there are specific programs that serve children with disabilities. Places that might be promoting trails with uneven surfaces would not accommodate those with disabilities.

Based on comments from the Focus Groups. Specific outreach to the Blaine, Lynden and Bellingham school districts was conducted to gain feedback on how bus services work with children with disabilities, specifically if they are picking up students at curbside from sidewalks. Blaine School District noted their specialized school buses go door-to-door. Bellingham also noted most students with disabilities use specialized transportation.

Growth Areas – Whatcom County has unincorporated urban growth areas, including Columbia Valley / Kendall, Birch Bay, and Cherry Point. These areas are expected to accommodate more active and intense land uses, potentially resulting in a greater desire for people to walk and bike.

Signals and Crosswalks – Traffic signals at intersections provide opportunities to cross roadways safely. Whatcom County maintains relatively few traffic signals. In addition to a few signal-controlled crosswalks, few crosswalks are crossing potentially higher speed or busy arterial roads. Some signals in the County are maintained by other agencies, specifically WSDOT on state routes, and require coordination to coordinate ADA improvements.

Transit – Transit service in the unincorporated County generally only operates on arterial roadways and does not provide access on many secondary streets that serve residential areas. Paratransit is also limited to 3/4 of a mile from established routes. Transit for many in the disabled community is critical for mobility. Issues for transit include stops that don't have adequate landing pads or weather protection.

Governance and Partnerships – Responsibility to improve pedestrian facilities that provide access to services in Whatcom County are shared with many agencies, including incorporated cities, Washington State Department of Transportation (WSDOT), Whatcom Transit Authority (WTA), other government institutions and private businesses. Improving access seamlessly, specifically for those with disabilities, may require coordination with different agencies.

County Parks – County Parks like Birch Bay, was not mentioned often; however, county parks provide recreational opportunities for all. For those with disabilities, access may be inhibited

Design Practices and Model Communities – Consider communities worth emulating that have implemented universal design. Ramps, rather than ramps and stairs, can serve as a universal design rather than building both.

Comments and issues at specific locations

Some comments were discussed with reference to specific areas as described below:

Birch Bay Blaine - There are older populations living here, and communities should provide sidewalks and ramps at all locations.

Hannegan Road - Transit and the park along Hannegan Road are not accessible. The grange hall located at Smith Road / Hannegan Road is not accessible.

Lynden – Consider a roundabout and improve for accessibility.

Sudden Valley Area – The Sudden Valley area lacks safe crosswalks by the firehouse crossing Lake Whatcom Boulevard.

Kendall Area

- Kendall Elementary and Mt Baker Library need to be improved with crosswalks and lighting. This is a location that may serve disabled and foster kids. There are uneven sidewalks, and

the inclines do not function well. Sidewalks or crosswalks do not serve the elementary school on SR 542/547. Students are advised not to walk to school. Sidewalks and crosswalks would need to be coordinated with the State.

- Mt Baker Roundabout is not accessible could be better for providing safe and protected pedestrian access for all. Provides access to the library
- Sidewalks are missing at the East Regional Community Center and connecting crosswalks across Kendall Sumas Highway (SR 547). This community center serves a broad community, and access for all users (not just auto) is essential.
- Kendall Trail is a high priority for the pedestrian bicycle advisory committee and could serve the elementary school. A trail should consider accessibility for all users. A path may be good for some users, including cyclists but not ADA.

Birch Bay/Blaine – The area serves many seniors and has mobility issues and limited sidewalks.

Northside of Lakeway Drive - There is missing sidewalk on the north side between Lowe Street and just past Euclid.

County Wide

- Sr. Centers – Senior Centers located in Sumas, Everson, Blaine, and Lynden may not be accessible
- Consider connecting sidewalks in higher population areas of the County. Bicycle systems are not interconnected.

Routine Sidewalk Maintenance - Overhanging brush blocking the sidewalks should be maintained

Comments and issues that may not be addressed by the plan

Some problems identified may not be treated as part of the Whatcom ADA Transition Plan. These are described below:

Facilities on State Routes – Urbanizing areas are often served by State Routes like SR 542 and SR 547. Crosswalks and sidewalks are not often identified as part of a state design standard in rural to urbanizing areas. Whatcom County would need to coordinate improvements on state routes with WSDOT.

Transit and Paratransit – More frequent service is desirable to serve more of the County. More paratransit that is more frequent is desirable. Transit shelters are not provided in areas where many people wait, specifically the WinCo in Bellingham.

ADA parking – There is inadequate ADA parking at private businesses

Incorporated Areas – Within incorporated areas like Bellingham, scooters that are being considered may create another obstacle in addition to sandwich boards on sidewalks. Businesses on the Guide Meridian (like Starbucks) don't have good crosswalk access and signals to protect crosswalks

Priorities

As a final topic, the group discussed priorities and what should be fixed first. Notes from that discussion are provided below:

Urbanizing or growth areas – Urbanizing areas, where pedestrian activity is expected to increase, currently lack pedestrian facilities that are adequate for all users and specifically those with disabilities. Specific areas mentioned include Kendall, Birch Bay, and Sudden Valley.

Schools – Improving walkability to local schools and specifically addressing those with disabilities could be a partnership with the schools to create safe routes to school.

Jurisdictional coordination – Management or maintenance of pedestrian facilities can be made more challenging if agencies have shared jurisdiction. Coordination between agencies should be addressed. If the State (WSDOT) has jurisdiction, but the City identifies a need for a change, there should be mechanisms for coordination and collaboration specifically to address ADA concerns.

Additional and on-going outreach – Some mentioned the need to continue outreach and keep the plan dynamic as new issues are raised.

ATTACHMENT A – OPEN HOUSE BOARDS



Mobility for All

Whatcom County ADA Transition Plan

Improving Access to
Whatcom County's
Public Rights-of-Way

What is ADA?

The Americans with Disabilities Act

- Signed into law in 1990
- Protects the rights of citizens with disabilities

ADA Title II

- Governments must provide accessibility for everyone
- Sidewalks
- Curb Ramps
- Policies/Procedures

Pedestrian Facilities

Well- developed and-maintained pedestrian facilities are critical for providing access to county services and resources.



Cracked and Uneven Sidewalks

Sidewalks that have fallen into disrepair present a challenge for many, especially those using walkers, wheelchairs, or canes, pushing strollers, etc.



Curbs at Intersections Without Ramps

Curbs not equipped with adequate ramps create a potentially significant impediment for the mobility-challenged, and are inaccessible for those using wheelchairs.



Obstructions in Sidewalks

Sidewalk obstructions such as telephone poles or tree roots, present a significant obstacle to pedestrian travel, especially for sight-and/or mobility-impaired populations.

Pedestrian Facilities

Well- developed and-maintained pedestrian facilities are critical for providing access to county services and resources.



Curb Ramps Without Detectable Warning Surfaces

Ramps not equipped with a means of detection present a basic safety concern for those with sight impairments.



Inaccessible/Inaudible Pedestrian Pushbuttons

Inaccessible and/or inaudible crosswalk push-buttons a basic challenge for users in wheelchairs, as well as those with sight impairments.



Lack of Available ADA Parking Spaces

Insufficient or nonexistent ADA parking spaces prevent access to government offices and other service-provider locations.

City vs County Planning

How is Whatcom County's ADA Transition Planning different from Bellingham's?



City

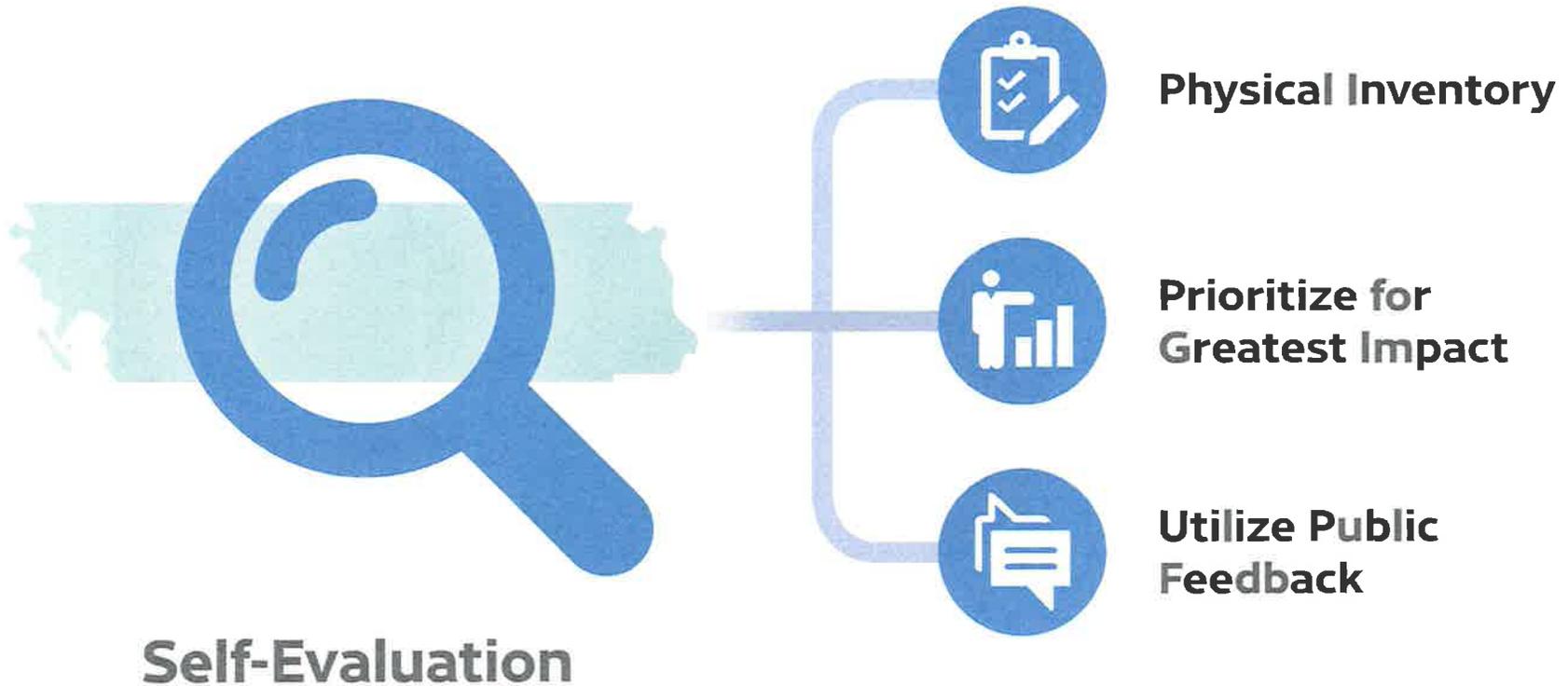
Focuses on services within the city of Bellingham

Both examine gaps and barriers to pedestrian facilities

County

- Focuses on services outside the city of Bellingham
- County Plan prioritizes access to services

Conducting an ADA Inventory



Asking the Community

Where do you
encounter gaps
and barriers?



What areas are
most important
to you?



Take the Survey!

<https://www.surveymonkey.com/r/WhatcomCo>

Outreach



Online Survey

Ask the public for input identifying gaps and barriers



Focus Group

Gather firsthand accounts, experiences, and plan input



Plan Adoption

Review and adopt final Whatcom County ADA Plan



Take the Survey!

<https://www.surveymonkey.com/r/WhatcomCo>

Timeline



Thank You

Dave Hower

Sr. Engineer Technician



360.778.6268



dhower@co.whatcom.wa.us

Mike Donahue, PE

Engineering Manager



360.778.6250



ATTACHMENT B – ONLINE SURVEY

Whatcom County ADA Transition Plan

Whatcom County seeks to create an inclusive and welcoming environment accessible to all. Whatcom County is beginning the process to address the accessibility of pedestrian facilities in the public right of way including sidewalks, curb ramps, and pedestrian crossings. The County work is similar to planning being done by the City of Bellingham but is focused on areas outside of the City limits.

Through this brief survey, we'd like you to identify the locations and deficiencies you consider most important.

You may also provide your contact information to receive updates or participate in a future focus group.

* 1. First, please tell us why you travel in Whatcom County? (Check all that apply)

- | | |
|---------------------------------------------------------------|--------------------------------------------------------------|
| <input type="checkbox"/> Live in Whatcom County | <input type="checkbox"/> Medical Appointments |
| <input type="checkbox"/> Work in Whatcom County | <input type="checkbox"/> Shopping |
| <input type="checkbox"/> Attend school / college | <input type="checkbox"/> Other community and social services |
| <input type="checkbox"/> Recreation / Recreational Activities | |
| <input type="checkbox"/> Other (please specify) | |

* 2. Please tell us about yourself. (Check all that apply)

- I have a disability that impacts how I travel (please describe that disability in question 3)
- I support a person with disabilities (please describe that disability in question 3)
- I have no disability
- I prefer not to say

3. If you indicated you have a disability or support someone with a disability, please select from the following list. (Check all that apply)

- Physical, mental or emotional condition that limits learning, remembering or concentrating
- Blindness or serious difficulty seeing when wearing glasses
- Condition that substantially limits one or more physical activities such as walking, or climbing stairs
- Deafness or hearing difficulty
- Use a mobility device
- Other (please specify)
- Use a wheelchair
- Use assistive software technology such as a screen-reader
- Use hearing aids or hearing assistive devices
- Use a service animal

4. What resources do you use to find information on ADA issues? (Check all that apply)

- Washington State Department of Social and Health Services (DSHS)
- Washington State Department of Services for the Blind (DSB)
- Whatcom Transit
- United Blind of Whatcom County
- Other (please specify)

Whatcom County ADA Transition Plan Demographics

5. Please provide us with your home ZIP code? (enter 5-digit ZIP code; for example, 00544 or 94305)

6. How often do you travel in Whatcom County? (Select one)

- 5-7 days per week
- 3-4 days per week
- 1-2 days per week
- less than weekly

7. How do you travel within Whatcom County? (Check all that apply)

- Drive and park
- Take transit or paratransit shuttles
- Wheel (use a wheelchair)
- Walk with assistance like a cane or walker
- Walk with a service animal
- Walk
- Bike
- Other (please specify)

8. If you use transit, how often do you use it in a typical week? (Select one)

- 4 or more days per week
- 2-4 days per week
- 1 day or less per week
- less than weekly

Access to Whatcom County services

9. Are you now or were you ever unable to participate or obtain services in Whatcom County (**Excluding facilities in the City of Bellingham**)?

- Yes
- No

10. What was the reason you could not participate? (Check all that apply)

- Facility not accessible
- Website not accessible
- Materials not provided in an alternative format
- Transportation or parking not available
- Sign language interpreter not provided
- Assistive listening devices not provided
- Program not accessible
- Other (please specify)

11. Which of the following pedestrian facility issues are reasons you could not participate? (Check all that apply)

- Sidewalk barriers
- Pedestrian signal issues including access to push buttons
- Curb ramp barriers
- ADA parking not available
- Pedestrian crosswalk issues
- Other (please specify)

Priorities for pedestrian facilities

Excluding facilities inside the City of Bellingham, please give us your top two priorities where pedestrian facilities need to be improved.

* 12. Of the six types of locations below, which one would be your HIGHEST priority? (Select one)

- Government buildings that provide human services
- Other government buildings
- County parks
- Community services
- Schools and institutions
- Transit facilities (examples are transit stops)

* 13. Of the six types of locations below, which one would be your SECOND HIGHEST priority? (Select one)

- Government buildings that provide human services
- Other government buildings
- County parks
- Community services
- Schools and institutions
- Transit facilities (examples are transit stops)

Specific Problem Areas in Whatcom County

For these open-ended questions please provide locations where you have experienced challenges with pedestrian facilities including sidewalks, curb ramps, crosswalks, and buttons for activating walk signals. Please note areas outside *the City of Bellingham*.

14. Where have you experienced challenges in Whatcom County? Please list up to three locations and the problem. Be as specific as possible about the location and the type of barrier (sidewalk, curb ramp, pedestrian crossings, pedestrian push buttons)

Location 1 (Street address or cross street)

Problem 1

Location 2 (Street address or cross street)

Problem 2

Location 3 (Street address or cross street)

Problem 3

Demographic questions

We would like to better understand the audience taking our survey. Providing information is optional and your responses are confidential.

15. What is your age? (optional)

- under 18
- 18 to 24
- 25 to 34
- 35 to 44
- 45 to 54
- 55 to 64
- 65 or older

16. How do you identify yourself? (optional)

- African American/Black
- Asian
- Caucasian/White
- Native Hawaiian/Pacific Islander
- Native American
- Some other race or combination of races

17. Are you of Spanish, Hispanic, or Latino origin or descent? (optional)

- Yes
- No

Thank you and next steps

Thank you for participating in this survey. Work on the plan will continue throughout the year. If you would like to stay in touch or participate in future phases, please provide your contact information below.

If you have additional question, please contact Dave Hower, Whatcom County Engineering Technician at (360) 778-6268 dhower@co.whatcom.wa.us

18. Please provide your contact information to receive updates on the plan.

Name

Email Address

Phone Number

19. Would you be willing to participate in a focus group related to the plan?

Yes

No

ATTACHMENT C – SURVEY TOPLINE RESULTS

Whatcom County
ADA Transition Plan
Outreach Top Line Results

Open House July 30

Survey July 30 through August 30, 2019

Overview of Outreach

- Public Meeting July 30 at St. Luke's Community and Education Center
 - Provided educational information on ADA Transition Plans
 - Alternative services / sign language interpretation provided
 - Low turnout (<10)
- Survey open July 30 through August 30
 - Advertised on County Website
 - Promoted through County Social Media Channels

Survey Summary

1. Respondents and demographics
2. Issue areas
3. Priorities

1. Respondents and demographics

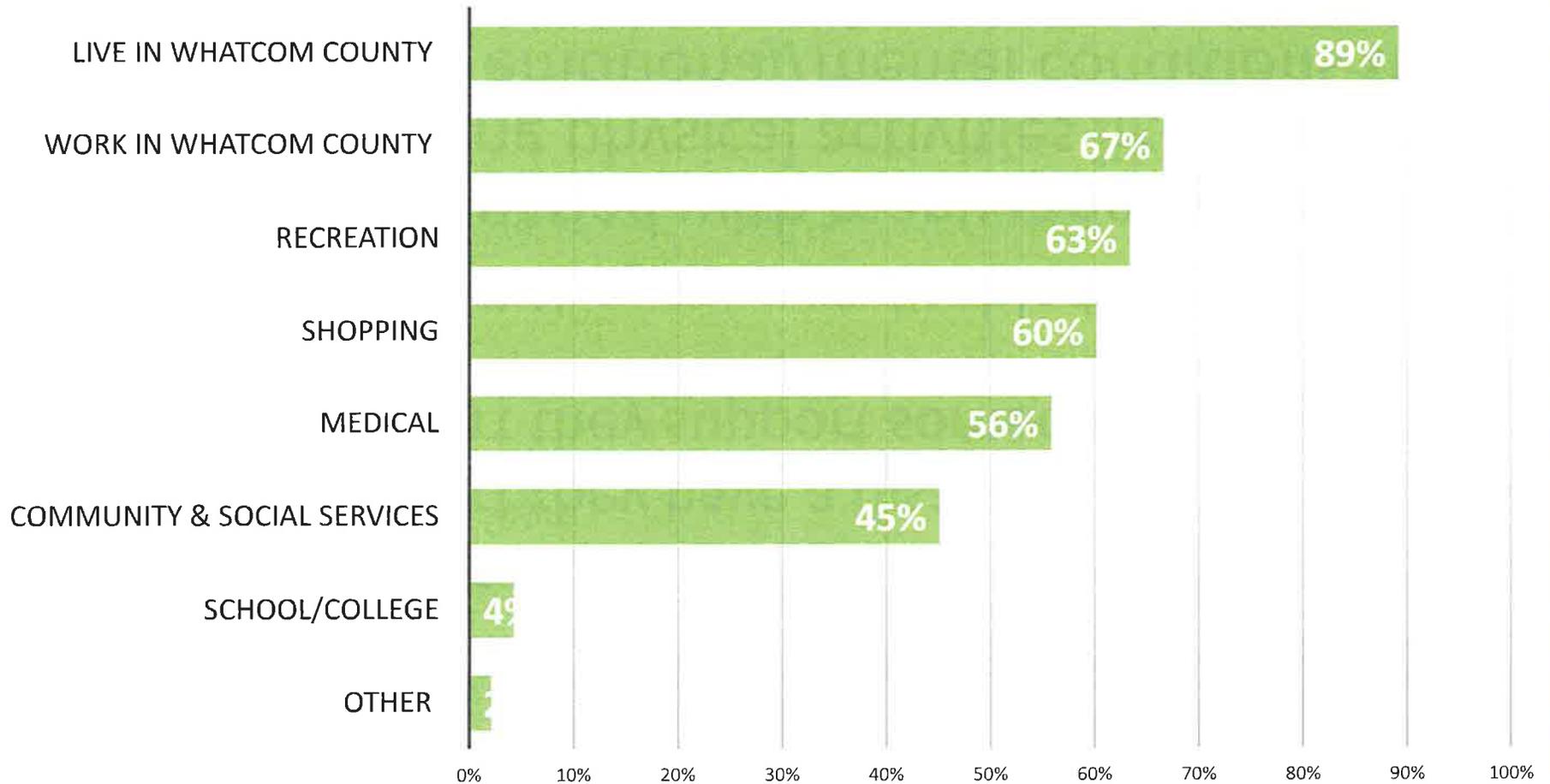
1. Demographics and Respondents

- 93 attempts 9 did not substantially complete
- Most live in Whatcom County
- Many work, recreate, and shop.
- Top three modes are driving/parking, walking and biking

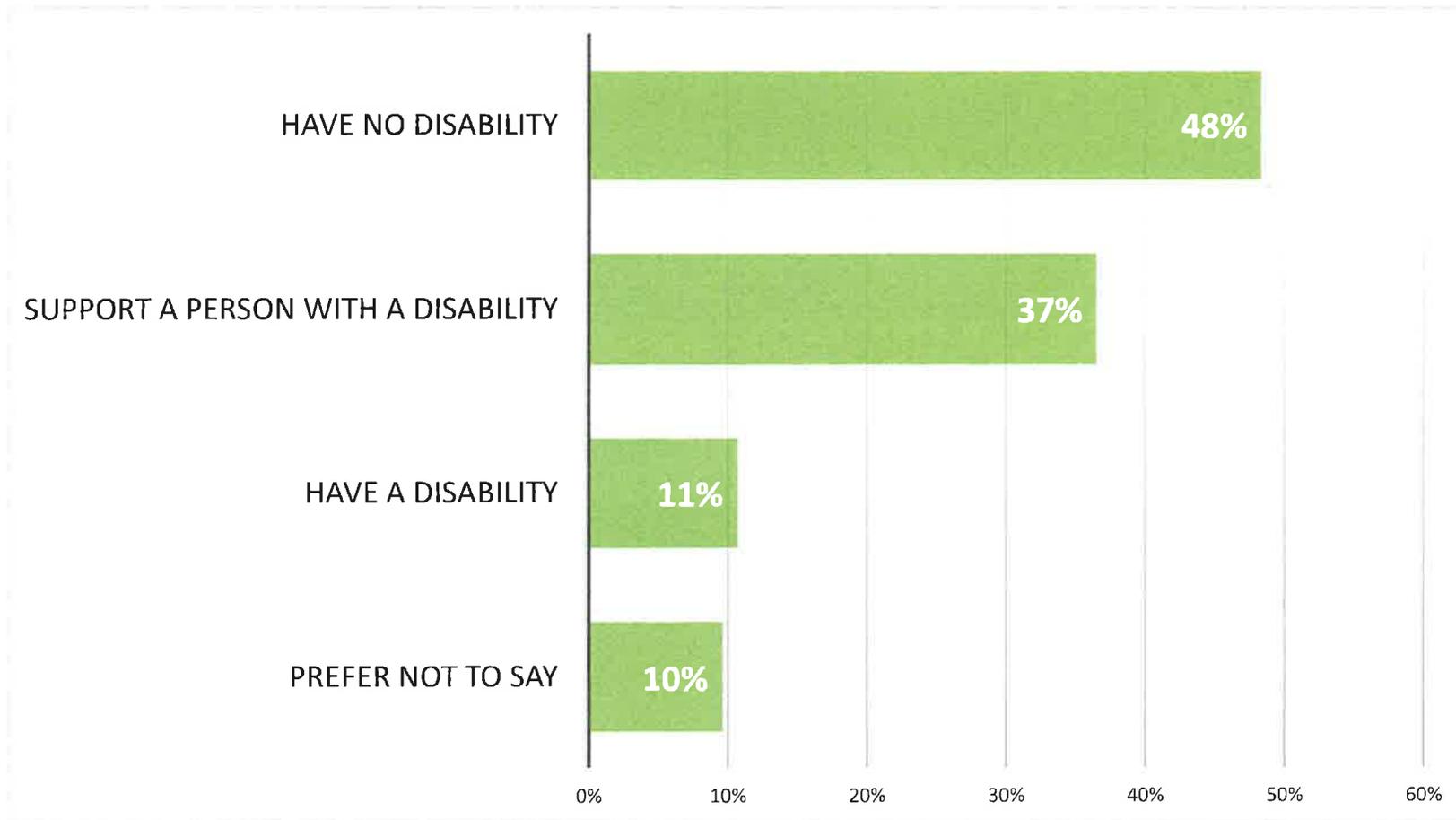
1. Demographics and Respondents

- Majority are 45-54, with most 35 to over 65
- Respondents
 - 10% Report they have a disability
 - 36% Report they support someone with a disability
 - 48% Report they are not disabled
- Disabilities varied with many ranging from those limiting physical activities like climbing, to physical/emotional/mental conditions that limit learning or remembering and using mobility devices and wheelchairs

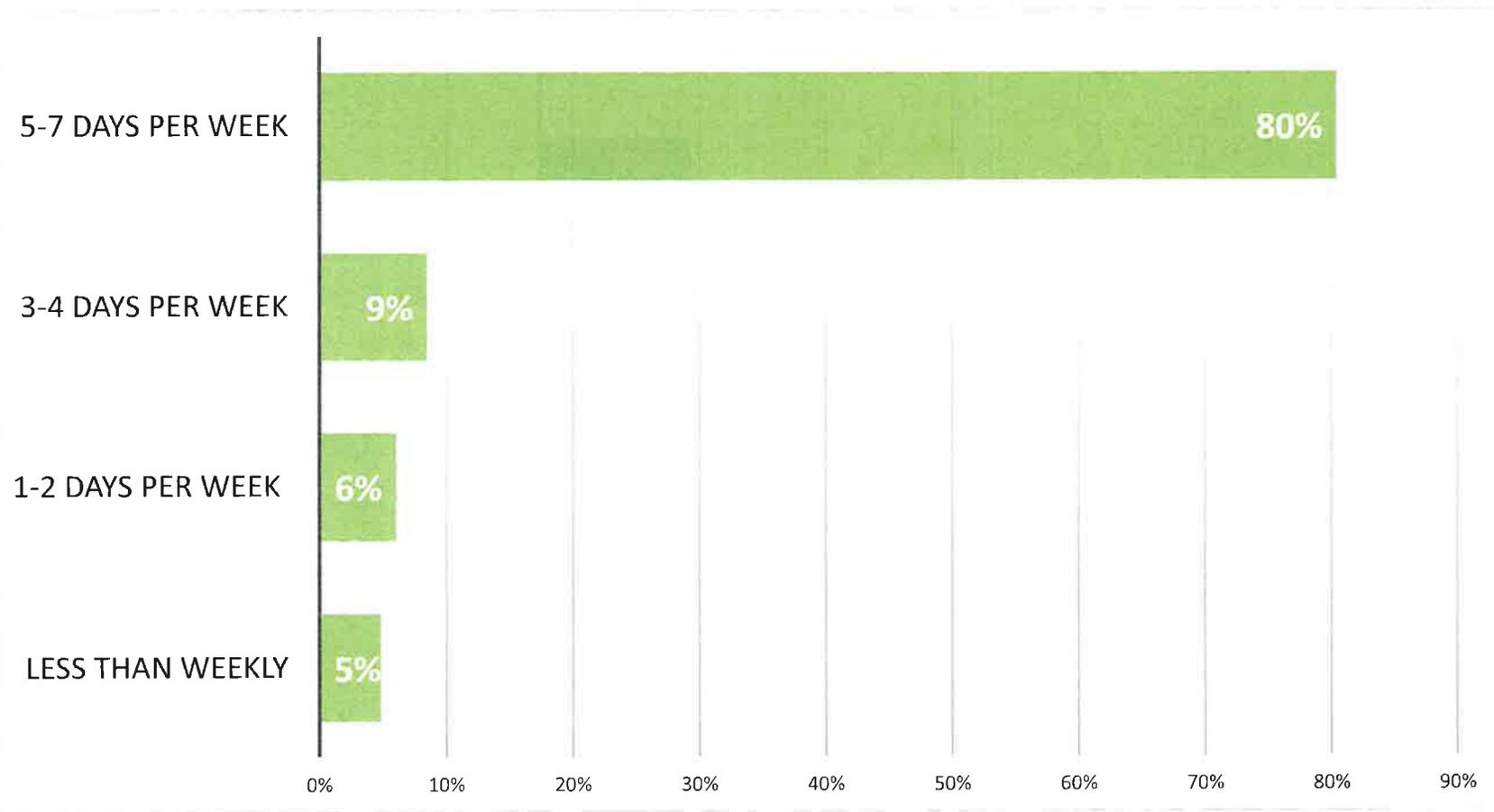
Q1: Why do you travel in Whatcom County? (Choose all that apply)



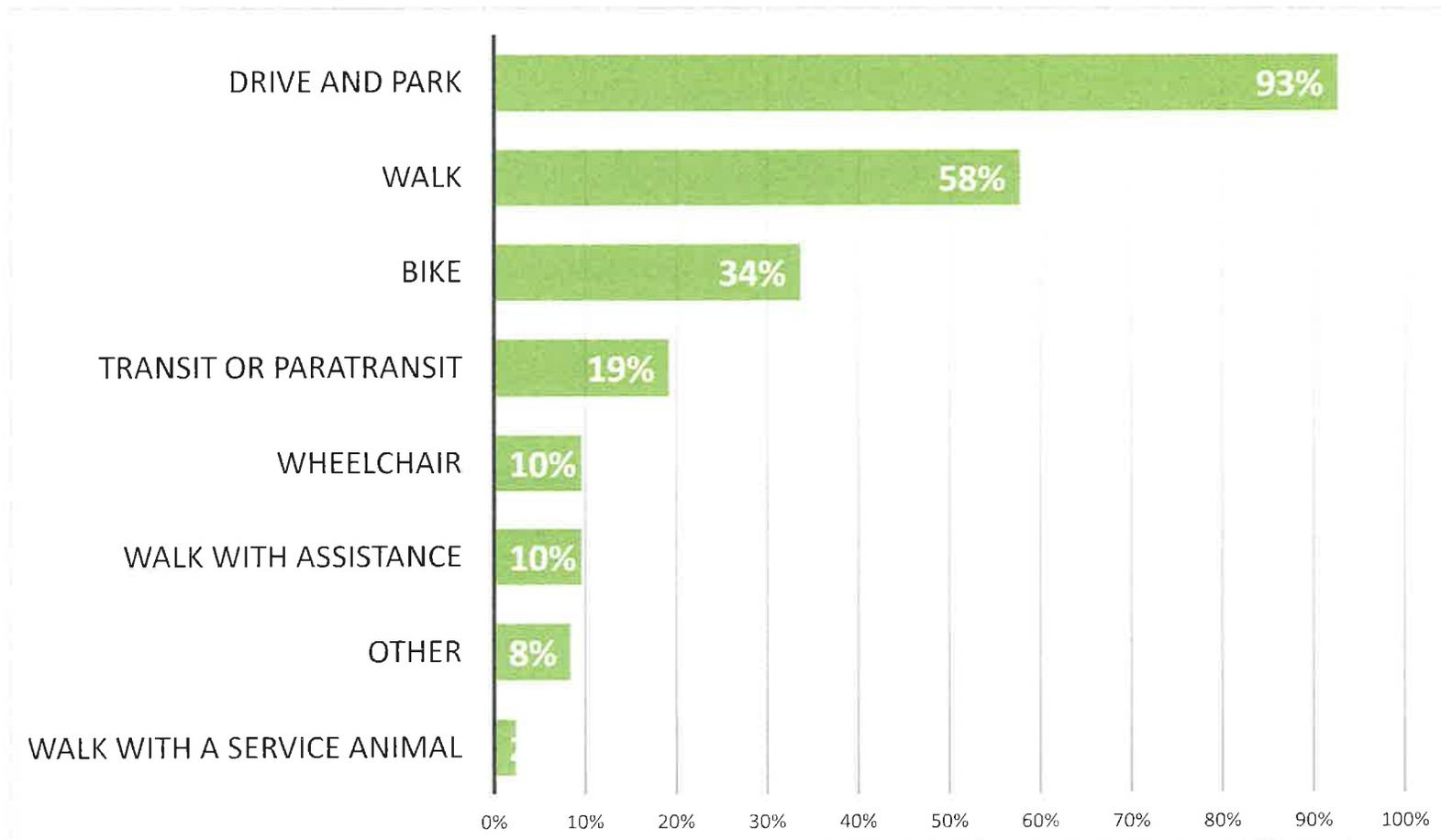
Q2: Please tell us about yourself (Choose all that apply)



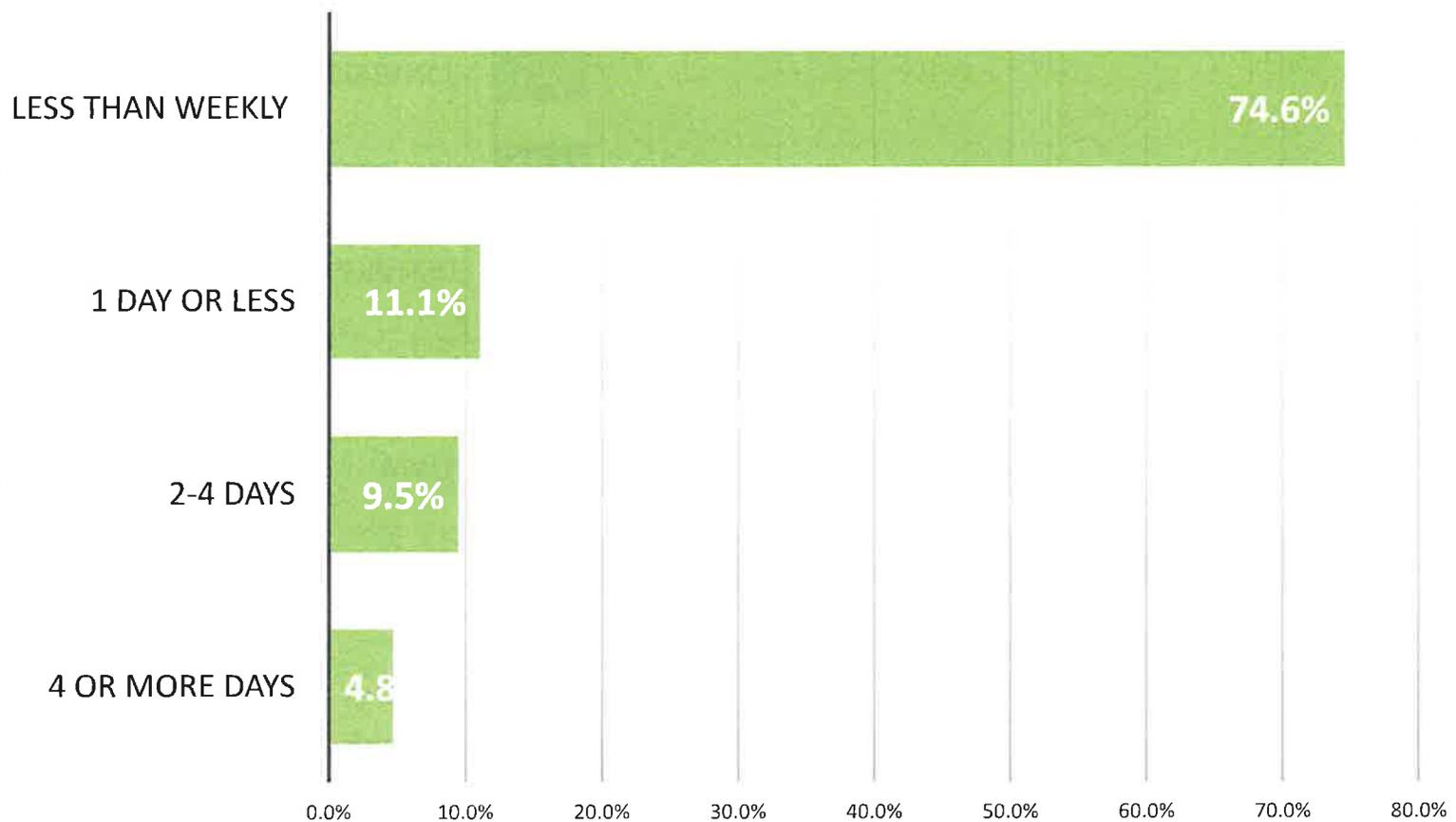
Q6: How often do you travel in Whatcom County (Select one)



Q7: How do you travel within Whatcom County? (Check all that apply)



Q8: If you use transit, how often do you use it in a typical week? (Select one)



2. Issues identified in the survey

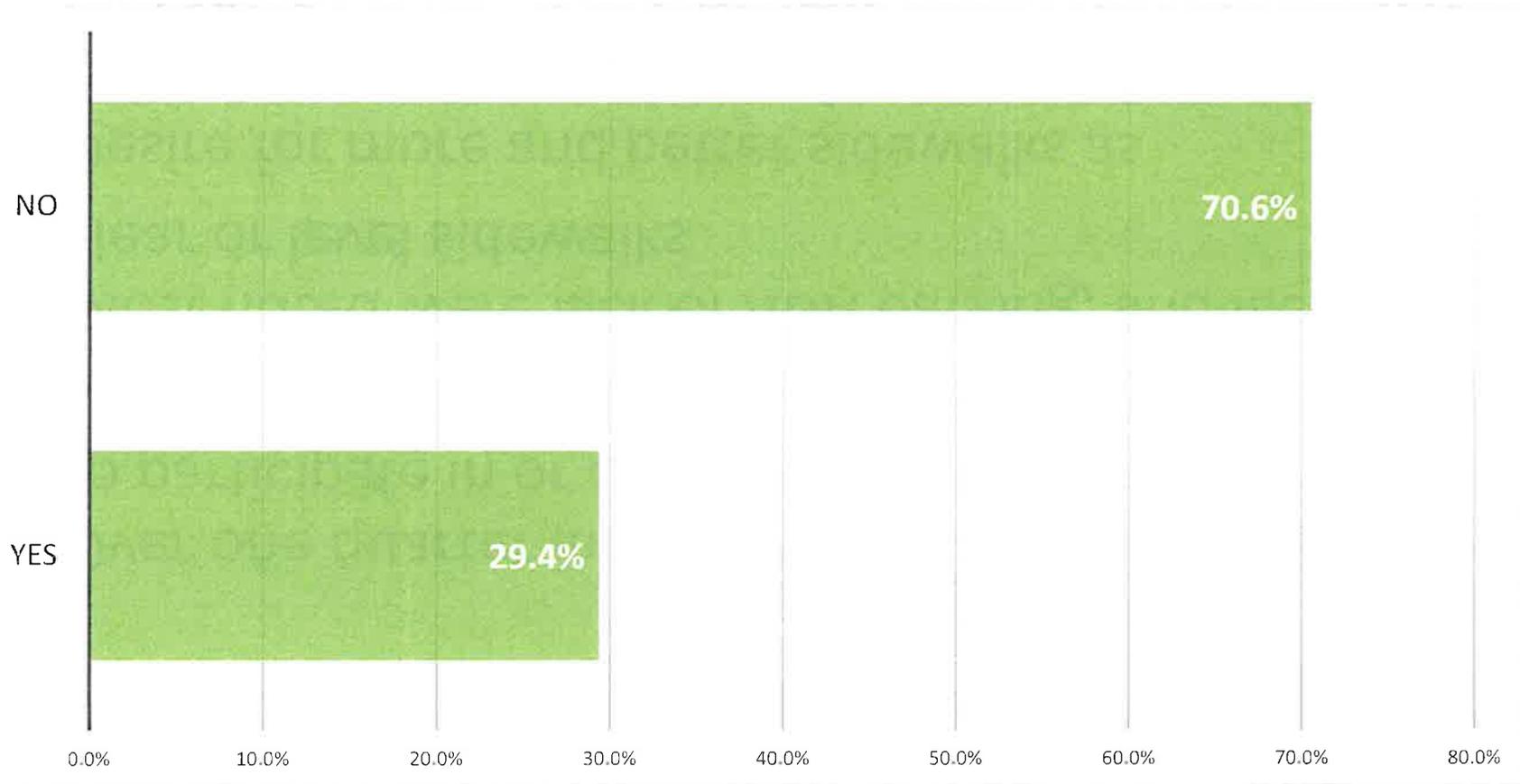
Other reasons people could not participate

- Poor bus service in County or denied access to transit
- No Sidewalk
- Gravel pathways not accessible or path too rough for some mobility devices. Specifically events held on grass or gravel.
- Usually buildings that haven't been updated and only have stairs
- Accessible parking spaces not large enough for a van with wheelchair ramp

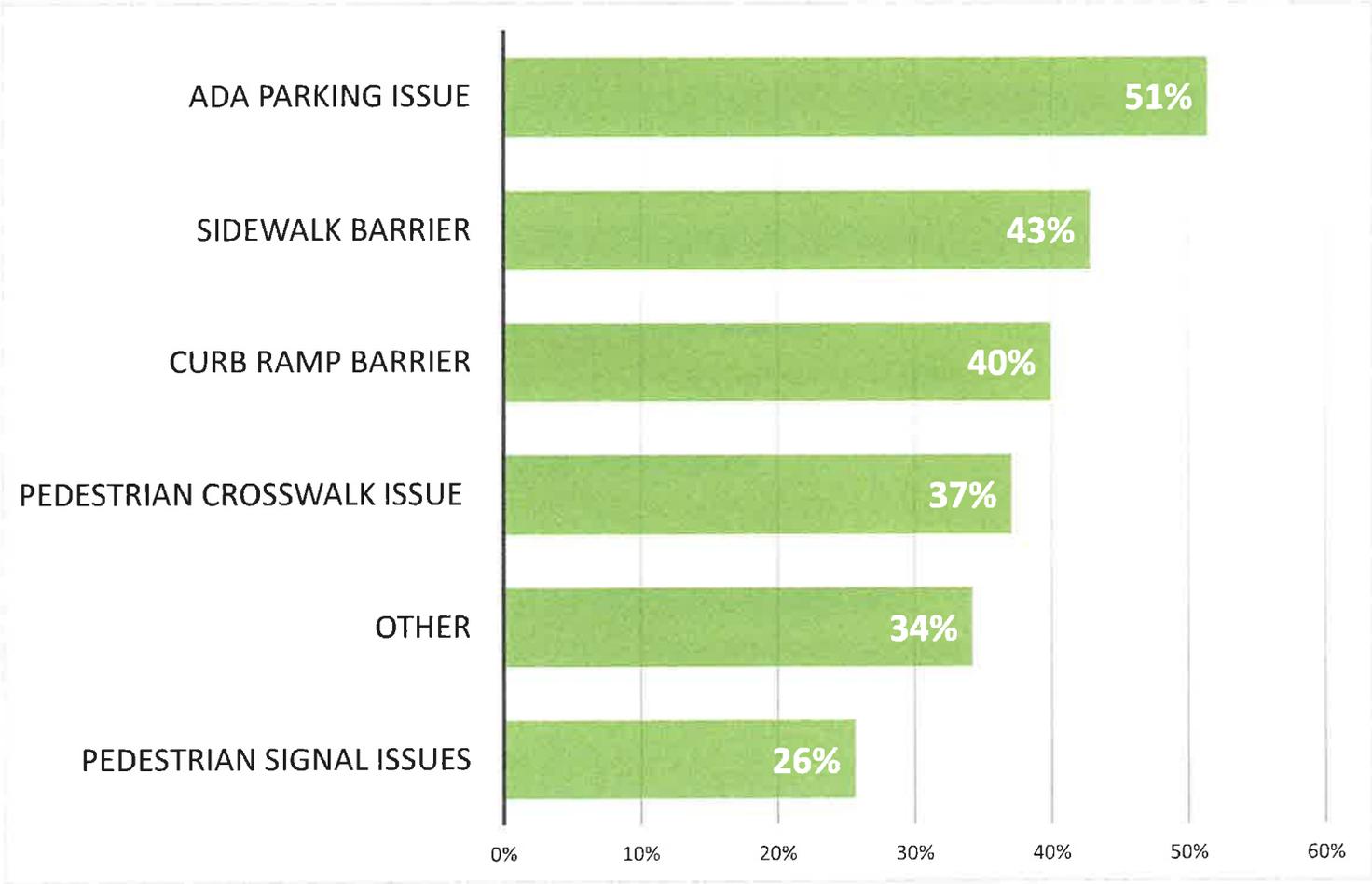
Issues

- Over one quarter indicate they have not been able to participate in or obtain service in Whatcom County
- Most noted were lack of ADA parking, and lack of clear or level sidewalks
- Desire for more and better sidewalks as connections to parks/waterfront, transit and schools

Q9: Are you now or were you ever unable to participate or obtain services in Whatcom County?

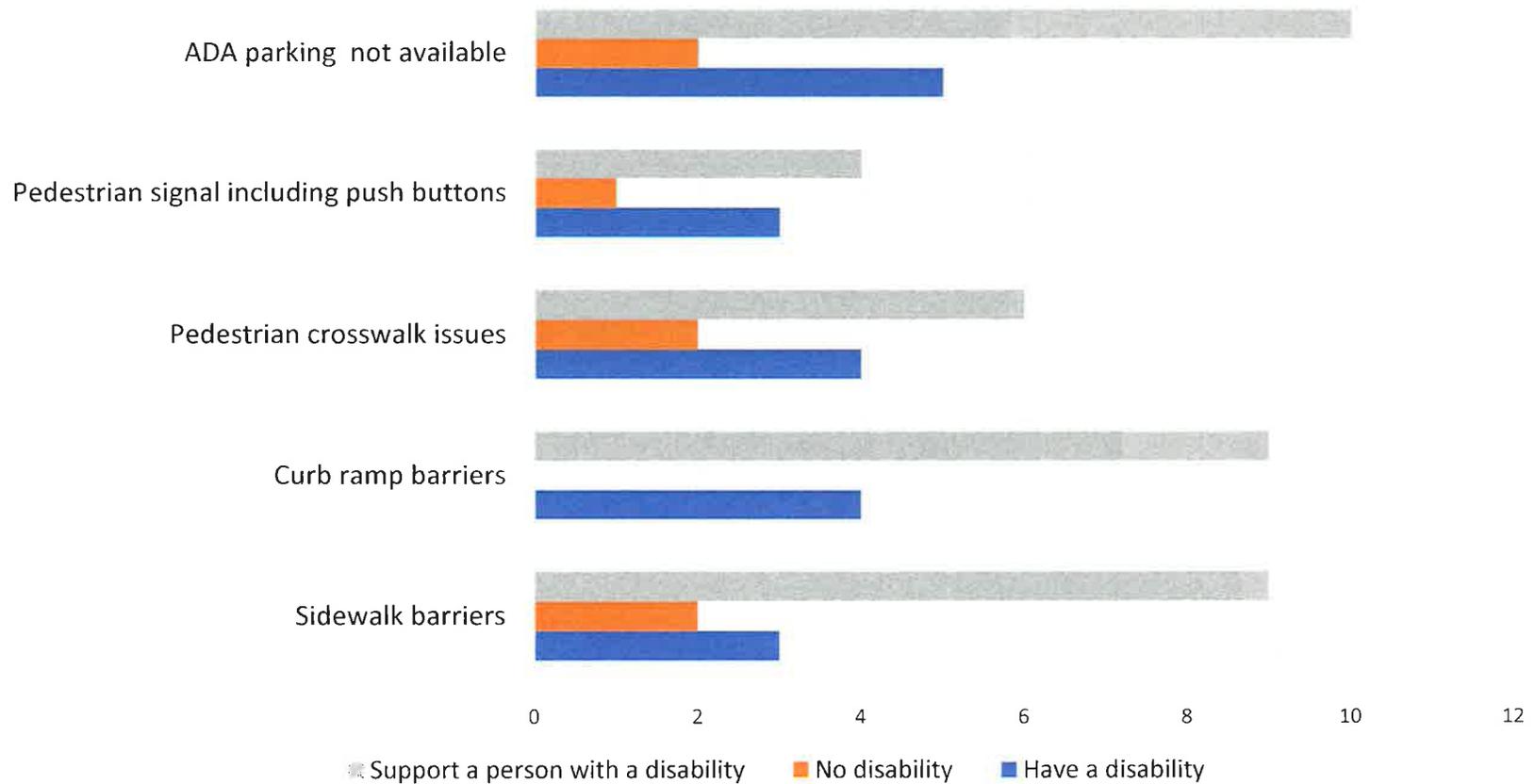


Q11: Which of the following are reasons you could not participate? (Check all that apply)



Contrast - those with disabilities, supporting people with disabilities and without disabilities

Barrier Issues



Questions

- Any surprises
- Concurrence or disagreement

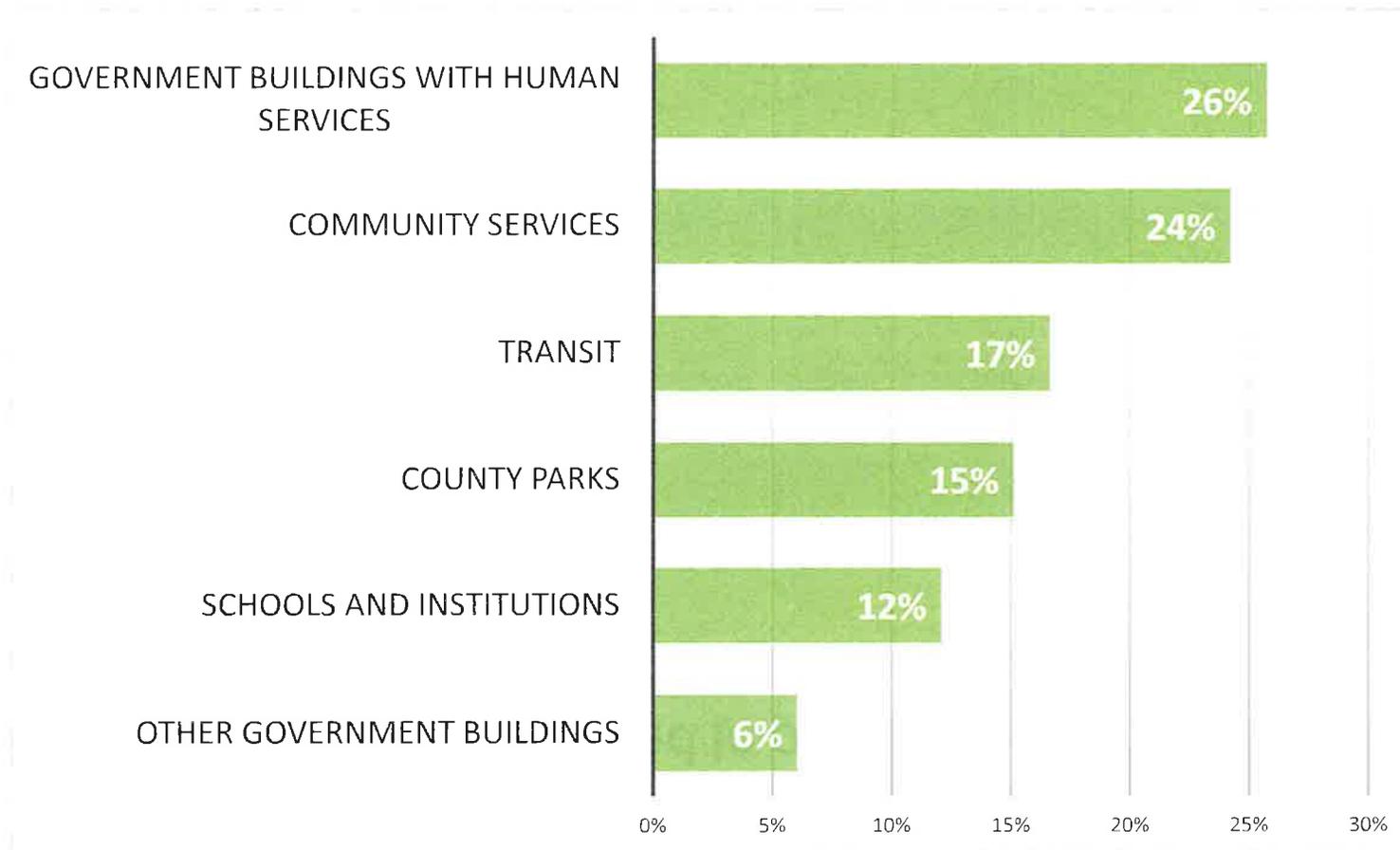
3. Priorities

Priority Destinations and Locations

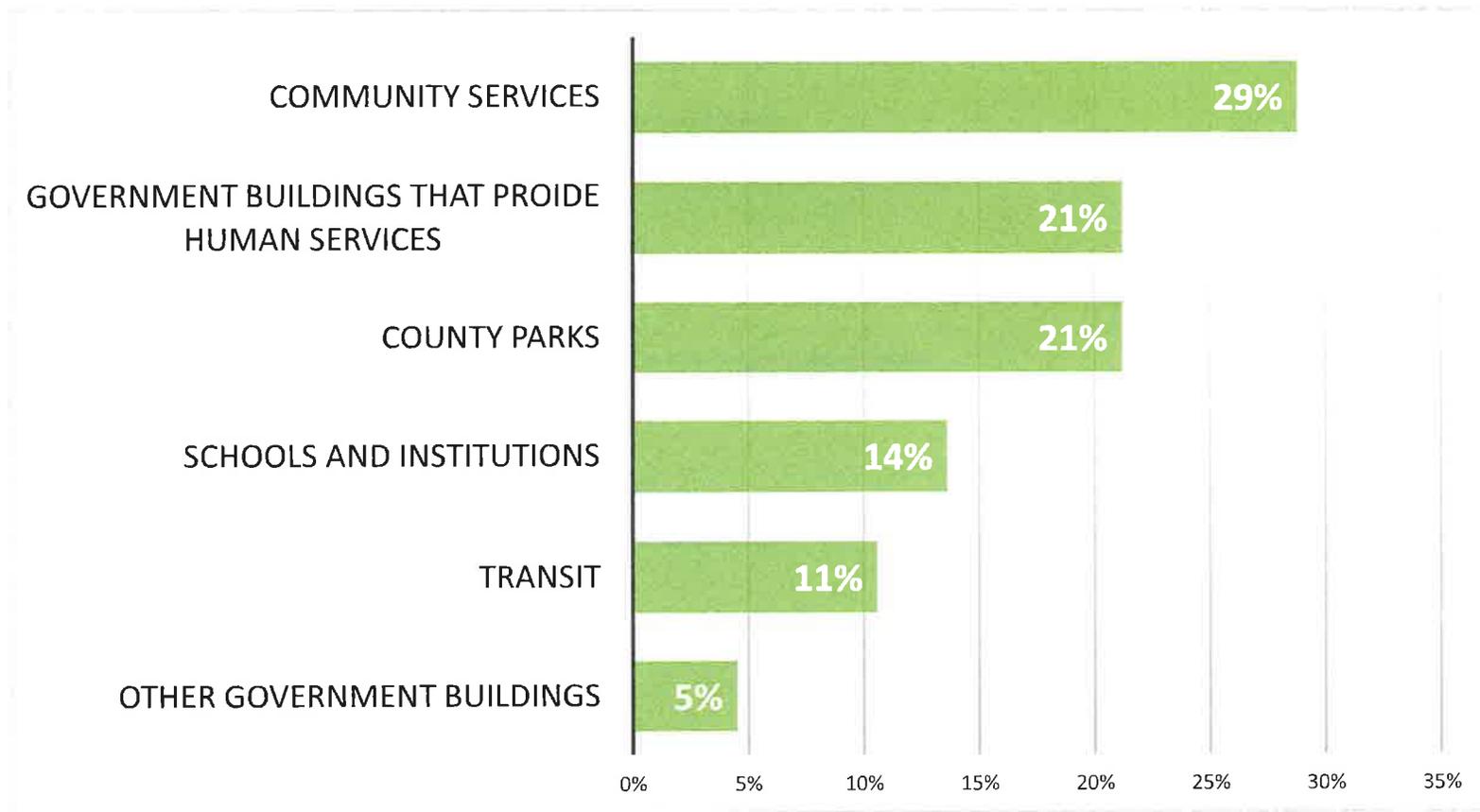
Top destinations were noted in order of preference as:

- Community Services
- Government Buildings
- County Parks
- Transit

Q12: Of the six types of locations below, which one would be your HIGHEST priority? (Select one)

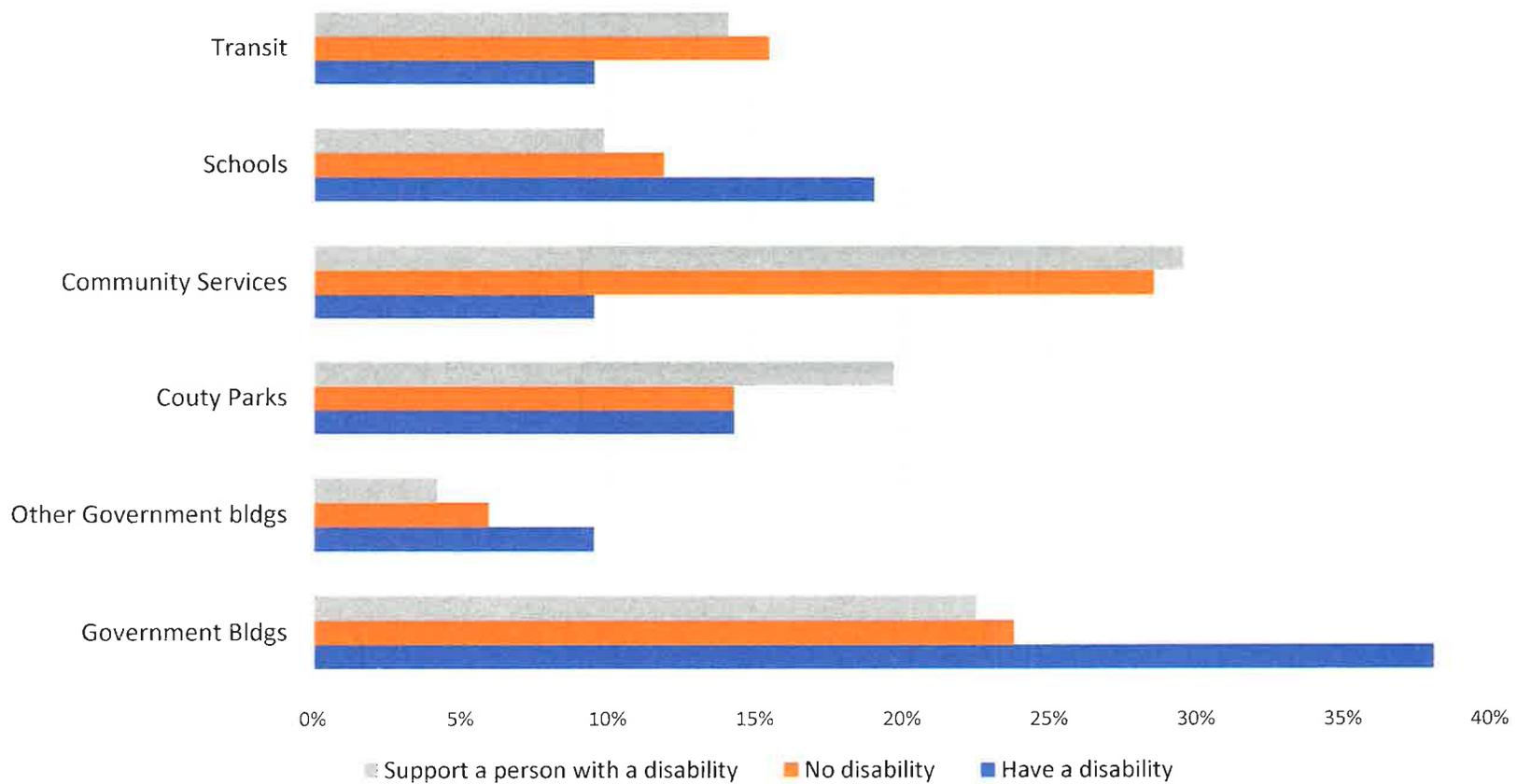


Q13: Of the six types of locations below, which one would be your SECOND highest priority?
(Select one)



Contrast - those with disabilities, supporting people with disabilities and without disabilities

Priorities



Typical issue types

- Sidewalks – Not provided or missing, missing for providing access to parks, schools and other destinations
- Crosswalks – not protected or not provided, pavement is uneven in them, people feel vulnerable to cars. Lack of high contrast markings
- Curb cuts and ramps – not level, not oriented in the right direction, angled or not high enough to improve visibility. Lack of tactile maps
- Pedestrian buttons and traffic signals – walk times are too short. Needed at more locations
- ADA parking – Parking not provided, not adequate or ramps not provide
- Transit – Pathway to transit stop or connecting destinations is not accessible

Questions

- Any questions?
- Are any results surprising
- Let's discuss barriers and priorities in greater depth

ATTACHMENT D – ISSUES IDENTIFIED THROUGH THE SURVEY

Location	Issue	Sidewalks	Curbs	Crosswalk	Signals Pushbuttons	ADA Parking	Transit Stops & Pathways
Health Department	Sidewalks in parking area are horrible.	X					
2410 James St. Bellingham	Handicap parking is not made for ramp access vehicles					X	
Birch-Bay Lynden Rd	sidewalk/ bus line	X					
Boulevard Park	transitioning from the pathway to the bridge the surface is not even making it difficult to get a wheelchair over it.	X					
Columbia neighborhood	sidewalk have overgrowth that inhibits walking	X					
Cornwall	pedestrian walkways not lit, not flashing light for traffic to stop				X		
Ellis and Carolina St	I've watched a woman in wheelchair have to go a different way because there are no curbs down so she can cross.		X	X			
Ferry landing at Gooseberry Point	needs more disabled parking					X	
First and Main Street Ferndale	No button and no way to cross anymore.			X	X		
Gulf Road	Dangerous areas with expansive black top with no designated pedestrian path or clear road entrances.	X		X			
Kendall Elementary	Needs to improve the safety of walking to the library and resource center making it accessible to all						
Kendall Elementary School	No sidewalks or pedestrian walkways	X					
Lake Whatcom Boulevard	No sidewalks/bike path	X					
Main St. at Second Ave, Ferndale Ave	ADA parking					X	

Location	Issue	Sidewalks	Curbs	Crosswalk	Signals Pushbuttons	ADA Parking	Transit Stops & Pathways
Solstice Living Center in Bellingham	Stage is inaccessible for wheelchair						
W. Horton	Guide Meridian						
6896 Guide Meridian Lynden wa 98264	Round about a on the Guide need better pedestrian protection (LIGHTS BLINKING)	X			X		
Any beach in Whatcom County	not accessible by w/c	X					
Bellingham Public Library	When their elevator was broken						
Benson Road and Marine Drive	Needs pedestrian paths that are semi permeable ground away from cars.	X					
courthouse and surrounding area (Bellingham)	lots of county employees cheat the system and park their cars with handicap placards in the public handicap spots					X	
Dodsens IGA,	Dangerous to cross highway where the services are			X	X		
Hovander Park	Difficulty with wheelchairs to access most of the park	X					
Marigold Drive	No sidewalks/bike path	X					
Sudden Valley	Resources are only available by bus one way. To get home the route takes over an hour. You must go into town and back to access gate 9 13 5						X
W. Pole Rd.	sidewalk/ bus line	X					X
Downtown (Bellingham)	Wheelchair accessible areas when it snowed this year all over downtown						
4125 Artic Ave Bellingham WA 98226 Costco	Not enough handicap parking					X	
All playgrounds	No fenced in area for kids with disabilities to play safely with a barrier that prevents them from running						
Many Parks in Whatcom County	not accessible by w/c	X					
Tyee Road also needs pathways away from cars	People walking next to speeding cars. Pathways on other side of ditch would be safer.	X					

ATTACHMENT E – FOCUS GROUP GUIDE

Facilitation Guide

Whatcom County ADA Transition

Focus Group

Tuesday, October 1, 2019 (3:30-5:00PM) 2nd Floor Conference Room - 322 N Commercial Street

Thursday October 3, 2019 (3:30-5:00PM) Whatcom County NW Annex

Purpose and Goals

Gain deeper insight on ADA issues in the Public Right of Way from the public and expand on a discussion of priorities identified in the online survey.

Recruiting Members

County will recruit from survey respondents and potential other interested parties. County will provide accommodations requested including alternative formats, sign language interpreters etc.

Agenda and Welcome

- **Welcome and acknowledge/thank participants and provide brief purpose of meeting– Jim/Dave (5 Minutes)**
- **Ground Rules – Jeanne (5 Minutes)**
- **Introductions – All (10 minutes)**
- **Discussion of the outreach results (via PowerPoint) – Ryan (10 Minutes)**
- **Workshop – Jeanne and all (up to 60 minutes)**
- **In depth discussion of the top barrier issues and perspectives on priorities.**

Purpose of the Focus Group

Today we are going to take a deeper dive with all of you on different aspects of accessibility including different locations and types of issues. We want to ask you more about your experiences to explore specific issues and priorities identified in the online survey and open house.

Ground Rules:

We have planned this focus group to last 90 minutes hours. During this time, we have several questions that we would like to cover. We want everyone to take part in the discussion; however, you do not have to respond to every question. Also, feel free to respond to what others are saying—whether you agree or disagree. If you have been speaking a lot, wait a bit before speaking again to allow others a turn. We are genuinely interested in your experiences with barriers to pedestrian access; therefore, there are no right or wrong answers. If time begins to run short, it may be necessary to interrupt you in order to complete the questions or move to the next discussion.

We will be using some graphical material, mostly charts, in the PPT you received . We will do our best to describe them, but please feel free to ask questions.

We will treat your answers as confidential. We will not ask for personally identifiable information. While we may use names during this discussion, we will replace names in the transcript after our discussion. We also will not include your names or other personally identifiable information in any reports we write. We ask that each of you respect the privacy of everyone in this room and not share or repeat what is said here in any way that could identify anyone in this room.

Restrooms are down the hall on the left. Please feel free to get up from the table at any time as you need to. We can take a break if we need to roughly at the 1-hour mark.

Introductions:

Please take a few minutes to tell us about yourself and why you are here today. What is your interest in this project?

Survey Summary

PowerPoint to show the summary of the top-line survey results, issues and priorities.

About Transition Plans

The Transition Plan addresses potential deficiencies to improve mobility in the public right of way including access issues along sidewalks, curb ramps, signals, and transit stops within and adjacent to public roadways.

A transition plan will be developed after completing the public outreach process and a review of the County's current processes for improving facilities. This plan will outline a strategy for making improvements considering several factors such as the extent of deficiencies, identified needs, proximity to certain facilities, requests and complaints by the community, available budget and a realistic schedule. This focus group will be an in-depth discussion. Please, set up you name tent or raise your hand if you would like us to repeat anything.

Materials

- Power point presentation of the outreach to date (We will read every slide)

We will spend our time considering the types of issues that people have raised and the impact those issues have on accessing facilities that provide public and community services. Specifically, these services include schools and institutions, parks, government buildings that provide access to community service, other government buildings and transit

We should note that there were a relatively small number of respondents with disabilities; however, we did reach people who support those with disabilities. This is why your responses are also important input.

Series 1 –Let’s talk about issues and barriers to access - 15-20 minutes
Facilitator Narrative: First any surprises in the survey? Let’s talk about the issues to barriers that have been raised to date.
Questions: Concerns we have heard about: <ul style="list-style-type: none">• Lack of ADA Parking• Missing or discontinuous sidewalks• Lack of crosswalks or protection from vehicles• Short walk times for crossings• Orientation of curb cuts What other issues and concerns do you experience when accessing these areas?
Additional probing questions for respondents. <i>- Which of these barriers do you experience?</i> <i>- How are they problematic? How often do you experience them and how much does it impact your travel?</i> <i>- Were you surprised at the different perspectives between those with disabilities and those without as far as barriers?</i> <i>- Is this a priority or severity of one or some of these issues as compared to others?</i>
NOTES:

Series 2 –Let’s talk about locations where access is most important 15-20 minutes
<p>Facilitator Narrative: Let’s talk about locations, and specifically services and resources where there may be barriers to access. Notably from the survey, government buildings that provide public services were most noted as priorities for having good access, specifically by those who indicated they have a disability. They also noted schools and institutions.</p>
<p>Questions: Were you surprised at the difference between perspectives for those with disabilities as compared to those supporting people or without disabilities?</p> <ul style="list-style-type: none"> • Notably access to government buildings and schools was higher for those with disabilities while Community Services, County Parks and transit were more critical for those supporting people with disabilities and without disabilities? • What services do you have trouble accessing due to barriers? • Are there specific destinations you have trouble accessing? <p>What other issues and concerns do you experience?</p>
<p>Additional probing questions. - Are there barriers or access issues for riding transit? Where are they? - Which parks, schools, community services and institutions are problems to access?</p>
<p>NOTES:</p>

Series 3—Let's talk about priorities 15-20 minutes

Facilitator Narrative:

Part of our task in developing the ADA transition plan will be to identify what to fix first with limited resources? It is likely our needs will outweigh our resources. Where would you invest?

Questions:

First what types of issues are most important to fix?

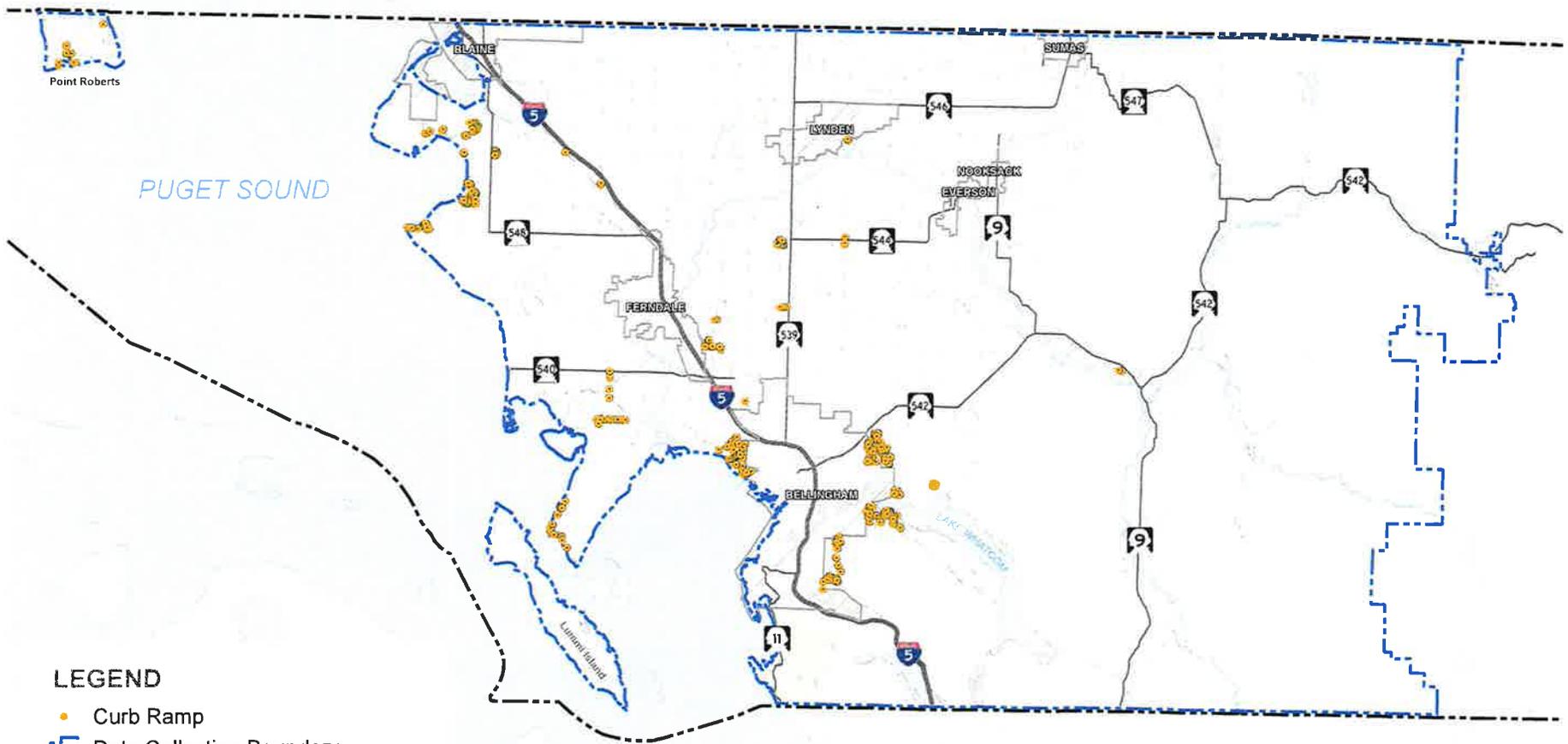
- Completing sidewalks
- Access to parks
- Pathways serving Transit
- Signal Timings, signal improvements and crosswalks

Where should we focus our energy?

- Schools and County Parks
- Transit pathways including sidewalks and crosswalks and curb ramps
- Improvements to make government buildings that provide community services
- Other locations?

NOTES:

Appendix E - GIS Inventory



LEGEND

- Curb Ramp
- ▭ Data Collection Boundary
- ▭ Whatcom County Boundary
- ▭ Incorporated Cities (No Collection)
- ▭ Park or Open Space
- ▭ Water Bodies



Data Collection Inventory (Curb Ramps)

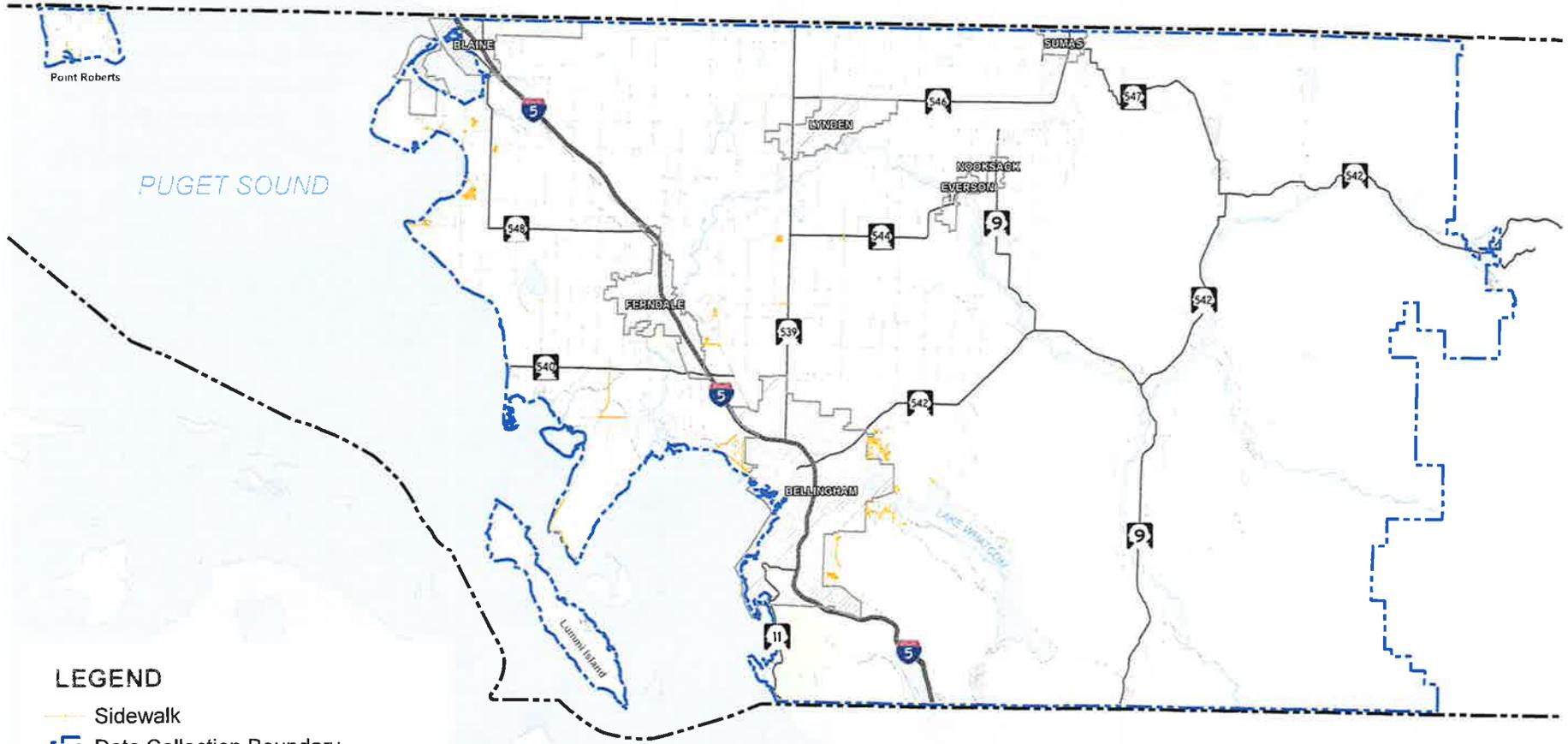
Whatcom County ADA Transition Plan

DRAFT

transpogroup

FIGURE

I-1
321



LEGEND

-  Sidewalk
-  Data Collection Boundary
-  Whatcom County Boundary
-  Incorporated Cities (No Collection)
-  Park or Open Space
-  Water Bodies



Data Collection Inventory (Sidewalk)

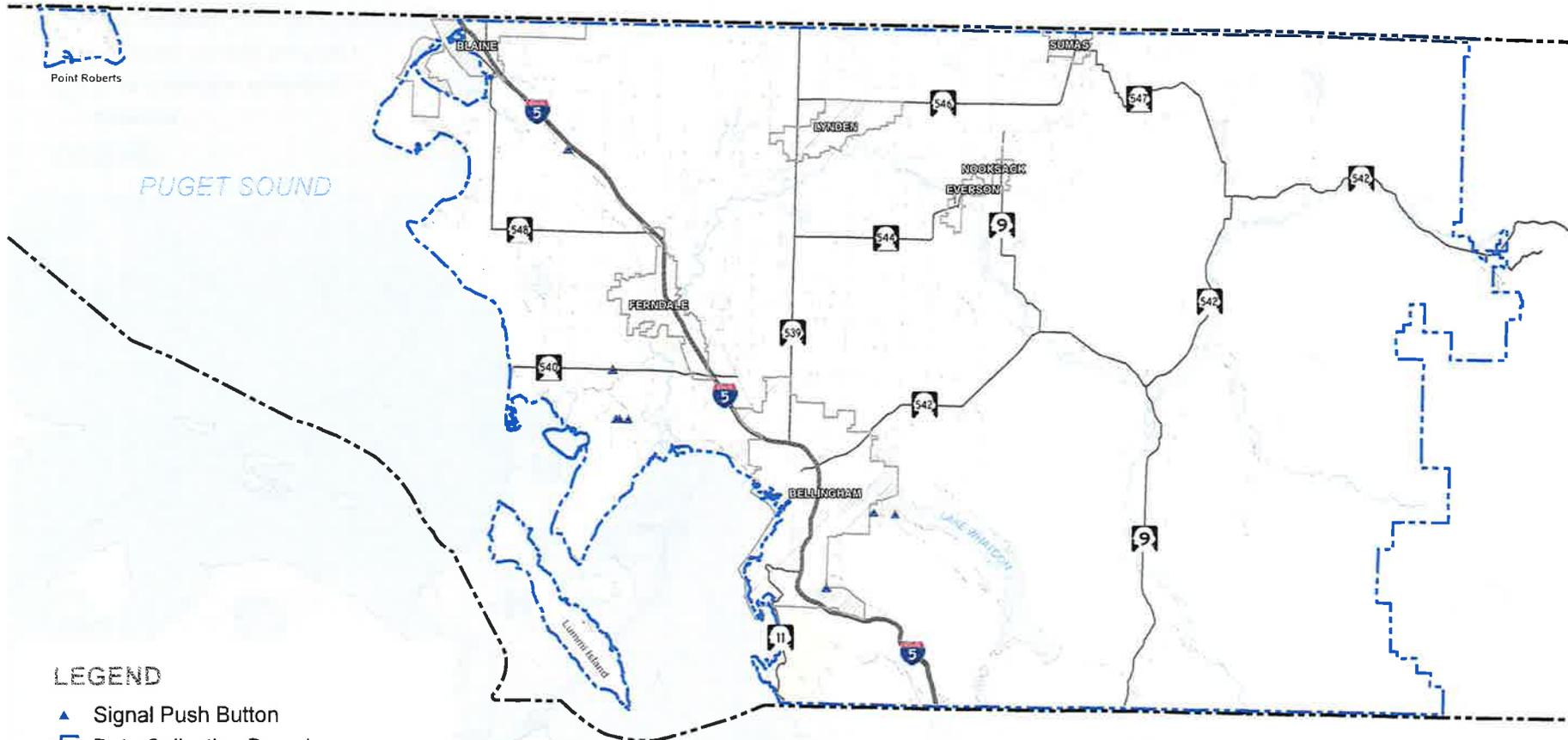
Whatcom County ADA Transition Plan

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FIGURE

I-2



LEGEND

-  Signal Push Button
-  Data Collection Boundary
-  Whatcom County Boundary
-  Incorporated Cities (No Collection)
-  Park or Open Space
-  Water Bodies



Data Collection Inventory (Signal Push Buttons)

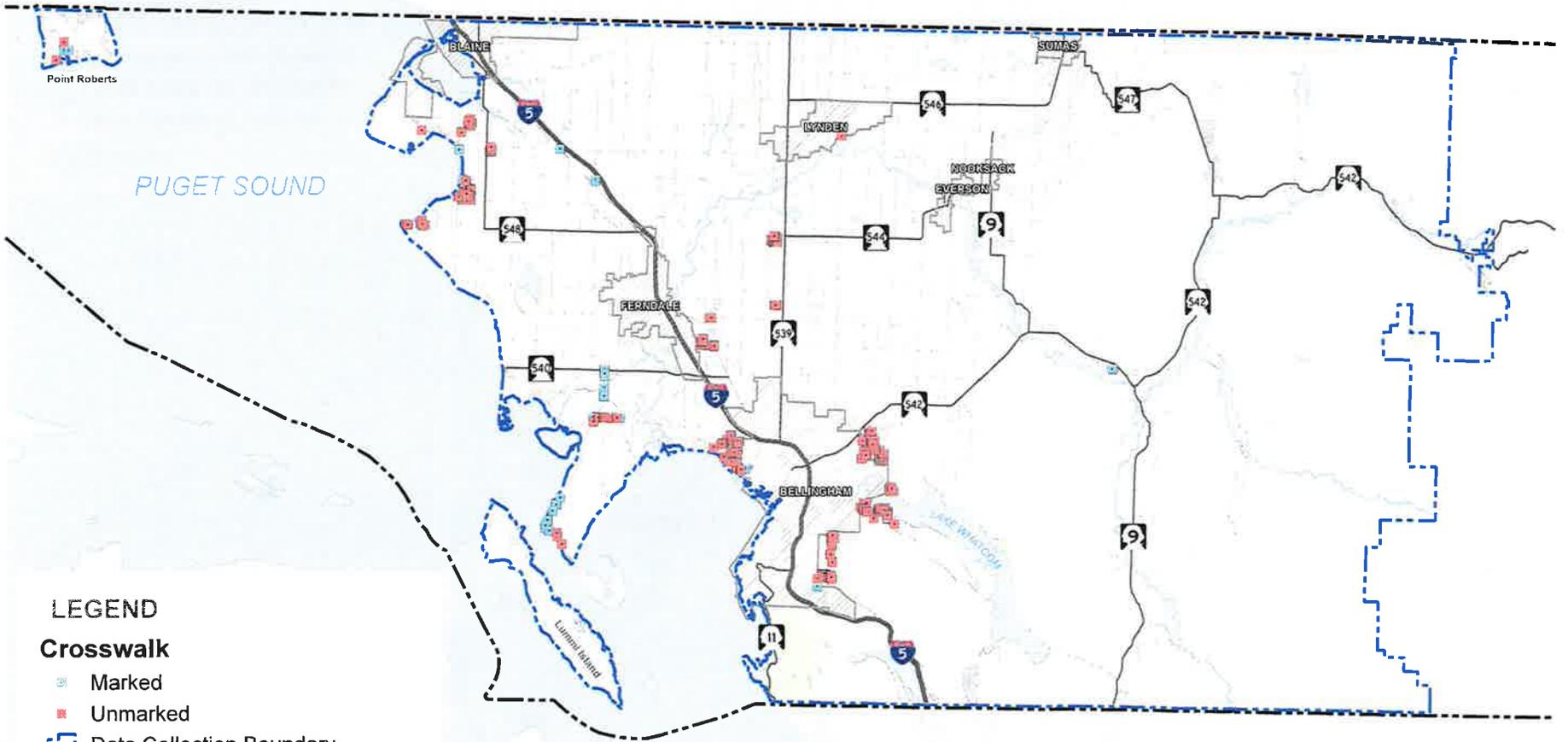
Whatcom County ADA Transition Plan

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FIGURE

I-3
323



LEGEND

Crosswalk

-  Marked
-  Unmarked
-  Data Collection Boundary
-  Whatcom County Boundary
-  Incorporated Cities (No Collection)
-  Park or Open Space
-  Water Bodies



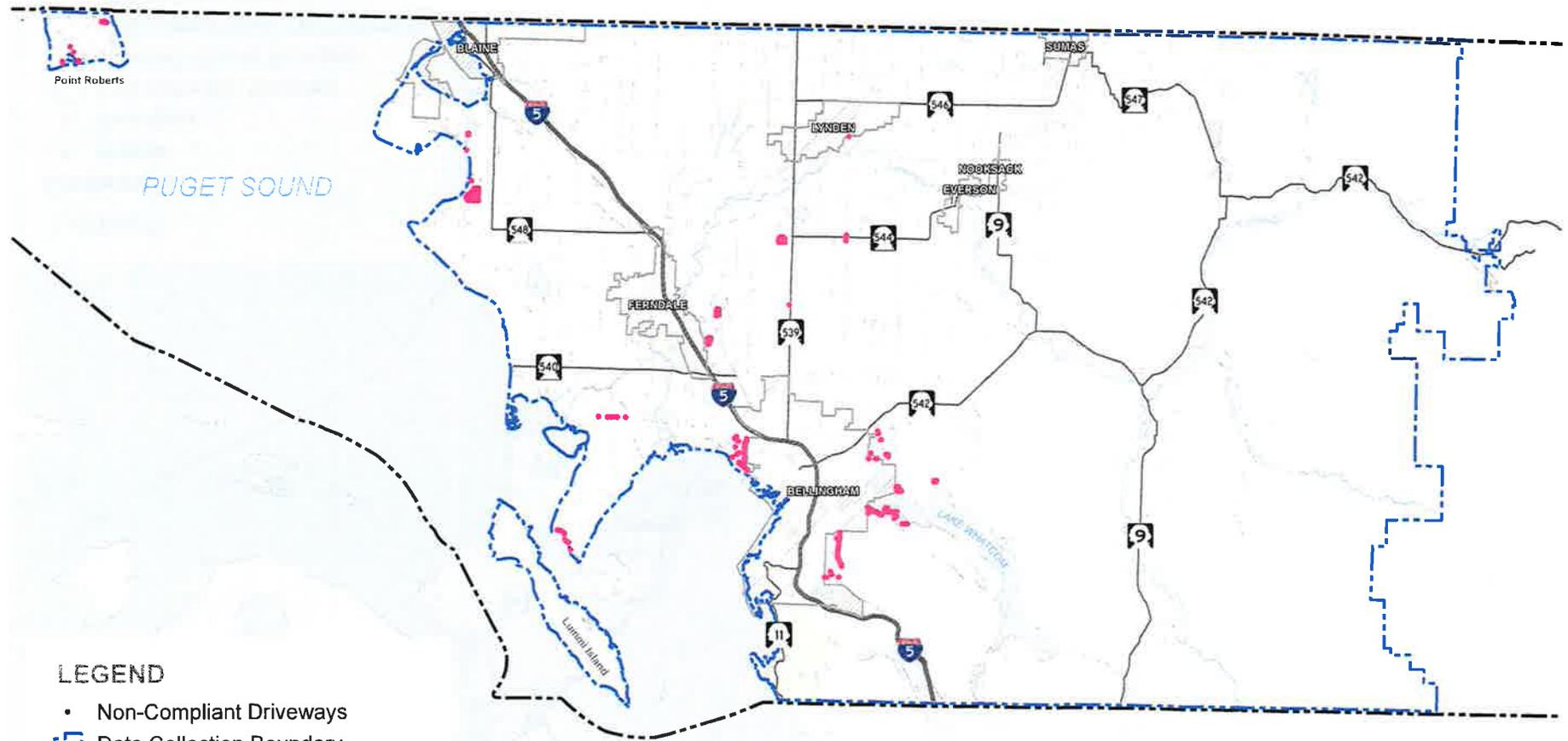
Data Collection Inventory (Crosswalk)

Whatcom County ADA Transition Plan

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FIGURE
I-4



LEGEND

- Non-Compliant Driveways
-  Data Collection Boundary
-  Whatcom County Boundary
-  Incorporated Cities (No Collection)
-  Park or Open Space
-  Water Bodies



Data Collection Inventory (Non-Compliant Driveways)

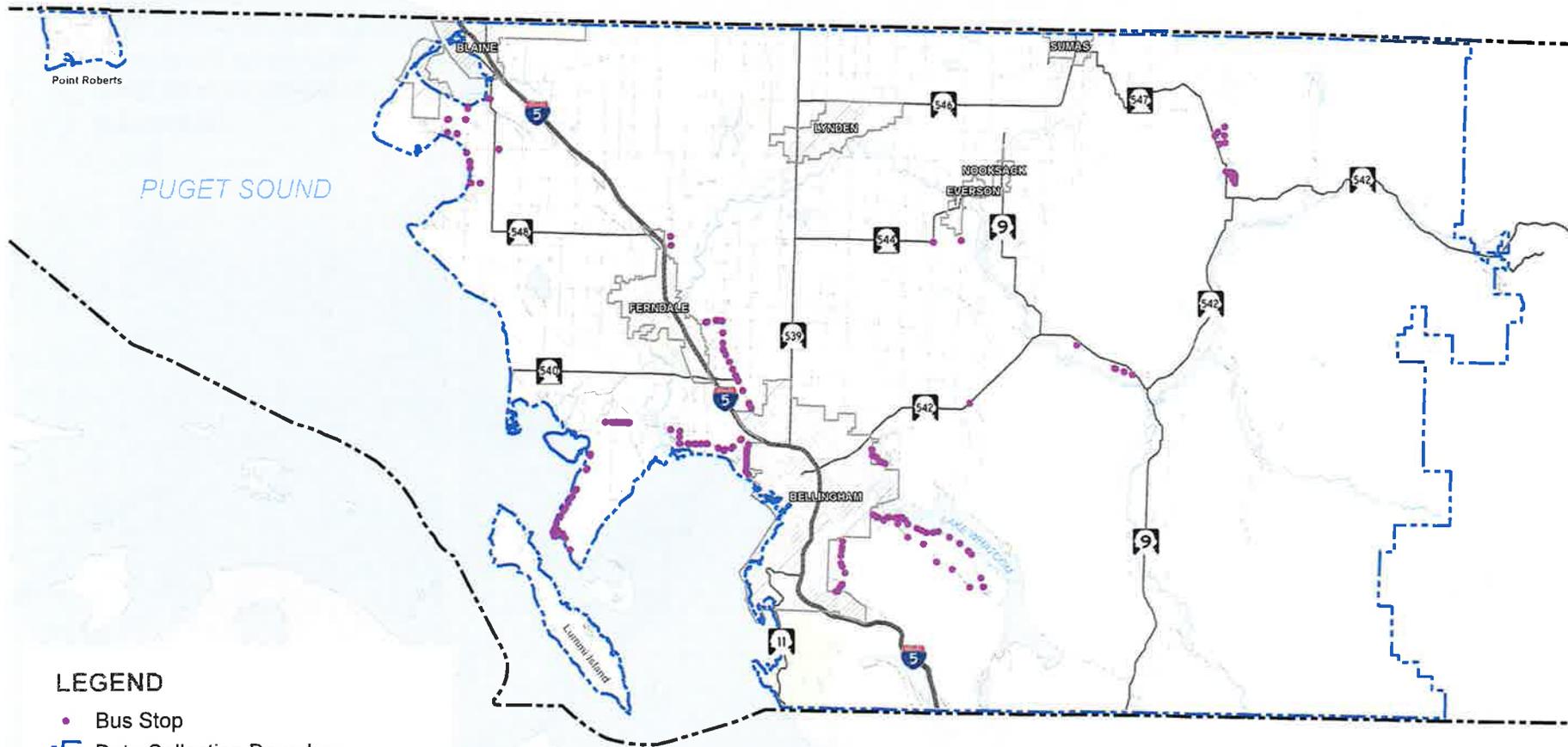
Whatcom County ADA Transition Plan

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FIGURE

I-5
325



LEGEND

- Bus Stop
- ▭ Data Collection Boundary
- ▭ Whatcom County Boundary
- ▭ Incorporated Cities (No Collection)
- ▭ Park or Open Space
- ▭ Water Bodies



Data Collection Inventory (Bus Stop)

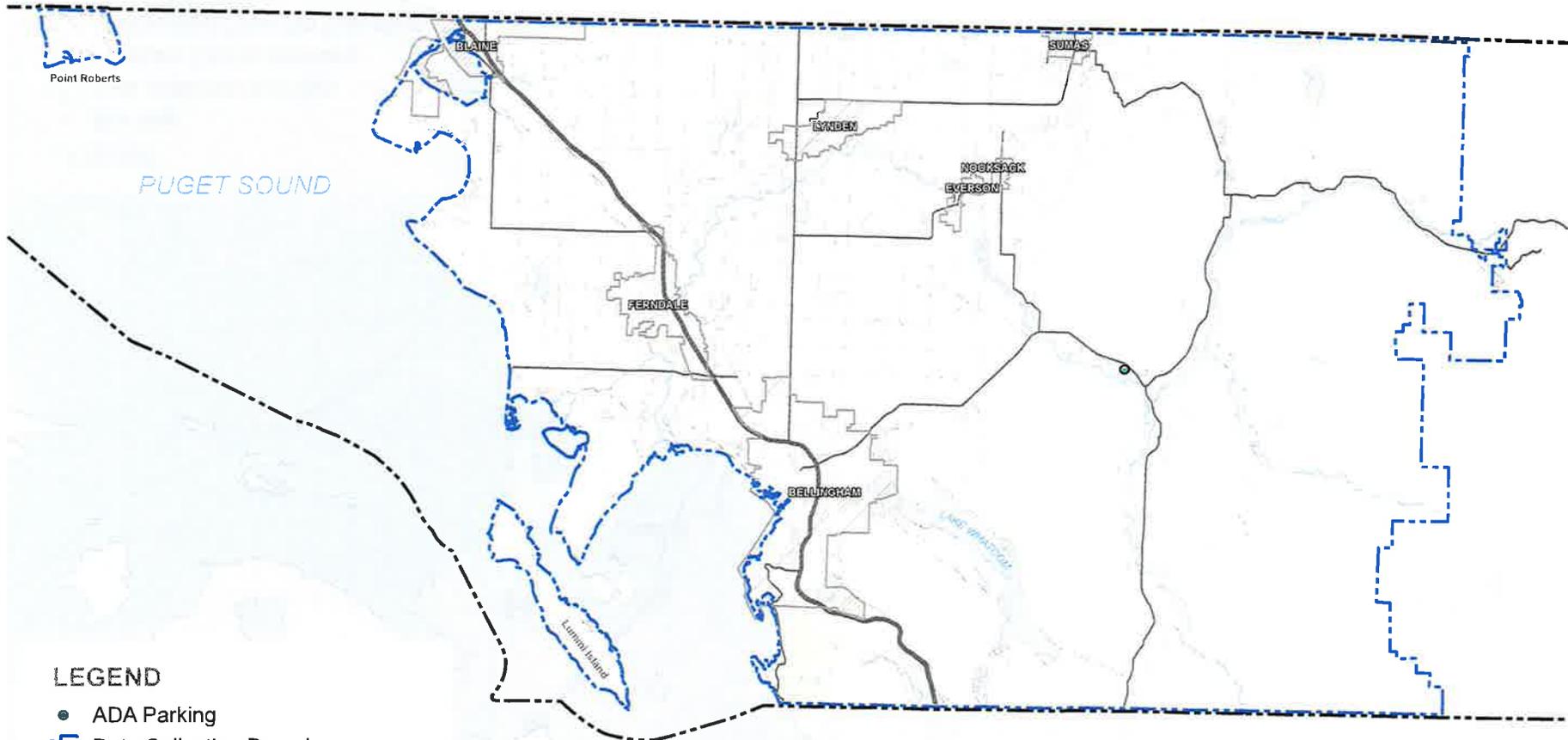
Whatcom County ADA Transition Plan

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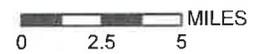
FIGURE

I-6



LEGEND

- ADA Parking
- ▭ Data Collection Boundary
- - - Whatcom County Boundary
- ▭ Incorporated Cities (No Collection)
- ▭ Park or Open Space
- ▭ Water Bodies



Data Collection Inventory (Parking)

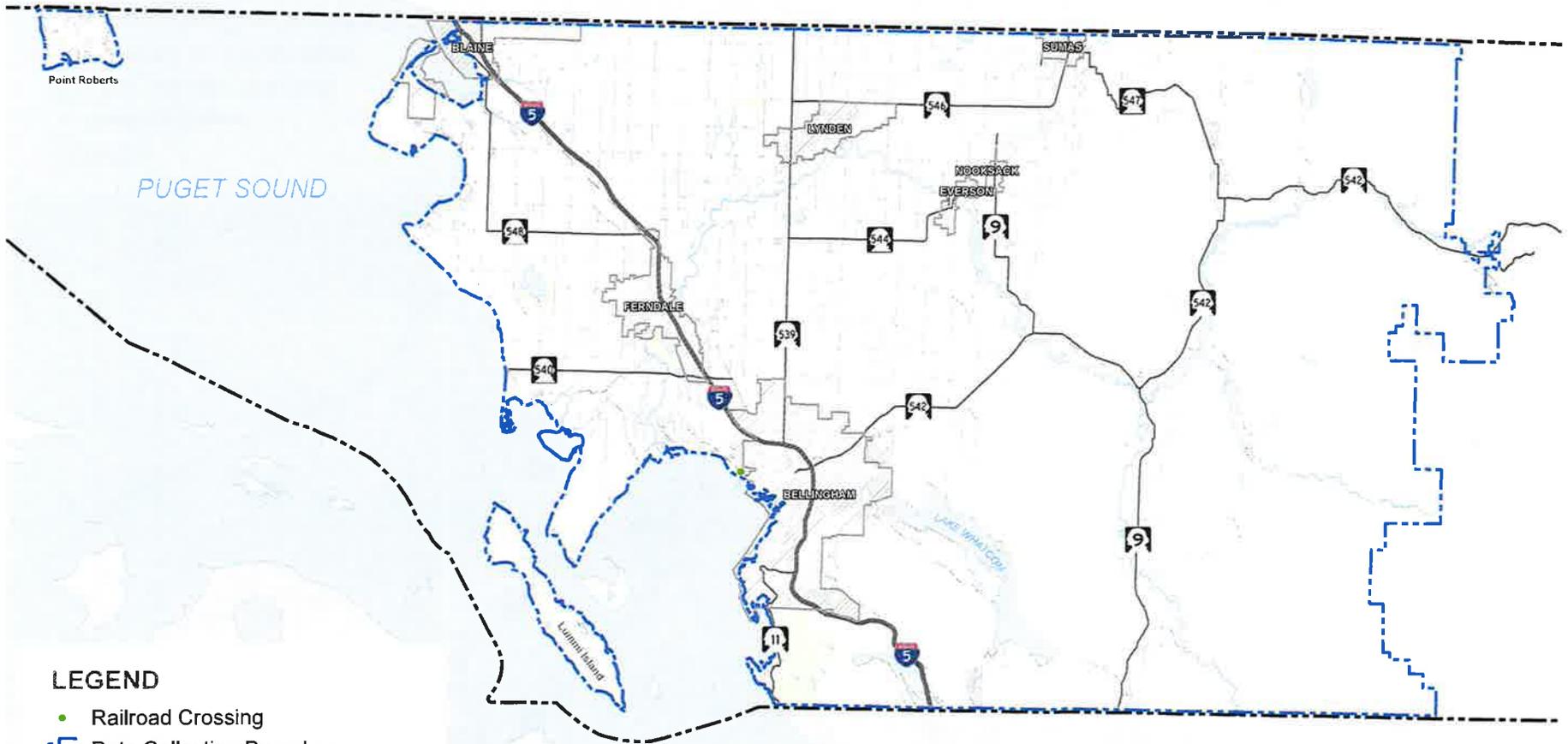
Whatcom County ADA Transition Plan

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FIGURE

I-7
327



LEGEND

- Railroad Crossing
- ▭ Data Collection Boundary
- ▭ Whatcom County Boundary
- ▭ Incorporated Cities (No Collection)
- ▭ Park or Open Space
- ▭ Water Bodies



Data Collection Inventory (Railroad Crossing)

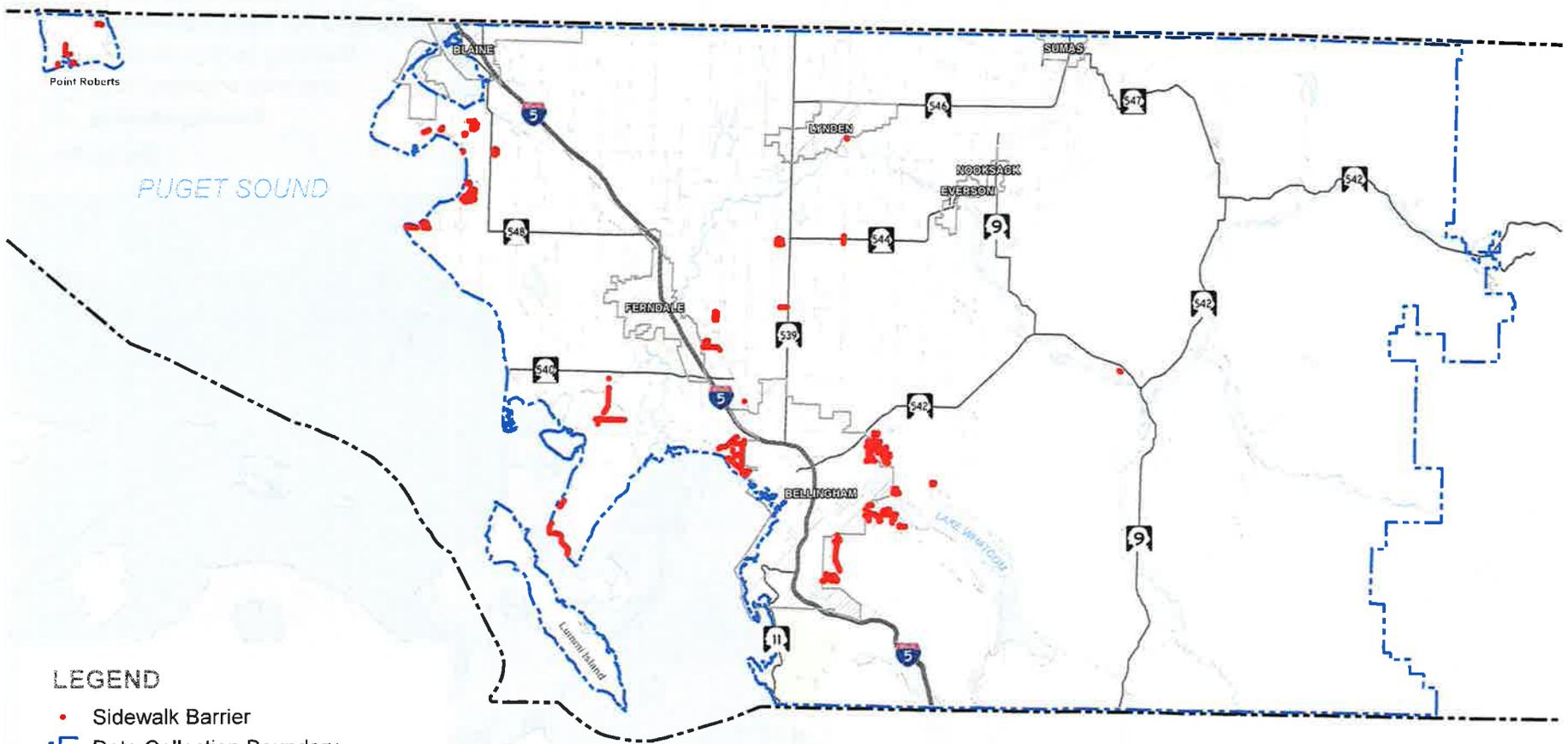
Whatcom County ADA Transition Plan

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FIGURE

I-8



LEGEND

- Sidewalk Barrier
- ▭ Data Collection Boundary
- ▭ Whatcom County Boundary
- ▭ Incorporated Cities (No Collection)
- ▭ Park or Open Space
- ▭ Water Bodies



Data Collection Inventory (Sidewalk Barriers)

Whatcom County ADA Transition Plan

DRAFT



FIGURE

I-9

329

Appendix F - Cost Estimate Backup



Engineer's Opinion of Probable Cost of Outdoor Features in the ROW and On-site features measured by Transpo Group
 PROJECT NAME: Sammamish ADA Transition Plan
 JOB NUMBER: 1.19049.00
 PREPARED BY: RDM

Cost by Priority - ROW

Feature	Priority (Quantity)									Cost				
	Low 1-15 (Driveways and Hazards) 0-500	% Low	Medium 16-30 (Driveways and Hazards) 0-200	% Medium	High 31-45 (Driveways and Hazards) 21-300	% High	Very High 46-60 (Driveways and Hazards) 0-100	% Very High	Total	Low 1-15 (Driveways and Hazards) 0-100	Medium 16-30 (Driveways and Hazards) 11-200	High 31-45 (Driveways and Hazards) 21-300	Very High 46-60 (Driveways and Hazards) 11-100	Total
Sidewalks (5Y)	40,693	30%	77,580	58%	16,199	12%	26	0%	134,498	\$ 5,959,951	\$ 11,362,456	\$ 2,866,724	\$ 3,870	\$ 19,693,000
Driveways	830	83%	161	16%	4	0%	0	0%	995	\$ 2,407,477	\$ 456,981	\$ 11,602	\$ -	\$ 2,866,000
Non-compliant horizontal discontinuity	1	8%	8	67%	2	17%	1	8%	12	\$ 50	\$ 400	\$ 100	\$ 50	\$ 600
Fixed Obstacles	2	11%	20	56%	4	21%	2	11%	18	\$ 6,000	\$ 30,000	\$ 12,000	\$ 6,000	\$ 54,000
Moveable Obstacles	15	12%	81	63%	31	24%	2	2%	129	\$ 3,023	\$ 16,326	\$ 6,248	\$ 403	\$ 26,000
Protruding Obstacles	23	11%	136	63%	52	24%	5	2%	216	\$ 11,500	\$ 68,000	\$ 26,000	\$ 2,500	\$ 108,500
Curb Ramps	68	6%	209	20%	679	64%	108	10%	1,064	\$ 401,034	\$ 1,232,589	\$ 4,004,441	\$ 636,936	\$ 6,275,000
Pushbuttons	8	2%	54	28%	111	57%	26	13%	199	\$ 1,908	\$ 25,754	\$ 52,938	\$ 12,400	\$ 83,000
Bus Stops	25	25%	25	25%	25	25%	25	25%	100	\$ 4,500	\$ 4,500	\$ 4,500	\$ 4,500	\$ 18,000
Parking Stalls		0%	1	50%	1	50%		0%	2	\$ -	\$ 2,000	\$ 2,000	\$ -	\$ 4,000
Average		18.88%		44.42%		39.32%		7.18%						

	Low 1-15 (Driveways and Hazards) 0-500	Medium 16-30 (Driveways and Hazards) 11-200	High 31-45 (Driveways and Hazards) 21-300	Very High 46-60 (Driveways and Hazards) 11-100	Total
Total	\$ 8,795,000	\$ 11,209,000	\$ 6,487,000	\$ 667,000	\$ 26,158,000
Contingency @ 10%	\$ 1,759,000	\$ 2,242,000	\$ 1,298,000	\$ 134,000	\$ 5,433,000
Design @ 12%	\$ 1,056,000	\$ 1,586,000	\$ 779,000	\$ 81,000	\$ 3,499,000
Mobilization @ 8%	\$ 704,000	\$ 1,057,000	\$ 519,000	\$ 54,000	\$ 2,333,000
TESC + Traffic Control @ 12%	\$ 1,056,000	\$ 1,586,000	\$ 779,000	\$ 81,000	\$ 3,499,000
Construction Management @ 20%	\$ 1,759,000	\$ 2,642,000	\$ 1,298,000	\$ 134,000	\$ 5,833,000
Grand Total	\$ 15,129,000	\$ 22,722,000	\$ 11,160,000	\$ 1,151,000	\$ 50,162,000



Whatcom County

COUNTY COURTHOUSE
311 Grand Avenue, Ste #105
Bellingham, WA 98225-4038
(360) 778-5010

Agenda Bill Master Report

File Number: **AB2021-245**

File ID:	AB2021-245	Version:	1	Status:	Introduced for Public Hearing
File Created:	04/08/2021	Entered by:	SMildner@co.whatcom.wa.us		
Department:	County Executive's Office	File Type:	Resolution Requiring a Public Hearing		
Assigned to:	Council	Final Action:			
Agenda Date:	05/04/2021	Enactment #:			

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

TITLE FOR AGENDA ITEM:

Resolution supporting a Community Development Block Grant (CDBG) Public Services Grant application

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

(Note: following notice publication, be it also known that up to \$900,000 could be available to Whatcom County for a CDBG-eligible capital project related to early childhood learning and child care facilities or other essential community facilities)

NOTICE IS HEREBY GIVEN that a public hearing will be held by the Whatcom County Council on Tuesday, May 4, 2021 at 6:00 p.m., or at a later date (AB2021-245). The purpose of the public hearing is to review community development and housing needs, inform citizens of the availability of funds and eligible uses of the state Community Development Block Grant (CDBG), and receive comments on proposed activities as well as past activities related to the CDBG housing rehabilitation grant, particularly from lower income persons residing in Whatcom County. Currently \$129,400 is proposed to be available to Whatcom, Skagit and Island Counties, through the Opportunity Council, to fund public services that principally benefit low- and moderate-income persons. A Resolution will be reviewed, which would authorize the County Executive to submit an application to the State of Washington for this funding. The draft grant application, including an overview of the proposed public services, will be available for review at the Whatcom County Executive office by April 30, 2021 (copies available by email request to: executive@co.whatcom.wa.us).

The Council is currently holding all meetings remotely. View meeting schedules, agendas, minutes,

videos, documents and archives at www.whatcom.legistar.com For instructions on how to watch or participate in this meeting, please visit us at www.whatcomcounty.us/joinvirtualcouncil or contact the Council Office at 360-778-5010.

Comments may also be submitted in writing to the Whatcom County Council until the public hearing has been closed. Access for the hearing impaired and others can be accommodated using Washington Relay Service at 1-800-833-6384 and at the below website:
<https://www.dshs.wa.gov/altsa/odhh/telecommunication-relay-services>

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
04/20/2021	Council	INTRODUCED FOR PUBLIC HEARING	Council

Attachments: Staff memo, Proposed resolution, CDBG Fact Sheet, CDBG Scope of Work, CDBG HR Report to Council FINAL

**WHATCOM COUNTY
EXECUTIVE'S OFFICE**

County Courthouse
311 Grand Avenue, Suite #108
Bellingham, WA 98225-4082



Satpal Singh Sidhu
County Executive

MEMORANDUM

To: Whatcom County Council Members
From: Satpal Sidhu, County Executive *Satpal*
Through: Tyler Schroeder, Deputy Executive *TS*
Subject: CDBG Grant Application for 2021 Public Services Grant
And CDBG public hearing requirement
Date: April 9, 2021

Once again, Whatcom County is partnering with Opportunity Council (OC) to access an available grant from the Washington State Department of Commerce. The 2021 Public Services (Formula) Grant supports new or expanded direct services for persons with low and moderate incomes in the Whatcom, Skagit and Island County area.

Through a subrecipient agreement with the County, OC will administer this grant and oversee the distribution of services. The public services grant amount allocated to the tri-county area is \$129,400.00 – see attached budget and description of services.

I am supporting this application and recommending to the Council that it be submitted to Washington State Department of Commerce. As part of the application process, we are required to conduct a public hearing in order to receive public input on the use of CDBG funds and to inform the public on the nature of this and other CDBG funding opportunities. Additionally, the public hearing serves as an opportunity for citizens to comment on another CDBG grant which is closing out: the 2017 housing rehabilitation program through Opportunity Council (\$500,000).

As lead agency for the public services pass-through grant, the County Council is required to sign a Resolution in support of the new grant application. We have drafted the Resolution per CDBG guidelines and it is included here.

Thank you for your consideration of this matter. If you have any questions, please don't hesitate to contact me.

/Enclosures

PROPOSED BY: Executive

INTRODUCTION DATE: 4/20/21

RESOLUTION NO. _____

APPLICATION FOR A COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG)

WHEREAS, Whatcom County is authorized to apply to the state Department of Commerce for a Community Development Block Grant (CDBG); and

WHEREAS, Whatcom County has identified a community development and housing priority need for which to seek CDBG funding; and

WHEREAS, it is necessary that certain conditions be met to receive CDBG funds;

NOW, THEREFORE, be it resolved that Whatcom County authorizes submission of the following application to the state Department of Commerce: a request for up to \$129,400 and any amended amounts to fund public service activities in coordination with the Opportunity Council, and certifies that, if funded, it:

Will comply with applicable provisions of Title I of the Housing and Community Development Act of 1974, as amended, and other applicable state and federal laws;

Has provided and will provide opportunities for citizen participation that satisfy the CDBG requirements of 24 CFR 570.486;

Will not use assessments against properties owned and occupied by low- and moderate-income persons or charge user fees to recover the capital costs of CDBG-funded public improvements from low- and moderate-income owner-occupants;

Has established or will establish a plan to minimize displacement as a result of activities assisted with CDBG funds; and assist persons actually displaced as a result of such activities, as provided in the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended;

Has provided technical assistance to citizens and groups representative of low- and moderate-income persons that request assistance in developing proposals;

Will provide opportunities for citizens to review and comment on proposed changes in the funded project and program performance;

Will conduct and administer its program in conformance with Title VI of the Civil Rights Act of 1964 and the Fair Housing Act, will affirmatively further fair housing (Title VIII of the Civil Rights Act of 1968); and

Has adopted and enforces a policy prohibiting the use of excessive force by law enforcement agencies within its jurisdiction against any individuals engaged in nonviolent civil rights demonstrations; and has adopted (or will adopt) and implement a policy of enforcing applicable state and local laws against physically barring entrance to or exit from a facility or location which is the subject of such nonviolent civil rights demonstration within its jurisdiction, in accordance with Section 104(1) of the Title I of the Housing and Community Development Act of 1974, as amended;

Certifies to meeting the National Environmental Policy Act (NEPA) through a determination the CDBG-funded public services will not have a physical impact or result in any physical changes and are exempt under 24 CFR 58.34(a), and are not applicable to the other requirements under 24 CFR 58.6; and are categorically exempt under the State Environmental Policy Act (SEPA) per WAC 197-11-305 (2); and

Whatcom County designates Satpal Sidhu, County Executive, as the authorized Chief Administrative Official and authorized representative to act in all official matters in connection with this application and Whatcom County's participation in the Washington State CDBG Program.

APPROVED this _____ day of _____, 2021.

ATTEST:

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

Dana Brown-Davis, Clerk of the Council

Barry Buchanan, Council Chair

APPROVED AS TO FORM:



Civil Deputy Prosecutor



RURAL COMMUNITY GRANTS FOR ACTIVITIES THAT BENEFIT LOW-AND MODERATE-INCOME PERSONS

COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG)

General Purpose Grants \$12,000,000

For planning or construction of public infrastructure, community facilities, affordable housing, and economic development projects. Competitive. Maximum grant up to \$900,000 based on project type. Application materials available in March and due in June.

Housing Enhancement Grants \$200,000

For off-site infrastructure or the community facility component of a state Housing Trust Fund project. Competitive. Maximum grant is \$200,000, with potential additional hardship funding. Initial CDBG application forms are submitted with a HTF Stage 2 application.

Public Services Grants \$1,500,000

For 17 counties and community action agencies to fund new or expanded services for lower income persons. Allocated by a formula based on population and poverty. Application materials available in February and due in April.

National Objectives

Funded by the US Department of Housing & Urban Development, CDBG activities must meet one of these national objectives:

- Principally benefits low-and moderate-income (LMI) persons.
- Aids in the prevention or elimination of slums or blight.
- Addresses imminent threat to public health or safety

Funding is contingent on HUD approval of the state CDBG Action Plan.

Agency contact

Jon Galow
SECTION MANAGER

Local Government Division
jon.galow@commerce.wa.gov
Phone: 509.847.5021

www.commerce.wa.gov/CDBG

ELIGIBLE APPLICANTS:

Washington State cities/towns with less than 50,000 in population and not participating in a CDBG entitlement urban county consortium; and counties with less than 200,000 in population. A complete list is on Commerce's CDBG webpage.

Other public and non-profit entities and Indian tribes are not eligible to apply directly for state CDBG funding, but may be a partner in projects and subrecipient of funding with an eligible city/town or county.

**COMMUNITY DEVELOPMENT
BLOCK GRANT**

February 2021

Federal Citizen Participation Requirements For Local Government Applicants to the State CDBG Program

Federal Regulations 24 CFR 570.486 (a)

- (a) *Citizen participation requirements of a unit of general local government.* Each unit of general local government shall meet the following requirements as required by the state at Sec. 91.115(e) of this title.
- (1) Provide for and encourage citizen participation, particularly by low and moderate income persons who reside in slum or blighted areas and areas in which CDBG funds are proposed to be used;
 - (2) Ensure that citizens will be given reasonable and timely access to local meetings, information, and records relating to the unit of local government's proposed and actual use of CDBG funds;
 - (3) Furnish citizens information, including but not limited to:
 - (i) The amount of CDBG funds expected to be made available for the current fiscal year (including the grant and anticipated program income);
 - (ii) The range of activities that may be undertaken with the CDBG funds;
 - (iii) The estimated amount of the CDBG funds proposed to be used for activities that will meet the national objective of benefit to low and moderate income persons; and
 - (iv) The proposed CDBG activities likely to result in displacement and the unit of general local government's anti-displacement and relocation plans required under Sec. 570.488.
 - (4) Provide technical assistance to groups representative of persons of low and moderate income that request assistance in developing proposals in accordance with the procedures developed by the state. Such assistance need not include providing funds to such groups;
 - (5) Provide for a minimum of two public hearings, each at a different stage of the program, for the purpose of obtaining citizens' views and responding to proposals and questions. Together the hearings must cover community development and housing needs, development of proposed activities and a review of program performance. The public hearings to cover community development and housing needs must be held before submission of an application to the state. There must be reasonable notice of the hearings and they must be held at times and locations convenient to potential or actual beneficiaries, with accommodations for the handicapped. Public hearings shall be conducted in a manner to meet the needs of non-English speaking residents where a significant number of non-English speaking residents can reasonably be expected to participate;
 - (6) Provide citizens with reasonable advance notice of, and opportunity to comment on, proposed activities in an application to the state and, for grants already made, activities which are proposed to be added, deleted or substantially changed from the unit of general local government's application to the state. *Substantially changed* means changes made in terms of purpose, scope, location or beneficiaries as defined by criteria established by the state.
 - (7) Provide citizens the address, phone number, and times for submitting complaints and grievances, and provide timely written answers to written complaints and grievances, within 15 working days where practicable.

CDBG Public Services 2021-22

SCOPE OF WORK

A. Service Programs

NOTE: List the specific public service activities from the CDBG application's Project Description & Low- and Moderate-Income Benefit Table, or reference the CDBG application's Project Description & Low- and Moderate-Income Benefit Table.

CDBG Whatcom Narrative:

In Whatcom County, CDBG funds will support services and activities in East Whatcom County, a region of Whatcom County that includes many low-income residents in a geographically remote and underserved rural community. Services will be provided and coordinated by Opportunity Council information and referral specialist at the East Whatcom Regional Resource Center. The primary activities will be connecting low to moderate income community members with services including early childhood education, food resources, and energy assistance programs.

CDBG Island County Narrative:

In Island County, CDBG funds will increase capacity to serve low-income households including housing support services. This funding supports current homeless housing and prevention screening, qualifying and enrolling clients in services such as Basic Food and other supportive programs. This service center, located in Oak Harbor, will also engage and refer to other local service providers to serve people who are homeless, Veterans and people with mental health and chemical dependency issues.

CDBG San Juan Narrative:

CDBG Public Services grant will provide support to the three Community Resource Centers on San Juan, Orcas and Lopez Islands in San Juan County. The geography and limited transportation systems in San Juan County create a significant challenge in providing services to low-income households. The Community Resource Centers are the conduit that connects people to services on each of the islands and the mainland as well. Opportunity Council will contract for information and referral services with each Community Resource Center so residents can access housing, food, energy assistance, and employment opportunities.

2021-22 CDBG Public Services Grant Budget	
Cost Categories	Amount
Staffing	\$101,707.00
Goods & services	\$12,027.00
Travel	\$1,802.00
Indirect	\$13,864.00
TOTAL	\$129,400.00

**COMMUNITY DEVELOPMENT BLOCK GRANT
REPORT TO WHATCOM COUNTY
CLOSEOUT OF A \$500,000
HOUSING REPAIR AND REHABILITATION PROJECT GRANT**

Information for Public Hearing to be held on 05/04/21

Whatcom County received a \$500,000 grant to be used for housing repairs and rehabilitation in Whatcom County (excluding the city of Bellingham). This program was managed and operated by the Opportunity Council, with services to Whatcom, Island, and San Juan counties.

Work started in 2018. In 2020 Opportunity Council temporarily suspended the program due to safety concerns related to the COVID-19 pandemic. Despite the substantial delays to production, we anticipate more than 90% of the grant funds will be expended by the end of June, 2021.

With 20 total households served, receiving major repairs and rehabilitation, the average project cost was \$17,150, for an approximate total of \$343,000. These figures are estimated because the final few projects are still in progress.

Approximately \$112,500 will have been spent on administration by the end of June, in compliance with the terms of the grant contract.

Approximately \$280,000 in revolving, deferred-payment loans will have been made. These funds, when repaid, will be used for future repair and rehabilitation activities.

The following are examples of repair projects undertaken:

1)

Client was a retiree living in northwest Whatcom County. Her home was unsafe due major electrical problems and deteriorating because of an actively leaking roof. Using CDBG funds we were able to replace roof– adding rigid foam insulation under the new roofing to improve energy efficiency– and upgrade the electrical panel. Addressing these hazards and durability issues allowed her to stay in her home and continue in-home care for several serious medical conditions. Her family was grateful for the work and was reassured that she could safely remain in her home. The property was improved and preserved for future use.

2)

This client was a single elderly woman living in a 1917-built home on Camano Island. CDBG funds allowed us to replace the badly leaking roof and address other health and safety concerns in the home. In addition to a new roof and gutters, we installed a high efficiency electric heating system, a kitchen exhaust fan, and mitigated some lead paint hazards. Correcting the hazards and durability issues allowed for the installation of weatherization improvements, using federal, state, and utility funding. These improvements included insulating the attic, sealing up air leaks, re-supporting sagging floor insulation, replacing a constricted clothes dryer duct, and installing a whole house ventilation fan for improved indoor air quality and moisture management. Our contractor also installed smoke alarms and a carbon monoxide alarm. The dramatic improvements in home durability, safety, and efficiency helped the client her stay in her home and made it more comfortable and affordable to live in.



Whatcom County

COUNTY COURTHOUSE
311 Grand Avenue, Ste #105
Bellingham, WA 98225-4038
(360) 778-5010

Agenda Bill Master Report

File Number: AB2021-255

File ID:	AB2021-255	Version:	1	Status:	Introduced
File Created:	04/15/2021	Entered by:	JNixon@co.whatcom.wa.us		
Department:	Council Office	File Type:	Council Appointment Requiring Introduction		
Assigned to:	Council	Final Action:			
Agenda Date:	05/04/2021	Enactment #:			

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

TITLE FOR AGENDA ITEM:

Appointment to the Business and Commerce Advisory Committee - Higher Education vacancy, applicant(s): Eva Schulte

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

This is a partial term ending January 31, 2023.

BUSINESS AND COMMERCE ADVISORY COMMITTEE

1 Vacancy for Higher Education representative.

The committee advises the County Council on issues that include regulations and policies that could impact local businesses, industry, or economic development. Duties include: Review, develop, and provide recommendations on: comprehensive plans, regulations, economic development efforts and on proposals which directly impact business and economic conditions in Whatcom County; efforts to improve business conditions, environment and infrastructure; ensuring the county applies a client-focused approach to supporting businesses with regulations, permitting, and planning. Meets monthly.

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
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04/20/2021 Council

INTRODUCED

Council

Attachments: Schulte Application, AGENDA REVISION NOTICE FOR 4.20.2021

Business & Commerce Advisory Committee: Eva Schulte

Subject: Online Form Submittal: Board and Commission Application
Date: Monday, January 4, 2021 9:59:32 PM

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.

Title	Ms.
First Name	Eva
Last Name	Schulte
Today's Date	1/4/2021
Street Address	3081 Aldergrove Road
City	Ferndale
Zip	98248
Do you live in & are you registered to vote in Whatcom County?	Yes
Do you have a different mailing address?	<i>Field not completed.</i>
Primary Telephone	8165199624
Secondary Telephone	360-383-3326
Email Address	eschulte@whatcom.edu

Step 2

1. Name of Board or Business and Commerce Advisory Committee

Committee

Business and
Commerce Advisory
Committee Position:

Higher Education - Whatcom Community College

2. Do you meet the
residency,
employment, and/or
affiliation requirements
of the position for
which you're applying?

Yes

3. Which Council
district do you live in?

District 5

4. Are you a US
citizen?

Yes

5. Are you registered to
vote in Whatcom
County?

Yes

6. Have you declared
candidacy (as defined
by RCW 42.17A.055)
for a paid elected office
in any jurisdiction
within the county?

No

7. Have you ever been
a member of this
Board/Commission?

No

8. Do you or your
spouse have a financial
interest in or are you
an employee or officer
of any business or
agency that does
business with
Whatcom County?

No

You may attach a
resume or detailed
summary of
experience,
qualifications, &
interest in response to

Attached

the following questions

9. Please describe your occupation (or former occupation if retired), qualifications, professional and/or community activities, and education	I serve as Executive Director for Institutional Advancement at Whatcom Community College. In this role, I support students, faculty and staff innovation, and strategic economic development and community initiatives. My former work was in finance and impact investing at Travois, where I was Vice President for Economic Opportunity and led the company's effort to build an impact fund and achieve 'Best for the World,' certified B Corporation status and recognition. I hold a Master of Arts in Ethics and Social Theory. I have significant experience in early childhood education public campaigns and affordable housing development and advocacy.
-----------------------------------------------------------------------------------------------------------------------------------------------	---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

10. Please describe why you're interested in serving on this board or commission	President Kathi Hiyane-Brown encouraged my service on this committee. Strategic economic development in Whatcom County is critical to WCC's ability to support students in their career pathways and workforce upskilling. The recruitment and support of vibrant businesses and commerce results in greater internship and employment opportunities for our students. The strength of our business sector brings expertise and support for WCC's academic degrees, certificates, and programs. WCC can play an important role in supporting the Business and Commerce advisory committee through the intentional engagement of our diverse student population, coordination with our workforce programs, and collaboration on joint initiatives. I am personally and professionally motivated to support the issues the Business and Commerce Advisory Committee has identified as key: affordable housing and early childhood education.
----------------------------------------------------------------------------------	--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

References (please include daytime telephone number):	Kathi Hiyane-Brown, Ed.D. Whatcom Community College, President (360) 383-3333 Chuck Robinson, Chuck Robinson Associates, Principal (360) 319-6069 Anne-Marie Faiola, Bramble Berry, CEO (360) 220-5873
-------------------------------------------------------	--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

Signature of applicant:	Eva Schulte
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Place Signed / Submitted	Whatcom County Council Office: 311 Grand Avenue, Suite 105 Bellingham, Washington 98225
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(Section Break)

Email not displaying correctly? [View it in your browser.](#)

Eva Kathleen Schulte

237 West Kellogg Road, Bellingham, WA 98226 | 360.383.3326 | eschulte@whatcom.edu

EXECUTIVE LEADERSHIP

INNOVATIVE EXECUTIVE with 20 years of proven record in community-based investment, impact management and securing major capital for underserved communities. Inspiring and ethical leader for the future of education and work.

SELECTED ACCOMPLISHMENTS

- ✓ Successfully completed first College Foundation campaign, resulting in \$2.5 million for students and programs
- ✓ Designed and co-led College's emergency funding, allocating over \$1 million to 1,6000 students to date
- ✓ Built fund structure to bring \$15 million to American Indian, Alaska Native and Native Hawaiian Communities
- ✓ Directed impact management and achieved Certified B Corporation status and 'Best for the World' designation
- ✓ Leveraged funding to Missouri: \$4.2 million for Medical Centers and \$10 million for affordable housing
- ✓ Tripled financial position every four years totaling \$9 million with diversified not for profit revenue
- ✓ Established new 501c3 charitable organizations and c4 chapters in 5 municipalities and state-wide
- ✓ Led Impact Investing Day at Kauffman Foundation, convening 225 prominent investment and foundation leaders

PROFESSIONAL EXPERIENCE

EXECUTIVE DIRECTOR FOR INSTITUTIONAL ADVANCEMENT *Whatcom Community College* Bellingham, WA Jan. 2020-Now

- Design and implement programs focused toward increasing community relations and fundraising outcomes
- Oversee the College's Foundation, increasing assets to support student needs and economic development
- Work under the College President as a member of the President's Cabinet aligning strategies across campus
- Provide leadership and strategic direction to the Advancement division staff, supervising directors and programs

VICE PRESIDENT FOR ECONOMIC OPPORTUNITY *Travois Inc.* Kansas City, MO March 2017 - Dec. 2019

- Developed the Travois Impact Fund by recruiting and partnering with investors, foundations, and advisors
- Initiated, led & monitored company-wide impact measurement on job creation, housing, education
- Worked on the New Markets Tax Credit team to source and build project pipeline, advocate, and monitor assets
- Grew and led philanthropic initiatives such as a juried art exhibition series featuring Native American artists

PRESIDENT & CEO *Communities Creating Opportunity* Missouri and Kansas Sept. 2004 - Feb. 2017

- Coordinated large-scale campaigns with 2,000 people to advance early childhood education and health
- Expanded public/private sector partnerships and contracts, managed grants of \$300,000+ and events of 1,500+
- Developed microfinance loan products and chaired the fundraising for \$400,000 from regional banks
- Directed the largest non-partisan civic engagement campaign in Kansas City over 3 cycles, engaging 132,000

LEAD COMMUNITY ORGANIZER *Congregations Organizing for Renewal* Hayward, California 2001 - 2004

- Led advocacy in two cities and Alameda County, securing inclusionary housing ordinances & healthcare revenue

EDUCATION

Master of Arts, Ethics and Social Theory | Graduated *Magna Cum Laude* 2001
Graduate Theological Union, Berkeley, California

Bachelor of Arts, Double Major: International Studies and Spanish | Graduated *Magna Cum Laude* 1999
Central College, Pella, Iowa with study/work in Mexico, Netherlands, Spain, and Germany

CIVIC LEADERSHIP

- Board of Director, Sierra Club Foundation | Executive Committee, Grants Committee Chair 2019 - Now
- Chair of Corporate Support for Indian Country | Investors & Indigenous Peoples Working Group 2017 - 2020
- Diversity Co-Chair, Centurion Leadership Program | Greater Kansas City Chamber of Commerce 2013 - 2018
- Co-Founder, PICO International Network | Rwanda, Central America, Haiti 2011 - 2014

RECOGNITION

- Kansas City Award | Presented by public health director on behalf of city of Kansas City, Missouri 2017
- Voices of Faith Award | Presented by Congressman Emanuel Cleaver & Bishop Johnson 2016
- Distinguished Executive Director Award | Soul of the City 2011
- Young Alumni of the Year Achievement Award | Central College 2011
- Bank of America's Neighborhood Builder & Kauffman Foundation New Ideas Award 2010

CLERK OF THE COUNCIL
Dana Brown-Davis, C.M.C.

COUNTY COURTHOUSE
311 Grand Avenue, Suite #105
Bellingham, WA 98225-4038
(360) 778-5010



COUNCILMEMBERS
Rud Browne
Barry Buchanan
Tyler Byrd
Todd Donovan
Ben Elenbaas
Carol Frazey
Kathy Kershner

WHATCOM COUNTY COUNCIL AGENDA REVISION NOTICE FOR APRIL 20, 2021

**VIRTUAL MEETING
AGENDA REVISED 4.19.2021
(TO PARTICIPATE, SEE INSTRUCTIONS AT
www.whatcomcounty.us/joinvirtualcouncil
OR CALL 360.778.5010)**

THE FOLLOWING ITEM HAS BEEN WITHDRAWN FROM FINANCE AND ADMINISTRATIVE SERVICES COMMITTEE:

SPECIAL PRESENTATION

1. [AB2021-224](#) Report from Whatcom County's Information Technology Department

ITEM WITHDRAWN 4.19.2021

THE FOLLOWING ITEM HAS BEEN ADDED TO COUNCIL:

ITEMS ADDED BY REVISION

1. [AB2021-255](#) Receipt of application for the Business and Commerce Advisory Committee - Higher Education vacancy, applicant(s): Eva Schulte (Application deadline for any other applicants to this vacancy is 10:00 a.m. on April 27, 2021) **(for introduction)**

ITEM ADDED 4.19.2021



Whatcom County

COUNTY COURTHOUSE
311 Grand Avenue, Ste #105
Bellingham, WA 98225-4038
(360) 778-5010

Agenda Bill Master Report

File Number: **AB2021-266**

File ID:	AB2021-266	Version:	1	Status:	Agenda Ready
File Created:	04/21/2021	Entered by:	SMildner@co.whatcom.wa.us		
Department:	County Executive's Office	File Type:	Executive Appointment		
Assigned to:	Council			Final Action:	
Agenda Date:	05/04/2021			Enactment #:	

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

TITLE FOR AGENDA ITEM:

Request confirmation of the County Executive's appointment of Dave Bren to the Development Standards Technical Advisory Committee

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

See attached application

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
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Attachments: Bren Application



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.

Title	Mr.
First Name	Dave
Last Name	Bren
Today's Date	4/15/2021
Street Address	6173 Nickles Street
City	FERNDALE
Zip	98248
Do you live in & are you registered to vote in Whatcom County?	Yes
Do you have a different mailing address?	<i>Field not completed.</i>
Primary Telephone	360-739-1428
Secondary Telephone	<i>Field not completed.</i>
Email Address	dbren@spartandesign.net
1. Name of Board or Committee	Development Standards Technical Advisory Committee
Development Standards Technical Advisory Committee Position:	Licensed Civil Engineer
2. Do you meet the residency, employment, and/or affiliation requirements of the position for which you're applying?	Yes
3. Which Council district do you live in?	District 5
4. Are you a US citizen?	Yes

5. Are you registered to vote in Whatcom County?	Yes
6. Have you declared candidacy (as defined by RCW 42.17A.055) for a paid elected office in any jurisdiction within the county?	No
7. Have you ever been a member of this Board/Commission?	Yes
If yes, please list dates:	<i>Field not completed. (2010-2012)</i>
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	<u>DAVE BREN RESUME 4-15-21.pdf</u>
9. Please describe your occupation (or former occupation if retired), qualifications, professional and/or community activities, and education	Please see attached resume.
10. Please describe why you're interested in serving on this board or commission	I am interested in serving the community in a way that utilizes my talents and skills. I have equal time in the public sector as private sector, so I will have a balanced view on engineering subjects.
References (please include daytime telephone number):	Martin Kjelstad, PE (360) 739-1428 Sam Shipp, PE (360) 220-1198
Signature of applicant:	Dave Bren
Place Signed / Submitted	Ferndale, WA

David C. Bren, PE, MSCE

Civil Engineer and Teacher

6173 Nickels Street
Ferndale, WA 98248
cell: (360) 739-1428
dbren@spartandesign.net

EDUCATION

Master of Science in Civil Engineering, 1995

University of Washington, Seattle, WA.

Bachelor of Science in Civil Engineering, 1994

University of Washington, Seattle, WA.

REGISTRATION

Professional Engineer (P.E.)

Washington License No. 43156

Drone / Remote Pilot

FAA Certificate No. 4184748

CURRENT WORK EXPERIENCES



Apprenticeship Director, Western Refinery Services in Ferndale, WA. Coordinate State and Federal apprenticeship application efforts. Coordination with existing Inland NW AGC and CITC group programs and WRS apprentices enrolled within them.

6/2019 – Present (Part-Time)



Teacher/Administrator, Washington Polytechnic Institute

Bellingham, WA. President and co-founder of a four-year private evening college in the State of Washington. At its high point we had (80) students. New enrollment stopped in 2017 and we only have a handful of seniors that still need to graduate. Please see www.wapoly.org for further details.

6/2009 – Present (Closure Expected 6/2021 – Very Part-Time)



Consulting Engineer, Ferndale, WA. I consult with both Impact Design and Spartan Design. I provide land development engineering services for select clients. This is a small operation from my home office and working on projects for trusted partners. Activities include; feasibility, preliminary engineering, site planning, utilities design, construction drawings, stormwater plans, grading plans, staking, and inspection. **6/2009 – Present (Part-Time)**

2008 – 2009

Assistant Public Works Director, City of Blaine, Blaine, WA.

Conducted private development review activities including technical review committees, plans review, pre-construction meetings, bonding, requests for information, asbuilts, construction inspection, and punchlist resolution. Updated the East Blaine Infrastructure Plan and presented the update to various committees and to the City Council.

1999 - 2008

Consulting Design Engineer, Bellingham, WA. Consulted as a sub-contractor for various private engineering companies and public agencies including; City of Blaine, City of Ferndale, Torrence Engineering, Reichhardt and Ebe Engineering, Lahatt Engineering, 2020 Engineering, Sehome Engineering, Merit Engineering, and Associated Project Consultants. Providing CADD design and modeling services for municipal and development projects including road, sewer, water, storm, irrigation, signage, illumination, and power improvements. **This work was conducted as a side job while I was a full-time instructor at Bellingham Technical College (see below).**

1997 - 2006

Civil Engineering Technology Instructor, Bellingham Technical College. Bellingham, WA. Developed all Civil Engineering Technology Program curriculum and instructed 48 students in the combined Civil Engineering Technology and Surveying Technology two-year degree programs. **Taught the 12-6 PM afternoon schedule, so I could regularly work morning hours in the local industry (see above).**

1989 - 1997

Combat Engineer / Bridge Construction Specialist, United States Army Reserve. Project manager of bridge construction site at the Yakima Firing Center, dump truck operator, bridge construction, demolition activities, construction survey control, and topography map generation.



Whatcom County

COUNTY COURTHOUSE
311 Grand Avenue, Ste #105
Bellingham, WA 98225-4038
(360) 778-5010

Agenda Bill Master Report

File Number: **AB2021-264**

File ID:	AB2021-264	Version:	1	Status:	Agenda Ready
File Created:	04/21/2021	Entered by:	MCaldwel@co.whatcom.wa.us		
Department:	Finance Division	File Type:	Ordinance		
Assigned to:	Council			Final Action:	
Agenda Date:	05/04/2021			Enactment #:	

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

TITLE FOR AGENDA ITEM:

Ordinance amending the Whatcom County Budget, request no. 7, in the amount of \$5,156,985

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

Supplemental #7 requests funding from the General Fund:

1. To appropriate \$28,615 in Sheriff to fund ballistic vests.
2. To appropriate \$100,000 in Planning to fund offsite buffer mitigation program feasibility study.
3. To appropriate \$2,171,429 in Health to fund mass vaccination site program from DOH FEMA grant proceeds.
4. To appropriate \$1,621,652 in Health to fund COVID response efforts from DOH COVID ELC grant proceeds.
5. To appropriate \$489,577 in Health to fund staffing for vaccination support activities from DOH grant proceeds.

From the Homeless Housing Fund:

6. To appropriate \$309,712 to fund additional Emergency Solutions Grant program activities.

From the Solid Waste Fund:

7. To re-appropriate \$113,000 to fund Comprehensive Solid & Hazardous Waste Management Plan update.

From the Conservation Futures Fund:

8. To appropriate \$253,000 to fund Kiera-Duffy forestry and ecological conservation easement purchase of development rights.

From Real Estate Excise Tax I Fund:

9. To appropriate \$70,000 to fund county share of WUECC roof replacement.
In addition, Supplemental #7 requests the addition of 5 FTE Public Health Nurse positions in Health.

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
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Attachments: Proposed Ordinance, Summary, Supplemental Requests

**ORDINANCE NO.
 AMENDMENT NO. 7 OF THE 2021 BUDGET**

WHEREAS, the 2021-2022 budget was adopted November 24, 2020; and,
WHEREAS, changing circumstances require modifications to the approved 2021-2022 budget;
 and,

WHEREAS, the modifications to the budget have been assembled here for deliberation by the
 Whatcom County Council,

NOW, THEREFORE, BE IT ORDAINED by the Whatcom County Council that the 2021-2022
 Whatcom County Budget Ordinance #2020-068 is hereby amended by adding the following additional
 amounts to the 2021 budget included therein:

Fund	Expenditures	Revenues	Net Effect
General Fund			
Sheriff	28,615	-	28,615
Planning	100,000	-	100,000
Health	4,282,658	(5,145,006)	(862,348)
Total General Fund	4,411,273	(5,145,006)	(733,733)
Homeless Housing Fund	309,712	(309,712)	-
Solid Waste Fund	113,000	-	113,000
Conservation Future Fund	253,000	(70,000)	183,000
Real Estate Excise Tax I Fund	70,000	-	70,000
Total Supplemental	5,156,985	(5,524,718)	(367,733)

BE IT FURTHER ORDAINED by the Whatcom County Council that Exhibit C – Position Control
 Changes in the 2021-2022 Budget Ordinance should also be amended to provide for the following
 FTE changes:

- Add 5 FTEs Public Health Nurse in Health

ADOPTED this ____ day of _____, 2021.

ATTEST:

WHATCOM COUNTY COUNCIL
 WHATCOM COUNTY, WASHINGTON

 Dana Brown-Davis, Council Clerk

 Barry Buchanan, Chair of Council

APPROVED AS TO FORM:

() Approved () Denied

Approved by email/C Quinn/M Caldwell
 Civil Deputy Prosecutor

 Satpal Sidhu, County Executive

Date: _____

WHATCOM COUNTY				
Summary of the 2021 Supplemental Budget Ordinance No. 7				
Department/Fund	Description	Increased (Decreased) Expenditure	(Increased) Decreased Revenue	Net Effect to Fund Balance (Increase) Decrease
General Fund				
Sheriff	To fund ballistic vests	28,615	-	28,615
Planning	To fund offsite buffer mitigation program feasibility study	100,000	-	100,000
Health	To fund mass vaccination site program from DOH FEMA grant proceeds.	2,171,429	(2,171,429)	-
Health	To fund COVID response efforts from DOH-COVID ELC grant proceeds	1,621,652	(2,120,148)	(498,496)
Health	To fund staffing for vaccination support activities from DOH vaccination/immunization grant proceeds	<u>489,577</u>	<u>(853,429)</u>	<u>(363,852)</u>
Total General Fund		4,411,273	(5,145,006)	(733,733)
Homeless Housing Fund	To fund additional Emergency Solution Grant program activities	309,712	(309,712)	-
Solid Waste Fund	To fund Comprehensive Solid & Hazardous Waste Management Plan update	113,000	-	113,000
Conservation Future Fund				
Planning	To fund Kiera-Duffy forestry conservation easement purchase of development rights	164,000	(70,000)	94,000
Planning	To fund Kiera-Duffy ecological conservation easement purchase of development rights	<u>89,000</u>	<u>-</u>	<u>89,000</u>
Total Conservation Futures Fund		253,000	(70,000)	183,000
Real Estate Excise Tax I Fund	To fund county share of WUECC roof replacement	<u>70,000</u>	<u>-</u>	<u>70,000</u>
Total Supplemental		<u>5,156,985</u>	<u>(5,524,718)</u>	<u>(367,733)</u>

Supplemental Budget Request

Status: Pending

Sheriff

Operations

Suppl ID # 3197

Fund 1

Cost Center 2920

Originator: D. Chadwick / J. Gum

Expenditure Type: One-Time Year 1 2021 Add'l FTE Add'l Space Priority 1

Name of Request: *Replacement of Ballistic Vests - 2021*

X		<i>04/19/21</i> Date
Department Head Signature (Required on Hard Copy Submission)		

Costs:	Object	Object Description	Amount Requested
	6320.001	Office & Op Supplies	\$28,615
	Request Total		\$28,615

1a. Description of request:

The acquisition of twenty-seven (27) ballistic vests (body armor). The Sheriff's Office and WA L&I requires the mandatory wear of ballistic vests as essential Personal Protective Equipment protect deputies.

1b. Primary customers:

Commissioned deputy sheriffs whose duties expose them to an increased risk of workplace violence.

2. Problem to be solved:

The Sheriff's Office was unable to secure a grant for purchase of ballistic vests due for replacement this year. The recommended replacement cycle for ballistic vests is every 5 years. Over time, normal wear and exposure to the elements can cause degradation of the vest materials and reduced ballistic protection. The County is responsible for the replacement of ballistic vests in accordance with the collective bargaining agreement.

3a. Options / Advantages:

Ballistic vests are required to be worn by all deputy sheriffs. Significantly extending the replacement cycle of issued vests or purchasing vests with a lower price/reduced level of protection unnecessarily puts deputies at risk. The ballistic vests utilized by the Sheriff's Office are high quality and provide quality ballistic protection.

3b. Cost savings:

The costs savings cannot be accurately quantified. If a single deputy is protected from the lethal infliction of force from a firearm or sharp instrument, or is protected from blunt trauma due to the wearing of a protective ballistic vest, the savings would be quantified as the saving of a life, a career, or several hundred thousand dollars in emergency medicine costs.

4a. Outcomes:

The outcomes of acquiring ballistic protection are officer safety and wellness. Issuance and use of replacement vests will maintain compliance with Sheriff's Office policy and L&I requirements, and will reduced liability to the County.

4b. Measures:

If the vests are acquired and worn, the desired outcome has occurred.

5a. Other Departments/Agencies:

No

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

N/A

6. Funding Source:

General Fund

WHATCOM COUNTY

Planning & Development Services
5280 Northwest Drive
Bellingham, WA 98226-9097
360-778-5900, TTY 800-833-6384
360-778-5901 Fax



Mark Personius, AICP
Director

Memorandum

TO: The Honorable County Council
The Honorable Satpal Sidhu, County Executive

FROM: Cliff Strong, Senior Planner

THROUGH: Mark Personius, Director *MP*

DATE: April 15, 2021

SUBJECT: Off-Site Critical Area Buffer Mitigation Program Proposal

Goal

Whatcom County is exploring development of a program that would—under certain circumstances—facilitate mitigation for critical area (wetlands and Fish and Wildlife Habitat Conservation Areas (FWHCA)) buffer impacts to occur offsite, on properties where—when coordinated—such mitigation would provide greater ecological lift at a landscape scale over the small, fragmentary, on-site mitigation most commonly implemented.

An offsite mitigation program would provide a clear path and ready-made venue for private property owners, developers, land use contractors, and public entities to offset wetland buffer impacts from development projects that would likely consist of the following options:

- Design and install buffer mitigation on a selected property (or properties) well suited for ecological enhancement or restoration in advance of an impact and then sell credits based on the cost (similar to a mitigation bank); or,
- Design a mitigation plan for the selected property (or properties), figure out the cost of implementing, collect mitigation fees to pay for it, and install the mitigation as monies come in (a.k.a., “in lieu fee” program); or,
- Design a mitigation plan for the property (or properties) and then allow developers to install mitigation on the property(ies) in a planned and coordinated fashion (a.k.a., “off the shelf” mitigation).

Current Practice

To "mitigate" means to make less harsh or hostile. Environmental mitigation is an action or activity intended to remedy, reduce, or offset known negative impacts to the environment.

Through our project permit review process, Whatcom County Planning and Development Services (PDS) applies the mitigation requirements of the Critical Areas Ordinance (CAO, WCC Chapter 16.16) and the Shoreline Master Program (WCC Title 23), using the mitigation sequencing of WCC 16.16.260. The

mitigation sequence consists of five measures, in preferential order, aimed at minimizing adverse impacts through project design, best management practices, and/or direct functional lift to maintain no loss of ecological function, values, and/or ecosystem-wide processes.

WCC 16.16.260 (General mitigation requirements)

1. When an alteration or impact to a critical area or buffer is proposed, the applicant shall conduct an alternatives/mitigation sequencing analysis and demonstrate that all reasonable efforts have been taken to mitigate adverse impacts in the following prioritized order:
 - a. *Avoiding the adverse impact* altogether by not taking a certain action or parts of an action, or moving the action.
 - b. *Minimizing adverse impacts by limiting the degree or magnitude of the action* and its implementation by using appropriate technology and engineering, or by taking affirmative steps to avoid or reduce adverse impacts.
 - c. *Rectifying the adverse impact* by repairing, rehabilitating, or restoring the affected environment.
 - d. *Reducing or eliminating the adverse impact over time* by preservation and maintenance operations during the life of the action.
 - e. *Compensating for the adverse impact* by replacing, enhancing, or providing similar substitute resources or environments and monitoring the adverse impact and the mitigation project and taking appropriate corrective measures.
2. Mitigation shall be provided for all unavoidable adverse alterations of a critical area or buffer. Mitigation for individual projects may include a sequenced combination of the above measures as needed to achieve the most effective protection, compensation for buffer functions and values, or mitigation for critical area functions and values.

For wetland buffer mitigation, additional rules apply regarding design and location of the mitigation. Buffers may be reduced (WCC 16.16.640 Wetland Buffer Reduction), averaged (WCC 16.16.650 Wetland Buffer Averaging), or, in certain circumstances, increased (WCC 16.16.660 Wetland Buffer Increases). Additionally, WCC 16.16.680 (Wetland Mitigation) subsection (f) requires that:

Compensatory mitigation shall be provided onsite or offsite in the location that will provide the greatest ecological benefit and have the greatest likelihood of success; provided, that mitigation occurs as close as possible to the impact area and within the same watershed as the permitted alteration. This provision may be waived upon demonstration through a watershed- or landscape-based analysis that mitigation within an alternative subbasin of the same basin would have the greatest ecological benefit and the greatest likelihood of success; provided, that limiting functions shall not be removed from sensitive watersheds identified in WCC Title 20. Mitigation shall occur within WRIA 1 or 3.

This section basically says that if one does offsite mitigation, it has to be as close as possible to the impact, so that the mitigation benefits the disturbed watershed. Note, however, that it does allow for offsite mitigation to occur within a different sub-basin if it can be shown to have “the greatest ecological benefit and the greatest likelihood of success.”

For Habitat Conservation Area buffer mitigation, similar rules apply: 16.16.740 Habitat conservation area buffers – Standards, subsection (D) allows reduction, subsection (E) allows averaging, and

subsection (F) allows for increases. Additionally, WCC 16.16.760 (Habitat conservation areas – Mitigation standards), subsection (B)(4) requires:

Mitigation shall be provided on site whenever feasible. Offsite mitigation in a location that will provide a greater ecological benefit to the species and/or habitats affected and have a greater likelihood of success may be accepted at the discretion of the technical administrator.

Mitigation shall occur as close to the impact site as possible. As mitigation is moved further away from the impacted habitat, the technical administrator may increase the amount of mitigation required. If offsite mitigation is proposed, the applicant must demonstrate through an alternatives/mitigation sequencing analysis (WCC 16.16.260) that the mitigation will have greater ecological benefit.

Current Outcome

Unincorporated Whatcom County contains many critical area constrained properties. The mitigation sequencing requirements of the CAO (required by state law) often result in protracted site plan and design review challenges during the permit review process—frustrating both property owners and staff. This is especially true:

- (1) when there's not enough room to put all required mitigation on-site;
- (2) where the mitigation area is so small or isolated it provides minimal ecological benefit; and/or,
- (3) where the mitigation area has a high likelihood of being re-disturbed after the 5-year monitoring has ended (e.g., someone's backyard).

In such cases, it would be better to concentrate such mitigation in areas where it could provide more significant ecosystem benefits and has a higher likelihood of persisting over time. Though the code currently allows offsite mitigation, it is infrequently used, as it is often deemed too expensive or too logistically challenging (or both) for most small builders and homeowners to do. PDS believes implementing a publically facilitated off-site buffer mitigation program would improve critical area permitting efficiencies, facilitate faster permit review timelines, and support greater countywide net ecological gain.

General Program Concept

At the request of the County Executive, Planning and Development Services is exploring development of an offsite critical area buffer mitigation program. Such a program would be designed to allow the County to facilitate ecosystem restoration and enhancement by obtaining (either by purchase or acceptance of) permanent conservation easements and/or obtaining and restoring fee title properties that contain wetlands, fish and wildlife habitat conservation areas, and/or streams with degraded buffers. An offsite mitigation program would provide a clear path and ready-made venue for private property owners, developers, land use contractors, and public entities to offset wetland buffer impacts from development that could consist of the following options:

- Design and install buffer mitigation on a selected property (or properties) well suited for ecological enhancement or restoration in advance of an impact and then sell credits based on the cost (similar to a mitigation bank); or,

- Design a mitigation plan for the selected property (or properties), figure out the cost of implementing, collect mitigation fees to pay for it, and install the mitigation as monies come in (a.k.a., “in lieu fee” program); or,
- Design a mitigation plan for the selected property and then allow developers to install mitigation on the property(ies) in a planned and coordinated fashion (a.k.a., “off the shelf” mitigation).

A “buffer only” mitigation program is a relatively new concept and we would need to explore implementing options through a feasibility study (see Proposed Action).

Please note that we are not proposing that the County develop a mitigation “bank” per se. A mitigation bank, as addressed in state law and our CAO, allows for offsite mitigation for impacts to both critical areas¹ and their buffers. Because mitigation banks can be used to offset impacts to the critical areas themselves (such as wetland fill to waters of the state or U.S.) there is a statute-prescribed process for developing one that requires coordination with and approval from the Department of Ecology, the U.S. Army Corps of Engineers, and other watershed managers (i.e., the Tribes). These mitigation banks typically take at least five years to establish and must go through a rigorous review and approval process. Furthermore, the Lummi Nation already has an operational bank (though temporarily closed until additional advanced mitigation is installed) and the City of Bellingham is developing one within its service area that includes the Ten Mile, Squalicum and Silver Creek sub-basins within unincorporated Whatcom County². Thus we are proposing to develop a mechanism that mitigates only for buffer impacts while restoring and enhancing environmental systems at landscape scale. According to the Department of Ecology such a mechanism would not be subject to the state and federal “mitigation bank” requirements for coordination and approval and would only need County Council approval.

Issues That Would Need to be Addressed

Please understand that this is just a conceptual proposal, and that there are many issues that would need to be evaluated as part of designing the program, as discussed below.

Potential Users

Because larger projects typically have enough room on their property to do onsite mitigation, we believe that the predominant users of such a program would be:

- Homeowners and small-scale builders building or expanding individual homes and accessory structures.
- Farmers not participating in CPAL
- Whatcom County Public Works has also expressed an interest, as they often need to mitigate for small impacts caused by road, bridge or stormwater projects, where there often isn’t enough room to do so onsite given the linear nature of such projects.

¹ Wetlands, streams, fish and wildlife habitat conservation areas, geologically hazardous areas, and critical aquifer recharge areas.

² The County has been in discussions with the City of Bellingham about potential partnering opportunities with their proposed bank but it would only apply to potential development impacts within their specific service area.

- Similarly, Puget Sound Energy, WSDOT, pipeline operators, school districts, diking districts, the Port of Bellingham, or other such entities might have such a need.

And there certainly may be other customer classes that would benefit from such a program. Who these folks are and what they're needs might be would need to be ascertained as part of the program's feasibility study. This could be accomplished by—among other things—analyzing past permit data and speaking with and gathering data from various interest groups.

Potential Demand

At this point, we only have anecdotal and experiential information about how much demand there might be for such a program. From processing permits we do know that there are many small, private projects approved wherein the applicant is required to mitigate for small amounts of buffer impacts but where there is little room to do so, it's small and isolated, or it's in a location that is not accessible for ensuring that it isn't disturbed after the required 5-year monitoring period. We also know there are critical area constrained lands within the Birch Bay UGA that present significant challenges to achieving full urban development buildout. Similarly, there are probably a substantial number of public projects, undertaken by Public Works, the various diking districts, the Port of Bellingham, WSDOT, etc. that have similar needs (i.e., small buffer mitigation requirements). However, we don't have empirical data to estimate the demand for such a system yet, and that would need to be developed. Knowing what the demand is, and where it's located would help us understand how much property would be needed, and where it should be located.

Ownership and Management

We would need to determine whether this would be a program owned and managed by the County, by a non-profit third party (such as the Whatcom Land Trust or Nooksack Salmon Enhancement Association (NSEA)), or by a for-profit third party (which is common for mitigation banks).

If owned and managed by the County, we would need to purchase the property, develop the property- specific mitigation plan for each property, purchase the equipment and materials, install the mitigation, and have staff dedicated to the project. If owned and managed by a third party, we would not. Furthermore, some of our local non-profit third parties may already have control over properties that could serve as the mitigation sites, which might reduce the final costs while furthering the interests of the third party by advancing their (which are also our) restoration goals.

If the advanced mitigation is achieved through enactment of a conservation easement, the County could be a co-benefactor of the easement in partnership with a local conservation organization, such as the Whatcom Land Trust, which could facilitate ongoing monitoring and enforcement, and the property itself could remain in private ownership. Enactment of a conservation easement under this effort could complement other existing County programs such as the Purchase of Development Rights Program, the River and Flood Program, and Lake Whatcom Management Program.

Anticipated Costs

At this time we do not have an estimate of the costs associated with implementing such a program. However, we anticipate expenditures could include:

- Property or easement purchase
- Developing property- specific mitigation plans for each property

- Equipment and materials to conduct mitigation actions
- Regulatory structure and amendments needed to implement the program
- Administration/Overhead/Staffing

Based on the answers to the questions posed above, a feasibility study should be able to estimate rough costs for these and provide estimates of what would need to be charged for the mitigation.

Proposed Action

PDS requests that Council approve a \$100,000 supplementary budget amendment through an additional service request (ASR) to hire a consultant to develop a feasibility study for creating an offsite buffer mitigation program, addressing the issues raised above. Developing a feasibility study should provide Council and staff the information needed to decide whether and how to move forward in creating such a program. We expect that this would take from 8-12 months to develop once a contract is initiated.

Depending on whether and how Council decides to proceed once the feasibility study is completed, we would expect to propose a future budget amendment for funds to create and implement the program.

Supplemental Budget Request

Status: Pending

Planning & Development Services

Planning

Suppl ID # 3194

Fund 1

Cost Center 2500

Originator: Mark Personius

Expenditure Type: One-Time

Year 1 2021

Add'l FTE

Add'l Space

Priority 1

Name of Request: *Offsite Buffer Mitigation Program Feasibility Study*

X  *4-15-21*
Department Head Signature (Required on Hard Copy Submission) **Date**

Costs:	Object	Object Description	Amount Requested
	6630	Professional Services	\$100,000
	Request Total		\$100,000

1a. Description of request:

Planning and Development Services would like to develop a program that allows property owners to do offsite critical area buffer mitigation. Such a program would potentially allow the County to facilitate ecosystem restoration and enhancement by obtaining, either by purchase or acceptance of, permanent conservation easements and/or obtaining and restoring fee title properties that contain wetlands, fish and wildlife habitat conservation areas, and/or streams with degraded buffers. However, there are many issues that would need to be explored and answered in order to develop this program. Toward achieving this, staff proposes to hire a consultant to do a feasibility study to design and implement such a program.

1b. Primary customers:

We believe that the predominant users of such a program would be:

- *Homeowners and small-scale builders building or expanding individual homes and accessory structures.

- *Farmers not participating in CPAL

- *Whatcom County Public Works has expressed an interest, as they often need to mitigate for small impacts caused by road or bridge projects, where there often isn't enough room to do so on-site given the linear nature of such projects.

- *Similarly, Puget Sound Energy, WSDOT, pipeline operators, school districts, diking districts, the Port of Bellingham, or other such entities might have such a need.

And there certainly may be other customer classes that would benefit from such a program. Who these folks are and what they're needs might be would need to be ascertained as part of the feasibility study.

2. Problem to be solved:

Unincorporated Whatcom County contains many critical area constrained properties. The mitigation sequencing requirements of the CAO (required by state law) often result in protracted site plan and design review challenges during the permit review process—frustrating both property owners and staff. This is especially true:

- (1)when there's not enough room to put all required mitigation on-site;
- (2)where the mitigation area is so small or isolated it provides minimal ecological benefit; and/or,
- (3)where the mitigation area has a high likelihood of being re-disturbed after the 5-year monitoring has ended (e.g., someone's backyard.)

In such cases, it would be better to concentrate such mitigation in areas where it could provide more significant ecosystem benefits and has a higher likelihood of persisting over time. Though the code currently allows offsite mitigation, it is infrequently used, as it is often deemed too expensive or too logistically challenging (or both) for most small builders and homeowners to do. PDS believes implementing a publically facilitated off-site buffer mitigation program would improve critical area permitting efficiencies, facilitate faster permit review timelines, and support greater countywide net ecological gain.

Supplemental Budget Request

Status: Pending

Planning & Development Services

Planning

Suppl ID # 3194

Fund 1

Cost Center 2500

Originator: Mark Personius

3a. Options / Advantages:

The only other option for allowing offsite mitigation would be to develop a mitigation bank. However, these are capital intensive, take five years or more to develop, and may compete with the Lummi Nation's or the City of Bellingham's banks.

3b. Cost savings:

Unknown at this time, which is why a feasibility study is proposed.

4a. Outcomes:

A feasibility study should be able to be completed within 8-12 months of a consultant being hired.

4b. Measures:

By the submittal of the feasibility study.

5a. Other Departments/Agencies:

Whatcom County Public Works has also expressed an interest, as they often need to mitigate for small impacts caused by road, bridge or stormwater projects, where there often isn't enough room to do so onsite given the linear nature of such projects. Similarly, WSDOT, school districts, diking districts, the Port of Bellingham, or other such entities might have such a need.

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

For the feasibility study, Planning and Development Services would work with Public Works on guiding the consultant as to what to address and how. The study would conclude the best way to set up the program and determining who should run and own it (e.g., the County, a non-profit third party or a for-profit third party). See attached memo for additional considerations.

6. Funding Source:

General Fund

Supplemental Budget Request

Status: Pending

Health

Communicable Disease & Epidemiology

Suppl ID # 3199

Fund 1

Cost Center 660470

Originator: Cindy Hollinsworth

Expenditure Type: One-Time Year 1 2021 Add'l FTE Add'l Space Priority 1

Name of Request: DOH-Mass Vax Site (FEMA Funding)

X *Kathleen P* (on behalf of Erika Lauterbach) 4/19/21
 Department Head Signature (Required on Hard Copy Submission) Date

Costs:	Object	Object Description	Amount Requested
	4333.9703	Mass Vaccination FEMA	(\$2,171,429)
	6120	Extra Help	\$47,258
	6230	Social Security	\$3,615
	6255	Other H&W Benefits	\$69
	6259	Worker's Comp-Interfund	\$364
	6269	Unemployment-Interfund	\$123
	6320	Office & Op Supplies	\$100,000
	6510	Tools & Equip	\$20,000
	6610	Contractual Services	\$2,000,000
	Request Total		\$0

1a. Description of request:

We are requesting expenditure authority for expenses associated with Whatcom County mass vaccination sites. Dedicated grant funding administered by WA State Department of Health and provided by FEMA will cover expenses incurred January 21, 2021 through April 20, 2021. An extension of this funding is anticipated. This funding will cover expenses not covered by other funding sources related to operating mass vaccination sites in Whatcom County.

For the Community Vaccination Center at Bellingham Technical College, this funding supports supplies and staffing including a site manager. Staffing for the site is provided by operating partners including Whatcom County Health Department, BTC, community provider partners and volunteers; operating partners are eligible to enter into contracts for reimbursement of expenses. This funding will also be available to community providers who are operating mass vaccination services outside of regular clinical services.

1b. Primary customers:

Customers are all residents of Whatcom County, who will benefit from low barrier access to vaccines and vaccine providers and partner organizations who will be able to maintain expanded ability to administer vaccines through increased vaccine coordination.

2. Problem to be solved:

Vaccination is one of our next steps to the COVID-19 pandemic. Whatcom County is rural and urban with a large diversity in residents' needs and there are various challenges to vaccine access. Vaccine providers are challenged with staffing, equipment, and resource costs needed to meet the high-volume demand and address accessibility issues. Diversity in vaccine delivery methods and locations is necessary to vaccinate all Whatcom County residents.

3a. Options / Advantages:

Funding will support community partner and vaccine provider engagement ensuring priority populations and those who experience health disparities have access to the vaccine.

Supplemental Budget Request

Status: Pending

Health

Communicable Disease & Epidemiology

Suppl ID # 3199

Fund 1

Cost Center 660470

Originator: Cindy Hollinsworth

Funding will ensure that financial costs or burdens are not the barrier to ensuring vaccine providers are able to provide vaccine to eligible residents in Whatcom County.

3b. Cost savings:

Removing the financial barriers to adequately reach all residents in Whatcom County with COVID-19 vaccines will decrease significant health events related to the impact of the COVID-19 virus.

4a. Outcomes:

Maintain or Increase vaccine throughput by vaccine providers each month
Eligible Whatcom County residents have access to vaccine when ready
Ensure vaccine provider engagement in coordination and collaboration on vaccine administration methods
Coordinate engagement and opportunities for vaccination for high risk populations
Decrease in COVID-19 infection rates and negative health effects

4b. Measures:

400 to 4000 vaccinations will be provided weekly at the Community Vaccination site at BTC. The site will be open 1-6 days weekly and decision to operate is based on vaccine availability.
Additional vaccinations will be provided weekly at mass vaccination sites operated by community partners throughout Whatcom County.
Percent of Whatcom County residents being vaccinated each week
Increase in accessibility to appointments for vaccine administration in Whatcom County

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:

WA State Department of Health Consolidated Contract /Mass Vaccination State Grant/ Federal FEMA funds

Supplemental Budget Request

Status: Pending

Health

Communicable Disease & Epidemiology

Suppl ID # 3198

Fund 1

Cost Center 660480

Originator: Kathleen Roy

Expenditure Type: One-Time

Year 1 2021

Add'l FTE

Add'l Space

Priority 1

Name of Request: WA State DOH- COVID ELC 2021

X

Kathleen Roy (on behalf of Eric Lauterbach) 4/19/21

Department Head Signature (Required on Hard Copy Submission)

Date

Costs:	Object	Object Description	Amount Requested
	4333.9332	ELC Grant	(\$2,120,148)
	6110	Regular Salaries & Wages	\$257,097
	6120	Extra Help	\$702,533
	6140	Overtime	\$10,000
	6210	Retirement	\$87,595
	6230	Social Security	\$73,412
	6245	Medical Insurance	\$241,596
	6255	Other H&W Benefits	\$27,646
	6259	Worker's Comp-Interfund	\$11,676
	6269	Unemployment-Interfund	\$2,495
	6320	Office & Op Supplies	\$10,000
	6610	Contractual Services	\$197,602
	Request Total		(\$498,496)

1a. Description of request:

In order to support COVID response efforts, the Health Department requests spending authority of dedicated grant funding to support the on-going COVID response operations through December 31, 2021. This funding request includes addition of 2 full-time regular nurse positions. These positions are funded for a full 12 months with CARES funding and this grant.

In November 2021, Council approved ASR #2021-6303 for an initial Department of Health ELC grant to fund temporary staff for the COVID response through June 2021. This second ELC grant amendment extends funding for these positions through December 2021. This is part of the Health Department's shift to a more stable staffing response to the COVID pandemic response and recovery efforts.

This funding helps support the 3 full-time, benefitted, short term, epidemiologist, communications, COVID-19 project manager positions and two nurse positions previously approved for 2021 with ASR #2021-6303. These funds also would be utilized for salary and benefit expenses for 16 current temporary staff currently working within health department operations and Incident Command operations including Case and Contact Investigators (CCI), Communications Specialists, Epidemiology and Data Specialists and a Logistics Specialist. It also includes 9 part-time temporary public health nurses.

In addition, these funds will cover contractual services for COVID vaccination planning and coordination and community resources to prevent the spread of COVID.

1b. Primary customers:

Customers are all residents of Whatcom County, who will benefit from timely case and contact investigations, testing availability, quarantine and isolation support, warehouse/PPE management and

Supplemental Budget Request

Status: Pending

Health

Communicable Disease & Epidemiology

Suppl ID # 3198

Fund 1

Cost Center 660480

Originator: Kathleen Roy

distribution, and communication support.

2. Problem to be solved:

Temporary positions create a structural barrier for stable and consistent support. Temporary employees may only work full time for three months and then drop hours to 16 hours per week. For many of these positions, it takes a full three months for proficiency. This challenge contributes to turnover in favor of full time positions, instability in staffing, severe administrative burden to continually recruit and hire additional temporary staff, and reduced capacity to respond to the pandemic.

3a. Options / Advantages:

Employees will be advantaged by having benefits, especially among those in higher COVID risk roles, and by having some stability and predictability in their employment status. The County will be advantaged by have a more stable workforce and the ability to attract and retain well-qualified individuals needed to respond to COVID.

3b. Cost savings:

Some of these positions will replace the need for higher cost contractors. The more effective the response, the sooner the county will recover economically.

4a. Outcomes:

More staff available to assist in the response, less administrative time spent in recruitment and hiring, more efficient operations with better trained and more experienced staff, less reliance on costly contracts.

4b. Measures:

Adequate community testing; 90% of cases called within 24 hours; 80% of contacts called within 48 hours; daily monitoring of all people in isolation and quarantine; timely contact with businesses, schools, day cares, healthcare organizations, and long term care facilities.

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:

WA State Department of Health Consolidated Contract / Epidemiology and Laboratory Capacity (ELC)- Protection Program and Healthcare Grant/ Federal Coronavirus Relief Funding

Supplemental Budget Request

Status: Pending

Health

Communicable Disease & Epidemiology

Suppl ID # 3200

Fund 1

Cost Center 627221

Originator: Cindy Hollinsworth

Expenditure Type: One-Time

Year 1 2021

Add'l FTE

Add'l Space

Priority 1

Name of Request: DOH Vaccination / Immunization Grant 2021

X

Kathryn B. (on behalf of Erika Lautenbach) 4/19/21

Department Head Signature (Required on Hard Copy Submission)

Date

Costs:	Object	Object Description	Amount Requested
	4333.9626	DOH COVID-19 Vaccine Svcs	(\$853,429)
	6110	Regular Salaries & Wages	\$104,560
	6120	Extra Help	\$91,622
	6210	Retirement	\$25,329
	6230	Social Security	\$15,008
	6245	Medical Insurance	\$37,607
	6255	Other H&W Benefits	\$3,933
	6259	Worker's Comp-Interfund	\$1,008
	6269	Unemployment-Interfund	\$510
	6320	Office & Op Supplies	\$10,000
	6610	Contractual Services	\$200,000
	Request Total		(\$363,852)

1a. Description of request:

The Health Department is requesting expenditure authority of dedicated grant funding to support the COVID response.

This funding would support the three full-time, benefitted, short term nurses as regular positions through December 2021. These regular positions are funded for 12 months through a combination of CARES funding and this grant. This position is part of the Health Department's shift to a more stable staffing strategy to the COVID pandemic response and recovery efforts.

In addition, these funds would be utilized for salary and benefit expenses for five current temporary site scheduling / clerk staff. This funding would support extension of their positions through December 2021.

In addition, these funds will cover contractual services supporting vaccination planning and community resource information.

1b. Primary customers:

Customers are all residents of Whatcom County, who will benefit increased coordination and access to COVID-19 vaccine.

2. Problem to be solved:

Temporary positions create a structural barrier for stable and consistent support. Temporary employees may only work full time for three months and then drop hours to 16 hours per week. For many of these positions, it takes a full three months for proficiency. This challenge contributes to turnover in favor of full-time positions, instability in staffing, severe administrative burden to continually recruit and hire additional temporary staff, and reduced capacity to respond to the pandemic.

Supplemental Budget Request

Status: Pending

Health

Communicable Disease & Epidemiology

Suppl ID # 3200

Fund 1

Cost Center 627221

Originator: Cindy Hollinsworth

3a. Options / Advantages:

Employees will be advantaged by having benefits and by having some stability and predictability in their employment status. The County will be advantaged by have a more stable workforce and the ability to attract and retain well-qualified individuals needed to respond to COVID.

3b. Cost savings:

Some of these positions will replace the need for higher cost contractors. The more effective the response, the sooner the county will recover economically.

4a. Outcomes:

More staff available to assist in the response, less administrative time spent in recruitment and hiring, more efficient operations with better trained and more experienced staff, less reliance on costly contracts.

4b. Measures:

County Vaccination rates
Number of COVID vaccinations provided by community provider sites
Number of COVID vaccine providers in Whatcom County

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:

WA State Department of Health Consolidated Contract /Vaccination and Immunization Grant /Federal COVID Relief Funding

Supplemental Budget Request

Status: Pending

Health

Human Services

Suppl ID # 3201

Fund 122

Cost Center 122800

Originator: Ann Beck

Expenditure Type: One-Time

Year 1 2021

Add'l FTE

Add'l Space

Priority 1

Name of Request: Emergency Solutions Grant (COVID)

X

Department Head Signature (Required on Hard Copy Submission)

Date

Kathleen May (on behalf of Erika Lautenbach) 4/19/21

Costs:	Object	Object Description	Amount Requested
	4333.1423	Emergency Solutions	(\$309,712)
	6110	Regular Salaries & Wages	\$309,712
	Request Total		\$0

1a. Description of request:

We are requesting increased spending authority for dedicated grant funding. This funding will be used to prevent, mitigate, and reduce the transmission of COVID19 in Whatcom County through activities for those experiencing or at high risk of homelessness. These services include emergency shelters, case management, and rental assistance. The grant total is \$3,044,770 and provides funding through September 30, 2022.

1b. Primary customers:

This funding will support Whatcom County residents who are seeking safe places to stay on a temporary basis and transitions to permanent housing solutions.

2. Problem to be solved:

Local reports, such as the 2021 Point in Time Count Report have shown that homelessness increased over the course of 2020 and that the backlog for households seeking services has grown.

3a. Options / Advantages:

This funding will enable contracted non-profit agencies to add capacity and transfer households from emergency shelters to permanent housing placements. It will also allow for additional spending to increase shelter capacity if that is determined to be necessary as weather worsens in October and November.

3b. Cost savings:

Facilitating the transfer of households from motels to rental units will help our housing system save significant amounts of funding that is currently being spent on motel room rentals. The new housing placements, mostly in apartments, are often less expensive than motel rooms and provide a greater basis for achieving stability. Rental units are also more appropriate for long term placements and the responsibility for paying full rent independently can be transferred to those occupying households.

4a. Outcomes:

This additional funding, to be used from July through December of 2021, is expected to facilitate the transfers of approximately 15-20 households from emergency shelters to rental units.

4b. Measures:

Agencies awarded this funding will be required to report on the number of households engaged in case management services as well as the number that have been successfully relocated into rental units.

5a. Other Departments/Agencies:

N/A

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

N/A

Supplemental Budget Request

Status: Pending

Health

Human Services

Suppl ID # 3201

Fund 122

Cost Center 122800

Originator: Ann Beck

6. Funding Source:

Washington State Department of Commerce (Federal funding from US Department of Housing and Urban Development (HUD))

Supplemental Budget Request

Status: Pending

Health

Environmental Health

Suppl ID # 3202

Fund 140

Cost Center 140100

Originator: John Wolpers

Expenditure Type: One-Time

Year 1 2021

Add'l FTE

Add'l Space

Priority 1

Name of Request: **Comprehensive Solid & Hazardous Waste Mgmt Plan**

X

Kate By (on behalf of Erika Loutenbach) 4/20/21

Department Head Signature (Required on Hard Copy Submission)

Date

Costs:	Object	Object Description	Amount Requested
	6610	Contractual Services	\$113,000
	Request Total		\$113,000

1a. Description of request:

We are requesting re-appropriation of 2020 budget authority for the update of the Comprehensive Solid and Hazardous Waste Plan (CSHWMP). The contract was not performed in 2020 due to COVID but has now been extended through the end of 2021 and will be completed this year.

1b. Primary customers:

Residents of Whatcom County

2. Problem to be solved:

The Comprehensive Solid and Hazardous Waste Plan must be reviewed and updated at least every five years, per RCW 70.95.110. The plan addresses the needs and changes within the complex Solid Waste systems of the county.

3a. Options / Advantages:

There are no other options as this plan update is mandated by state law.

3b. Cost savings:

The Solid Waste Fund is sufficient to cover these expenses and will not need to draw upon the County's General Fund.

4a. Outcomes:

The Plan provides guidance for the county's solid waste system infrastructure and programs for the five-year timeline.

4b. Measures:

A newly revised CSHWMP will be approved by the Solid Waste Executive Committee and County Council.

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:

Solid Waste Fund

WHATCOM COUNTY
Planning & Development Services
5280 Northwest Drive
Bellingham, WA 98226-9097
360-778-5900, TTY 800-833-6384
360-778-5901 Fax



Mark Personius, AICP
Director

Memorandum

TO: Honorable Whatcom County Councilmembers
Honorable Satpal Sidhu, Whatcom County Executive

THROUGH: Mark Personius, PDS Director *MP*

FROM: Becky Snijder van Wissenkerke, PDR Program Administrator

DATE: April 13, 2021

SUBJECT: Supplemental Budget Request to complete forestry conservation easement acquisition for PDR applicant Kiera-Duffy

Introduction

The Whatcom County Purchase of Development Rights (PDR) Program was initiated in September of 2001. The program has successfully purchased 179 development rights on 1,500 acres through 30 conservation easements.

The Purchase of Development Rights Oversight Committee has recommended purchase of a forestry conservation easement on the Kiera-Duffy property. On January 26, 2021, Whatcom County Council approved the PDR Program Administrator and County Executive to proceed with the acquisition of this easement through Resolution 2021-004. This supplemental budget request includes all costs associated with closing of this forestry conservation easement, including easement cost, easement monitoring fees, survey, baseline documentation fees, and associated closing costs. This request will support completion of the PDR process on this property.

Background and Purpose

Completion of the Kiera-Duffy forestry conservation easement will remove 2 development rights and add an additional 55.6 acres to the total protected acreage in Whatcom County. Whatcom Land Trust has developed a baseline condition report for the easement area and will be the legally responsible party to monitor and enforce terms of the conservation easement.

The Washington Recreation & Conservation Office has selected the Kiera-Duffy forestry conservation easement to receive funds from the Forestland Preservation Grant. These funds represent 50% of the actual easement cost.

This request is to use Conservation Futures Funds.

Kiera-Duffy Forestry - PDR Supplemental Budget Request

Kiera-Duffy Forestry Conservation Easement	\$140,000.00
- Easement monitoring and enforcement	\$18,000.00
- Background Documents preparation	\$2,000.00
- Survey	\$2,000.00
- Escrow and closing costs	\$2,000.00
<hr/>	
Subtotal	\$164,000.00
- Reimbursement from WA RCO	(\$70,000.00)
<hr/>	
Net cost to Whatcom County after reimbursement	\$94,000.00

Request Summary

This request is consistent with Resolution 2021-004, which authorizes the PDR Program Administrator and County Executive to enter into a purchase and sale agreement for the forestry conservation easement on this property. The conservation easement will be completed and recorded by August 2021.

This request is to use Conservation Futures Funds.

Please contact Becky Snijder van Wissenkerke, PDR Program Administrator, at (360)778-5956 with any questions or concerns.

Supplemental Budget Request

Status: Pending

Planning & Development Services

Planning

Suppl ID # 3195

Fund 175

Cost Center 17550

Originator: Becky Snijder van Wissenke

Expenditure Type: One-Time

Year 1 2021

Add'l FTE

Add'l Space

Priority 1

Name of Request: *Kiera-Duffy Forestry Conservation Easement PDR*

X		4.15.21
Department Head Signature (Required on Hard Copy Submission)		Date

Costs:	Object	Object Description	Amount Requested
	4334.0273	Farmland Preservation	(\$70,000)
	6610	Contractual Services	\$18,000
	7320	Land	\$146,000
	Request Total		\$94,000

1a. Description of request:

The proposed budget amendment is to cover all associated costs for completion of a forestry conservation easement on the Kiera-Duffy property. This includes easement cost, easement monitoring and enforcement fees, survey, baseline documentation, and escrow and closing costs.

1b. Primary customers:

The community at large benefits from the Purchase of Development Rights (PDR) program due to the permanent protection of the land for agricultural purposes. This area will never be developed with additional housing and will stay in low-service cost status in perpetuity. Multiple benefits to agriculture, wildlife, and water quality are among the benefits for the community.

2. Problem to be solved:

The focus of the Purchase of Development Rights Program is to permanently protect agricultural and forestry lands from conversion to non-working land uses. This property contains productive forestry soils, is adjacent to other working forestland and has been recommended for protection by the Purchase of Development Rights Oversight Committee and approved for purchase by County Council.

3a. Options / Advantages:

The Purchase of Development Rights Oversight Committee considers the PDR program to be an integral component of an overall working lands protection strategy. The Growth Management Act requires the protection of resource lands. This is one of several efforts the County is making to comply with the state requirement. Zoning and Open Space Taxation are other programs currently employed by Whatcom County to protect agricultural and forestry lands. PDR easements are valuable partly because they are the only action currently available for the County to achieve permanent protection on agricultural and forestry lands.

3b. Cost savings:

Savings are difficult to quantify. Studies indicate that resource lands are the lowest cost properties for community services. Other savings are based on the benefits of not converting the property to some more intensive use. Water quality degradation, excessive stormwater runoff, and increased costs for roads and other service provisions are eliminated when conservation easements establish a permanent working land development pattern in a given area. Maintaining a critical mass of viable working lands helps support the economy.

4a. Outcomes:

This easement will result in the permanent protection of 55.6 acres of forestland and associated ecosystems.

Supplemental Budget Request

Status: Pending

Planning & Development Services

Planning

Suppl ID # 3195

Fund 175

Cost Center 17550

Originator: Becky Snijder van Wissenke

4b. Measures:

The easement on this property will be purchased with assistance from a title company through a typical closing process. The successful closing of the easement purchase marks the outcome of this specific request. Annual monitoring reports are supplied by the Whatcom Land Trust for each completed conservation easement.

5a. Other Departments/Agencies:

This is a joint project which involves the Whatcom Land Trust (on-going monitoring/enforcement responsibilities) and Whatcom County – PDR program administration/funding.

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

The Whatcom Land Trust will be responsible for the long-term monitoring under the terms of the conditions in the conservation easement and based on the contract that they have with Whatcom County. Alex Jeffers is the Conservation Manager.

6. Funding Source:

Conservation Futures Fund (as requested)

Therefore the total coming out of Conservation Futures will be \$164,000.00, with \$70,000.00 being reimbursed by WA Recreation & Conservation Office. The net expenditure after reimbursement will be \$94,000.00.



Memorandum

TO: Honorable Whatcom County Councilmembers
Honorable Satpal Sidhu, Whatcom County Executive

THROUGH: Mark Personius, PDS Director *mp*

FROM: Becky Snijder van Wissenkerke, PDR Program Administrator

DATE: April 13, 2021

SUBJECT: Supplemental Budget Request to complete ecological conservation easement acquisition for PDR applicant Kiera-Duffy

Introduction

The Whatcom County Purchase of Development Rights (PDR) Program was initiated in September of 2001. The program has successfully purchased 179 development rights on 1,500 acres through 30 conservation easements.

The Purchase of Development Rights Oversight Committee has recommended purchase of an ecological conservation easement on the Kiera-Duffy property. On January 26, 2021, Whatcom County Council approved the PDR Program Administrator and County Executive to proceed with the acquisition of this easement through Resolution 2021-004. This supplemental budget request includes all costs associated with closing of this ecological conservation easement, including easement cost, easement monitoring fees, survey, baseline documentation fees, and associated closing costs. This request will support completion of the PDR process on this property.

Background and Purpose

Completion of the Kiera-Duffy ecological conservation easement will remove 2 development rights and add an additional 57.2 acres to the total protected acreage in Whatcom County. Whatcom Land Trust has developed a baseline condition report for the easement area and will be the legally responsible party to monitor and enforce terms of the conservation easement.

The property owners have agreed to a 50% bargain sale, which accounts for a donation of \$65,000.

This request is to use Conservation Futures Funds.

Kiera-Duffy Ecological - PDR Supplemental Budget Request

Kiera-Duffy Ecological Conservation Easement	\$65,000.00
- Easement monitoring and enforcement	\$18,000.00
- Background Documents preparation	\$2,000.00
- Survey	\$2,000.00
- Escrow and closing costs	\$2,000.00

Net cost to Whatcom County **\$89,000.00**

Request Summary

This request is consistent with Resolution 2021-004, which authorizes the PDR Program Administrator and County Executive to enter into a purchase and sale agreement for the ecological conservation easement on this property. The conservation easement will be completed and recorded by August 2021.

This request is to use Conservation Futures Funds.

Please contact Becky Snijder van Wissenkerke, PDR Program Administrator, at (360)778-5956 with any questions or concerns.

Supplemental Budget Request

Status: Pending

Planning & Development Services Planning

Suppl ID # 3196 Fund 175 Cost Center 17550 Originator: Becky Snijder van Wissenke

Expenditure Type: One-Time Year 1 2021 Add'l FTE Add'l Space Priority 1

Name of Request: Kiera-Duffy Ecological Conservation Easement PDR

X		4-15-21
Department Head Signature (Required on Hard Copy Submission)		Date

Costs:	Object	Object Description	Amount Requested
	6610	Contractual Services	\$18,000
	7320	Land	\$71,000
	Request Total		\$89,000

1a. Description of request:

The proposed budget amendment is to cover all associated costs for completion of an ecological conservation easement on the Kiera-Duffy property. This includes easement cost, easement monitoring and enforcement fees, survey, baseline documentation, and escrow and closing costs.

1b. Primary customers:

The community at large benefits from the Purchase of Development Rights (PDR) program due to the permanent protection of the land for agricultural purposes. This area will never be developed with additional housing and will stay in low-service cost status in perpetuity. Multiple benefits to agriculture, wildlife, and water quality are among the benefits for the community.

2. Problem to be solved:

The focus of the Purchase of Development Rights Program is to permanently protect agricultural and forestry lands from conversion to non-working land uses as well as protect important ecological areas. This property contains important wetlands and forestland, is adjacent to other protected land and has been recommended for protection by the Purchase of Development Rights Oversight Committee and approved for purchase by County Council.

3a. Options / Advantages:

The Purchase of Development Rights Oversight Committee considers the PDR program to be an integral component of an overall working lands protection strategy. The Growth Management Act requires the protection of resource lands. This is one of several efforts the County is making to comply with the state requirement. Zoning and Open Space Taxation are other programs currently employed by Whatcom County to protect agricultural and forestry lands. PDR easements are valuable partly because they are the only action currently available for the County to achieve permanent protection on agricultural and forestry lands.

3b. Cost savings:

Savings are difficult to quantify. Studies indicate that resource lands are the lowest cost properties for community services. Other savings are based on the benefits of not converting the property to some more intensive use. Water quality degradation, excessive stormwater runoff, and increased costs for roads and other service provisions are eliminated when conservation easements establish a permanent working land development pattern in a given area. Maintaining a critical mass of viable working lands helps support the economy.

4a. Outcomes:

This easement will result in the permanent protection of 57.2 acres of important ecological areas.

4b. Measures:

Supplemental Budget Request

Status: Pending

Planning & Development Services

Planning

Suppl ID # 3196

Fund 175

Cost Center 17550

Originator: Becky Shijder van Wissenke

The easement on this property will be purchased with assistance from a title company through a typical closing process. The successful closing of the easement purchase marks the outcome of this specific request. Annual monitoring reports are supplied by the Whatcom Land Trust for each completed conservation easement.

5a. Other Departments/Agencies:

This is a joint project which involves the Whatcom Land Trust (on-going monitoring/enforcement responsibilities) and Whatcom County – PDR program administration/funding.

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

The Whatcom Land Trust will be responsible for the long-term monitoring under the terms of the conditions in the conservation easement and based on the contract that they have with Whatcom County. Alex Jeffers is the Conservation Manager.

6. Funding Source:

The property owners have agreed to a 50% bargain sale, which accounts for a donation of \$65,000. The remainder will come from Conservation Futures Fund (as requested)
Therefore the total coming out of Conservation Futures will be \$89,000.00.

Supplemental Budget Request

Status: Pending

Administrative Services

Facilities Management

Suppl ID # 3169 Fund 326 Cost Center Originator: Rob Ney

Expenditure Type: One-Time Year 1 2021 Add'l FTE Add'l Space Priority 1

Name of Request: WUECC Roof Replacement

X  4/12/21
Department Head Signature (Required on Hard Copy Submission) **Date**

Costs:	Object	Object Description	Amount Requested
	7220	Intergov Subsidies	\$70,000
	Request Total		\$70,000

1a. Description of request:

The County leases one half of the WUECC building from the Port of Bellingham (Contract/Interlocal Agreement 201312007). The lease tenants are both the City of Bellingham and Whatcom County. Within this lease, it is specified that the cost of the roof replacement (for the half of the roof under our lease) shall be shared equally between the three parties, Port/City/County. The roof was recognized as nearing the end of the life when the lease was drafted. At this time, the three parties believe it is beneficial for the roof to be replaced. The County is responsible for 1/3 of half of the cost of the roof replacement.

1b. Primary customers:

The tenants of the building, as well as the Citizens of Whatcom County that benefit from the services provided by the WUECC.

2. Problem to be solved:

The roof is beyond its useful life. Each year, the parties share in patching portion of the roof to extend its life. It is prudent to replace the roof with an entirely new surface at this time.

3a. Options / Advantages:

The only other option would be to continue to patch failures. However, the roof is close to catastrophic failure. Replacing the roof is the prudent and most cost effective option for all parties. The parties share in patching leaks annually, which would be eliminated for the life of the new roofing material (20-30 years).

3b. Cost savings:

The annual cost of patching the roof would be eliminated if the roof was replaced.

4a. Outcomes:

The port will replace the roof in 2021.

4b. Measures:

Once the roof is replaced. When the roof is replaced within the specified budget prepared by the Port's engineering team.

5a. Other Departments/Agencies:

The impact will be positive to the tenants in the building.

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

Rob Ney, Project & Operations Manager

6. Funding Source:



Whatcom County

COUNTY COURTHOUSE
311 Grand Avenue, Ste #105
Bellingham, WA 98225-4038
(360) 778-5010

Agenda Bill Master Report

File Number: AB2021-185

File ID:	AB2021-185	Version:	1	Status:	Agenda Ready
File Created:	03/16/2021	Entered by:	DBrown@co.whatcom.wa.us		
Department:	Council Office	File Type:	Ordinance Requiring a Public Hearing		
Assigned to:	Council	Final Action:			
Agenda Date:	05/04/2021	Enactment #:			

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

TITLE FOR AGENDA ITEM:

Ordinance amending Whatcom County Code 9.32, Unlawful Discharge of Firearms, to establish a no shooting zone in the Drayton Harbor Area of Whatcom County

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

At the request of the City of Blaine, this ordinance would establish a no shooting zone in the Drayton Harbor area of Whatcom County. The boundaries of the proposed zone are as follows: That portion of Sections 7 and 18, Township 40 North, Range 1 East and Sections 1, 2, 11, 12, and 13, Township 40 North, Range 1 West, W.M., Whatcom County, Washington described as follows: Beginning along Drayton Harbor Road (Co. Rd. No. 37) at the intersection of the ordinary high water mark of Drayton Harbor with the limits of the city of Blaine, Whatcom County, Washington; thence easterly along said ordinary high water mark to the intersection with the northerly face of an existing bridge over California Creek; thence easterly along said northerly bridge face to the intersection with said ordinary high water mark; thence northerly along said ordinary high water mark to the intersection with said city limits; thence along said city limits westerly, northerly and southerly to the point of beginning.

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
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Attachments: Proposed Ordinance, Resolution from Bob Harriman, Letter from Mayor of Blaine 4.14.2021

ORDINANCE NO. _____

**AMENDING WHATCOM COUNTY CODE 9.32, UNLAWFUL DISCHARGE
OF FIREARMS, TO ESTABLISH A NO SHOOTING ZONE IN THE
DRAYTON HARBOR AREA OF WHATCOM COUNTY**

WHEREAS, pursuant to Whatcom County Code 9.32.050 the County Council may, upon its own initiative, pass a resolution declaring its intent to form a no shooting zone; and

WHEREAS, on July 23, 2019, the Council approved Resolution 2019-035, declaring its intent to conduct a public hearing to consider creating a no shooting zone in the Drayton Harbor area of Whatcom County, as proposed by the City of Blaine; and

WHEREAS, pursuant to Whatcom County Code 9.32.020 and RCW 36.32.120 the County Council has the authority and power to establish no shooting zones; and

WHEREAS, a "no shooting zone" is an area designated by the County Council in which the discharge of firearms is prohibited; and

WHEREAS, RCW 9.41.300 (2) specifically states that counties may enact laws and ordinances restricting the discharge of firearms in any portion of their respective jurisdiction where there is a reasonable likelihood that humans, domestic animals, or property will be jeopardized; and

WHEREAS, according to the proposal submitted by the City of Blaine (see City of Blaine Resolution No. 1765-19, attached as Exhibit A to this resolution):

- It is difficult for members of the public to distinguish between incorporated and unincorporated areas, particularly on open water, which causes numerous hunters to inadvertently move into areas where hunting and discharge of firearms is illegal;
- Citizens have expressed concerns about gunfire near homes and property and repeatedly call for police response to such incidents;
- Unincorporated portions of Drayton Harbor aquatic area, tidelands, and shoreline are within and adjacent to urban growth areas;
- Population is expanding and housing density is increasing within the areas surrounding Drayton Harbor both within the City and in areas of unincorporated Whatcom County; and

WHEREAS, twenty-three other no shooting zones have been established throughout Whatcom County as a means to protect the public.

NOW THEREFORE, BE IT ORDAINED by the Whatcom County Council that a new section of Whatcom County Code 9.32 shall be added to create a no-shooting zone in the Drayton Harbor area as outlined in Exhibit B to this ordinance.

BE IT FINALLY ORDAINED that Tribal members exercising treaty rights to hunt on traditional hunting grounds that are open and unclaimed are not subject to this ordinance.

ADOPTED this _____ day of _____, 2021.

ATTEST:

**WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON**

Dana Brown-Davis, Clerk of the Council

Barry Buchanan, Council Chair

APPROVED AS TO FORM:

() Approved () Denied

Civil Deputy Prosecutor

Satpal Sidhu, Executive

Date: _____

Exhibit A
(Drayton Harbor No Shooting Zone – City of Blaine Resolution)

RESOLUTION NO. 1765-19

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BLAINE, WASHINGTON, TO SEEK DESIGNATION OF ALL UNINCORPORATED PORTIONS OF DRAYTON HARBOR AQUATIC AREA, TIDELANDS AND SHORELINE AS A NO SHOOTING ZONE PURSUANT TO WHATCOM COUNTY CODE 9.32 .

Whereas, portions of the Drayton Harbor aquatic area, tidelands and shoreline are within the city limits, and

Whereas, portions of Drayton Harbor aquatic area, tidelands and shoreline are within Whatcom County jurisdiction, and

Whereas, hunting and the discharge of firearms is prohibited in the city limits, and

Whereas, it is difficult for members of the public to distinguish between incorporated and unincorporated areas particularly on the open water, which causes numerous hunters to inadvertently move into areas where hunting and discharge of firearms is illegal, and

Whereas, our citizens have expressed concerns about gunfire near homes and property and repeatedly call for police response to such incidents, and

Whereas, unincorporated portion of Drayton Harbor aquatic area, tidelands and shoreline are within and adjacent to urban growth areas, and

Whereas, population is expanding and housing density is increasing within the areas surrounding Drayton Harbor both within the City and an areas or unincorporated Whatcom County,

Whereas, the Revised Code of Washington (RCW 36.32.120) provides Whatcom County authority to designate no shooting zones, and

Whereas, Whatcom County Code Section 9.32 “Unlawful Discharge of Firearms” designates twenty-two no shooting zones, most lying within and adjacent to cities, urban growth areas and other locations of higher density development,

Now therefore, the City Council of the City of Blaine hereby resolves to seek designation of all the aquatic areas and tidelands within Drayton Harbor located within Whatcom County as a no shooting zone pursuant to Whatcom County Code Section 9.32.

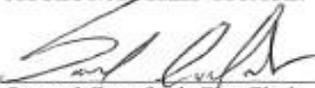
PASSED BY THE CITY COUNCIL OF BLAINE, WASHINGTON, on the 8th day of July, 2019, and approved by the Mayor on the same day.

CITY OF BLAINE, WASHINGTON



Bonnie Onyon, Mayor

ATTEST/AUTHENTICATE:



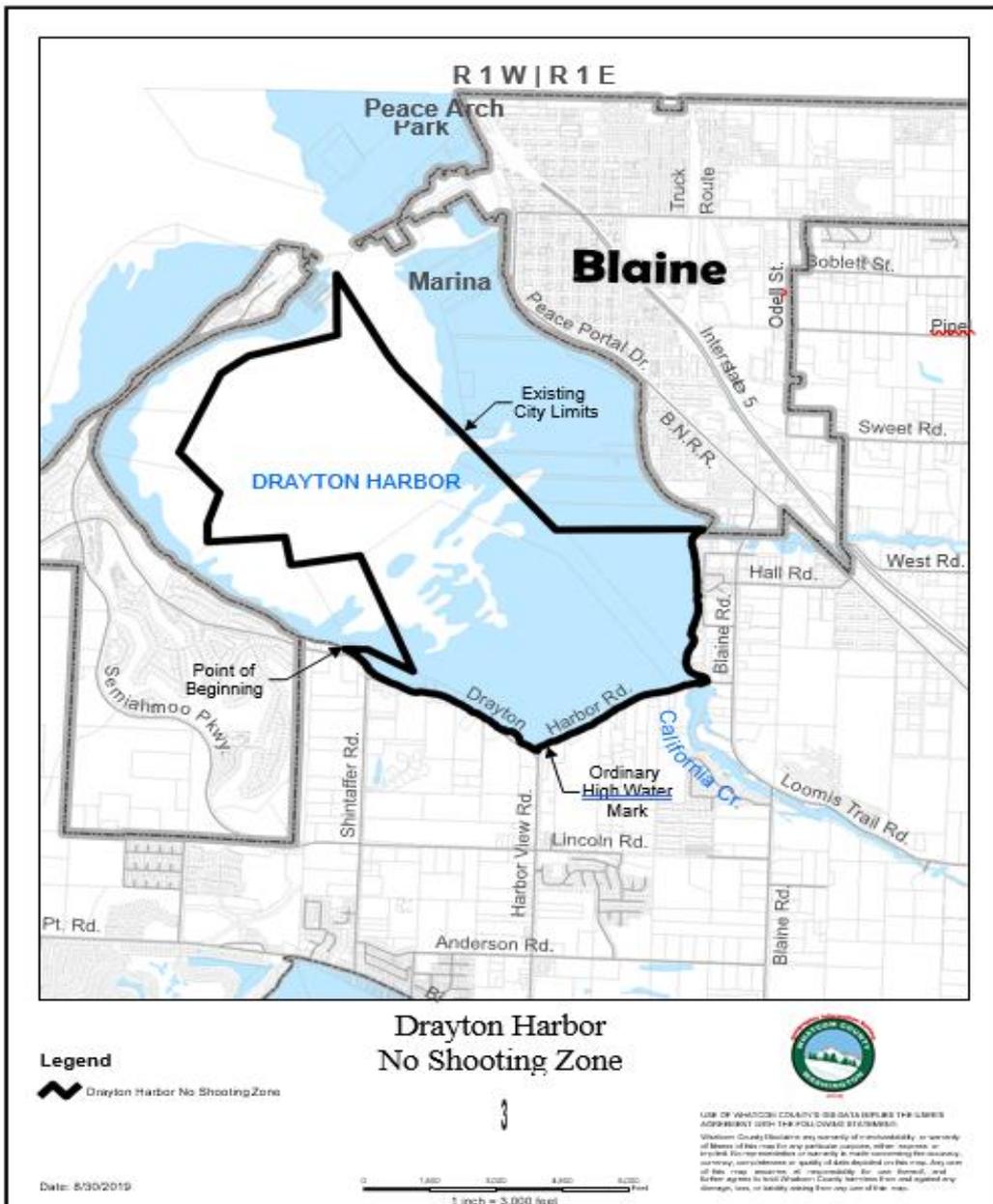
Samuel Crawford, City Clerk

Exhibit B
(Drayton Harbor No Shooting Zone)

9.32.350 No shooting zone number 24 established.

- A. No shooting zone number 24 is also known as the Drayton Harbor area.
- B. The boundaries are described as follows:

That portion of Sections 7 and 18, Township 40 North, Range 1 East and Sections 1, 2, 11, 12 and 13, Township 40 North, Range 1 West, W.M., Whatcom County, Washington described as follows: Beginning along Drayton Harbor Road (Co. Rd. No. 37) at the intersection of the ordinary high water mark of Drayton Harbor with the limits of the city of Blaine, Whatcom County, Washington; thence easterly along said ordinary high water mark to the intersection with the northerly face of an existing bridge over California Creek; thence easterly along said northerly bridge face to the intersection with said ordinary high water mark; thence northerly along said ordinary high water mark to the intersection with said city limits; thence along said city limits westerly, northerly and southerly to the point of beginning.



A Resolution against Non-Shooting Zone Proposals “Drayton Harbor” and “Dearborn”- addressing to Whatcom County Council (Sheriff, Planning, Shorelines) and the State Dept of Fish & Wildlife and the Ceded 9 Treaty Tribes of Point Elliot

Whereas: Updated knowledge of facts related to two different proposed non-shooting zones known as “Drayton Harbor” & “Dearborn” has come to the Whatcom County citizens for comment.

Whereas: Both non-shooting zones have similar characteristics and are in Whatcom County designation & State of Washington designation & and designation as defined by the ceded 9 Treaty Tribes of Point Elliot inclusive of lands, tidelands, and waters.

Whereas: Non-Shooting zone “Drayton Harbor” mostly concerns fresh & salt waters & tidelands (as shown on the Council proposal map) all owned by the State of Washington under legislated mandated laws through the Washington State Dept of Fish & Wildlife plus US Fish & Wildlife and is also under the jurisdiction of the **ceded 9 Treaty Tribes of Point Elliot**.

Whereas: Non-shooting zone proposal known as “**Dearborn**” concerns mostly private lands (as shown on the Council proposal map) and is under Whatcom County rules and is southward and bordering the south & east sides of the “**Drayton harbor**” proposal area. Both proposals come under allowed shooting laws enforced by Whatcom County Sheriff jurisdiction and under Washington State Dept of Fish and Wildlife plus US fish & Wildlife.

Whereas: Both non-shooting proposals have existing restricted controlled hunting by Washington State Dept of Fish & Wildlife as defined in the WDFW yearly hunting pamphlet. The WDFW pamphlet rule **limits shotguns only shooting shot pellets** on all water areas and also by classification in the WDFW hunting pamphlet of being **westward** of interstate highway (known as **I-5**) running northerly/southerly and is whereto classified as a “**weapons restricted area**”. Weapons restricted areas allow **short range harvest firearms for hunting deer, bear, cougar- which is defined in the hunting pamphlet limiting use only to shotguns, muzzle loading arms, archery, crossbows, revolver type handguns, and semi-auto handguns of 40 caliber or larger. The hunting seasons in these two areas run approximately Oct towards end of Dec for big game and towards end of January for waterfowl. They are Not all year around seasons** as proclaimed by proponent petitioners to get landowner signatures on their “for” petitions.

Whereas: Both non-shooting proposals are under Whatcom County Sheriff laws and US federal laws as pertaining to the United States Constitution which was also adopted by Washington state & Whatcom County- all as defined by the **2nd amendment of these United States of America for citizens self & property protection –including predators both animal & human.**

Whereas: Management of Fish & Wildlife – particularly to damage and/or danger complaints associated with migratory birds, raccoons, possum, deer, coyotes & cougars that are all present in these proposals areas.

Whereas: Non-shooting proposal known as the “Dearborn” – which is a bunch of parcels of private lands (primarily of 2 to 5 acre+ sizes not city type lots) located southward of the “Drayton Harbor” (as depicted on the Council proposal map) and are under same WDFW game & waterfowl hunting rules including protection from damage to private property and the managing of plants, pets, and the like.

Whereas: Prerequisites for a non-shooting zone decision has to be legally petitioned & signed by minimum of 60% of Whatcom County landowners within the proposed zone and are USA citizens. The petitioning reasons for no-shooting needs cannot be **associated by noise** characterization but by safety reasons of unsafe shooting due to overcrowding home densities (basically usually small city type lots not **acreages**) and/or by **violations charges** related to negligent repeated patterns of illegal negligent shooting. Negligent shooting violations have to be **reported on record** by Whatcom County Sherriff department and/or by Wash Dept of Fish & Wildlife. A non-shooting ordinance proposal can also be petitioned by the acting authority of the County Council upon **it's own initiative** but still has to **govern** under the same restrictions as private landowners and has to be guided by safety reasons and not a "**noise problem**". A theoretical maybe by chance unsafe happening situation or enforcement reports reflecting the petitioners "**heard a shot**" does not automatically attribute a hazardous safety issue or violation.

Whereas: Enforcement reports have shown no responses of safety problems in nature, but mostly to "**I or We heard gun shots**" which is normal in Whatcom County and many of same responses have been reported from City of Everson, City of Sumas, City of Bellingham, and City of Lynden all abutting County jurisdiction lands. The most complained about noises in the City of Blaine, has been the railroad, and people are still complaining to this day. Did city dwellers know this – yes of course – are you going to make it a no train allowed area – we think not. Same with chainsaws, radios, lawnmowers, and the handy weed blowers.

Whereas: No-shooting proposals known as "Drayton Harbor" & "Dearborn", state as written in the last portion of each proposal the words expressing "**Be It FINALLY ORDAINED that Tribal members exercising treaty rights to hunt on traditional hunting grounds that are open and unclaimed are not subject to this ordinance**". This statement is not only **discriminating** towards the **Tribal rights**, but also **discriminates** towards non-tribal hunting especially associated within the lands and waters that are managed within the "**ceded area of the 9 Treaty Tribes of Point Elliot**". These jurisdictional rights are enforced by Wash State Dept of Fish & Wildlife, not the City of Blaine nor Whatcom County.

Whereas: The Borderline Bassin Contenders is a fishing & hunting club founded since 1973 – and has promoted fishing & hunting recreational resources and the right to own & bear arms according to the 2nd amendment. We also have promoted protecting future habitat and conserving our outdoors for future generations. We have watched many thousands of acres of hunting & fishing access and recreational use restricted and/or closed because of **urban growth densities** in Whatcom County. For a governmental entity to cause closures of those recreational areas because "**they may become annexed**" by the "City of Blaine" or **may not** – is **not a safety reason** where violations show not. A more realistic reason of an entity wanting to push more density would be for economical gain including real estate sales. If such annexing does occur, the annexed area automatically becomes a non-shooting zone by City ordinance. That might happen **in 5 to 10 years** from now or **not at all** – this would not be wise to make decisions hurting again our access & recreational uses towards these wildlife resources on a rush to change **right now basis for a hopeful conclusion reason**.

Whereas: There are currently state laws to prevent **trespass** on any private property for any hunting without consent from those private landholders and is enforced by County Sheriff and by Washington State Dept of Fish & Wildlife.

Whereas: The City of Blaine is claiming that the public and primarily the hunting segment of the public and the Tribal hunting segment, has problems distinguishing between incorporated and unincorporated areas (basically between City property and County property lines). The City's reason is because the line is in open water and therefore the county should settle this proposal here & now and make it a non-shooting zone. Those of us that are fishers and hunters are sure glad that type of thinking is not used on all open waters. For example if that type of thinking was used between Canada & USA country borders over open waters, we all might as well be in Canada or make Canada into USA. The better solution should render that the **disclaiming & complaining** City and/or County should put up floating or permanent markers, and not blame the people trying to lawfully recreate including Treat Tribe usage.

And Finally Whereas: the Future of no shooting zones should not be based on because there are already **twenty-three other no shooting zones that have been established**, but on future cooperation from Cities & Counties & TreatyTribal to **prevent** more no shooting zones per **Whatcom County Planning**. The Borderline Bassin Contenders sat on the no shooting ordinance committee many years ago & helped establish "**historical hunted areas**" to preventthis very problem. At that time, the no shooting ordinance committee only considered fresh water areas and it was an oversight of not including Drayton Harbor, Birch bay, Samish Island, and Sandy Point, etc. Hopefully these other "**historical hunted saltwater areas**" can be added in the near future by citizens of Whatcom County and as already defined by the Ceded 9 Treaty Tribes of Point Elliot.

Now Therefore be it Resolved that the Borderline Bassin Contenders are **against** these two no shooting zones known as "Drayton Harbor" and "Dearborn" as voted on this **7th** day of **April, 2021**" based on **not a safety issue** and hereby informs & request the Whatcom County Council to "**vote no**" on these two proposals.

And be it Finally Resolved that copies of this resolution be sent to the Washington State Dept of Fish & Wildlife, Whatcom County Sherriff, the Point Elliot Treaty Tribes, and Congressional representatives of the Washington State house and senate Natural Resources Committee.

President of BBC	Club legislative Liaison	Club board of Directors
<u>David Parnicky</u>	<u>Bob Harriman</u>	<u>Rich Pratt,treas</u> <u>Brandon Thomas, v pres</u>
		<u>Leonard Egerdal</u> <u>Matt Krumdiack</u>

Dana Brown-Davis

From: Council
Sent: Thursday, April 08, 2021 11:28 AM
To: Dana Brown-Davis; Lisa Bruner; Cathy Halka
Subject: FW: No Shooting Zones - Drayton Harbor & Dearborn - BBC resolution against
Attachments: bbc-drayton harbor no shooting zone - resolution against Mar 2021.pdf

From: Robert Harriman <bob.harriman@icloud.com>
Sent: Thursday, April 8, 2021 11:27:12 AM (UTC-08:00) Pacific Time (US & Canada)
To: Council <Council@co.whatcom.wa.us>
Cc: Vvillaluz@swinomish.nsn.us <Vvillaluz@swinomish.nsn.us>; Jennifer Maurstad - Enforcement Leader Wdfw <jennifer.maurstad@dfw.wa.gov>; Wildthing (DFW) <WILDTHING@dfw.wa.gov>; Sheriff <Sheriff@co.whatcom.wa.us>; sharon.shewmake@leg.wa.gov <sharon.shewmake@leg.wa.gov>; Alicia.Rule@leg.wa.gov <Alicia.Rule@leg.wa.gov>; doug.ericksen@leg.wa.gov <doug.ericksen@leg.wa.gov>
Subject: No Shooting Zones - Drayton Harbor & Dearborn - BBC resolution against

Attn: Dana county Clerk, Whatcom County Council Chmn & Members

Please see attached "BBC Resolution Against" proposed no shooting zones "Dearborn" and "Drayton Harbor"
Both proposals to be introduced to Council approx April 9 and public hearings May 4, 2021. Please distribute to all members of assigned public safety committee members during the introduction and to all members of the Council during the hearing as our record of testimony, in case our attendance on Virtual is missed.
Please contact us with any questions and or clarifications needed.
Thanks for your dedication towards our County resources.
sincerely,

Bob Harriman, legis Liaison
Borderline Bassin Contenders
2284 E Hemmi Rd
Bellingham, Wa 98226
ph 360-927-0967
email - bob.harriman@icloud.com



CITY OF BLAINE

CITY COUNCIL

435 MARTIN STREET, STE. 3000 • BLAINE, WA • 98230

PHONE: (360) 332-8311 • FAX: (360) 543-9978 • WEBSITE: www.cityofblaine.com

April 14, 2021

Subject: Proposed Drayton Harbor No Shooting Zone

Honorable Councilmembers:

This letter is submitted in support of the City of Blaine's request to establish a no shooting zone on the unincorporated areas of Drayton Harbor. On July 8, 2019 the Blaine City Council voted unanimously to adopt Resolution 1765-19 requesting the Whatcom County Council to establish a no shooting zone pursuant to Whatcom County Code 9.32.

The City has 5700 residents, many of whom live in the neighborhoods that ring the harbor. The Semiahmoo Uplands, the Semiahmoo Spit resort area, Downtown Blaine, the Salishan neighborhood and the Montfort Park neighborhood contain hundreds of homes and many businesses in close proximity to the harbor. The water and shores are the focus of much activity. With two marinas, several launch points for kayaks, canoes, and paddleboards, public beaches, parks and trails, the shoreline and harbor attract many visitors. Blaine is not a sparsely populated rural area, but is an active urban environment - and Drayton Harbor sits in the middle.

The Whatcom County Comprehensive Plan and the City of Blaine Comprehensive Plan identify Blaine as one of the fastest growing urban areas (UGA) for the 2016-2036 planning period. This planned growth is welcomed by the City, and we know that it will increase recreational pressure on the shoreline and water of Drayton Harbor. Due to past urban growth area planning decisions, portions of the harbor are in the City and portions are in the unincorporated County, with the unincorporated areas generally lying within and bounded by the areas within the city limits. The attached map illustrates the jurisdictional geography of the harbor.

This is an issue of public safety as there are many people who live on the shoreline, who recreate on the shore, and who recreate on the water. As the area becomes more urban, there is more pressure on the area for recreation. Kayakers and canoers do in fact use the harbor in the winter when the water is calm. Bird watchers frequent the area. Residents and visitors enjoy the beaches at all times of year. As the area becomes more urban, the interaction between the population and those who are shooting inevitably increases.

It is not just an issue of actual public safety, but also of perceived safety, or mental wellbeing. If people are concerned and fear for themselves and for their children, this has an adverse impact on their welfare. While some may have testified that this is a noise issue, let us assure you for us it is not. It is a real and perceived public safety issue.

This organization is an Equal Opportunity Provider

There are 22 other no shooting zones in the County, including Wiser Lake. Wiser Lake is an interesting example because there are similarities to Blaine's situation. There are homes surrounding the lake but at lower density and fewer people than we have living around Drayton Harbor. If the shooting restriction is good for Wiser Lake, why isn't it good for Drayton Harbor with an urban area surrounding it?

Over the years, the City has received numerous requests by citizens to stop the shooting on the harbor. These come in the form of direct contact to individual City councilmembers, letters to the editor, comment at Council meetings, calls to staff, and occasional calls for service to the Police Department. The city staff and the Council have only been able to reply that shooting is legal only in the county portion of the harbor (which is a surprise to most that the county has any jurisdiction at all), and that this is out of our hands. It is, however, in your hands, as county elected representatives for the citizens of Blaine. Another facet that makes this dual-jurisdiction area problematic is that, on the water, how can the hunters know where the 'boundary' line is?

There is also a matter of self-determination. In the past the City did not act to annex the entire harbor, and due to decisions made by the County to shrink the Blaine UGA, the City cannot take proactive steps to resolve the issue on our own. We require your help.

We are hoping you will understand the importance of this situation to our community and will agree that the time has come to establish a no shooting zone on Drayton Harbor. We would also ask for the same consideration for the Dearborn Avenue area, which is immediately adjacent to our city limits, is part of our UGA, and considered very much a part of the Blaine community.

Respectfully,



Bonnie Onyon,
Mayor

Attachments:
City of Blaine Resolution 1765-19
Map of Harbor

RESOLUTION NO. 1765-19

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BLAINE, WASHINGTON, TO SEEK DESIGNATION OF ALL UNINCORPORATED PORTIONS OF DRAYTON HARBOR AQUATIC AREA, TIDELANDS AND SHORELINE AS A NO SHOOTING ZONE PURSUANT TO WHATCOM COUNTY CODE 9.32 .

Whereas, portions of the Drayton Harbor aquatic area, tidelands and shoreline are within the city limits, and

Whereas, portions of Drayton Harbor aquatic area, tidelands and shoreline are within Whatcom County jurisdiction, and

Whereas, hunting and the discharge of firearms is prohibited in the city limits, and

Whereas, it is difficult for members of the public to distinguish between incorporated and unincorporated areas particularly on the open water, which causes numerous hunters to inadvertently move into areas where hunting and discharge of firearms is illegal, and

Whereas, our citizens have expressed concerns about gunfire near homes and property and repeatedly call for police response to such incidents, and

Whereas, unincorporated portion of Drayton Harbor aquatic area, tidelands and shoreline are within and adjacent to urban growth areas, and

Whereas, population is expanding and housing density is increasing within the areas surrounding Drayton Harbor both within the City and an areas or unincorporated Whatcom County,

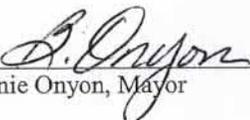
Whereas, the Revised Code of Washington (RCW 36.32.120) provides Whatcom County authority to designate no shooting zones, and

Whereas, Whatcom County Code Section 9.32 "Unlawful Discharge of Firearms" designates twenty-two no shooting zones, most lying within and adjacent to cities, urban growth areas and other locations of higher density development,

Now therefore, the City Council of the City of Blaine hereby resolves to seek designation of all the aquatic areas and tidelands within Drayton Harbor located within Whatcom County as a no shooting zone pursuant to Whatcom County Code Section 9.32.

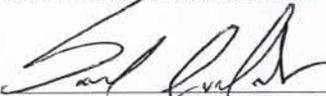
PASSED BY THE CITY COUNCIL OF BLAINE, WASHINGTON, on the 8th day of July, 2019, and approved by the Mayor on the same day.

CITY OF BLAINE, WASHINGTON



Bonnie Onyon, Mayor

ATTEST/AUTHENTICATE:



Samuel Crawford, City Clerk





Whatcom County

COUNTY COURTHOUSE
311 Grand Avenue, Ste #105
Bellingham, WA 98225-4038
(360) 778-5010

Agenda Bill Master Report

File Number: **AB2021-186**

File ID:	AB2021-186	Version:	1	Status:	Agenda Ready
File Created:	03/16/2021	Entered by:	DBrown@co.whatcom.wa.us		
Department:	Council Office	File Type:	Ordinance Requiring a Public Hearing		
Assigned to:	Council	Final Action:			
Agenda Date:	05/04/2021	Enactment #:			

Primary Contact Email: [Click here to enter text.](#)

TITLE FOR AGENDA ITEM:

Ordinance amending Whatcom County Code 9.32, Unlawful Discharge of Firearms, to establish a no shooting zone to be known as the Dearborn No Shooting Zone

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

As requested through citizen petition, this ordinance would establish a no shooting zone in Whatcom County to be known as the Dearborn No Shooting Zone. The boundaries of the proposed zone are as follows: That portion of Section 7, Township 40 North, Range 1 East, W.M., Whatcom County, Washington described as beginning at the intersection of the south line of the Plat of Harbor Shores, as per the map thereof, recorded under Whatcom County Auditor’s File No. 994985 with the west right of way margin of Blaine Road (Aka Sr 548); thence westerly along said south line of Harbor Shores to the intersection with the ordinary high water mark of Drayton Harbor; thence northerly along said ordinary high water mark to the intersection with the limits of the City Of Blaine, Whatcom County, Washington; thence easterly along said city limits to the intersection with said westerly right of way margin; thence southerly along said right of way margin to the point of beginning.

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
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Attachments: Proposed Ordinance, Resolution from Bob Harriman

ORDINANCE NO. _____

AMENDING WHATCOM COUNTY CODE 9.32, UNLAWFUL DISCHARGE OF FIREARMS, TO ESTABLISH A NO SHOOTING ZONE TO BE KNOWN AS THE DEARBORN NO SHOOTING ZONE

WHEREAS, a citizen has petitioned the Whatcom County Council for the formation of a no shooting zone to be known as the Dearborn No Shooting Zone; and

WHEREAS, as required by Whatcom County Code 9.32, the citizen submitted the following to the Council: Signatures of at least sixty percent of persons owning property within the proposed boundaries of the zone; a legal description of the proposed boundaries of the no shooting zone; a map showing the proposed boundaries; cover letter explaining the reasons petitioner would like the zone to be formed; a history of shooting violations in the area; and the name, address, and phone number(s) of a person who will act as liaison with the county council concerning the proposed zone; and

WHEREAS, on November 6, 2019, the Council approved Resolution 2019-054, acknowledging receipt of the citizen petition and declaring its intent to conduct a public hearing to consider establishing a no shooting zone to be known as the Dearborn No Shooting Zone; and

WHEREAS, pursuant to Whatcom County Code 9.32.020 and RCW 36.32.120 the County Council has the authority and power to establish no shooting zones; and

WHEREAS, a “no shooting zone” is an area designated by the County Council in which the discharge of firearms is prohibited; and

WHEREAS, RCW 9.41.300 (2) specifically states that counties may enact laws and ordinances restricting the discharge of firearms in any portion of their respective jurisdiction where there is a reasonable likelihood that humans, domestic animals, or property will be jeopardized; and

WHEREAS, twenty three other “no shooting” zones have been established throughout Whatcom County as a means to protect the public.

NOW THEREFORE, BE IT ORDAINED by the Whatcom County Council that a new section of Whatcom County Code 9.32 shall be added to create a no-shooting zone to be known as the Dearborn No Shooting Zone, as outlined in Exhibit A to this ordinance.

ADOPTED this ____ day of _____, 2021.

ATTEST:

**WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON**

Dana Brown-Davis, Clerk of the Council

Barry Buchanan, Council Chair

APPROVED AS TO FORM:

() Approved () Denied

Civil Deputy Prosecutor

Satpal Sidhu, Executive

Date: _____

EXHIBIT A

DEARBORN - NO SHOOTING ZONE DESCRIPTION

THAT PORTION OF SECTION 7, TOWNSHIP 40 NORTH, RANGE 1 EAST, W.M., WHATCOM COUNTY, WASHINGTON DESCRIBED AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF THE SOUTH LINE OF THE PLAT OF HARBOR SHORES, AS PER THE MAP THEREOF, RECORDED UNDER WHATCOM COUNTY AUDITOR'S FILE NO. 994985 WITH THE WEST RIGHT OF WAY MARGIN OF BLAINE ROAD (AKA SR 548); THENCE WESTERLY ALONG SAID SOUTH LINE OF HARBOR SHORES TO THE INTERSECTION WITH THE ORDINARY HIGH WATER MARK OF DRAYTON HARBOR; THENCE NORTHERLY ALONG SAID ORDINARY HIGH WATER MARK TO THE INTERSECTION WITH THE LIMITS OF THE CITY OF BLAINE, WHATCOM COUNTY, WASHINGTON; THENCE EASTERLY ALONG SAID CITY LIMITS TO THE INTERSECTION WITH SAID WESTERLY RIGHT OF WAY MARGIN; THENCE SOUTHERLY ALONG SAID RIGHT OF WAY MARGIN TO THE POINT OF BEGINNING.



A Resolution against Non-Shooting Zone Proposals “Drayton Harbor” and “Dearborn”- addressing to Whatcom County Council (Sheriff, Planning, Shorelines) and the State Dept of Fish & Wildlife and the Ceded 9 Treaty Tribes of Point Elliot

Whereas: Updated knowledge of facts related to two different proposed non-shooting zones known as “Drayton Harbor” & “Dearborn” has come to the Whatcom County citizens for comment.

Whereas: Both non-shooting zones have similar characteristics and are in Whatcom County designation & State of Washington designation & and designation as defined by the ceded 9 Treaty Tribes of Point Elliot inclusive of lands, tidelands, and waters.

Whereas: Non-Shooting zone “Drayton Harbor” mostly concerns fresh & salt waters & tidelands (as shown on the Council proposal map) all owned by the State of Washington under legislated mandated laws through the Washington State Dept of Fish & Wildlife plus US Fish & Wildlife and is also under the jurisdiction of the **ceded 9 Treaty Tribes of Point Elliot**.

Whereas: Non-shooting zone proposal known as “**Dearborn**” concerns mostly private lands (as shown on the Council proposal map) and is under Whatcom County rules and is southward and bordering the south & east sides of the “**Drayton harbor**” proposal area. Both proposals come under allowed shooting laws enforced by Whatcom County Sheriff jurisdiction and under Washington State Dept of Fish and Wildlife plus US fish & Wildlife.

Whereas: Both non-shooting proposals have existing restricted controlled hunting by Washington State Dept of Fish & Wildlife as defined in the WDFW yearly hunting pamphlet. The WDFW pamphlet rule **limits shotguns only shooting shot pellets** on all water areas and also by classification in the WDFW hunting pamphlet of being **westward** of interstate highway (known as **I-5**) running northerly/southerly and is whereto classified as a “**weapons restricted area**”. Weapons restricted areas allow **short range harvest firearms for hunting deer, bear, cougar- which is defined in the hunting pamphlet limiting use only to shotguns, muzzle loading arms, archery, crossbows, revolver type handguns, and semi-auto handguns of 40 caliber or larger. The hunting seasons in these two areas run approximately Oct towards end of Dec for big game and towards end of January for waterfowl. They are Not all year around seasons** as proclaimed by proponent petitioners to get landowner signatures on their “for” petitions.

Whereas: Both non-shooting proposals are under Whatcom County Sheriff laws and US federal laws as pertaining to the United States Constitution which was also adopted by Washington state & Whatcom County- all as defined by the **2nd amendment of these United States of America for citizens self & property protection –including predators both animal & human.**

Whereas: Management of Fish & Wildlife – particularly to damage and/or danger complaints associated with migratory birds, raccoons, possum, deer, coyotes & cougars that are all present in these proposals areas.

Whereas: Non-shooting proposal known as the “Dearborn” – which is a bunch of parcels of private lands (primarily of 2 to 5 acre+ sizes not city type lots) located southward of the “Drayton Harbor” (as depicted on the Council proposal map) and are under same WDFW game & waterfowl hunting rules including protection from damage to private property and the managing of plants, pets, and the like.

Whereas: Prerequisites for a non-shooting zone decision has to be legally petitioned & signed by minimum of 60% of Whatcom County landowners within the proposed zone and are USA citizens. The petitioning reasons for no-shooting needs cannot be **associated by noise** characterization but by safety reasons of unsafe shooting due to overcrowding home densities (basically usually small city type lots not **acreages**) and/or by **violations charges** related to negligent repeated patterns of illegal negligent shooting. Negligent shooting violations have to be **reported on record** by Whatcom County Sherriff department and/or by Wash Dept of Fish & Wildlife. A non-shooting ordinance proposal can also be petitioned by the acting authority of the County Council upon **it's own initiative** but still has to **govern** under the same restrictions as private landowners and has to be guided by safety reasons and not a "**noise problem**". A theoretical maybe by chance unsafe happening situation or enforcement reports reflecting the petitioners "**heard a shot**" does not automatically attribute a hazardous safety issue or violation.

Whereas: Enforcement reports have shown no responses of safety problems in nature, but mostly to "**I or We heard gun shots**" which is normal in Whatcom County and many of same responses have been reported from City of Everson, City of Sumas, City of Bellingham, and City of Lynden all abutting County jurisdiction lands. The most complained about noises in the City of Blaine, has been the railroad, and people are still complaining to this day. Did city dwellers know this – yes of course – are you going to make it a no train allowed area – we think not. Same with chainsaws, radios, lawnmowers, and the handy weed blowers.

Whereas: No-shooting proposals known as "Drayton Harbor" & "Dearborn", state as written in the last portion of each proposal the words expressing "**Be It FINALLY ORDAINED that Tribal members exercising treaty rights to hunt on traditional hunting grounds that are open and unclaimed are not subject to this ordinance**". This statement is not only **discriminating** towards the **Tribal rights**, but also **discriminates** towards non-tribal hunting especially associated within the lands and waters that are managed within the "**ceded area of the 9 Treaty Tribes of Point Elliot**". These jurisdictional rights are enforced by Wash State Dept of Fish & Wildlife, not the City of Blaine nor Whatcom County.

Whereas: The Borderline Bassin Contenders is a fishing & hunting club founded since 1973 – and has promoted fishing & hunting recreational resources and the right to own & bear arms according to the 2nd amendment. We also have promoted protecting future habitat and conserving our outdoors for future generations. We have watched many thousands of acres of hunting & fishing access and recreational use restricted and/or closed because of **urban growth densities** in Whatcom County. For a governmental entity to cause closures of those recreational areas because "**they may become annexed**" by the "City of Blaine" or **may not** – is **not a safety reason** where violations show not. A more realistic reason of an entity wanting to push more density would be for economical gain including real estate sales. If such annexing does occur, the annexed area automatically becomes a non-shooting zone by City ordinance. That might happen **in 5 to 10 years** from now or **not at all** – this would not be wise to make decisions hurting again our access & recreational uses towards these wildlife resources on a rush to change **right now basis for a hopeful conclusion reason**.

Whereas: There are currently state laws to prevent **trespass** on any private property for any hunting without consent from those private landholders and is enforced by County Sheriff and by Washington State Dept of Fish & Wildlife.

Whereas: The City of Blaine is claiming that the public and primarily the hunting segment of the public and the Tribal hunting segment, has problems distinguishing between incorporated and unincorporated areas (basically between City property and County property lines). The City's reason is because the line is in open water and therefore the county should settle this proposal here & now and make it a non-shooting zone. Those of us that are fishers and hunters are sure glad that type of thinking is not used on all open waters. For example if that type of thinking was used between Canada & USA country borders over open waters, we all might as well be in Canada or make Canada into USA. The better solution should render that the **disclaiming & complaining** City and/or County should put up floating or permanent markers, and not blame the people trying to lawfully recreate including Treat Tribe usage.

And Finally Whereas: the Future of no shooting zones should not be based on because there are already **twenty-three other no shooting zones that have been established**, but on future cooperation from Cities & Counties & TreatyTribal to **prevent** more no shooting zones per **Whatcom County Planning**. The Borderline Bassin Contenders sat on the no shooting ordinance committee many years ago & helped establish "**historical hunted areas**" to preventthis very problem. At that time, the no shooting ordinance committee only considered fresh water areas and it was an oversight of not including Drayton Harbor, Birch bay, Samish Island, and Sandy Point, etc. Hopefully these other "**historical hunted saltwater areas**" can be added in the near future by citizens of Whatcom County and as already defined by the Ceded 9 Treaty Tribes of Point Elliot.

Now Therefore be it Resolved that the Borderline Bassin Contenders are **against** these two no shooting zones known as "Drayton Harbor" and "Dearborn" as voted on this **7th** day of **April, 2021**" based on **not a safety issue** and hereby informs & request the Whatcom County Council to **"vote no"** on these two proposals.

And be it Finally Resolved that copies of this resolution be sent to the Washington State Dept of Fish & Wildlife, Whatcom County Sherriff, the Point Elliot Treaty Tribes, and Congressional representatives of the Washington State house and senate Natural Resources Committee.

President of BBC	Club legislative Liaison	Club board of Directors
<u>David Parnicky</u>	<u>Bob Harriman</u>	<u>Rich Pratt,treas</u> <u>Brandon Thomas, v pres</u>
		<u>Leonard Egerdal</u> <u>Matt Krumdiack</u>

Dana Brown-Davis

From: Council
Sent: Thursday, April 08, 2021 11:28 AM
To: Dana Brown-Davis; Lisa Bruner; Cathy Halka
Subject: FW: No Shooting Zones - Drayton Harbor & Dearborn - BBC resolution against
Attachments: bbc-drayton harbor no shooting zone - resolution against Mar 2021.pdf

From: Robert Harriman <bob.harriman@icloud.com>
Sent: Thursday, April 8, 2021 11:27:12 AM (UTC-08:00) Pacific Time (US & Canada)
To: Council <Council@co.whatcom.wa.us>
Cc: Vvillaluz@swinomish.nsn.us <Vvillaluz@swinomish.nsn.us>; Jennifer Maurstad - Enforcement Leader Wdfw <jennifer.maurstad@dfw.wa.gov>; Wildthing (DFW) <WILDTHING@dfw.wa.gov>; Sheriff <Sheriff@co.whatcom.wa.us>; sharon.shewmake@leg.wa.gov <sharon.shewmake@leg.wa.gov>; Alicia.Rule@leg.wa.gov <Alicia.Rule@leg.wa.gov>; doug.ericksen@leg.wa.gov <doug.ericksen@leg.wa.gov>
Subject: No Shooting Zones - Drayton Harbor & Dearborn - BBC resolution against

Attn: Dana county Clerk, Whatcom County Council Chmn & Members

Please see attached "BBC Resolution Against" proposed no shooting zones "Dearborn" and "Drayton Harbor"
Both proposals to be introduced to Council approx April 9 and public hearings May 4, 2021. Please distribute to all members of assigned public safety committee members during the introduction and to all members of the Council during the hearing as our record of testimony, in case our attendance on Virtual is missed.
Please contact us with any questions and or clarifications needed.
Thanks for your dedication towards our County resources.
sincerely,

Bob Harriman, legis Liaison
Borderline Bassin Contenders
2284 E Hemmi Rd
Bellingham, Wa 98226
ph 360-927-0967
email - bob.harriman@icloud.com



Whatcom County

COUNTY COURTHOUSE
311 Grand Avenue, Ste #105
Bellingham, WA 98225-4038
(360) 778-5010

Agenda Bill Master Report

File Number: **AB2021-258**

File ID:	AB2021-258	Version:	1	Status:	Agenda Ready
File Created:	04/19/2021	Entered by:			
Department:		File Type:	Ordinance Requiring a Public Hearing		
Assigned to:	Council	Final Action:			
Agenda Date:	05/04/2021	Enactment #:			

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

TITLE FOR AGENDA ITEM:

Ordinance amending the Six-Year Capital Improvement Program (CIP) for Whatcom County Facilities (2021-2026)

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

Ordinance amending the Six-Year Capital Improvement Program (CIP) for Whatcom County Facilities (2021-2026). The amendment would add the Whatcom Unified Emergency Coordination Center re-roof project to the Six-Year CIP.

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
--------------	---------------------	----------------	-----------------

Attachments: Staff Memo, Draft Ordinance, Exhibit A, Planning Commission Findings

WHATCOM COUNTY

Planning & Development Services
5280 Northwest Drive
Bellingham, WA 98226-9097
360-778-5900, TTY 800-833-6384
360-778-5901 Fax



Mark Personius
Director

Memorandum

April 19, 2021

To: The Honorable Satpal Sidhu, Whatcom County Executive
The Honorable Whatcom County Council

From: Matt Aamot, Senior Planner

Through: Mark Personius, Director

RE: Six-Year CIP Amendment (PLN2021-00010)

The Six-Year Capital Improvement Program (CIP) for Whatcom County Facilities addresses County parks, trails, activity centers, maintenance & operations, general government buildings and sites, Sheriff’s Office, emergency management, adult corrections, juvenile detention, transportation, and stormwater facilities. The Whatcom County Comprehensive Plan indicates that the Six-Year CIP should be updated every two years. The last CIP update was approved by the County Council in 2020. The next comprehensive update is scheduled for 2022. However, the County has identified an Emergency Management project it wants to complete before the next CIP update in 2022.

The subject proposal is to amend the Six-Year Capital Improvement Program (CIP) for Whatcom County Facilities 2021-2026 (Appendix F of the Whatcom County Comprehensive Plan) as follows:

- Add the Whatcom Unified Emergency Coordination Center Re-Roof Project.

The Whatcom County Planning Commission recommended approval of the Six-Year CIP amendments on April 8, 2021.

Under the Growth Management Act, Comprehensive Plan amendments such as the subject proposal can only be adopted by the County Council at concurrent review. However, there is an exception for capital facility amendments. Specifically, RCW 36.70A.130(2)(a)(iv) allows “The amendment of the capital facilities element of a comprehensive plan that occurs concurrently with the adoption or amendment of a county or city budget.” Therefore, this amendment will either have to be adopted with the other Comprehensive Plan amendments at concurrent review or with a budget amendment. We understand that a budget amendment will be introduced on May 4 for potential Council action on May 18.

Thank you for your review and consideration of this matter. We look forward to discussing it with you.

PROPOSED BY: Planning & Development Services
INTRODUCTION DATE: _____

ORDINANCE NO. _____

**ADOPTING AMENDMENTS TO THE
WHATCOM COUNTY COMPREHENSIVE PLAN
RELATING TO CAPITAL FACILITIES PLANNING**

WHEREAS, The Whatcom County Planning Commission held a public hearing and issued recommendations on the proposed amendments; and

WHEREAS, The County Council considered Planning Commission recommendations;

WHEREAS, The County Council held a public hearing; and

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

FINDINGS OF FACT

1. The proposal is to amend the Six-Year Capital Improvement Program (CIP) for Whatcom County Facilities 2021-2026 (Appendix F of the Whatcom County Comprehensive Plan) as follows:
 - a. Add the Whatcom Unified Emergency Coordination Center Re-Roof Project.
2. Notice of the subject amendments was submitted to the Washington State Department of Commerce on March 22, 2021.
3. The SEPA Official determined on March 22, 2021 that the amendment is within the scope and intent of the determination of non-significance (DNS) issued in 2020 for the Six-Year CIP update.
4. Notice of the Planning Commission hearing for the subject amendments was published in the Bellingham Herald on March 25, 2021.
5. Notice of the Planning Commission hearing was posted on the County website on March 26, 2021.
6. Notice of the Planning Commission hearing was sent to the County's e-mail list on March 26, 2021.

7. The Planning Commission held a public hearing on the subject amendments on April 8, 2021.
8. Pursuant to WCC 22.10.060(1), in order to approve the proposed comprehensive plan amendments the County must find all of the following:
 - a. The amendment conforms to the requirements of the Growth Management Act, is internally consistent with the county-wide planning policies and is consistent with any interlocal planning agreements.
 - b. Further studies made or accepted by the Department of Planning and Development Services indicate changed conditions that show need for the amendment.
 - c. The public interest will be served by approving the amendment. In determining whether the public interest will be served, factors including but not limited to the following shall be considered:
 - i. The anticipated effect upon the rate or distribution of population growth, employment growth, development, and conversion of land as envisioned in the comprehensive plan.
 - ii. The anticipated effect on the ability of the county and/or other service providers, such as cities, schools, water and/or sewer purveyors, fire districts, and others as applicable, to provide adequate services and public facilities including transportation facilities.
 - iii. Anticipated impact upon designated agricultural, forest and mineral resource lands.
 - d. The amendment does not include or facilitate spot zoning.
9. The Growth Management Act (GMA) establishes planning goals in RCW 36.70A.020 to guide adoption of comprehensive plan amendments.
10. GMA planning goal # 12 is to "Ensure that those public facilities and services necessary to support development shall be adequate to serve the development at the time the development is available for occupancy and use without decreasing current service levels below locally established minimum standards" (RCW 36.70A.020(12)).

11. The subject amendments consist of updating the Six-Year CIP for Whatcom County Facilities for the 2021-2026 planning period by adding an emergency management re-roofing project. Updating the CIP is one step in the process of planning capital facilities, including emergency management facilities, to serve the people of Whatcom County.
12. County-Wide Planning Policy K-1 indicates that, as part of the comprehensive planning process, the County must identify appropriate land for public facilities that meets the needs of the community including recreation, transportation and human service facilities.
13. The Six-Year CIP identifies such improvements as contemplated by the County Wide Planning Policies.
14. An interlocal agreement between the Port of Bellingham, the City of Bellingham, and Whatcom County entitled "Interlocal Agreement for the Exclusive Use of the Special Purpose Facility at the Airport Industrial Park" (County contract # 201312007) governs use of Whatcom Unified Emergency Coordination Center, including roof replacement or repair.
15. An updated Six-Year CIP was adopted for County owned or operated facilities in 2020. The subject proposal is a minor amendment to the CIP to address an identified need to re-roof an emergency management facility.
16. The goal of the Six-Year CIP for Whatcom County Facilities is to plan for County owned or operated facilities, including emergency management buildings. Maintaining emergency management facilities is in the public interest.
17. The subject proposal does not involve rezoning property.

CONCLUSION

The subject Whatcom County Comprehensive Plan amendments are consistent with the approval criteria in WCC 22.10.060.

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

Section 1. Amendments to the Six-Year Capital Improvement Program for Whatcom County Facilities 2021-2026 (Appendix F of the Whatcom County Comprehensive Plan) are hereby adopted as shown on Exhibit A.

Section 2. Adjudication of invalidity of any of the sections, clauses, or provisions of this ordinance shall not affect or impair the validity of the ordinance as a whole or any part thereof other than the part so declared to be invalid.

ADOPTED this _____ day of _____, 2021.

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

ATTEST:

Dana Brown-Davis, Council Clerk

Barry Buchanan, Chairperson

APPROVED as to form:

() Approved () Denied

/s/ Royce Buckingham

Civil Deputy Prosecutor

Satpal Sidhu, Executive

Date: _____

Chapter 6 – Emergency Management

Existing Emergency Management Space

The 2020 inventory of Sheriff’s Office, Division of Emergency Management space is 24,000 square feet, located at the Whatcom Unified Emergency Coordination Center (WUECC). Rented by and shared between both Whatcom County and the City of Bellingham, the WUECC is comprised of 2,000 square feet of office space and an additional 22,000 square feet of support facilities (used for meetings, training, exercises, and during emergencies). The WUECC serves as the Emergency Operations Center for both the County and the City.

Table 11. Existing Emergency Management/EOC Facilities

Site No.	Facility Name	Square feet
1	Whatcom Unified Emergency Coordination Center 3888 Sound Way, Bellingham	24,000

Future Needs

The Whatcom County Comprehensive Plan does not contain a level of service standard for emergency management facilities. Rather, Comprehensive Plan Policy 4D-4 is to:

Maintain adequate facilities for daily emergency management activities and, during an emergency or disaster, for the emergency operations center. The facilities will provide sufficient space for activities relating to emergency/disaster planning, mitigation, response and recovery. Existing facilities may be expanded, remodeled, and/ or new facilities developed in response to changing need.

The County will budget for improvements to such facilities as needed.

Proposed Improvement Projects

There ~~is one~~ ~~are no~~ emergency management capital improvement projects planned over the next six years, as shown below.

<u>Emergency Management</u>	<u>Funding Source</u>	<u>2021</u>	<u>2022</u>	<u>2023</u>	<u>2024</u>	<u>2025</u>	<u>2026</u>	<u>Total Cost</u>
<u>1. Whatcom Unified Emergency Coordination Center Re-Roof Project</u>	<u>1, 2, 3</u>	<u>405,842</u>						<u>405,842</u>
	<u>TOTAL</u>							

Funding Sources

- 1. Real Estate Excise Tax (REET)
- 2. City of Bellingham
- 3. Port of Bellingham

Chapter 11 – Total Costs

Total Costs for the six-year planning period are shown below.

Table 17. Total Costs for the Six-Year Planning Period

	Total Costs 2021-2026	Percent of Total Costs
Parks, Trails, and Activity Centers	11,869,457	4.78%
Maintenance and Operations	812,375	0.33%
General Government Buildings and Sites	52,528,865	21.13%
Sheriff's Office	21,730,000	8.74%
Emergency Management	405,842	0.16%
Adult Corrections	ϕ	0.00%
Juvenile Detention	0	0.00%
Transportation	53,797,000	21.64%
Stormwater Facilities	<u>12,213,000</u>	<u>4.91%</u>
TOTAL	<u>248,554,461</u> 248,148,619	100.00%

The County plans to undertake capital improvement projects costing approximately \$248 million between 2021 and 2026, which will be financed with a combination of local, state, federal, and other funding sources.

**WHATCOM COUNTY
PLANNING COMMISSION**

**Capital Facility
Comprehensive Plan Amendments**

FINDINGS OF FACT AND REASONS FOR ACTION

Background Information

1. The proposal is to amend the Six-Year Capital Improvement Program (CIP) for Whatcom County Facilities 2021-2026 (Appendix F of the Whatcom County Comprehensive Plan) as follows:
 - a. Add the Whatcom Unified Emergency Coordination Center Re-Roof Project.
2. Notice of the subject amendments was submitted to the Washington State Department of Commerce on March 22, 2021.
3. The SEPA Official determined on March 22, 2021 that the amendment is within the scope and intent of the determination of non-significance (DNS) issued in 2020 for the Six-Year CIP update.
4. Notice of the Planning Commission hearing for the subject amendments was published in the Bellingham Herald on March 25, 2021.
5. Notice of the Planning Commission hearing was posted on the County website on March 26, 2021.
6. Notice of the Planning Commission hearing was sent to the County's e-mail list on March 26, 2021.
7. The Planning Commission held a public hearing on the subject amendments on April 8, 2021.
8. Pursuant to WCC 22.10.060(1), in order to approve the proposed comprehensive plan amendments the County must find all of the following:

- a. The amendment conforms to the requirements of the Growth Management Act, is internally consistent with the county-wide planning policies and is consistent with any interlocal planning agreements.
- b. Further studies made or accepted by the Department of Planning and Development Services indicate changed conditions that show need for the amendment.
- c. The public interest will be served by approving the amendment. In determining whether the public interest will be served, factors including but not limited to the following shall be considered:
 - i. The anticipated effect upon the rate or distribution of population growth, employment growth, development, and conversion of land as envisioned in the comprehensive plan.
 - ii. The anticipated effect on the ability of the county and/or other service providers, such as cities, schools, water and/or sewer purveyors, fire districts, and others as applicable, to provide adequate services and public facilities including transportation facilities.
 - iii. Anticipated impact upon designated agricultural, forest and mineral resource lands.
- d. The amendment does not include or facilitate spot zoning.

Growth Management Act

9. The Growth Management Act (GMA) establishes planning goals in RCW 36.70A.020 to guide adoption of comprehensive plan amendments.
10. GMA planning goal # 12 is to "Ensure that those public facilities and services necessary to support development shall be adequate to serve the development at the time the development is available for occupancy and use without decreasing current service levels below locally established minimum standards" (RCW 36.70A.020(12)).
11. The subject amendments consist of updating the Six-Year CIP for Whatcom County Facilities for the 2021-2026 planning period by adding an emergency management re-roofing project. Updating the CIP is one step in the process of planning capital facilities, including emergency management facilities, to serve the people of Whatcom County.

County-Wide Planning Policies

12. County-Wide Planning Policy K-1 indicates that, as part of the comprehensive planning process, the County must identify appropriate land for public facilities that meets the needs of the community including recreation, transportation and human service facilities.
13. The Six-Year CIP identifies such improvements as contemplated by the County Wide Planning Policies.

Interlocal Agreements

14. An interlocal agreement between the Port of Bellingham, the City of Bellingham, and Whatcom County entitled "Interlocal Agreement for the Exclusive Use of the Special Purpose Facility at the Airport Industrial Park" (County contract # 201312007) governs use of Whatcom Unified Emergency Coordination Center, including roof replacement or repair.

Further Studies/Changed Conditions

15. An updated Six-Year CIP was adopted for County owned or operated facilities in 2020. The subject proposal is a minor amendment to the CIP to address an identified need to re-roof an emergency management facility.

Public Interest

16. The goal of the Six-Year CIP for Whatcom County Facilities is to plan for County owned or operated facilities, including emergency management buildings. Maintaining emergency management facilities is in the public interest.

Spot Zoning

17. The subject proposal does not involve rezoning property.

CONCLUSION

The subject Whatcom County Comprehensive Plan amendments are consistent with the approval criteria in WCC 22.10.060.

RECOMMENDATION

Based upon the above findings and conclusions, the Planning Commission recommends Approval of Exhibit A, amending the Emergency Management Chapter of the Six-Year Capital Improvement Program for Whatcom County Facilities 2021-2026 (Appendix F of the Whatcom County Comprehensive Plan).

WHATCOM COUNTY PLANNING COMMISSION



Kelvin Barton, Chair



Tammy Axlund, Secretary

April 9, 2021

Date

April 9, 2021

Date

Commissioners voted to recommend approval of Exhibit A on April 8, 2021 (vote was 7-0 with 2 members absent). Members present at the meeting when the vote was taken: Kelvin Barton, Atul Deshmane, Jim Hansen, Stephen Jackson, Jon Maberry, Natalie McClendon, and Dominic Mocerri.



Whatcom County

COUNTY COURTHOUSE
311 Grand Avenue, Ste #105
Bellingham, WA 98225-4038
(360) 778-5010

Agenda Bill Master Report

File Number: **AB2021-261**

File ID:	AB2021-261	Version:	1	Status:	Agenda Ready
File Created:	04/20/2021	Entered by:	AHester@co.whatcom.wa.us		
Department:	Public Works Department	File Type:	Ordinance Requiring a Public Hearing		
Assigned to:	Council	Final Action:			
Agenda Date:	05/04/2021	Enactment #:			

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

TITLE FOR AGENDA ITEM:

Ordinance granting Cellco Partnership d/b/a Verizon Wireless, a non-exclusive franchise for the provision of wireless telecommunications services

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

RCW 36.55.040, Whatcom County Charter Section 9.30, and Whatcom County Code 12.24 provides for the granting of franchises to public and private utility companies for use of County Rights-of-Way. This is a new franchise allowing for the use and presence in County Rights-of-Way to allow for the provision of wireless telecommunications services

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
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Attachments: Staff Memo, Proposed Ordinance, Franchise Application



MEMORANDUM

TO: The Honorable Satpal Singh Sidhu, County Executive,
Honorable Members of the Whatcom County Council

THROUGH: Jon Hutchings, Director *JH*

FROM: Andrew Hester, Public Works Real Estate Coordinator *AH*

RE: Franchise for Cellco Partnership d/b/a Verizon Wireless

DATE: April 20, 2021

▪ **Requested Action**

Adopt an ordinance that grants a franchise to Cellco Partnership d/b/a Verizon Wireless, allowing it to use and be present in County Rights of Way for the installation, maintenance, operation, repair, modification, replacement, and/or removal of such small wireless facilities for the provision of wireless telecommunications services per the terms of the franchise agreement, under RCW 36.55 and § 9.30 of the Home Rule Charter.

▪ **Background and Purpose**

Cellco Partnership d/b/a Verizon Wireless, has applied for a new franchise agreement for the purposes of utilizing County rights of way to provide wireless telecommunications services. This ordinance was previously approved by the Whatcom County Council. However, final payment of the administrative costs and acceptance of the franchise was delayed and due to the terms of the franchise the franchise was terminated automatically.

Please contact Chris Quinn at extension 5729 if you have any questions or concerns regarding the terms of this agreement.

Encl.

SPONSORED BY: _____
PROPOSED BY: Executive
INTRODUCTION DATE: _____

ORDINANCE NO. _____

GRANTING CELLCO PARTNERSHIP d/b/a Verizon Wireless, A NON-EXCLUSIVE FRANCHISE FOR THE PROVISION OF WIRELESS TELECOMMUNICATIONS SERVICES

WHEREAS, Cellco Partnership d/b/a Verizon Wireless (“Grantee”) has applied to Whatcom County (“County”) for a non-exclusive franchise for the right of entry, use, and occupation of the public Rights-of-Way within the County for the installation, maintenance, operation, repair, modification, replacement, and/or removal of such Small Wireless Facilities for the provision of telecommunications services; and

WHEREAS, RCW 36.55.010, Whatcom County Charter Section 9.30, and Whatcom County Code Chapter 12.24 address the requirements pertaining to the granting of franchises by the County; and

WHEREAS, said application has come on regularly to be heard by the County Council on the ____ day of _____, 2021, and notice of this hearing has been duly published on the ____ day of _____, 2021, and the ____ day of _____, 2021, in the Bellingham Herald, a daily newspaper published in Whatcom County having county-wide circulation; and

WHEREAS, from information presented at such public hearing, and from facts and circumstances developed or discovered through independent study and investigation, the County Council now deems it appropriate and in the best interest of the County and its inhabitants that a franchise be granted to Grantee.

NOW, THEREFORE, BE IT ORDAINED by the Whatcom County Council that a non-exclusive franchise set forth in the language herein below, Sections 1 through 24, is hereby granted to Cellco Partnership d/b/a Verizon Wireless for a period of 10 years

Section 1. Grant of Franchise Right to Use Franchise Area.

A. Subject to the terms and conditions stated herein, County hereby grants to Grantee a franchise as set forth in this Ordinance (this “Franchise”), including permission to enter, use, and occupy all Rights-of-Way within unincorporated Whatcom County as now or hereafter constituted (the “Franchise Area”) for purposes of deploying Small Cell Facilities (as defined below) for the purpose of providing wireless telecommunications services, in, under, on, across, over, through, along or below the public Rights-of-Way within the County.

B. The County hereby grants to Grantee, its heirs, successors, legal representatives, and assigns, subject to the terms and conditions hereinafter set forth, the right, privilege, and authority to construct, repair, install, operate, maintain, restore, replace, acquire, sell, lease its Small Cell Facilities within the Rights-of-Way of the County.

C. This Franchise does not authorize the use of the Franchise Area for any facilities or services other than Grantee Facilities and Grantee Services as provided herein, and it extends no right or privilege relative to any facilities or services of any type, including Grantee Facilities and Grantee Services, on private property within County.

D. This Franchise does not grant Grantee the right to install and operate wires and facilities to provide wireline broadband transmission services, whether provided by a third-party provider, Grantee, or a corporate affiliate of Grantee. Any entity that provides such wireline broadband transmission services must have an independent franchise to use Whatcom County rights of way outside this Franchise. Further, this Franchise does not grant the right to offer cable internet services or Cable Services as those terms are defined in 47 U.S.C. § 522(6) by wireline transmission.

D. This Franchise is non-exclusive and does not prohibit County from entering into other agreements, including other franchises, impacting the Franchise Area, provided such agreements do not interfere with Grantee's rights set forth herein.

E. Except as explicitly set forth herein, this Franchise does not waive any rights that County has or may hereafter acquire with respect to the Franchise Area or any other County roads, Rights-of-Way, property, or any portions thereof. This Franchise shall be subject to the power of eminent domain, and in any proceeding under eminent domain, Grantee acknowledges its use of the Franchise Area shall have no value.

F. County reserves the right to change, regrade, relocate, abandon, or vacate any Right-of-Way within the Franchise Area, subject to the terms hereunder with regard to relocation of Grantee Facilities. If, at any time during the term of this Franchise, County abandons or vacates any portion of the Franchise Area containing Grantee Facilities, County shall reserve an easement for public utilities within that vacated portion within which Grantee may continue to operate any existing Grantee Facilities under the terms of this Franchise for the remaining period set forth under Section 3.

G. Grantee agrees that its use of Franchise Area shall at all times be subordinate and subject to County's and the public's need for municipal infrastructure, travel, and access to the Franchise Area, except as may be otherwise required by law.

Section 2. Notices.

A. Written notices to the parties shall be personally delivered, sent by certified mail, return receipt requested, or by a nationally recognized overnight courier, to the following addresses, unless a different address shall be designated in writing and delivered to the other party. If such notice, demand or other communication shall be served personally, service shall be conclusively deemed made at the time of such personal service. If such notice, demand or other communication is given by overnight delivery, it shall be conclusively deemed given the day after it was sent to the party to whom such notice, demand or other communication is to be given. If such notice, demand or other communication is given by mail, it shall be conclusively deemed given three (3) days after it was deposited in the United States mail addressed to the party to whom such notice, demand or other communication is to be given.

County: County Executive
Whatcom County Courthouse
311 Grand Ave., Suite 108
Bellingham, WA 98225

Grantee: Cellco Partnership
d/b/a Verizon Wireless
Attn: Network Real Estate
180 Washington Valley Road
Bedminster, New Jersey 07921

With a copy to:
Cellco Partnership
d/b/a Verizon Wireless
Attn: West Area General Counsel
15505 Sand Canyon Ave.
Irvine, CA 92618

B. Any changes to the Grantee’s information shall be sent to County’s Public Works Director referencing the title of this agreement.

C. The Grantee’s voice number, 1-800-264-6620, shall be staffed 24 hours a day, 7 days a week.

Section 3. Term of Franchise.

A. This Franchise shall run for a period of 10 years from the date of execution specified in Section 5.

B. If the parties fail to formally renew this Franchise prior to the expiration of its term or any extension thereof, the obligations and privileges of this Franchise shall nonetheless continue in full force and effect until renewed or otherwise terminated by either party through written notice to that effect.

Section 4. Definitions.

For the purpose of this Franchise:

“Affiliate” means, with respect to any Person, any other Person controlling, controlled by or under common control with such Person. For purposes of this definition, the term “control” (including the correlative meanings of the terms “controlled by” and “under common control with”), as used with respect to any Person, means the possession, directly or indirectly, of the power to direct, or cause the direction of, the management policies of such Person, whether through the ownership of voting securities, by contract or otherwise.

“Antenna” means an apparatus designed for the purpose of emitting radiofrequency (RF) radiation, to be operated or operating from a fixed location pursuant to Federal Communication Commission authorization, for the provision of personal wireless service and any commingled information services. For purposes of this definition, the term antenna does not include an unintentional radiator, mobile station, or device authorized under federal law.

“Antenna Equipment” means equipment, switches, wiring, cabling, power sources, shelters or cabinets associated with an Antenna, located at the same fixed location as the Antenna, and, when collocated on a structure, is mounted or installed at the same time as such Antenna.

“Emergency” means a condition of imminent danger to the health, safety and welfare of persons or property located within County including, without limitation, damage to persons or property from natural consequences, such as storms, earthquakes, riots, acts of terrorism or wars.

“Existing Utility Poles” means any pole(s) that is installed before the Effective Date and is owned and/or leased by the County or a third party.

“Laws” means any and all applicable statutes, constitutions, charters, ordinances, resolutions, regulations, judicial decisions, rules, tariffs, franchises, administrative orders, certificates, orders, or other requirements of the County or other governmental or judicial authority having the force and effect of law that determines the legal standing of a matter relating to the parties and/or this Agreement.

“Maintenance” or “Maintain” means examining, testing, inspecting, repairing, maintaining, upgrading, removing and replacing the existing Grantee Facilities or any part thereof as required and necessary for safe operation.

“Network” means the telecommunication network installed and managed by the Grantee to serve wireless carrier customers.

“Person” means any individual, sole proprietorship, partnership, association, corporation or other form of organization authorized to do business in the State of Washington, and includes any natural person.

“Personal Wireless Service Facility” means an Antenna facility, Antenna Equipment, or a structure that is used for the provision of personal wireless service, whether such service is provided on a stand-alone basis or commingled with other wireless communications services.

“Relocation” means permanent movement of Grantee Facilities required by County, and not temporary or incidental movement of such facilities, or other revisions Grantee would accomplish and charge to third parties without regard to municipal request. Any Relocation shall be governed by Section 11 of this Franchise.

“Right-of-Way” (pluralized as “Rights-of-Way”) means the surface and the space above and below streets, roadways, highways, avenues, courts, lanes, alleys, sidewalks, easements, rights-of-way and similar public properties and areas now or hereafter held by, or over which, the County exercises any rights of management control, but only to the extent of County’s right, title, interest or authority to grant a license or franchise to occupy and the same for Small Wireless Facilities. Rights of Way for the purpose of this Franchise do not include buildings, other County-owned physical facilities, parks, conduits, fixtures, real property or property rights owned by County, or similar facilities or property owned by or leased to County.

“Small Wireless Facilities” or “Small Cell Facilities” or “Grantee Facilities” as used herein shall mean Personal Wireless Service Facilities (as defined above) that meet each of the following conditions:

(1) The facilities -

(i) Are mounted on structures 50 feet or less in height including their Antennas as defined in § 1.1320(d); or

(ii) Are mounted on structures no more than 10 percent taller than other adjacent structures; or

(iii) Do not extend existing structures on which they are located to a height of more than 50 feet or by more than 10 percent, whichever is greater;

(2) Each antenna associated with the deployment, excluding associated antenna equipment, is no more than three cubic feet in volume;

(3) All other wireless equipment associated with the structure, including the wireless equipment associated with the antenna and any pre-existing associated equipment on the structure, is no more than 28 cubic feet in volume;

(4) The facilities do not require antenna structure registration under federal law;

(5) The facilities are not located on Tribal lands, as defined under federal law; and

(6) The facilities do not result in human exposure to radiofrequency radiation in excess of the applicable safety standards specified in 47 Code of Federal Regulations § 1.1307(b);

“State” means the State of Washington.

Section 5. Acceptance of Franchise.

A. This Franchise, and any rights granted hereunder, shall not become effective for any purpose unless and until Grantee files with the Whatcom County Council the Statement of Acceptance, attached hereto as Exhibit A (the “Franchise Acceptance”). The date that the Franchise Acceptance is filed with the County Council shall be the effective date of this Franchise.

B. Should Grantee fail to file the Franchise Acceptance with the County Council within 30 days after the effective date of this ordinance, then the County shall have the right by ordinance to declare Grantee’s forfeiture of all rights hereunder and to declare this Franchise terminated and of no further force or effect thereafter. The County shall retain this right to terminate the Franchise until such time as Grantee files the Franchise Acceptance pursuant to the terms herein.

Section 6. Construction, Permits, Restoration, Maintenance, and Installation.

A. Prior to doing any work within the Right-of-Way, including initial installation of Facilities under this Franchise Agreement, the Grantee must apply for, and obtain, all appropriate permits from the appropriate jurisdiction(s), including County. Grantee shall submit plans to the County showing the proposed Facilities and existing utilities, including full drawings. Subsequent to installation, Grantee shall submit time and date stamped photographs of the installed Facilities including but not limited to all appliances, utility cabinets, and/or other devices.

B. If the County Engineer reasonably determines that any work done by Grantee is not in compliance with applicable law or then-current installation standards, then County shall provide Grantee thirty (30) days’ notice to cure any such deficiency. If, after such thirty (30) day period, Grantee fails to cure the deficiency, then County reserves the right to remove

and/or repair any work done by Grantee or its contractors and the reasonable cost thereof, including the cost of inspection and supervision, shall be paid by the Grantee.

C. Within ninety (90) days following the surrender or termination of this Agreement, Grantee agrees to remove its Facilities from County's Rights of Way and leave the same in as good of condition as it existed prior to installation of the Facilities. Any Facilities left in the Rights-of-way more than ninety (90) days following such surrender or termination of this Agreement shall be deemed abandoned by Franchisee. The County reserves the right, after providing at least thirty (30) days' prior written notice to Grantee, to remove Equipment abandoned by Grantee or its contractors following such surrender or termination and do whatever work is necessary to return the location to such required surrender condition (and which work has not been completed by or on behalf of Franchisee upon the expiration of such 30-day notice period). The reasonable cost thereof, including the cost of inspection and supervision, shall be paid by the Grantee.

D. The County shall have the authority at all times to control by appropriately-exercised police powers through ordinance or regulation, including that provided for under the Whatcom County Code, as now exist or hereinafter amended, consistent with 47 U.S.C. § 253, 47 U.S.C. § 332(c)(7) and the laws of the State of Washington, the location, elevation, manner of construction, and maintenance of any Small Wireless Facilities by Grantee, and Grantee shall promptly conform with all such requirements, unless compliance would cause Grantee to violate other requirements of law. This Franchise does not prohibit County from exercising its rights under federal, state or local law to deny or give conditional approval to an application for a permit to construct any individual Small Wireless Facility.

E. Upon prior written approval of County and in accordance with County ordinances, Grantee shall have the authority, but not the obligation, to reasonably trim trees upon and overhanging streets, Rights-of-Way and places in the Franchise Area so as to prevent the branches of such trees from coming in physical contact with Grantee Facilities. Grantee shall be responsible for debris removal from such activities. If such debris is not removed within twenty-four (24) hours of completion of the trimming, County may, at its sole discretion, remove such debris and charge Grantee for the cost thereof. This section does not in any instance grant automatic authority to clear vegetation for purposes of providing a clear path for radio signals. Any such general vegetation clearing will require a land clearing permit.

F. Consistent with the Whatcom County Code, in case of any disturbance of any road, pavement, sidewalk, driveway or other surfacing, the Grantee shall, at its own cost and expense and in a manner approved by the County, replace and restore all paving, sidewalk, driveway, landscaping or surface, promptly and in as good condition as before said work was commenced and in accordance with standards for such work set by the County and the County Code. If Grantee fails, neglects or refuses to make restorations as required under this Section, then the County may do such work or cause it to be done, and the cost thereof to the County shall be paid by Grantee.

G. Grantee shall maintain all aboveground improvements that it places on County Rights-of-Way pursuant to this Franchise. In order to avoid interference with the County's ability to maintain its roads and associated Rights-of-Way, Grantee shall provide a clear zone of five feet on all sides of such improvements. For these purposes, "clear zone" means an area that is mowed or otherwise maintained so that the Facilities are readily visible to County maintenance operations. If Grantee fails to comply with this provision, and by its failure property is damaged, then Grantee shall be responsible for all damages caused thereby.

H. Grantee shall maintain a minimum underground horizontal separation of five (5) feet from County water facilities and ten (10) feet from above-ground County water facilities; provided, that for development of new areas, County, together with Grantee and other utility purveyors or authorized users of Rights-of-Way, will develop and follow the Public Works Director's determination of a consensus for guidelines and procedures for determining specific utility locations, subject additionally to this Franchise.

I. Before any work is performed under this Franchise which may affect any existing monuments or markers of any nature relating to subdivisions, plats, roads and all other surveys, the Grantee shall reference all such monuments and markers. The reference points shall be so located that they will not be disturbed during the Grantee's operations under this Franchise. The method of referencing these monuments or other points to be referenced shall be approved by the County Engineer. The replacement of all such monuments or other points to be referenced shall be approved by the County Engineer. The replacement of all such monuments or markers disturbed during construction shall be made as expeditiously as conditions permit, and as directed by the County Engineer. The cost of monuments or other markers lost, destroyed or disturbed, and the expense of replacement by approved monuments shall be borne by the Grantee. A complete set of reference notes for monuments and other ties shall be filed with the County Engineer's Office.

Section 7. Repair and Emergency Work.

In the event of an Emergency, Grantee may commence such repair and Emergency response work as required under the circumstances, provided that Grantee shall notify the County Public Works Director in writing as promptly as possible, before such repair or Emergency work commences, or as soon thereafter as possible, if advance notice is not practical. County may act, at any time, without prior written notice in the case of Emergency, but shall notify Grantee in writing as promptly as possible under the circumstances.

Section 8. Damages to County and Third-Party Property.

Grantee agrees that should any of its actions under this Franchise materially impair or damage any County property, survey monument, or property owned by a third-party, Grantee will restore, at its own cost and expense, said property to a safe condition. Such repair work shall be performed and completed to the reasonable satisfaction of the County Engineer.

Section 9. Location Preference.

Any structure, equipment, appurtenance or tangible property of a utility, other than Grantee's, which was installed, constructed, completed or in place prior in time to Grantee's application for a permit to construct Grantee Facilities under this Franchise shall have preference as to positioning and location with respect to Grantee Facilities. However, to the extent that Grantee Facilities are completed and installed prior to another utility's submittal of a permit for new or additional structures, equipment, appurtenances or tangible property, then Grantee Facilities shall have priority. These rules governing preference shall continue in the event of the necessity of relocating or changing the grade of any County road or Right-of-Way. A relocating utility shall not necessitate the Relocation of another utility that otherwise would not require Relocation. This Section shall not apply to any County facilities or utilities that may in the future require the Relocation of Grantee Facilities. Such Relocations shall be governed by Section 11.

Section 10. Grantee Information.

A. Grantee agrees to supply, at no cost to County, any information reasonably requested by the Director of Public Works to coordinate municipal functions with Grantee's activities and fulfill any municipal obligations under State law. Said information shall include, at a minimum, as-built drawings of Grantee Facilities, installation inventory, and maps and plans showing the location of existing or planned facilities within County. Said information may be requested either in hard copy and/or electronic format, if reasonably possible in a format compatible with County's database system, as now or hereinafter existing, including County's Geographic Information Service (GIS) data base. Grantee shall use its commercially reasonable efforts to keep the Public Works Director informed of its long-range plans for coordination with County's long-range plans, to the extent that Grantee has knowledge of any long-range plans that have been finalized.

B. The parties understand that Washington law limits the ability of County to shield from public disclosure any information given to County. Accordingly, the County will endeavor in good faith to provide Grantee reasonable notice of any request for public disclosure of information of Grantee to allow Grantee to take such actions as Grantee may determine and at Grantee's sole cost and expense to prevent or limit such disclosure. Grantee shall indemnify and hold harmless County for any loss or liability for costs and for attorneys' fees because of non-disclosures requested by Grantee under Washington's open public records law, provided reasonable notice and opportunity to defend was given to Grantee or Grantee is made aware of a pending request or claim.

Section 11. Relocation of Grantee Facilities.

A. The County shall have the right to require Grantee to alter, adjust, Relocate, re-attach, secure, or protect in place its Facilities within the public right-of-way when reasonably necessary for construction, alteration, repair, or improvement of any portion of the public Rights-of-Way for purposes of public welfare, health, or safety (“Public Improvements”). Such Public Improvements include, but are not limited to: public rights-of-way construction; public rights-of-way repair (including resurfacing or widening); change of public rights-of-way grade; construction, installation of or repair of sewers, drains, water pipes, power lines, signal lines, communication lines, or any other type of government owned communications, utility or public transportation systems, public work, public facility, or improvement of any government-owned utility; public rights-of-way vacation, and the construction of any public improvement or structure by any government agency acting in a governmental capacity. In the event the County requires Grantee to Relocate its Facilities, the County shall provide Grantee with written notice requesting such Relocation, along with plans for the public improvement that are sufficiently complete to for the initial evaluation, coordination, and the development of a Relocation plan. The County and Grantee shall meet at a time and location determined by the County to discuss the project requirements including critical timelines, schedules, construction standards, utility conflicts, as-built requirements, and other pertinent Relocation plan details. The County shall notify Grantee as soon as practicable of the need for Relocation and shall specify the date by which the Relocation shall be committed. Except in case of emergency such notice shall be no less than 90-days.

B. To ensure timely execution of Relocation requirements, Grantee shall upon written requests from the County, provide at Grantee’s expense, base maps, current as-built information, detailed relocation plan (including detailed schedule of Relocation activities, identification of critical path, identification of Facilities, and Relocation procedures), and other design, technical or operational requirements within the time frame specified by the County.

C. Grantee may, after receipt of written notice requesting a Relocation of its Facilities, submit to the County written alternatives to such Relocation within the time specified by the County, but no shorter than 30-days. Such alternatives shall include the use and operation of temporary Facilities in adjacent rights-of-way. The County shall evaluate such alternatives and advise Grantee in writing if one of more of the alternatives are suitable to accommodate the work, which would otherwise necessitate Relocation of the Facilities. If requested by the County, Grantee shall submit additional information to assist the County in making such evaluation. The County shall give each alternative proposed by Grantee full and fair consideration. In the event the County, in its sole discretion, decides not to accept the alternatives suggested by Grantee, Grantee shall Relocate its Facilities as otherwise specified in Section 11.

D. Upon final approval of the Relocation plan by the County, Grantee shall, at its own expense, unless otherwise prohibited by statute, and at the time frame specified by the County, which in no event shall be less 30 days from receipt of final approval from the County,

temporarily or permanently remove, Relocate, place underground, change or alter the position of any Facilities or structures within the right-of-way whenever the County has determined that such removal, Relocation, undergrounding, change or alteration is reasonably necessary for the construction, repair, maintenance, installation, public safety, or operation of any public improvement in or upon the rights-of-way. In the event Relocation is required by reason of construction by a third party, non-governmental entity, then Grantee's Relocation costs shall be borne by the third party.

E. If during construction, repair, or maintenance of the County's public improvement project an unexpected conflict occurs from Grantee's Facilities, Grantee shall, upon notification from the County, respond within 24 hours to resolve the conflict.

F. Grantee acknowledges and understands that any delay by Grantee in performing the work to alter, adjust, Relocate, or protect in place its Facilities within the public rights-of-way may delay, hinder, or interfere with the work performed by the County and its contractors and subcontractors in furtherance of construction, alteration, repair, or improvement of the public rights-of-way, and result in damage to the County, including but not limited to, delay claims. Grantee shall cooperate with the County and its contractors and subcontractors to coordinate such relocation work to accommodate the public improvement project and project schedules to avoid delay, hindrance of, or interference with such project. Should Grantee fail to alter, adjust, protect in place or Relocate any Facilities ordered by the County to be altered, adjusted, protected in place, or Relocated, within the time prescribed by the County, which in no event shall be less than 30 days from the receipt of final approval from the County, given the nature and extent of the work, or if it is not done to the County's reasonable satisfaction, the County may, to the extent the County may lawfully do so, cause such work to be done and bill the reasonable cost of the work to Grantee, including all reasonable costs and expenses incurred by the County due to Grantee's delay. In such event, the County shall not be liable for any damage to any portion of Grantee's system. In addition to any other indemnity set forth in this Franchise, Grantee will indemnify, hold harmless, and pay the costs of defending the County from and against any and all claims, suits, actions, damages, or liabilities for delays on public improvement construction projects caused by or arising out of the failure of Grantee to adjust, modify, protect in place, or relocate its Facilities in a timely manner; provided that, Grantee shall not be responsible for damages due to delays caused by the County.

Section 12. Abandonment and or Removal of Grantee Facilities.

A. Within one hundred and eighty (180) days of Grantee's permanent cessation of use of Grantee Facilities, or any portion thereof, Grantee shall, at County's discretion, either abandon in place or remove the affected Facilities.

B. The parties expressly agree that this Section shall survive the expiration, revocation or termination of this Franchise.

Section 13. Undergrounding.

A. The parties agree that this Franchise does not limit County's authority under federal law, State law, or local ordinance, to require the undergrounding of Facilities, provided however, this requirement shall not apply to the Facilities that are required to remain above ground in order to be functional.

B. Whenever County requires the undergrounding of Grantee's Facilities in the Franchise Area, Grantee shall underground Grantee Facilities in the manner specified by the County Engineer, with payment therefor consistent with the provisions of RCW 36.88.410 et al. Where other utilities or franchise grantees are present and involved in the undergrounding project, Grantee shall be required to pay only its fair share of common costs borne by all utilities, in addition to the costs specifically attributable to the undergrounding of Grantee Facilities. Common costs shall include necessary costs for common trenching and utility or facility vaults. Fair share shall be determined in comparison to the total number and size of all other utility facilities being undergrounded.

C. Grantee and the County acknowledge and commit to fully comply with their respective obligations, as the same may arise from time to time, under Chapter 19.122 RCW (Underground Utilities Locator Statute) or any other law applicable to determining the location of utility facilities. Thus, before commencing any work within the Franchise Area, Grantee shall comply with the One Number Locator provisions of RCW Chapter 19.122 to identify existing utility infrastructure.

D. Design locate marks will be placed in the same three (3) day time frame as construction locate marks.

Section 14. Indemnification.

A. Grantee hereby releases, covenants not to bring suit and agrees to indemnify, defend and hold harmless the County, its officers, officials, employees and agents from any and all claims, costs, judgments, awards or liability to any person arising from injury, sickness, or death of any person or damage to property:

1. For the alleged or actual negligent acts or omissions of Grantee, its agents, servants, officers or employees;

2. By virtue of Grantee's exercise of the rights granted by this Franchise;

3. By virtue of the County's permitting Grantee's use of the County's Public Way or other public property;

4. Based upon the County's inspection or lack of inspection of work performed by Grantee, its agents and servants, officers or employees in connection with work authorized on

the Facilities or property over which the County has control, pursuant to this Franchise or pursuant to any other permit or approval issued in connection with this Franchise;

B. Grantee's indemnification obligations pursuant to Section 14.A shall include indemnifying the County for actions brought by Grantee's own employees and the employees of Grantee's agents, representatives, contractors, and subcontractors even though Grantee might be immune under Title 51 RCW from direct suit brought by such an employee. It is expressly agreed and understood that this indemnification for actions brought by the aforementioned employees is limited solely to claims against the County arising by virtue of Grantee's exercise of the rights set forth in this Franchise. The obligations of Grantee under this Section 14.B have been mutually negotiated by the parties hereto, and Grantee acknowledges that the County would not enter into this Franchise without Grantee's waiver thereof. To the extent required to provide this indemnification and this indemnification only, Grantee waives its immunity under Title 51 RCW as provided in RCW 4.24.115.

C. Except to the extent that damage or injury arises from the negligence or willful misconduct of the County, its officers, officials and employees, the obligations of Grantee under the indemnification provisions of this Section 14 and any other indemnification provision herein shall apply regardless of whether liability for damages arising out of bodily injury to persons or damages to property were caused or contributed to by the concurrent negligence of the County, its officers, officials and employees and the Grantee. Notwithstanding the proceeding sentence, to the extent the provisions of RCW 4.24.115 are applicable, the parties agree that the indemnity provisions hereunder shall be deemed amended to conform to said statute and liability shall be allocated as provided therein. This waiver has been mutually negotiated by the parties.

D. Inspection or acceptance by the County of any work performed by Grantee at the time of completion of construction shall not be grounds for avoidance of any of these covenants of indemnification. Provided that Grantee has been given prompt written notice by the County of any such claim, said indemnification obligations shall extend to claims which are not reduced to a suit and any claims which may be compromised prior to the culmination of any litigation or the institution of any litigation. The County has the right to defend or participate in the defense of any such claim, and has the right to approve any settlement or other compromise of any such claim, provided that Grantee shall not be liable for such settlement or other compromise unless it has consented thereto.

E. The County shall promptly notify Grantee of any claim or suit and request in writing that Grantee indemnify the County. Grantee may choose counsel to defend the County subject to this Section 14E. County's failure to so notify and request indemnification shall not relieve Grantee of any liability that Grantee might have, except to the extent that such failure prejudices Grantee's ability to defend such claim or suit. In the event that Grantee refuses the tender of defense in any suit or any claim, as required pursuant to the indemnification provisions within this Franchise, and said refusal is subsequently determined by a court having jurisdiction (or such other tribunal that the parties shall agree to decide the matter), to have

been a wrongful refusal on the part of Grantee, Grantee shall pay all of the County's reasonable costs for defense of the action, including all expert witness fees, costs, and attorney's fees, and including costs and fees incurred in recovering under this indemnification provision. If separate representation to fully protect the interests of both parties is necessary, such as a conflict of interest between the County and the counsel selected by Grantee to represent the County, then upon the prior written approval and consent of Grantee, which shall not be unreasonably withheld, the County shall have the right to employ separate counsel, as approved by Grantee, which approval will not be unreasonably withheld, delayed, or conditioned, in any action or proceeding and to participate in the investigation and defense thereof, and Grantee shall pay the reasonable fees and expenses of such separate counsel, except that Grantee shall not be required to pay the fees and expenses of separate counsel on behalf of the County for the County to bring or pursue any counterclaims or interpleader action, equitable relief, restraining order or injunction. The County's fees and expenses shall include all out-of-pocket expenses, such as consultants and expert witness fees, and shall also include the reasonable value of any services rendered by the counsel retained by the County but shall not include outside attorneys' fees for services that are unnecessarily duplicative of services provided the County by Grantee. Each party agrees to cooperate and to cause its employees and agents to cooperate with the other party in the defense of any such claim and the relevant records of each party shall be available to the other party with respect to any such defense.

F. In the event that Grantee refuses the tender of defense in any suit or any claim, said tender having been made pursuant to this Section, and said refusal is subsequently determined by a court having competent jurisdiction (or such other tribunal that the parties shall agree to decide the matter), to have been a wrongful refusal on the part of Grantee, then if Grantee does not promptly accept the tender of defense, Grantee shall pay all of the County's reasonable costs for defense of the action, including, if incurred, all reasonable expert witness fees, and reasonable attorneys' fees, and the reasonable costs of the County, and reasonable attorneys' fees of recovering under this Subsection.

G. Notwithstanding any other provisions of this Section, Grantee assumes the risk of damage to its Facilities located in the Right of Way and upon County-owned property from activities conducted by the County, its officers, officials, agents, employees, volunteers, and contractors, except to the extent any such damage or destruction is caused by or arises from any willful misconduct or criminal actions on the part of the County, officers, elected officials, and employees. In no event shall either party be liable to the other for any indirect, incidental, special, consequential, exemplary, or punitive damages, including by way of example and not limitation lost profits, lost revenue, loss of goodwill, or loss of business opportunity in connection with its performance or failure to perform under this Franchise. Grantee releases and waives any and all such claims against the County, its officers, officials, agents, employees, volunteers, and contractors. Grantee further agrees to indemnify, hold harmless and defend the County against any claims for damages, including, but not limited to, business interruption damages and lost profits, brought by or under users of Grantee's Facilities as the result of any interruption of service due to damage or destruction of Grantee's Facilities caused by or arising

out of activities conducted by the County, its officers, officials, employees, and agents except to the extent any such damage or destruction is caused by or arises from the negligence or any willful misconduct, or criminal actions on the part of the County, its officers, officials, employees and agents.

H. The provisions of this Section 14 shall survive the expiration, revocation, or termination of this Franchise.

Section 15. Insurance.

A. Grantee shall procure and maintain for the duration of the Franchise, insurance against claims for injuries to persons or damages to property which may arise from or in connection with the exercise of the rights, privileges and authority granted hereunder to Grantee, or its employees. Grantee shall provide an insurance certificate including the County, its officers, elected officials, and employees, as additional insureds as their interest may appear under this Franchise, to the County at the time of execution of this agreement, and such insurance certificate shall evidence:

1. Commercial Automobile Liability insurance covering all owned, non-owned, hired, and leased vehicles with a combined single limit for bodily injury and property damage of \$3,000,000 each accident.

2. Commercial General Liability insurance with limits of \$3,000,000 per occurrence for bodily injury and property damage and \$3,000,000 general aggregate including premises-operations, independent contractors, personal and advertising injury, contractual liability and \$3,000,000 products-completed operations aggregate limit. County shall be included as an additional insured as their interest may appear under this Franchise under Grantee's Commercial General Liability insurance policy with respect to the work performed under this Franchise.

3. Workers' Compensation coverage as required by the Industrial Insurance laws of the State of Washington and Employer's Liability with a limit of \$1,000,000 each accident/disease/policy limit.

4. Pollution liability shall be in effect throughout the entire Franchise term, with a limit of one million dollars (\$1,000,000) per occurrence, and two million dollars (\$2,000,000) in the aggregate.

5. Excess Umbrella liability policy with limits of \$5,000,000 per occurrence and in the aggregate.

B. The liability insurance policies required by this Section shall be maintained by Grantee throughout the term of this Franchise, and such other period of time during which Grantee is operating without a franchise or is engaged in the removal of its Facilities. Payment

of deductibles or self-insured retentions shall be the sole responsibility of Grantee. The insurance certificate required by this Section shall contain a clause stating that coverage shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability. Grantee's insurance shall be primary insurance with respect to the County, its officers, elected officials, and employees. Any insurance, self-insurance, or insurance pool coverage maintained by the County, its officers, elected officials, and employees shall be in excess of Grantee's insurance and shall not contribute with it.

C. Grantee's contractors and subcontractors performing Work in the Public Rights - of -Way shall comply with such bond, indemnity, and insurance requirements as may be required by County code or regulations, or other applicable Law. Any contractors or subcontractors performing Work within the Public Rights -of -Way on behalf of Grantee shall be subject to the same restrictions, limitations, and conditions as if the Work were performed by Grantee. Grantee shall ensure that all such Work performed by Grantee's contractors and subcontractors is in compliance with this Franchise Agreement. It is Grantee's responsibility to ensure that contractors, subcontractors, or other Persons performing Work on Grantee's behalf are familiar with the requirements of this Franchise Agreement and other applicable Laws governing the Work performed by them.

D. Grantee shall furnish County with certificates of the foregoing insurance coverage and blanket additional insured endorsements.

E. As of the Effective Date of this Franchise, Grantee is not self-insured. Should Grantee wish to become self-insured at the levels outlined in this Franchise at a later date, Grantee must provide the County with thirty (30) days advanced written notice of its intent to self-insure. Grantee shall comply with the following: (i) provide the County, upon request, a copy of Grantee's or its parent company's most recent audited financial statements; (ii) Grantee is responsible for all payments within the self-insured retention; and (iii) Grantee assumes all defense and indemnity obligations as outlined in the indemnification section of this Franchise.

F. Grantee's maintenance of insurance as required by this Franchise shall not be construed to limit the liability of Grantee to the coverage provided by such insurance.

Section 16. Performance Security.

Grantee shall provide County with one surety bond in the amount of Fifty Thousand Dollars (\$50,000) for all of Facilities in the County's rights-of-way running or renewable for the term of this Franchise, in a form and substance reasonably acceptable to County. In the event Grantee shall fail to substantially comply with any one or more of the provisions of this Franchise following notice and a reasonable opportunity to cure, then there shall be recovered jointly and severally from the principal and any surety of such surety bond any damages suffered by County as a result thereof, including but not limited to staff time, material and equipment costs, compensation or indemnification of third parties, and the cost of removal or

abandonment of facilities hereinabove described. Grantee specifically agrees that its failure to comply with the terms of Section 19 shall constitute damage to County in the monetary amount set forth therein. Such a financial guarantee shall not be construed to limit Grantee's liability to the guarantee amount, or otherwise limit County's recourse to any remedy to which County is otherwise entitled at law or in equity.

Section 17. Successors and Assignees.

A. All the provisions, conditions, regulations and requirements herein contained shall be binding upon the successors, assigns of, and independent contractors of Grantee, and all rights and privileges, as well as all obligations and liabilities of Grantee shall inure to its successors, assignees and contractors equally as if they were specifically mentioned herein wherever Grantee is mentioned.

B. This Franchise shall not be leased, assigned or otherwise alienated, except to an Affiliate of Grantee, without the express consent of County by ordinance, which approval shall not be unreasonably withheld. Approval shall not be required for mortgaging purposes or if a transfer of interest is from Grantee to another person or entity controlling, controlled by, or under common control with Grantee, or in the event of a transfer of all or a majority of all of Grantee's assets in the market defined by the Federal Communications System in which the Facilities are located.

C. For assignments needing County's approval, Grantee and any proposed assignee or transferee shall provide and certify the following to County not less than thirty (30) days prior to the proposed date of transfer: (a) complete information setting forth the nature, term and conditions of the proposed assignment or transfer; (b) all information required by County of an applicant for a Franchise with respect to the proposed assignee or transferee; and, (c) an application fee which shall be set by County, plus any other costs actually and reasonably incurred by County in processing and investigating the proposed assignment or transfer.

D. Prior to County's consideration of a request by Grantee to consent to a Franchise assignment or transfer, the proposed assignee or transferee shall file with County a written promise to unconditionally accept all terms of this Franchise, effective upon such transfer or assignment of this Franchise. After the date of such written promise, Grantee shall have no further obligation under this Franchise. County is under no obligation to undertake any investigation of the transferor's state of compliance and failure of County to insist on full compliance prior to transfer does not waive any right to insist on full compliance thereafter.

Section 18. Dispute Resolution.

A. In the event of a dispute between County and Grantee arising by reason of this Franchise, the dispute shall first be referred to the operational officers or representatives designated by County and Grantee to have oversight over the administration of this Franchise. The officers or representatives shall meet within thirty (30) calendar days of either party's

request for a meeting, whichever request is first, and the parties shall make a good faith effort to achieve a resolution of the dispute.

B. If the parties fail to achieve a resolution of the dispute in this manner, either party may then pursue any available judicial remedies. This Franchise shall be governed by and construed in accordance with the Laws of the State of Washington. In the event any suit, arbitration, or other proceeding is instituted to enforce any term of this Franchise, the parties specifically understand and agree that venue shall be exclusively in Whatcom County, Washington.

Section 19. Enforcement and Remedies.

A. If Grantee shall violate, or fail to comply with any of the provisions of this Franchise, or should it fail to heed or comply with any notice given to Grantee under the provisions of this Franchise, County shall provide Grantee with written notice specifying with reasonable particularity of the nature of any such breach and Grantee shall undertake all commercially reasonable efforts to cure such breach within thirty (30) days of receipt of notification. If County reasonably determines the breach cannot be cured within (30) thirty days, County may specify a longer cure period, and condition the extension of time on Grantee's submittal of a plan to cure the breach within the specified period, commencement of work within the original thirty (30) day cure period, and diligent prosecution of the work to completion. If the breach is not cured within the specified time, or Grantee does not comply with the specified conditions, County may, at its discretion, either (1) revoke this Franchise with no further notification, or (2) claim damages of Five Hundred Dollars (\$500.00) or actual damages if demonstrably greater, against the financial guarantee set forth in Section 16.

B. Should County determine that Grantee is acting beyond the scope of permission granted herein for Grantee Facilities and Grantee Services, County reserves the right to cancel this Franchise and require Grantee to apply for, obtain, and comply with all applicable County permits, franchises, or other County permissions for such actions, and if Grantee's actions are not allowed under applicable federal and state or County Laws, to compel Grantee to cease such actions.

Section 20. Compliance with Laws and Regulations.

A. Grantee agrees to comply with all present and future federal and state laws, ordinances, rules and regulations. Nothing herein shall be deemed to restrict the County's ability to adopt and enforce all necessary and appropriate ordinances regulating the performance of the conditions of this Franchise, including any valid ordinance made in the exercise of its police powers in the interest of public safety and for the welfare of the public. The County shall have the authority at all times to reasonably control by appropriate regulations the location, elevation, manner of construction and maintenance of Facilities by Grantee, and Grantee shall promptly conform with all such regulations, unless acknowledges that following the approval of this Franchise, the County may modify its Codes to address small

wireless deployment and such Code modifications shall apply to Grantee's Facilities, except to the extent of a vested right pertaining to an existing Facility. In the event of a conflict between the provisions of this Franchise and any other generally applicable ordinance(s) enacted under the County's police power authority, such other ordinances(s) shall take precedence over the provisions set forth herein.

Section 21. Consideration.

A. As consideration for this Franchise, Grantee commits to pay County an annual usage fee equal to Two Hundred Seventy and 00/100 Dollars (\$270.00) for each Small Wireless Facility located within the Right of Way. Ancillary facilities or services that are not defined herein as Small Wireless Facilities shall not be covered by this usage fee and are subject to independent usage or franchise fees.

B. Grantee's franchise fee payments shall be due the first of the month following the commencement of construction of a particular Facility ("Commencement Date"), and shall be due on each January 1 thereafter for as long as the Facility is in place. For any partial year beginning from the Commencement Date until the following January 1, the annual franchise fee will be prorated. County shall provide Grantee a completed, current Internal Revenue Service Form W-9 and state and local withholding forms, if required. Grantee shall include with payment a complete written inventory of all Small Cell Facilities situated in County's Rights-of-Way as of two weeks prior to the payment due date. Payments shall be made to the Whatcom County Treasurer, Whatcom County Courthouse, Suite 104, 311 Grand Avenue, Bellingham, WA 98225, unless otherwise specified by the County in writing.

C. In the event any payment is not received within forty-five (45) days from the due date, Grantee shall pay, in addition to the payment or sum due, interest on the amount due at the maximum allowed rate as provided under State law from the date the payment was due until the date the County receives the payment.

Section 22. Consequential Damages Limitation.

Notwithstanding any other provision of this Franchise, in no event shall either party be liable for any special, incidental, indirect, punitive, reliance, consequential or similar damages.

Section 23. Severability.

If any portion of this Franchise is deemed invalid, the remainder portions shall remain in effect.

Section 24. Titles.

The section titles used herein are for reference only and should not be used for the purpose of interpreting this Franchise.

ADOPTED this _____ day of _____ 2021.

ATTEST

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

Dana Brown Davis, Clerk of the Council

Barry Buchanan, Council Chair

APPROVED AS TO FORM:

WHATCOM COUNTY EXECUTIVE
WHATCOM COUNTY, WASHINGTON

Christopher Quinn
Civil Deputy Prosecutor
(approved electronically 4/14/2021)

Satpal Singh Sidhu, County Executive
()Approved ()Denied

Date Signed: _____

Todd Walton
Site Acquisition Manager

RECEIVED

MAR 13 2017
WHATCOM COUNTY
COUNCIL

 **CENTERLINE SOLUTIONS**
8218 154th Ave, NE Suite 120, Redmond WA 98052
Phone: 425.828.1008
Mobile: 206-334-4116
Web: www.centerlinesolutions.com

3-8-2017

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

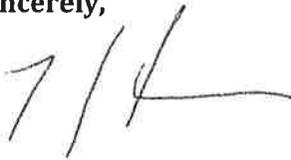
Phone: 360-778-5010
Fax: 360-778-5011

Council Office Email:
council@co.whatcom.wa.us

Dear County Council:

On behalf of SEATTLE SMSA LIMITED PARTNERSHIP, d/b/a as Verizon Wireless, Centerline Solutions would like to submit an Application for Franchise for wireless facilities located in Whatcom County Rights of Way.

Sincerely,



Todd Walton

APPLICATION FOR FRANCHISE

TO THE WHATCOM COUNTY COUNCIL:

COMES NOW, SEATTLE SMSA LIMITED PARTNERSHIP
d/b/a VERIZON WIRELESS.

who respectfully petitions the Whatcom County Council for a twenty-five (25) year franchise to lay, construct, maintain, and repair

WIRELESS FACILITIES

and all necessary appurtenances along, over, and across the following roads situated in Whatcom County, Washington:

CURRENTLY CHUCKANUT, BUT ALL OTHERS IN
FUTURE.

The petitioner further requests that the Whatcom County Council fix a time and place for a public hearing on the granting of this continuation of franchise, and that public notice be given, at the expense of the petitioner, as provided by law; and that, at said hearing, petitioner be granted the franchise continuation herein requested.

DATED: 3-2-2017

CENTERLINE SOLUTIONS

Company Name

8218 154th AVE. NE STE. 120

Mailing Address

Redmond WA 98133

City

State Zip

206 334 4116

Phone Number


Signature of authorized agent/owner

TODD WALTON
Print or type name



TREASURER'S RECEIPT

WHATCOM COUNTY

Treasurer's Office

676-6774

PREPARED BY <i>Maura</i>	PHONE # ext. <i>5019</i>
DATE PREPARED <i>3-14-17</i>	
ATTACHMENTS <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	

Received FROM
<i>Centerline Solutions</i>
<i>Franchise application fee \$500</i>
<i>wireless facilities</i>
<i>AB 2017-103</i>

Deposit TO
<i>Council franchise</i>
<i>Revenue</i>

ACCOUNT DISTRIBUTION

ACCOUNT NUMBER	AMOUNT	TENDER TYPE
<i>1100.4369.9001</i>	<i>500 -</i>	CASH
		U.S. CHECKS
		✓
		CANADIAN CHECKS
		OTHER

Not valid until acknowledged by
Treasurer's Office

TOTAL

<i>500 -</i>

Form No. TRS01.01 10/08

RECEIPT
Whatcom County

200379

DEPARTMENT Council DATE 3/13/2017

RECEIVED FROM Centerline Solutions
ADDRESS 8218 154th Ave, NE Suite 120 Redmond, WA 98052

IN PAYMENT OF Franchise Application

FUND _____ AMOUNT PAID \$500.⁰⁰
REVENUE CODE _____

OLD BAL.		
PAID		
BAL. DUE		

CASH		
CHECK	<u>103860</u>	
MONEY ORD.		

SIGNATURE Kriste Teubinger

NOTE - All three copies of all voided receipts must be retained
in department's numerical file.

Date: 3/14/2017 Time: 9:38 AM
Receipt Date: 3/14/2017

Steven N. Otiver
Whatcom County Treasurer
311 Grand Ave, Suite 104
Bellingham, WA 98225
360.778.5160

Receipt #: 2482401
Received From: CENTERLINE SOLUTIONS
Payment Code: Full Payment

NON-PROPERTY ITEMS
TREAS RCP# #: 310876 500.00

Base: 0.00
P&I: 0.00
Total: 500.00

TENDERS

Check 500.00