

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
JUNE 15, 2021**

**INCLUDES INFORMATION
FOR THE FOLLOWING MEETINGS:**

**10 A.M. – FINANCE AND ADMINISTRATIVE SERVICES COMMITTEE
(ENDS NO LATER THAN NOON)**

**1 P.M. – PUBLIC WORKS AND HEALTH COMMITTEE
(ENDS NO LATER THAN 2 P.M.)**

**2:10 P.M. – CRIMINAL JUSTICE AND PUBLIC SAFETY
(ENDS NO LATER THAN 2:40 P.M.)**

**2:50 P.M. - COMMITTEE OF THE WHOLE
(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
[WHATCOM.LEGISTAR.COM](https://whatcom.legistar.com)**

**FOR INSTRUCTIONS ON HOW TO WATCH OR PARTICIPATE IN COMMITTEE AND
COUNCIL MEETINGS, PLEASE VISIT
[WHATCOMCOUNTY.US/3415/PARTICIPATE-IN-VIRTUAL-COUNCIL-MEETINGS](https://whatcomcounty.us/3415/PARTICIPATE-IN-VIRTUAL-COUNCIL-MEETINGS)
OR CONTACT THE COUNCIL OFFICE AT 360.778.5010**

COMMITTEE AGENDAS

**COUNCIL FINANCE AND ADMINISTRATIVE SERVICES COMMITTEE
10:00 A.M. TUESDAY, June 15, 2021 (ENDS NO LATER THAN NOON)
Virtual Meeting**

Call To Order

Roll Call

Announcements

Individuals who require special assistance to participate in the Council's meetings are asked to contact the Council Office at 360-778-5010 at least 96 hours in advance.

Special Presentation

1. AB2021-294 Report from the Finance Division
Page 1

Committee Discussion and Recommendation to Council

1. AB2021-307 Ordinance amending the 2021 Whatcom County Budget, request no. 9, in the amount of \$1,138,322
Pages 2 - 21
2. AB2021-310 Ordinance establishing the American Rescue Plan Act Fund and establishing a budget for the American Rescue Plan Act Fund Page
Pages 22 - 24
3. AB2021-324 Request authorization for the County Executive to enter into Local Agency Agreement Supplement No. 4 between Whatcom County and the Washington State Department of Transportation for the Birch Bay Drive and Pedestrian Facility Project in the amount of \$1,100,000
Pages 25 - 32
4. AB2021-330 County Executive requests approval of the Economic Development Investment (EDI) Board's recommendations for funding to support three project applications from the City of Lynden, Port of Bellingham, and Bellingham Housing Authority
Pages 33 - 82
5. AB2021-331 Request authorization for the County Executive to award bid #21-26 and enter into a contract between Whatcom County and Tiger Construction LTD for the Plantation Indoor Range HVAC and Roof Replacement, in the amount of \$1,032,352.54
Pages 83 - 97

Council "Consent Agenda" Items

1. AB2021-319 Request authorization for the County Executive to enter into a contract between Whatcom County and Arc of Whatcom County to provide information, education, and family support to individuals with developmental disabilities, their family members, and the general public, in the amount of \$150,616
Pages 98 - 123

2. AB2021-321 Request authorization for the County Executive to enter into an agreement between Whatcom County and the County Road Administrative Board (CRAB) in order to receive Rural Arterial Preservation grant funding for the Hampton Road Pavement Rehabilitation project in the amount of \$170,100
Pages 124 - 128
3. AB2021-322 Request authorization for the County Executive to enter into a contract between Whatcom County and the Executive Office of the President for a grant award for funding from the High Intensity Drug Trafficking Areas (HIDTA) program in the amount of \$205,073.00
Pages 129 - 143
4. AB2021-325 Request authorization for the County Executive to enter into a contract amendment between Whatcom County and Opportunity Council to provide funding for Child Development Services to eligible children ages birth to three who have developmental disabilities and delays, in the estimated amount of \$77,812, for a total estimated amended contract amount of \$213,952
Pages 144 - 149
5. AB2021-332 Resolution to amend Resolution 2020-046 for unrepresented Whatcom County employees
Pages 150 - 152
6. AB2021-333 Request authorization for a Letter of Understanding between Whatcom County and General Teamsters' Local Union 231 to amend the Master Collective Bargaining Agreement for the period January 1, 2019 - December 31, 2021
Pages 153 - 156
7. AB2021-335 Request authorization for a Letter of Understanding between Whatcom County and the WA State Nurses Association to amend the collective bargaining agreement for the period January 1, 2021 - December 31, 2022
Pages 157 - 160
8. AB2021-336 Request authorization for a Letter of Understanding between Whatcom County and PROTEC17 to amend the collective bargaining agreement for the period January 1, 2019 - December 31, 2021
Pages 161 - 164
9. AB2021-337 Request authorization for the County Executive to enter into an interlocal agreement between Whatcom County and Northwest Educational Services District 189 to provide behavioral health services, in the amount of \$121,000
Pages 165 - 188

Items Added by Revision

Other Business

Adjournment

COUNCIL PUBLIC WORKS & HEALTH COMMITTEE
1:00 P.M. TUESDAY, June 15, 2021 (ENDS NO LATER THAN 2 P.M.)
Virtual Meeting

Call To Order

Roll Call

Announcements

Individuals who require special assistance to participate in the Council's meetings are asked to contact the Council Office at 360-778-5010 at least 96 hours in advance.

Special Presentation

1. AB2021-326 Presentation of the Child and Family Well-Being Task Force Phase I Report
Pages 189 - 213

Committee Discussion and Recommendation to Council

1. AB2021-320 Discussion of community-requested revision to the Birch Bay Golf Cart Zone boundary, and request for Council direction
Pages 214 - 215

Items Added by Revision

Other Business

Adjournment

COUNCIL CRIMINAL JUSTICE AND PUBLIC SAFETY COMMITTEE
2:10 P.M. TUESDAY, June 15, 2021 (ENDS NO LATER THAN 2:40 P.M.)
Virtual Meeting

Call To Order

Roll Call

Announcements

Individuals who require special assistance to participate in the Council's meetings are asked to contact the Council Office at 360-778-5010 at least 96 hours in advance.

Committee Discussion

1. AB2021-300 Discussion of recent development regarding the implementation of the 5th Medic Unit
Pages 216 - 224

Items Added by Revision

Other Business

Adjournment

COUNCIL COMMITTEE OF THE WHOLE
2:50 P.M. TUESDAY, June 15, 2021 (MAY BEGIN EARLY, ENDS BY 5 P.M.)
Virtual Meeting

Call To Order

Roll Call

Announcements

Individuals who require special assistance to participate in the Council's meetings are asked to contact the Council Office at 360-778-5010 at least 96 hours in advance.

Committee Discussion

1. AB2020-219 Discussion and update on strategies and other items related to COVID-19 (Council and Health Board)
Pages 225 - 226
2. AB2021-296 Ordinance adopting amendments to the Purchase of Development Rights Program
Pages 227 - 450
3. 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 451 - 464
4. AB2021-339 Discussion to establish a process for filling district court judicial vacancy
Pages 465 - 466

Committee Discussion and Recommendation to Council

1. AB2021-279 Ordinance submitting to the qualified voters of Whatcom County a proposal to amend Whatcom County Charter Section 8.22 to align requirements for amending the Charter by citizen initiative with Washington State norms
Pages 467 - 471

Items Added by Revision

Other Business

Adjournment

COUNTY COUNCIL

REGULAR COUNCIL MEETING
6:00 P.M. TUESDAY, JUNE 15, 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.

Individuals who require special assistance to participate in the Council's meetings are asked to contact the Council Office at 360-778-5010 at least 96 hours in advance.

The County is accepting applications from county residents to fill vacancies on several boards, commissions, and committee spanning a wide range of important local issues. For more information, visit the Boards and Commissions vacancies 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. MIN2021-047 Committee of the Whole Executive Session for June 1, 2021
Pages 472 - 475
2. MIN2021-048 Committee of the Whole for June 1, 2021
Pages 476 - 482
3. MIN2021-049 Regular County Council for June 1, 2021
Pages 483 - 497

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)

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Pages 165 - 188

OTHER ITEMS

(From Council Finance and Administrative Services Committee)

1. AB2021-307 Ordinance amending the 2021 Whatcom County Budget, request no. 9, in the amount of \$1,138,322
Pages 2 - 21
2. AB2021-310 Ordinance establishing the American Rescue Plan Act Fund and establishing a budget for the American Rescue Plan Act Fund
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Pages 83 - 97

(From Council Public Works and Health Committee)

6. AB2021-320 Discussion of community-requested revision to the Birch Bay Golf Cart Zone boundary, and request for Council direction
Pages 214 - 215

(From Council Committee of the Whole)

7. AB2021-279 Ordinance submitting to the qualified voters of Whatcom County a proposal to amend Whatcom County Charter Section 8.22 to align requirements for amending the Charter by citizen initiative with Washington State norms
Pages 467 - 471

(No Committee Assignment)

8. AB2021-323 Request approval to send letter of appreciation to child care team members
Pages 498 - 499

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. AB2021-185 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
Page 500 – 513
2. AB2021-327 Ordinance amending the Whatcom County Budget, request no. 10, in the amount of \$744,800
Page 514 - 552
3. AB2021-328 Resolution amending the Flood Control Zone District and subzones 2021 budgets, request no. 1, in the amount of \$15,415 (Council acting as the Whatcom County Flood Control Zone District Board of Supervisors)
Pages 553 – 559
4. AB2021-340 Ordinance suspending Whatcom County Code 1.28 to update the Correctional Facilities operational standards
Pages 560 - 564

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: AB2021-294

File ID:	AB2021-294	Version:	1	Status:	Agenda Ready
File Created:	05/12/2021	Entered by:	AReynold@co.whatcom.wa.us		
Department:	County Executive's Office	File Type:	Report		
Assigned to:	Council Finance and Administrative Services Committee				Final Action:
Agenda Date:	06/15/2021	Enactment #:			

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

TITLE FOR AGENDA ITEM:

Report from the Finance Division

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

Quarterly report from the Finance Division

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
<hr/>			
<hr/>			

Attachments:



Whatcom County

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

Agenda Bill Master Report

File Number: AB2021-307

File ID:	AB2021-307	Version:	1	Status:	Introduced
File Created:	05/20/2021	Entered by:	MCaldwel@co.whatcom.wa.us		
Department:	Finance Division	File Type:	Ordinance		
Assigned to:	Council Finance and Administrative Services Committee	Final Action:			
Agenda Date:	06/15/2021	Enactment #:			

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

TITLE FOR AGENDA ITEM:

Ordinance amending the 2021 Whatcom County Budget, request no. 9, in the amount of \$1,138,322

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

Supplemental #9 requests funding from the General Fund:

1. To appropriate \$23,936 in Non Departmental to fund transfer in support of public safety radio tower leases.
2. To appropriate \$76,335 in Assessor to fund reinstatement of two “frozen” positions from American Rescue Plan (ARP) funding.
3. To appropriate \$32,722 in Auditor to fund reinstatement of one “frozen” position from ARP funding.
4. To appropriate \$153,980 in Planning & Development to fund reinstatement of three “frozen” positions from ARP funding.
5. To appropriate \$67,476 in Sheriff to fund reinstatement of two “frozen” positions from ARP funding.
6. To appropriate \$53,321 in County Clerk to fund reinstatement of 1.5 FTE “frozen” positions from ARP funding.

From the Road Fund:

7. To appropriate \$31,786 in Public Works Administration to fund reinstatement of one “frozen” position from ARP funding.

From the Whatcom County Jail Fund:

8. To appropriate \$237,214 in the Sheriff’s Corrections Bureau to fund reinstatement of five

“frozen” deputy positions from ARP funding.

From the Behavioral Health Programs Fund:

9. To appropriate \$44,711 to fund reinstatement of one “frozen” Mental Health Court position from ARP funding.
10. To appropriate \$50,000 to fund GRACE program from PeaceHealth donation.
11. To appropriate \$140,000 to fund GRACE program from additional City of Bellingham funding.

From the Countywide Emergency Medical Services Fund:

12. To appropriate \$60,000 to fund EMS records management system software maintenance contract amendments.

From the Whatcom County Emergency Management Fund:

13. To appropriate \$23,936 to fund public safety radio tower leases from general fund transfer.

From the Administrative Services Fund:

14. To appropriate \$142,905 to fund reinstatement of three “frozen” positions from ARP funding.

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
06/01/2021	Council	INTRODUCED	Council Finance and Administrative Services Committee

Attachments: Proposed Ordinance, Summary - Budget Supplemental #9-2021, Requests - Budget Supplemental #9-2021

**ORDINANCE NO.
AMENDMENT NO. 9 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			
Non Departmental	23,936	-	23,936
Assessor	76,335	(76,335)	-
Auditor	32,722	(32,722)	-
Planning & Development	153,980	(153,980)	-
Sheriff	67,476	(67,476)	-
County Clerk	53,321	(53,321)	-
Total General Fund	407,770	(383,834)	23,936
Road Fund	31,786	(31,786)	-
Whatcom County Jail Fund	237,214	(237,214)	-
Behavioral Health Fund	234,711	(234,711)	-
Countywide Emergency Medical Services Fund	60,000	-	60,000
Whatcom County Emergency Management Fund	23,936	(23,936)	-
Administrative Services Fund	142,905	(142,905)	-
Total Supplemental	1,138,322	(1,054,386)	83,936

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. 9				
Department/Fund	Description	Increased (Decreased) Expenditure	(Increased) Decreased Revenue	Net Effect to Fund Balance (Increase) Decrease
General Fund				
Non Departmental	To fund transfer in support of public safety radio tower leases.	23,936	-	23,936
Assessor	To fund reinstatement of "frozen" positions from ARP funding.	76,335	(76,335)	-
Auditor	To fund reinstatement of "frozen" position from ARP funding.	32,722	(32,722)	-
Planning & Development	To fund reinstatement of "frozen" positions from ARP funding.	153,980	(153,980)	-
Sheriff	To fund reinstatement of "frozen" positions from ARP funding.	67,476	(67,476)	-
County Clerk	To fund reinstatement of "frozen" positions from ARP funding.	<u>53,321</u>	<u>(53,321)</u>	<u>-</u>
Total General Fund		407,770	(383,834)	23,936
Road Fund	To fund reinstatement of "frozen" position from ARP funding.	31,786	(31,786)	-
Whatcom County Jail Fund	To fund reinstatement of "frozen" positions from ARP funding.	237,214	(237,214)	-
Behavioral Health Fund				
Health	To fund reinstatement of "frozen" position from ARP funding.	44,711	(44,711)	-
Health	To fund GRACE program from PeaceHealth donation.	50,000	(50,000)	-
Health	To fund GRACE program from additional City of Bellingham funding.	<u>140,000</u>	<u>(140,000)</u>	<u>-</u>
Total Behavioral Health Fund		234,711	(234,711)	-
Countywide Emergency Medical Services Fund	To fund EMS records management system software maintenance contract amendments.	60,000	-	60,000
Whatcom County Emergency Management Fund	To fund public safety radio tower leases from general fund transfer.	23,936	(23,936)	-
Administrative Services Fund	To fund reinstatement of "frozen" positions from ARP funding.	<u>142,905</u>	<u>(142,905)</u>	<u>-</u>
Total Supplemental		<u>1,138,322</u>	<u>(1,054,386)</u>	<u>83,936</u>

Supplemental Budget Request

Status: Pending

Non-Departmental

Suppl ID # 3219

Fund 1

Cost Center 4530

Originator: M Caldwell

Year 1 2021

Add'l FTE ☐

Priority 1

Name of Request: Trf to support public safety radio leases

X

Department Head Signature (Required on Hard Copy Submission)

Date

Costs:	Object	Object Description	Amount Requested
	8351	Operating Transfer Out	\$23,936
	Request Total		\$23,936

1a. Description of request:

Companion supplemental to fund Emergency Management supplemental #3215 in support of public safety radio tower leases.

1b. Primary customers:

2. Problem to be solved:

3a. Options / Advantages:

3b. Cost savings:

4a. Outcomes:

4b. Measures:

5a. Other Departments/Agencies:

5b. Name the person in charge of implementation and what they are responsible for:

6. Funding Source:

General Fund

Supplemental Budget Request

Status: Pending

Administrative Services

Finance

Suppl ID # 3205

Fund 1

Cost Center 300

Originator: M Caldwell

Year 1

2021

Add'l FTE ☐

Priority

1

Name of Request: Reinstate Assessor "Frozen" Positions

X

Department Head Signature (Required on Hard Copy Submission)

Date

Costs:	Object	Object Description	Amount Requested
	6110	Regular Salaries & Wages	\$49,682
	6210	Retirement	\$5,092
	6230	Social Security	\$3,801
	6245	Medical Insurance	\$15,629
	6255	Other H&W Benefits	\$1,482
	6259	Worker's Comp-Interfund	\$520
	6269	Unemployment-Interfund	\$129
	8301	Operating Transfer In	(\$76,335)
	Request Total		\$0

1a. Description of request:

Reinstate the following Assessor's "frozen" positions:

Clerk V

Drafter/GIS Tech II

1b. Primary customers:

2. Problem to be solved:

3a. Options / Advantages:

3b. Cost savings:

4a. Outcomes:

4b. Measures:

5a. Other Departments/Agencies:

5b. Name the person in charge of implementation and what they are responsible for:

6. Funding Source:

American Rescue Plan Funding

Supplemental Budget Request

Status: Pending

Administrative Services

Finance

Suppl ID # 3210

Fund 1

Cost Center 560

Originator: M Caldwell

Year 1 2021

Add'l FTE ☐

Priority 1

Name of Request: Reinstate Auditor "Frozen" Position

X

Department Head Signature (Required on Hard Copy Submission)

Date

Costs:	Object	Object Description	Amount Requested
	6110	Regular Salaries & Wages	\$20,245
	6210	Retirement	\$2,075
	6230	Social Security	\$1,549
	6245	Medical Insurance	\$7,814
	6255	Other H&W Benefits	\$726
	6259	Worker's Comp-Interfund	\$260
	6269	Unemployment-Interfund	\$53
	8301	Operating Transfer In	(\$32,722)
	Request Total		\$0

1a. Description of request:

Reinstate Clerk III position in Auditor's Office.

1b. Primary customers:

2. Problem to be solved:

3a. Options / Advantages:

3b. Cost savings:

4a. Outcomes:

4b. Measures:

5a. Other Departments/Agencies:

5b. Name the person in charge of implementation and what they are responsible for:

6. Funding Source:

American Rescue Plan

Supplemental Budget Request

Status: Pending

Administrative Services

Finance

Suppl ID # 3211

Fund 1

Cost Center

Originator: M Caldwell

Year 1 2021

Add'l FTE ☐

Priority 1

Name of Request: Reinstate PDS "Frozen" Positions

X

Department Head Signature (Required on Hard Copy Submission)

Date

Costs:	Object	Object Description	Amount Requested
	6110	Regular Salaries & Wages	\$106,604
	6210	Retirement	\$12,001
	6230	Social Security	\$8,155
	6245	Medical Insurance	\$23,443
	6255	Other H&W Benefits	\$2,512
	6259	Worker's Comp-Interfund	\$988
	6269	Unemployment-Interfund	\$277
	8301	Operating Transfer In	(\$153,980)
	Request Total		\$0

1a. Description of request:

Reinstate the following Planning & Development Service positions:
Assistant Director
Planning Technician
Plans Examiner II

1b. Primary customers:

2. Problem to be solved:

3a. Options / Advantages:

3b. Cost savings:

4a. Outcomes:

4b. Measures:

5a. Other Departments/Agencies:

5b. Name the person in charge of implementation and what they are responsible for:

6. Funding Source:

American Rescue Plan

Supplemental Budget Request

Status: Pending

Administrative Services

Finance

Suppl ID # 3212

Fund 1

Cost Center 2900

Originator: M Caldwell

Year 1 2021

Add'l FTE ☐

Priority 1

Name of Request: Reinstate Sheriff "Frozen" Positions

X

Department Head Signature (Required on Hard Copy Submission)

Date

Costs:	Object	Object Description	Amount Requested
	6110	Regular Salaries & Wages	\$42,204
	6210	Retirement	\$4,326
	6230	Social Security	\$3,229
	6245	Medical Insurance	\$15,629
	6255	Other H&W Benefits	\$1,458
	6259	Worker's Comp-Interfund	\$520
	6269	Unemployment-Interfund	\$110
	8301	Operating Transfer In	(\$67,476)
	Request Total		\$0

1a. Description of request:

Reinstate the following administrative positions:

Clerk III

Accounting Technician

1b. Primary customers:

2. Problem to be solved:

3a. Options / Advantages:

3b. Cost savings:

4a. Outcomes:

4b. Measures:

5a. Other Departments/Agencies:

5b. Name the person in charge of implementation and what they are responsible for:

6. Funding Source:

American Rescue Plan

Thursday, May 13, 2021

Rpt: Rpt Suppl Regular

Supplemental Budget Request

Status: Pending

Administrative Services

Finance

Suppl ID # 3213

Fund 1

Cost Center

Originator: M Caldwell

Year 1 2021

Add'l FTE ☐

Priority 1

Name of Request: Reinstate County Clerk "Frozen" Positions

X

Department Head Signature (Required on Hard Copy Submission)

Date

Costs:	Object	Object Description	Amount Requested
	6110	Regular Salaries & Wages	\$30,367
	6210	Retirement	\$3,113
	6230	Social Security	\$2,323
	6245	Medical Insurance	\$15,629
	6255	Other H&W Benefits	\$1,420
	6259	Worker's Comp-Interfund	\$390
	6269	Unemployment-Interfund	\$79
	8301	Operating Transfer In	(\$53,321)
	Request Total		\$0

1a. Description of request:

Reinstate the following County Clerk positions:
Court Clerk - .5 FTE Assigned Counsel
Court Clerk

1b. Primary customers:

2. Problem to be solved:

3a. Options / Advantages:

3b. Cost savings:

4a. Outcomes:

4b. Measures:

5a. Other Departments/Agencies:

5b. Name the person in charge of implementation and what they are responsible for:

6. Funding Source:

American Rescue Plan

Supplemental Budget Request

Status: Pending

Administrative Services

Finance

Suppl ID # 3208

Fund 108

Cost Center 10895

Originator: M Caldwell

Year 1 2021

Add'l FTE ☐

Priority 1

Name of Request: Reinstate Public Works "Frozen" Position

X

Department Head Signature (Required on Hard Copy Submission)

Date

Costs:	Object	Object Description	Amount Requested
	6110	Regular Salaries & Wages	\$19,455
	6210	Retirement	\$1,994
	6230	Social Security	\$1,488
	6245	Medical Insurance	\$7,814
	6255	Other H&W Benefits	\$724
	6259	Worker's Comp-Interfund	\$260
	6269	Unemployment-Interfund	\$51
	8301	Operating Transfer In	(\$31,786)
	Request Total		\$0

1a. Description of request:

Reinstate Clerk/Receptionist position in Road Admin.

1b. Primary customers:

2. Problem to be solved:

3a. Options / Advantages:

3b. Cost savings:

4a. Outcomes:

4b. Measures:

5a. Other Departments/Agencies:

5b. Name the person in charge of implementation and what they are responsible for:

6. Funding Source:

American Rescue Plan

Supplemental Budget Request

Status: Pending

Administrative Services

Finance

Suppl ID # 3206

Fund 118

Cost Center 118000

Originator: M Caldwell

Year 1 2021

Add'l FTE ☐

Priority 1

Name of Request: Reinstate Corrections "Frozen" Positions

X

Department Head Signature (Required on Hard Copy Submission)

Date

Costs:	Object	Object Description	Amount Requested
	6110	Regular Salaries & Wages	\$156,795
	6210	Retirement	\$16,291
	6230	Social Security	\$11,995
	6245	Medical Insurance	\$39,072
	6255	Other H&W Benefits	\$3,813
	6259	Worker's Comp-Interfund	\$8,840
	6269	Unemployment-Interfund	\$408
	8301	Operating Transfer In	(\$237,214)
	Request Total		\$0

1a. Description of request:

Reinstate 5 Correction Deputies positions

1b. Primary customers:

2. Problem to be solved:

3a. Options / Advantages:

3b. Cost savings:

4a. Outcomes:

4b. Measures:

5a. Other Departments/Agencies:

5b. Name the person in charge of implementation and what they are responsible for:

6. Funding Source:

American Rescue Plan funding

Supplemental Budget Request

Status: Pending

Administrative Services

Finance

Suppl ID # 3209

Fund 124

Cost Center 124111

Originator: M Caldwell

Year 1 2021

Add'l FTE ☐

Priority 1

Name of Request: Reinstate Mental Health Court "Frozen" Position

X

Department Head Signature (Required on Hard Copy Submission)

Date

Costs:	Object	Object Description	Amount Requested
	6110	Regular Salaries & Wages	\$30,276
	6210	Retirement	\$3,103
	6230	Social Security	\$2,316
	6245	Medical Insurance	\$7,814
	6255	Other H&W Benefits	\$759
	6259	Worker's Comp-Interfund	\$364
	6269	Unemployment-Interfund	\$79
	8301	Operating Transfer In	(\$44,711)
	Request Total		\$0

1a. Description of request:

Reinstate Mental Health Court Community Health Specialist II position.

1b. Primary customers:

2. Problem to be solved:

3a. Options / Advantages:

3b. Cost savings:

4a. Outcomes:

4b. Measures:

5a. Other Departments/Agencies:

5b. Name the person in charge of implementation and what they are responsible for:

6. Funding Source:

American Rescue Plan Funding

Supplemental Budget Request

Status: Pending

Health

Human Services

Suppl ID # 3216

Fund 124

Cost Center 124115

Originator: Anne Deacon

Expenditure Type: One-Time

Year 1 2021

Add'l FTE ☐

Add'l Space ☐

Priority 1

Name of Request: PeaceHealth- GRACE Program

X  (on behalf of Erika Lautenbach, Director) 5/17/21
Department Head Signature (Required on Hard Copy Submission) Date

Costs:	Object	Object Description	Amount Requested
	4367.1000	Donations	(\$50,000)
	6610	Contractual Services	\$43,787
	8351	Operating Transfer Out	\$6,213
	Request Total		\$0

1a. Description of request:

The Health Department is requesting expenditure authority to support continued operations of the GRACE (Ground-level Response and Coordinated Engagement) program, with dedicated funding from PeaceHealth. This funding will support intensive outreach and case management services to individuals with complex health conditions.

1b. Primary customers:

Whatcom county residents who are GRACE participants. GRACE participants are individuals who utilize at a high frequency the crisis response systems (both law enforcement and EMS) as well as the hospital emergency department.

2. Problem to be solved:

Individuals who demonstrate a high utilization of crisis response systems rarely use these systems appropriately or effectively. Their complex health care needs, including behavioral health needs, are not addressed in a comprehensive manner. These individuals typically require a team of professionals that can provide intensive services in a pre-planned and coordinated manner, focused on reducing inappropriate use of crisis services (including the jail), while promoting their health and well-being. The GRACE program will serve these individuals.

3a. Options / Advantages:

The Whatcom GRACE program will provide intensive services to identified individuals in a team-based approach. Team members will provide outreach, engagement, and comprehensive services to meet the complex needs of individuals who are high utilizers of crisis response systems. Shared care plans will be followed to ensure coordinated services and ongoing support to these individuals are delivered, which will reduce the cost and burden to the community's crisis response systems.

3b. Cost savings:

The county will realize savings by reducing the frequency of use of the crisis system by GRACE participants.

4a. Outcomes:

GRACE participants will reduce their frequency of use of crisis response systems.

4b. Measures:

Reduction in Emergency Department and EMS utilization and jail bookings by GRACE participants.

5a. Other Departments/Agencies:

N/A

Supplemental Budget Request

Status: Pending

Health

Human Services

Suppl ID # 3216

Fund 124

Cost Center 124115

Originator: Anne Deacon

5b. Name the person in charge of implementation and what they are responsible for:

N/A

6. Funding Source:

PeaceHealth

Supplemental Budget Request

Status: Pending

Health

Human Services

Suppl ID #: 3217

Fund 124

Cost Center 124120

Originator: Anne Deacon

Expenditure Type: One-Time

Year 1 2021

Add'l FTE ☐

Add'l Space ☐

Priority 1

Name of Request: City of Bellingham GRACE Award

X

Kathleen By (on behalf of Erika Lautenbach, Director) 5/17/21

Department Head Signature (Required on Hard Copy Submission)

Date

Costs:	Object	Object Description	Amount Requested
	4337.1001	City of Bham Support	(\$140,000)
	6120	Extra Help	\$10,000
	6610	Contractual Services	\$114,415
	8351	Operating Transfer Out	\$15,585
	Request Total		\$0

1a. Description of request:

We are requesting expenditure authority to expand the GRACE (Ground-level Response and Coordinated Engagement) program by adding another Intensive Case Manager, adding a new component of programming that will respond to people who are experiencing a behavioral health crisis, and paying for planning, design, training and public education of the programs.

1b. Primary customers:

GRACE serves people who require intensive supports and coordination among providers to ensure stability of general and behavioral health. People who are experiencing a behavioral health crisis, yet are not GRACE members will be served with the new GRACE program component.

2. Problem to be solved:

A. People who use emergency response systems often to try to meet their needs, often cycle through these systems without receiving sufficient benefit.

B. People who are experiencing a behavioral health crisis and call 911 may be more appropriately served by a non-law enforcement response.

3a. Options / Advantages:

A. GRACE provides coordinated care and community support to its members, thereby reducing unnecessary emergency services responses, while promoting greater health and stability.

B. People, who are non-GRACE members, who call 911 when having a behavioral health crisis may receive more effective and appropriate care when behavioral health professionals respond on scene. Law enforcement's primary role is public safety, which is not always relevant to 911 calls for behavioral health crises.

3b. Cost savings:

Behavioral health services delivered pursuant to a coordinated community support plan are less expensive and more effective than numerous emergency services responses from EMS or law enforcement.

4a. Outcomes:

The GRACE program will increase personnel and provide services to an additional 20 people at any given time.

4b. Measures:

Number of additional people served in the GRACE program in conjunction with Bellingham Police Department.

Supplemental Budget Request

Status: Pending

Health

Human Services

Suppl ID # 3217

Fund 124

Cost Center 124120

Originator: Anne Deacon

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:

Funding for this request is provided by the City of Bellingham, a key partner in the GRACE program.

Supplemental Budget Request

Status: Pending

Non-Departmental

Suppl ID # 3214

Fund 130

Cost Center 130100

Originator: T. Helms/M.Hilley

Expenditure Type: One-Time

Year 1 2021

Add'l FTE ☐

Add'l Space ☐

Priority 1

Name of Request: Image Trend - contract amendments

X

Department Head Signature (Required on Hard Copy Submission)

Date

Costs:	Object	Object Description	Amount Requested
	6625	Software Maint Contracts	\$60,000
	Request Total		\$60,000

1a. Description of request:

The budget allocation for the countywide EMS records management system provided through Image Trend was entered incorrectly when preparing the 2021-2022 biennial budget. The contract amendments approved in 2020 were not factored into the allocation when the budget was prepared.

Original budget authority was \$150,000. This amount was correctly reduced to \$120,000 when removing the one-time fees from subsequent contract years. However, contract amendment number-1 increased the recurring fees with the merge of the Bellingham agreement into the countywide agreement was not factored into the budget preparation, nor was the 3% annual increase.

This budget supplemental will allow for adequate budget authority to meet the contractual amount agreed to by both parties.

1b. Primary customers:

Whatcom County residents

2. Problem to be solved:

This budget supplemental provides adequate budget authority for the contract that was amended in 2019 and 2020.

3a. Options / Advantages:

This option will allow us to fulfill our contractual obligations and continue to provide a valuable service to our Whatcom County residents.

3b. Cost savings:

n/a

4a. Outcomes:

Budget authority matches our contractual obligation.

4b. Measures:

Budget authority will be corrected.

5a. Other Departments/Agencies:

5b. Name the person in charge of implementation and what they are responsible for:

6. Funding Source:

EMS Levy Fund

Supplemental Budget Request

Status: Pending

Sheriff

Emergency Management

Suppl ID # 3215

Fund 167

Cost Center 1673519001

Originator: John Gargett

Expenditure Type: One-Time

Year 1 2021

Add'l FTE ☐

Add'l Space ☐

Priority 1

Name of Request: Public Safety Radio System Annual Expenses 2021

X

Department Head Signature (Required on Hard Copy Submission)

Date

05/18/21

Costs:	Object	Object Description	Amount Requested
	6860	Equipment Rental	\$23,936
	8301	Operating Transfer In	(\$23,936)
	Request Total		\$0

1a. Description of request:

Northwest Law Enforcement Administrative Radio Network (NW LEARN) coordinated the development and maintenance of the public safety radio network serving Island, San Juan, Skagit, and Whatcom Counties for more than thirty years. The Northwest Regional Council dissolved NW LEARN effective 12/31/20 and transitioned all of the administrative and purchasing functions related to NW LEARN back to member agencies. With the dissolution, NW LEARN fund balance was distributed back to counties along with the responsibility for maintenance and repair of the radio towers, radios, and equipment. Whatcom County's share of the distribution was \$42,707.60 which was deposited 04/05/21 on Treasurer's Receipt #353551. Whatcom County contributions to NW LEARN were made from the General Fund and the dissolution distribution was deposited back to the General Fund.

Whatcom County Sheriff's Office Division of Emergency Management (WCSO-DEM) now has responsibility for repair and maintenance of radio equipment and lease of radio towers and needs budget authority in Emergency Management Fund No. 167 for these expenses.

1b. Primary customers:

Fire/EMS and Law Enforcement agencies in Whatcom County.

2. Problem to be solved:

WCSO-DEM requires additional budget authority for tower leases.

3a. Options / Advantages:

There are no other options since lease of radio towers is required for a functioning system.

3b. Cost savings:

This necessary expense will provide for a functional Public Safety Radio System.

4a. Outcomes:

4b. Measures:

5a. Other Departments/Agencies:

Multiple jurisdictions, departments, and agencies utilize the Whatcom County Radio System.

5b. Name the person in charge of implementation and what they are responsible for:

N/A

6. Funding Source:

General Fund (Fund 001)

Tuesday, May 18, 2021

Rpt: Rpt Suppl Regular

Supplemental Budget Request

Status: Pending

Administrative Services

Finance

Suppl ID # 3207

Fund 507

Cost Center

Originator: M Caldwell

Year 1 2021

Add'l FTE ☐

Priority 1

Name of Request: Reinstate Administrative Services "Frozen" FTEs

X

Department Head Signature (Required on Hard Copy Submission)

Date

Costs:	Object	Object Description	Amount Requested
	6110	Regular Salaries & Wages	\$97,804
	6210	Retirement	\$10,542
	6230	Social Security	\$7,482
	6245	Medical Insurance	\$23,443
	6255	Other H&W Benefits	\$2,392
	6259	Worker's Comp-Interfund	\$988
	6269	Unemployment-Interfund	\$254
	8301	Operating Transfer In	(\$142,905)
	Request Total		\$0

1a. Description of request:

Reinstate the following Administrative Services positions:
Systems Administrator - IT
Senior Systems Analyst - IT
Office Coordinator - Finance

1b. Primary customers:

2. Problem to be solved:

3a. Options / Advantages:

3b. Cost savings:

4a. Outcomes:

4b. Measures:

5a. Other Departments/Agencies:

5b. Name the person in charge of implementation and what they are responsible for:

6. Funding Source:

American Rescue Plan funding



Whatcom County

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

Agenda Bill Master Report

File Number: AB2021-310

File ID:	AB2021-310	Version:	1	Status:	Substitute Introduced
File Created:	05/20/2021	Entered by:	MCaldwel@co.whatcom.wa.us		
Department:	Finance Division	File Type:	Ordinance		
Assigned to:	Council Finance and Administrative Services Committee	Final Action:			
Agenda Date:	06/15/2021	Enactment #:			

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

TITLE FOR AGENDA ITEM:

Ordinance establishing the American Rescue Plan Act Fund and establishing a budget for the American Rescue Plan Act Fund

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

Establishes a fund to account for the County's American Rescue Plan Act (ARPA) allocation and establishes an initial budget of \$1,732,850 to reinstate positions left unfunded due to COVID-19 economic impacts. In addition, the requested budget will fund seven months of operations at the County's Isolation & Quarantine Facility.

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
06/01/2021	Council	SUBSTITUTE INTRODUCED	Council Finance and Administrative Services Committee

Attachments: Substitute Proposed Ordinance - Introduced 6.1.2021, Exhibit A - ARPA Fund

Supplemental Budget Request*Status:* Pending**Non-Departmental**

<i>Suppl ID #</i> 3218	<i>Fund</i>	<i>Cost Center</i>	<i>Originator:</i> M Caldwell
Year 1	2021	Add'l FTE <input type="checkbox"/>	Priority 1

Name of Request: Establish ARPA Fund and Initial Budget**X****Department Head Signature (Required on Hard Copy Submission)****Date**

<i>Costs:</i>	Object	Object Description	Amount Requested
	4331.2101	American Recovery Plan Act	(\$22,264,271)
	6320	Office & Op Supplies	\$14,000
	6610	Contractual Services	\$487,000
	6870	Space Rental	\$390,000
	6990	Solid Waste	\$1,400
	8351	Operating Transfer Out	\$840,450
	Request Total		(\$20,531,421)

1a. Description of request:

Recognize receipt of first half of American Rescue Plan Act (ARPA) funding.

Initial uses:

Fund reinstatement of "frozen" positions which were not budgeted in the 2021-2022 biennium due to the economic impacts of COVID-19.

Fund continued operation of the Byron Street Isolation and Quarantine (IQ) Facility.

1b. Primary customers:

Residents of Whatcom County

2. Problem to be solved:

As a result of the economic impact of the COVID 19 pandemic, 19.5 FTE positions were "frozen" during the 2021-2022 biennial budget and remained unfilled and unbudgeted. The ARPA specifically encourages public entities to utilize this funding to return to normal staffing levels. The budget authority requested in this supplemental will fund the reinstated positions added back in Supplemental #9, supplemental ID #s 3205-3213.

Whatcom County has been funding the IQ Facility since last April out of CARES Act funding. The County has a continued need for this facility; however CARES Act funding for this service has been exhausted. This is a qualified use of ARPA funding. This request will fund rent payments, laundry, cleaning, security, facilities management, SeaMar, Lighthouse Mission, and supplies needed for this facility for March through September 2021. The current lease runs through the end of September.

3a. Options / Advantages:

Leave positions "frozen" and unfunded or utilize ARPA to fully fund the positions.

IQ: Use FEMA to partially fund the facility; however, FEMA has more restrictions and is harder to utilize. ARPA is the more appropriate funding source for this service.

3b. Cost savings:

Costs are completely covered by ARPA funding

4a. Outcomes:

Staffing: Improved county services to taxpayers.

Supplemental Budget Request

Status: Pending

Non-Departmental

Suppl ID # 3218	Fund	Cost Center	Originator: M Caldwell
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IQ Facility will be fully funded with grant proceeds.

4b. Measures:

5a. Other Departments/Agencies:

All departments with "frozen" positions will return to pre-COVID staffing levels

5b. Name the person in charge of implementation and what they are responsible for:

6. Funding Source:

American Recovery Plan Act



Whatcom County

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

Agenda Bill Master Report

File Number: AB2021-324

File ID:	AB2021-324	Version:	1	Status:	Agenda Ready
File Created:	06/03/2021	Entered by:	SMock@co.whatcom.wa.us		
Department:	Public Works Department	File Type:	Contract		
Assigned to:	Council Finance and Administrative Services Committee			Final Action:	
Agenda Date:	06/15/2021	Enactment #:			

Primary Contact Email: sdraper@co.whatcom.wa.us <<mailto:sdraper@co.whatcom.wa.us>>

TITLE FOR AGENDA ITEM:

Request authorization for the County Executive to enter into Local Agency Agreement Supplement No. 4 between Whatcom County and the Washington State Department of Transportation for the Birch Bay Drive and Pedestrian Facility Project in the amount of \$1,100,000

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

See attached memo

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
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Attachments: Staff memo, Proposed agreement amendment



Memorandum

To: The Honorable Satpal Singh Sidhu, Whatcom County Executive, and
Honorable Members of the Whatcom County Council

Through: Jon Hutchings, Director

From: James P. Karcher, P.E., County Engineer *JPK*
Doug Burghart, Engineering Manager *DB*

Date: June 3, 2021

Re: Birch Bay Drive and Pedestrian Facility Project, CRP No 907001; FA No. STPE-K370(003)
Local Agency Agreement Supplement No. 4

Enclosed for your review and signature are two (2) originals each of Local Agency Agreement between the Washington State Department of Transportation (WSDOT) and Whatcom County for the Birch Bay Drive & Pedestrian Facility Project, CRP 907001.

Requested Action

Public Works respectfully requests that the County Executive sign the attached documents to enter into an agreement with WSDOT to receive federal funding for the subject project.

Please return both originals of the Local Agency Agreement to my office for further processing. We will return a fully executed original to you once they are signed by WSDOT.

Background and Purpose

Whatcom County has been awarded additional federal Surface Transportation Block Grant Program (STBG) funds for the construction phase of the Birch Bay Drive & Pedestrian Project. A Local Agency Agreement is necessary to obligate the funds by September 15, 2021, as required in the attached award letters, or funds are subject to be reallocated by the Policy Board.

Funding Amount and Source

Total estimated project costs of \$15,291,786 will be covered by \$4,598,890 in federal STP funds and \$10,692,896 of Local Road Funds. Whatcom County has already obligated \$3,498,800 in federal funds for preliminary engineering (\$1,562,000) and construction (\$1,936,800). This Local Agency Agreement Supplement No. 4 will obligate \$1,100,000 of additional funding awarded to Whatcom County. These federal funds require a 13.5% local fund match. Sufficient budget authority exists to cover the Local Road Fund match on the federal funds.

Please contact Jim Karcher, at extension 6271, if you have any questions or concerns regarding this agreement.

WHATCOM COUNTY CONTRACT INFORMATION SHEET

Whatcom County Contract No. _____

Originating Department: _____	
Division/Program: <i>(i.e. Dept. Division and Program)</i> _____	
Contract or Grant Administrator: _____	
Contractor's / Agency Name: _____	
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 #: _____	
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: <input 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): \$ _____ This Amendment Amount: \$ _____ Total Amended Amount: \$ _____	Council approval required for; all property leases, contracts or bid awards exceeding \$40,000 , and professional service contract amendments that have an increase greater than \$10,000 or 10% of contract amount, whichever is greater, except when: 1. Exercising an option contained in a contract previously approved by the council. 2. Contract is for design, construction, r-o-w acquisition, 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: _____	
Term of Contract: _____	
Expiration Date: _____	

Contract Routing:	1. Prepared by: _____	Date: _____
	2. Attorney signoff: _____	Date: _____
	3. AS Finance reviewed: _____	Date: _____
	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: _____



Agency Whatcom County		Supplement Number 4
Federal Aid Project Number STPE-K370(003)	Agreement Number LA 7784	CFDA No. 20.205 (Catalog of Federal Domestic Assistance)

The Local Agency requests to supplement the agreement number noted above.

All provisions in the basic agreement remain in effect except as modified by this supplement.

The Local Agency certifies that it is not excluded from receiving Federal funds by a Federal suspension or debarment (2 CFR Part 180). Additional changes to the agreement are as follows:

Project Description

Name Birch Bay Drive and Pedestrian Facility

Length 1.58 miles

Termini (MP 2.68 to MP 4.26) Lora Lane to Cedar Avenue

Description of Work ☒ No Change

This project will construct a soft shore roadway protection berm and drainage upgrades from Lora Lane to Cedar Avenue – with the exception of a 900-ft long section between the Cottonwood parking areas. An American with Disability Act (ADA) compliant pedestrian path will be constructed between Lora Lane and Cottonwood Drive.

Reason for Supplement

Additional Surface Transportation Block Grant (STBG) program funds have been acquired.

Are you claiming indirect cost rate? ☐ Yes ☒ No

Project Agreement End Date December 31, 2025

Does this change require additional Right of Way or Easements? ☐ Yes ☒ No Advertisement Date: August 20, 2019

Type of Work		Estimate of Funding				
		(1) Previous Agreement/Suppl.	(2) Supplement	(3) Estimated Total Project Funds	(4) Estimated Agency Funds	(5) Estimated Federal Funds
PE %	a. Agency	131,820.00		131,820.00	11,046.00	120,774.00
	b. Other	1,618,000.00		1,618,000.00	181,670.00	1,436,330.00
Federal Aid Participation Ratio for PE	c. Other	68,180.00		68,180.00	68,180.00	
	d. State	5,000.00		5,000.00		5,000.00
	e. Total PE Cost Estimate (a+b+c+d)	1,823,000.00	0.00	1,823,000.00	260,896.00	1,562,104.00
Right of Way %	f. Agency			0.00		
	g. Other			0.00		
Federal Aid Participation Ratio for RW	h. Other			0.00		
	i. State			0.00		
	j. Total R/W Cost Estimate (f+g+h+i)	0.00	0.00	0.00	0.00	0.00
Construction 86.5 %	k. Contract	2,224,056.00	1,271,677.00	3,495,733.00	471,924.00	3,023,809.00
	l. Other Contract Non-Par	6,612,049.00	-1,271,677.00	5,340,372.00	5,340,372.00	
	m. Other Material Testing Non-Par	30,000.00		30,000.00	30,000.00	
Federal Aid Participation Ratio for CN	n. Other Consultant Non-Par	511,694.00		511,694.00	511,694.00	
	o. Agency	500,000.00		500,000.00	500,000.00	
	p. State	15,002.00		15,002.00	2,025.00	12,977.00
	q. Total CN Cost Estimate (k+l+m+n+o+p)	9,892,801.00	0.00	9,892,801.00	6,856,015.00	3,036,786.00
	r. Total Project Cost Estimate (e+j+q)	11,715,801.00	0.00	11,715,801.00	7,116,911.00	4,598,890.00

The Local Agency further stipulates that pursuant to said Title 23, regulations and policies and procedures, and as a condition to payment of the Federal funds obligated, it accepts and will comply with the applicable provisions.

Agency Official

By

Washington State

Department of Transportation

By Director, Local Program

Title Whatcom County Executive

Date Executed

Agency		Supplement Number
Federal Aid Project Number	Agreement Number	CFDA No. 20.205 (Catalog of Federal Domestic Assistance)

VI. Payment and Partial Reimbursement

The total cost of the project, including all review and engineering costs and other expenses of the State, is to be paid by the Agency and by the Federal Government. Federal funding shall be in accordance with the Federal Transportation Act, as amended, 2 CFR Part 200. The State shall not be ultimately responsible for any of the costs of the project. The Agency shall be ultimately responsible for all costs associated with the project which are not reimbursed by the Federal Government. Nothing in this agreement shall be construed as a promise by the State as to the amount or nature of federal participation in this project.

The Agency shall bill the state for federal aid project costs incurred in conformity with applicable federal and state laws. The agency shall minimize the time elapsed between receipt of federal aid funds and subsequent payment of incurred costs. Expenditures by the Local Agency for maintenance, general administration, supervision, and other overhead shall not be eligible for federal participation unless a current indirect cost plan has been prepared in accordance with the regulations outlined in 2 CFR Part 200 - Uniform Admin. Requirements, Cost Principles and Audit Requirements for Federal Awards, and retained for audit.

The State will pay for State incurred costs on the project. Following payment, the State shall bill the Federal Government for reimbursement of those costs eligible for federal participation to the extent that such costs are attributable and properly allocable to this project. The State shall bill the Agency for that portion of State costs which were not reimbursed by the Federal Government (see Section IX).

VII. Audit of Federal Consultant Contracts

The Agency, if services of a consultant are required, shall be responsible for audit of the consultant's records to determine eligible federal aid costs on the project. The report of said audit shall be in the Agency's files and made available to the State and the Federal Government.

An audit shall be conducted by the WSDOT Internal Audit Office in accordance with generally accepted governmental auditing standards as issued by the United States General Accounting Office by the Comptroller General of the United States; WSDOT Manual M 27-50, Consultant Authorization, Selection, and Agreement Administration; memoranda of understanding between WSDOT and FHWA; and 2 CFR Part 200.501 - Audit Requirements.

If upon audit it is found that overpayment or participation of federal money in ineligible items of cost has occurred, the Agency shall reimburse the State for the amount of such overpayment or excess participation.

IX. Payment of Billing

The Agency agrees that if payment or arrangement for payment of any of the State's billing relative to the project (e.g., State force work, project cancellation, overpayment, cost ineligible for federal participation, etc.) is not made to the State within 45 days after the Agency has been billed, the State shall effect reimbursement of the total sum due from the regular monthly fuel tax allotments to the Agency from the Motor Vehicle Fund. No additional Federal project funding will be approved until full payment is received unless otherwise directed by the Director, Local Programs.

Project Agreement End Date - This date is based on your projects Period of Performance (2 CFR Part 200.309).

Any costs incurred after the Project Agreement End Date are NOT eligible for federal reimbursement. All eligible costs incurred prior to the Project Agreement End Date must be submitted for reimbursement within 90 days after the Project Agreement End Date or they become ineligible for federal reimbursement.

VIII. Single Audit Act

The Agency, as a subrecipient of federal funds, shall adhere to the federal regulations outlined in 2 CFR Part 200.501 as well as all applicable federal and state statutes and regulations. A subrecipient who expends \$750,000 or more in federal awards from all sources during a given fiscal year shall have a single or program-specific audit performed for that year in accordance with the provisions of 2 CFR Part 200.501. Upon conclusion of the audit, the Agency shall be responsible for ensuring that a copy of the report is transmitted promptly to the State.

XVII. Assurances

Local Agencies receiving Federal funding from the USDOT or its operating administrations (i.e., Federal Highway Administration, Federal Transit Administration, Federal Aviation Administration) are required to submit a written policy statement, signed by the Agency Executive and addressed to the State, documenting that all programs, activities and services will be conducted in compliance with Section 504 and the Americans with Disabilities Act (ADA).



April 8, 2021

Mr. Jim Karcher
 Whatcom County Public Works
 322 N. Commercial St. Ste 301
 Bellingham, WA 98225

Re: Surface Transportation Block Grant program (Urban-Small)

Dear Mr. Karcher,

I am pleased to inform you that the Whatcom Transportation Policy Board has awarded Whatcom County the following project for funding through the Surface Transportation Block Grant (STBG) program on April 7, 2021. The total STBG funding awarded to this project now includes:

<i>Birch Bay Drive and Pedestrian Facilities</i>	\$1,234,805 (Awarded October 9, 2013)
	\$990,000 (Awarded January 21, 2015)
	-\$450,000 (Transfer May 9, 2018)
	\$68,823 (Transfer May 9, 2018)
	\$279,000 (Awarded March 11, 2020)
	\$47,786 (Awarded May 13, 2020)
	\$1,100,000 (Awarded April 7, 2021)
	Up to \$300,000 (Conditionally awarded April 7, 2021)

Additional federal funding for this project includes:

\$327,300 Enhancement (Awarded March 23, 2012)
\$620,000 TAP-US (Awarded October 14, 2015)
\$381,177 Highway Infrastructure Program (2019)

The amounts awarded may not accurately reflect current programmed funds due to project changes or funds exchanged with other projects. Please contact WCOG for questions regarding funds programmed.

The \$1.1 million awarded STBG funds must be obligated by **September 15, 2021**, or they will be subject to reallocation by the Policy Board.

The up to \$300,000 of conditionally awarded STBG funds are only to be obligated in the event that the Whatcom MPO region's obligation delivery target for 2021 is in jeopardy. The notice

to obligate necessary funds will be determined by a later date before the final **September 15, 2021** deadline.

To obligate funding for these projects, please refer to the WSDOT Local Agency Guidelines (LAG) manual. Expenditures incurred before receiving notice of federal fund obligation from WSDOT are ineligible for reimbursement. A 13.5 percent non-federal match is required.

Projects using federal funds must be included in the Statewide Transportation Improvement Program (STIP). The STBG funding for your project is estimated to appear in the 2021 STIP on May 12, 2021.

Please give me a call if you have any questions regarding these dates and processes.

Sincerely,

A handwritten signature in blue ink that reads "Hugh Conroy". The signature is written in a cursive, flowing style.

Hugh Conroy
Director of Planning

Birch Bay Drive and Pedestrian Facility CRP #907001

Construction Funding Year(s): 2021

Project Narrative:

This project is located parallel to Birch Bay Drive from Cedar Avenue to the mouth of Terrell Creek, in Sections 30 and 31, T40N, R1E, and Sections 24 and 25, T40N, R1W. This is a 1.58 mile separated berm with pathway to encourage pedestrian use along Birch Bay Drive to support safety and to protect the roadway from storm damage. In addition, the project will provide mitigation for both beach erosion and roadway protection. This project is listed **#R1** on the 2021-2026 Six-Year Transportation Improvement Program.

Project Status:

Phase I of the Feasibility Study was completed in 2006. Phase 2A (Preliminary Construction Cost Estimate) was completed in 2007, and updated in spring of 2013. Preliminary Engineering began in late 2013, R/W acquisition began in 2016 (100% complete), and permitting is 100% complete. Construction began in December 2019 and Substantial Completion was reached April 2021. Due to the long duration monitoring periods required by project permits, it is anticipated that the contract may be open through 2025.

Total Estimated Project Cost: \$15,291,786

Expenditures to Date: \$14,025,000

Funding Sources:

Federal	\$4,600,000 (STP and TAP)
State	\$0
Local	\$10,693,000

Environmental Permitting

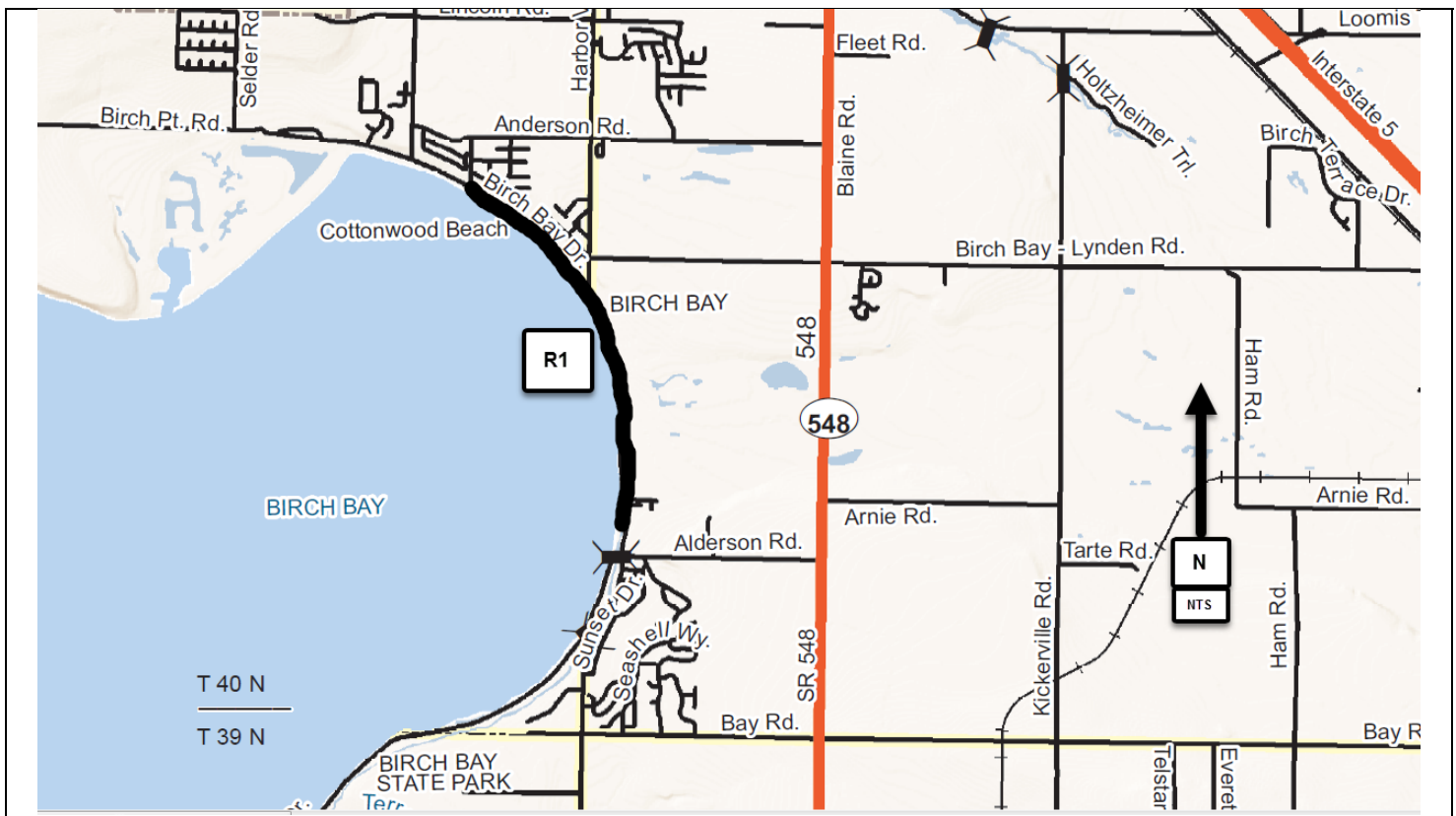
Whatcom County-Shorelines; WDFW-HPA, Army Corps of Engineers, DOE; Sec 404 Clean Water Act; NEPA

Right-of-Way Acquisition (Actual)

\$1,686,000

County Forces (Estimate)

N/A





Whatcom County

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

Agenda Bill Master Report

File Number: AB2021-330

File ID:	AB2021-330	Version:	1	Status:	Agenda Ready
File Created:	06/04/2021	Entered by:	SMildner@co.whatcom.wa.us		
Department:	County Executive's Office	File Type:	Special Executive Only Item		
Assigned to:	Council Finance and Administrative Services Committee	Final Action:			
Agenda Date:	06/15/2021	Enactment #:			

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

TITLE FOR AGENDA ITEM:

County Executive requests approval of the Economic Development Investment (EDI) Board's recommendations for funding to support three project applications from the City of Lynden, Port of Bellingham, and Bellingham Housing Authority

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

See attached memorandum

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
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Attachments: Staff memo, Fund balance, EDI Board meeting notes, Port application, Lynden application, Housing Authority application



Satpal Singh Sidhu
Whatcom County Executive



MEMORANDUM

To: Whatcom County Council Members
From: Satpal Sidhu, County Executive *Satpal*
Through: Tyler Schroeder, Deputy County Executive *TLS*
Subject: Economic Development Investment Board – Funding Recommendations
Date: June 1, 2021

County administration recently received three applications for funding through the EDI Program. All three applications reference projects that have formerly sought funding and been brought before the board and the County Council. At the last meeting of the EDI Board, the following recommendations were adopted by the Board and are being presented for confirmation by the County Council.

If these recommendations of the Board are adopted by the Council, the administration will proceed with the preparation of interlocal agreements with the applicant jurisdictions, as well as supplemental budget requests for County Council review and approval.

Applicant	Project	Board Recommendation	Vote
Port of Bellingham	County Rural Broadband	\$2,000,000 grant	11 - 0
City of Lynden	West Front Road Improvements	\$666,667 grant / \$1,333,333 loan	10 - 0 - 1
Bellingham Housing Authority	Samish Way Redevelop-Phase 3	\$725,000 loan	10 - 0 - 1
TOTAL EDI ALLOCATIONS:		\$4,725,000	

The Administration has confirmed that sufficient fund balances are available for council approval of these requests, and that the projects qualify for funding by State statute. The three EDI funding applications are attached for your review as you consider these recommendations at your meeting on June 15, 2021.

Please note, the County Rural Broadband and Samish Way Housing projects may be eligible to utilize American Rescue Plan Act (ARPA) funds. The corresponding budget supplemental may include use of ARPA funds, as appropriate.

If you have any questions, please feel free to contact Tyler Schroeder or myself at 778-5200.

Attachments: Bellingham Housing Authority's EDI Program application
Port of Bellingham's EDI Program application
City of Lynden's EDI Program application
Meeting Notes of EDI Board meeting of 5/27/21
Rural Sales Tax Fund Projected Cash Balances 12/31/21

RURAL SALES TAX FUND (EDI/PUBLIC UTILITIES IMPROVEMENT FUND)

ESTIMATED CASH BALANCE THROUGH 12/31/2020 (1999 - 2022)

	<u>Sales Tax</u>			<u>Interest</u>	<u>Principal</u>	<u>12/31/20</u>
<u>Fund Balance Allocation</u>	<u>Revenue</u>	<u>Expenditures</u>	<u>Grant Revenue</u>	<u>Revenue</u>	<u>Repayments</u>	<u>Estimated</u>
						<u>Cash</u>
						<u>Balances</u>
Capital Facilities Expend (30%)	18,935,541	(16,075,133)	50,000	-	-	2,910,408
Grant Expenditures (35%)	22,091,466	(18,006,532)	-	-	-	4,084,934
Other Agency Loans (35%)	22,091,466	(21,763,727)	-	-	-	327,739
Loan Interest & Repayments	-	-	-	1,128,322	8,744,491	9,872,814
Covid Fund Loan	-	(4,000,000)	-	-	-	(4,000,000)
Total	63,118,473	(59,845,392)	50,000	1,128,322	8,744,491	13,195,895

PROJECTED CASH BALANCE THROUGH 12/31/2021 (including unbudgeted commitments)

	<u>1/1/2021</u>		<u>2021</u>			<u>2021</u>	<u>12/31/2021</u>
<u>Fund Balance Allocation</u>	<u>Estimated</u>	<u>2021 Sales Tax</u>	<u>Expenditures</u>	<u>2021 Grant</u>	<u>2021 Interest</u>	<u>Principal</u>	<u>Estimated</u>
	<u>Beginning</u>	<u>Revenue</u>	<u>Including</u>	<u>Revenue</u>	<u>Revenue</u>	<u>Repayments</u>	<u>Cash Balance</u>
	<u>Cash Balances</u>		<u>Commitments</u>				
Capital Facilities Expend (30%)	2,910,408	1,395,001	(114,054)	-	-	-	4,191,355
Grant Expenditures (35%)	4,084,934	1,627,500	(1,479,303)	-	-	-	4,233,131
Other Agency Loans (35%)	327,739	1,627,500	(813,677)	-	-	-	1,141,562
Loan Interest & Repayments	9,872,814	-	-	-	136,952	1,373,069	11,382,835
Covid Fund Loan	(4,000,000)	-	-	-	-	4,000,000	-
Total	13,195,895	4,650,001	(2,407,034)	-	136,952	5,373,069	20,948,883

Minutes of Whatcom County EDI Board Meeting

Virtual GoToMeeting

May 27, 2021 – 9:00 a.m.

Board Members present at Meeting:

Satpal Sidhu, County Executive
Tyler Schroeder, Deputy Executive
Stephen A. Jones, Agricultural Industry
Ken Bell, POB Commissioner
Christine Grant, PUD#1
Guy Occhiogrosso, Chamber of Commerce

Seth Fleetwood, City of Bellingham Mayor
Scott Korthuis, City of Lynden Mayor
Barry Buchanan, Whatcom County Council
Don Goldberg, Associate Development Org.
Bonnie Onyon, City of Blaine Mayor

Board Members absent:

Jim Kyle, Fishing Industry
David Franklin, At-Large

Aubrey Stargell, Timber Industry

Staff present:

Suzanne Mildner, County Executive Office; Jed Holmes, County Executive Office

Guests present:

Steve Jilk, PUD#1
Gina Stark, Port of Bellingham
Steve Banham, Lynden Public Works
Paul Schissler, Community Planner

Don Korthuis, Front Street Station
Jenny Weinstein, Housing Authority
Mike Martin, City of Lynden
Michael Jones, City of Blaine

1. Welcome and Introductions

Chair Sidhu welcomed everyone and called the meeting to order.

He began by commenting on the EDI Program's focus on infrastructure investment. He spoke about the program's grant/loan split policy and he believes the use of grants should be minimized, used only on the rare occasion when it's the only possible course (last resort) for project success. As for loans, they will be granted with a low interest rate and can go for longer terms; lastly, the applicant should offer a 20% match (currently 10% is required). There was a brief discussion with a couple of the Mayors commenting on their continued support of the 1/3 and 2/3 split formula; grants often tip the scale to allow a project to proceed; the grant opportunity makes the EDI Program unique.

Deputy Executive Schroeder conducted roll call of board members – 11 members present, and guests were acknowledged and welcomed.

2. EDI Fund Review – Projected Cash Balances as of 12/31/21

DE Schroeder briefly went over the handout which outlined the cash balances in the rural sales tax fund: 30% to capital facilities, 35% to grants and 35% to loans. Total estimated cash balance at year end is \$16.8-million. He noted there was an emergency loan from the fund for COVID response, this occurred in early 2020, and the loan is about to be repaid. Mayor Korthuis pointed out that once repaid the fund's cash balance will be approximately \$20.8-million.

3. Port of Bellingham's Rural Broadband Project – application review

Don Goldberg introduced this project for which the Port has been given (State) authority to lead in bringing to Whatcom County. He introduced Gina Stark, project manager, who manages this project. Ms. Stark reviewed the power point presentation which included project background, goals, and an overview of scope for bringing open access dark fiber to high need areas in a phased approach. The Port will partner with ISP to provide the last mile connection to service homes, and will operate and maintain the system once in place. The overall project budget is estimated to be \$13.8-million; the Port is requesting \$6-million in EDI dollars, to be phased over 3 years. The success of securing other federal and state dollars relies on the commitment of the county in support of this project, and the EDI Program offers that opportunity. Discussion followed. Mayor

Korthuis raised the question of whether or not the new American Rescue Act dollars could be a possible source for funding as well. Ms. Stark pointed out that federal dollars can't be matched with other federal dollars on a project. There is also much to learn about eligible uses of the ARA funding. Mr. Goldberg clarified that the Port is asking for an initial EDI investment of \$2-million for this year; they would return to the board in another year with a project update and additional request. Commissioner Bell commented on the importance of creating competition for ISP providers region by region. Executive Sidhu expressed his support for the project and the \$2-million investment. He made a motion to recommend approval of an EDI grant in the amount of \$2-million to be used as matching funds for leveraging additional federal/state dollars. Commissioner Bell seconded the motion. A vote was taken and the **motion carried unanimously 11-0.**

4. City of Lynden's West Front Street Improvements Project -EDI Application

Mayor Korthuis introduced staff and recused himself from further discussion on this project. Mike Martin began by commenting on the project history and status, noting it is on the CEDS list and it meets the EDI goals. He then introduced Steve Banham, Public Works Director, who provided a power point presentation, highlighting the changes that have been made since early 2020 (when a prior application went to the board). There has been significant reduction in costs and scope, and the local match has been increased. Approximately 2,000 feet of roadway will be improved to an "all weather" standard including sewer and storm drainage utilities. The fund request follows EDI guidelines with a 1/3 grant (\$666,677) and 2/3 loan (\$1.3-million). Mr. Goldberg commented that he supports this application which is much improved over the last one. Executive Sidhu supports the project but suggested the grant amount be reduced to \$300,000 and the loan increased to \$1.7-million with a 5-year deferral on loan payments. Mayor Onyon also supports the project as it is currently presented; it is an ideal EDI project. She made a motion to recommend approval of the EDI application as written (\$666,667 grant and \$1,333,333 loan for 20-year term). Councilmember Buchanan seconded the motion. There being no further discussion, a vote was taken and the **motion carried 10-0-1 (Mayor Korthuis abstained).**

5. Bellingham Housing Authority's Samish Way Redevelopment Phase 3 – EDI Application

Jenny Weinstein, Project Manager, offered a brief overview of the project status along with a power point presentation. This is a multi-phased mixed-use development which will result in 171 units upon completion. The estimated project budget total for phase 3 is \$25.4-million and the EDI fund request is for an additional \$725,000 loan. Executive Sidhu strongly supports this project. Mayor Korthuis made a motion to recommend approval of the application as presented. The motion was seconded by Executive Sidhu. A vote was taken and the **motion carried 10-0-1 (Guy Occhiogrosso abstained).**

6. Other business – DE Schroeder noted the final agenda item, an update on the Affordable Housing/Workforce program, would be tabled for discussion at the next EDI Board meeting. Mr. Occhiogrosso commented that he'd like to get involved in the work currently underway with this program. DE Schroeder agreed and noted that the workgroup is making progress and he hopes to come to the board with an update at the next meeting.

Meeting was adjourned at 10:33 a.m.

NEXT MEETING DATE: TBD

Respectfully Submitted,
Suzanne Mildner, EDI Board Clerk
Whatcom County Executive Office

Whatcom County Economic Development Investment (EDI) Program

Revolving Loan and Grant Program to Encourage Creation or Retention of Private Sector Jobs

PROJECT APPLICANT

Applicant Name: Port of Bellingham

Applicant Address: 1801 Roeder Ave, Bellingham WA 98225

Applicant Contact Person: Gina Stark

Applicant Email and Phone Number: ginas@portofbellingham/360*739*2166

PROJECT TITLE

Whatcom County Rural Broadband Project

PROJECT AMOUNT REQUESTED

\$ 6,000,000 EDI TOTAL - (Loan \$; Grant \$ 6,000,000.00)

\$ Match (10% of EDI request minimum)

PROJECT TYPE

☐ Jobs In Hand ☒ Build It And Jobs Will Come ☒ Community Enhancement

PROJECT TERMS

☐ Loan Only ☐ Grant/Loan ☒ Grant Only If a loan, term requested: (years)

PROJECT LOCATION: Whatcom County: See maps

PROJECT DESCRIPTION

(one page limit)

Whatcom County Rural Broadband Project was developed out of a feasibility study commissioned by the Port of Bellingham (POB). The purpose of the study was to determine the need of a publicly owned dark fiber the level of unserved and underserved communities in our rural areas, and the economic benefit to Whatcom county.

POB determined after the completion of the study that there was and continues to be many areas throughout Whatcom County who do not have access to broadband infrastructure nor access to broadband at speeds at or above the Washington state standard of 25/3 Mbps which is below standard to meet basic needs.

Whatcom County Economic Development Investment (EDI) Program

Revolving Loan and Grant Program to Encourage Creation or Retention of Private Sector Jobs

BASIC PROJECT INFORMATION

1. Complete the public project budget and status of funds below. If EDI funds are approved is funding 100% complete? _____ Yes x No

The Whatcom County Rural Broadband Project is a multi-year/multi phase project that will require investments over time from multiple sources to complete. The entire project is estimated to require an investment of \$20 million over several years to complete. The Port of Bellingham is requesting an additional investment of \$6 million over 3 years, in increments of \$2 million per year from the EDI Board to be used for implementation of engineering and construction in conjunction with other funding sources acquired for the project starting in year 2022. See addendum

<u>Funding Source</u>	<u>Amount</u>	<u>Planned/Applied For</u>		<u>Secured</u>	
Federal Dollars	\$ <u>TBD</u>	Yes <u> x </u>	No _____	Yes _____	No <u> x </u>
State Dollars	\$ <u>5,168,782</u>	Yes <u> x/x </u>	No _____	Yes <u> x </u>	No <u> x </u>
Local Dollars	\$ <u>114,000</u>	Yes _____	No _____	Yes <u> x </u>	No _____
EDI Funding	\$ <u>6,000,000</u>	^s Yes <u> x/x </u>	No _____	Yes _____	No <u> x </u>
TOTAL	\$ <u>11,282,782</u>				

2. Describe the amount of outside (private) funding committed to the project (eg. Plant and equipment).
No private funding has been acquired for this project.

3. Describe the public infrastructure being proposed. Include engineering estimates and a site map detailing the proposed improvements as Attachments A and B.

The Port of Bellingham is building an open access dark fiber network to provide broadband to the unserved and underserved communities throughout rural Whatcom county. The Port of Bellingham is building a multi-phase, multiple route project fiber backbone, middle and last mile. When the project is complete the Port of Bellingham's intention will be to own and manage the network. The Port will lease the fiber to internet service provers who will provide services to the end user as well as other entitles.

4. Describe how these improvements will enhance or encourage community vitality and stimulate other private development in the area.

Broadband is no longer a luxury but a necessary utility such as water and power and vital for everyday life. Our community members need access to broadband for work, education, healthcare, and emergency services. Our local businesses need quality broadband to access e-market for goods, services, and to expand their business. Our overall economy needs a strong broadband network to attract and grow businesses into our rural areas. It will support and stimulate a growing economy of higher wage jobs in new and emerging technology for sectors such as advanced manufacturing and agriculture.

Whatcom County Economic Development Investment (EDI) Program

Revolving Loan and Grant Program to Encourage Creation or Retention of Private Sector Jobs

5. List all permits and environmental reviews required for the public project and detail their status (completed, in-process, etc.)

	In Process	Date Completed
Preliminary Engineering	in progress	
Environmental Review	required	
Design Engineering	required	
Right-of-Way	required	
Construction Permits	required	
Environmental Permits	required	
Bid Documents		
Award Construction Contract		
Begin Construction		
Project Operational		

6. Are any other public jurisdictions involved in this project? If so, in what way?

The Port of Bellingham has been working with many partners in the development of Rural Broadband Project. POB has been working with the Whatcom County PUD, Whatcom County, Lummi Nation, Nooksack Tribe, the Small Cities and the Port of Skagit, and the Port of Whitman.

7. Who will maintain the public facility/infrastructure to be completed with EDI funds? Will this project impact utility rates within the jurisdiction?

The Port of Bellingham will maintain certain services in house such as managing the system.

POB will contract out for services such as call center, splicing, repair and network operating systems services (NOC) from a qualified provider.

8. Will this project directly generate a revenue stream that could be used to repay an EDI loan? Will this project spur indirect revenues that could be used to repay an EDI loan? If no to either question – why?

The Port's goal is to generate enough revenue through the leasing of dark fiber to Internet Service Providers (ISPs) and other entities to pay for the operations and maintenance of the system over time eventually creating a self-sustaining model. However, the network will not generate enough revenue in the near term to pay for the maintenance, operations, and large amounts of loan debt. Building fiber in low density rural areas has high construction cost, a low return on investments and why the need for public investment.

Whatcom County Economic Development Investment (EDI) Program

Revolving Loan and Grant Program to Encourage Creation or Retention of Private Sector Jobs

9. What other revenue sources are available for this project and have they been considered. This includes forming a Local Improvement District (LID or ULID), issuing Councilmanic Bonds, Revenue Bonds, or other source(s).

The Port will be applying for funding from the State Broadband Office, the Community Revitalization

Board (CERB), the Public Works Board and federal funding. In previous funding rounds Whatcom County was challenged in accessing some of these funding sources due to our status as a non-rural/non-distressed county. This designation placed our projects lower on the priority list or only gave us access to the loan portion of the program. (See addendum)

10. Describe the private development project that will be supported by this public facility project. If there is a committed private sector partner include Contingency Agreement (Attachment C).

There is not private development support for this project. The Port of Bellingham will be working with private internet providers and other private businesses on the rural broadband project.

11. Explain why the private development requires the proposed public improvement(s).

This is not a private development. It will be a publicly owned infrastructure.

12. What is the status of the associated private development review and permits. List all permits required and give the current status (applied for, being reviewed, issued).

	In Process	Date Completed
Environmental Review	_____	_____
Construction Permits	_____	_____
Environmental Permits	_____	_____
_____	_____	_____

13. Describe the type of industry or economic activity the public development will attract. What is the strategy to attract industry to the project site?

Broadband is a vital infrastructure needed for all industries which became even more evident during the COVID-19 pandemic.

In Whatcom County one of our key industries is advanced manufacturing and having access to high-speed broadband will be key to us attracting these types of companies. The County's agriculture community is another industry adapting and changing to utilize more technology for efficiency and quality, without broadband they will not be able to expand in to this new market.

Whatcom County Economic Development Investment (EDI) Program

Revolving Loan and Grant Program to Encourage Creation or Retention of Private Sector Jobs

14. List the number of projected jobs, by type, to be retained and/or created by the private entity.

Occupation	Current Jobs Retained** (In FTEs)	# Of Jobs Created Year 1 (In FTEs)	# Of Jobs Created by Year 5 (In FTEs)	Hourly Wage of current or new position	Local Occupational Hourly Wages***
Mgmt./Admin*					N/A
Technical/Prof					
Office/Clerical					
Production					
Sales					
Skilled Crafts					
Others					
Totals	N/A			N/A	N/A

* Indicate Management positions in annual salary.

** Retained jobs are defined as jobs that would otherwise be lost from the county without this project.

*** This column will be populated with data from the state before application is distributed and revised annually.

- a. Projected annual gross payroll for all job classifications \$_____
- b. Describe fringe benefits the company offers to regular full time employees?
(health insurance, retirement plans, etc.)_____

15. How does this project support the economy of Whatcom County and how does it fit into a county-wide economic development strategy?

The Whatcom County Rural Broadband Project was included in the previous Comprehensive Economic Development Strategy (CEDS). See addendum

Whatcom County Economic Development Investment (EDI) Program

Revolving Loan and Grant Program to Encourage Creation or Retention of Private Sector Jobs

16. What will the effect of this project be on the natural environment – does the project address any issues related to public health, pollution, or quality of life?

The broadband project directly impacts public health and quality of life for community members of Whatcom County. Broadband for so many decades was considered a luxury. The COVID 19 highlighted what many of us in this field already knew, broadband is a utility such as water and power. Broadband is an essential element linked to health care and quality of life. This past year many of our kids did not have access to education due to lack of access to broadband.

17. Does this project address any existing issues related to public safety and/or does it increase public safety in the future or address a potential future public safety issue?

The Whatcom County feasibility study showed there were many areas throughout the county, especially in the east, where emergency service providers and community members could not access emergency services due to lack of broadband. Whatcom Rural project will increase and expand this critical access. We will be working with our County Sheriff Office on they can utilize this open access network.

18. Describe specific quantifiable measures of the outcomes, other than purely jobs, that will demonstrate project success. Describe how you will measure this and explain what you expect to show as progress toward the outcome.

The Port of Bellingham will measure miles of dark fiber installed (middle and last mile), number of additional homes served, the quality and speed of service being provided. The number of new subscribers associated with the ISPs who are leasing our fiber. In addition, the number of entities who are leasing our dark fiber.

Application for Funding – Certification

I HEREBY CERTIFY THAT THE INFORMATION GIVEN IN THIS APPLICATION TO WHATCOM COUNTY FOR INVESTMENTS IN ECONOMIC DEVELOPMENT IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF.

Signature of Responsible Public Official: R. Stark Date 4/3/2021

Whatcom County Rural Broadband (RBP) Project Description

Prior to the outbreak of COVID 19 we knew broadband was vital to our community. COVID-19 hit and everyone was required to shelter in place, our businesses had to pivot to e-commerce, our students had to do online-learning, healthcare was delivered via telehealth and community members worked remotely. Our community tried to adapt to this new environment which was entirely dependent on one central item, broadband. Some of our community members were able to adapt while those in our most rural areas of our county struggled due to lack of broadband access.

The Whatcom County Rural Broadband Project is led by the Port of Bellingham. It is a multi/phase and multi/year project that builds open access dark fiber infrastructure throughout Whatcom County. The goal is to broadband build infrastructure in areas where gaps exist due to it not being built by the private sectors. The Rural Broadband Project (RBP) will bridge the digital divide providing access to those who are unserved and underserved in our community. RBP will be fiscally responsible with public funding, collaborate with our partners and will support our local businesses to develop an economy for new and existing businesses.

The Port of Bellingham will continue to design, engineer and build back bone and mid-mile fiber routes. The proposed areas for builds over the next two to five years include:

Proposed Routes	Miles	Area	Phase 2021-2023
Bellingham to Glacier (current project)	20	East County	Phase 1
Hwy 9 to the Whatcom County/Skagit boarder	14	East County	Phase 1
Mosquito Lake Rd off 542	5	East County	Phase 1
Hwy 547, Sumas Pleasant Valley	7	East County	Phase 1
H Street, between Blaine and Lynden	10	West County	Phase 2
Haynie Rd, between Blaine and Lynden	12	West County	Phase 2
Stein Rd, East of Blaine	5	West County	Phase 2
Willey Lake Rd, west of Lynden	3	West County	Phase 2
Buthusen Rd, west of Lynden	3	West County	Phase 2/3
Tyee Rd, Point Roberts	5	Point Roberts	Phase 3
Total Miles	64 miles		

The construction of these routes will be funded through a combination of funding sources the Port is eligible for including EDI. The Port of Bellingham will be responsible for maintaining and operating the system, leasing the fiber, and contracting other necessary services.

This project builds infrastructure and provides an essential utility to our rural areas which is key to the economic growth and vitality of our community. The network will attract new and emerging technologies into our rural communities, enable our existing business to expand and sectors such as agriculture to use technology to become more efficient which will enable our businesses to pay higher livable wages. In addition, it is also critical to our new workforce who find themselves working remotely. Businesses are exploring options of returning to the traditional work place model but many larger companies are allowing young talent to work remotely, broadband will be necessary if our economy wants to retain this new workforce. Broadband provides communities that are traditionally underserved or unserved access and opportunity to services like telehealth, remote banking, and on-line education to name a few. The Whatcom County Rural Broadband Project is about building a resilient sustainable equitable community.

Whatcom County Rural Broadband Project
Exhibit A Addendum to Questions

Question 1

Budget:

In addition, the Port of Bellingham will be applying for \$2 million from the Community Revitalization Board in their current round of Broadband Program funding. In addition, we will be seeking at least \$ 2million form other state resources. When Federal funding becomes available we will able be submitting applications but at this time are unsure of what that amount will be. The budget also reflects previously secured funding for route one from Bellingham to Glacier. This includes \$1,168,782 grant/loan CERB funding, \$750,000 EDI, and \$114,000 Port funding.

Question 9

What other revenue sources are available for this project and have they been considered?

The current cost of the Whatcom Rural Project is estimated at \$20 million and the Port of Bellingham is unable to carry that large amount of debt on behalf of the County.

Whatcom County was unable to submit project to the federal USDA Community Connect and ReConnect due to the proposed service area 10/1 Mbps speed requirement. The outcome of this resulted in any community member who had a speed higher than a 10/1 Mbps upload or down load speed disqualified us from apply for this funding source.

The Port is working on applying for CERB's current round of funding for their Broadband Program. The POB hopes to be able to utilize the EDI funding as matching funding for the CERB application.

Other state and federal funding programs are in the rule making process and are expected to be released later this summer. However, these funding sources will also require a match of at least 25%-50%, the EDI funding will be an important source of funding to leverage these potential grants.

The Port will also be working with the County on how it can utilize the American Rescue Act Funding for the purpose of broadband funding. For millions of Americans, the high cost of broadband access may place it out of reach. The American Rescue Plan will be an important resource in providing recipients with flexibility to use Coronavirus State and Local Fiscal Recovery Funds to invest in broadband infrastructure.

Question 13

Describe the type of industry or economic activity the public development will attract. What is the strategy to attract industry to the project site?

Finally, this network will support our new workforce. With COVID-19 our workforce needed to shift to working from home and as we start to shift back to the work place we are learning that much of our workforce will still be working from home. This network will encourage and support the growth of this workforce in our rural areas who will in turn support the growth of our local businesses and local economies.

Question 15

How does this project support the economy of Whatcom County and how does it fit into the county-wide economic development strategy?

The Broadband project is included in the CEDS project in order to qualify for both federal and local funding sources. One of the Regional Economic Partnership goals is to enhance critical infrastructure that promotes economic developments throughout Whatcom County.

This includes communication infrastructure and the deployment of broadband that will increase access for the unserved and the underserved.

This project supports the growth of multiple jurisdictions, industries, and workforce throughout the county. The Rural Broadband project will provide an essential utility that is necessary for the recruitment of new industries, expansion of existing businesses, and the overall resiliency of our economy.

Projects construction order subject to change. Phase one starts in 2021. Phase 2 2022. Phase 3 2022. Subject to change.

Whatcom County Rural Project Budget

Funding

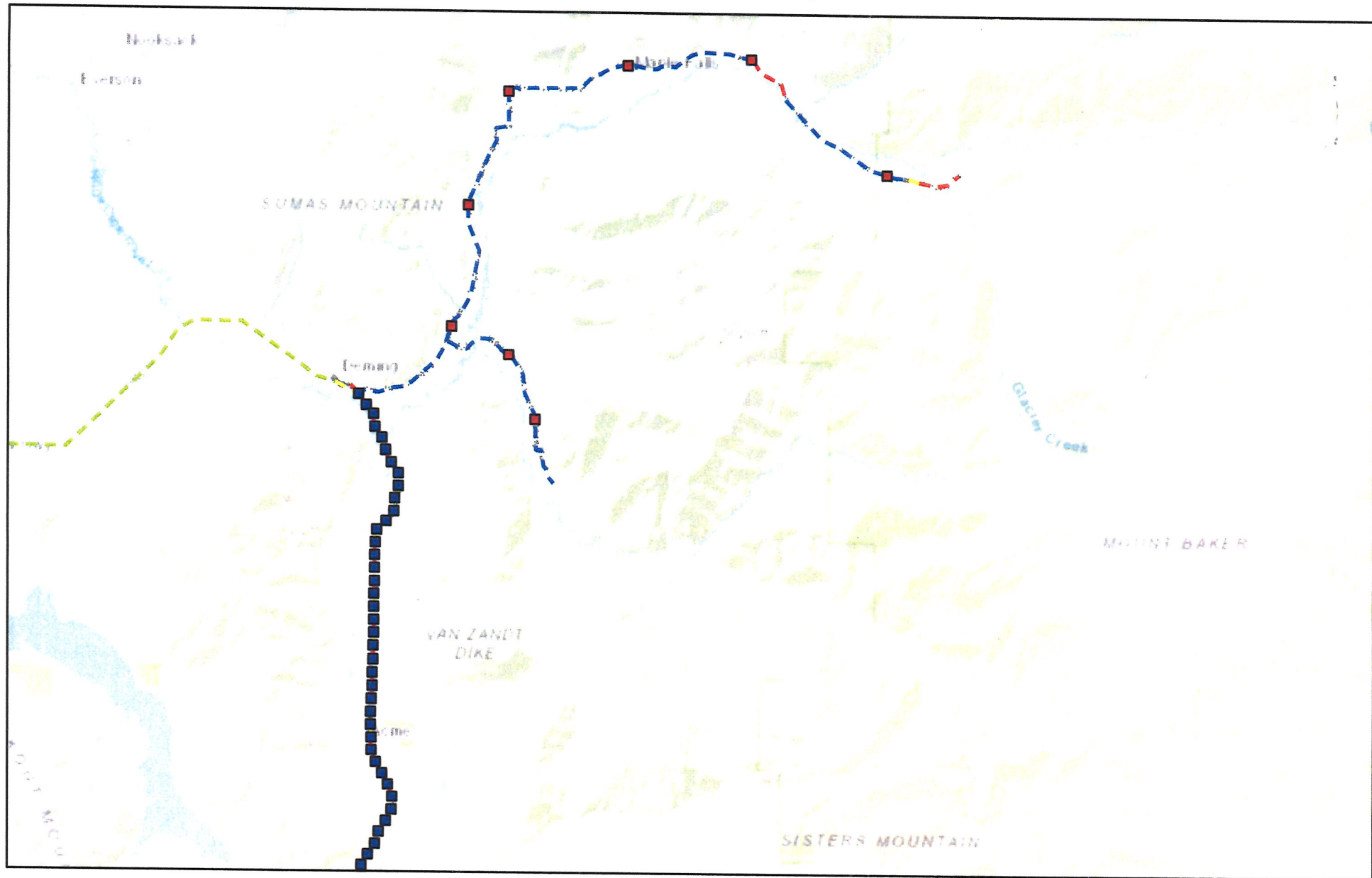
Routes		Funding		
		Local Funding	State	Federal
Hwy 9		East County		
Construction		\$ 3,031,000.00	Phase 1/2021	\$2 mil EDI \$2mil-CERB
Contingency	25%	\$ 757,750.00		
Engineering		\$ 300,000.00		
Contingency	25%	\$ 75,000.00		
Total		\$ 4,163,750.00		\$ 4,000,000.00
Glacier		East County		
Construction		\$ 1,800,000.00	Phase 1/2021	\$584,390 grant/584,391 loan-CERB
Contingency	25%	\$ 450,000.00		\$114,000-Port
Engineering		\$ 350,000.00		
Contingency	25%	\$ 87,500.00		
Total		\$ 2,687,500.00	Current funding	\$ 2,032,782.00
Mosquito Lake Rd		East County Phase 1/2021		
Construction		\$ 384,287.00		
Contingency	25%	\$ 96,071.75		
Engineering		\$ 100,000.00		
Contingency	25%	\$ 25,000.00		
Total		\$ 605,358.75		
Hwy 547 East County		East County Phase 1/2021		
Construction		\$ 1,305,153.00		
Contingency	25%	\$ 326,288.25		
Engineering		\$ 300,000.00		
Contingency	25%	\$ 75,000.00		
Total		\$ 2,006,441.25		

Haynie/Badger Rd	West County	Phase 2/2022	\$2.5 mil EDI
Construction	\$ 972,825.00		
Contingency	25% \$ 243,206.25		
Engineering	\$ 200,000.00		
Contingency	25% \$ 50,000.00		
Total	\$ 1,466,031.25		
Stien Rd	West County	Phase 2/2022	
Construction	\$ 325,661.00		
Contingency	25% \$ 81,415.25		
Engineering	\$ 100,000.00		
Contingency	25% \$ 25,000.00		
Total	\$ 532,076.25		
Buthusen Rd	West County	Phase 2/2022	
Construction	\$ 242,831.00		
Contingency	25% \$ 60,707.75		
Engineering	\$ 80,000.00		
Contingency	25% \$ 20,000.00		
Total	\$ 403,538.75		
Willey's Lake Rd	West County	Phase 2/2022	
Construction	\$ 270,723.00		
Contingency	25% \$ 67,680.75		
Engineering	\$ 80,000.00		
Contingency	25% \$ 20,000.00		
Total	\$ 438,403.75		
H Street	West County	Phase 2/2022	
Construction	\$ 871,483.00		
Contingency	25% \$ 217,870.75		
Engineering	\$ 150,000.00		
Contingency	25% \$ 37,500.00		
Total	\$ 1,276,853.75		

Type Rd		Point Roberts	.5 Mil EDI
Construction		\$ 161,824.00	Phase 3/2023
Contingency	25%	\$ 40,456.00	
Engineering		\$ 80,000.00	
Contingency	25%	\$ 20,000.00	
Total		\$ 302,280.00	

Total all Routes	\$ 13,882,233.75
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ArcGIS Web Map



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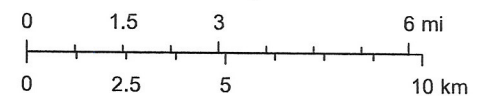
Fiber Data - Vaults Fiber Data - ProposedFiber

■ Pull Vault — Aerial

■ Splice Vault — Attach

— Bore
— Buried
— Lease

■ Building Footprints

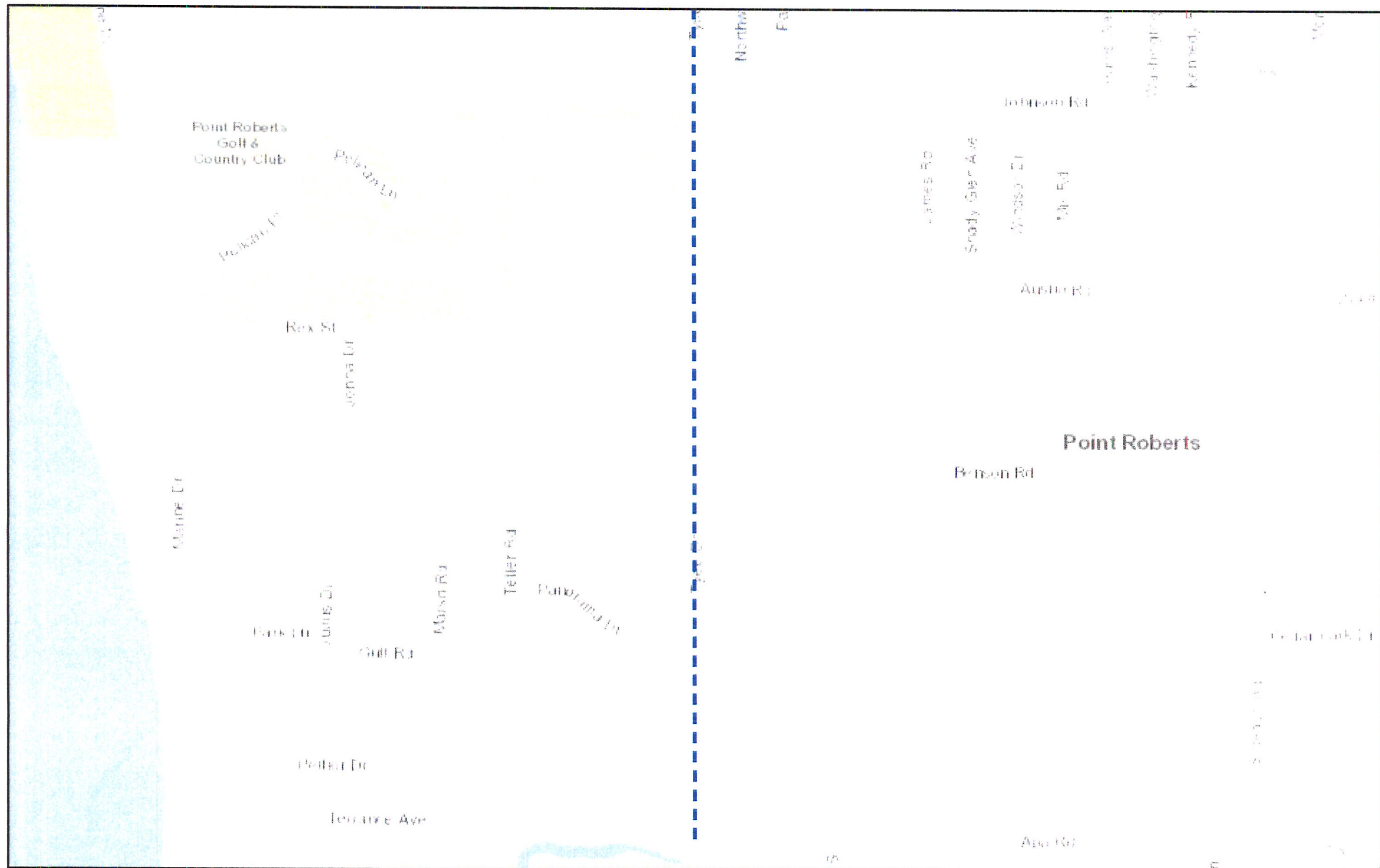


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ArcGIS Web AppBuilder

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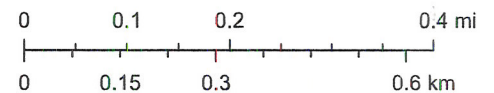


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Fiber Data - ProposedFiber

-- Aerial

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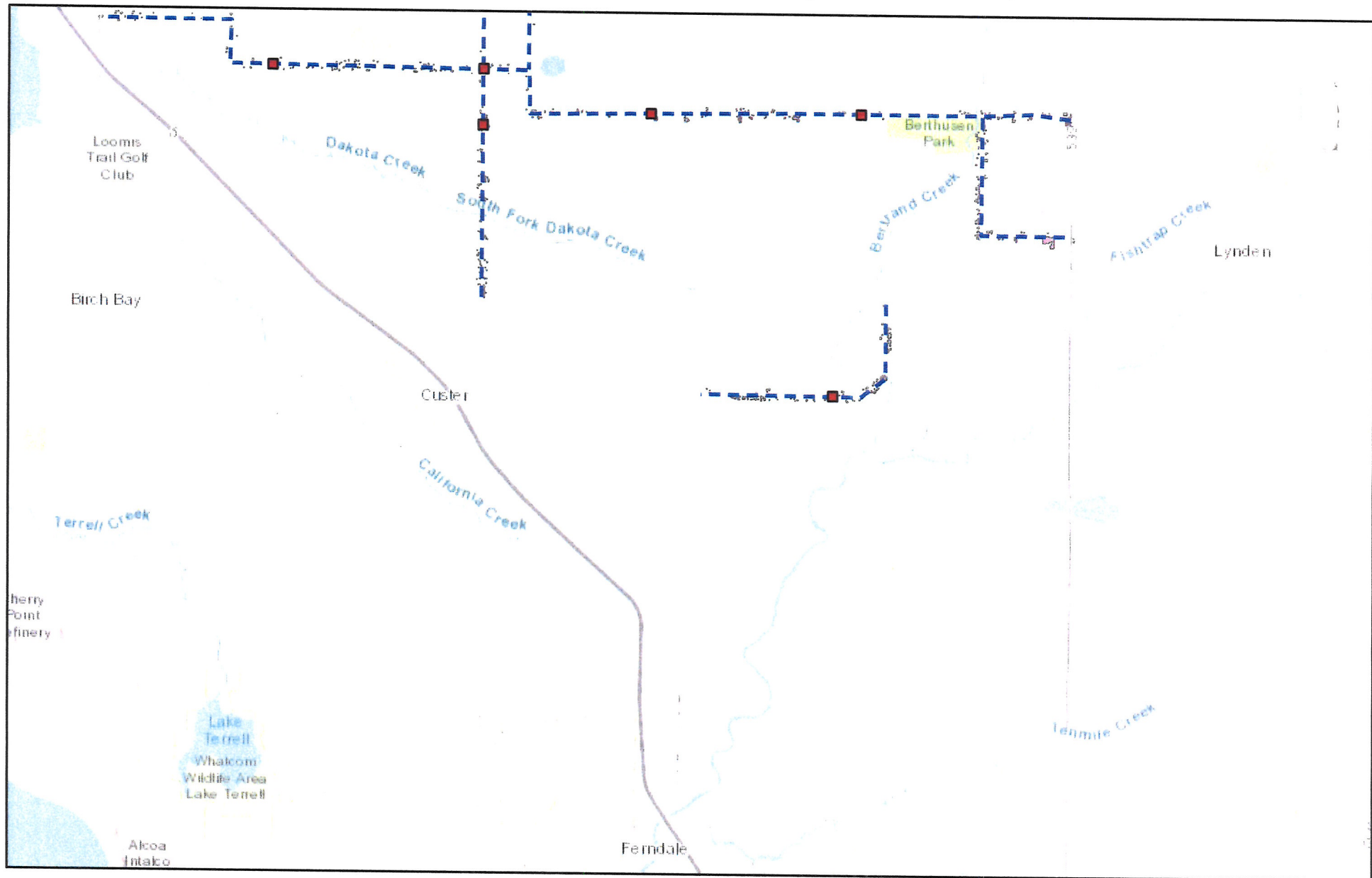


Bureau of Land Management, Province of British Columbia, Esri Canada,

54 ArcGIS Web AppBuilder

Bureau of Land Management, Province of British Columbia, Esri Canada, Esri, HERE, Garmin, INCREMENT P, USGS, METUX, NASA, EPA, USDA, NOAA

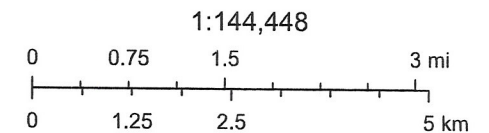
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Fiber Data - Vaults Fiber Data - Proposed Fiber Building Footprints

■ Splice Vault --- Aerial



Bureau of Land Management, Province of British Columbia, Esri Canada,

Whatcom County Economic Development Investment (EDI) Program

Revolving Loan and Grant Program to Encourage Creation or Retention of Private Sector Jobs

PROJECT APPLICANT

Applicant Name: City of Lynden

Applicant Address: 300 4th Street, Lynden, WA

Applicant Contact Person: Steve Banham, Public Works Director

Applicant Email and Phone Number: banhams@lyndenwa.org (360) 354-3446

PROJECT TITLE

Lynden West Front Street Arterial Improvement

PROJECT AMOUNT REQUESTED

\$ 2,000,000 EDI TOTAL - (Loan \$ 1,333,333; Grant \$ 666,667)

\$ 424,439 (17.5%) Local Match (10% of EDI request minimum)

PROJECT TYPE

☒ Jobs In Hand ☐ Build It And Jobs Will Come ☐ Community Enhancement

PROJECT TERMS

☐ Loan Only ☒ Grant/Loan ☐ Grant Only If a loan, term requested: 20 (years)

PROJECT LOCATION: Front Street, from Duffner Creek to Tromp Road

PROJECT DESCRIPTION

(one-page limit)

Lynden is submitting this follow-up revised project request to replace 1,900-feet of sub-standard existing street section by constructing an all-weather commercial arterial street section including sewer and storm drainage utilities. The City was in the process of responding to County Council comments on the 2020 application when the COVID-19 pandemic started in March 2020. Lynden has utilized the time since then to reevaluate ("value engineer") the project's design and focus on the essential immediate public improvements at a reduced cost. The need for this project remains very high and this project will "jump-start" a 124,000 square foot business park which was put on hold during the COVID restrictions.

This project will revitalize/re-establish economic vitality and growth in this area. West Front Street needs to be improved to City all-weather arterial street section standards. This will include 32 feet of paved surface including two 12-foot travel lanes, and 4-foot striped urban shoulders. Utilities are needed to

Whatcom County Economic Development Investment (EDI) Program

Revolving Loan and Grant Program to Encourage Creation or Retention of Private Sector Jobs

provide for this growth and this project will install sanitary sewer and storm drainage . Water is currently present.

The project will ultimately provide commercial transportation access to about 100 acres of Lynden's growing commercial services regional (CSR) and industrial (IBZ) zoned land and ultimately provide future access to another 140 acres of the City's adjacent western Urban Growth Area (UGA). In the near term it will serve 46 acres of CSR zoned properties including a new 124,000 square foot business park (Front Street Station) which was finalizing permits and financing when the COVID pandemic arrived This facility was on schedule to be completed in late 2020 – but was stopped. A new U.S. Postal Mail Distribution Center recently opened just east of the project which will benefit from all-weather access on West Front. Also in this zone are existing industries that can grow and benefit including: Lynden Door, Scholten Equipment, Oxbo International, and Brim Tractor.

BASIC PROJECT INFORMATION

1. Complete the public project budget and status of funds below. If EDI funds are approved is funding 100% complete? ☒ Yes ☐ No

<u>Funding Source</u>	<u>Amount</u>	<u>Planned/Applied For</u>		<u>Secured</u>	
Federal Dollars	\$ <u>N/A</u>	Yes <input type="checkbox"/>	No <input type="checkbox"/>	Yes <input type="checkbox"/>	No <input type="checkbox"/>
State Dollars	\$ <u>N/A</u>	Yes <input type="checkbox"/>	No <input type="checkbox"/>	Yes <input type="checkbox"/>	No <input type="checkbox"/>
Local Dollars	\$ <u>424,439</u>	Yes <input type="checkbox"/>	No <input type="checkbox"/>	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
EDI Funding	\$ <u>2,000,000</u>	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>	Yes <input type="checkbox"/>	No <input type="checkbox"/>
TOTAL	\$ <u>2,424,439</u>				

2. Describe the amount of outside (private) funding committed to the project (eg. Plant and equipment).

The "Front Street Station" business park will be constructed in three phases and will provide an incubator location for new small businesses and industries looking to start in the north County or move in from outside of the County. The first phase of private construction is estimated to cost \$4.5M and the total for all three phases is \$14.5M. The owner has dedicated the necessary right-of-way for the improvements to West Front. They have been able to secure full building financing for phase 1 and are now ready to proceed, unfortunately they cannot financially bear the full responsibility of the all-weather street improvements costs. There is a strong need for this type of space in the north County and the business park will include five separate buildings with as many 48 spaces for businesses. All of these, including Front Street Station, will pay traffic impact fees and contribute sales taxes to the City of Lynden, which will be used to repay the EDI loan.

Whatcom County Economic Development Investment (EDI) Program

Revolving Loan and Grant Program to Encourage Creation or Retention of Private Sector Jobs

3. Describe the public infrastructure being proposed. Include engineering estimates and a site map detailing the proposed improvements as **Attachments A and B**.

This project will construct and/or provide all necessary public facilities while also providing private utilities needed to service the area. These improvements include:

Transportation: Reconstruct West Front Street to a 24-foot-wide all-weather arterial street section with 4 foot paved shoulders for a total of 32 feet. The all-weather street is essential for any form of industrial or commercial truck use in the area. Currently, West Front is improved to County rural standards with two 10-foot-wide chip seal driving lanes and no pedestrian or multi-modal facilities. Because of inadequate road base it regularly sustains frost-heave damage after cold weather.

Storm Drainage: Storm piping will be installed to convey all storm water from both the street and adjacent properties to the West Lynden Regional Stormwater Facility. This facility was constructed in the early 2000's by forward thinking local businesspeople planning for future growth.

Sewer: Installs sanitary sewer along the West Front Street corridor allowing future development of the adjoining commercially zoned properties to their highest and best uses.

-
4. Describe how these improvements will enhance or encourage community vitality and stimulate other private development in the area.

West Front Street acts as the immediate primary access to about 46 acres of Lynden's prime commercial/industrial zoned properties located to the west of the Guide Meridian. The route links Birch Bay Lynden Road (Federal Route 8152) to SR-539 (Guide Meridian). Birch Bay Lynden Road is a primary route to I-5 to the west. SR-539 is the primary freight connection to the Lynden/Aldergrove border crossing into Canada. This area is a growing commercial and industrial area of Lynden. West Front Street will, in the future, provide an arterial access point for the City's western Urban Growth Area (UGA). intended to accommodate regional industrial and commercial demands.

The regional and State-wide importance of West Front Street was recognized in the classifying of West Front Street as a **Federally Functional Classified** street by FHWA, based on the recommendations of the Whatcom Council of Governments and WSDOT. WSDOT's reasoning for this and FHWA's concurrence is that the route "**will provide safe and efficient passenger, and commercial vehicle access to the growing West Lynden Commercial/Industrial area**". The corridor serves existing major industries of Lynden, it would benefit a pending business park project, and additionally enhance another 29 acres of vacant / underdeveloped property.

However, to properly provide adequate services, West Front Street needs to be improved to all-weather arterial standards, which is not feasible without outside funding assistance.

-
5. List all permits and environmental reviews required for the public project and detail their status (completed, in-process, etc.)

	In Process	Date Completed
Preliminary Engineering	_____	<u>June 2019</u>
Environmental Review	_____	<u>May 2020</u>

Whatcom County Economic Development Investment (EDI) Program

Revolving Loan and Grant Program to Encourage Creation or Retention of Private Sector Jobs

Design Engineering	90%	
Right-of-Way		NA
Construction Permits	X	
Environmental Permits	X	May 2020
Bid Documents	X	
Award Construction Contract	X	
Begin Construction	X	
Project Operational	X	

6. Are any other public jurisdictions involved in this project? If so, in what way?

Yes.

The Port of Bellingham provided funding for preliminary engineering work through their small City economic program.

FHWA, WSDOT and Whatcom Council of Governments all participated in classification of this street as a Federally Functional route.

7. Who will maintain the public facility/infrastructure to be completed with EDI funds? Will this project impact utility rates within the jurisdiction?

The City of Lynden will continue to maintain this public street and utilities. The is project will have no impact on utility rates.

8. Will this project directly generate a revenue stream that could be used to repay an EDI loan? Will this project spur indirect revenues that could be used to repay an EDI loan? If no to either question – why?

Yes, to both questions. The Post-Covid Economic boost this project will provide is critical to the north County region. Front Street Station, a 124,000 square foot business Park with 5 buildings submitted construction plans in December 2019 with a scheduled start of Phase 1 construction in spring 2020 allowing operation in late summer/fall of 2020. This was planned to contribute construction sales tax, impact fees payment, retail sales taxes, increased property taxes, and utility fees and property taxes. Proceeding now with this project will rejuvenate these funding sources.

New commercial industrial development will contribute traffic impact fees which will be used to service this loan. New construction, increased retail sales, and increased property values would all be sources of revenue to the City general fund, which funds street expenses including debt. Existing local businesses in the area include Lynden Door, Scholten Equipment, Oxbo International, Brim Tractor and Lineage Logistics.

Lynden Door: Is a primary producer and distributor of residential, commercial, institutional, and industrial hardware in the western States and Canadian Provinces. Lynden Door currently employs 550 people with plans for an additional 100 employees within the next two years. This growth will result in collection of additional traffic impact fees.

Whatcom County Economic Development Investment (EDI) Program

Revolving Loan and Grant Program to Encourage Creation or Retention of Private Sector Jobs

Scholten Equipment is one of the four major suppliers of Kubota Tractor west of the Mississippi River. This includes agricultural, heavy construction and residential tractors.

Oxbo International is a world-wide manufacturer and supplier of automated agricultural harvesting equipment. Their equipment is used to harvest a large percentage of the raspberries and blueberries harvested in Whatcom County.

-
9. What other revenue sources are available for this project and have they been considered. This includes forming a Local Improvement District (LID or ULID), issuing Councilmanic Bonds, Revenue Bonds, or other source(s).

The City has used a Port of Bellingham Small City Economic funding program to complete preliminary engineering design. The City used the Stormwater Utility funds to acquire both stormwater treatment and quantity in the West Lynden Regional Stormwater facility. The City formed a Transportation Benefit District in 2012. Lynden also collects transportation impact fees for street improvement like this one in an Arterial Street Fund (302). Both of these local transportation funding sources will be used for match and to repay the loan portion of this request. The water and sewer utility improvements associated with this project will be funded by the City water and sewer enterprise funds as match for the EDI Funding used to construct the street.

-
10. Describe the private development project that will be supported by this public facility project. If there is a committed private sector partner include Contingency Agreement (Attachment C).

Front Street Station: A 124,000 square foot business park which includes five separate buildings has gone through technical review and submitted construction plans in December 2019 with a planned approval in spring 2020. Covid has delayed this schedule. A Covid Economic boost will allow West Front Street construction to occur. A City and EDI funding package will allow phase 1 to start upon completion of civil plans. These plans are currently at the 90% level.

Front Street Station will provide opportunities for a diverse mix of business and industry including light manufacturing and warehousing together with professional offices and a retail frontage. As spaces will be available for lease it will provide valuable incubator spaces for local industries, research and development firms, or as a point of service for Canadian companies looking to locate within the United States.

While Front Street Station is the private development most immediately supported by the public facility project, nearby industries are also beneficiary of a more robust transportation network. These include:

Scholten Equipment: One of the four major suppliers of Kubota Tractor supplier west of the Mississippi River. This includes agricultural, heavy construction and residential tractors.

Brim Tractor: A regional supplier of tractors and heavy farm equipment, Brim also provides service and repairs of heavy equipment.

Oxbo International: A world leader in specialty harvesters, Oxbo International continues to provide innovative solutions to agri-business from their location in West Lynden. In addition to their

Revolving Loan and Grant Program to Encourage Creation or Retention of Private Sector Jobs

Vacant Property: Additional development within the regional commercial and industrial zoning categories will be encouraged on vacant parcels of land currently located on this corridor which are not represented in the list above. Approximately 29 acres of vacant or underdeveloped property, represented by 6 different ownership groups, are located on the corridor between SR-539 and Tromp Road.

- a. This substandard street provides the only access to Front Street Station, and the street and utilities need to be completed for this private development to stay on schedule for opening in 2022. Without the funding assistance provided through the EDI program, this necessary, important, and financially viable project may not occur.
- b. Lynden Door is expanding to meet current demands along with future growth. Without these transportation and utility improvements to West Front Street this “Regionally Significant” business could be impacted.
- c. Provides access to the City’s western UGA to accommodate future commercial and industrial growth.
- d. Stimulates economic development/redevelopment (regional commercial and industrial uses) on other underdeveloped or vacant parcels also located on the West Front Street corridor.

Front St Station Business Park	In Process	Date Completed
Environmental Review	X	December 2020
Construction Permits	X	February 2020
Environmental Permits	X	
Development Agreement	X	December 2019

Lynden Door	In Process	Date Completed
Environmental Review (future campus expansion)		<u>2019</u>
Construction Permits (additional 100,000 sf on existing campus)		<u>April 1, 2021</u>
Environmental Permits	<u>X</u>	

US Postal Sorting Facility	In Process	Date Completed
Environmental Review	_____	<u>Facility Completed</u>
Construction Permits	<u>X</u>	<u>Facility completed</u>
Environmental Permits	_____	<u>Facility completed</u>

Whatcom County Economic Development Investment (EDI) Program

Revolving Loan and Grant Program to Encourage Creation or Retention of Private Sector Jobs

12. Describe the type of industry or economic activity the public development will attract. What is the strategy to attract industry to the project site?

The West Lynden area is zoned to accommodate a wide variety of business and industry in a location that is easily accessible to the general public and close to the Guide Meridian and Birch Bay Lynden Road (I-5 corridor) for commercial access. Once improved, the road will be able to support the traffic needs for these types of uses. Large land parcels close to the U.S. Canadian border make the area more attractive to business and industry development, particularly those related to agricultural products and services.

With all-weather street improvements, the area will be poised to attract regional commercial establishments which provide retail service to the public, professional offices, research and development, business incubator spaces, storage and warehousing, or light manufacturing. The area also has access to property which is zoned to accommodate a variety of industrial

With infrastructure and zoning in place, the City will continue to emphasize public/private cooperation and expedited permit review to quickly respond to market demands.

13. List the number of projected jobs, by type, to be retained and/or created by the private entity. (for consistency with previous application these numbers have remained the same)

Occupation	Current Jobs Retained** (In FTEs)	# Of Jobs Created Year 1 (In FTEs)	# Of Jobs Created by Year 5 (In FTEs)	Hourly Wage of current or new position	Local Occupational Hourly Wages***
Mgmt./Admin*	40	49	73	\$50.00	N/A
Technical/Prof	71	93	157	\$45.00	
Office/Clerical	66	81	110	\$30.00	
Production	386	451	634	\$30.00	
Sales	0	18	48	\$25.00	
Skilled Crafts	88	121	208	\$40.00	
Others	33	51	107	\$18.00	
Totals	684	864	1337	N/A	N/A

* Indicate Management positions in annual salary.

** Retained jobs are defined as jobs that would otherwise be lost from the county without this project.

*** This column will be populated with data from the state before application is distributed and revised annually.

- a. Projected annual gross payroll for all job classifications **\$50,000,000**
- b. Describe fringe benefits the company offers to regular full-time employees?

Whatcom County Economic Development Investment (EDI) Program

Revolving Loan and Grant Program to Encourage Creation or Retention of Private Sector Jobs

(health insurance, retirement plans, etc.) fringe benefits estimated at 32% of gross

14. How does this project support the economy of Whatcom County and how does it fit into a county-wide economic development strategy?

This project, listed in the County's Comprehensive Economic Development Strategy (CEDS), seeks to resuscitate the north County from COVID-19 providing support to local small businesses and the jobs they can bring to the north County. This project will foster a stable and diversified regional economy, all intended to maintain, and ultimately improve the quality of life in Whatcom County. The West Lynden area plays a key role in the economic development of Lynden and the County's regional strategy.

Diversification: One of the most compelling elements of development within the West Lynden area is the diversification of industry. Lynden Door employs numerous manufacturing positions, and their move toward automation has increased demand for skilled technicians. This automation has enhanced production making them an industry leader. Although known ubiquitously as Lynden Door, the entity actually includes six different industries (LLCs) that focus on a variety of functions, including engineering, production, and distribution. The manufacturing occurring in West Lynden has spread to diversified job creation at other locations in Whatcom County. Beyond the manufacturing occurring at Lynden Door, the area boasts on-going research and development in the harvester industry at Oxbo, agricultural and construction equipment sales and service at Scholten Equipment and Brim tractor, and government sector positions at the U.S. Postal Service sorting facility.

Development of Front Street Station offers additional diversification of living-wage jobs by providing an excellent location for incubator businesses, skilled trades, research and development, and wholesale distribution. With the Canadian border three miles away, Front Street Station provides a prime location for Canadian companies to gain a foothold in the United States and introduce new products and services to Whatcom County.

Access and Quality of Life: West Front Street will be built with an all-weather arterial street section that connects to the infrastructure backbone of the City of Lynden. The infrastructure will not only serve and be visible to the industrial users, like a remote frontage road, but it will be an extension of the City's thriving downtown and Historic Business District to the east on Front Street. As an all-weather street it will provide better (lower speed) access to Birch-Bay-Lynden Road and ultimately I-5 for international commerce.

Agriculture: Lynden is uniquely positioned to provide the industrial and commercial needs directly related to agriculture. Local businesses such as Lineage Logistics, Oxbo International, Brim Tractor and Scholten Equipment have clear ties to the local agriculture industry. Whatcom County growers benefit from having dealers and services locally. Front Street Station will be a re-purposing (reclaimed) gravel pit instead of sprawling into the vital agricultural industry of Whatcom County.

15. What will the effect of this project be on the natural environment – does the project address any issues related to public health, pollution, or quality of life?

Whatcom County Economic Development Investment (EDI) Program

Revolving Loan and Grant Program to Encourage Creation or Retention of Private Sector Jobs

This project will construct new stormwater facilities that comply with the current water quality standard. This project will include City sanitary sewer service to help protect the Nooksack River basin from fecal contamination that might occur with poorly maintained onsite septic systems. The project will include water quality protection for the Duffner Creek critical area at the east end.

16. Does this project address any existing issues related to public safety and/or does it increase public safety in the future or address a potential future public safety issue?

The current West Front Street is not all-weather and it has sustained repeated damaged during harsh winters, leading to road damage. This project will construct an all-weather arterial street section with street lighting designed for safe movement of commercial traffic. The widened shoulders create safe bike and pedestrian facilities. Finally, by creating a safe and efficient secondary route to West Lynden this project will enhance life safety response.

17. Describe specific quantifiable measures of the outcomes, other than purely jobs, that will demonstrate project success. Describe how you will measure this and explain what you expect to show as progress toward the outcome.

- ☒ Increased Vehicle Use (traffic counts)
- ☒ New Business Start-ups (business licenses)
- ☒ Canadian Businesses establishing a U.S. presence (business licenses)
- ☒ New Construction Sales Tax Revenue (sales tax revenue)
- ☒ Increased assessed valuation (property tax revenue)
- ☒ 1,900-feet of new all-weather, illuminated, Arterial Street section and multi-modal facilities added to inventory

Whatcom County Economic Development Investment (EDI) Program

Revolving Loan and Grant Program to Encourage Creation or Retention of Private Sector Jobs

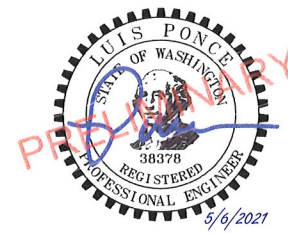
Application for Funding – Certification

I HEREBY CERTIFY THAT THE INFORMATION GIVEN IN THIS APPLICATION TO WHATCOM COUNTY FOR INVESTMENTS IN ECONOMIC DEVELOPMENT IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF.

Signature of Responsible Public Official: Gary L Bode Date 5/13/2021
Mayor Pro-Tem



423 Front Street
Lynden, WA 98264
Phone: (360) 354-3687



Called By:	City of Lynden				
For:	WEST FRONT STREET PRELIMINARY DESIGN				
	300 4th Street				
	Lynden, WA 98264				
By:	Luis Ponce, P.E.				
Date:	30-Apr-21				
Item No.	Item Description	Quantity	Unit	Unit Price	Amount
Schedule A - Roadway and Storm					
1	Mobilization	1	LS	\$ 170,000.00	\$ 170,000.00
2	SPCC Plan	1	LS	\$ 1,000.00	\$ 1,000.00
3	Project Temporary Traffic Control	1	LS	\$ 10,000.00	\$ 10,000.00
4	Flaggers	2,250	HR	\$ 65.00	\$ 146,250.00
5	Other Traffic Control Labor	225	HR	\$ 60.00	\$ 13,500.00
6	Clearing and Grubbing	1	LS	\$ 14,000.00	\$ 14,000.00
7	Removal of Structures and Obstructions	1	LS	\$ 6,000.00	\$ 6,000.00
8	Roadway Excavation Incl. Haul	11,000	CY	\$ 15.00	\$ 165,000.00
9	Water	100	M GAL.	\$ 100.00	\$ 10,000.00
10	Shoring or Extra Excavation Class B	8,400	SF	\$ 1.00	\$ 8,400.00
11	Dewatering	1	LS	\$ 140,000.00	\$ 140,000.00
12	Gravel Base	7,400	TON	\$ 12.00	\$ 88,800.00
13	Crushed Surfacing Top Course	2,100	TON	\$ 50.00	\$ 105,000.00
14	HMA Cl. 1/2" PG 64-22	3,200	TON	\$ 95.00	\$ 304,000.00
15	Planing Bituminous Pavement	250	SY	\$ 25.00	\$ 6,250.00
16	Corrugated Polyethylene Storm Sewer Pipe 8 In. Diam.	300	LF	\$ 60.00	\$ 18,000.00
17	Corrugated Polyethylene Storm Sewer Pipe 24 In. Diam.	300	LF	\$ 85.00	\$ 25,500.00
18	Corrugated Polyethylene Storm Sewer Pipe 36 In. Diam.	850	LF	\$ 120.00	\$ 102,000.00
19	Catch Basin Type 2 48 In. Diam.	9	EA	\$ 3,500.00	\$ 31,500.00
20	Catch Basin Type 2 60 In. Diam.	5	EA	\$ 5,000.00	\$ 25,000.00
21	Adjustments to Finished Grade	1	LS	\$ 5,000.00	\$ 5,000.00
22	ESC Lead	10	DAY	\$ 100.00	\$ 1,000.00
23	Street Cleaning	75	HR	\$ 150.00	\$ 11,250.00
24	High Visibility Silt Fence	1,800	LF	\$ 5.00	\$ 9,000.00
25	Erosion/Water Pollution Control	1	EST	\$ 5,000.00	\$ 5,000.00
26	Seeded Lawn Installation Incl. Topsoil	3,200	SY	\$ 10.00	\$ 32,000.00
27	Landscape Restoration	1	EST	\$ 10,000.00	\$ 10,000.00
28	Mailbox Support, Type 1	5	EA	\$ 400.00	\$ 2,000.00
29	Permanent Signing	1	LS	\$ 5,000.00	\$ 5,000.00
30	Paint Line	11,200	LF	\$ 0.50	\$ 5,600.00
31	Plastic Stop Line	90	LF	\$ 25.00	\$ 2,250.00
32	Plastic Crosswalk Line	325	SF	\$ 25.00	\$ 8,125.00
33	Plastic Traffic Arrow	14	EA	\$ 200.00	\$ 2,800.00
34	Pothole Existing Underground Utility	10	EA	\$ 500.00	\$ 5,000.00
35	Repair Existing Public and Private Facilities	1	EST	\$ 10,000.00	\$ 10,000.00
Total Schedule A					\$ 1,504,225.00

Schedule B - Sewer					
45	Shoring or Extra Excavation Class B	17,000	SF	\$ 0.50	\$ 8,500.00
46	Gravel Base	250	TON	\$ 12.00	\$ 3,000.00
47	Manhole 48 In. Diam. Type 1	5	EA	\$ 4,000.00	\$ 20,000.00
48	Manhole Additional Height 48 In. Diam. Type 1	19	LF	\$ 300.00	\$ 5,700.00
49	PVC Sanitary Sewer Pipe 6 In. Diam.	460	LF	\$ 90.00	\$ 41,400.00
50	PVC Sanitary Sewer Pipe 8 In. Diam.	1,550	LF	\$ 95.00	\$ 147,250.00
Subtotal					\$ 225,850.00
Sales Tax Schedule C (8.7%)					\$ 19,648.95
Total Schedule B					\$ 245,498.95

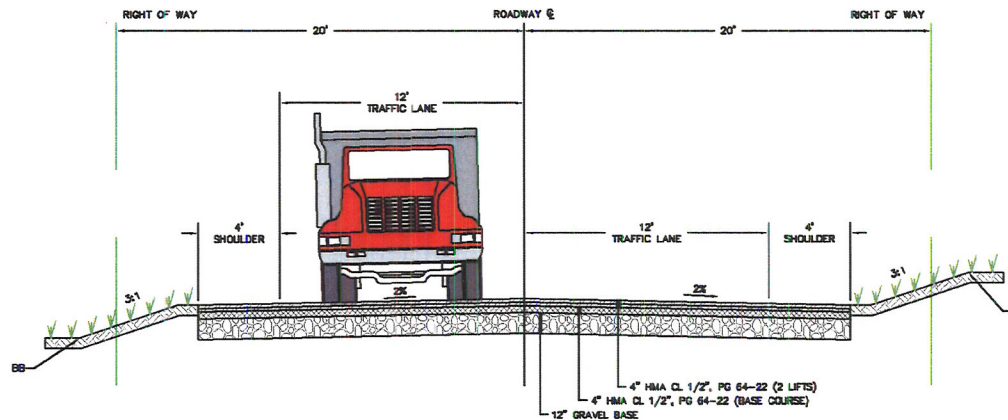
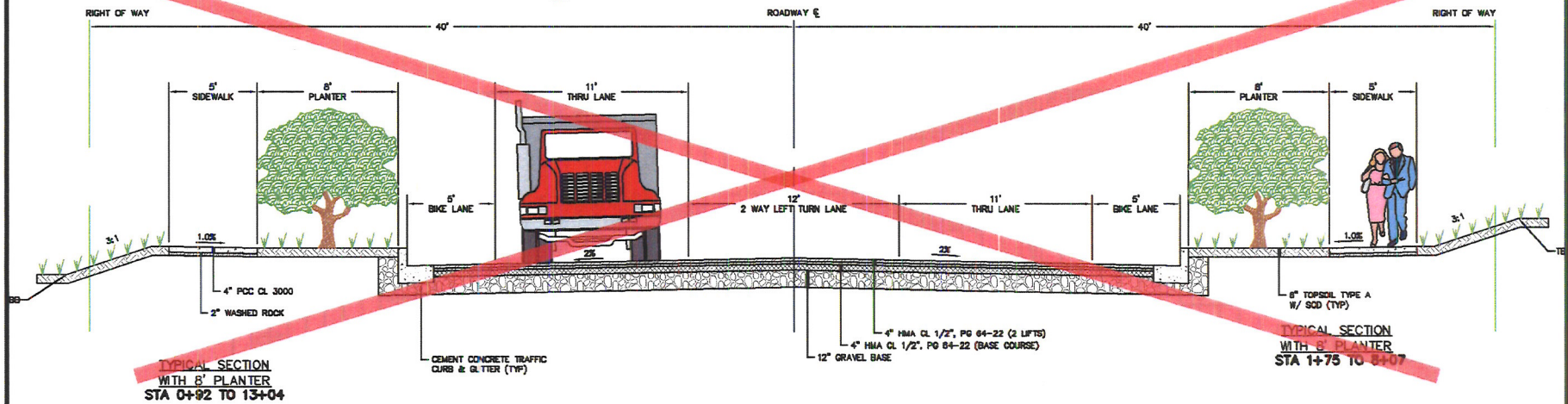
Schedule C - Lighting					
51	Luminaire with Base	13	EA	\$ 2,500.00	\$ 32,500.00
52	2" Conduit	1,700	LF	\$ 30.00	\$ 51,000.00
Total Schedule C					\$ 83,500.00

Subtotal Schedules A, B, & C		\$ 1,833,224
Contingency to Construction Estimate	15%	\$ 274,984
Total, Including Contingency		\$ 2,108,208

The lighting estimate does not include any contract the City may need to acquire with Intolight.

This estimate was prepared without a complete design and shall therefore be considered preliminary and subject to change due to actual quantities of work incorporated into the project and changes in unit prices over time.

W FRONT ST - TYPICAL SECTION (2020)



W FRONT ST - TYPICAL SECTION (2021)

R&E Reichhardt & Ebe
ENGINEERING INC

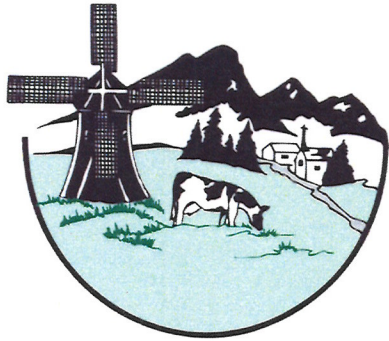
P.O. Box 978 | 423 Front Street
Lynden, WA 98264 (360) 354-3687

05/12/21

CITY OF LYNDEN - 2021 EDI APPLICATION
W FRONT STREET IMPROVEMENTS
TYPICAL SECTION

NTS

00065.3



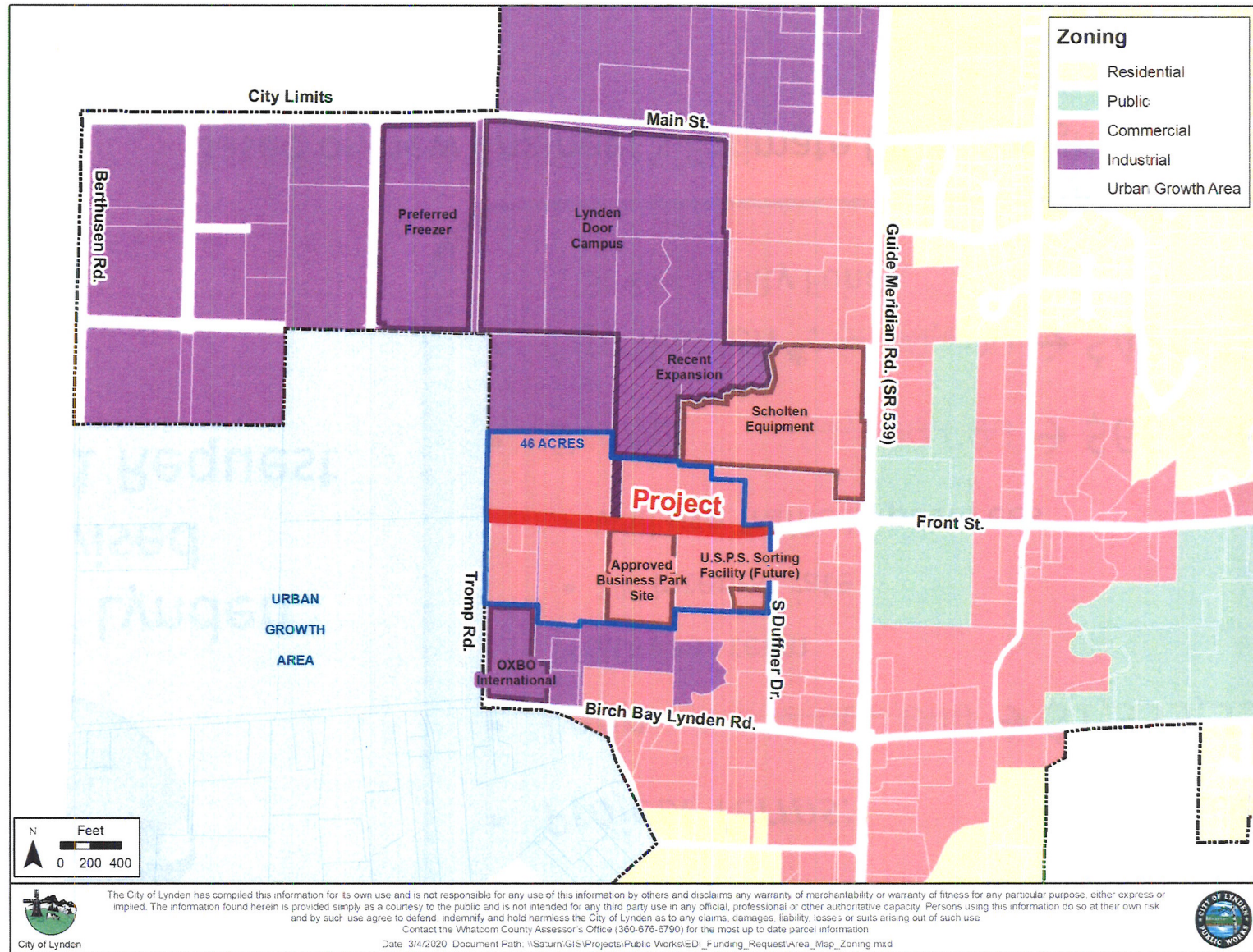
City of Lynden Revised EDI 2021 Request

- *Project Type:* Jobs in Hand
- *Project Terms:* Grant/Loan
- *Loan:* ~~\$2,000,000~~ → \$1,333,333
 - 20-year term
 - 1% interest rate
 - Will use Traffic Impact Fees
- *Grant:* ~~\$1,000,000~~ → \$666,667
- *City Match*:* ~~\$330,000~~ → \$424,439

*Sewer Utility Funds

Based on new Engineer's Estimate (90% design)

Attachment B

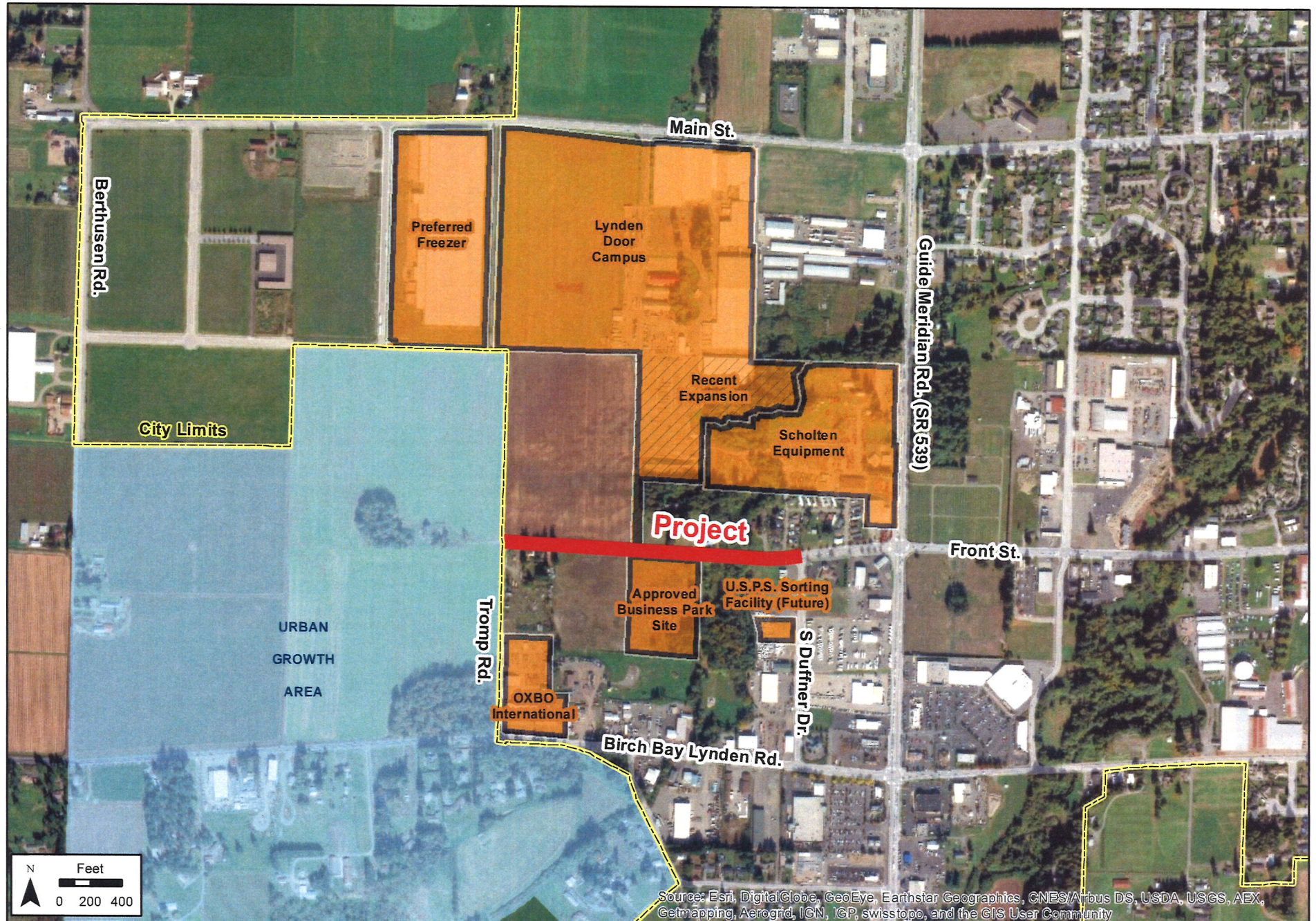


W. Front Street Arterial Improvement

- Serves over **46** acres of Commercially Zoned property - not just one development.
- About **2000** feet to be improved to all weather road

Approved Business Park

- About **7** acres (*15% of serviced acreage*)
- About **475** feet of frontage (*less than 1/4*)
- Identified in application because it represents "jobs in hand"



City of Lynden

The City of Lynden has compiled this information for its own use and is not responsible for any use of this information by others and disclaims any warranty of merchantability or warranty of fitness for any particular purpose, either express or implied. The information found herein is provided simply as a courtesy to the public and is not intended for any third party use in any official, professional or other authoritative capacity. Persons using this information do so at their own risk and by such use agree to defend, indemnify and hold harmless the City of Lynden as to any claims, damages, liability, losses or suits arising out of such use.

Contact the Whatcom County Assessor's Office (360-676-6790) for the most up to date parcel information.
Date: 10/22/2019 Document Path: \\Saturn\GIS\Projects\Public Works\ED\Funding_Request\Area_Map.mxd





Satpal Sidhu
Whatcom county Executive
311 Grand Avenue Suite 108
Bellingham, WA
98225

Executive Sidhu

Re: City of Lynden West Front Street Arterial Improvements EDI Application

I am writing to express support for the City of Lynden's request for EDI funding to improve west Front Street to arterial street standards. It is our understanding that the County Council was not willing to support the use of EDI funds earlier this year, but we would like the Council to reconsider this project for funding. This project will benefit the City by providing needed street and utility infrastructure to encourage businesses like ours to locate and bring jobs to Lynden and Whatcom County.

In 2018/19 we worked with the City to get both west Front Street and Tromp Road Federally classified. This process required not only the support of local agencies and Whatcom Council of Government (WCOG), but also WSDOT in order to obtaining Federal Highways approval. In 2018 the WCOG fully supported the City's request writing:

- "The Regions travel demand model incorporates Front Street west to Tromp Road and forecasts volume increases of over 70% by 2040".
- "More impactful to the volume increases along this road segment are the freight activities generated from this growing industrial and commercial area that feeds the second highest volume activity corridor in the region, *the Guide Meridian* (SR-539).
- "Lynden's preparation for further growth along Front St. necessitates roadway improvements to accommodate".
- "The Whatcom Council of Government, in its capacity as the Whatcom Metropolitan Planning Organization (MPO) fully supports and concurs with the City of Lynden's request for federal functional classification."

WSDOT in its letter of concurrence with the WCOG request wrote "This route will provide safe and efficient passenger and commercial vehicle access to the growing West Lynden Commercial/Industrial area where none currently exist". The approval of this request by Federal Highways fully shows how important this street is.

1.800.530.2746 toll free www.brimtractor.com

LYNDEN MT. VERNON CHEHALIS PACIFIC SALEM EUGENE



We understand that this project was supported by the EDI Board but that the County Council felt this project did not support significant job growth or have broad support from the other property owners on the street. Brim Tractor has property along Front Street and as an abutting owner we see this project as critical infrastructure for our future plans.

Brim Tractor is a major employer in Lynden and Whatcom County and currently employs 63 people with 17 in Lynden and is looking to expand to 28 in Lynden in the next 5 years. We have enjoyed success working in Lynden. We are convinced that with this infrastructure investment other businesses would be interested in locating in this area due to its close proximity to the Canadian Border and to the agricultural community.

We believe this information may not have been available to the County during their previous deliberations. Therefore, we ask that you please reconsider this project and provide the requested \$2M loan and \$1M grant funds to the City of Lynden to complete this street project in 2020.

Kind Regards,

Daniel Brim
President – Brim Tractor Company

1.800.530.2746 toll free www.brimtractor.com

LYNDEN MT. VERNON CHEHALIS PACIFIC SALEM EUGENE

FRONT STREET STATION

1610 GROVER STREET, SUITE B5
LYNDEN, WA 98264
(360) 354-1545

February 28, 2020

Satpal Sidhu
Whatcom county Executive
311 Grand Avenue Suite 108
Bellingham, WA
98225

Executive Sidhu,

Re: City of Lynden West Front Street Arterial Improvements EDI Application

I am writing to express support for the City of Lynden's request for EDI funding to improve west Front Street to arterial street standards. I was present when the County Council indicated they were not in favor of supporting the use of EDI funds. I believe that the Council should reconsider this project for funding because this is clearly a project that will benefit the City by providing needed street and utility infrastructure to encourage businesses like ours to locate and bring new jobs to Lynden and Whatcom County. There were a number of items which I'm not sure the Finance Committee and full Council considered.

The property owners along Front, Tromp, and Birch Bay Lynden Road, upgraded and installed a looped water system, at no cost to the city. This included extensive work to dig under the Guide. Furthermore, we are gifting easement rights to the city for the new street to be accommodated.

Since 2004 all the properties in the region have made ULID payments for a regional stormwater detention pond built to serve the area. In 2018, the City applied for west Front Street to be federally classified. This process required the support of local agencies, Whatcom Council of Government (WCOG), and WSDOT to obtain ultimate Federal Highways approval. WCOG fully supported the City's request noting in their support letter:

- "The Regions travel demand model incorporates Front Street west to Tromp Road and forecasts volume increases of over 70% by 2040".
- "More impactful to the volume increases along this road segment are the freight activities generated from this growing industrial and commercial area that feeds the second highest volume activity corridor in the region, *the Guide Meridian* (SR-539).
- "Lynden's preparation for further growth along Front St. necessitates roadway improvements to accommodate".
- "The Whatcom Council of Government, in its capacity as the Whatcom Metropolitan Planning Organization (MPO) fully supports and concurs with the City of Lynden's request for federal functional classification."

WSDOT in its letter of concurrence with the WCOG request wrote "This route will provide safe and efficient passenger and commercial vehicle access to the growing west Lynden Commercial/Industrial area where none currently exist". The approval of this request by Federal Highways fully highlights the importance of this street.

West Front Street has a number of property owners along the unimproved section in the City's EDI request. Our south side frontage is 475 feet of the total 1,927 street length. The City rightly recognizes that it is best to construct the street as a complete section west to Tromp Road. If I were to construct just my frontage with my development and each subsequent development do the same, the City would end up with a patchwork quilt of varying age and integrity public infrastructure. The added costs to improve my frontage alone would cause the street to end up as patchwork. The City generally collects impact fees on shared streets like this based on the rationale that it is best to construct the entire street segment at one time. The EDI loan makes it financially feasible for the City who will collect future impact fees, property taxes, and sales taxes on development as it occurs to help offset their debt payments on the loan.

We understand that this project had EDI Board support but that the County Council felt this project did not support significant job growth or have broad support from the other property owners on the street. In response, our project, Front Street Station, is expected to employ about 300 people at full build out. We also estimate that our project alone will contribute over \$200,000 annually to the City in new tax revenue. We firmly believe that with the County helping Lynden build this infrastructure, small businesses will locate in Lynden due to its close proximity to the Canadian Border and to the agricultural community providing tax revenue to repay the City's EDI loan.

We believe this information may not have been available or understood by the County Council during its previous deliberations. Therefore, we ask that you please encourage the Council to reconsider this project and provide the requested \$2M loan and \$1M grant funds to the City of Lynden to complete this street project in 2020.

Sincerely,



Don Korthuis



RECEIVED

MAR 04 2020

Public Works Dept.

March 3, 2020

Satpal Sidhu
Whatcom County Executive
311 Grand Avenue Suite 108
Bellingham, WA
98225

Executive Sidhu,

Re: City of Lynden West Front Street Arterial Improvements EDI Application

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In 2018/19 we were able to work with the City to get both West Front Street and Tromp Road Federally classified. This process required not only the support of local agencies and Whatcom Council of Government (WCOG), but also WSDOT in order to obtaining Federal Highways approval. In 2018 the WCOG fully supported the City's request writing:

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WSDOT in its letter of concurrence with the WCOG request wrote "This route will provide safe and efficient passenger and commercial vehicle access to the growing West Lynden Commercial/Industrial area where none currently exist". The approval of this request by Federal Highways fully shows how important this street is.

We understand that this project was supported by the EDI Board but that the County Council felt this project did not support significant job growth or have broad support from the other property owners on the street. Lynden Door, Inc. through its property holding company has recently acquired additional

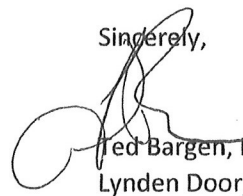
property along West Front Street and as an abutting owner with over 60 acres of property awaiting development, we see this project as critical for our future.

A manufacturing business risks its investment in the cost of buildings and equipment based on future market projections. In the event public infrastructure costs are born solely by the manufacturing company growth can be hampered or delayed.

Lynden Door, Inc. is a major employer in Lynden and Whatcom County and currently employs several hundred people and is looking to expand its employee base in the next 5 years to continue to meet market demands. We have enjoyed success working in the community in this location and produce over 10,000 doors a day shipped to location throughout the western United States. We are convinced that with this infrastructure investment other businesses would be interested in locating in this area due to its close proximity to the Canadian Border and to the agricultural community.

We believe this information may not have been available to the County during their previous deliberations. Therefore, we ask that you please reconsider this project and provide the requested \$2M loan and \$1M grant funds to the City of Lynden to complete this street project in 2020.

Sincerely,



Ted Borgen, President
Lynden Door, Inc.

Whatcom County Economic Development Investment (EDI) Program

Revolving Loan and Grant Program to Encourage Creation or Retention of Private Sector Jobs

PROJECT APPLICANT

Applicant Name: Housing Authority of the City of Bellingham

Applicant Address: 208 Unity Street, Bellingham, WA 98225

Applicant Contact Person: Jenny Weinstein

Applicant Email and Phone Number: jenny.weinstein@bellinghamhousing.org and 360-715-7325

PROJECT TITLE

Samish Way Redevelopment Phase 3 – Public Infrastructure

PROJECT AMOUNT REQUESTED

\$ 725,000 EDI TOTAL - (Loan \$ 725,000 ; Grant \$ See page 4)

\$ 7,000,000+ Local Match (10% of EDI request minimum)

PROJECT TYPE

 Jobs In Hand X Build It And Jobs Will Come Community Enhancement

PROJECT TERMS

 X Loan Only p. 4? Grant/Loan Grant Only
If a loan, term requested: 20 (years)

PROJECT LOCATION: 1331 E. Laurel Street, Bellingham WA

PROJECT DESCRIPTION

(one page limit)

The Housing Authority of the City of Bellingham (“BHA”) is continuing its multi-phase mixed-use development. Samish Way Redevelopment Phase 3 (“Samish Commons Family”) is at the north end of the Samish Way Urban Village, an area targeted by the City of Bellingham (“CoB”) for development. Since our first phase of construction was planned the urban village has seen an explosion of growth, demonstrating the market for development and need for new infrastructure to accommodate the market. In addition to 49 apartments affordable for the workforce, this phase of Samish Commons will add structured parking, commercial space for a new Early Learning Center (“ELC”) and build upon the previous road improvements to the urban village, particularly along Laurel Street. We will also continue the public powerline reconfiguration for this project. These vital improvements to the infrastructure of Samish Way will be a benefit to the whole urban village area.

Last Updated: 11/18/13

Whatcom County Economic Development Investment (EDI) Program
Revolving Loan and Grant Program to Encourage Creation or Retention of Private Sector Jobs

BASIC PROJECT INFORMATION

1. Complete the public project budget and status of funds below. If EDI funds are approved is funding 100% complete? ___ Yes ___ **X** ___ No

BHA is in the process of securing the remaining necessary funds. Attachment 1A provides a summary of our financial sources. In addition to EDI, we anticipate applying to the County's Homes Affordable for the Workforce (HAFTW) for approximately \$175,000 to pay some impact fees and utility connections, and we are working with the County Department of Health to secure HB1406 and HB1590 sales tax revenues to cover our remaining gap.

2. Describe the amount of outside (private) funding committed to the project (eg. Plant and equipment).

Phase 3 of Samish Commons is utilizing a complicated financing structure that leverages a combination of public funding, federal tax credits, tax-exempt bonds, and private conventional financing. RBC Capital Markets, Inc. has signed on to be BHA's private investor for the federal tax credits that we secured for the project. The tax credits provide over nine million dollars to fund the construction of this project. BHA is also putting in over \$7M using proceeds from the sale of our 24 scattered sites. Finally, BHA will be utilizing a conventional loan serviced by Banner Bank for approximately \$3.7M.

3. Describe the public infrastructure being proposed. Include engineering estimates and a site map detailing the proposed improvements as Attachments A and B.

The City of Bellingham has required BHA to complete the reconstruction of Laurel Street, including curb, gutter, sidewalk, and drainage improvements. The high voltage and standard powerlines surrounding the site must be relocated and reconfigured. BHA will also be constructing a parking podium for residents and employees of BHA and the Early Learning Center space, which will alleviate the parking shortage in the growing urban village and allows us to maximize density for housing. The Early Learning Center commercial space will be part of our third residential building on the site, located at the corner of Samish and Abbott, facing Laurel street. This location was chosen due to the ease of access and heightened visibility from the street or sidewalk as people travel along Samish Way. The emphasis on visibility lends itself to the City's design standards for Urban Villages, which states street level spaces should be visually engaging. The Early Learning Center will help address a critical need for our workforce and meet the mixed-use requirement for the lot's zoning designation of Commercial Transition 2.

4. Describe how these improvements will enhance or encourage community vitality and stimulate other private development in the area.

The improvements to public infrastructure at our project will benefit the entire urban village and surrounding environment. As one of the first large developments proposed in the urban village, Samish Commons is a catalyst for the transformation of Samish Way from an auto-oriented driving corridor to a walkable urban village with attractive residential development and commercial opportunities for the local community to spend time and money on. Additionally, the infusion of 171 new households will increase overall demand for nearby goods and services.

Whatcom County Economic Development Investment (EDI) Program

Revolving Loan and Grant Program to Encourage Creation or Retention of Private Sector Jobs

5. List all permits and environmental reviews required for the public project and detail their status (completed, in-process, etc.)

	In Process	Date Completed
Preliminary Engineering	_____	<u>12/31/19</u>
Environmental Review	_____	<u>10/24/19</u>
Design Engineering	_____	<u>1/08/21</u>
Right-of-Way	_____	<u>11/30/20?</u>
Construction Permits	<u>5/31/21</u>	_____
Environmental Permits	<u>5/31/21</u>	_____
Bid Documents	<u>4/15/21</u>	_____
Award Construction Contract	<u>5/01/21</u>	_____
Begin Construction	<u>08/01/21</u>	_____
Project Operational	<u>03/01/23</u>	_____

6. Are any other public jurisdictions involved in this project? If so, in what way?

The Housing Authority of the City of Bellingham is committed to this important project and has invested a sizeable amount of funding into this project, not to mention staff time and resources. BHA has also solicited funds from the City of Bellingham, and we anticipate the City's final funding commitment this summer. The Washington State Housing Finance Commission administers and oversees the Low-Income Housing Tax Credits and tax-exempt bond financing that is a major component of this project. The previous phases of Samish Commons also have funding from the State of Washington.

7. Who will maintain the public facility/infrastructure to be completed with EDI funds? Will this project impact utility rates within the jurisdiction?

Puget Sound Energy Services will maintain the electrical distribution utilities. Utility rates will not be impacted. The City of Bellingham will maintain the road improvements.

8. Will this project directly generate a revenue stream that could be used to repay an EDI loan? Will this project spur indirect revenues that could be used to repay an EDI loan? If no to either question – why?

Our current financial model demonstrates cash flow and a debt coverage ratio that supports a limited revenue stream able to repay a loan from the EDI.

9. What other revenue sources are available for this project and have they been considered. This includes forming a Local Improvement District (LID or ULID), issuing Councilmanic Bonds, Revenue Bonds, or other source(s).

As mentioned previously, this phase of Samish Commons does not have any state funding from the WA State Housing Trust Fund, whereas both previous phases do. This is largely because of the competitive nature of the state's limited funding and the higher income (60% AMI) population that will be served in this phase of

Whatcom County Economic Development Investment (EDI) Program

Revolving Loan and Grant Program to Encourage Creation or Retention of Private Sector Jobs

Samish Commons. BHA submitted applications to the state two years in a row but was not awarded funds. For several years, the state's Housing Trust Fund has been directed by the Legislature to serve individuals and families at the lowest income ranges, specifically those experiencing homelessness. Due to the density of Samish Commons our goal was to create a mixed-income setting, which makes this final phase of "workforce housing" less competitive for resources targeted at the lowest incomes.

BHA has considered multiple private and public funds and applied to all possible known sources for the residential portion of our project. Most public funders will not assist with non-residential construction. Due to zoning regulations the podium parking and Early Learning Center are critical to this project's success. In addition to EDI, we anticipate applying to the County's Homes Affordable for the Workforce (HAFTW) for approximately \$175,000 to pay partial impact fees and utility connections. We are working with the County Health Department to secure HB1406 and HB1590 sales tax revenue to cover our remaining gap.

10. Describe the private development project that will be supported by this public facility project. If there is a committed private sector partner include Contingency Agreement (Attachment C).

The site work, structured parking podium, and the commercial area will be supported by this public facility contract. BHA has been working with The Center for Retention & Expansion of Child Care – NW, operated by the Opportunity Council, and the WA Department of Children, Youth, and Families to plan the layout as we start to solicit potential Early Learning Center providers. We will also have a commercial real estate broker on retainer to assist with marketing and lease-up of the space if the need arises in the future. BHA will also be relocating our administrative offices to Samish Commons.

11. Explain why the private development requires the proposed public improvement(s).

The road and right-of-way improvements are mandated by the City of Bellingham for the site to be developed. The high voltage and standard powerlines surrounding the site must be relocated and reconfigured in order to maximize the number of residential units.

12. What is the status of the associated private development review and permits. List all permits required and give the current status (applied for, being reviewed, issued).

	In Process	Date Completed
Environmental Review		10/24/2019
Construction Permits	5/31/21	
Environmental Permits	5/31/21	

13. Describe the type of industry or economic activity the public development will attract. What is the strategy to attract industry to the project site?

BHA's multiphase development was designed to be a catalyst for redeveloping Samish Way into a vibrant urban village that attracts all types of commerce, including restaurants and entertainment. BHA successfully advocated for this urban village to be designated a federal Opportunity Zone, which provides federal tax incentives to investors. With all the development currently happening at Samish Way, including new

Whatcom County Economic Development Investment (EDI) Program

Revolving Loan and Grant Program to Encourage Creation or Retention of Private Sector Jobs

residential buildings, BHA wanted to attract a business that could provide an essential service that is significantly lacking in our community. BHA and the Opportunity Council have partnered together to develop an Early Learning Center for our commercial space, providing a benefit to working families in the community in need of childcare.

14. List the number of projected jobs, by type, to be retained and/or created by the private entity.

Occupation	Current Jobs Retained** (In FTEs)	# Of Jobs Created Year 1 (In FTEs)	# Of Jobs Created by Year 5 (In FTEs)	Hourly Wage of current or new position	Local Occupational Hourly Wages***
Mgmt./Admin*					N/A
Technical/Prof					
Office/Clerical	3	4		\$18.00	\$37,000
Production	547			\$25.00	\$52,285
Sales					
Skilled Crafts					
Others	3		15	\$13.00	\$25,000
Totals	553	4	15	N/A	N/A

* Indicate Management positions in annual salary.

** Retained jobs are defined as jobs that would otherwise be lost from the county without this project.

*** This column will be populated with data from the state before application is distributed and revised annually.

- Projected annual gross payroll for all job classifications \$ _____
- Describe fringe benefits the company offers to regular full time employees?
(health insurance, retirement plans, etc.)

Construction workers on this project will be offered benefits or paid the cash equivalent of their fringe benefits based on their job classification.

15. How does this project support the economy of Whatcom County and how does it fit into a county-wide economic development strategy?

Samish Commons will support Whatcom County's economy through catalyzing private redevelopment of this up-and-coming urban village and creating additional commercial space. This project will also provide affordable housing to working families who fall below the Area Median Income in Whatcom County, freeing up their income for spending in the local economy. The construction of the whole site will sustain many full-time construction jobs over a 4-5-year period, as well as supporting jobs in the A&E market. Urban Village infrastructure is a priority on the CEDS list, and the infrastructure planned for this stage will help develop the urban village.

Last Updated: 11/18/13

Whatcom County Economic Development Investment (EDI) Program

Revolving Loan and Grant Program to Encourage Creation or Retention of Private Sector Jobs

16. What will the effect of this project be on the natural environment – does the project address any issues related to public health, pollution, or quality of life?

This development will meet the WA State Evergreen Sustainable Development Standard, positively impacting the environment through energy and water conservation and the use of durable, environmentally friendly building materials. Construction waste will be minimized, and erosion controlled during construction. Structured parking eliminates the contaminated storm water including heavy metals created by surface parking. BHA completed a federal NEPA review that determined our project would not negatively affect the environment. Samish Commons will also positively impact public health and the quality of life by providing safe, affordable homes and reducing homelessness. It is well documented that substandard, unaffordable housing negatively impacts public health and significantly impairs individuals' abilities to participate in the workforce.

17. Does this project address any existing issues related to public safety and/or does it increase public safety in the future or address a potential future public safety issue?

This development consummates a long process and joint effort by the City of Bellingham and BHA to redevelop the condemned Aloha Motel site. Demolishing the meth contaminated building and building new affordable rental homes and commercial spaces will contribute to declining crime rates by creating an attractive, pedestrian-friendly neighborhood.

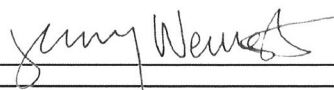
18. Describe specific quantifiable measures of the outcomes, other than purely jobs, that will demonstrate project success. Describe how you will measure this and explain what you expect to show as progress toward the outcome.

Quantifiable outcomes of our development include expanding the tax base by establishing new businesses on-site and catalyzing additional private redevelopment in the area, which can already be seen by the construction of the new residential buildings being constructed along Samish Way. Providing apartments that are affordable to a broad range of incomes and ages will help stabilize the workforce by reducing residents' rent burden, which frees up expendable income for other needs and discretionary spending in Whatcom County. These can be measured through sales, business & occupation tax receipts, and building permits issued in the urban village.

Application for Funding – Certification

I HEREBY CERTIFY THAT THE INFORMATION GIVEN IN THIS APPLICATION TO WHATCOM COUNTY FOR INVESTMENTS IN ECONOMIC DEVELOPMENT IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF.

Signature of Responsible Public Official: _____

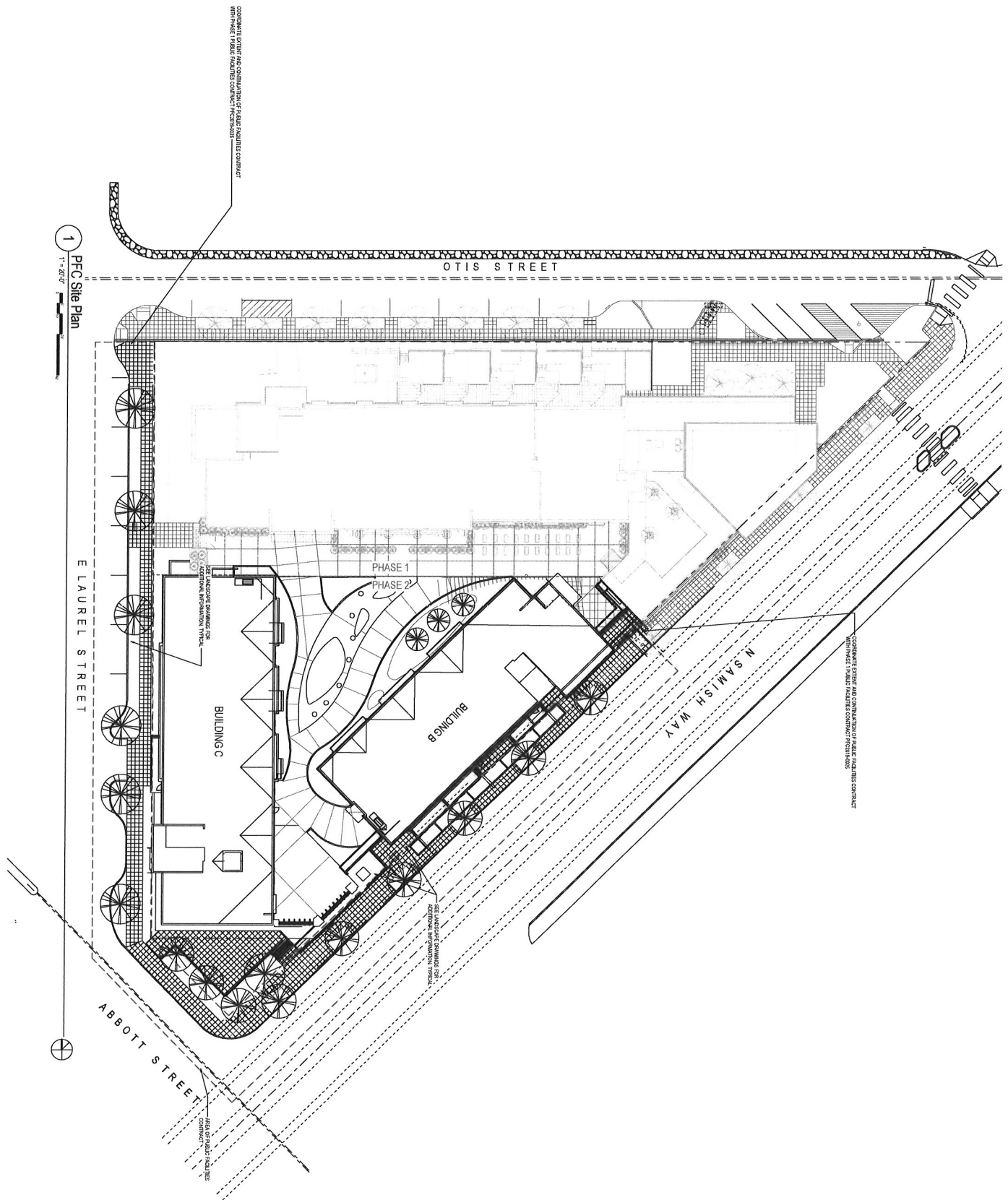


Date 5/19/2021

Attachment 1A

Samish Commons Phase 3 - EDI			
<u>Funding Source:</u>	<u>Amount</u>	<u>Planned/ Applied for</u>	<u>Secured</u>
Private Equity (Federal Tax Credits)	\$ 9,240,054.00	Yes	Yes
Permanent Conventional Loan	\$ 3,700,000.00	Yes	Yes
Bellingham Home Fund (Acquisition)	\$ 552,750.00	Yes	Yes
Bellingham Home Fund (Construction)	\$ 3,275,000.00	Yes	Partially
Whatcom County EDI Program	\$ 725,000.00	Yes	No
Whatcom County HAFTW	\$ 175,000.00	Application in Process	No, Estimated Amount
BHA Funds	\$ 7,282,696.00	N/A	Yes
HB 1406	\$ 525,000.00	Planned	No
Total	\$ 25,475,500.00		

Bid Item	Phase	Public Facilities Contract Work Description	Quantity	U/M	Line Subtotal	ALLW B/O NIC
					0	
		Demo Existing Driveways (Laurel)	1,100.00	SF	15,400	
		Survey and Layout (ongoing with Trimble)	1.00		9,000	
					0	
	310000	Earthwork	1.00	LS	670,572	
		Laurel Street Rebuild for Paving	10,000.00	SF	Above	
		Laurel Street Prep for Sidewalk & Planters	5,000.00	SF	Above	
		Samish Way Prep for Sidewalk & Planters	3,525.00	SF	Above	
		Sawcut for Water	250.00	LF	Above	
		6" DI Water Pipe	125.00	LF	Above	
		Hydrant Assembly	2.00	EA	Above	
		Sawcut for Stormwater	400.00	LF	Above	
		8" PVC SD Pipe	95.00	LF	Above	
		Modular Wetland	1.00	EA	Above	
		Sawcut for Sanitary Sewer	80.00	EA	Above	
		8" PVC Sanitary Sewer	33.00	LF	Above	
		Demo Laurel Asphalt Pulverization Concrete	900.00	SF	Above	
		12" CPP	286.00	EA	Above	
		Type I Structures	7.00	EA	Above	
		Offsite Traffic Control	1,000.00	HRS	Above	
	320000	Barrier Curb	80.00	LF	1,600	
		Curb and Gutter	639.00	LF	14,058	
		Sidewalks	6,400.00	SF	44,800	
		Replace Existing Driveways (Laurel)	1,100.00	SF	11,000	
		Asphalt Paving	10,800.00	SF	54,000	
		Patch Road	710.00	SF	4,260	ALLW
		Striping	80.00	LF	160	
		Landscaping	1.00	LS	20,000	
		Site Improvements			0	
					0	
					0	
		TOTAL			844,850	



DATE: 01/11/2018	DATE: 01/11/2018
DESIGNED BY: J. L. L. L.	DESIGNED BY: J. L. L. L.
CHECKED BY: J. L. L. L.	CHECKED BY: J. L. L. L.
APPROVED BY: J. L. L. L.	APPROVED BY: J. L. L. L.
PROJECT: Samish Commons	PROJECT: Samish Commons
SHEET: A101	SHEET: A101
OF: 82	OF: 82

Samish Commons, PHASE-2
Design Review - Public Facilities Contract & Site
 321 N. Samish Way, Bellingham WA 98225
 Samish Way Senior Housing, LLLP
 Samish Way Family Housing, LLLP

RMC ARCHITECTS

RMC Architects, PLLC - 1223 Railroad Avenue - Bellingham, WA 98225
 P: 360.878.7773 • F: 360.738.6488 • info@rmcarchitects.com



Whatcom County

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

Agenda Bill Master Report

File Number: AB2021-331

File ID:	AB2021-331	Version:	1	Status:	Agenda Ready
File Created:	06/04/2021	Entered by:	SBatdorf@co.whatcom.wa.us		
Department:	Parks and Recreation Department	File Type:	Bid Award		
Assigned to:	Council Finance and Administrative Services Committee				Final Action:
Agenda Date:	06/15/2021	Enactment #:			

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

TITLE FOR AGENDA ITEM:

Request authorization for the County Executive to award bid #21-26 and enter into a contract between Whatcom County and Tiger Construction LTD for the Plantation Indoor Range HVAC and Roof Replacement, in the amount of \$1,032,352.54

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

Request authorization for the County Executive to award bid #21-26 and enter into a contract between Whatcom County and Tiger Construction LTD for the Plantation Indoor Range HVAC and Roof Replacement, in the amount of \$1,032,352.54

HISTORY OF LEGISLATIVE FILE


Date:	Acting Body:	Action:	Sent To:
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Attachments: Staff memo, Bid Award



MEMORANDUM

TO: The Honorable Satpal Singh Sidhu, Whatcom County Executive, and the Honorable Members of the Whatcom County Council

THROUGH: Michael McFarlane, Director 

FROM: Christ Thomsen, Parks Operations Manager 

DATE: June 3, 2021

RE: Plantation Indoor Range HVAC and Roof Replacement
Approval for Award of Construction Contract, Bid No. 21-26

Attached for your review and signature is the standard construction contract award package for the above referenced project. This package includes the approval for contract award, bid tabulation, and low bid proposal.

Requested Action

Parks and Recreation respectfully requests that the County Council authorize the County Executive to sign the Approval for Contract Award to Tiger Construction LTD for the Plantation Indoor Range HVAC and Roof Replacement. Upon receipt of the signed Approval for Contract Award form, Parks and Recreation will submit the construction contract to the County Executive for contract execution.

Background and Purpose

Bid proposals for the project were opened at 2:30 PM on Tuesday, May 25, 2021. A total of four (4) responsive bids were received, with Tiger Construction LTD being the lowest responsible bidder for the Base Bid + Alternate A in the amount of \$1,032,352.54. The bid tabulation is attached to this memorandum.

Funding Amount and Source

REET 1 and RCO funds have been allocated to this project, in the amount of \$1,070,296, as proposed in AB2021-146, amending the 2021 Whatcom County Budget, request No. 4., and enacted in ordinance # ORD 2021-015.

Please Contact Christ Thomsen at extension 5865 if you have any questions or concerns regarding this contract.

In accordance with W.C.C. 3.08.030, I concur with this recommendation:

Sara Winger

Digitally signed by Sara Winger
DN: cn=Sara Winger, o=Whatcom County
AS-Finance, ou=Purchasing Coordinator,
email=swinger@co.whatcom.wa.us, c=US
Date: 2021.06.03 22:06:28 -0700

Sara Winger, Purchasing Coordinator

Date

WHATCOM COUNTY
Parks & Recreation
3373 Mount Baker Highway
Bellingham, WA 98226-7500



Michael G. McFarlane, Director
Christ Thomsen, Parks Operations Manager

Plantation Indoor Range HVAC and Roof Replacement
Bid No. 21-26

APPROVAL FOR CONTRACT AWARD

Approval is hereby granted to award the Contract as follows:

Project: Plantation Indoor Range HVAC and Roof Replacement
 Bid No. 21-26

To: Tiger Construction LTD

In the amount of their bid proposal \$1,032,352.54 including applicable sales tax.

Satpal Singh Sidhu
Whatcom County Executive
Approving Authority

Date

Approved via email BW / CT
Brandon Waldron
Senior Deputy Prosecuting Attorney
Civil Division

June 4, 2021
Date

Whatcom County Parks & Rec.
Plantation Indoor Range HVAC & Roof Replacement
Whatcom County Bid No. 21-26, Opening Date May 25, 2021

Engineer's Estimate: \$1,033,735.00 (Total Base Bid only - does not include Alternates)

	Trico Companies LLC	Boss Construction Inc.	Faber Costruction Corp.	Tiger Construction LTD
Item Description	Amount	Amount	Amount	Amount
Base Bid				
Mobilization	\$25,000.00	\$106,894.00	\$100,000.00	\$45,973.00
Demo as noted	\$68,900.00	\$101,050.00	\$20,000.00	\$73,898.00
Reroofing	\$148,300.00	\$143,223.00	\$140,000.00	\$141,951.00
Structural Modifications	\$65,400.00	\$33,178.00	\$30,000.00	\$42,889.00
Mechanical	\$566,600.00	\$521,290.00	\$597,000.00	\$503,175.00
Electrical	\$30,400.00	\$27,525.00	\$35,000.00	\$27,275.00
Concrete Pad	\$63,800.00	\$78,141.00	\$15,000.00	\$115,605.00
Remote Control Panel	\$1,300.00	\$11,000.00	\$5,000.00	\$1,090.00
Demobilization	\$15,000.00	\$3,300.00	\$30,000.00	\$20,000.00
Small Changes Force Account	\$25,000.00	\$25,000.00	\$25,000.00	\$25,000.00
Subtotal	\$1,009,700.00	\$1,050,601.00	\$997,000.00	\$996,856.00
Tax (8.5%)	\$85,824.50	\$89,301.09	\$84,745.00	\$84,732.76
Total Base Bid	\$1,095,524.50	\$1,139,902.09	\$1,081,745.00	\$1,081,588.76
Alternate A				
New Recovery Board	\$45,600.00	\$24,811.00	\$20,000.00	\$10,000.00
New Single Ply Membrane	\$66,400.00	\$83,307.00	\$80,000.00	\$30,000.00
Base Bid Roof Demo Deduct	-\$24,400.00	-\$58,000.00	-\$15,000.00	-\$15,000.00
Base Bid Reroof Deduct	-\$139,200.00	-\$97,203.00	-\$130,000.00	-\$70,379.00
Subtotal	-\$51,600.00	-\$47,085.00	-\$45,000.00	-\$45,379.00
Tax (8.5%)	-\$4,386.00	-\$4,002.23	-\$3,825.00	-\$3,857.22
Total Alternate A	-\$55,986.00	-\$51,087.23	-\$48,825.00	-\$49,236.22
Alternate B				
Remove Existing	\$750.00	\$4,026.00	\$2,000.00	\$750.00
Install New Standing Seam Metal Roofing	\$3,000.00	\$15,400.00	\$9,904.00	\$16,274.00
Subtotal	\$3,750.00	\$19,426.00	\$11,904.00	\$17,024.00
Tax (8.5%)	\$318.75	\$1,651.21	\$1,011.84	\$1,447.04
Total Alternate B	\$4,068.75	\$21,077.21	\$12,915.84	\$18,471.04
Totals				
Total Base Bid	\$1,095,524.50	\$1,139,902.09	\$1,081,745.00	\$1,081,588.76
Total Base Bid + Alternate A	\$1,039,538.50	\$1,088,814.86	\$1,032,920.00	\$1,032,352.54
Total Base Bid + Alternate B	\$1,099,593.25	\$1,160,979.30	\$1,094,660.84	\$1,100,059.80
Total Base Bid + Alternate A + Alternate B	\$1,043,607.25	\$1,109,892.07	\$1,045,835.84	\$1,050,823.58

I hereby Certify that the ammounts tabulated herein are coorrect and accurately represent the amounts contained in the Engineer's Estimate and the respective bid proposals opened at 2:30 P.M., May 25, 2021 for Plantation Indoor Range HVAC and Roof Replacement Bid # 21-26.



Christ Thomsen, Parks Operations Manager

Whatcom County
Bid #21-26
Plantation Indoor Range HVAC and Roof Replacement

Bid Proposal

Date May 25, 2021

To: Whatcom County Executive and Council

This certifies that the Undersigned has examined the area to be renovated / repaired and the conditions of work. The Undersigned has carefully read and thoroughly understands the contract documents entitled "Plantation Indoor Range HVAC and Roof Replacement" including the "Bid Procedures and Conditions", "Specifications and Conditions", and "Contract Forms" sections governing the work embraced in this project, and the method by which payment will be made for said work. The Undersigned hereby proposes to undertake and complete the work embraced in this project in accordance with said contract documents.

The undersigned acknowledges that payment will be based on the actual work performed, as measured, or provided for in accordance with the said contract documents, and that no additional compensation will be allowed for any taxes not otherwise included.

Company Name: Tiger Construction, Ltd

BASE BID:					
DEMO AS NOTED – REROOFING, STRUCTURAL MODIFICATIONS, INSTALL MECHANICAL, ELECTRICAL, CONCRETE PAD AND REMOTE CONTROL PANEL					
NO.	DESCRIPTION	QUANTITY	UNIT	RATE	EXTENSION
1	Mobilization	1	LS	\$45,973.00	\$45,973.00
2	Demo as noted	1	LS	\$73,898.00	\$73,898.00
3	Reroofing	1	LS	\$141,951.00	\$141,951.00
4	Structural Modifications	1	LS	\$42,889.00	\$42,889.00
5	Mechanical	1	LS	\$503,175.00	\$503,175.00
6	Electrical	1	LS	\$27,275.00	\$27,275.00
7	Concrete Pad	1	LS	\$115,605.00	\$115,605.00
8	Remote Control Panel	1	LS	\$1090.00	\$1,090.00
9	Demobilization	1	LS	\$20,000	\$20,000
10	Small Changes Force Account (As authorized by County)	1	EA	\$25,000.00	\$25,000.00
Subtotal					996,856.00
WA State Sales Tax (8.5%)					84,732.76
Total Base Bid					1,081,588.76

one million eighty one thousand five hundred + eighty eight 76/100
Written Total Amount (Total Base Bid)

Whatcom County
Bid #21-26
Plantation Indoor Range HVAC and Roof Replacement

ALTERNATE A:					
SAME AS BASE BID – INSTEAD OF REROOFING, INSTALL RECOVERY BOARD AND NEW SINGLE PLY MEMBRANE (2/A2.1)					
NO.	DESCRIPTION	QUANTITY	UNIT	RATE	EXTENSION
1	New Recovery Board	1	LS	10,000.00	10,000.00
2	New Single Ply Membrane	1	LS	30,000.00	30,000.00
3	Base Bid Roof Demo Deduct	1	LS	-15,000.00	-15,000.00
4	Base Bid Reroof Deduct	1	LS	-70,379.00	-70,379.00
Subtotal					-45,379.00
WA State Sales Tax (8.5%)					-3,857.22
Total Alternate A Bid					-49,236.22

TOTAL BASE BID PLUS TOTAL ALTERNATE A BID	1,032,352.54
--------------------------------------------------	---------------------

one million thirty two thousand three hundred + fifty + two dollars 54/xx
Written Total Amount (Total Base Bid Plus Total Alternate A Bid)

ALTERNATE B:					
FACADE UPDATE – REMOVE EXISTING AND INSTALL NEW STANDING SEAM METAL ROOFING (3/A2.1)					
NO.	DESCRIPTION	QUANTITY	UNIT	RATE	EXTENSION
1	Remove Existing	1	LS	750.00	750.00
2	Install New Standing Seam Metal Roofing	1	LS	16,274.00	16,274.00
Subtotal					17,024.00
WA State Sales Tax (8.5%)					1,447.04
Total Alternate B Bid					18,471.04

TOTAL BASE BID PLUS TOTAL ALTERNATE B BID	1,100,823.58
--------------------------------------------------	---------------------

one million one hundred thousand + fifty nine dollars + 58/xx
Written Total Amount (Total Base Bid Plus Total Alternate B Bid)

TOTAL BASE BID PLUS TOTAL ALTERNATE A BID PLUS TOTAL ALTERNATE B BID	1,050,823.58
-----------------------------------------------------------------------------	---------------------

one million + fifty thousand eight hundred + twenty three dollars 58/xx
Written Total Amount (Total Base Bid Plus Total Alternate A Bid Plus Total Alternate B Bid)

Whatcom County
Bid #21-26
Plantation Indoor Range HVAC and Roof Replacement

Bid Proposal (continued)

Supplementary Information

The Undersigned Bidder hereby acknowledges that the information furnished under this section will be considered in conjunction with the "Bid" price above, in the evaluation of bids for contract award.

Categories and Rates of Labor

The Undersigned Bidder certifies that all work to be performed under this Contract, except that work which will be performed by a Subcontractor when approved in advance by the County, will be performed by the following classifications of labor for the rates as shown. The Undersigned agrees to accept as payment for said work the schedule of labor classifications and rates as set forth below.

Classification	Rate
<u>Carpenters</u>	<u>\$79.91</u>
<u>Foreman</u>	<u>\$95.49</u>
<u>General Laborer</u>	<u>\$63.02</u>
<u>Excavator Operator 15 to 30</u>	<u>\$84.24</u>
<u>Dump Truck</u>	<u>\$73.98</u>
<u> </u>	<u> </u>
<u> </u>	<u> </u>
<u> </u>	<u> </u>

Whatcom County
Bid #21-26
Plantation Indoor Range HVAC and Roof Replacement

Bid Proposal (continued)

Qualifications

List at least three projects completed within the last 10 years, or under way on this date, that are similar to the work to be performed under this contract. Contractors must document adequate experience with and knowledge of general construction, commercial roofing installation, and industrial HVAC and air handling systems.

Month/Year Contract Started	Contract Amount	Type of Work	Firm Name and Address	Contact Person and Phone Number
2018	\$23,816,911.65	Whatcom Community College New Student Housing Construction	Dept. of Enterprise Service PO Box 41476 Olympia, WA 98504-1476	Kevin Barber 360-628-6417
2016	\$1,468,224.08	New Construction of New Lynden Middle School	Lynden School Dist. #504 516 Main St. Lynden, WA 98264	Bryan Visscher 509-387-6086
2016	\$17,564,515.61	New Construction of Options High School	Bellingham School Dist. #501 1306 Dupont St. Bellingham, WA 98225	Curtis Lawyer 360-676-2691
2018	\$34,522,135.51	New Construction of Tambark Creek Elementary School	Everett School Dist. #2 PO Box 2098 Everett, WA 98203	Darcy Walker 425-385-4190
	\$			

(Attach Additional Sheets as Necessary)

Whatcom County
Bid #21-26
Plantation Indoor Range HVAC and Roof Replacement

Bid Proposal (continued)

Subcontractor List

Prepared in Compliance with RCW 39.30.060, as amended.

To be submitted with the Bid Proposal, Plantation Indoor Range HVAC and Roof Replacement.

Failure to list Subcontractors who are proposed to perform work of heating, ventilation, and air conditioning, plumbing as described in Chapter 18.106 RCW, and electrical work as described in Chapter 19.28 RCW, will result in your bid being non-responsive and therefore void.

Subcontractor(s) that are proposed to perform work of heating, ventilation, and air conditioning, plumbing as described in Chapter 18.106 RCW, and electrical work as described in Chapter 19.28 RCW must be listed below. The work to be performed is to be listed below the Subcontractor(s) name.

If no Subcontractor is listed below, the bidder acknowledges that it does not intend to use any Subcontractor to perform those items of work.

Subcontractor Name CLK Electric Construction LLC
Phone Number 360-389-2503
Work to be Performed Plumbing Electrical

Subcontractor Name Hillco Contracting
Phone Number 360-380-2120
Work to be Performed Electrical Plumbing

Subcontractor Name Hillco Contracting
Phone Number 360-380-2120
Work to be Performed HVAC

Subcontractor Name Tiger Construction
Phone Number 360-766-7252
Work to be Performed Structural Steel

Whatcom County
Bid #21-26
Plantation Indoor Range HVAC and Roof Replacement

Bid Proposal (continued)

Bidder Identification

The name of the Bidder submitting this proposal, the address and phone number to which all communications concerned with this proposal shall be made and the number which has been assigned indicating the Bidder is licensed to do business in the State of Washington are as follows:

Firm Name	<u>Tiger Construction, Ltd.</u>
Address	<u>PO Box 368 Everson, WA 98247</u>
Telephone Number	<u>360-966-7252</u>
Contractor's WA Registration Number	<u>TIGERCL121MA</u>
Contractor's WA UBI Number	<u>601-090-108</u>
Contractor's WA Employment Security Department Number	<u>650767-00-7</u>
Contractor's WA Excise Tax Registration Number	<u>601-090-108</u>

The Firm submitting this proposal is a:

<input type="checkbox"/>	Sole Proprietorship
<input type="checkbox"/>	Partnership
<input checked="" type="checkbox"/>	Corporation

The names and titles of the principal officers of the corporation submitting this proposal, of the partnership, or of all persons interested in this proposal as principals are as follows:

<u>Scott Isenhardt, President</u>	<u></u>
<u>Derek Isenhardt, Vice President</u>	<u></u>
<u>Nicholas Isenhardt, Treasurer</u>	<u></u>

Note: Signatories of this proposal must be identified above. Failure to identify the Signatories will be cause for considering the proposal irregular and for subsequent rejection of the bid.

**Whatcom County
Bid #21-26
Plantation Indoor Range HVAC and Roof Replacement**

Bid Proposal (continued)

BID BOND

KNOWN ALL MEN BY THESE PRESENTS, that we, Tiger Construction, Ltd.

of Everson, WA, as principal, and the Travelers Casualty and Surety Company of America
a corporation duly organized under the laws of the State of Connecticut and having its principal
place of business at One Tower Square, Hartford, Connecticut, as Surety, are held and firmly bound
unto the County of Whatcom, a Municipal Corporation and Charter County in the State of Washington, in the
full and penal sum of (5) percent of the total amount of the bid proposal of said principal for the work hereinafter
described, for the payment of which, well and truly to be made, we bind our heirs, executors, administrators
and assigns, and successors and assigns, jointly and severally, firmly by these presents.

The condition of this bond is such that, whereas, the principal herein is herewith submitting his or its bid proposal
for "Plantation Indoor Range HVAC and Roof Replacement" said bid proposal, by reference thereto, being made
a part hereof.

NOW, therefore, if the said bid proposal submitted by the said Principal be accepted, and the contract be
awarded to said Principal, and if said Principal shall duly make and enter into and execute said contract and shall
furnish the performance bond as required by the bidding and contracts documents within a period of twenty
(20) days from and after said award, exclusive of the day of such award, then its obligation to pay the above-
mentioned penal sum as liquidated damages shall be null and void, otherwise it shall remain and be in full force
and effect.

SIGNED AND SEALED this 25th day of May 2021

Tiger Construction, Ltd.

Principal

By

[Signature] President

(Seal)

Travelers Casualty and Surety Company of America

Surety

By

[Signature] Attorney-In-Fact
Roger Kaltenbach

The Attorney-In-Fact who executes this bond on behalf of the surety company, must attach a copy of his power-
of-attorney as evidence of his authority.

TRAVELERS

**Travelers Casualty and Surety Company of America
Travelers Casualty and Surety Company
St. Paul Fire and Marine Insurance Company**

POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS: That Travelers Casualty and Surety Company of America, Travelers Casualty and Surety Company, and St. Paul Fire and Marine Insurance Company are corporations duly organized under the laws of the State of Connecticut (herein collectively called the "Companies"), and that the Companies do hereby make, constitute and appoint **Roger Kaltenbach** of **BELLEVUE Washington**, their true and lawful Attorney-in-Fact to sign, execute, seal and acknowledge any and all bonds, recognizances, conditional undertakings and other writings obligatory in the nature thereof on behalf of the Companies in their business of guaranteeing the fidelity of persons, guaranteeing the performance of contracts and executing or guaranteeing bonds and undertakings required or permitted in any actions or proceedings allowed by law.

IN WITNESS WHEREOF, the Companies have caused this instrument to be signed, and their corporate seals to be hereto affixed, this **17th day of January, 2019**.



State of Connecticut

City of Hartford ss.

By

Robert L. Raney
Robert L. Raney, Senior Vice President

On this the **17th day of January, 2019**, before me personally appeared **Robert L. Raney**, who acknowledged himself to be the Senior Vice President of Travelers Casualty and Surety Company of America, Travelers Casualty and Surety Company, and St. Paul Fire and Marine Insurance Company, and that he, as such, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing on behalf of said Companies by himself as a duly authorized officer.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

My Commission expires the **30th day of June, 2021**



Anna P. Nowik
Anna P. Nowik, Notary Public

This Power of Attorney is granted under and by the authority of the following resolutions adopted by the Boards of Directors of Travelers Casualty and Surety Company of America, Travelers Casualty and Surety Company, and St. Paul Fire and Marine Insurance Company, which resolutions are now in full force and effect, reading as follows:

RESOLVED, that the Chairman, the President, any Vice Chairman, any Executive Vice President, any Senior Vice President, any Vice President, any Second Vice President, the Treasurer, any Assistant Treasurer, the Corporate Secretary or any Assistant Secretary may appoint Attorneys-in-Fact and Agents to act for and on behalf of the Company and may give such appointee such authority as his or her certificate of authority may prescribe to sign with the Company's name and seal with the Company's seal bonds, recognizances, contracts of indemnity, and other writings obligatory in the nature of a bond, recognizance, or conditional undertaking, and any of said officers or the Board of Directors at any time may remove any such appointee and revoke the power given him or her; and it is

FURTHER RESOLVED, that the Chairman, the President, any Vice Chairman, any Executive Vice President, any Senior Vice President or any Vice President may delegate all or any part of the foregoing authority to one or more officers or employees of this Company, provided that each such delegation is in writing and a copy thereof is filed in the office of the Secretary; and it is

FURTHER RESOLVED, that any bond, recognizance, contract of indemnity, or writing obligatory in the nature of a bond, recognizance, or conditional undertaking shall be valid and binding upon the Company when (a) signed by the President, any Vice Chairman, any Executive Vice President, any Senior Vice President or any Vice President, any Second Vice President, the Treasurer, any Assistant Treasurer, the Corporate Secretary or any Assistant Secretary and duly attested and sealed with the Company's seal by a Secretary or Assistant Secretary; or (b) duly executed (under seal, if required) by one or more Attorneys-in-Fact and Agents pursuant to the power prescribed in his or her certificate or their certificates of authority or by one or more Company officers pursuant to a written delegation of authority; and it is

FURTHER RESOLVED, that the signature of each of the following officers: President, any Executive Vice President, any Senior Vice President, any Vice President, any Assistant Vice President, any Secretary, any Assistant Secretary, and the seal of the Company may be affixed by facsimile to any Power of Attorney or to any certificate relating thereto appointing Resident Vice Presidents, Resident Assistant Secretaries or Attorneys-in-Fact for purposes only of executing and attesting bonds and undertakings and other writings obligatory in the nature thereof, and any such Power of Attorney or certificate bearing such facsimile signature or facsimile seal shall be valid and binding upon the Company and any such power so executed and certified by such facsimile signature and facsimile seal shall be valid and binding on the Company in the future with respect to any bond or understanding to which it is attached.

I, **Kevin E. Hughes**, the undersigned, Assistant Secretary of Travelers Casualty and Surety Company of America, Travelers Casualty and Surety Company, and St. Paul Fire and Marine Insurance Company, do hereby certify that the above and foregoing is a true and correct copy of the Power of Attorney executed by said Companies, which remains in full force and effect.

Dated this **25th** day of **May**, 2021



Kevin E. Hughes
Kevin E. Hughes, Assistant Secretary

**To verify the authenticity of this Power of Attorney, please call us at 1-800-421-3880.
Please refer to the above-named Attorney-in-Fact and the details of the bond to which this Power of Attorney is attached.**

Whatcom County
Bid #21-26
Plantation Indoor Range HVAC and Roof Replacement

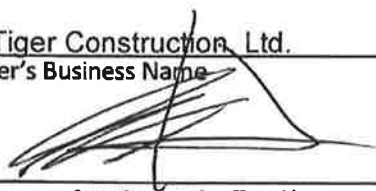
Certification of Compliance with Wage Payment Statutes
(Original signed form must be submitted prior to contract award.)

The bidder hereby certifies that, within the three-year period immediately preceding the bid solicitation date, May 5, 2021, the bidder is not a "willful" violator, as defined in RCW 49.48.082, of any provision of chapters 49.46, 49.48, or 49.52 RCW, as determined by a final and binding citation and notice of assessment issued by the Department of Labor and Industries or through a civil judgment entered by a court of limited or general jurisdiction.



I certify under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

Tiger Construction, Ltd.
Bidder's Business Name


Signature of Authorized Official*

5/25/2021
Date

Scott Isenhardt
Printed Name

President
Title

Everson
City

WA
State

Check One:

Sole Proprietorship ☐ Partnership ☐ Joint Venture ☐ Corporation ☒

State of incorporation, or if not a corporation, State where business entity was formed:

Washington

If a co-partnership, give firm name under which business is transacted:

**If a corporation, proposal must be executed in the corporate name by the president or vice-president (or any other corporate officer accompanied by evidence of authority to sign). If a co-partnership, proposal must be executed by a partner.*



Whatcom County

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

Agenda Bill Master Report

File Number: AB2021-319

File ID:	AB2021-319	Version:	1	Status:	Agenda Ready
File Created:	06/01/2021	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:	06/15/2021	Enactment #:			

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

TITLE FOR AGENDA ITEM:

Request authorization for the County Executive to enter into a contract between Whatcom County and Arc of Whatcom County to provide information, education, and family support to individuals with developmental disabilities, their family members, and the general public, in the amount of \$150,616

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

See attachments

HISTORY OF LEGISLATIVE FILE

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

Attachments: Staff Memo, Proposed Contract



MEMORANDUM

TO: Satpal Sidhu, County Executive
FROM: Erika Lautenbach, Director
RE: Arc of Whatcom County – Information, Education & Family Support Contract
DATE: June 1, 2021

Attached is a contract between Whatcom County and Arc of Whatcom County for your review and signature.

- **Background and Purpose**

Parents and family members are the primary support for individuals with developmental disabilities (DD) across their lifespan. Organizing and connecting families for mutual support and providing timely and accurate information, assistance, and referral are critical to improving outcomes for individuals with DD. The purpose of this contract is to provide “Information, Education and Family Support” to individuals with DD, their family members and the general public. This contract is awarded as a result of RFP 21-08.

- **Funding Amount and Source**

Funding for this contract, in an amount not to exceed \$150,616, is provided by the Washington State Department of Social and Health Services, Developmental Disabilities Administration and local DD Millage funds. Funding is included in the 2021 – 2022 budgets. Council approval is required as funding exceeds \$40,000.

- **Differences Between Previous Contracts**

This is a new contract; however, funding for these services has been provided through previous contracts between Whatcom County and Arc of Whatcom County since 2011. This contract includes no significant changes from the contract that is currently in place (WC Contract #201706034).

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 No. _____		
Originating Department:		85 Health		
Division/Program: (i.e. Dept. Division and Program)		8550 Human Services / 855050 Developmental Disabilities		
Contract or Grant Administrator:		Jessica Lee		
Contractor's / Agency Name:		Arc of Whatcom County		
Is this a New Contract? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	If not, is this an Amendment or Renewal to an Existing Contract? If Amendment or Renewal, (per WCC 3.08.100 (a)) Original Contract #:		Yes <input type="checkbox"/> No <input type="checkbox"/>	
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? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	If yes, grantor agency contract number(s): _____		CFDA#: _____	
Is this contract grant funded? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	If yes, Whatcom County grant contract number(s): _____		201906024	
Is this contract the result of a RFP or Bid process? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	If yes, RFP and Bid number(s): 21-08		Contract Cost Center: 673800 / 127200	
Is this agreement excluded from E-Verify? No <input checked="" type="checkbox"/> Yes <input type="checkbox"/>				
If YES, indicate exclusion(s) below:				
<input 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): \$ 150,616		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: This contract provides funding for supports to individuals with developmental disabilities, their families or caregivers, and the general public.				
Term of Contract:	1 Year	Expiration Date:	06/30/2022	
Contract Routing:	1. Prepared by:	JT	Date:	03/18/2021
	2. Health Budget Approval:	KR/JG	Date:	05/24/2021
	3. Attorney signoff:	RB	Date:	05/27/2021
	4. AS Finance reviewed:	M Caldwell	Date:	5/25/21
	5. IT reviewed (if IT related):		Date:	
	6. Contractor approved:		Date:	
	7. Submitted to Exec.:		Date:	
	8. Council approved (if necessary):	AB2021-319	Date:	
	9. Executive signed:		Date:	
	10. Original to Council:		Date:	

CONTRACT FOR SERVICES
Between Whatcom County and Arc of Whatcom County

Arc of Whatcom County, hereinafter called **Contractor** and Whatcom County, hereinafter referred to as **County**, agree and contract as set forth in this Agreement, including:

General Conditions, pp. 3 to 13,
Exhibit A (Scope of Work), pp. 14 to 19,
Exhibit B (Compensation), pp. 20 to 21,
Exhibit C (Certificate of Insurance), p. 22,
Exhibit D (Special Projects Authorization Form).

Copies of these items are attached hereto and incorporated herein by this reference as if fully set forth herein.

The term of this Agreement shall commence on the 1st day of July, 2021 and shall, unless terminated or renewed as elsewhere provided in the Agreement, terminate on the 30th day of June, 2022.

The general purpose or objective of this Agreement is to **provide services to individuals with developmental disabilities, their family members and the general public** as more fully and definitively described in Exhibit A hereto. The language of Exhibit A controls in case of any conflict between it and that provided here.

The maximum consideration for the initial term of this agreement is estimated at \$150,616. The Contract Number, set forth above, shall be included on all billings or correspondence in connection therewith.

Contractor acknowledges and by signing this contract agrees that the Indemnification provisions set forth in Paragraphs 11.1, 21.1, 30.1, 31.2, 32.1, 34.2, and 34.3, if included, are totally and fully part of this contract and have been mutually negotiated by the parties.

Each person signing this Contract represents and warrants that he or she is duly authorized and has legal capacity to execute and deliver this Contract.

IN WITNESS WHEREOF, the parties have executed this Agreement this ____ day of _____, 2021.

CONTRACTOR:

Arc of Whatcom County
2602 McLeod Road
Bellingham, WA 98225

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 to bind the party thereto.

Beverly Porter, Executive Director

Recommended for Approval:

Date _____

Date _____

Approved as to form:

Date _____

Accepted for Whatcom County:

By: _____
Satpal Singh Sidhu, Whatcom County Executive

CONTRACTOR INFORMATION:

Beverly Porter, Executive Director

Bellingham, WA 98225

beverlyp@arcwhatcom.org

GENERAL CONDITIONS

Series 00-09: Provisions Related to Scope and Nature of Services

0.1 Scope of Services:

The Contractor agrees to provide to the County services and any materials as set forth in the project narrative identified as Exhibit "A", during the agreement period. No material, labor, or facilities will be furnished by the County, unless otherwise provided for in the Agreement.

Series 10-19: Provisions Related to Term and Termination

10.1 Term:

Services provided by Contractor prior to or after the term of this contract shall be performed at the expense of Contractor and are not compensable under this contract unless both parties hereto agree to such provision in writing. The term of this Agreement may be extended by mutual agreement of the parties; provided, however, that the Agreement is in writing and signed by both parties.

10.2 Extension:

The duration of this Agreement may be extended by mutual written consent of the parties, for a period of up to one year, and for a total of no longer than three years.

11.1 Termination for Default:

If the Contractor defaults by failing to perform any of the obligations of the contract or becomes insolvent or is declared bankrupt or commits any act of bankruptcy or insolvency or makes an assignment for the benefit of creditors, the County may, by depositing written notice to the Contractor in the U.S. mail, first class postage prepaid, terminate the contract, and at the County's option, obtain performance of the work elsewhere. Termination shall be effective upon Contractor's receipt of the written notice, or within three (3) days of the mailing of the notice, whichever occurs first. If the contract is terminated for default, the Contractor shall not be entitled to receive any further payments under the contract until all work called for has been fully performed. Any extra cost or damage to the County resulting from such default(s) shall be deducted from any money due or coming due to the Contractor. The Contractor shall bear any extra expenses incurred by the County in completing the work, including all increased costs for completing the work, and all damage sustained, or which may be sustained by the County by reason of such default.

11.2 Termination for Reduction in Funding:

In the event that 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 its normal completion, the County may summarily terminate this Agreement as to the funds withdrawn, reduced, or limited, notwithstanding any other termination provisions of this Agreement. If the level of funding withdrawn, reduced or limited is so great that the County deems that the continuation of the programs covered by this Agreement is no longer in the best interest of the County, the County may summarily terminate this Agreement in whole, notwithstanding any other termination provisions of this Agreement. Termination under this section shall be effective upon receipt of written notice as specified herein, or within three days of the mailing of the notice, whichever occurs first.

11.3 Termination for Public Convenience:

The County may terminate the Agreement in whole or in part whenever the County determines, in its sole discretion, that such termination is in the interests of the County. Whenever the Agreement is terminated in accordance with this paragraph, the Contractor shall be entitled to payment for actual work performed at unit contract prices for completed items of work. An equitable adjustment in the contract price for partially completed items of work will be made, but such adjustment shall not include provision for loss of anticipated profit on deleted or uncompleted work. Termination of this Agreement by the County at any time during the term, whether for default or convenience, shall not constitute breach of contract by the County.

Series 20-29: Provisions Related to Consideration and Payments

20.1 Accounting and Payment for Contractor Services:

Payment to the Contractor for services rendered under this Agreement shall be as set forth in Exhibit "B." Where Exhibit "B" requires payments by the County, payment shall be based upon written claims supported, unless otherwise provided in Exhibit "B," by documentation of units of work actually performed and amounts earned, including, where appropriate, the actual number of days worked each month, total number of hours for the month, and the total dollar payment requested, so as to comply with municipal auditing requirements.

Unless specifically stated in Exhibit "B" or approved in writing in advance by the official executing this Agreement for the County or his designee (hereinafter referred to as the "Administrative Officer") the County will not reimburse the Contractor for any costs or expenses incurred by the Contractor in the performance of this contract. Where required, the County shall, upon receipt of appropriate documentation, compensate the Contractor, no more often than monthly, in accordance with the County's customary procedures, pursuant to the fee schedule set forth in Exhibit "B."

21.1 Taxes:

The Contractor understands and acknowledges that the County will not withhold Federal or State income taxes. Where required by State or Federal law, the Contractor authorizes the County to withhold for any taxes other than income taxes (i.e., Medicare). All compensation received by the Contractor will be reported to the Internal Revenue Service at the end of the calendar year in accordance with the applicable IRS regulations. It is the responsibility of the Contractor to make the necessary estimated tax payments throughout the year, if any, and the Contractor is solely liable for any tax obligation arising from the Contractor's performance of this Agreement. The Contractor hereby agrees to indemnify the County against any demand to pay taxes arising from the Contractor's failure to pay taxes on compensation earned pursuant to this Agreement.

The County will pay sales and use taxes imposed on goods or services acquired hereunder as required by law. The Contractor must pay all other taxes, including, but not limited to, Business and Occupation Tax, taxes based on the Contractor's gross or net income, or personal property to which the County does not hold title. The County is exempt from Federal Excise Tax.

22.1 Withholding Payment:

In the event the County's Administrative Officer determines that the Contractor has failed to perform any obligation under this Agreement within the times set forth in this Agreement, then the County may withhold from amounts otherwise due and payable to Contractor the amount determined by the County as necessary to cure the default, until the Administrative Officer determines that such failure to perform has been cured. Withholding under this clause shall not be deemed a breach entitling Contractor to termination or damages, provided that the County promptly gives notice in writing to the Contractor of the nature of the default or failure to perform, and in no case more than 10 days after it determines to withhold amounts otherwise due. A determination of the Administrative Officer set forth in a notice to the Contractor of the action required and/or the amount required to cure any alleged failure to perform shall be deemed conclusive, except to the extent that the Contractor acts within the times and in strict accord with the provisions of the Disputes clause of this Agreement. The County may act in accordance with any determination of the Administrative Officer which has become conclusive under this clause, without prejudice to any other remedy under the Agreement, to take all or any of the following actions: (1) cure any failure or default, (2) to pay any amount so required to be paid and to charge the same to the account of the Contractor, (3) to set off any amount so paid or incurred from amounts due or to

become due the Contractor. In the event the Contractor obtains relief upon a claim under the Disputes clause, no penalty or damages shall accrue to Contractor by reason of good faith withholding by the County under this clause.

23.1 Labor Standards:

The Contractor agrees to comply with all applicable state and federal requirements, including but not limited to those pertaining to payment of wages and working conditions, in accordance with RCW 39.12.040, the Prevailing Wage Act; the Americans with Disabilities Act of 1990; the Davis-Bacon Act; and the Contract Work Hours and Safety Standards Act providing for weekly payment of prevailing wages, minimum overtime pay, and providing that no laborer or mechanic shall be required to work in surroundings or under conditions which are unsanitary, hazardous, or dangerous to health and safety as determined by regulations promulgated by the Federal Secretary of Labor and the State of Washington.

Series 30-39: Provisions Related to Administration of Agreement

30.1 Independent Contractor:

The Contractor's services shall be furnished by the Contractor as an independent contractor, and nothing herein contained shall be construed to create a relationship of employer-employee or master-servant, but all payments made hereunder and all services performed shall be made and performed pursuant to this Agreement by the Contractor as an independent contractor.

The Contractor acknowledges that the entire compensation for this Agreement is specified in Exhibit "B" and the Contractor is not entitled to any benefits including, but not limited to: vacation pay, holiday pay, sick leave pay, medical, dental, or other insurance benefits, or any other rights or privileges afforded to employees of the County. The Contractor represents that he/she/it maintains a separate place of business, serves clients other than the County, will report all income and expense accrued under this contract to the Internal Revenue Service, and has a tax account with the State of Washington Department of Revenue for payment of all sales and use and Business and Occupation taxes collected by the State of Washington.

Contractor will defend, indemnify and hold harmless the County, its officers, agents or employees from any loss or expense, including, but not limited to, settlements, judgments, setoffs, attorneys' fees or costs incurred by reason of claims or demands because of breach of the provisions of this paragraph

30.2 Assignment and Subcontracting:

The performance of all activities contemplated by this agreement shall be accomplished by the Contractor. No portion of this contract may be assigned or subcontracted to any other individual, firm or entity without the express and prior written approval of the County.

30.3 No Guarantee of Employment:

The performance of all or part of this contract by the Contractor shall not operate to vest any employment rights whatsoever and shall not be deemed to guarantee any employment of the Contractor or any employee of the Contractor or any subcontractor or any employee of any subcontractor by the County at the present time or in the future.

31.1 Ownership of Items Produced and Public Records Act:

All writings, programs, data, public records or other materials prepared by the Contractor and/or its consultants or subcontractors, in connection with performance of this Agreement, shall be the sole and absolute property of the County. If the Contractor creates any copyrightable materials or invents any patentable property, the Contractor may copyright or patent the same, but the County retains a royalty-free, nonexclusive and irrevocable license to reproduce, publish, recover, or otherwise use the materials or property and to authorize other governments to use the same for state or local governmental purposes. Contractor further agrees to make research, notes, and other work products produced in the performance of this Agreement available to the County upon request.

Ownership. Any and all data, writings, programs, public records, reports, analyses, documents, photographs, pamphlets, plans, specifications, surveys, films or any other materials created, prepared, produced, constructed, assembled, made, performed or otherwise produced by the Contractor or the Contractor's subcontractors or consultants for delivery to the County under this Contract shall be the sole and absolute property of the County. Such property shall constitute "work made for hire" as defined by the U.S. Copyright Act of 1976, 17 U.S.C. § 101, and the

ownership of the copyright and any other intellectual property rights in such property shall vest in the County at the time of its creation. Ownership of the intellectual property includes the right to copyright, patent, and register, and the ability to transfer these rights. Material which the Contractor uses to perform this Contract but is not created, prepared, constructed, assembled, made, performed or otherwise produced for or paid for by the County is owned by the Contractor and is not "work made for hire" within the terms of this Agreement.

Public Records Act. This Contract and all records associated with this Contract shall be available for inspection and copying by the public where required by the Public Records Act, Chapter 42.56 RCW (the "Act"). To the extent that public records then in the custody of the Contractor are needed for the County to respond to a request under the Act, as determined by the County, the Contractor agrees to make them promptly available to the County at no cost to the County. If the Contractor considers any portion of any record provided to the County under this Agreement, whether in electronic or hard copy form, to be protected from disclosure under law, the Contractor shall clearly identify any specific information that it claims to be confidential or proprietary. If the County receives a request under the Act to inspect or copy the information so identified by the Contractor and the County determines that release of the information is required by the Act or otherwise appropriate, the County's sole obligations shall be to notify the Contractor (a) of the request and (b) of the date that such information will be released to the requester unless the Contractor obtains a court order to enjoin that disclosure pursuant to RCW 42.56.540. If the Contractor fails to timely obtain a court order enjoining disclosure, the County will release the requested information on the date specified.

The County has, and by this section assumes, no obligation on behalf of the Contractor to claim any exemption from disclosure under the Act. The County shall not be liable to the Contractor for releasing records not clearly identified by the Contractor as confidential or proprietary. The County shall not be liable to the Contractor for any records that the County releases in compliance with this section or in compliance with an order of a court of competent jurisdiction.

The Contractor shall be liable to the requester for any and all fees, costs, penalties or damages imposed or alleged as a result of the Contractor's failure to provide adequate or timely records.

This provision and the obligations it establishes shall remain in effect after the expiration of this contract.

31.2 Patent/Copyright Infringement:

Contractor will defend and indemnify the County from any claimed action, cause or demand brought against the County, to the extent such action is based on the claim that information supplied by the Contractor infringes any patent or copyright. The Contractor will pay those costs and damages attributable to any such claims that are finally awarded against the County in any action. Such defense and payments are conditioned upon the following:

A. The Contractor shall be notified promptly in writing by the County of any notice of such claim.

B. Contractor shall have the right, hereunder, at its option and expense, to obtain for the County the right to continue using the information, in the event such claim of infringement, is made, provided no reduction in performance or loss results to the County.

32.1 Confidentiality:

The Contractor, its employees, subcontractors, and their employees shall maintain the confidentiality of all information provided by the County or acquired by the Contractor in performance of this Agreement, except upon the prior written consent of the County or an order entered by a court after having acquired jurisdiction over the County. Contractor shall immediately give to the County notice of any judicial proceeding seeking disclosure of such information. Contractor shall indemnify and hold harmless the County, its officials, agents or employees from all loss or expense, including, but not limited to, settlements, judgments, setoffs, attorneys' fees and costs resulting from Contractor's breach of this provision.

33.1 Right to Review:

This contract is subject to review by any Federal, State or County auditor. The County or its designee shall have the right to review and monitor the financial and service components of this program by whatever means are deemed expedient by the Administrative Officer or by the County Auditor's Office. Such review may occur with or without notice and may include, but is not limited to, on-site inspection by County agents or employees, inspection of all records or other materials which the County deems pertinent to the Agreement and its performance, and any and all communications with or evaluations by service recipients under this Agreement. The Contractor shall preserve and maintain all financial records and records relating to the performance of work under this Agreement for three (3) years after contract termination, and shall make them available for such review, within Whatcom County, State of Washington, upon request. Contractor also agrees to notify the Administrative Officer in advance of any inspections, audits, or

program review by any individual, agency, or governmental unit whose purpose is to review the services provided within the terms of this Agreement. If no advance notice is given to the Contractor, then the Contractor agrees to notify the Administrative Officer as soon as it is practical.

34.1 Insurance: Commercial General Liability and Business Automobile Liability

The Contractor shall, at its own expense, obtain and continuously maintain the following insurance coverage for the duration of this contract, which shall include insurance against claims for injuries to persons or damage to property which may arise from or in connection with the performance of the work hereunder by the Contractor, its agents, representatives, subcontractors or employees. All insurers providing such insurance shall have an A.M. Best Rating of not less than A- (or otherwise be acceptable to the County) and be licensed to do business in the State of Washington and admitted by the Washington State Insurance Commissioner. Coverage limits shall be the minimum limits identified in this Contract or the coverage limits provided or available under the policies maintained by the Contractor without regard to this Contract, whichever are greater.

1. Commercial General Liability

Property Damage	\$500,000.00, per occurrence
General Liability & bodily injury	\$1,000,000.00, per occurrence
Annual Aggregate	\$2,000,000.00

At least as broad as ISO form CG 00 01 or the equivalent, which coverage shall include personal injury, bodily injury and property damage for Premises Operations, Products and Completed Operations, Personal/Advertising Injury, Contractual Liability, Independent Contractor Liability, medical payments and Stop Gap/Employer's Liability. Coverage shall not exclude or contain sub-limits less than the minimum limits required, unless approved in writing by the County.

2. Business Automobile Liability

\$1,000,000.00	Minimum, per occurrence
\$2,000,000.00	Minimum, Annual Aggregate

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

3. Additional Insurance Requirements and Provisions

- a. All insurance policies shall provide coverage on an occurrence basis.
- b. Additional Insureds. Whatcom County, its departments, elected and appointed officials, employees, agents and volunteers shall be included as additional insureds on Contractor's and Contractor's subcontractors' insurance policies by way of endorsement for the full available limits of insurance required in this contract or maintained by the Contractor and subcontractor, whichever is greater.
- c. Primary and Non-contributory Insurance. Contractor shall provide primary insurance coverage and the County's insurance shall be non-contributory. Any insurance, self-insured retention, deductible, risk retention or insurance pooling maintained or participated in by the County shall be excess and non-contributory to Contractor's insurance.
- d. Waiver of Subrogation. The insurance policy shall provide a waiver of subrogation with respect to each insurance policy maintained under this Contract. When required by an insurer, or if a policy condition does not permit Contractor to enter into a pre-loss agreement to waive subrogation without an endorsement, then Contractor agrees to notify the insurer and obtain such endorsement. This requirement shall not apply to any policy which includes a condition expressly prohibiting waiver of subrogation by the insured or which voids coverage should the Contractor enter into such a waiver of subrogation on a pre-loss basis.
- e. Review of and Revision of Policy Provisions. Upon request, the Contractor shall provide a full and complete certified copy of all requested insurance policies to the County. The County reserves the right, but not the

obligation, to revise any insurance requirement, including but not limited to limits, coverages and endorsements, or to reject any insurance policies which fail to meet the requirements of this Contract. Additionally, the County reserves the right, but not the obligation, to review and reject any proposed insurer providing coverage based upon the insurer's financial condition or licensing status in Washington.

- f. Verification of Coverage/Certificates and Endorsements. The Contractor shall furnish the County with a certificate of insurance and endorsements required by this contract. The certificates and endorsements for each policy shall be signed by a person authorized by the insurer to bind coverage on its behalf. The certificate and endorsements for each insurance policy are to be on forms approved by the County prior to commencement of activities associated with the contract. The certificate and endorsements, and renewals thereof, shall be attached hereto as Exhibit "C". If Exhibit C is not attached, the Contractor must submit the certificate and endorsements required in this contract to the County prior to the commencement of any work on the contracted project. A certificate alone is insufficient proof of the required insurance; endorsements must be included with the certificate. The certificate of insurance must reflect the insurance required in this contract, including appropriate limits, insurance coverage dates, per occurrence, and in the description of operations, include the County project, Whatcom County, its departments, officials, employees, agents and volunteers as additional insureds, primary, non-contributory, and waiver of subrogation.
- g. The County must be notified immediately in writing of any cancellation of the policy, exhaustion of aggregate limits, notice of intent not to renew insurance coverage, expiration of policy or change in insurer carrier. Contractor shall always provide the County with a current copy of the certificate and endorsements throughout the duration of the contract.
- h. No Limitation on Liability. The insurance maintained under this Contract shall not in any manner limit the liability or qualify the liabilities or obligations of the Contractor to the coverage provided by such insurance, or otherwise limit the County's recourse to any remedy available at law or equity.
- i. Payment Conditioned on Insurance and Failure to Maintain Insurance. Compensation and/or payments due to the Contractor under this Contract are expressly conditioned upon the Contractor's compliance with all insurance requirements. Failure on the part of the Contractor to maintain the insurance as required shall constitute a material breach of contract. Payment to the Contractor may be suspended in the event of non-compliance, upon which the County may, after giving five business days' notice to the Contractor to correct the breach, immediately terminate the contract or, at its discretion, procure or renew such insurance and pay any and all premiums in connection therewith, with any sums so expended to be repaid to the County on demand or offset against funds due the Contractor. Upon receipt of evidence of Contractor's compliance, payments not otherwise subject to withholding or set-off will be released to the Contractor.
- j. Workers' Compensation. The Contractor shall maintain Workers' Compensation coverage as required under the Washington State Industrial Insurance Act, RCW Title 51, for all Contractors' employees, agents and volunteers eligible for such coverage under the Industrial Insurance Act.
- k. Failure of the Contractor to take out and/or maintain required insurance shall not relieve the Contractor or subcontractors from any liability under the contract, nor shall the insurance requirements be construed to conflict with or otherwise limit the obligations concerning indemnification. The County does not waive any insurance requirements even in the event the certificate or endorsements provided by the Contractor were insufficient or inadequate proof of coverage but not objected to by the County. The County's failure to confirm adequate proof of insurance requirements does not constitute a waiver of the Contractor's insurance requirements under this Contract.
- l. Availability of Contractor Limits. If the Contractor maintains higher insurance limits than the minimums shown above, the County shall be insured for the full available limits, including Excess or Umbrella liability maintained by the Contractor, irrespective of whether such limits maintained by the Contractor are greater than those required by this contract or whether any certificate furnished to the County evidences limits of liability lower than those maintained by the Contractor.

- m. Insurance for Subcontractors. If the Contractor subcontracts (if permitted in the contract) any portion of this Contract, the Contractor shall include all subcontractors as insureds under its policies or shall require separate certificates of insurance and policy endorsements from each subcontractor. Insurance coverages by subcontractors must comply with the insurance requirements of the Contractor in this contract and shall be subject to all of the requirements stated herein, including naming the County as additional insured.
- n. The Contractor agrees Contractor's insurance obligation shall survive the completion or termination of this Contract for a minimum period of three years.

34.3 Defense & Indemnity Agreement:

To the fullest extent permitted by law, the Contractor agrees to indemnify, defend and hold the County and its departments, elected and appointed officials, employees, agents and volunteers, harmless from and against any and all claims, damages, losses and expenses, including but not limited to court costs, attorney's fees, and alternative dispute resolution costs, for any personal injury, for any bodily injury, sickness, disease, or death and for any damage to or destruction of any property (including the loss of use resulting therefrom) which: 1) are caused in whole or in part by any error, act or omission, negligent or otherwise, of the Contractor, its employees, agents or volunteers or Contractor's subcontractors and their employees, agents or volunteers; or 2) directly or indirectly arise out of or occur in connection with performance of this Contract or 3) are based upon the Contractor's or its subcontractors' use of, presence upon, or proximity to the property of the County. This indemnification obligation of the Contractor shall not apply in the limited circumstance where the claim, damage, loss, or expense is caused by the sole negligence of the County.

Should a court of competent jurisdiction determine that this contract is subject to RCW 4.24.115, then in the event of concurrent negligence of the Contractor, its subcontractors, employees or agents, and the County, its employees or agents, this indemnification obligation of the Contractor shall be valid and enforceable only to the extent of the negligence of the Contractor, its subcontractors, employees, and agents. This indemnification obligation of the Contractor shall not be limited in any way by the Washington State Industrial Insurance Act, RCW Title 51, or by application of any other workmen's compensation act, disability benefit act or other employee benefit act, and the Contractor hereby expressly waives any immunity afforded by such acts.

It is further provided that no liability shall attach to the County by reason of entering into this contract, except as expressly provided herein. The parties specifically agree that this Contract is for the benefit of the parties only and this Contract shall create no rights in any third party. The County reserves the right, but not the obligation, to participate in the defense of any claim, damages, losses, or expenses, and such participation shall not constitute a waiver of Contractor's indemnity obligations under this Agreement.

In the event the Contractor enters into subcontracts to the extent allowed under this Contract, the Contractor's subcontractors shall indemnify the County on a basis equal to or exceeding Contractor's indemnity obligations to the County. The Contractor shall pay all attorney's fees and expenses incurred by the County in establishing and enforcing the County's rights under this indemnification provision, whether or not suit was instituted.

The Contractor agrees all Contractor's indemnity obligations shall survive the completion, expiration or termination of this Agreement. The foregoing indemnification obligations of the Contractor are a material inducement to County to enter into this Agreement and are reflected in the Contractor's compensation.

By signing this contract, the Contractor acknowledges that it has freely negotiated and agreed to the indemnification requirements to defend, indemnify and hold harmless the County from all claims and suits including those brought against the County by the Contractor's own employees, arising from this contract.

35.1 Non-Discrimination in Employment:

The County's policy is to provide equal opportunity in all terms, conditions and privileges of employment for all qualified applicants and employees without regard to race, color, creed, religion, national origin, sex, sexual orientation (including gender identity), age, marital status, disability, or veteran status. The Contractor shall comply with all laws prohibiting discrimination against any employee or applicant for employment on the grounds of race, color, creed, religion, national origin, sex, sexual orientation (including gender identity), age, marital status, disability, political affiliation, or veteran status, except where such constitutes a bona fide occupational qualification.

Furthermore, in those cases in which the Contractor is governed by such laws, the Contractor shall take affirmative action to insure that applicants are employed, and treated during employment, without regard to their race, color, creed, religion, national origin, sex, age, marital status, sexual orientation (including gender identity), disability, or veteran status, except where such constitutes a bona fide occupational qualification. Such action shall include, but not be limited to: advertising, hiring, promotions, layoffs or terminations, rate of pay or other forms of compensation benefits, selection for training including apprenticeship, and participation in recreational and educational activities. In all solicitations or advertisements for employees placed by them or on their behalf, the Contractor shall state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex or national origin.

The foregoing provisions shall also be binding upon any subcontractor, provided that the foregoing provision shall not apply to contracts or subcontractors for standard commercial supplies or raw materials, or to sole proprietorships with no employees.

35.2 Non-Discrimination in Client Services:

The Contractor shall not discriminate on the grounds of race, color, creed, religion, national origin, sex, age, marital status, sexual orientation (including gender identity), disability, or veteran status; or deny an individual or business any service or benefits under this Agreement unless otherwise allowed by applicable law; or subject an individual or business to segregation or separate treatment in any manner related to his/her/its receipt any service or services or other benefits provided under this Agreement unless otherwise allowed by applicable law; or deny an individual or business an opportunity to participate in any program provided by this Agreement unless otherwise allowed by applicable law.

36.1 Waiver of Noncompetition:

Contractor irrevocably waives any existing rights which it may have, by contract or otherwise, to require another person or corporation to refrain from submitting a proposal to or performing work or providing supplies to the County, and contractor further promises that it will not in the future, directly or indirectly, induce or solicit any person or corporation to refrain from submitting a bid or proposal to or from performing work or providing supplies to the County.

36.2 Conflict of Interest:

If at any time prior to commencement of, or during the term of this Agreement, Contractor or any of its employees involved in the performance of this Agreement shall have or develop an interest in the subject matter of this Agreement that is potentially in conflict with the County's interest, then Contractor shall immediately notify the County of the same. The notification of the County shall be made with sufficient specificity to enable the County to make an informed judgment as to whether or not the County's interest may be compromised in any manner by the existence of the conflict, actual or potential. Thereafter, the County may require the Contractor to take reasonable steps to remove the conflict of interest. The County may also terminate this contract according to the provisions herein for termination.

37.1 Administration of Contract:

This Agreement shall be subject to all laws, rules, and regulations of the United States of America, the State of Washington, and political subdivisions of the State of Washington. The Contractor also agrees to comply with applicable federal, state, county or municipal standards for licensing, certification and operation of facilities and programs, and accreditation and licensing of individuals.

The County hereby appoints, and the Contractor hereby accepts, the Whatcom County Executive, and his or her designee, as the County's representative, hereinafter referred to as the Administrative Officer, for the purposes of administering the provisions of this Agreement, including the County's right to receive and act on all reports and documents, and any auditing performed by the County related to this Agreement. The Administrative Officer for purposes of this agreement is:

Jessica Lee, Program Specialist

37.2 Notice:

Any notices or communications required or permitted to be given by this Contract must be (i) given in writing and (ii) personally delivered or mailed, by prepaid, certified mail or overnight courier, or transmitted by electronic mail transmission (including PDF), to the party to whom such notice or communication is directed, to the mailing address or regularly-monitored electronic mail address of such party as follows:

Whatcom County Health Department
Jessica Lee, Program Specialist
509 Girard Street
Bellingham, WA 98225
360-778-6047
JLLee@co.whatcom.wa.us

Arc of Whatcom County
Beverly Porter, Executive Director
2602 McLeod Road
Bellingham, WA 98225
360-715-0170
beverlyp@arcwhatcom.org

Any such notice or communication shall be deemed to have been given on (i) the day such notice or communication is personally delivered, (ii) three (3) days after such notice or communication is mailed by prepaid certified or registered mail, (iii) one (1) working day after such notice or communication is sent by overnight courier, or (iv) the day such notice or communication is sent electronically, provided that the sender has received a confirmation of such electronic transmission. A party may, for purposes of this Agreement, change his, her or its address, email address or the person to whom a notice or other communication is marked to the attention of, by giving notice of such change to the other party pursuant to this Section.

37.3 If agreed by the parties, this Contract may be executed by Email transmission and PDF signature and Email transmission and PDF signature shall constitute an original for all purposes.

38.1 Certification of Public Works Contractor's Status under State Law:

If applicable, Contractor certifies that it has fully met the responsibility criteria required of public works contractors under RCW 39.04.350 (1), which include: (a) having a certificate of registration in compliance with RCW 18.27; (b) having a current state unified business identifier number; (c) if applicable, having industrial insurance coverage for its employees working in Washington as required in Title 51 RCW, an employment security department number as required in Title 50 RCW, and a state excise tax registration number as required in Title 82 RCW; and (d) not being disqualified from bidding on any public works contract under RCW 39.06.010 or 39.12.065 (3).

38.2 Certification Regarding Federal Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transactions:

If applicable, the Contractor further certifies, by executing this contract, that neither it nor its principles is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or Agency.

The Contractor also agrees that it shall not knowingly enter into any lower tier covered transactions (a transaction between the Contractor and any other person) with a person who is proposed for debarment, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, and the Contractor agrees to include this clause titled "Certification Regarding Federal Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transaction" without modification, in all lower tier covered transactions and in all solicitations for lower tier transactions.

The "Excluded Parties List System in the System for Award Management (SAM) website is available to research this information at WWW.SAM.GOV. Contractor shall immediately notify Whatcom County if, during the term of this Contract, Contractor becomes debarred.

38.3 E-Verify:

The E-Verify contractor program for Whatcom County applies to contracts of \$100,000 or more and sub contracts for \$25,000 or more if the primary contract is for \$100,000 or more. If applicable, Contractor represents and warrants that it will, for at least the duration of this contract, register and participate in the status verification system for all newly hired employees. The term "employee" as used herein means any person that is hired to perform work for Whatcom County. As used herein, "status verification system" means the Illegal Immigration Reform and Immigration Responsibility Act of 1996 that is operated by the United States Department of Homeland Security, also known as the E-Verify Program, or any other successor electronic verification system replacing the E-Verify Program. Contractor/Seller agrees to maintain records of such compliance and, upon request of the County, to provide a copy of each such verification to the County. Contractor/Seller further represents and warrants that any person assigned to perform services hereunder meets the employment eligibility requirements of all immigration laws of the State of Washington. Contractor/Seller understands and agrees that any breach of these warranties may subject Contractor/Seller to the following: (a) termination of this Agreement and ineligibility for any Whatcom County contract for up to three (3) years, with notice of such cancellation/termination being made public. In the event of such termination/cancellation, Contractor/Seller would also be liable for any additional costs incurred by the County due to contract cancellation or loss of license or permit." Contractor will review and enroll in the E-Verify program through this website: www.uscis.gov

Series 40-49: Provisions Related to Interpretation of Agreement and Resolution of Disputes

40.1 Modifications:

Either party may request changes in the Agreement. Any and all agreed modifications, to be valid and binding upon either party, shall be in writing and signed by both of the parties.

40.2 Contractor Commitments, Warranties and Representations:

Any written commitment received from the Contractor concerning this Agreement shall be binding upon the Contractor, unless otherwise specifically provided herein with reference to this paragraph. Failure of the Contractor to fulfill such a commitment shall render the Contractor liable for damages to the County. A commitment includes, but is not limited to, any representation made prior to execution of this Agreement, whether or not incorporated elsewhere herein by reference, as to performance of services or equipment, prices or options for future acquisition to remain in effect for a fixed period, or warranties.

41.1 Severability:

If any term or condition of this contract or the application thereof to any person(s) or circumstances is held invalid, such invalidity shall not affect other terms, conditions or applications which can be given effect without the invalid term, condition or application. To this end, the terms and conditions of this contract are declared severable.

41.2 Waiver:

Waiver of any breach or condition of this contract shall not be deemed a waiver of any prior or subsequent breach. No term or condition of this contract shall be held to be waived, modified or deleted except by an instrument, in writing, signed by the parties hereto. The failure of the County to insist upon strict performance of any of the covenants and agreements of this Agreement, or to exercise any option herein conferred in any one or more instances, shall not be construed to be a waiver or relinquishment of any such, or any other covenants or agreements, but the same shall be and remain in full force and effect.

42.1 Disputes:

a. General:

Differences between the Contractor and the County, arising under and by virtue of the Contract Documents, shall be brought to the attention of the County at the earliest possible time in order that such matters may be settled or other appropriate action promptly taken. Except for such objections as are made of record in the manner hereinafter specified and within the time limits stated, the records, orders, rulings, instructions, and decisions of the Administrative Officer shall be final and conclusive.

b. Notice of Potential Claims:

The Contractor shall not be entitled to additional compensation which otherwise may be payable, or to extension of time for (1) any act or failure to act by the Administrative Officer or the County, or (2) the happening of any event or occurrence, unless the Contractor has given the County a written Notice of Potential Claim within ten (10) days of the

commencement of the act, failure, or event giving rise to the claim, and before final payment by the County. The written Notice of Potential Claim shall set forth the reasons for which the Contractor believes additional compensation or extension of time is due, the nature of the cost involved, and insofar as possible, the amount of the potential claim. Contractor shall keep full and complete daily records of the work performed, labor and material used, and all costs and additional time claimed to be additional.

c. Detailed Claim:

The Contractor shall not be entitled to claim any such additional compensation, or extension of time, unless within thirty (30) days of the accomplishment of the portion of the work from which the claim arose, and before final payment by the County, the Contractor has given the County a detailed written statement of each element of cost or other compensation requested and of all elements of additional time required, and copies of any supporting documents evidencing the amount or the extension of time claimed to be due.

d. Arbitration:

Other than claims for injunctive relief, temporary restraining order, or other provisional remedy to preserve the status quo or prevent irreparable harm, brought by a party hereto (which may be brought either in court or pursuant to this arbitration provision), and consistent with the provisions hereinabove, any claim, dispute or controversy between the parties under, arising out of, or related to this Contract or otherwise, including issues of specific performance, shall be determined by arbitration in Bellingham, Washington, under the applicable American Arbitration Association (AAA) rules in effect on the date hereof, as modified by this Agreement. There shall be one arbitrator selected by the parties within ten (10) days of the arbitration demand, or if not, by the AAA or any other group having similar credentials. Any issue about whether a claim is covered by this Contract shall be determined by the arbitrator. The arbitrator shall apply substantive law and may award injunctive relief, equitable relief (including specific performance), or any other remedy available from a judge but shall not have the power to award punitive damages. Each Party shall pay all their own costs, attorney fees and expenses of arbitration and the parties shall share equally in the Arbitrator's fees and costs. The decision of the arbitrator shall be final and binding and an order confirming the award or judgment upon the award may be entered in any court having jurisdiction. The parties agree that the decision of the arbitrator shall be the sole and exclusive remedy between them regarding any dispute presented or pled before the arbitrator. At the request of either party made not later than forty-five (45) days after the arbitration demand, the parties agree to submit the dispute to nonbinding mediation, which shall not delay the arbitration hearing date; provided, that either party may decline to mediate and proceed with arbitration.

Any arbitration proceeding commenced to enforce or interpret this Contract shall be brought within six years after the initial occurrence giving rise to the claim, dispute, or issue for which arbitration is commenced, regardless of the date of discovery or whether the claim, dispute, or issue was continuing in nature. Claims, disputes, or issues arising more than six years prior to a written request or demand for arbitration issued under this Contract are not subject to arbitration.

- e. The parties may agree in writing signed by both parties that a claim or dispute may be brought in Whatcom County Superior Court rather than mediation or arbitration.

Unless otherwise specified herein, this Contract shall be governed by the laws of Whatcom County and the State of Washington.

43.1 Venue and Choice of Law:

In the event that any litigation should arise concerning the construction or interpretation of any of the terms of this Agreement, the venue of such action of litigation shall be in the courts of the State of Washington in and for the County of Whatcom. This Agreement shall be governed by the laws of the State of Washington.

44.1 Survival:

The provisions of paragraphs 11.1, 11.2, 11.3, 21.1, 22.1, 30.1, 31.1, 31.2, 32.1, 33.1, 34.2, 34.3, 36.1, 40.2, 41.2, 42.1, and 43.1, if utilized, shall survive, notwithstanding the termination or invalidity of this Agreement for any reason.

45.1 Entire Agreement:

This written Agreement, comprised of the writings signed or otherwise identified and attached hereto, represents the entire Agreement between the parties and supersedes any prior oral statements, discussions or understandings between the parties.

EXHIBIT "A"
(SCOPE OF WORK)

I. Background

Parents and family members are the primary support for individuals with developmental disabilities across the lifespan. Organizing and connecting families for mutual support and providing timely and accurate information, assistance and referral are critical to improving outcomes for the DD population.

1. Develop and raise community awareness about the needs, rights and capacities of persons with developmental disabilities (DD);
2. Increase understanding of and access to community resources and the service delivery system
3. Provide organization to individuals with DD and their families.
4. Connect individuals with DD and their families for mutual support.
5. Foster the self-determination and status of individuals with DD

Funding is through the Department of Social and Health Services, Developmental Disabilities Administration (DSHS/DDA) to provide "Community Information" as defined within the DSHS/DDA program agreement for the current biennium, and local Whatcom County millage funds.

II. Statement of Work

The contractor will provide information, assistance, referral and support to individuals with developmental disabilities, their families, caregivers, and the community at large in the following ways:

1. Family Connection and Support
 - a. Provide emotional and informational support to families related to parenting a child with developmental disabilities.
 - i. Schedule and provide logistical support for monthly meetings of a "Parent-to-Parent" support group. Meetings will be facilitated by at least one parent of a child with developmental disabilities. Meeting topics will be driven by the interests and needs of parents. These meetings will provide a venue for parents to share information, discuss challenges and work together to address unmet needs.
 - b. Provide regular social and networking opportunities for families to meet, share ideas and resources, and offer support and encouragement.
 - i. Organize and implement six (6) networking and/or social events annually. Organizational duties include securing locations, recruiting and supervising volunteers, event promotion, and all event logistics.
 - ii. At least three (3) of the 6 events will be designed specifically for siblings of individuals with DD. These events, also referred to as "sib-shops" provide non-disabled siblings the chance to meet and share common issues, learn about resources and build relationships.
 - c. Identify, screen and train "helping parents" so that they can assist, support, and mentor other parents of children with DD based on common needs and interests. Training content will include understanding grief, active listening and basic communication skills, cultural diversity, [DDA Guiding Values](#), the peer

support model, and community resources. The contractor will provide ongoing training to “helping parents” as needed.

- i. Maintain a minimum of 25 trained helping parents available to assist families
 - ii. Facilitate a minimum of 15 parent matches during the contract year.
- d. Provide culturally relevant services and outreach to diverse communities within Whatcom County.
 - i. Assign bi-lingual staff to provide outreach and services to the Spanish-speaking community.
 - ii. Develop and produce Spanish and other language materials as needed.
 - iii. Provide “Helping Parent” matches, social/networking activities and family support which consider language and cultural background.
 - iv. Provide at least one parent support meeting in a rural area outside of Bellingham within the contract year.

2. Information, Education and Referral

- a. Provide information, education, and referral to individuals, families, and the community related to accessing and navigating the special education and social service systems. Assistance will include identifying generic, inclusive community resources as well as those specific to DD.
 - i. Provide 1:1 assistance to a minimum of 475 individuals to develop solutions, navigate the service delivery system and connect to community resources over the contract year.
- b. Develop and distribute written information about local services, resources, events and issues relevant to the DD community.
 - i. Publish and distribute a monthly newsletter at least ten (10) times annually that consists of four or more pages. Efforts will be made to decrease the printed number of newsletters and move to an electronic mailing list. Printed newsletters will be maintained and prioritized for those with limited computer access or skills.
 - ii. Maintain an electronic calendar of community events, available on the contractor’s website.
 - iii. Develop and distribute monthly electronic mailings to a minimum of 1600 families and service providers which offer information and analysis of issues relevant to developmental disabilities.
 - iv. Develop, update, and distribute information related to guardianship, future planning, the hiring of caregivers and other topics related to the support of individuals with disabilities upon request. All information will be made available electronically and priority will be given to electronic distribution.
- c. Develop and provide training opportunities on topics prioritized by family and community members.
 - i. Provide a minimum of eight (8) family centered training events during the contract period. Each training will be at minimum two (2) hours in length.
- d. Foster collaboration between schools and families and provide information on best practices and community resources to district staff.

- i. Schedule and coordinate presentations, as requested, to each of the (7) school districts. Presentations will be made in collaboration with the County, the Division of Vocational Rehabilitation (DVR) and the Developmental Disabilities Administration (DDA).
- ii. Coordinate a Whatcom County Transition Fair, in collaboration with county and state staff, at least once during the contract period.
- iii. Assist families to understand the Individual Education Plan (IEP) process, navigate differences and effectively collaborate with the district to meet the child's needs.
- iv. Provide 1:1 consultation to district staff, as requested, on inclusion, self-determination and community resources.

3. Self-advocacy and Inclusion

Self-determination refers to the process by which individuals with DD make informed choices and decisions, with support as needed, based on their own preferences and priorities. Self-Advocacy is the ability to speak for oneself and one's own needs. Developing the skills and self-awareness needed to identify and communicate preferences, problem-solve, make decisions and advocate for oneself are critical to individuals being active and valued members of their communities.

- a. The contractor will support self-advocates to understand their rights and responsibilities as participating members of their community, to learn to assertively communicate their needs, and to practice decision-making and problem solving skills.
 - i. Coordinate and facilitate a minimum of ten (10) self-advocacy meetings during the contract period. Coordination will include handling meeting logistics and identifying or developing curriculum to address self-advocate needs and priorities. In facilitating the meetings, the Contractor will 1) establish ground rules 2) model effective communication 3) provide a safe environment to address issues and concerns 4) develop solutions and strategies with participants.
 - ii. Provide support to self-advocates to develop and implement at least one (1) community service project during the contract period.
 - iii. Provide individualized instruction and assistance to self-advocates to develop leadership and self-advocacy skills, establish personal self-determination goals and to ensure effective participation.
- b. Provide outreach and education to schools and the general community regarding the self-determination and inclusion of individuals with developmental disabilities.
 - i. Provide a minimum of 6 disability awareness presentations within general education classrooms and the community during the contract period.

4. Systems Improvement

The contractor will facilitate, coordinate or participate in system improvement activities related to community services and infrastructure (i.e. housing, transportation, public safety) impacting children and adults with developmental disabilities and their families. System Improvement activities include but are not limited to:

- a. Participating in community advisory and leadership groups and planning processes
- b. Facilitating the participation of individuals with DD and their caregivers in such groups
- c. Providing coordinative support for forums or community groups specifically focused on the needs of individuals with developmental disabilities; including but not limited to [Whatcom Taking Action](#) for Children

with Special Health Care Needs and the Whatcom Early Intervention Infant and Children's Council. Coordinative support includes but is not limited to providing the following:

- i. Maintaining mailing lists
- ii. Scheduling and room reservation
- iii. Assisting groups to organize around a particular goal or purpose
- iv. Assisting groups to develop self-sustaining organizational structures
- v. Providing expertise to group leadership on formal and informal systems of care for individuals with DD
- vi. Providing expertise to group leadership on the [DSHS/DDA Guiding Values](#) as an essential component of system improvement efforts

5. Special Projects

Special projects, in support of the statement of work above, including but not limited to, extraordinary outreach/education projects (such as video development), technology and infrastructure costs, and subcontracted extra help to target outreach to under-represented populations, may be approved by the County using Exhibit D.

III. Anticipated Outcomes

1. Family Connection and Support

- a. Decrease the isolation and improve the health and welfare of families and caregivers of individuals with developmental disabilities.
- b. Increase the confidence, knowledge and skill of families in parenting a child with special needs.
- c. Increase access to culturally and linguistically appropriate information, resources and support.

2. Information and Education

- a. Increase the ability of family and caregivers to build a meaningful life in the community for individuals with DD.
- b. Increase the skill and understanding of family and caregivers in navigating the service delivery system, and effectively advocating for their loved one with a disability.
- c. Improve communication and collaboration between school districts, community service partners and families for the benefit of individuals with DD.

3. Self-Advocacy and Inclusion

- a. Increase the ability of individuals with disabilities to advocate for themselves, make their own choices, and self-direct the services and supports they receive.
- b. Increase awareness of developmental disabilities issues within the general community and the capacity of the community to include and welcome individuals with DD.

4. System Improvement

- a. Increase the awareness of community service and infrastructure partners to the needs and capacities of individuals with disabilities and their family members.
 - b. Increase the effectiveness of community groups organized to improve services for individuals with DD.
 - c. Increase the participation and leadership of individuals with disabilities and their family members within community groups and planning processes.
5. Special Projects - Outcomes for special projects will be detailed in Exhibit D.

IV. Program Requirements

1. The contractor will designate a lead staff responsible for the targeted outcomes of the contract, and to coordinate with the County related to contracted activities.
2. Staff assigned to contract outcomes will be the parent or family member of an individual with developmental disability, unless otherwise approved by the County.
3. The contractor will maintain current job descriptions for all staff assigned to the contract.
4. The Contractor will ensure that staff hired have sufficient training and skill to safely and effectively deliver the services outlined. The Contractor will provide documentation of staff training and orientation as requested by the County.
5. The contractor will develop a plan to evaluate and get feedback annually on program services and priorities. At minimum the plan will include participant surveys and an annual assessment of community priorities, concerns and topics to be addressed.
6. Information, assistance and support will be provided in ways that promote the values of the [DDA guiding values](#) and which promotes individual choice and the self-direction of services.
7. Services will assist individuals and families in defining and utilizing available natural supports in the community. "Natural supports" are those personal associations and relationships that enhance the quality of life for individuals with developmental disabilities and are not based on a paid service relationship.
8. The contractor may promote understanding of legislative issues relevant to developmental disabilities and assist individuals in communicating their needs and priorities to elected representatives and government agencies. The Contractor may not, however, endorse or oppose pending legislation, ballot initiatives, or specific candidates running for elected office in any publication or with any resource made available through public funds under this contract.
9. The contractor will make targeted efforts to increase outreach to individuals and their families who come from ethnically and linguistically diverse communities.
10. Staff assigned to this contract are considered mandated reporters under RCW 74.34.020 and must comply with reporting requirements described under RCW 74.34.035, 040 and Chapter 26.44.
11. Staff assigned to this contract will have current CPR/First aid certification.
12. A DSHS background clearance, free of disqualifying convictions will be completed for staff assigned to this contract. If the contractor elects to hire or retain an individual after receiving notice that the applicant has a conviction for an offense that would disqualify the applicant from having unsupervised access to vulnerable

adults, then the County shall deny payment for any subsequent service rendered by the disqualified individual. A list of disqualifying convictions may be found at the following.
<http://www.dshs.wa.gov/bccu/bccucrimeslist.shtml>

13. The agency will participate in a minimum of one monitoring session during the contract period. Monitoring elements will be based on the program requirements and outcomes identified in the contract, as well as a fiscal review of program costs and expenditures. The agency will fix any deficiencies noted, respond to recommendations made during the review and work with the County to ensure contract outcomes are met.

V. Reporting and Documentation

1. The Contractor will report on all program activities and outcomes, monthly, in a format approved by the County. The monthly report should accompany the invoice for services. The monthly reporting form is in an excel format, and is incorporated by reference.
2. Attendance and sign-in sheets or logs, handouts and other materials provided to participants as part of the above activities shall not be submitted with the monthly invoice, but shall be on file for review by the County.
3. All requests for special projects will be pre-approved by the County using Exhibit D. The Contractor will not be reimbursed for special projects that commence prior to signature approval from Whatcom County.

EXHIBIT "B"
(COMPENSATION)

I. Source of Funding

This contract, in an amount not to exceed \$150,616 is funded by a contract with the Washington Department of Social and Health Services, Developmental Disabilities Administration (DSHS/DDA) and Developmental Disabilities Millage. The budget for this work is as follows:

Description	Program Area	# Unit/ Rate	Documentation	Budget
Personnel Costs-Composite Billing rate				
Director and Parent Coalition Coordinator	Info and Ed	1040 hours (.5 FTE) @ \$34.31/hour	Time report	\$35,682
Parent-Coalition Co-Coordinator		1000 (.48 FTE) @ \$24.35/hour		\$24,350
Parent-to-parent Coordinator	Family Support	1040 hours(.5 FTE) @ \$22.80/hour		\$23,712
Parent Coalition Co-coordinator		815 (.5 FTE) @ \$21.24/hour		\$17,310
Latino Family Support Coordinator		880 (.25 FTE) @ \$22.58 /hour		\$19,870
		Subtotal Personnel Costs		\$120,924
Payment Point (Non Personnel Costs)				
Parent Coalition Newsletter	Info and Ed	10 newsletters @ \$975 per newsletter	Date and description of service delivery	\$9,750
Family Workshops		8 workshops @ \$450/ per training		\$3,600
Self-advocacy support meetings	Self-Advocacy	10 meetings @ \$65/per meeting		\$650
		Subtotal Payment Point		\$14,000
Reimbursement				
Interpreter/translation costs	All	Reimbursement of actual costs	GL detail or invoice	\$500
Professional Development				\$500
Special projects as approved by the County using Exhibit D				\$500
Consultant/Subcontractor Costs			Consultant Invoice	\$500
Subtotal Reimbursement				\$2,000
Subtotal All				\$136,924
10% Admin				\$13,692
Total Budget				\$150,616

Funding may be shifted between line items with written authorization from the county. If there is a change in a staff rate, a new composite rate form will be submitted, and the hourly rate modified without contract amendment. Updated rates will not change or increase the total compensation available under the contract.

II. Invoicing

1. The Contractor shall submit itemized invoices on a monthly basis in a format provided by the County. Monthly invoices must be submitted by the 15th of the month following the month of service. Invoices submitted for payment must include the items identified in the table above. The contractor shall, upon request of the County, provide additional reports related to the services provided through this contract.
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.

EXHIBIT "C"
(CERTIFICATE OF INSURANCE)

EXHIBIT "D"
(Special Projects Authorization Form)

Type of Request: ☐ Training/Consultation ☐ Infrastructure/Technology ☐ Outreach

Agency Name:

Description and purpose:

Proposed dates or timelines

What outcome are the proposed investments designed to achieve?

Name and purpose of consultant, if applicable:

Estimated costs:

Type of cost	Description	Documentation for invoicing	Total \$
Staff costs		Date and hours of service	
Equipment, materials or other direct costs		Reimbursement Invoice	
Consultant's fees		Consultant invoice	
Other fees		Reimbursement	
Travel and accommodations	Reimbursed at U.S. General Services Administration Domestic Per Diem Rates (www.gsa.gov)	Reimbursement	
	Subtotal		

Signed by: _____ Date: _____

Whatcom County Program Specialist



Whatcom County

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

Agenda Bill Master Report

File Number: AB2021-321

File ID:	AB2021-321	Version:	1	Status:	Agenda Ready
File Created:	06/02/2021	Entered by:	SMock@co.whatcom.wa.us		
Department:	Public Works Department	File Type:	Contract		
Assigned to:	Council Finance and Administrative Services Committee				Final Action:
Agenda Date:	06/15/2021	Enactment #:			

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

TITLE FOR AGENDA ITEM:

Request authorization for the County Executive to enter into an agreement between Whatcom County and the County Road Administrative Board (CRAB) in order to receive Rural Arterial Preservation grant funding for the Hampton Road Pavement Rehabilitation project in the amount of \$170,100

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

See Attached Memo

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
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Attachments: Staff memo, Proposed contract

Jon Hutchings
Director



James P. Karcher, P. E.
County Engineer
322 N. Commercial Street, Ste 301
Bellingham, WA 98225-4042
Phone: (360) 778-6210
Fax: (360) 778-6211

MEMORANDUM

To: The Honorable Satpal Singh Sidhu, Whatcom County Executive and
Honorable Members of the County Council

Through: Jon Hutchings, Director *gpk FOR JON H.*

From: James P. Karcher, P.E., County Engineer *gpk*
Doug Burghart, Interim Engineering Manager *DB*

Date: June 1, 2021

Re: Hampton Road Pavement Rehabilitation
Rural Arterial Program (RAP) Funding Contracts
RAP No. 3721-01

Enclosed for your review and signature are three (3) originals of a contract between the County Road Administration Board (CRAB) and Whatcom County.

Requested Action

Public Works respectfully requests that the County Council authorize the County Executive to enter into a Project Agreement with CRAB in order to receive RAP grant funding.

Please return **all three (3)** originals of the Project Agreements to our office for further processing. We will return one (1) fully executed original to you once they are signed by CRAB.

Project Background

This agreement allows Rural Arterial Trust Account (RATA) funds to be used for the pavement rehabilitation of Hampton Road.

Funding Amount and Source

Whatcom County has been awarded **\$170,100** in RATA funds for this project which requires 10% Local Fund match. Total anticipated project costs (design and construction) will be approximately **\$1,980,000** resulting in a local contribution of approximately \$1,809,900 coming from the Road Fund. However, it is anticipated that additional grant funding will be secured before construction in 2024.

Please contact Jim Karcher at extension 6271 if you have any questions or concerns regarding the terms of this agreement.

WHATCOM COUNTY CONTRACT INFORMATION SHEET

Whatcom County Contract No. _____

Originating Department:	Public Works - Engineering
Division/Program: <i>(i.e. Dept. Division and Program)</i>	905900 / Construction
Contract or Grant Administrator:	Doug Burghart, Interim Engineering Manager
Contractor's / Agency Name:	County Road Administration Board (CRAB)

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 #: _____

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): RAP No 3721-01 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: TBD

Is this agreement excluded from E-Verify? No ☐ Yes ☒ 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"/> Contract for Commercial off the shelf items (COTS).
<input type="checkbox"/> Contract work is for less than \$100,000.	<input type="checkbox"/> Work related subcontract less than \$25,000.
<input type="checkbox"/> Contract work is for less than 120 days.	<input type="checkbox"/> Public Works - Local Agency/Federally Funded FHWA.
<input checked="" type="checkbox"/> Interlocal Agreement (between Governments).	

<p>Contract Amount:(sum of original contract amount and any prior amendments): \$ <u>170,100 (RATA 90%;Local Fund 10%)</u></p> <p>This Amendment Amount: \$ _____</p> <p>Total Amended Amount: \$ _____</p>	<p>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:</p> <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.
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Summary of Scope:

Whatcom County has been awarded a \$170,100 in Rural Arterial Trust Account (RATA) Funds by the Washington State County Road Administration Board through a grant from the Rural Arterial Program. Whatcom County will utilize these funds for the pavement rehabilitation of Hampton Road, a distance of approximately 4.65 miles in length.

Term of Contract: N/A	Expiration Date: Upon Project Completion
-----------------------	------------------------------------------

Contract Routing:	1. Prepared by: <u>James P. Karcher</u>	Date: <u>2021-05-26</u>
	2. Attorney signoff: <u>Chris Quinn</u>	Date: <u>2021-06-01</u>
	3. AS Finance reviewed: <u>M. Caldwell</u>	Date: <u>2021-05-31</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: _____

STATE OF WASHINGTON - COUNTY ROAD ADMINISTRATION BOARD

**RURAL ARTERIAL PROGRAM
PROJECT AGREEMENT FOR CONSTRUCTION PROPOSAL**

Submitting County:
Whatcom

Project Number: 3721-01

Date Approved: 04/29/2021

AUTHORIZED RATA FUNDS: \$170,100

Road	Road Name(s)	BMP(s)	EMP(s)	Segment #
61700	Hampton Road	0.140	4.790	1

The State of Washington County Road Administration Board (CRABoard) and Whatcom County (County) mutually agree as follows:

- (1) The funds hereby authorized are for completion of the proposed project as defined by chapter 36.79 RCW Roads and bridges — rural arterial program.
- (2) The County is in compliance with the provisions of chapter 136-150 WAC regarding eligibility for Rural Arterial Trust Account (RATA) funds. If the County is found not to be in compliance with these provisions, such non compliance may be cause for the CRABoard to withdraw or deny the Certificate of Good Practice of the County and require pay back of any RATA funds that have been paid to the County for this project.
- (3) If the project is reconstruction, the County shall gain approval from WSDOT (chapter 43.32 RCW) for all deviations from the design standards listed in the Local Agency Guidelines prior to construction.
- (4) If the project is 3R (resurfacing restoration and rehabilitation), the County shall document its design considerations for the proposed improvements in keeping with 3R standards as listed in the Local Agency Guidelines.
- (5) The project shall be constructed in accordance with the information furnished to the CRABoard, and the plans and specifications prepared by the county engineer.
- (6) Phased construction methodology is permitted upon notification by the county engineer of the phasing plan as authorized under WAC 136-170-030. Failure by the county to notify the CRABoard of phasing plan at least 15 days prior to commencement of construction may result in withdrawal of funding by the CRABoard and county forfeiture of all RATA funds expended.
- (7) The County shall notify the CRABoard when a contract has been awarded and/or when construction has started, and when the project has been completed.
- (8) The County shall reimburse the RATA in the event a project post audit reveals improper expenditure of RATA funds.
- (9) Costs of the project which exceed the amount of RATA funds authorized by the CRABoard, set forth above, and the required matching funds and other funds represented by the county to be committed to the project, shall be paid by the County as necessary to complete the project as submitted to the CRABoard.

(10) Matching funds and other funds represented to be committed to the project shall be available as necessary to implement the projected development of the project as set forth in the construction proposal prospectus.

(11) The CRABoard hereby agrees to reimburse the county from RATA funds allocated, and not otherwise, for its reimbursable costs not to exceed the amount above specified.

(12) The CRABoard will reimburse costs incurred by the County based on project progress as certified by the county engineer within the CRABoard's RAP Online project management application by monthly progress payment vouchers received and approved on individual projects in the order in which they are received in the CRABoard office, subject to the availability of RATA funds apportioned to the region. Such obligation to reimburse RATA funds extends only to project costs incurred after the date of project approval by the CRABoard.

(13) Either the CRABoard or the County may request changes to the provisions contained in this agreement. Such changes shall be mutually agreed upon and incorporated by written amendment to this agreement. No variation or alteration of the terms of this agreement shall be valid unless made in writing and signed by authorized representatives of the CRABoard or the County hereto.

(14) During the term of this agreement and for a period not less than six (6) years from the date of final payment by the CRABoard, the records and accounts pertaining to this agreement are to be kept available for inspection and audit and copies of all records, accounts, documents, or other data pertaining to the agreement will be furnished upon request. If any litigation, claim, or audit is commenced, the records and accounts along with supporting documentation shall be retained until said litigation, claim, or audit finding has been resolved even though such litigation, claim, or audit continues past the six year retention period.

IN CONSIDERATION of the allocation by the CRABoard RATA funds to the project in the amount set out above, the County hereby agrees that as condition precedent to payment of any RATA funds allocated at any time to the above referenced project, it accepts and will comply with the terms of this agreement, including the terms and conditions set forth in Chapter 49, Laws of 1983, 1st Ex. Sess. (chapter 36.79 RCW); the applicable rules of Title 136 WAC and all representations made to the CRABoard upon which the fund allocation was based; all of which are familiar to and within the knowledge of the county and are incorporated herein and made a part of this agreement, although not attached.

This agreement supersedes all prior agreements issued using the project number listed above and shall be valid and binding only if it is signed and returned to the CRABoard office within 45 days of its mailing by the CRABoard.

COUNTY ROAD ADMINISTRATION BOARD:

WHATCOM COUNTY:

By: _____

By: _____

Date: _____

Date: _____



Whatcom County

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

Agenda Bill Master Report

File Number: AB2021-322

File ID:	AB2021-322	Version:	1	Status:	Agenda Ready
File Created:	06/02/2021	Entered by:	ldevries@co.whatcom.wa.us		
Department:	Prosecuting Attorney's Office	File Type:	Contract		
Assigned to:	Council Finance and Administrative Services Committee			Final Action:	
Agenda Date:	06/15/2021	Enactment #:			

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

TITLE FOR AGENDA ITEM:

Request authorization for the County Executive to enter into a contract between Whatcom County and the Executive Office of the President for a grant award for funding from the High Intensity Drug Trafficking Areas (HIDTA) program in the amount of \$205,073.00

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

See staff Memo for full statement

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
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Attachments: Staff memo, Proposed contract

WHATCOM COUNTY PROSECUTING ATTORNEY

CHIEF CRIMINAL DEPUTY

Erik Sigmar

ASST. CHIEF CRIMINAL DEPUTY

Dona Bracke

CRIMINAL DEPUTIES

David Graham
Melissa Stone
Kellen Kooistra
Benjamin Pratt
Gordon Jenkins
Kacie Emerick
Christina Garcia
Jesse Corkern
Evan Sterk
Nicole Meyer
Julia Monroe
Maggie Peach
Andrew Bogle
Kayleigh Mattoon

Eric J. Richey

Whatcom County Courthouse
311 Grand Avenue Suite 201
Bellingham, WA 98225-4079
(360) 778-5710 /Main Office FAX (360) 778-5711

CHIEF CIVIL DEPUTY

Karen Frakes

CIVIL DEPUTIES

Royce Buckingham
Christopher Quinn
George Roche
Brandon Waldron

CIVIL SUPPORT ENFORCEMENT DEPUTIES

Janelle Wilson/Lead
Dionne Clasen

APPELLATE DEPUTIES

Kimberly Thulin
Hilary Thomas

ADMINISTRATOR

Vanessa Martin

MEMO TO: Satpal Sidhu, Executive

FROM: Vanessa Martin, Administrative Manager

DATE: May 27, 2021

RE: High Intensity Drug Trafficking Area (HIDTA) Funding

NW HIDTA sent the 2022 HIDTA Grant Funding Application. The HIDTA grant funds pertain to reimbursement for salaries and benefits for two employees in my office. The amount of the federal funding is the same as FY 2022, \$205,073.

It is my understanding that you can execute the Grant Award Agreement. Please review the attached documents, sign and return these original documents to me for processing.

Should you have any questions, please feel free to contact me.

Thank you kindly.

WHATCOM COUNTY CONTRACT INFORMATION SHEET

Whatcom County Contract No.

Originating Department:	Whatcom County Prosecuting Attorney's Office
Division/Program: (i.e. Dept. Division and Program)	6510 Prosecuting Attorney Admin
Contract or Grant Administrator:	Vanessa Martin
Contractor's / Agency Name:	Executive Office of President - ONDCP
Is this a New Contract? Yes <input checked="" type="radio"/> No <input type="radio"/> If not, is this an Amendment or Renewal to an Existing Contract? Yes <input type="radio"/> No <input checked="" type="radio"/> If Amendment or Renewal, (per WCC 3.08.100 (a)) Original Contract #: _____	
Does contract require Council Approval? Yes <input type="radio"/> No <input checked="" type="radio"/> If No, include WCC: <u>3.06.010</u> 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>G21NW0004A</u> CFDA#: <u>95.001</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? Yes <input type="radio"/> No <input checked="" type="radio"/> If yes, RFP and Bid number(s): _____ Contract Cost Center: <u>2640</u>	
Is this agreement excluded from E-Verify? No <input checked="" type="radio"/> Yes <input 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 checked="" type="checkbox"/> Public Works - Local Agency/Federally Funded FHWA.	
Contract Amount: (sum of original contract amount and any prior amendments): \$ <u>205,073.00</u> This Amendment Amount: \$ _____ Total Amended Amount: \$ _____	Council approval required for; all property leases, contracts or bid awards exceeding \$40,000 , and professional service contract amendments that have an increase greater than \$10,000 or 10% of contract amount, whichever is greater, except when: 1. Exercising an option contained in a contract previously approved by the council. 2. Contract is for design, construction, r-o-w acquisition, 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 grant will support initiatives designed to implement the strategy proposed by the Executive Board of the NW HIDTA and approved by the Office of National Drug Control Policy (ONDCP)	
Term of Contract: 1 Year	Expiration Date: 12/31/22

Contract Routing:	1. Prepared by: <u>LD</u>	Date: <u>05/06/2021</u>
	2. Attorney signoff: _____	Date: _____
	3. AS Finance reviewed: _____	Date: _____
	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: _____



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF NATIONAL DRUG CONTROL POLICY

Washington, D.C. 20503

April 23, 2021

Mr. Satpal Sidhu
Whatcom County
311 Grand Avenue
Bellingham, WA 98225-4038

Dear Mr. Sidhu:

We are pleased to inform you that your request for funding from the High Intensity Drug Trafficking Areas (HIDTA) Program has been approved, and a grant (Grant Number G21NW0004A) has been awarded in the amount of \$205,073.00. This grant will support initiatives designed to implement the Strategy proposed by the Executive Board of the Northwest HIDTA and approved by the Office of National Drug Control Policy (ONDCP).

The grant agreement and conditions are enclosed. By accepting this grant, you assume the administrative and financial responsibilities outlined in the grant conditions. Failure to adhere to the grant conditions may result in the termination of the grant or the initiation of administrative action. ONDCP also may terminate the award if it no longer effectuates program goals or agency priorities.


If you accept this award, please sign both the grant agreement and the conditions and return a copy via email to your respective NHAC accountant or to the following address:

Finance Unit
National HIDTA Assistance Center
11200 NW 20th Street, Suite 100
Miami, FL 33172
(305) 715-7600

Please keep the original copy of the grant agreement and conditions for your file. If you have any questions pertaining to this grant award, please contact Jayme Delano at (202) 395 - 6794.

Sincerely,

Shannon Kelly
National HIDTA Director

Executive Office of the President Office of National Drug Control Policy		Grant Agreement	
1. Recipient Name and Address Satpal Sidhu County Executive Whatcom County 311 Grand Avenue Bellingham, WA 98225-4038		4. Award Number (FAIN): G21NW0004A	
		5. Period of Performance: From 01/01/2021 to 12/31/2022	
2. Total Amount of the Federal Funds Obligated: \$205,073	6. Federal Award Date: April 23, 2021	7. Action: Initial	
2A. Budget Approved by the Federal Awarding Agency \$205,073	8. Supplement Number		
3. CFDA Name and Number: <i>High Intensity Drug Trafficking Areas Program - 95.001</i>	9. Previous Award Amount:		
3A. Project Description <i>High Intensity Drug Trafficking Areas (HIDTA) Program</i>	10. Amount of Federal Funds Obligated by this Action: \$205,073.00		
	11. Total Amount of Federal Award: \$205,073.00		
12. This Grant is non-R&D and approved subject to such conditions or limitations as are set forth on the attached pages.			
13. Statutory Authority for Grant: <i>Public Law 116-260 H.R.133</i>			
AGENCY APPROVAL		RECIPIENT ACCEPTANCE	
14. Typed Name and Title of Approving Official Shannon Kelly National HIDTA Director Office of National Drug Control Policy		15. Typed Name and Title of Authorized Official Satpal Sidhu County Executive Whatcom County	
16. Signature of Approving ONDCP Official 		17. Signature of Authorized Recipient/Date	
AGENCY USE ONLY			
18. Accounting Classification Code DUNS: 060044641 EIN: 1916001383B2		19. HIDTA AWARD <i>OND1070DB2122XX OND6113</i> <i>OND2000000000 OC 410001</i>	

GRANT CONDITIONS

A. General Terms and Conditions

1. This award is subject to the Uniform Administrative Requirements, Cost Principles, and Audit Requirements in 2 C.F.R. § 200 (the “§ 200 Uniform Requirements”), as adopted and implemented by the Office of National Drug Control Policy (ONDCP) in 2 C.F.R. §3603. For this award, the § 200 Uniform Requirements supersede, among other things, the provisions of 28 C.F.R. §§ 66 and 70, as well as those of 2 C.F.R. §§ 215, 220, 225, and 230. For more information on the § 200 Uniform Requirements, see <https://cfo.gov/cofar/>. For specific, award-related questions, recipients should contact ONDCP promptly for clarification.
2. This award is subject to the following additional regulations and requirements:
 - 28 C.F.R. § 69 – “New Restrictions on Lobbying”
 - 2 C.F.R. § 25 – “Universal Identifier and System of Award Management”
 - Non-profit Certifications (when applicable)
3. Audits conducted pursuant to 2 C.F.R. § 200, Subpart F, “Audit Requirements” must be submitted no later than 9 months after the close of the grantee’s audited fiscal year to the Federal Audit Clearinghouse at <https://harvester.census.gov/facweb>
4. Grantees are required to submit Federal Financial Reports (FFR) to the Department of Health and Human Services, Division of Payment Management (HHS/DPM). The Federal Financial Report is required to be submitted quarterly and within 90 days after the grant is closed out.
5. The recipient gives the awarding agency or the Government Accountability Office, through any authorized representative, access to, and the right to examine, all paper or electronic records related to the grant.
6. Recipients of HIDTA funds are not agents of ONDCP. Accordingly, the grantee, its fiscal agent(s), employees, contractors, as well as state, local, and Federal participants, either on a collective basis or on a personal level, shall not hold themselves out as being part of, or representing, the Executive Office of the President or ONDCP.
7. These general terms and conditions, as well as archives of previous versions of these general terms and conditions, are available online at www.whitehouse.gov/ondcp/.

8. Mandatory Disclosure Requirement

As a non-federal entity, you must disclose, in a timely manner, in writing to ONDCP all violations of federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the federal award. Non-federal entities that have received a federal award including the terms and conditions outlined in appendix XII of this part are required to report certain civil, criminal, or administrative proceedings to the System for Award Management (SAM), currently the Federal Awardee Performance and Integrity Information System. Failure to make required disclosures can result in any of the remedies described in § 200.339. (See also 2 C.F.R. §180, 31 U.S.C. § 3321, and 41 U.S.C. § 2313.)

9. Federal Funding Accountability and Transparency (FFATA) / Digital Accountability and Transparency Act (DATA Act). Each applicant is required to (i) be registered in SAM before submitting its application; (ii) provide a valid DUNS number in its application; (iii) continue to maintain an active SAM registration with current information at all times during which it has an active federal award; and (iv) provide all relevant grantee information required for ONDCP to collect for reporting related to FFATA and DATA Act requirements.
10. Subawards are authorized under this grant award. Subawards must be monitored by the award recipient as outlined in 2 C.F.R. § 200.331.
11. Recipients must comply with the Government-wide Suspension and Debarment provision set forth at 2 C.F.R. §180, dealing with all sub-awards and contracts issued under the grant.
12. Recipients are prohibited from using federal grant funds to purchase certain telecommunication and video surveillance services or equipment in alignment with § 889 of the National Defense Authorization Act of 2019, Pub. L. No. 115-232. See 2 C.F.R. § 200.216. See also, HIDTA PPBG, § 7.20, Prohibited Uses of HIDTA Funds.
13. Grantees should provide a preference, to the extent permitted by law, to maximize use of goods, products, and materials produced in the United States. See 2 C.F.R. § 200.322.
14. Failure to adhere to the General Terms and Conditions as well as the Program Specific Terms and Conditions may result in the termination of the grant or the initiation of administrative action. ONDCP may also terminate the award if it no longer effectuates program goals or agency priorities. See 2 C.F.R. § 200.340.

B. Recipient Integrity and Performance Matters

Reporting of Matters Related to Recipient Integrity and Performance

1. *General Reporting Requirement*

If the total value of your 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 you as the recipient during that period of time must maintain the currency of information reported to SAM that is made available in the designated integrity and performance system (currently the Federal Awardee Performance and Integrity Information System (FAPIIS)) about civil, criminal, or administrative proceedings described in paragraph 2 of this award term and condition. This is a statutory requirement under § 872 of Public Law 110-417, as amended (41 U.S.C. § 2313). As required by § 3010 of Public Law 111-212, all information posted in the designated integrity and performance system on or after April 15, 2011, except past performance reviews required for federal procurement contracts, will be publicly available. See 41 U.S.C. § 417b(e)(1).

2. *Proceedings About Which You Must Report*

Submit the information required about each proceeding that:

Is in connection with the award or performance of a grant, cooperative agreement, or procurement contract from the Federal Government;

- a. Contract from the federal government;
- b. Reached its final disposition during the most recent 5 year period; and
- c. Is one of the following:
 - (1) A criminal proceeding that resulted in a conviction, as defined in paragraph 5 of this award term and condition;
 - (2) A civil proceeding that resulted in a finding of fault and liability and payment of a monetary fine, penalty, reimbursement, restitution, or damages of \$5,000 or more;
 - (3) An administrative proceeding, as defined in paragraph 5 of this award term and condition, that resulted in a finding of fault and liability and your payment of either a monetary fine or penalty of \$5,000 or more or reimbursement, restitution, or damages in excess of \$100,000; or
 - (4) Any other criminal, civil, or administrative proceeding if:
 - (i) It could have led to an outcome described in paragraph 2.c.(1), (2), or (3) of this award term and condition;

- (ii) It had a different disposition arrived at by consent or compromise with an acknowledgment of fault on your part; and
- (iii) The requirement in this award term and condition to disclose information about the proceeding does not conflict with applicable laws and regulations.

3. *Reporting Procedures*

Enter in the SAM Entity Management area the information that SAM requires about each proceeding described in paragraph 2 of this award term and condition. You do not need to submit the information a second time under assistance awards that you received if you already provided the information through SAM because you were required to do so under federal procurement contracts that you were awarded.

4. *Reporting Frequency*

During any period of time when you are subject to the requirement in paragraph 1 of this award term and condition, you must report proceedings information through SAM for the most recent 5-year period, either to report new information about any proceeding(s) that you have not reported previously or affirm that there is no new information to report. Recipients that have federal contract, grant, and cooperative agreement awards with a cumulative total value greater than \$10,000,000 must disclose semiannually any information about the criminal, civil, and administrative proceedings.

5. *Definitions*

For purposes of this award term and condition:

a. Administrative proceeding means a non-judicial process that is adjudicatory in nature in order to make a determination of fault or liability (e.g., Securities and Exchange Commission Administrative proceedings, Civilian Board of Contract Appeals proceedings, and Armed Services Board of Contract Appeals proceedings). This includes proceedings at the Federal and state level, but only in connection with performance of a Federal contract or grant. It does not include audits, site visits, corrective plans, or inspection of deliverables.

b. Conviction, for purposes of this award term and condition, means a judgment or conviction of a criminal offense by any court of competent jurisdiction, whether entered upon a verdict or a plea, and includes a conviction entered upon a plea of nolo contendere.

c. Total value of currently active grants, cooperative agreements, and procurement contracts includes—

- (1) Only the federal share of the funding under any federal award with a recipient cost share or match; and

- (2) The value of all expected funding increments under a federal award and options, even if not yet exercised.

C. Program Specific Terms and Conditions

The grant condition is as follows:

1. This award is subject to the requirements in the SUPPORT for Patients and Communities Act, 21 U.S.C. §§ 1701 *et seq.* and in the ONDCP National HIDTA Program Office HIDTA *Program Policy and Budget Guidance* (Jan. 6, 2020) (PPBG). The HIDTA PPBG is issued pursuant to authority granted the Director of ONDCP by the SUPPORT for Patients and Communities Act (21 U.S.C. § 1706) and the Uniform Administration Requirements (2 C.F.R. § 200) which provide the Director of ONDCP authority to coordinate funds and implement oversight and management function with respect to the HIDTA Program. The HIDTA PPBG can be accessed at the following website;
https://www.nhac.org/hidta_guidance/Program_Policy_and_Budget_Guidance2020.pdf

D. Federal Award Performance Goals

HIDTA award recipients must adhere to the performance measures, goals and requirements set forth in the PPBG Performance Management chapter (§ 10.0) and the HIDTA Performance Management Process (PMP) database.

E. Payment Basis

1. A request for advance or reimbursement shall be made using the HHS/DPM system (<https://pms.psc.gov/>).
2. The grantee, must utilize the object classes specified within the initial grant application each time they submit a disbursement request to ONDCP. Requests for payment in the DPM system will not be approved unless the required disbursements have been entered using the corresponding object class designations. Payments will be made via Electronic Fund Transfer to the award recipient's bank account. The bank must be Federal Deposit Insurance Corporation (FDIC) insured. The account must be interest bearing.
3. Except for interest earned on advances of funds exempt under the Intergovernmental Cooperation Act (31 U.S.C. § 6501 *et seq.*) and the Indian Self-Determination and Education Assistance Act (25 U.S.C. § 450), awardees and sub-awardees shall promptly, but at least annually, remit interest earned on advances to HHS/DPM using the remittance instructions provided below.

Remittance Instructions – Remittances must include pertinent information of the payee and nature of payment in the memo area (often referred to as “addenda records” by Financial Institutions) as that will assist in the timely posting of interest earned on federal funds. Pertinent details include the Payee Account Number (PAN), reason for check (remittance of interest earned on advance payments), check number (if applicable), awardee name, award number, interest period covered, and contact name and number. The remittance must be submitted as follows:

Through an electronic medium using either Automated Clearing House (ACH) network or a Fedwire Funds Service payment.

(i) For ACH Returns:

Routing Number: 051036706

Account number: 303000

Bank Name and Location: Credit Gateway—ACH Receiver St. Paul, MN

(ii) For Fedwire Returns*:

Routing Number: 021030004

Account number: 75010501

Bank Name and Location: Federal Reserve Bank Treas NYC/Funds Transfer
Division New York, NY

(* Please note organization initiating payment is likely to incur a charge from your Financial Institution for this type of payment)

For recipients that do not have electronic remittance capability, please make check** payable to: “The Department of Health and Human Services.”

Mail Check to Treasury approved lockbox:

HHS Program Support Center, P.O. Box 979132, St. Louis, MO 63197

(** Please allow 4-6 weeks for processing of a payment by check to be applied to the appropriate PMS account)

Any additional information/instructions may be found on the PMS Web site at
<http://pms.psc.gov/>.

4. The grantee or subgrantee may keep interest amounts up to \$500 per year for administrative purposes.

RECIPIENT ACCEPTANCE OF GRANT CONDITIONS

Satpal Sidhu

Whatcom County

Date:

Initiative Cash by HIDTA

FY 2021

Awarded Budget (as approved by ONDCP)

HIDTA	Agency Name	Initiative	Cash	Type	Grant
Northwest	Whatcom County	DEA Bellingham Regional HIDTA Task Force	175,073.00	Investigation	G21NW00004A
		Drug Court	30,000.00	Treatment	G21NW00004A
Agency Total : Whatcom County			205,073.00		

Total

205,073.00

Budget Detail

2021 - Northwest

Initiative - DEA Bellingham Regional HIDTA Task Force

Investigation

Award Recipient - Whatcom County (G21NW0004A)

Resource Recipient - Whatcom County Prosecutor's Office

Indirect Cost: 0.0%

Awarded Budget (as approved by ONDCP)		\$205,073.00
Personnel	Quantity	Amount
Attorney	1	\$91,806.00
Paralegal & Support	1	\$35,169.00
Total Personnel		\$126,975.00
Fringe	Quantity	Amount
Attorney	1	\$30,553.00
Paralegal & support	1	\$17,545.00
Total Fringe		\$48,098.00
Total Budget		\$175,073.00

Budget Detail

2021 - Northwest

Initiative - Drug Court

Treatment

Award Recipient - Whatcom County (G21NW0004A)

Resource Recipient - Drug Court Development Project

Indirect Cost: 0.0%

Awarded Budget (as approved by ONDCP)		\$205,073.00
Personnel	Quantity	Amount
Treatment, prevention, demand reduction		\$22,000.00
Total Personnel		\$22,000.00
Fringe	Quantity	Amount
Treatment, prevention, demand reduction		\$8,000.00
Total Fringe		\$8,000.00
Total Budget		\$30,000.00



Whatcom County

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

Agenda Bill Master Report

File Number: AB2021-325

File ID:	AB2021-325	Version:	1	Status:	Agenda Ready
File Created:	06/03/2021	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:	06/15/2021	Enactment #:			

Primary Contact Email: JLLee@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 funding for Child Development Services to eligible children ages birth to three who have developmental disabilities and delays, in the estimated amount of \$77,812, for a total estimated amended contract amount of \$213,952

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

See attachments

HISTORY OF LEGISLATIVE FILE

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



MEMORANDUM

TO: Satpal Sidhu, County Executive

FROM: Erika Lautenbach, Director

RE: Opportunity Council – Child Development Services Contract Amendment #2

DATE: June 3, 2021

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

▪ Background and Purpose

This contract provides funding for Child Development Services to eligible children ages birth to three who have developmental disabilities and delays. These services are designed to meet the developmental needs of eligible infants and toddlers and assist the family in enhancing the child's development. County wide, an average of 244 children received services monthly in 2020; services were provided by two, County-qualified providers. The purpose of this amendment is to extend the contract for an additional year.

▪ Funding Amount and Source

Funding for this contract is provided by the Washington State Department of Social and Health Services (DSHS), Developmental Disabilities Administration (DDA). Total compensation under this contract will vary depending on the number of clients authorized; however, the estimated service level is \$77,812. These funds are included in the 2021 budget. Council approval is required as estimated funding exceeds 10% and \$10,000 (per WCC 3.08.090M) of the previously approved estimate.

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:
201906012 – 2

Originating Department:		85 Health	
Division/Program: (i.e. Dept. Division and Program)		8550 Human Services / 855050 Developmental Disabilities	
Contract or Grant Administrator:		Jessica Lee	
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 #:	201906012	
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):	201906024	
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):	Open & Continuous	Contract Cost Center: 673800
Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>			
Is this agreement excluded from E-Verify?	No <input type="checkbox"/> Yes <input checked="" type="checkbox"/>	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 checked="" 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:	
Varies depending on County authorization		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: This contract funds Child Development Services to eligible children ages birth to three with developmental disabilities.			
Term of Contract:	1 Year	Expiration Date:	6/30/2022
Contract Routing:	1. Prepared by:	JT	Date: 03/08/2021
	2. Health Budget Approval	KR/JG	Date: 05/24/2021
	3. Attorney signoff:	RB	Date: 05/27/2021
	4. AS Finance reviewed:	M Caldwell	Date: 6/2/21
	5. IT reviewed (if IT related):		Date:
	6. Contractor signed:		Date:
	7. Submitted to Exec.:		Date:
	8. Council approved (if necessary):	AB2021- 325	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: 07/01/2019 – 06/30/2020
Amendment #1: 07/01/2020 – 06/30/2021
Amendment #2: 07/01/2021 – 06/30/2022

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. Extend the duration and other terms of this contract for 1 year, as per the original contract “General Terms, Section 10.2, Extension”.
2. Replace Sections 35.1 and 35.2 in the General Terms and Conditions (page 6 of the original contract), per Whatcom County Ordinance 2021-016, with the following:

35.1 Non-Discrimination in Employment:

The County’s policy is to provide equal opportunity in all terms, conditions and privileges of employment for all qualified applicants and employees without regard to race, color, creed, religion, national origin, sex, sexual orientation (including gender identity), age, marital status, disability, or veteran status. The Contractor shall comply with all laws prohibiting discrimination against any employee or applicant for employment on the grounds of race, color, creed, religion, national origin, sex, sexual orientation (including gender identity), age, marital status, disability, political affiliation, or veteran status, except where such constitutes a bona fide occupational qualification.

Furthermore, in those cases in which the Contractor is governed by such laws, the Contractor shall take affirmative action to insure that applicants are employed, and treated during employment, without regard to their race, color, creed, religion, national origin, sex, age, marital status, sexual orientation (including gender identity), disability, or veteran status, except where such constitutes a bona fide occupational qualification. Such action shall include, but not be limited to: advertising, hiring, promotions, layoffs or terminations, rate of pay or other forms of compensation benefits, selection for training including apprenticeship, and participation in recreational and educational activities. In all solicitations or advertisements for employees placed by them or on their behalf, the Contractor shall state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex or national origin.

The foregoing provisions shall also be binding upon any subcontractor, provided that the foregoing provision shall not apply to contracts or subcontractors for standard commercial supplies or raw materials, or to sole proprietorships with no employees.

35.2 Non-Discrimination in Client Services:

The Contractor shall not discriminate on the grounds of race, color, creed, religion, national origin, sex, age, marital status, sexual orientation (including gender identity), disability, or veteran status; or deny an individual or business any service or benefits under this Agreement unless otherwise allowed by applicable law; or subject an individual or business to segregation or separate treatment in any manner related to

his/her/its receipt any service or services or other benefits provided under this Agreement unless otherwise allowed by applicable law; or deny an individual or business an opportunity to participate in any program provided by this Agreement unless otherwise allowed by applicable law.

3. Funding for the total contract period (07/01/2021 – 06/30/2022) is estimated at \$77,812.
4. All other terms and conditions remain unchanged.
5. The effective start date of the amendment is 07/01/2021.

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
(360) 734-5121
Greg_winter@oppco.org



Whatcom County

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

Agenda Bill Master Report

File Number: AB2021-332

File ID:	AB2021-332	Version:	1	Status:	Agenda Ready
File Created:	06/04/2021	Entered by:	MKeeley@co.whatcom.wa.us		
Department:	Human Resources Division	File Type:	Resolution		
Assigned to:	Council Finance and Administrative Services Committee	Final Action:			
Agenda Date:	06/15/2021	Enactment #:			

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

TITLE FOR AGENDA ITEM:

Resolution to amend Resolution 2020-046 for unrepresented Whatcom County employees

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

Please refer to Executive memo for background

HISTORY OF LEGISLATIVE FILE

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

**WHATCOM COUNTY
EXECUTIVE'S OFFICE**
County Courthouse
311 Grand Ave. Suite #108
Bellingham, WA 98225



Satpal Sidhu
County Executive

TO: County Council Members

FROM: Satpal Sidhu, County Executive

DATE: June 4, 2021

SUBJECT: 2021 UNREPRESENTED RESOLUTION AMENDMENT

Unrepresented employees contributed towards our fiscal stability through unpaid furloughs in 2020 and frozen wages in 2021. They also provided leadership and continuity to our services during unprecedented and very challenging times.

It is my intent to recognize employees who did not receive a wage adjustment in 2021 with a mid-year 2% general wage adjustment effective July 11, 2021. This adjustment will help with retention and recruitment, maintain pace with our comparable Counties, and close the gap in internal equity among other County groups who received adjustments in January 2021.

PROPOSED BY: Executive

INTRODUCTION DATE: June 15, 2020

RESOLUTION NO. 2021 – _____

AN AMENDMENT TO RESOLUTION NO. 2020-046

**A RESOLUTION IN THE MATTER OF ADOPTING A SALARY SCHEDULE AND
POLICIES FOR UNREPRESENTED WHATCOM COUNTY EMPLOYEES
EFFECTIVE JANUARY 1, 2021 through DECEMBER 31, 2021**

WHEREAS, a Resolution in the Matter of Adopting a Salary Schedule and Policies for Unrepresented Whatcom County Employees for the year 2021 was adopted November 10, 2020 with wages frozen at 2020 rates; and

WHEREAS, the County desires to make a mid-year general wage adjustment for Unrepresented employees in consideration of unpaid furloughs and frozen wages; and

WHEREAS, the County handles changes to the Unrepresented Resolution via an amendment;

NOW, THEREFORE, BE IT RESOLVED:

The following sections will be amended as follows:

Section 2. Salary Ranges (Groups A through G). Each wage step in all ranges of the 2021 salary matrices previously frozen at 2020 rates (Groups A through D) as established on Addendum A shall be increased by 2%.

Section 3.1 Flat Rate Positions (Group G). Amounts listed in Group G shall be increased by 2%.

AND FURTHER, THEREFORE, BE IT RESOLVED, that the Council intends that the Administration will apply the above amendments to the 2021 Unrepresented Resolution which shall become effective July 11, 2021.

APPROVED this 15th day of June, 2021.

**WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON**

ATTEST:

Barry Buchanan, Council Chair

Dana Brown-Davis, Council Clerk

APPROVED as to form:

DocuSigned by:
George Roche

Civil Deputy Prosecuting Attorney



Whatcom County

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

Agenda Bill Master Report

File Number: AB2021-333

File ID:	AB2021-333	Version:	1	Status:	Agenda Ready
File Created:	06/04/2021	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:	06/15/2021	Enactment #:			

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

TITLE FOR AGENDA ITEM:

Request authorization for a Letter of Understanding between Whatcom County and General Teamsters' Local Union 231 to amend the Master Collective Bargaining Agreement for the period January 1, 2019 - December 31, 2021

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

Please see staff memo for background

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
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Attachments: Staff Memo, Letter of Understanding



MEMO TO: County Council Members

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

FROM: Melissa Keeley, Employee Relations Manager

DATE: June 4, 2021

SUBJECT: Teamsters Master Collective Bargaining Agreement - Letter of Understanding

Employees covered by the Teamsters Master collective bargaining agreement contributed towards our fiscal stability through unpaid furloughs in 2020 and frozen wages in 2021. They also agreed to a one-year extension of their agreement through 2021.

It is the County's intent to recognize those employees who did not receive a wage adjustment in 2021 with a mid-year 2% general wage adjustment effective July 11, 2021. This adjustment will help with retention and recruitment, maintain pace with our comparable Counties, and close the gap in internal equity among other County groups who received adjustments in January 2021.

WHATCOM COUNTY CONTRACT INFORMATION SHEET

Whatcom County Contract No.

Originating Department:	Administrative Services
Division/Program: (i.e. Dept. Division and Program)	Human Resources (HR)
Contract or Grant Administrator:	Melissa Keeley, Employee Relations Manager
Contractor's / Agency Name:	Collective Bargaining Agreement between Whatcom County and Teamsters' Local 231 MCBA
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"/> If Amendment or Renewal, (per WCC 3.08.100 (a)) Original Contract #: 201904010	
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 type="radio"/> No <input checked="" type="radio"/> If yes, Whatcom County grant contract number(s): _____	
Is this contract the result of a RFP or Bid process? Yes <input type="radio"/> No <input checked="" type="radio"/> If yes, RFP and Bid number(s): _____ Contract Cost Center: _____	
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 checked="" 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 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): \$ _____ This Amendment Amount: \$ _____ Total Amended Amount: \$ _____	Council approval required for; all property leases, contracts or bid awards exceeding \$40,000 , and professional service contract amendments that have an increase greater than \$10,000 or 10% of contract amount, whichever is greater, except when: 1. Exercising an option contained in a contract previously approved by the council. 2. Contract is for design, construction, r-o-w acquisition, 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: _____	
Letter of Understanding to amend the 2019-2021 Collective Bargaining Agreement between Whatcom County and General Teamsters' Local Union 231 Master Collective Bargaining Agreement	
Term of Contract: One year	Expiration Date: 12/31/2021

Contract Routing:	1. Prepared by: Melissa Keeley	Date: 6/4/21
	2. Attorney signoff: George Roche	Date: 6/1/21
	3. AS Finance reviewed:	Date: _____
	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
TEAMSTERS LOCAL 231**

This Letter of Understanding is by and between Whatcom County ("the County") and Teamsters Local 231 ("the Union") regarding the Master Collective Bargaining Agreement ("CBA") dated April 23, 2019 - December 31, 2020 and extended through December 31, 2021.

The County recognizes the Union's agreement to observe 32 hours of unpaid furlough in 2020 and a one-year extension of the CBA through 2021 with no wage increases. These agreements helped to protect County jobs and offer stability during the COVID-19 pandemic.

It is the County's intent to recognize those groups that did not receive a wage increase in January 2021.

The parties agree as follows:

1. Effective July 11, 2021 each wage step in all ranges of the July 2020 hourly matrix shall increase by 2% (Addendum B).

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.

Name	Signature	Date
Karen S. Goens, HR Manager	<small>DocuSigned by:</small> <i>Karen Goens</i>	6/1/2021
Rich Ewing, Teamsters Local 231	<small>6A9EA2C50D994...</small> <small>DocuSigned by:</small> <i>Richard J Ewing</i>	6/1/2021
Satpal Sidhu, County Executive	<small>1F388CD0519F472</small> <small>DocuSigned by:</small> <i>Satpal Sidhu</i>	6/1/2021

Approved as to Form:

DocuSigned by:
George Roche
George Roche, Senior Civil Deputy Prosecuting Attorney

6/1/2021

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: AB2021-335

File ID:	AB2021-335	Version:	1	Status:	Agenda Ready
File Created:	06/04/2021	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:	06/15/2021	Enactment #:			

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

TITLE FOR AGENDA ITEM:

Request authorization for a Letter of Understanding between Whatcom County and the WA State Nurses Association to amend the collective bargaining agreement for the period January 1, 2021 - December 31, 2022

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

Please see staff memo for background

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
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Attachments: Staff memo, Letter of Understanding



MEMO TO: County Council Members

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

FROM: Melissa Keeley, Employee Relations Manager

DATE: June 4, 2021

SUBJECT: WSNA - Letter of Understanding

Employees covered by the WA State Nurses Association collective bargaining agreement contributed towards our fiscal stability through frozen wages in 2021.

It is the County's intent to recognize those employees who did not receive a wage adjustment in 2021 with a mid-year 2% general wage adjustment effective July 11, 2021. This adjustment will help with retention and recruitment, maintain pace with our comparable Counties, and close the gap in internal equity among other County groups who received adjustments in January 2021.

WHATCOM COUNTY CONTRACT INFORMATION SHEET

Whatcom County Contract No.

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

Is this a New Contract? Yes ☐ No ☒ If not, is this an Amendment or Renewal to an Existing Contract? Yes ☒ No ☐
 If Amendment or Renewal, (per WCC 3.08.100 (a)) Original Contract #: 202102028

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? Yes ☐ No ☒ If yes, RFP and Bid number(s): _____ Contract _____
 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:

<input checked="" 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 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): \$ _____ This Amendment Amount: \$ _____ Total Amended Amount: \$ _____	Council approval required for; all property leases, contracts or bid awards exceeding \$40,000 , and professional service contract amendments that have an increase greater than \$10,000 or 10% of contract amount, whichever is greater, except when: 1. Exercising an option contained in a contract previously approved by the council. 2. Contract is for design, construction, r-o-w acquisition, 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.
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Summary of Scope: _____

Letter of Understanding to amend the 2021-2022 Collective Bargaining Agreement between Whatcom County and WSNA

Term of Contract: Two years	Expiration Date: 12/31/2022
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Contract Routing:

1. Prepared by: Melissa Keeley	Date: 6/4/21
2. Attorney signoff: George Roche	Date: 6/3/21
3. AS Finance reviewed: _____	Date: _____
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 AGREEMENT
BY AND BETWEEN
WHATCOM COUNTY, WASHINGTON
AND
WASHINGTON STATE NURSES ASSOCIATION**

This Letter of Understanding is by and between Whatcom County ("the County") and the Washington State Nurses Association ("the Union") regarding the Collective Bargaining Agreement ("CBA") dated January 1, 2021 – December 31, 2022.

The County recognizes the Union's agreement to no across the board wage increases in 2021. This agreement helped to protect County jobs and offer stability during the COVID-19 pandemic.

It is the County's intent to recognize those groups that did not receive a wage increase in January 2021.

The parties agree as follows:

1. Effective July 11, 2021 each wage step in all ranges of the 2021 hourly matrix shall increase by 2% (Addendum B).

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.

Name	Signature	Date
Karen S. Goens, Human Resources	 DocuSigned by: 6A9EA2C50D994E1...	6/3/2021
Mike Sanderson, WSNA Labor Rep.	 DocuSigned by: 8DE4D30D7A1A4AC...	6/3/2021
Satpal Sidhu, County Executive	 DocuSigned by: 7373A1F2A59A4FD...	6/3/2021

Approved as to Form:


DocuSigned by:
669516998592416...
George Roche, Senior Civil Deputy Prosecuting Attorney

6/3/2021

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: AB2021-336

File ID:	AB2021-336	Version:	1	Status:	Agenda Ready
File Created:	06/04/2021	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:	06/15/2021	Enactment #:			

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

TITLE FOR AGENDA ITEM:

Request authorization for a Letter of Understanding between Whatcom County and PROTEC17 to amend the collective bargaining agreement for the period January 1, 2019 - December 31, 2021

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

Please see staff memo for background

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
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Attachments: Staff Memo, Letter of Understanding



MEMO TO: County Council Members

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

FROM: Melissa Keeley, Employee Relations Manager

DATE: June 4, 2021

SUBJECT: PROTEC17 - Letter of Understanding

Employees covered by the Professional and Technical Employees collective bargaining agreement contributed towards our fiscal stability through unpaid furloughs in 2020 and frozen wages in 2021. They also agreed to a one-year extension of their agreement through 2021.

It is the County's intent to recognize those employees who did not receive a wage adjustment in 2021 with a mid-year 2% general wage adjustment effective July 11, 2021. This adjustment will help with retention and recruitment, maintain pace with our comparable Counties, and close the gap in internal equity among other County groups who received adjustments in January 2021.

WHATCOM COUNTY CONTRACT INFORMATION SHEET

Whatcom County Contract No.

Originating Department:	Administrative Services
Division/Program: (i.e. Dept. Division and Program)	Human Resources (HR)
Contract or Grant Administrator:	Melissa Keeley, Employee Relations Manager
Contractor's / Agency Name:	Collective Bargaining Agreement between Whatcom County and PROTEC17

Is this a New Contract? Yes ☐ No ☒ If not, is this an Amendment or Renewal to an Existing Contract? Yes ☒ No ☐
 If Amendment or Renewal, (per WCC 3.08.100 (a)) Original Contract #: 201905014

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? Yes ☐ No ☒ If yes, RFP and Bid number(s): _____ Contract _____
 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:

- | | |
|----------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------|
| <input checked="" 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 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):
 \$ _____
 This Amendment Amount:
 \$ _____
 Total Amended Amount:
 \$ _____

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

1. Exercising an option contained in a contract previously approved by the council.
2. Contract is for design, construction, r-o-w acquisition, 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:

Letter of Understanding to amend the 2019-2021 Collective Bargaining Agreement between Whatcom County and PROTEC17

Term of Contract: One year

Expiration Date: 12/31/2021

Contract Routing:	1. Prepared by: Melissa Keeley	Date: 6/4/21
	2. Attorney signoff: George Roche	Date: 6/4/21
	3. AS Finance reviewed:	Date: _____
	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 AGREEMENT
BY AND BETWEEN
WHATCOM COUNTY, WASHINGTON
AND
PROFESSIONAL AND TECHNICAL EMPLOYEES, PROTEC17**

This Letter of Understanding is by and between Whatcom County ("the County") and PROTEC17 ("the Union") regarding the Collective Bargaining Agreement ("CBA") dated May 21, 2019 - December 31, 2020 and extended through December 31, 2021.

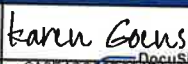
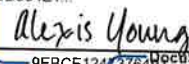

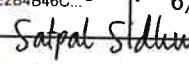
The County recognizes the Union's agreement to observe 32 hours of unpaid furlough in 2020 and a one-year extension of the CBA through 2021 with no wage increases. These agreements helped to protect County jobs and offer stability during the COVID-19 pandemic.

It is the County's intent to recognize those groups that did not receive a wage increase in January 2021.

The parties agree as follows:

1. Effective July 11, 2021 each wage step in all ranges of the July 2020 hourly matrix shall increase by 2% (Addendum B).

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.

Name	Signature	Date
Karen S. Goens, Human Resources	 <small>DocuSigned by: 6A9EA2C60D994E1...</small>	6/3/2021
Alexis Young, PROTEC17	 <small>DocuSigned by: 9EBCE1240376491...</small>	6/4/2021
Karen Estevenin, Executive Director	 <small>DocuSigned by: F9FA040E2B4B46C...</small>	6/4/2021
Satpal Sidhu, County Executive	 <small>DocuSigned by: 7373A1F2A59A4FD...</small>	6/4/2021

Approved as to Form:


DocuSigned by: 659518808582415
George Roche, Senior Civil Deputy Prosecuting Attorney

6/4/2021

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: AB2021-337

File ID:	AB2021-337	Version:	1	Status:	Agenda Ready
File Created:	06/07/2021	Entered by:	JThomson@co.whatcom.wa.us		
Department:	Health Department	File Type:	Interlocal		
Assigned to:	Council Finance and Administrative Services Committee	Final Action:			
Agenda Date:	06/15/2021	Enactment #:			

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

TITLE FOR AGENDA ITEM:

Request authorization for the County Executive to enter into an interlocal agreement between Whatcom County and Northwest Educational Services District 189 to provide behavioral health services, in the amount of \$121,000

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

See attachments

HISTORY OF LEGISLATIVE FILE

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

Attachments: Staff Memo, Proposed Interlocal Agreement



MEMORANDUM

TO: Satpal Sidhu, County Executive

FROM: Erika Lautenbach, Director

RE: Northwest Educational Services District 189 – Behavioral Health Services Interlocal Agreement

DATE: June 7, 2021

Attached is an interlocal agreement between Whatcom County and Northwest Educational Services District (ESD) 189 for your review and signature.

▪ **Background and Purpose**

This contract provides funding for substance use disorder prevention services necessary to contribute to the improvement of behavioral health outcomes. The Student Assistance Program is an evidence-based and cost-beneficial program designed to support a range of behavioral health needs and increase access to critical school and community services. The Northwest Educational Service District continues to exceed expected services levels and to demonstrate positive outcomes that meet identified goals, as highlighted in the attached exhibits.

Services will primarily support a Student Assistance Professional in the Nooksack Valley School District, ensuring that all seven school districts maintain these prevention and intervention services.

▪ **Funding Amount and Source**

The source of funding for this agreement, in an amount not to exceed \$121,000, is the North Sound Behavioral Health Administrative Services Organization and the Behavioral Health Program Fund. Funding for this agreement is included in the 2021 budget. Council approval is required per RCW 39.34.030(2) for agreements between public agencies.

▪ **Differences Between Previous Contracts**

This is a new contract; however, funding for these services has been provided through similar contracts between Whatcom County and Northwest ESD 189 since 2014.

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 No. _____	
Originating Department:			85 Health		
Division/Program: (i.e. Dept. Division and Program)			8550 Human Services / 855020 Mental Health		
Contract or Grant Administrator:			Joe Fuller		
Contractor's / Agency Name:			Northwest ESD 189		
Is this a New Contract?		If not, is this an Amendment or Renewal to an Existing Contract?		Yes <input type="checkbox"/>	No <input type="checkbox"/>
Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>	If Amendment or Renewal, (per WCC 3.08.100 (a)) Original Contract #:			
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#:	93.959
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>				
Is this contract grant funded?		If yes, Whatcom County grant contract number(s):		201904004	
Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>				
Is this contract the result of a RFP or Bid process?		Contract Cost Center:		124113 / 677410 / 675500	
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	If yes, RFP and Bid number(s):			
Is this agreement excluded from E-Verify?		No <input type="checkbox"/>	Yes <input checked="" type="checkbox"/>		
If YES, indicate exclusion(s) below:					
<input 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 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):		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:			
\$	121,000	1. Exercising an option contained in a contract previously approved by the council.			
This Amendment Amount:		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.			
Total Amended Amount:		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: This contract funds substance use disorder prevention services necessary to contribute to the improvement of behavioral health outcomes within school districts of Whatcom County					
Term of Contract:		1 Year		Expiration Date: 08/31/2022	
Contract Routing:	1. Prepared by: JT		Date:		04/21/2021
	2. Health Budget Approval: KR/JG		Date:		05/24/2021
	3. Attorney signoff: RB		Date:		5/27/2021
	4. AS Finance reviewed: M Caldwell		Date:		6/7/21
	5. IT reviewed (if IT related):		Date:		
	6. Contractor approved:		Date:		
	7. Submitted to Exec.:		Date:		
	8. Council approved (if necessary): AB2021-337		Date:		
	9. Executive signed:		Date:		
	10. Original to Council:		Date:		

INTERLOCAL AGREEMENT
Between Whatcom County and Northwest Educational Service District (ESD) 189

Northwest ESD, hereinafter called **Contractor** and Whatcom County, hereinafter referred to as **County**, agree and contract as set forth in this Agreement, including:

General Conditions, pp. 3 to 13,
Exhibit A (Scope of Work), pp. 14 to 16,
Exhibit B (Compensation), pp. 17 to 18,
Exhibit C (Certificate of Insurance), pp. 19
Exhibit D (Summary and Outcomes), pp. 20 to 21.

Copies of these items are attached hereto and incorporated herein by this reference as if fully set forth herein.

The term of this Agreement shall commence on the 1st day of September, 2021, and shall, unless terminated or renewed as elsewhere provided in the Agreement, terminate on the 31st day of August, 2022.

The general purpose or objective of this Agreement is to provide funding for behavioral health services, as more fully and definitively described in Exhibit A hereto. The language of Exhibit A controls in case of any conflict between it and that provided here.

The maximum consideration for the initial term of this agreement or for any renewal term shall not exceed \$121,000. The Contract Number, set forth above, shall be included on all billings or correspondence in connection therewith.

Contractor acknowledges and by signing this contract agrees that the Indemnification provisions set forth in Paragraphs 11.1, 21.1, 30.1, 31.2, 32.1, 34.2, and 34.3, if included, are totally and fully part of this contract and have been mutually negotiated by the parties.

Each person signing this Contract represents and warrants that he or she is duly authorized and has legal capacity to execute and deliver this Contract.

IN WITNESS WHEREOF, the parties have executed this Agreement this ____ day of _____, 2021.

CONTRACTOR:

Northwest Educational Services District 189
1601 R Avenue
Anacortes, WA 98221

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 to bind the party thereto.

Larry Francois, Superintendent

WHATCOM COUNTY:
Recommended for Approval:

Anne Deacon, Human Services Manager
Date

Erika Lautenbach, Health Department Director

Approved as to form:

Royce Buckingham, Prosecuting Attorney	Date
----------------------------------------	------

Approved:

Accepted for Whatcom County:

By: _____
Satpal Singh Sidhu, Whatcom County Executive

CONTRACTOR INFORMATION:

Northwest Educational Services District 189
1601 R Avenue
Anacortes, WA 98221
360-299-4000
lfrancois@nwsd.org

GENERAL CONDITIONS

Series 00-09: Provisions Related to Scope and Nature of Services

0.1 Scope of Services:

The Contractor agrees to provide to the County services and any materials as set forth in the project narrative identified as Exhibit "A", during the agreement period. No material, labor, or facilities will be furnished by the County, unless otherwise provided for in the Agreement.

Series 10-19: Provisions Related to Term and Termination

10.1 Term:

Services provided by Contractor prior to or after the term of this contract shall be performed at the expense of Contractor and are not compensable under this contract unless both parties hereto agree to such provision in writing. The term of this Agreement may be extended by mutual agreement of the parties; provided, however, that the Agreement is in writing and signed by both parties.

10.2 Extension:

The duration of this Agreement may be extended by mutual written consent of the parties, for a period of up to one year, and for a total of no longer than three years.

11.1 Termination for Default:

If the Contractor defaults by failing to perform any of the obligations of the contract or becomes insolvent or is declared bankrupt or commits any act of bankruptcy or insolvency or makes an assignment for the benefit of creditors, the County may, by depositing written notice to the Contractor in the U.S. mail, first class postage prepaid, terminate the contract, and at the County's option, obtain performance of the work elsewhere. Termination shall be effective upon Contractor's receipt of the written notice, or within three (3) days of the mailing of the notice, whichever occurs first. If the contract is terminated for default, the Contractor shall not be entitled to receive any further payments under the contract until all work called for has been fully performed. Any extra cost or damage to the County resulting from such default(s) shall be deducted from any money due or coming due to the Contractor. The Contractor shall bear any extra expenses incurred by the County in completing the work, including all increased costs for completing the work, and all damage sustained, or which may be sustained by the County by reason of such default.

11.2 Termination for Reduction in Funding:

In the event that 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 its normal completion, the County may summarily terminate this Agreement as to the funds withdrawn, reduced, or limited, notwithstanding any other termination provisions of this Agreement. If the level of funding withdrawn, reduced or limited is so great that the County deems that the continuation of the programs covered by this Agreement is no longer in the best interest of the County, the County may summarily terminate this Agreement in whole, notwithstanding any other termination provisions of this Agreement. Termination under this section shall be effective upon receipt of written notice as specified herein, or within three days of the mailing of the notice, whichever occurs first.

11.3 Termination for Public Convenience:

The County may terminate the Agreement in whole or in part whenever the County determines, in its sole discretion, that such termination is in the interests of the County. Whenever the Agreement is terminated in accordance with this paragraph, the Contractor shall be entitled to payment for actual work performed at unit contract prices for completed items of work. An equitable adjustment in the contract price for partially completed items of work will be made, but such adjustment shall not include provision for loss of anticipated profit on deleted or uncompleted work. Termination of this Agreement by the County at any time during the term, whether for default or convenience, shall not constitute breach of contract by the County.

Series 20-29: Provisions Related to Consideration and Payments

20.1 Accounting and Payment for Contractor Services:

Payment to the Contractor for services rendered under this Agreement shall be as set forth in Exhibit "B." Where Exhibit "B" requires payments by the County, payment shall be based upon written claims supported, unless otherwise provided in Exhibit "B," by documentation of units of work actually performed and amounts earned, including, where appropriate, the actual number of days worked each month, total number of hours for the month, and the total dollar payment requested, so as to comply with municipal auditing requirements.

Unless specifically stated in Exhibit "B" or approved in writing in advance by the official executing this Agreement for the County or his designee (hereinafter referred to as the "Administrative Officer") the County will not reimburse the Contractor for any costs or expenses incurred by the Contractor in the performance of this contract. Where required, the County shall, upon receipt of appropriate documentation, compensate the Contractor, no more often than monthly, in accordance with the County's customary procedures, pursuant to the fee schedule set forth in Exhibit "B."

21.1 Taxes:

The Contractor understands and acknowledges that the County will not withhold Federal or State income taxes. Where required by State or Federal law, the Contractor authorizes the County to withhold for any taxes other than income taxes (i.e., Medicare). All compensation received by the Contractor will be reported to the Internal Revenue Service at the end of the calendar year in accordance with the applicable IRS regulations. It is the responsibility of the Contractor to make the necessary estimated tax payments throughout the year, if any, and the Contractor is solely liable for any tax obligation arising from the Contractor's performance of this Agreement. The Contractor hereby agrees to indemnify the County against any demand to pay taxes arising from the Contractor's failure to pay taxes on compensation earned pursuant to this Agreement.

The County will pay sales and use taxes imposed on goods or services acquired hereunder as required by law. The Contractor must pay all other taxes, including, but not limited to, Business and Occupation Tax, taxes based on the Contractor's gross or net income, or personal property to which the County does not hold title. The County is exempt from Federal Excise Tax.

22.1 Withholding Payment:

In the event the County's Administrative Officer determines that the Contractor has failed to perform any obligation under this Agreement within the times set forth in this Agreement, then the County may withhold from amounts otherwise due and payable to Contractor the amount determined by the County as necessary to cure the default, until the Administrative Officer determines that such failure to perform has been cured. Withholding under this clause shall not be deemed a breach entitling Contractor to termination or damages, provided that the County promptly gives notice in writing to the Contractor of the nature of the default or failure to perform, and in no case more than 10 days after it determines to withhold amounts otherwise due. A determination of the Administrative Officer set forth in a notice to the Contractor of the action required and/or the amount required to cure any alleged failure to perform shall be deemed conclusive, except to the extent that the Contractor acts within the times and in strict accord with the provisions of the Disputes clause of this Agreement. The County may act in accordance with any determination of the Administrative Officer which has become conclusive under this clause, without prejudice to any other remedy under the Agreement, to take all or any of the following actions: (1) cure any failure or default, (2) to pay any amount so required to be paid and to charge the same to the account of the Contractor, (3) to set off any amount so paid or incurred from amounts due or to become due the Contractor. In the event the Contractor obtains relief upon a claim under the Disputes clause, no penalty or damages shall accrue to Contractor by reason of good faith withholding by the County under this clause.

23.1 Labor Standards:

The Contractor agrees to comply with all applicable state and federal requirements, including but not limited to those pertaining to payment of wages and working conditions, in accordance with RCW 39.12.040, the Prevailing Wage Act; the Americans with Disabilities Act of 1990; the Davis-Bacon Act; and the Contract Work Hours and Safety Standards Act providing for weekly payment of prevailing wages, minimum overtime pay, and providing that no laborer or mechanic shall be required to work in surroundings or under conditions which are unsanitary, hazardous, or dangerous to health and safety as determined by regulations promulgated by the Federal Secretary of Labor and the State of Washington.

Series 30-39: Provisions Related to Administration of Agreement

30.1 Independent Contractor:

The Contractor's services shall be furnished by the Contractor as an independent contractor, and nothing herein contained shall be construed to create a relationship of employer-employee or master-servant, but all payments made hereunder and all services performed shall be made and performed pursuant to this Agreement by the Contractor as an independent contractor.

The Contractor acknowledges that the entire compensation for this Agreement is specified in Exhibit "B" and the Contractor is not entitled to any benefits including, but not limited to: vacation pay, holiday pay, sick leave pay, medical, dental, or other insurance benefits, or any other rights or privileges afforded to employees of the County. The Contractor represents that he/she/it maintains a separate place of business, serves clients other than the County, will report all income and expense accrued under this contract to the Internal Revenue Service, and has a tax account with the State of Washington Department of Revenue for payment of all sales and use and Business and Occupation taxes collected by the State of Washington.

Contractor will defend, indemnify and hold harmless the County, its officers, agents or employees from any loss or expense, including, but not limited to, settlements, judgments, setoffs, attorneys' fees or costs incurred by reason of claims or demands because of breach of the provisions of this paragraph

30.2 Assignment and Subcontracting:

The performance of all activities contemplated by this agreement shall be accomplished by the Contractor. No portion of this contract may be assigned or subcontracted to any other individual, firm or entity without the express and prior written approval of the County.

30.3 No Guarantee of Employment:

The performance of all or part of this contract by the Contractor shall not operate to vest any employment rights whatsoever and shall not be deemed to guarantee any employment of the Contractor or any employee of the Contractor or any subcontractor or any employee of any subcontractor by the County at the present time or in the future.

31.1 Ownership of Items Produced and Public Records Act:

All writings, programs, data, public records or other materials prepared by the Contractor and/or its consultants or subcontractors, in connection with performance of this Agreement, shall be the sole and absolute property of the County. If the Contractor creates any copyrightable materials or invents any patentable property, the Contractor may copyright or patent the same, but the County retains a royalty-free, nonexclusive and irrevocable license to reproduce, publish, recover, or otherwise use the materials or property and to authorize other governments to use the same for state or local governmental purposes. Contractor further agrees to make research, notes, and other work products produced in the performance of this Agreement available to the County upon request.

Ownership. Any and all data, writings, programs, public records, reports, analyses, documents, photographs, pamphlets, plans, specifications, surveys, films or any other materials created, prepared, produced, constructed, assembled, made, performed or otherwise produced by the Contractor or the Contractor's subcontractors or consultants for delivery to the County under this Contract shall be the sole and absolute property of the County. Such property shall constitute "work made for hire" as defined by the U.S. Copyright Act of 1976, 17 U.S.C. § 101, and the ownership of the copyright and any other intellectual property rights in such property shall vest in the County at the time of its creation. Ownership of the intellectual property includes the right to copyright, patent, and register, and the ability to transfer these rights. Material which the Contractor uses to perform this Contract but is not created, prepared, constructed, assembled, made, performed or otherwise produced for or paid for by the County is owned by the Contractor and is not "work made for hire" within the terms of this Agreement.

Public Records Act. This Contract and all records associated with this Contract shall be available for inspection and copying by the public where required by the Public Records Act, Chapter 42.56 RCW (the "Act"). To the extent that public records then in the custody of the Contractor are needed for the County to respond to a request under the Act, as determined by the County, the Contractor agrees to make them promptly available to the County at no cost to the County. If the Contractor considers any portion of any record provided to the County under this Agreement, whether in electronic or hard copy form, to be protected from disclosure under law, the Contractor shall clearly identify any specific information that it claims to be confidential or proprietary. If the County receives a request under the Act to inspect or copy the information so identified by the Contractor and the County determines that release of the information is required by the Act or otherwise appropriate, the County's sole obligations shall be to notify the Contractor (a) of the request and (b) of the date that such information will be released to the requester unless the Contractor obtains a court order to enjoin that

disclosure pursuant to RCW 42.56.540. If the Contractor fails to timely obtain a court order enjoining disclosure, the County will release the requested information on the date specified.

The County has, and by this section assumes, no obligation on behalf of the Contractor to claim any exemption from disclosure under the Act. The County shall not be liable to the Contractor for releasing records not clearly identified by the Contractor as confidential or proprietary. The County shall not be liable to the Contractor for any records that the County releases in compliance with this section or in compliance with an order of a court of competent jurisdiction.

The Contractor shall be liable to the requester for any and all fees, costs, penalties or damages imposed or alleged as a result of the Contractor's failure to provide adequate or timely records.

This provision and the obligations it establishes shall remain in effect after the expiration of this contract.

31.2 Patent/Copyright Infringement:

Contractor will defend and indemnify the County from any claimed action, cause or demand brought against the County, to the extent such action is based on the claim that information supplied by the Contractor infringes any patent or copyright. The Contractor will pay those costs and damages attributable to any such claims that are finally awarded against the County in any action. Such defense and payments are conditioned upon the following:

A. The Contractor shall be notified promptly in writing by the County of any notice of such claim.

B. Contractor shall have the right, hereunder, at its option and expense, to obtain for the County the right to continue using the information, in the event such claim of infringement, is made, provided no reduction in performance or loss results to the County.

32.1 Confidentiality:

The Contractor, its employees, subcontractors, and their employees shall maintain the confidentiality of all information provided by the County or acquired by the Contractor in performance of this Agreement, except upon the prior written consent of the County or an order entered by a court after having acquired jurisdiction over the County. Contractor shall immediately give to the County notice of any judicial proceeding seeking disclosure of such information. Contractor shall indemnify and hold harmless the County, its officials, agents or employees from all loss or expense, including, but not limited to, settlements, judgments, setoffs, attorneys' fees and costs resulting from Contractor's breach of this provision.

33.1 Right to Review:

This contract is subject to review by any Federal, State or County auditor. The County or its designee shall have the right to review and monitor the financial and service components of this program by whatever means are deemed expedient by the Administrative Officer or by the County Auditor's Office. Such review may occur with or without notice and may include, but is not limited to, on-site inspection by County agents or employees, inspection of all records or other materials which the County deems pertinent to the Agreement and its performance, and any and all communications with or evaluations by service recipients under this Agreement. The Contractor shall preserve and maintain all financial records and records relating to the performance of work under this Agreement for three (3) years after contract termination, and shall make them available for such review, within Whatcom County, State of Washington, upon request. Contractor also agrees to notify the Administrative Officer in advance of any inspections, audits, or program review by any individual, agency, or governmental unit whose purpose is to review the services provided within the terms of this Agreement. If no advance notice is given to the Contractor, then the Contractor agrees to notify the Administrative Officer as soon as it is practical.

34.1 Insurance:

The Contractor shall, at its own expense, obtain and continuously maintain the following insurance coverage for the duration of this contract, which shall include insurance against claims for injuries to persons or damage to property which may arise from or in connection with the performance of the work hereunder by the Contractor, its agents, representatives, subcontractors or employees. All insurers providing such insurance shall have an A.M. Best Rating of not less than A- (or otherwise be acceptable to the County) and be licensed to do business in the State of Washington and admitted by the Washington State Insurance Commissioner. Coverage limits shall be the minimum limits identified in this Contract or the coverage limits provided or available under the policies maintained by the Contractor without regard to this Contract, whichever are greater.

1. Commercial General Liability

Property Damage	\$500,000.00, per occurrence
General Liability & bodily injury	\$1,000,000.00, per occurrence
Annual Aggregate	\$2,000,000.00

At least as broad as ISO form CG 00 01 or the equivalent, which coverage shall include personal injury, bodily injury and property damage for Premises Operations, Products and Completed Operations, Personal/Advertising Injury, Contractual Liability, Independent Contractor Liability, medical payments and Stop Gap/Employer's Liability. Coverage shall not exclude or contain sub-limits less than the minimum limits required, unless approved in writing by the County.

2. Business Automobile Liability

\$1,000,000.00	Minimum, per occurrence
\$2,000,000.00	Minimum, Annual Aggregate

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

3. Additional Insurance Requirements and Provisions

- a. All insurance policies shall provide coverage on an occurrence basis.
- b. Additional Insureds. Whatcom County, its departments, elected and appointed officials, employees, agents and volunteers shall be included as additional insureds on Contractor's and Contractor's subcontractors' insurance policies by way of endorsement for the full available limits of insurance required in this contract or maintained by the Contractor and subcontractor, whichever is greater.
- c. Primary and Non-contributory Insurance. Contractor shall provide primary insurance coverage and the County's insurance shall be non-contributory. Any insurance, self-insured retention, deductible, risk retention or insurance pooling maintained or participated in by the County shall be excess and non-contributory to Contractor's insurance.
- d. Waiver of Subrogation. The insurance policy shall provide a waiver of subrogation with respect to each insurance policy maintained under this Contract. When required by an insurer, or if a policy condition does not permit Contractor to enter into a pre-loss agreement to waive subrogation without an endorsement, then Contractor agrees to notify the insurer and obtain such endorsement. This requirement shall not apply to any policy which includes a condition expressly prohibiting waiver of subrogation by the insured or which voids coverage should the Contractor enter into such a waiver of subrogation on a pre-loss basis.
- e. Review of and Revision of Policy Provisions. Upon request, the Contractor shall provide a full and complete certified copy of all requested insurance policies to the County. The County reserves the right, but not the obligation, to revise any insurance requirement, including but not limited to limits, coverages and endorsements, or to reject any insurance policies which fail to meet the requirements of this Contract. Additionally, the County reserves the right, but not the obligation, to review and reject any proposed insurer providing coverage based upon the insurer's financial condition or licensing status in Washington.
- f. Verification of Coverage/Certificates and Endorsements. The Contractor shall furnish the County with a certificate of insurance and endorsements required by this contract. The certificates and endorsements for each policy shall be signed by a person authorized by the insurer to bind coverage on its behalf. The certificate and endorsements for each insurance policy are to be on forms approved by the County prior to commencement of activities associated with the contract. The certificate and endorsements, and renewals thereof, shall be attached hereto as Exhibit "C". If Exhibit C is not attached, the Contractor must submit the certificate and endorsements required in this contract to the County prior to the commencement of any work on the contracted project. A certificate alone is insufficient proof of the required insurance; endorsements must be included with the certificate. The certificate of insurance must reflect the insurance required in this contract, including appropriate limits, insurance coverage dates, per occurrence, and in the description of operations, include the County project, Whatcom County, its departments, officials, employees, agents and volunteers as additional insureds, primary, non-contributory, and waiver of subrogation.

- g. The County must be notified immediately in writing of any cancellation of the policy, exhaustion of aggregate limits, notice of intent not to renew insurance coverage, expiration of policy or change in insurer carrier. Contractor shall always provide the County with a current copy of the certificate and endorsements throughout the duration of the contract.
 - h. No Limitation on Liability. The insurance maintained under this Contract shall not in any manner limit the liability or qualify the liabilities or obligations of the Contractor to the coverage provided by such insurance, or otherwise limit the County's recourse to any remedy available at law or equity.
 - i. Payment Conditioned on Insurance and Failure to Maintain Insurance. Compensation and/or payments due to the Contractor under this Contract are expressly conditioned upon the Contractor's compliance with all insurance requirements. Failure on the part of the Contractor to maintain the insurance as required shall constitute a material breach of contract. Payment to the Contractor may be suspended in the event of non-compliance, upon which the County may, after giving five business days' notice to the Contractor to correct the breach, immediately terminate the contract or, at its discretion, procure or renew such insurance and pay any and all premiums in connection therewith, with any sums so expended to be repaid to the County on demand or offset against funds due the Contractor. Upon receipt of evidence of Contractor's compliance, payments not otherwise subject to withholding or set-off will be released to the Contractor.
 - j. Workers' Compensation. The Contractor shall maintain Workers' Compensation coverage as required under the Washington State Industrial Insurance Act, RCW Title 51, for all Contractors' employees, agents and volunteers eligible for such coverage under the Industrial Insurance Act.
 - k. Failure of the Contractor to take out and/or maintain required insurance shall not relieve the Contractor or subcontractors from any liability under the contract, nor shall the insurance requirements be construed to conflict with or otherwise limit the obligations concerning indemnification. The County does not waive any insurance requirements even in the event the certificate or endorsements provided by the Contractor were insufficient or inadequate proof of coverage but not objected to by the County. The County's failure to confirm adequate proof of insurance requirements does not constitute a waiver of the Contractor's insurance requirements under this Contract.
 - l. Availability of Contractor Limits. If the Contractor maintains higher insurance limits than the minimums shown above, the County shall be insured for the full available limits, including Excess or Umbrella liability maintained by the Contractor, irrespective of whether such limits maintained by the Contractor are greater than those required by this contract or whether any certificate furnished to the County evidences limits of liability lower than those maintained by the Contractor.
 - m. Insurance for Subcontractors. If the Contractor subcontracts (if permitted in the contract) any portion of this Contract, the Contractor shall include all subcontractors as insureds under its policies or shall require separate certificates of insurance and policy endorsements from each subcontractor. Insurance coverages by subcontractors must comply with the insurance requirements of the Contractor in this contract and shall be subject to all of the requirements stated herein, including naming the County as additional insured.
 - n. The Contractor agrees Contractor's insurance obligation shall survive the completion or termination of this Contract for a minimum period of three years.
- 34.3 Defense & Indemnity Agreement. To the fullest extent permitted by law, the Contractor agrees to indemnify, defend and hold the County and its departments, elected and appointed officials, employees, agents and volunteers, harmless from and against any and all claims, damages, losses and expenses, including but not limited to court costs, attorney's fees, and alternative dispute resolution costs, for any personal injury, for any bodily injury, sickness, disease, or death and for any damage to or destruction of any property (including the loss of use resulting therefrom) which: 1) are caused in whole or in part by any error, act or omission, negligent or otherwise, of the Contractor, its employees, agents or volunteers or

Contractor's subcontractors and their employees, agents or volunteers; or 2) directly or indirectly arise out of or occur in connection with performance of this Contract or 3) are based upon the Contractor's or its subcontractors' use of, presence upon, or proximity to the property of the County. This indemnification obligation of the Contractor shall not apply in the limited circumstance where the claim, damage, loss, or expense is caused by the sole negligence of the County.

Should a court of competent jurisdiction determine that this contract is subject to RCW 4.24.115, then in the event of concurrent negligence of the Contractor, its subcontractors, employees or agents, and the County, its employees or agents, this indemnification obligation of the Contractor shall be valid and enforceable only to the extent of the negligence of the Contractor, its subcontractors, employees, and agents. This indemnification obligation of the Contractor shall not be limited in any way by the Washington State Industrial Insurance Act, RCW Title 51, or by application of any other workmen's compensation act, disability benefit act or other employee benefit act, and the Contractor hereby expressly waives any immunity afforded by such acts.

It is further provided that no liability shall attach to the County by reason of entering into this contract, except as expressly provided herein. The parties specifically agree that this Contract is for the benefit of the parties only and this Contract shall create no rights in any third party. The County reserves the right, but not the obligation, to participate in the defense of any claim, damages, losses, or expenses, and such participation shall not constitute a waiver of Contractor's indemnity obligations under this Agreement.

In the event the Contractor enters into subcontracts to the extent allowed under this Contract, the Contractor's subcontractors shall indemnify the County on a basis equal to or exceeding Contractor's indemnity obligations to the County. The Contractor shall pay all attorney's fees and expenses incurred by the County in establishing and enforcing the County's rights under this indemnification provision, whether or not suit was instituted.

The Contractor agrees all Contractor's indemnity obligations shall survive the completion, expiration or termination of this Agreement. The foregoing indemnification obligations of the Contractor are a material inducement to County to enter into this Agreement and are reflected in the Contractor's compensation.

By signing this contract, the Contractor acknowledges that it has freely negotiated and agreed to the indemnification requirements to defend, indemnify and hold harmless the County from all claims and suits including those brought against the County by the Contractor's own employees, arising from this contract.

35.1 Non-Discrimination in Employment:

The County's policy is to provide equal opportunity in all terms, conditions and privileges of employment for all qualified applicants and employees without regard to race, color, creed, religion, national origin, sex, sexual orientation (including gender identity), age, marital status, disability, or veteran status. The Contractor shall comply with all laws prohibiting discrimination against any employee or applicant for employment on the grounds of race, color, creed, religion, national origin, sex, sexual orientation (including gender identity), age, marital status, disability, political affiliation, or veteran status, except where such constitutes a bona fide occupational qualification.

Furthermore, in those cases in which the Contractor is governed by such laws, the Contractor shall take affirmative action to insure that applicants are employed, and treated during employment, without regard to their race, color, creed, religion, national origin, sex, age, marital status, sexual orientation (including gender identity), disability, or veteran status, except where such constitutes a bona fide occupational qualification. Such action shall include, but not be limited to: advertising, hiring, promotions, layoffs or terminations, rate of pay or other forms of compensation benefits, selection for training including apprenticeship, and participation in recreational and educational activities. In all solicitations or advertisements for employees placed by them or on their behalf, the Contractor shall state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex or national origin.

The foregoing provisions shall also be binding upon any subcontractor, provided that the foregoing provision shall not apply to contracts or subcontractors for standard commercial supplies or raw materials, or to sole proprietorships with no employees.

35.2 Non-Discrimination in Client Services:

The Contractor shall not discriminate on the grounds of race, color, creed, religion, national origin, sex, age, marital status, sexual orientation (including gender identity), disability, or veteran status; or deny an individual or business any service or benefits under this Agreement unless otherwise allowed by applicable law; or subject an individual or business to segregation or separate treatment in any manner related to his/her/its receipt any service or services or other benefits provided under this Agreement unless otherwise allowed by applicable law; or deny an individual or business an opportunity to participate in any program provided by this Agreement unless otherwise allowed by applicable law.

36.1 Waiver of Noncompetition:

Contractor irrevocably waives any existing rights which it may have, by contract or otherwise, to require another person or corporation to refrain from submitting a proposal to or performing work or providing supplies to the County, and contractor further promises that it will not in the future, directly or indirectly, induce or solicit any person or corporation to refrain from submitting a bid or proposal to or from performing work or providing supplies to the County.

36.2 Conflict of Interest:

If at any time prior to commencement of, or during the term of this Agreement, Contractor or any of its employees involved in the performance of this Agreement shall have or develop an interest in the subject matter of this Agreement that is potentially in conflict with the County's interest, then Contractor shall immediately notify the County of the same. The notification of the County shall be made with sufficient specificity to enable the County to make an informed judgment as to whether or not the County's interest may be compromised in any manner by the existence of the conflict, actual or potential. Thereafter, the County may require the Contractor to take reasonable steps to remove the conflict of interest. The County may also terminate this contract according to the provisions herein for termination.

37.1 Administration of Contract:

This Agreement shall be subject to all laws, rules, and regulations of the United States of America, the State of Washington, and political subdivisions of the State of Washington. The Contractor also agrees to comply with applicable federal, state, county or municipal standards for licensing, certification and operation of facilities and programs, and accreditation and licensing of individuals.

The County hereby appoints, and the Contractor hereby accepts, the Whatcom County Executive, and his or her designee, as the County's representative, hereinafter referred to as the Administrative Officer, for the purposes of administering the provisions of this Agreement, including the County's right to receive and act on all reports and documents, and any auditing performed by the County related to this Agreement. The Administrative Officer for purposes of this agreement is:

Joe Fuller, Program Specialist
Whatcom County Health Department

37.2 Notice:

Any notices or communications required or permitted to be given by this Contract must be (i) given in writing and (ii) personally delivered or mailed, by prepaid, certified mail or overnight courier, or transmitted by electronic mail transmission (including PDF), to the party to whom such notice or communication is directed, to the mailing address or regularly-monitored electronic mail address of such party as follows:

Whatcom County Health Department
Joe Fuller, Program Specialist
509 Girard Street
Bellingham, WA 98225
360-787-6045
JFuller@co.whatcom.wa.us

Northwest Educational Services District 189
Larry Francois, Superintendent
1601 R Avenue
Anacortes, WA 98221
360-299-4000
lfrancois@nwesd.org

Any such notice or communication shall be deemed to have been given on (i) the day such notice or communication is personally delivered, (ii) three (3) days after such notice or communication is mailed by prepaid certified or registered mail, (iii) one (1) working day after such notice or communication is sent by overnight courier, or (iv) the day such notice or communication is sent electronically, provided that the sender has received a confirmation of such electronic transmission. A party may, for purposes of this Agreement, change his, her or its address, email address or the person to whom a notice or other communication is marked to the attention of, by giving notice of such change to the other party pursuant to this Section.

37.3 If agreed by the parties, this Contract may be executed by Email transmission and PDF signature and Email transmission and PDF signature shall constitute an original for all purposes.

38.1 Certification of Public Works Contractor's Status under State Law:

If applicable, Contractor certifies that it has fully met the responsibility criteria required of public works contractors under RCW 39.04.350 (1), which include: (a) having a certificate of registration in compliance with RCW 18.27; (b) having a current state unified business identifier number; (c) if applicable, having industrial insurance coverage for its employees working in Washington as required in Title 51 RCW, an employment security department number as required in Title 50 RCW, and a state excise tax registration number as required in Title 82 RCW; and (d) not being disqualified from bidding on any public works contract under RCW 39.06.010 or 39.12.065 (3).

38.2 Certification Regarding Federal Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transactions:

If applicable, the Contractor further certifies, by executing this contract, that neither it nor its principles is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or Agency.

The Contractor also agrees that it shall not knowingly enter into any lower tier covered transactions (a transaction between the Contractor and any other person) with a person who is proposed for debarment, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, and the Contractor agrees to include this clause titled "Certification Regarding Federal Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transaction" without modification, in all lower tier covered transactions and in all solicitations for lower tier transactions.

The "Excluded Parties List System in the System for Award Management (SAM) website is available to research this information at WWW.SAM.GOV. Contractor shall immediately notify Whatcom County if, during the term of this Contract, Contractor becomes debarred.

38.3 E-Verify:

The E-Verify contractor program for Whatcom County applies to contracts of \$100,000 or more and sub contracts for \$25,000 or more if the primary contract is for \$100,000 or more. If applicable, Contractor represents and warrants that it will, for at least the duration of this contract, register and participate in the status verification system for all newly hired employees. The term "employee" as used herein means any person that is hired to perform work for Whatcom County. As used herein, "status verification system" means the Illegal Immigration Reform and Immigration Responsibility Act of 1996 that is operated by the United States Department of Homeland Security, also known as the E-Verify Program, or any other successor electronic verification system replacing the E-Verify Program. Contractor/Seller agrees to maintain records of such compliance and, upon request of the County, to provide a copy of each such verification to the County. Contractor/Seller further represents and warrants that any person assigned to perform services hereunder meets the employment eligibility requirements of all immigration laws of the State of Washington. Contractor/Seller understands and agrees that any breach of these warranties may subject Contractor/Seller to the following: (a) termination of this Agreement and ineligibility for any Whatcom County contract for up to three (3) years, with notice of such cancellation/termination being made public. In the event of such termination/cancellation, Contractor/Seller would also be liable for any additional costs incurred by the County due to contract cancellation or loss of license or permit." Contractor will review and enroll in the E-Verify program through this website: www.uscis.gov

Series 40-49: Provisions Related to Interpretation of Agreement and Resolution of Disputes

40.1 Modifications:

Either party may request changes in the Agreement. Any and all agreed modifications, to be valid and binding upon either party, shall be in writing and signed by both of the parties.

40.2 Contractor Commitments, Warranties and Representations:

Any written commitment received from the Contractor concerning this Agreement shall be binding upon the Contractor, unless otherwise specifically provided herein with reference to this paragraph. Failure of the Contractor to fulfill such a commitment shall render the Contractor liable for damages to the County. A commitment includes, but is not limited to, any representation made prior to execution of this Agreement, whether or not incorporated elsewhere herein by reference, as to performance of services or equipment, prices or options for future acquisition to remain in effect for a fixed period, or warranties.

41.1 Severability:

If any term or condition of this contract or the application thereof to any person(s) or circumstances is held invalid, such invalidity shall not affect other terms, conditions or applications which can be given effect without the invalid term, condition or application. To this end, the terms and conditions of this contract are declared severable.

41.2 Waiver:

Waiver of any breach or condition of this contract shall not be deemed a waiver of any prior or subsequent breach. No term or condition of this contract shall be held to be waived, modified or deleted except by an instrument, in writing, signed by the parties hereto. The failure of the County to insist upon strict performance of any of the covenants and agreements of this Agreement, or to exercise any option herein conferred in any one or more instances, shall not be construed to be a waiver or relinquishment of any such, or any other covenants or agreements, but the same shall be and remain in full force and effect.

42.1 Disputes:

a. General:

Differences between the Contractor and the County, arising under and by virtue of the Contract Documents, shall be brought to the attention of the County at the earliest possible time in order that such matters may be settled or other appropriate action promptly taken. Except for such objections as are made of record in the manner hereinafter specified and within the time limits stated, the records, orders, rulings, instructions, and decisions of the Administrative Officer shall be final and conclusive.

b. Notice of Potential Claims:

The Contractor shall not be entitled to additional compensation which otherwise may be payable, or to extension of time for (1) any act or failure to act by the Administrative Officer or the County, or (2) the happening of any event or occurrence, unless the Contractor has given the County a written Notice of Potential Claim within ten (10) days of the commencement of the act, failure, or event giving rise to the claim, and before final payment by the County. The written Notice of Potential Claim shall set forth the reasons for which the Contractor believes additional compensation or extension of time is due, the nature of the cost involved, and insofar as possible, the amount of the potential claim. Contractor shall keep full and complete daily records of the work performed, labor and material used, and all costs and additional time claimed to be additional.

c. Detailed Claim:

The Contractor shall not be entitled to claim any such additional compensation, or extension of time, unless within thirty (30) days of the accomplishment of the portion of the work from which the claim arose, and before final payment by the County, the Contractor has given the County a detailed written statement of each element of cost or other compensation requested and of all elements of additional time required, and copies of any supporting documents evidencing the amount or the extension of time claimed to be due.

d. Arbitration:

Other than claims for injunctive relief, temporary restraining order, or other provisional remedy to preserve the status quo or prevent irreparable harm, brought by a party hereto (which may be brought either in court or pursuant to this arbitration provision), and consistent with the provisions hereinabove, any claim, dispute or controversy between the parties under, arising out of, or related to this Contract or otherwise, including issues of specific performance, shall be determined by arbitration in Bellingham, Washington, under the applicable American Arbitration Association (AAA) rules in effect on the date hereof, as modified by this Agreement. There shall be one arbitrator selected by the parties within ten (10) days of

the arbitration demand, or if not, by the AAA or any other group having similar credentials. Any issue about whether a claim is covered by this Contract shall be determined by the arbitrator. The arbitrator shall apply substantive law and may award injunctive relief, equitable relief (including specific performance), or any other remedy available from a judge but shall not have the power to award punitive damages. Each Party shall pay all their own costs, attorney fees and expenses of arbitration and the parties shall share equally in the Arbitrator's fees and costs. The decision of the arbitrator shall be final and binding and an order confirming the award or judgment upon the award may be entered in any court having jurisdiction. The parties agree that the decision of the arbitrator shall be the sole and exclusive remedy between them regarding any dispute presented or pled before the arbitrator. At the request of either party made not later than forty-five (45) days after the arbitration demand, the parties agree to submit the dispute to nonbinding mediation, which shall not delay the arbitration hearing date; provided, that either party may decline to mediate and proceed with arbitration.

Any arbitration proceeding commenced to enforce or interpret this Contract shall be brought within six years after the initial occurrence giving rise to the claim, dispute, or issue for which arbitration is commenced, regardless of the date of discovery or whether the claim, dispute, or issue was continuing in nature. Claims, disputes, or issues arising more than six years prior to a written request or demand for arbitration issued under this Contract are not subject to arbitration.

- e. The parties may agree in writing signed by both parties that a claim or dispute may be brought in Whatcom County Superior Court rather than mediation or arbitration.

Unless otherwise specified herein, this Contract shall be governed by the laws of Whatcom County and the State of Washington.

43.1 Venue and Choice of Law:

In the event that any litigation should arise concerning the construction or interpretation of any of the terms of this Agreement, the venue of such action of litigation shall be in the courts of the State of Washington in and for the County of Whatcom. This Agreement shall be governed by the laws of the State of Washington.

44.1 Survival:

The provisions of paragraphs 11.1, 11.2, 11.3, 21.1, 22.1, 30.1, 31.1, 31.2, 32.1, 33.1, 34.2, 34.3, 36.1, 40.2, 41.2, 42.1, and 43.1, if utilized, shall survive, notwithstanding the termination or invalidity of this Agreement for any reason.

45.1 Entire Agreement:

This written Agreement, comprised of the writings signed or otherwise identified and attached hereto, represents the entire Agreement between the parties and supersedes any prior oral statements, discussions or understandings between the parties.


EXHIBIT "A"
(SCOPE OF WORK)


I. Background

Substance use and poor mental health experienced by youth often create lifelong negative impacts. The purpose of this contract is to improve behavioral health outcomes among students, including reduction of risks for substance abuse and poor mental health. Evidence and research-based programming will be delivered through the school-based Student Assistance Program (SAP). The Student Assistance Program is a multi-tiered approach, where prevention services are provided to the entire school community and group or individual counseling is provided to students who are at-risk or are using alcohol, tobacco, or other drugs.

The goal of the services is to mitigate behavioral health concerns for youth and their families and to promote increased functioning and success. The services outlined in the statement of work will provide a response to the pressing needs of students. SAP will also work with students to build resistance and social competency skills. Motivational Interviewing (MI) will be utilized in service delivery. MI is an approach that moves individuals away from indecision toward finding motivation to healthier goals, ones that include positive and healthy choices.

The Student Assistance Program undergoes annual program evaluation. Results over time consistently show that students who participate in prevention/intervention services increase their understanding of the risk of using substances, and reduce or delay the onset of use. Additionally, the program shows reductions being in trouble at school, skipping school, suspensions, hitting or hurting someone, being in a physical fight, and in being arrested. Statewide results from the Office of Superintendent of Public Instruction (OSPI) are highlighted in Exhibit D (Summary & Outcomes). Locally, outcomes have also shown the following results.

Intervention Goals		
Reduce or Eliminate Behavior	<u>Reduction</u>	
Tobacco use	22%	
Alcohol use	22%	
Marijuana use	35%	
Anxiety, depression	11%	
Truancy	8%	
Associate w/ inappropriate peers	26%	

Intervention Goals		
Strengthen Skills & Attitudes	<u>Increase</u>	
Perceived risk of use	96%	
Awareness of social influences	66%	
Refusal skills	99%	
Assertiveness	99%	
Social skills	30%	
Communication skills	23%	
Decision-making	77%	
Social bonding	24%	
School bonding	85%	
Family bonding	52%	

Beyond the positive behavioral outcomes of the program, services also demonstrate financial benefits to the public. Cost-benefit estimates show that effective school-based programs can **save \$18 for every \$1 spent on these programs.**

II. Statement of Work

The Contractor will:

1. Provide behavioral health services, targeting 75 high school students and their families, as appropriate, during the contract period.
2. Provide services to students who are demonstrating “behaviors of concern” such as declining grades, discipline problems, truancy and absenteeism programs, suspensions, substance use, or related issues. Targeted students also include those who are in recovery, are at risk for use or abuse, who are impacted by substance use in the family, or are impacted by their own substance use (or abuse or addiction). Individuals can refer themselves or be referred by other students, school personnel, or family members.
3. Provide services through the Student Assistance Program. Prevention and intervention services may include the following program components:
 - a. Classroom instruction – In-class instruction is provided on topics of skills and coping, being an adolescent, relationships (friends and family), and alcohol, tobacco and other drugs.
 - b. Individual and group supports – Students may receive individual counseling or participate in one of several counseling groups, including:
 - At Risk Group - Education and skill building for students at risk of using/abusing alcohol, tobacco, or other drugs (ATOD)
 - Intervention Group - For students experimenting, using, or abusing ATOD
 - Affected Others Group – For students impacted by substance use in the family
 - Recovery Group – For students in recovery from substance use
 - Senior Group – For seniors who are ambivalent about leaving school and home, and/or who have “senioritis”. The emphasis is on preventing students from increasing their use of alcohol or other drugs to deal with senior stress.
 - Newcomers Group – For students new to the school, to help them form connections to adapt to a new school/community.
 - c. School-Wide Awareness & Outreach Activities – Activities such as assemblies, contests, and other activities to help students change their perceptions of substance use and increase school connectedness.
 - d. Parent Engagement – Involvement with parents may include:
 - Outreach to parents of discipline-referred students and involve them in the program
 - Disseminate parent newsletters focused on ATOD prevention strategies
 - Attend parent teacher conferences and provide ATOD information
 - Inform parents of school and community events, and encourage participation
 - e. Screening and referral services – Students receiving services are screened with the GAIN-SS and, if necessary, are referred to appropriate services. An alternative screening tool may be used at the discretion of the program.
 - f. Training and information dissemination to school staff – Training will be provided to:
 - Increase the awareness of substance use/abuse and its impact
 - Increase knowledge of signs and symptoms of substance use, and issues children face when their parents misuse alcohol or other drugs

- Decrease favorable attitudes toward ATOD use
4. Link students to appropriate in-school or community-based services and activities based on identified needs of the individual.
 5. Refer identified students to appropriate mental health and chemical dependency treatment programs and additional support services, as appropriate.
 6. Ensure consultation and coordination efforts comply with all state and federal laws regulating confidentiality and client record keeping.
 7. Provide consultation and/or technical assistance to school district staff regarding youth with behavioral health issues.
 8. Ensure all services are delivered by a qualified professional.
 9. Participate in one provider meeting during each school year contract period, if arranged and convened by the Whatcom County health Department.
 10. Place a Student Assistance Professional in the Nooksack School District, or at an alternative site identified in partnership with the County. Expanded services can occur in additional school districts, as agreed upon by the County.
 11. Motivational Interviewing will be integrated into service delivery. Additional programming may be delivered from other evidence-based or research-based programs or promising programs.
 12. Participate in service tracking and outcome evaluation efforts. New or existing tracking systems can be utilized that can collect and report the following information:

Program/Strategy	Measures (process/outcomes)	Tool/Instrument
Student Assistance Program	<i>Process</i> <ol style="list-style-type: none"> 1. # of youth served 2. # of screenings or interventions 3. # of services provided or classes taught 	Student Assistance Data System (or alternative)
	<i>Outcomes</i> <ol style="list-style-type: none"> 1. Decreased substance use rates 2. Improved school success 	<ol style="list-style-type: none"> 1. Pre/Post Surveys 2. School Records

EXHIBIT "B"
(COMPENSATION)

- I. Budget and Source of Funding:** The source of funding for this agreement, in an amount not to exceed \$121,000, is the Behavioral Health Fund and the North Sound Behavioral Health Administrative Services Organization. The budget for these services is as follows:

*Item	Invoice Documentation Required	Budget
Student Assistance Professionals, Supervisor, Director, Program Support (salary + benefits)	General Ledger Detail or Time & Effort Form	\$101,254
Program supplies, professional development/training, travel, technology and space support, State SUD License	1. General Ledger Detail or receipts for Supplies and Training (registration or training fees). 2. Ground transportation, parking, coach airfare and ferries, will be reimbursed at cost when accompanied by receipts. Reimbursement requests for allowable travel must include name of staff member, dates of travel, starting point and destination, and a brief description of purpose. 3. For mileage reimbursement, copies of mileage records, including the name of staff member, date of travel, starting point and destination, number of miles traveled, brief description of purpose of travel. Mileage will be reimbursed at the current Federal rate. 4. Lodging costs for training are not to exceed the U.S. General Services Administration Domestic Per Diem Rates (www.gsa.gov), specific to location. 5. Transaction Recap report for technology and space expenses.	\$8,746
Subtotal		\$110,000
Indirect Costs @ 10%		\$11,000
TOTAL		\$121,000

*The contractor may transfer funds among budget line items in an amount up to 10% of the total budget; however, administration cannot exceed the identified 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 basis in a format approved by the County. Monthly invoices must be submitted by the 15th of the month following the month of service. 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.

EXHIBIT "C"
(CERTIFICATE OF INSURANCE)

EXHIBIT "D"
(SUMMARY & OUTCOMES)



Washington Office of Superintendent of
PUBLIC INSTRUCTION

Student Assistance Program

Prevention & Intervention Services for Student Behavioral Health

Why Student Assistance Program?

Many youth at risk for using substances, or who are using substances, also experience mental health challenges and attendance issues. Student Assistance Program improves student outcomes by addressing student substance use and social-emotional health.

How Student Assistance Program Works

A trained, school-based professional provides direct services. Students referred to the professional receive a screening, and students can engage in one-on-one or small group supports. The professional also offers school-wide events and trainings.

Program Outcomes

- ❖ Increase sense of hope
- ❖ Increase perception of risk
- ❖ Decrease substance use
- ❖ Decrease anti-social behaviors
- ❖ Remove barriers to academic success

93%

of students reported
the program is
important to them

Funding

This program requires district cost sharing. Contact us to explore bringing the Student Assistance Program to your campus.

Program Components

- Screenings and referrals
- Social-emotional and skill-building groups
- Training for school staff
- Parent Engagement
- School-wide prevention services
- Integrated, tiered model that allows variation in supports

Resources to Support

- Funding Student Assistance with Title IV Part A
- OSPI's Prevention-Intervention Program
- ESD Prevention Services Contact List
- Get Personalized Support from our team!
- National Handbook: "Help is Down the Hall"

Taking a Systemic Approach

What Can You Do?

- **Focus on Prevention:** Increase positive school climate, reinforce expectations, and build meaningful relationships with students and families. Collaborate with ESDs and community partners.
- **Build the System:** It takes more than a curriculum to help students navigate wellness and recovery. Invest in school-wide positive supports, referral and restorative processes, and student support staff.
- **Reframe:** Revise policies to minimize out-of-school disciplinary actions. Shift student vaping and substance use from a discipline issue to an opportunity to identify and provide supports.
- **Screen and Support:** Screen students for substance use and mental health challenges. Support students to participate in intervention groups, treatment services, and Student Assistance

Contact Mandy Paradise: mandy_paradise@k12.wa.us

Webpage: <https://www.k12.wa.us/student-success/health-safety/mental-social-behavioral-health/substance-use-prevention-intervention>

Executive Summary

Washington State's Student Assistance Prevention and Intervention Services Program, 2018–2019



SAPISP services provided in
95 schools



Service provided by **84**
Student Assistance Professionals



Direct selective/indicated services
provided to **2,479** students



Universal prevention activities
provided to*:

135,473 students

16,414 parents/other family members

9,118 staff

24,547 community members

*not unique individuals



Measure	Baseline	Follow-up	Outcomes
High hopefulness from Children's Hope Scale*	21%	30%	Significantly increased hopefulness
Perceived risk from:			
• Smoking 1+ packs per day	77%	84%	Significantly increased perception or risk for all 5 measures
• Trying marijuana once or twice	32%	40%	
• Smoking marijuana regularly	53%	63%	
• Taking 1-2 drinks nearly every day	69%	76%	
• Taking 5+ drinks at a time	75%	84%	
In the past 30 days**:			
• Used tobacco	20%	15%	Significantly decrease substance use on all 5 measures
• Used e-cigarettes	44%	34%	
• Used alcohol	35%	30%	
• Binge drank	19%	14%	
• Used marijuana	43%	35%	
In the past 3 months***:			
• Got in a physical fight	30%	23%	Significantly decreased 5 out of six antisocial behaviors
• Got arrested	10%	5%	
• Got in trouble at school	65%	55%	
• Skipped school	37%	40%	
• Got suspended	34%	26%	
• Hit or tried to hurt someone	30%	23%	

*Children's hope scale scores range from 1 to 6. A score of 4.7 to 6.0 indicates "high hopefulness".

** Among participants with a substance use reduction goal.

*** Among participants with a behavioral goal.



Whatcom County

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

Agenda Bill Master Report

File Number: AB2021-326

File ID:	AB2021-326	Version:	1	Status:	Agenda Ready
File Created:	06/03/2021	Entered by:	SMurdoch@co.whatcom.wa.us		
Department:	Health Department	File Type:	Report		
Assigned to:	Council Public Works & Health Committee			Final Action:	
Agenda Date:	06/15/2021			Enactment #:	

Primary Contact Email: AWilliam@co.whatcom.wa.us <mailto:AWilliam@co.whatcom.wa.us>

TITLE FOR AGENDA ITEM:

Presentation of the Child and Family Well-Being Task Force Phase I Report

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, Report



Memorandum

TO: SATPAL SIDHU, COUNTY EXECUTIVE

FROM: Allison Williams

DATE: June 3, 2021

RE: Updates on the Child and Family Well-Being Task Force Phase I Report

Community Health staff from the Whatcom County Health Department will present the Phase I Report outlining the progress of work from the Child and Family Well-Being Task Force.

Background and Purpose

The Child and Family Well-Being Task Force, established by Whatcom County Ordinance 2020-079, is directed to ensure that diverse community partners are informed, collaborated with, and empowered in the implementation of the Child and Family Action Plan approved by County Council in February 2020.

The purpose of this update is to inform the County Council of the initial work of the Task Force and their progress towards developing recommendations as outlined in Phase I of the Ordinance. The Task Force's initial work has been to establish self-governance processes and procedures. The primary focus has been on building trusting relationships, developing decision-making processes, and grounding the group in the guiding principles of equity, family engagement and results-based approaches as well as the foundational community work that led to the creation of the Task Force. The full Phase I Report is attached. It includes progress of four Task Force Work Groups, established in May 2021, towards developing recommendations for consideration by the County Council and County Executive. Future recommendations will address:

- What innovative government infrastructure is needed to sustain child and family well-being as a priority?
- What practices will increase involvement of parents and caregivers, especially those with diverse life experiences, in County government?
- What resources are needed to support programs and services for young children and their families?
- What results and strategies should be shared across government and the community to improve the well-being of young children and their families?

Please call Allison Williams at 360-319-2064 if there are any questions.





Whatcom County
HEALTH
Department



Child and Family Well-Being Task Force

Phase I Report

6/1/2021

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Introduction

The Child and Family Well-Being Task Force was established by Whatcom County Ordinance 2020-079 following the Whatcom County Council approval of the Child and Family Action Plan. The plan is a result of significant community efforts to build broad and deep understanding that a community that supports its youngest children will become a community that is more fully engaged, equitable, and vibrant.

The Task Force is directed to ensure that diverse community partners are informed, collaborated with, and empowered in the implementation of the Child and Family Action Plan. The plan focuses on identifying ways that Whatcom County Government can best meet the needs of all young children and families in Whatcom County, specifically children from prenatal to age 5, with particular attention to low income families and families of color.

The Task Force will consider evidenced-based and promising practices, along with input from diverse families throughout Whatcom County, and make recommendations to the County Council, Executive, Health Board, and other appropriate officials regarding issues related to young child and family well-being. The Task Force is asked to embed guiding principles of equity, with specific attention to racial equity, family engagement and results-based approaches into their work. They are asked to develop recommendations for:

- County infrastructure to promote child and family well-being and a “children and families first” approach for County policy and funding decisions across all departments.
- Shared governmental and community accountability for child and family results.
- Coordination and enhancement of existing county initiatives focused on issues impacting young children and their families.
- New, or enhancement of existing, funding streams to support child and family programs and services that are aligned with desired results.

The ordinance structures the work of the Task Force into three phases and several objectives. The focus of Phase I is to begin the following work:

- Establish Task Force processes and procedures.
- Clarify goals and metrics and establish processes for shared accountability for results.
- Evaluate and recommend an infrastructure model for County adoption.
- Propose scope and approach for County fiscal analysis to identify existing and potential funding streams for child and family programs.

To address these work objectives, the Task Force has divided into the following four Work Groups, each with a central question to answer:

- **Children and Families First:** What innovative government infrastructure is needed to sustain child and family well-being as a priority?
- **Increasing Family Involvement:** What practices will increase involvement of parents and caregivers, especially those with diverse life experiences, in County government?
- **Resources and Funding:** What resources are needed to support programs and services for young children and their families?
- **County-Community Collaboration:** What results and strategies should be shared across government and the community to improve the well-being of young children and their families?

The Task Force met for the first time on March 8, 2021 and meets for 90 minutes every second and fourth Monday of each month from 4:00-5:30 pm via Zoom.

Task Force Membership – Who’s at the table?

Permanent	Appointed
Sterling Chick, Public Health Advisory Board	Debbie Ahl, Mt. Baker Foundation
Sarah Cook, Lummi Nation	Chris Cochran, Bellingham Public Schools
Carol Frazey, County Health Board	Ray Deck, Skookum Kids
Yarrow Greer, Generations Forward Family Council	Escarleth DeLeon, Mental Health Provider
Gregory Hansen, Small Cities Partnership	Jamie Desmul, YMCA
Brian Heinrich, City of Bellingham	Mike Ford, Cornwall Church
Jed Holmes, Whatcom County Executive’s Office	Urvashi Graham, Whatcom Center for Early Learning
Silvia Johnson, Dept. of Children, Youth, & Families	Anne Granberg, YMCA
Monica Koller, Generations Forward Family Council	Alicia Hanning, Agape House
Keith Montoya, Generations Forward Family Council	Melissa Isenhardt, Victim Support Services
Astrid Newell, Whatcom County Health Department	Mara Kelley, PeaceHealth
Beverly Porter, Whatcom Taking Action	Brian Nelson, Latter Day Saints
Sativa Robertson, Nooksack Tribe	Rosalva Santos-Guzman, GRADS
Mary Sewright, School Superintendents	Komal Shah, Lummi Tribal Health Center
Vesla Tonnessen, Whatcom Early Learning Alliance	Jennifer Wright, Blaine Schools

The ordinance calls for 30 Task Force members representing a variety of stakeholders, identities, and perspectives in Whatcom County. Half are permanent members appointed by their designated organization or agency specifically called out in the ordinance. The remaining 15 members are community members who applied directly to the County Council and were appointed to serve either a two- or four-year term. In soliciting applications, every effort was made to reach community members with lived experience with issues facing young children and families, particularly those from under-represented communities and diverse backgrounds. The outreach and application materials were shared in English, Spanish, Russian, and Punjabi. No specific formal educational or employment experience is required to be on the Task Force.

Lived experience is a valued form of expertise. To broaden Task Force perspectives, the outreach team sought applications from community members with at least one of the following experiences:

- Caring for children as a primary caregiver.
- Being a community member from an under-represented racial, ethnic, or geographic community.
- Serving young children and their families as a medical or behavioral health care provider.
- Working within one the following sectors: faith community; community action agency, non-profit housing, or social service agency; private school, home school, higher education, or child care; private business, corporation, or philanthropic organization.

Desired qualities of task force members include:

- Commitment to the well-being of all of Whatcom County's youngest children and their families.
- Commitment to listen to diverse opinions.
- Commitment to share their passion and experience.
- Collaborative.

To encourage community participation in the Task Force, the County is piloting a stipend program. The goal of the pilot is to determine if helping with participation costs will increase the diversity of participants by reducing barriers. Stipends are a way of incentivizing participation and demonstrating that value. Parents and community members that are not getting paid by an agency or organization to participate in the task force are eligible for a stipend of \$40 per 90-minute meeting, up to a maximum of \$599 per member during 2021. At this time, seven Task Force members are receiving stipends.

Other support for community member participation includes scheduling meetings for maximum participation of community members, keeping meetings relatively short, and making additional work done between meetings optional. Please see Appendix A for more information about the stipend program.

A Snapshot of Task Force Membership

The Task Force work focuses on issues that impact the lives of families every day. Each member brings a variety of experiences and community roles to this work. These experiences shape the unique and overlapping ways a person identifies themselves, what they value, and how they approach the work of the Task Force. In an effort to understand the variety of lived experiences of Task Force members, with the hope of improving communication and collaboration between members, many members completed an anonymous survey. Some of the key findings of the survey are below. The full report is attached as Appendix B and includes both graphs and short answer text.

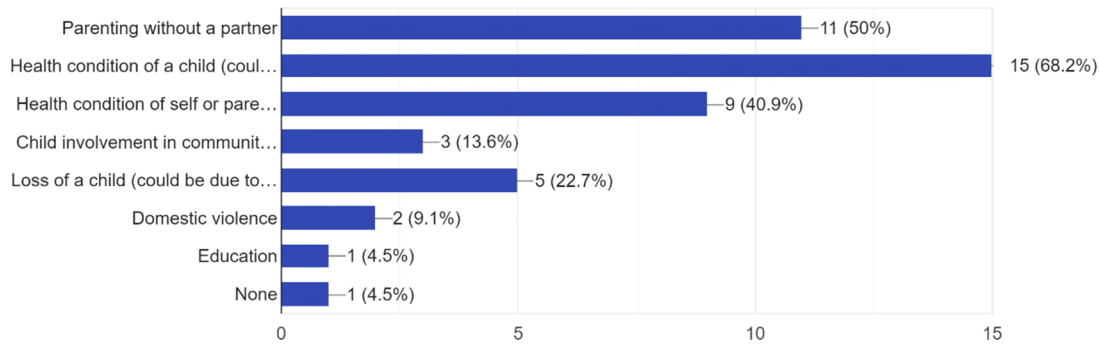
Nearly all Task Force members have parenting/caregiving experience, including children of all ages and needs. Many have children whose age or developmental needs currently require continual or significant supervision. Of the responses received:

- About two-thirds identify as white. Others identified as multiracial, Asian/Pacific Islander, Indigenous, or Latinx.
- Most learned English as their first language, with Spanish and Mixteco as other first languages.
- Most live within the Bellingham School District, with members also living within the Ferndale, Mt. Baker, and Nooksack districts.
- About two-thirds identified their gender as female and sexual orientation as heterosexual.

Additional lived experiences of Task Force members are graphed below and in Appendix B.

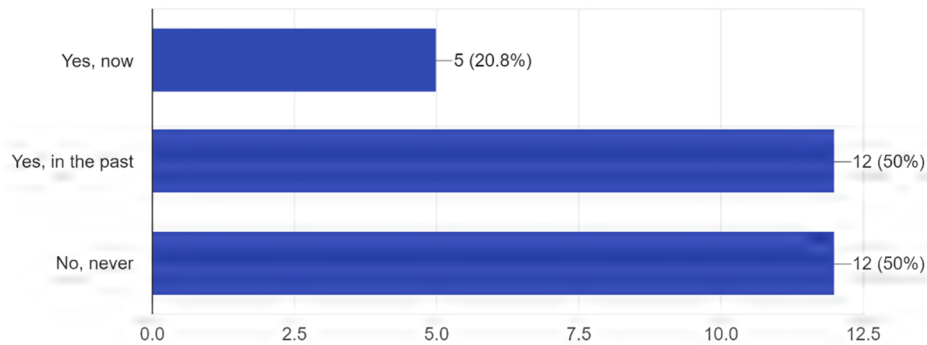
I have experience parenting/caregiving in these situations (check all that apply):

22 responses



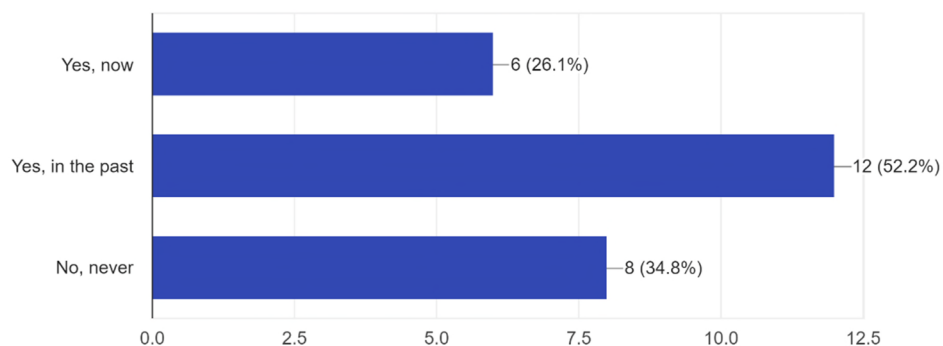
My family has sometimes struggled to get our basic needs met (housing, transportation, food, etc.).

24 responses



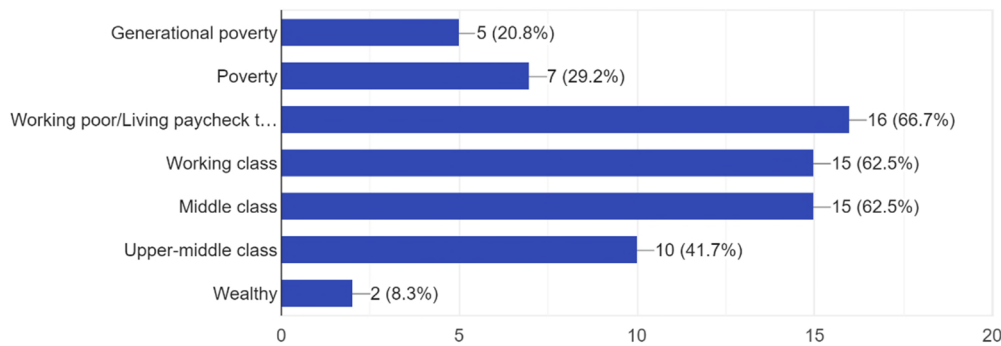
My family has struggled to get services needed by our children.

23 responses



Which income statuses do you have lived experience with? Check all that apply.

24 responses



Progress of Task Force Work

The initial work of the Task Force is to develop processes and procedures to ensure that all of its work is guided by the following three principles:

- Equity, with specific attention to racial equity
- Authentic family engagement
- Results-based approaches

Embedding these principles will require ongoing nurturing, attention, and learning. In order to guide the group in accomplishing this, the County has contracted with Kenesha Lewin of Lewin Education & Consulting to facilitate meetings. Lewin brings a diversity-centered approach to her work and has extensive experience helping organizations develop the self-awareness necessary to becoming anti-racist. Led by Lewin, the Task Force has spent much of the first four meetings working to understand these principles and discussing why and how to apply them. This includes creating a scaffold to build the trusting relationships that will help ensure the success of Task Force actions. Establishing meeting norms and a decision-making process that are accessible, equitable, and family friendly were top priorities. One of Lewin's first steps in building organizational self-reflection necessary for anti-racist action was working with a Nooksack Tribal member and Task Force member on a land acknowledgement that recognizes the colonialism that allowed Whatcom County to come into being. The group has decided to open each meeting with a land acknowledgement (see Appendix C). Each meeting has also included group learning to ground all Task Force members in the [Child and Family Action Plan](#) and the [ordinance establishing the Task Force](#). Only recently, once these foundations have been established, has the Task Force turned to meeting in smaller work groups to focus on the work objectives outlined in the ordinance.

Building Trusting Relationships

Building trusting relationships is a deliverable not consistently called for in government work plans. When it is, it's often given short shrift regarding its importance or need for resources. But it is the foundation from which all activities happen. It is the glue that binds people to care for one another, encouraging them to share different perspectives and work on complex issues toward a common goal such as creating a community where all children thrive. Building good and trusting relationships takes commitment, time, practice and a willingness to have uncomfortable conversations. Although this is a first task, it will also be an ongoing process for the entire Task Force, especially as new members join this work.

Developing community agreements was the first step in not only building trust among Task Force members, but also helping a group of 30 individuals meeting in a virtual room begin to come together as a working team. Facilitator Lewin helped the group identify what each person needs from one another and commit to each other to create a safe, supported, open and trusting environment. The Task Force agreed to the following, with a commitment to revisit and revise as needed:

- Family and self-care come first.
- Be kind and gentle with yourself and others and assume everyone is coming from a positive place.
 - Everyone has the best intentions.
 - Listen with an open mind and heart.
- Be mindful of this space. Step-in and step-out. Step-up and step-back. Offer your truth and insights and listen to others' truths and insights.
- Treat each other with honor and grace. We are all working under difficult circumstances.
- Embrace diversity. Remember that we all come from different backgrounds giving us different perspectives and only when we embrace that diversity can we develop creative solutions to address the child and family well-being needs in Whatcom County.
- What is said here stays here.
- Have fun.

Developing a decision-making process was the second step in building trust and collaboration. Staff support to the Task Force proposed using a consensus-oriented decision-making process versus non-collaborative models that create approval through majority vote (like Robert's Rules) or decisions handed down by a small leadership group. Several members shared their positive experience using Fist to Five, a no pressure consensus building tool for quickly gaining insight about the level of agreement for a proposal and identifying areas of support and resistance.

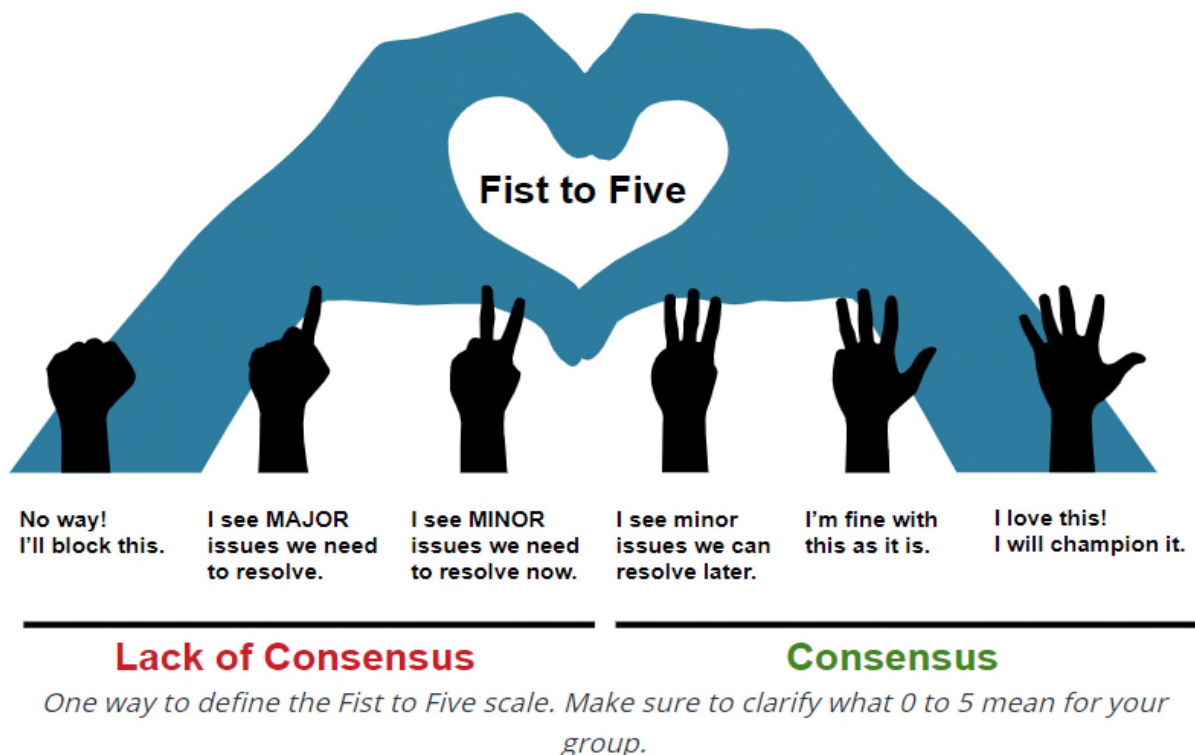


Image from [LucidMeetings.com](https://lucidmeetings.com)

Task Force members made the following recommendations for using Fist to Five, which will be finalized at the June 14 meeting:

- If any member indicates a level of agreement with two fingers or less, the group will use up to three rounds of Fist to Five, each time providing discussion between rounds. The final round is a straight yes or no, providing enough time to discuss further and still proceed with a majority decision.
- If a certain percent (to be determined) of members respond with two fingers or less, discussion continues but only if the percentage threshold is met.
- Regardless of the number of ones or twos indicated, anytime a fist is indicated discussion continues until no fists are shown.

Understanding the Three Principles Guiding Task Force Work

Before digging into core tasks of the Task Force, the group spent time developing a common understanding of the guiding principles of racial equity, family engagement, and results-based approaches and how it will impact their work. Key takeaways are below.

Equity

- Create an equitable system by meeting each community member where they are, work together to determine needs and solutions, and provide what they need to thrive, not just survive.
- Equity is different from equality. To quote [PolicyLink](#), “Equality gives everyone the right to ride on the bus, in any seat they choose. Equity ensures there are bus lines where people need them so they can get to school or the doctor or work. It means policies and investments that grow good jobs and expand entrepreneurship opportunities for low-income people and people of color. It means policies that build human capabilities by upgrading the education and skill of the nation’s diverse workforce. It means policies that dismantle destructive barriers to economic inclusion and civic participation, and build healthy communities of opportunity for all.”
- Approach the work with humility. Be self-aware of your own perspectives, assumptions, privilege, and bias.
- Build trusting relationships and social capital by addressing power dynamics and truly co-creating solutions with community members.
- Community feedback is not the same as decision-making power nor does it translate into effective action. Authentic community engagement and outreach requires respect and collaboration demonstrated by action.
- Food for thought: [To Be More Than a Statistic: An open letter to city planners and officials](#)

Family Engagement

- The Generations Forward Children’s Collaborative and the Child and Family Action Plan embraces Martin Luther King’s concept of a Beloved Community (from [The King Center](#)):
 - *Dr. King’s Beloved Community is a global vision in which all people can share in the wealth of the earth. In the Beloved Community, poverty, hunger and homelessness will not be tolerated because international standards of human decency will not allow it. Racism and all forms of discrimination, bigotry and prejudice will be replaced by an all-inclusive spirit of sisterhood and brotherhood.”*
 - *The core value of the quest for Dr. King’s Beloved Community was agape love.... which he described as “understanding, redeeming goodwill for all,” an “overflowing*

love which is purely spontaneous, unmotivated, groundless and creative” ...” the love of God operating in the human heart.” He said that “Agape does not begin by discriminating between worthy and unworthy people...It begins by loving others for their sakes” and “makes no distinction between a friend and enemy; it is directed toward both...Agape is love seeking to preserve and create community.

- Prioritizing equity is key to creating a Beloved Community in Whatcom County, by supporting every child and every family as much as you would your own.
- Authentic family involvement in shaping government policies and practices is essential action in building that equity. Families are key agents for implementing change in our community.
- When members were asked what it would look like to live in a community where government centers family voices and needs, they answered:
 - Normalize the different ways to process and be present.
 - Meet family needs where they are at so that they thrive, not just survive.
 - Reduce parent participation barriers by offering stipends, childcare, and meals.
 - Family voices are heard and valued. The community is a safe place to be heard. Government listening leads to valuing family participation and creating policy change.
 - Trust in government and institutions is necessary, achieved through actionable items, responsiveness to feedback, accountability and reporting on actions.
 - Leaders and parents collaborate.
 - Have adequate and appropriate resources available for mental health, social and physical needs, food and financial assistance.
 - Families are empowered.

Results-based Approaches

The Task Force is building on the good work of Healthy Whatcom in bringing the Results-Based Accountability (RBA) approach to the work of the task force. RBA is a process that starts with a goal in mind and then builds out community-driven strategies that are tied to an ongoing accountability cycle at both the population level and the program level. Task force members are participating in the series of RBA workshops hosted by Healthy Whatcom that are focused on early childhood well-being. Their participation will ensure that results-based approaches infuse the work of the task force as well as maintain a strong connection to additional community-based work.

Work Group Reports

Task Force work groups formed in early May 2021 and as of June 1 have met twice. Each work group is focusing on a central question to answer. Initial work products are informed by the Child and Family Action Plan, the ordinance, and member discussion.

Children and Families First	
Members	Keith Montoya, Sterling Chick, Komal Shah, Chris Cochran, Mike Ford, Mara Kelley (Staff Support: Aly Robinson)
Central question	What innovative government infrastructure is needed to sustain child and family well-being as a priority?

Initial Work Products	Review existing offices that support children and families in the county structure, clarify the objectives for creating County government infrastructure specific to child and family well-being, and decide on the pros and cons of different infrastructure models such as a County Office of Child and Family Well-being or a County Children's Commission.
Summary of Work	The first two meetings of the C&FF work group have included a focus on relationship building between work group members, consideration and discussion of the guiding questions, and understanding of the current structure and focus on children and families in Whatcom County government. The work group has identified factors to consider when reviewing infrastructure models in other places, including the power the model holds, incorporation of minority voices, and the outputs and accomplishments of the model.
Recommendations and/or Next Steps	The next steps include building a shared understanding of the different possible models, reviewing existing models throughout the country, and developing recommendations for implementation in Whatcom County for full Task Force Review. The group will also invite local experts and community leaders to share their research and understanding about different models and considerations for Whatcom County.

County-Community Collaboration	
Members	Escarleth DeLeon, Sativa Robertson, Debbie Ahl, Mary Sewright, Vesla Tonnessen, Beverly Porter, Carol Frazey, Melissa Isenhardt (Staff Support: em Bigongiari)
Central question	What results and strategies should be shared across government and the community to improve the well-being of young children and their families?
Initial Work Products	Explore what results and strategies should be shared across government and community to improve the well-being of young children and their families in Whatcom County, attend the Results Based Accountability (RBA) workshop series hosted by Healthy Whatcom in May through July 2021, and identify specific actions for the County government to support community-identified strategies that come out of the workshop series and make initial recommendations for action.
Summary of Work	So far, the work group has focused on building relationships between members as well as processing the RBA workshop sessions. This includes diving into questions that arise from the workshops and exploring ideas that emerge from workshop content. What has been learned in the workshops so far is an overview of current data for Whatcom County children around kindergarten readiness and other metrics of child well-being across different demographics.
Recommendations and/or Next Steps	Workgroup members are hoping to learn more about how the RBA process has been used in other communities and examples of tangible success stories that came out of using this process.

Increasing Family Involvement	
Members	Alicia Hanning, Jamie Desmul, Urvasi Graham, Yarrow Greer, Monica Koller, Rosie Santos-Guzman, Sarah Cook (Staff support: Allison Williams)
Central question	What practices will increase involvement of parents and caregivers, especially those with diverse life experiences, in County government?
Initial Work Products	Recommend ways to fully integrate parents, caregivers, and stakeholders from under-represented communities (specifically BIPOC families) into county committees and work groups. Things to consider include: application process, meeting times, compensation, expectations, meeting processes, accessibility (language, abilities, technology).
Summary of Work	Work thus far includes building relationships among the group, including learning what motivated each member to join this particular work group. The group provided input about member survey questions. They discussed the wide range of barriers that families face in engaging with government and began to identify what leads to meaningful family engagement.
Recommendations and/or Next Steps	Next steps include learning more about past and current work to shift government culture to create a welcoming, diverse, equitable, and inclusive County government.

Resources and Funding	
Members	Anne Granberg, Astrid Newell, Brian Nelson, Jed Holmes, Jennifer Wright, Ray Deck, Gregory Hansen (Staff Support: Judy Ziels)
Central question	What resources are needed to support programs and services for young children and their families?
Initial Work Products	Defining the purpose and scope of a fiscal mapping of early childhood funding in Whatcom County. Reviewing the fiscal analysis to identify funding gaps and opportunities as they relate to the goals and priorities of the community.
Summary of Work	Learning about what a fiscal map is and how it can be used. Reviewing the Fiscal Mapping Coaching Document produced by the Children's Funding Project Team. Evaluating the Early Learning Community Building Blocks framework as a tool to support defining the scope of the fiscal map. Reviewing Whatcom County budget and current funding for young children.
Recommendations and/or Next Steps	<ol style="list-style-type: none"> 1. Review Early Learning Community Building Blocks framework. 2. Invite Children's Funding Project staff in to hear more about the fiscal mapping process and potential outcomes. 3. Consider how to ensure diverse perspectives guide all aspects of the work when this work group is entirely white-presenting. 4. Learn about the use of cash transfers to families with young children as an intervention.

Appendix A

WHATCOM COUNTY ADMINISTRATIVE SERVICES



HUMAN RESOURCES
County Courthouse
311 Grand Avenue, Suite #107
Bellingham, WA 98225-4038
(360) 778-5300
hr@co.whatcom.wa.us
Karen Sterling Goens
Manager

TO: Satpal Sidhu, County Executive

THROUGH: Tyler Schroeder, Director of Administrative Services/Deputy Executive *TPS*

FROM: Karen S. Goens, Human Resources Manager *Karen*

DATE: January 21, 2021

SUBJECT: Request to Create a Stipend – Child & Family Well-Being Task Force

The Health Department is seeking to pilot a new pay mechanism, or stipend, in 2021 to encourage community participation in the recently formed Child & Family Well-Being Task Force (Ordinance 2020-279). They are proposing \$50 per meeting. Meetings are twice per month. The goal of the pilot program would be to determine if a nominal offset to costs would increase the diversity of participants by reducing barriers. Task Force members who attend as part of a paid position would not be eligible for a stipend. The Health Department estimates 8-10 Task Force members would qualify.

On the face of it, this request appears simple, however there are some important factors to consider.

Volunteer Status

The ordinance directs the new Task Force to:

"Recommend ways to fully integrate parents, caregivers, and stakeholders from underrepresented communities in county committees and workgroups, including compensation for time and childcare."

We consider members of boards, commissions, and committees at Whatcom County as unpaid "volunteers." Bona Fide Volunteers are not covered by the Fair Labor Standards Act (FLSA) because they do not fall within the FLSA's definition of employees. This is important to differentiate so it's clear that the multitude of legal requirements related to employment do NOT apply, for example, verifying eligibility to work in the U.S., minimum wage, etc. A volunteer is generally defined as an individual who performs service for a public agency for civic, charitable or humanitarian reasons. Moreover, a volunteer performs these services without promise, expectation, or receipt of compensation for services rendered.

Payments to volunteers should be structured to NOT erode their status as volunteers. "Compensation for time" under the new ordinance sounds like employment. Under the FLSA, volunteers *may* be paid reasonable expenses and benefits without losing their status as volunteers, including a nominal fee intended to defray costs. The nominal fee must not be a substitute for compensation and must not be tied to productivity (29 C.F.R. §553.106(e)). To be "nominal," payments may be fairly characterized as tied to the volunteer's sacrifice rather than productivity-based compensation. Further, any payment to a volunteer must represent no more than one-fifth of what an agency would have otherwise have paid a full-time worker to perform the same services. \$50 per meeting would meet the one-fifth test. If we are careful about NOT viewing service on an hourly basis and if we keep the amount nominal, we are more likely to stay within the FLSA's volunteer definition.

Precedent Setting

Whatcom County demonstrates its strong commitment to citizen involvement as policy advisors across the organization. Currently we track Open Government Training Act for **52 groups** and roughly **500 different advisory board members**. Some members serve on multiple groups. Some members serve representing their elected office or paid position with an agency. The majority are stakeholders and citizens.

Creating a stipend may set this as an unfunded expectation for members of other groups.

I found two situations where departments provide nominal fees for board or committee participation covered in their budgets.

1. Board of Equalization

Authority: RCW 84.48.010 & County Code 2.21
Amount: \$75 per meeting
Participants: Three members; two alternates
Budgeted: County Council – Cost Center 1100.6120
Admin: Council pays as extra help; Finance issues 1099 tax forms to IRS
Duration: On-going

2. Floodplain Integrated Planning Process (FLIP) for the Nooksack River

Authority: WCFCZD
Amount: \$375 field trip & workshop #1; \$200 workshop #2 (must be less than \$600)
Participants: By invitation to farmers & landowners to gain agricultural perspective
Budgeted: Grant-funded; charged to 7190 Miscellaneous
Admin: Public Works uses Letter of Agreement; payment below IRS threshold
Duration: Limited to periodic planning processes

Other Considerations

The Health Department has a limited historical practice of allowing “incentives” in certain grant-funded programs to encourage participation. To date, these incentives have been paid by community providers, not by the County directly. The process for payment of incentives was an area carefully scrutinized by the State Auditor during their 2019 examination.

Recommendations

ALL STIPENDS SHALL NOT EXCEED \$599/YEAR

- Approve pilot Stipend Program for 2021 only at \$50 per meeting for eligible participants
- The Health Department (HD) will:
 - Avoid language to create any tie to compensation in forms & FAQs
 - Develop procedures to meet audit and IRS reporting requirements for Finance review
 - Collect a Form W-9 from each eligible Stipend Program participant *IF NEEDED.*
 - Submit a report to the County Executive by 12/31/2021 – was goal achieved?
 - Assure any pay-related task force recommendations consider funding source, elements of the FLSA, and fiscal practices as discussed above

☒ Concur

☐ Do Not Concur

Comments: SEE ABOVE


Satpal S. Sidhu, County Executive

Date 2/4/21

cc: Judy Ziels, Kathleen Roy, Brad Bennett, Dana Brown-Davis, Paula Harris

Child and Family Well-being Task Force Stipend Fact Sheet

What is a stipend* and why are they being provided to task force members?

County government wants diverse participation in our governmental processes and stipends are one way of incentivizing participation and demonstrating that value. Stipends are being offered to members of this task force as a pilot project to see if it increases participation from diverse members of our community in county government task forces, committees and boards.

Who is eligible?

Parents and community members that are not getting paid by an agency or organization to participate in the task force are eligible for a stipend. The primary purpose of the stipends is to overcome barriers (such as transportation or childcare expenses) that might get in the way of members being able to participate in the task force.

Do I automatically get a stipend if I am eligible?

No. People interested in getting a stipend need to complete a stipend application form and the first page of the [IRS form W-9](#). Stipend applications will be sent to all task force members. Eligible members can submit the application form and W-9 form to Allison Williams at awilliam@whatcomcounty.us. Once a stipend application is received and approved, people will be paid a stipend for each meeting they attend up to a maximum of \$599 each year.

How much are the stipends for?

A \$40 stipend will be provided for each meeting attended by task force members who have been approved to receive it. Attendance will be taken at each task force meeting by support staff.

Is there a maximum amount I can receive each year?

Yes. There will be a maximum paid of \$599 per task force member during 2021.

Will task force members always be able to receive a stipend?

The stipends are only guaranteed for 2021. The County is providing a stipend to determine if it supports participation of more diverse community members within County Government. The stipend pilot project will be evaluated by staff and task force members at the end of 2021 and a recommendation will then be made for how best to use stipends going forward.

How do I fill out a stipend application form and W-9 form and where do I get them?

Stipend application forms will be distributed to all task force members. The stipend application form must include the name of the participant, a mailing address for the participant, and confirmation that the member is not being paid by an agency to participate. You can complete the [W-9 form here](#). Please remember to sign it.

Who do I send my stipend application form to?

All completed stipend application forms should be sent to Allison Williams at awilliam@whatcomcounty.us.

When will I receive my stipend?

Checks will be mailed to you monthly, approximately two weeks after the second monthly meeting.

Do I need to claim a stipend as income?

Typically, stipends do need to be claimed as income. Please consult with your tax preparer to understand how receipt of a stipend might affect your tax and/or benefit situation.

How else is community member participation being supported?

Every effort will be made to schedule meetings that allow for maximum participation of community members. The meetings will be relatively short and no additional work will be asked of members between meetings.

**Stipends are defined as a "nominal fee" to help off-set expenses such as child care and transportation.*

Appendix B

A Snapshot of Child and Family Well-Being Task Force Membership

25 responses

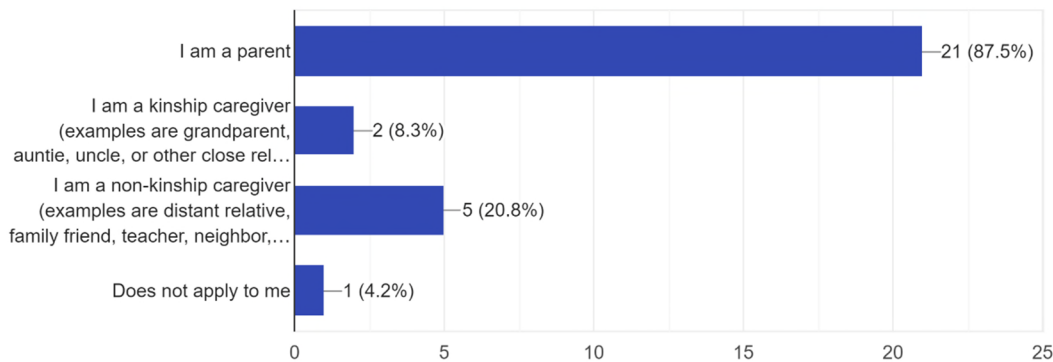
In ordinary times, when we sat next to each other at a table, we would probably have learned a bit more about each other by now. This survey is an effort to understand the variety of lived experiences of task force members with the hope of improving our collaboration.

Our task force work focuses on issues that impact the lives of families every day. Each of us brings a variety of experiences and community roles to this work. These experiences shape the unique and overlapping ways we identify ourselves, what we value, and how we approach our work.

This survey is anonymous and does not track your name, email address, or any identifiable information. The results will be shared with the task force and included in the initial report to the County Council but will remain anonymous.

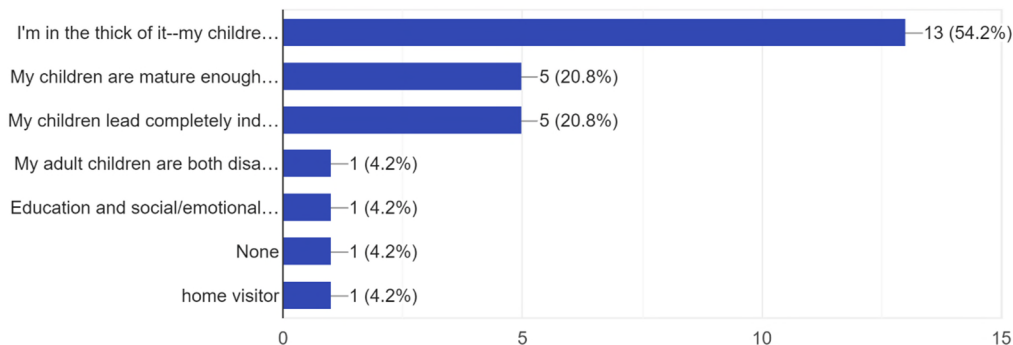
Are you a parent or caregiver of children? Check all that apply.

24 responses



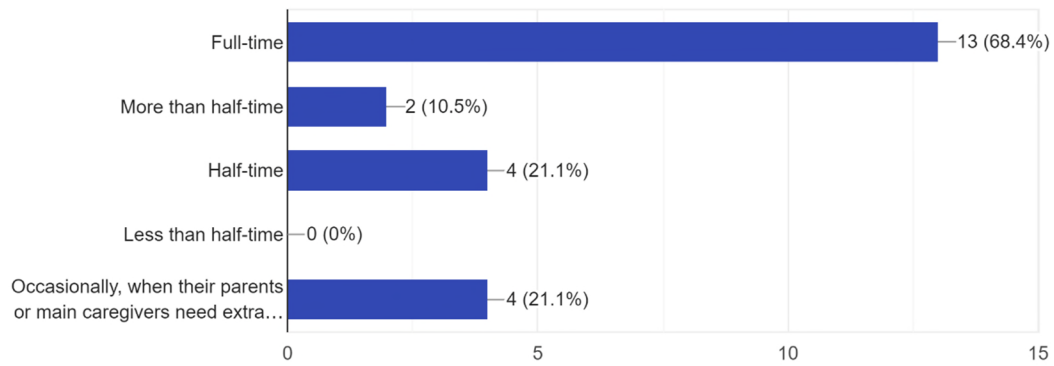
How would you describe your parenting/caregiving duties currently? Check all that apply.

24 responses



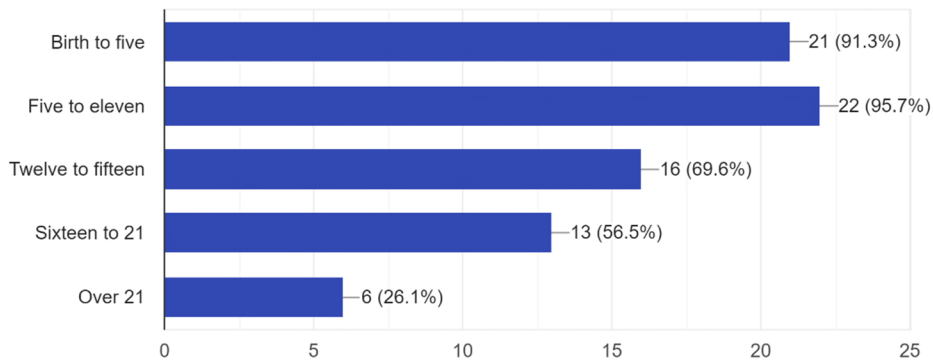
The children I care for are with me:

19 responses



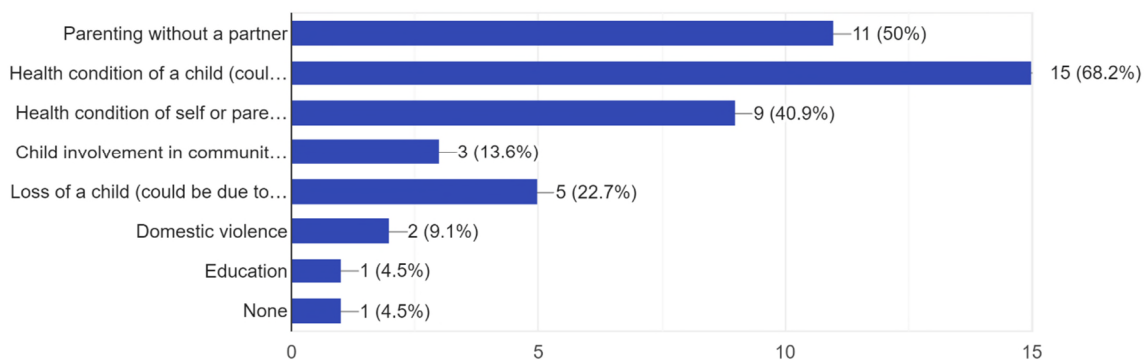
I have parenting/caregiving experience with children of these ages (check all that apply):

23 responses



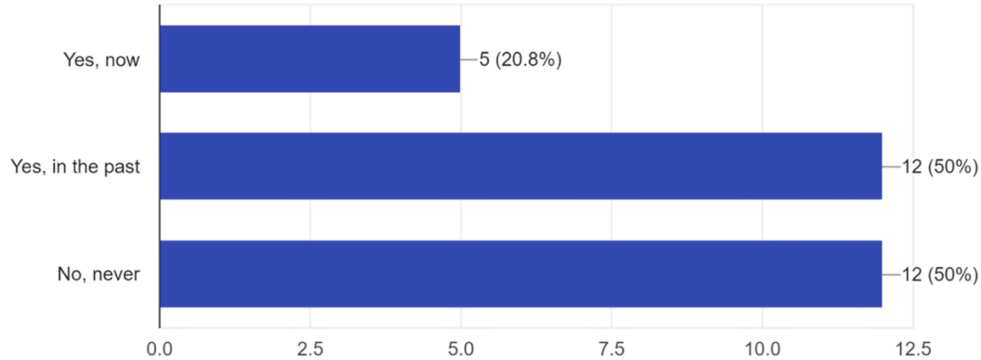
I have experience parenting/caregiving in these situations (check all that apply):

22 responses



My family has sometimes struggled to get our basic needs met (housing, transportation, food, etc.).

24 responses

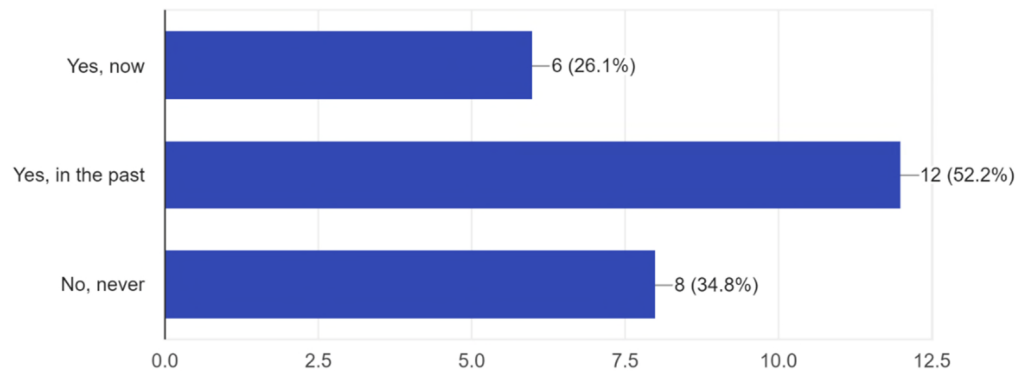


Is there anything you'd like us to know about this experience? 3 responses

- When our children were 2 & 6 yrs. old, my spouse was laid off. I was only able to work sporadically, due to our children's complex needs so I worked cleaning houses, taking jobs that allowed me to bring my children with me. A few of my housekeeping clients were extended family members who paid me with gift cards for groceries. The school was not always able to meet our 6 years old's needs, so both children were with me 1/3 of the time. We made it thru 1 year of no income from my spouse.
- We were able to overcome our challenges through hard work and assistance from our faith community
- I am answering as a representative of Mount Baker School District

My family has struggled to get services needed by our children.

23 responses

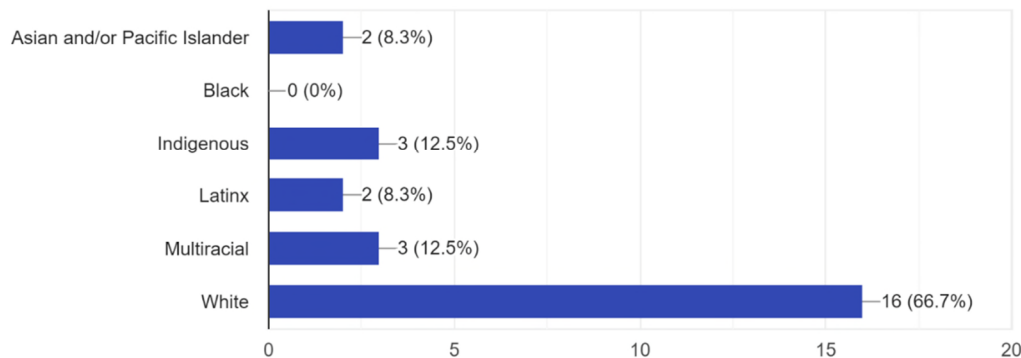


Is there anything you'd like us to know about this experience? 7 responses

- Available, competent mental health counseling in our county is greatly lacking
- I am answering as a representative of Mount Baker School District
- access to mental health providers
- School and health care systems not adequately resourced to address even common child health challenges such as ADHD
- Trying to get mental health care for my child while going through a divorce. Trying to get parenting assistance as a full-time working mother.
- Mental health services for youth have been hard to find
- It has been a struggle to get services when your children have some struggles but "don't struggle enough to qualify for certain services" yet it still impacts their experiences at school.

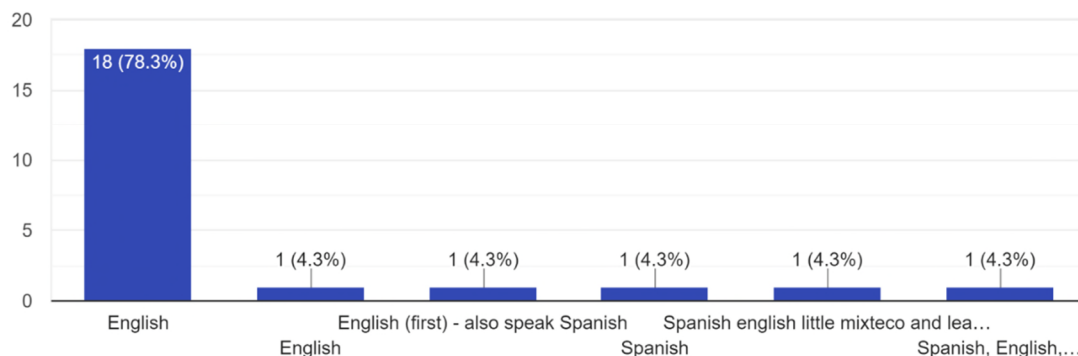
How do you identify in terms of race? Check all that apply.

24 responses



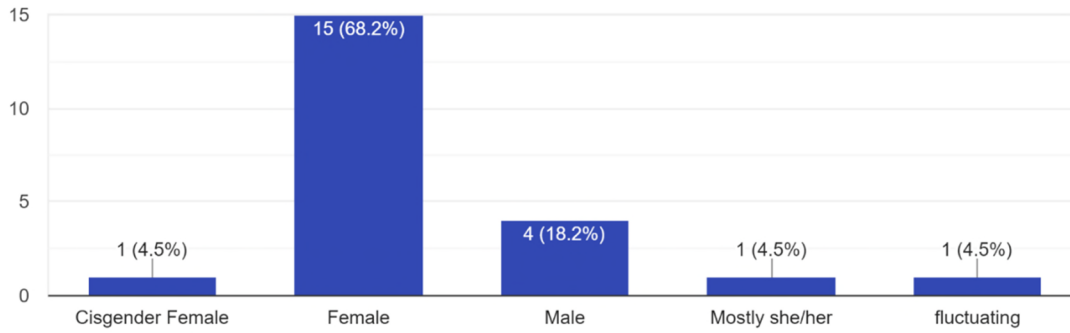
What was the first language you learned? If you speak more than one language, please share those as well.

23 responses



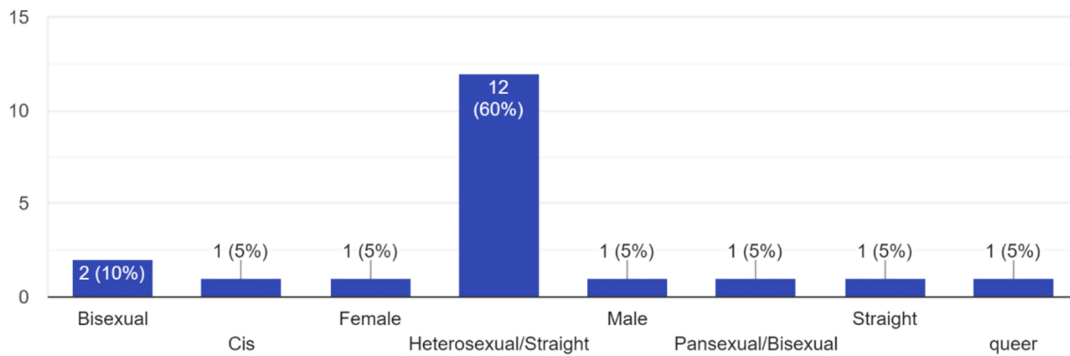
How would you describe your gender identity?

22 responses



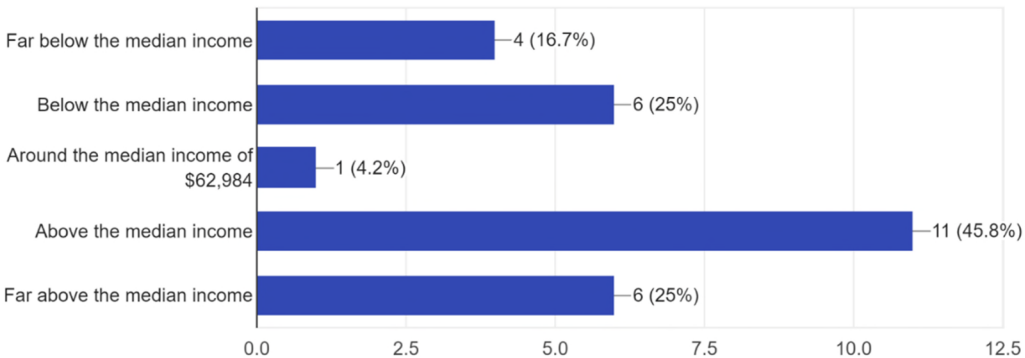
How would you describe your sexual orientation?

20 responses



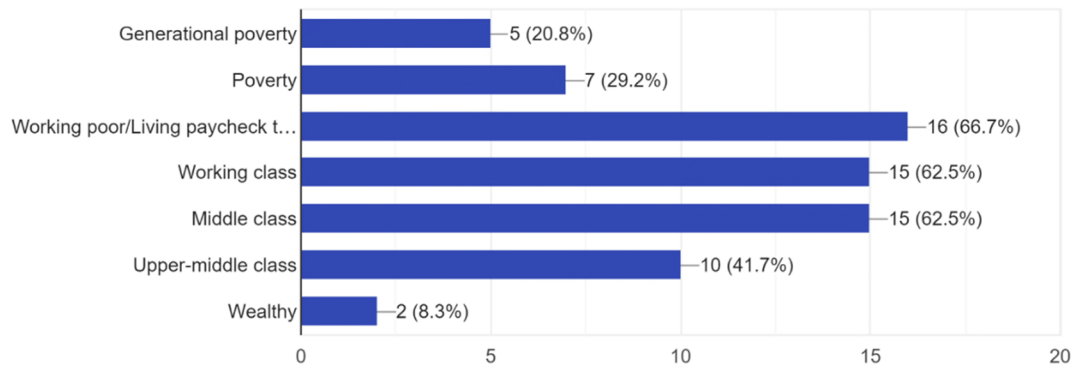
The U.S. Census Bureau calculated the median household income in Whatcom County for 2019 at \$62,984. Where do you identify your current income level?

24 responses



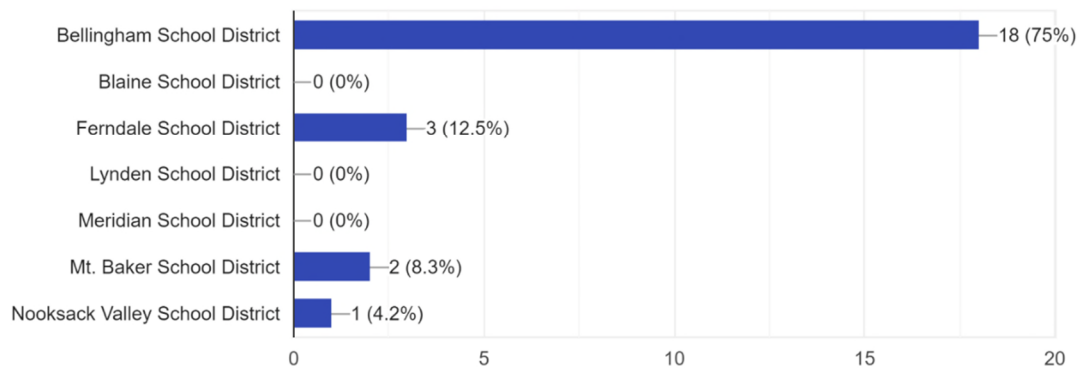
Which income statuses do you have lived experience with? Check all that apply.

24 responses



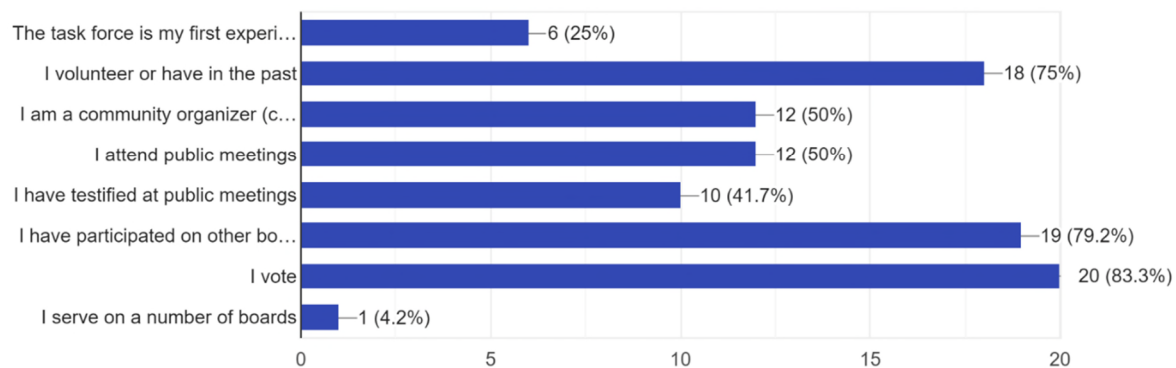
Which school district geographic area do you live in? (Many people identify their community in connection to schools and school districts. Zip code is not the way many of us identify where we live.)

24 responses



How are you involved in community civic life? Check all that apply.

24 responses



What kinds of hobbies or activities bring you joy? 21 responses

- Walking, jogging, reading, and basketball
- Hiking, kayaking, gardening and landscaping, growing our own food, playing classical and folk music with friends,
- Reading, hiking, spending time with friends and family.
- Being outside
- Six adult kids, six grandchildren, gardening, boating, travel, community service
- Baseball, surfing, running, woodworking,
- All outdoor activities, gardening, being with family
- Athletic events, music and the arts, outdoor recreation
- Hiking, running, yoga, boating, reading, spending time with our dogs, traveling, wine tasting
- Hiking, reading, traveling
- Outdoors, hiking, family time, sewing
- Gardening, hiking, skiing, backpacking
- Socializing, reading, building community, bike riding, cooking, eating :), being on the water
- Gardening, kayaking, walking, running, being in nature, being with families and friends
- Hiking, running, gardening, going to the gym
- Time with family, yoga, bike rides
- Gardening, anything on a beach and in the water, reading, adventures with my son, hiking, cooking and eating
- Gardening - Woodworking - Home Improvement - Music
- Gardening, being in nature, sewing, dancing, connecting with good friends
- Hiking, gardening, dancing,
- Jogging, walking, basketball, swimming

Please describe any other identities or lived experiences that you would like to share about yourself or your family. 9 responses

- Coming to the United States as a young adult has required a lot of learning and adjustment.
- Single parent of three children for five years.
- We are members of a faith community. That fact is pretty central to our experience.
- I have worked for about 20 years in my faith community in welfare assistance to the poor and disadvantaged.
- I am concerned about access to food, health care, internet/cell access, and transportation in my community.
- I am a pediatrician who is active in my community and in the local schools.
- I am passionate about supporting children and families build resilience. Parents are their children's best advocate, and we need to enable them to use their advocacy right. Families know how to make better systems. We need to be better listeners to utilize their expertise. My experience as a parent of young children was honored and supported by systems early on, and it has changed my life and shaped my children's. I want every family to have that opportunity.
- I am a graduate student.
- Small business owner.

Thank you! As a reminder, this survey is anonymous and does not track your name, email address, or any identifiable information. It will allow the task force to understand the lived experiences of members represented in our work. The data collected from this survey will be included in the initial report to the County Council but will remain anonymous.

Appendix C

Land Acknowledgement

I would like to begin by acknowledging that we are here today on the ancestral homelands of Indigenous Peoples who have lived in the Salish Sea basin and the North Cascades watershed from time immemorial, in particular, the Lhaq'temish (LOCK-tuh-mish) people who we recognize today to be the Lummi Nation, the Nooksack Tribe, and Semiahmoo.

May we be mindful of the inherent owners of this land, our children, who are our future. Our future stewards of the land and advocates for the generation to come. May that truth guide our work and efforts to improve the well-being of all families and children, native and non-native, living in this beautiful county.

This land acknowledgment is not meant to be a substitute for authentic relationship-building and understanding. It is meant to introduce us to one way we can show respect and honor for the sacrifices of the first people of this land.

Please join me in expressing the deepest respect for our indigenous neighbors, and gratitude for the enduring stewardship of our shared lands and waterways.



Whatcom County

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

Agenda Bill Master Report

File Number: AB2021-320

File ID:	AB2021-320	Version:	1	Status:	Agenda Ready
File Created:	06/01/2021	Entered by:	RMcconne@co.whatcom.wa.us		
Department:	Public Works Department	File Type:	Discussion		
Assigned to:	Council Public Works & Health Committee	Final Action:			
Agenda Date:	06/15/2021	Enactment #:			

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

TITLE FOR AGENDA ITEM:

Discussion of community-requested revision to the Birch Bay Golf Cart Zone boundary, and request for Council direction

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

See attached memo.

HISTORY OF LEGISLATIVE FILE

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



MEMORANDUM

To: Whatcom County Council Public Works & Health Committee

From: Jim Karcher, County Engineer *JK*

CC: Jon Hutchings, Public Works Director *JK* for Jon H
Doug Ranney, Engineering Manager *DR*

Date: June 15, 2021

Re: Community Requested Revision to the Birch Bay Golf Cart Zone Boundary

Public Works was recently contacted by the Birch Bay Chamber of Commerce with a request for modifications to the Birch Bay Golf Cart Zone ("Zone"). Public Works often assists the Birch Bay community with facilitation of community driven solutions and brings this request to the Committee for consideration.

The current request from the Birch Bay Chamber of Commerce consists of eliminating the Zone on Bay Road, east of Jackson Road out to Halibut Drive and extending the limits of the Zone on Alderson Road from Parkland Drive to Gemini Street.

Doralee Booth of the Birch Bay Chamber of Commerce requests the opportunity to address Council during this discussion session.

The Zone was established on May 22, 2018 with a sunset date of October 31, 2019 and then reauthorized in perpetuity on October 22, 2019. No revisions were made to the extents of the Zone at the time of reauthorization.

The Committee may elect to direct Public Works to investigate the effects of these revisions through a traffic study (6-8 month completion timeframe), determine necessary revisions to traffic operations, create ordinances for consideration, engage the community through public outreach and/or make a recommendation for or against implementation.

Public Works requests direction from the Committee on how to proceed with this matter.



Whatcom County

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

Agenda Bill Master Report

File Number: AB2021-300

File ID:	AB2021-300	Version:	1	Status:	Agenda Ready
File Created:	05/17/2021	Entered by:	THelms@co.whatcom.wa.us		
Department:	County Executive's Office	File Type:	Discussion		
Assigned to:	Council Criminal Justice and Public Safety Committee				Final Action:
Agenda Date:	06/15/2021	Enactment #:			

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

TITLE FOR AGENDA ITEM:

Discussion of recent development regarding the implementation of the 5th Medic Unit

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

See attachment

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
<hr/>			

Attachments: Report

Whatcom County Emergency Medical Services

Advanced Life Support Unit Needs Analysis Recommendations to the EMS Oversight Board



Background: Whatcom County Emergency Medical Services (WCEMS) Strategic Plan (Funding Workgroup Plan) identified the potential for an additional Paramedic Unit to be positioned somewhere in the county in 2020. In addition, funds for the additional unit are programmed into the Levy budget at 1.8 million along with startup costs. While the plan set aside funding for this unit, the Strategic Plan also calls for an evaluation and discussion regarding the current deployment configuration of the Whatcom County Advanced Life Support Units.

Review strategic placement of units/ambulances in the county.

Confirm that current ambulance locations are appropriate considering population, geographic and demographic changes since the last review, about 6 years ago.

Analyze need for an additional (5th) ALS unit.

Whatcom County has 4 ALS units: 3 with the Bellingham Fire Department and 1 with Fire District 7. Recent discussions have indicated a potential need for a 5th unit in the system based on experience and response. Concurrent to this report we are collecting and analyzing the data to suggest the time in which that unit should be implemented.

To consider this evaluation Chris Hughes (BFD Data Analyst), Jeremy Morton (WCEMS Data Analyst) and Mike Price from Entrada/San Juan GIS began an analysis that funneled information from county land use GIS files, Image Trend EPCR and Versatarn CAD into a GIS/ARC modeling program that takes into consideration items such as road speeds, freeway access, fastest routes, railroad barriers, time of day, station locations and many more parameters. This team has also evaluated call data such as code green rates, call disposition as well as review of run cards for certain medical conditions along with geographical data with consideration for a 6 to 12 minute response time to the farthest reaches 90% of the time for ALS units. This fascinating work by the team I believe provides a good overview that leads to several recommendations for discussion by the Technical Advisory Committee (TAB) and the EMS Oversight Board (EOB).

From this initial data collection and GIS input, the team modeled the current system as a “base layer” to compare various options. Paramedic Units are located at Bellingham Fire Station 1 (Medic 1 & 2) Medic 10 is located at E. Smith and Northwest Ave and M45 is located at Enterprise and Grandview) In addition, the team had the opportunity to look at data generated after Medic 1 and 2 were moved to Stations 3 and 6 in response to the COVID19 pandemic. This was a safety consideration in that both Medics Units were housed at Station 1. This precaution created personnel distancing in case a firefighter/EMT or Paramedic were to become COVID positive essentially limiting spread among the two medic units and other station resources. These three months of data allowed for real time modeling of those station locations.

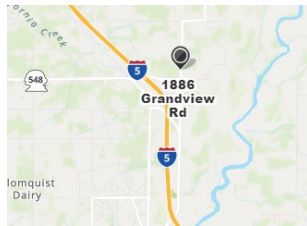
Current Medic Unit Locations Medic 1 and 2



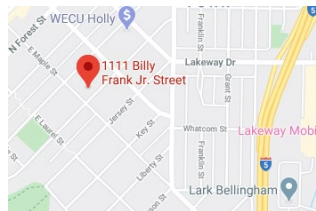
Medic 10 Location



Medic 45 Location



Station 3



Station 6



Historically, Medic 1 and 2 have been co-located at Fire Station 1. At the beginning of the COVID19 Response in March, M1 and M2 were moved from this location to Stations 3 and 6.

Unit modeling since that move have shown several efficiencies including better freeway access and better service to the north and east while still serving the downtown core quickly.

Discussion and Overview of Information

Recommendations to EMS Oversight Board

Initial modeling looked at the current four units to determine if call volume should be the primary indicator for additional units. While individual units are not overwhelmed it became apparent that both M1 and M2 carry the brunt of the call volume responding to the densest areas of the county, primarily within the Bellingham City Limits. Each unit runs approximately 1700 calls per year. (Average 4.6 calls per day) Both units have a cancellation (Code Green) rate of about 12%.

Interestingly, M10 and M45 run approximately 2300 calls per year each (Average 6.3 calls per day) however, M45 has a cancellation (Code Green) rate of about 36% and Medic 10 is cancelled about 56% of the time. Actual transports for Medic 10 are slightly less than M1 and M2 at about 1200 per year. M45 transported about 860 times in 2019.

- Can we equalize call volume between the current Medic Units?
- Call volume is different than “transport” rates.
- Will a reduction in cancelled calls decrease volume to equalize?
- Why are cancelled calls much higher for M10 and 45 as compared to M1 and M2?

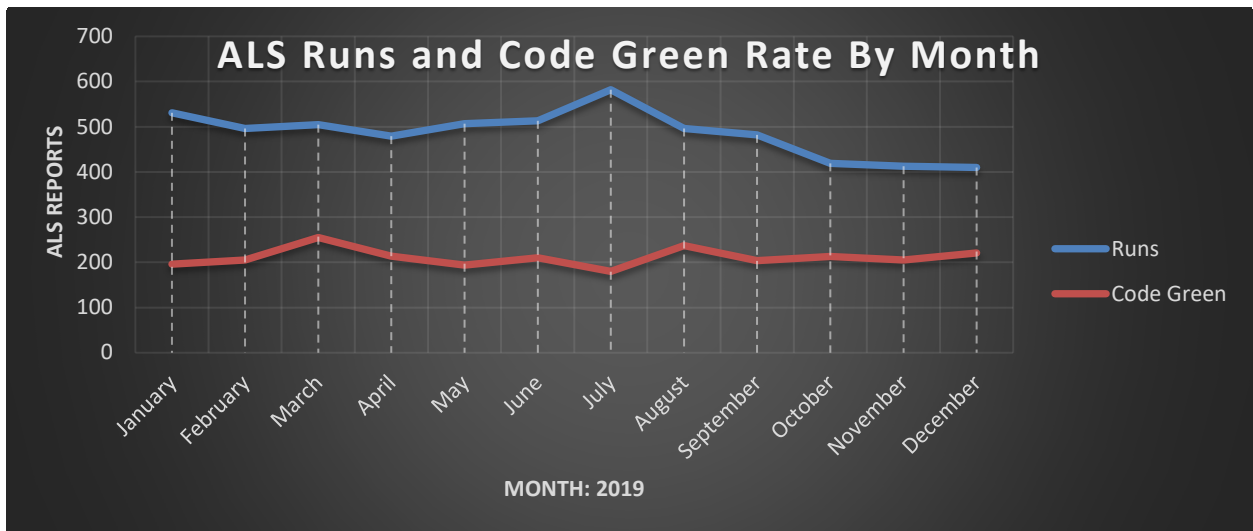
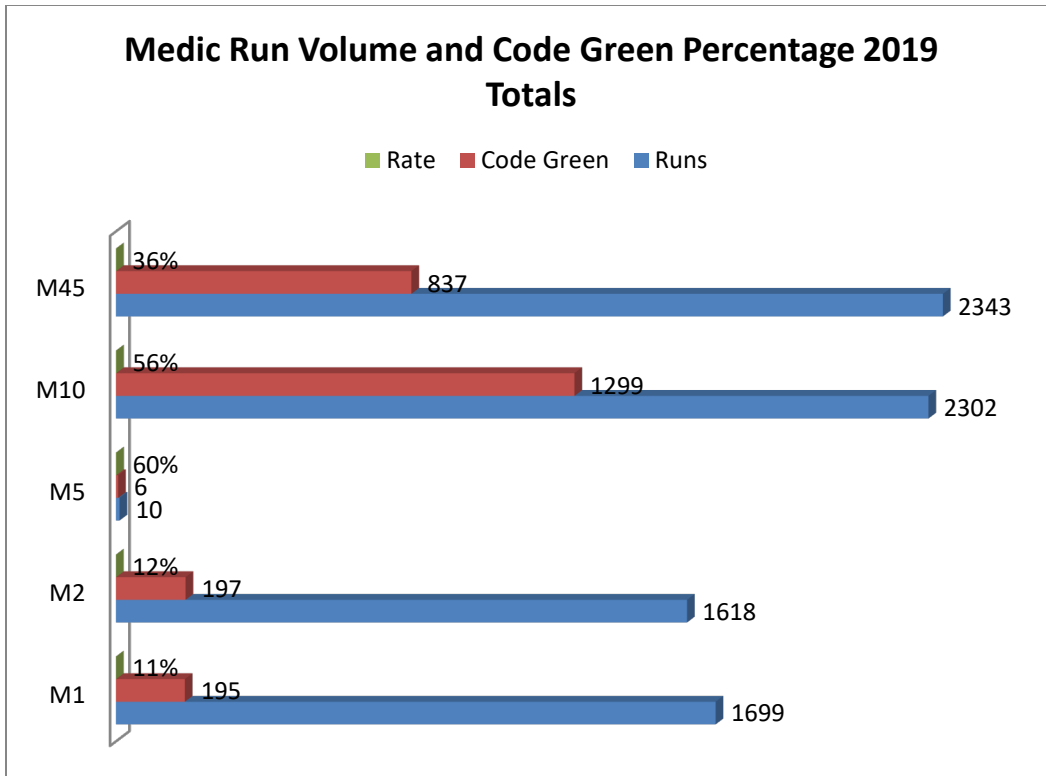
Team Discussion

Medics 1 and 2 have always run out of Station 1. While both units run an equal amount of calls they both share the same time travel distance, concentration and distribution of calls. The team agreed that since much of the Bellingham density has pushed to the north and east there should be improvements to the 6 minute response time in those areas.

As a primary indicator, call volume was not felt to be the only indicator for an additional Paramedic Unit. GIS information also noticed in the downtown core many addresses that are frequent users of EMS. This accounts for call volume but not necessarily density unlike a large apartment complex or sub-division.

- *Programs to reduce frequent use facilities/addresses are in place and expected to achieve reductions.*
- *Shorter transport times for M1 and M2*
- *Longer transport times for M45 and M10 (This draws M1 and M2 to those areas)*
- *Medic 45 and M10 are frequently pulled into M1 and M2 areas*

Cancelled Calls (Also known as “code greens”) the team discussed the dynamics of code green rates which is about 47% for all units combined. This means that 47% of the ALS dispatches are cancelled before arriving. However, this is not equalized among the Medic Units as mentioned earlier. (M1 11% & M2 12%, M45 36% and M10 56%)



Teams discussed the many antidotal accounts and reasons for the higher code green rates for M10 and M45.

- Downtown units are cancelled less because they tend to arrive at the same time as other units. There is also the perception/idea that M1 and M2 transport more frequently for lesser acuity calls than M45 and M10.

- M1 and M2 may transport more frequently because of the shorter transport times. Especially when BLS arrives in a fire apparatus. Unknown what this “rate” is.. (Quicker to transport ALS than wait for BLS rig.)
- M10 has a high cancellation rate due to being called to M1 and M2 area frequently. Due to distance, M10 will be cancelled more often due to M1 and M2 becoming available or BLS crews have time to evaluate before cancelling.
- M45 has a similar dynamic with calls in the 4 minute range but are called into Bellingham less.

Dispatch Influences on Code Green Rate ALS and BLS dispatch decisions are driven by the Whatcom Medical Program Director employing Priority Based dispatching using ProQa dispatching software. Dispatch criteria have sensitivities for the types of calls Paramedics are dispatched. In early 2020, Div. Chief Dan McDermott began an evaluation of dispatch criteria to determine if dispatch protocols can be manipulated to decrease the code green rate for all units.

- Prospect looked at low acuity calls (Charlie Level) as compared to code green rates.
- WCEMS MPD compared patient outcomes to code green decisions by BLS.
- MPD recommends downgrading Charlie card to BLS

This general comparison identified the “sick/unknown” Charlie 26 run card which has a code green rate for Paramedics at about 90%. This run card alone had about 1000 ALS dispatches that turned into a code green about 90% of the time. It is believed that reducing this ALS response will proportionately reduce the Medic Unit code green rate. While code greens seem insignificant to the call volume, there is still a considerable amount of “out of service” time for transitions back to the primary area. There are also times where M45 or M10 are called to Acme or East County/South County, are minutes from arriving on scene and then are cancelled. Many of those responses can be attributed to the Charlie 26 run card.

Beginning June 1, the Charlie 26 card will be downgraded to a BLS response only. The team is eager to evaluate this data and compare these reductions. While reducing code greens are helpful to the system, the remaining response and transport data remains the same. Transports for all medic units remain the same. Lowering code green rates creates a higher unit reliability score. It is estimated this change may reduce ALS calls by as much as 1000 calls per-year which are disguised as “code greens”.

Reduction of Response Times Urban/Rural

Population and general county growth is pushing north and east. Cardiac Arrest and Trauma survival are dependent on response times and highly trained personnel. The addition of a Medic Unit located in the north region of Whatcom County could help the survival rates. Currently, WCEMS is operating in GIS Scenario 4. Efficiencies can be observed for the downtown units as compared to GIS Scenario 1 which was configuration up until March 2020.

Discussion Points from the current model.

- The move to Station 3 and 6 has noticed decreased response times as compared to Station 1. Freeway access is quicker both north and south for both units. What was normally a 10 minute response has become a 6 minute response in some areas. (See Scenario 1 vs Scenario 4)
- Medic 1 is quicker into the North Bellingham and Medic 2 has a better response to the south including the WWU campus. The downtown core remains unaffected by response times for M2. However 2 minutes longer for M1 if M2 is on a call and of course much longer if M10 or M45 responds downtown.
- Can Medic 10 move closer to Bellingham (provide more coverage north) to equalize M1 and M2 and provide closer backup to the density area. Provide better coverage on Hwy 542 and growth area.

Medic 10 and Medic 45 have significantly longer response times, especially to the rural areas of the county as a percentage of their volume. Areas like Pt Roberts and Lummi Island represents a small amount of volume that can tie-up a Medic Unit for a couple of hours. Certain Search and Rescue calls and responses to the Mt. Baker Ski area and the back country can also keep units out of service for hours. When M45 or M10 is out of service, areas such as Everson, Lynden, Kendall, Sumas and Blaine will see extended response time when responding from downtown. BLS units often rendezvous with Medic Units in an effort to get patients closer to the hospital to save time and lives.

- Can unit reliability be increased? Whatcom County does not have reliable mutual aid like other counties. Skagit, Snohomish, King Counties have well developed mutual aid agreements where Medic Units regularly work across county lines as part of the “closest unit to the call” idea. Those counties have close contiguous borders where dense communities share resources.
- The rural areas have higher risk but lower frequency of calls. Calls tend to be more complicated and patients tend to be more critical due lack of health care challenges. A fifth Medic unit could help the Community Paramedic Program.
- Whatcom County has no mutual aid from the north. Skagit County closest Medic Unit is approximately 20 minutes from downtown Bellingham. The Skagit Medic unit rarely responds into Whatcom County due to geography and distance.
- Placing a Medic Unit in the northern region would improve reliability for Bellingham and reduce response times. Responses to Everson, Sumas and areas north of Kendall and Peaceful valley will see quicker response times from a Unit near Lynden.
- A fifth unit will have fewer calls than other units and Paramedic Skills may become diluted. However, all Medic Units will see individual unit reduction in calls. This could provide more time for training. Paramedics should respond to confirmed structure fires for firefighter safety and victim resuscitation in support of county and city fire departments.

GIS Work Team Recommendation

The development team, Jeremy Morton, Mike Price and Chris Hughes brought the GIS work to the Technical Advisory Committee at the May meeting. The TAB selected Jeremy Morton, Chris Hughes, Dean Crosswhite, Ben Boyko, Scott Ryckman, Dan McDermott and Mike Hilley to synthesize this information and bring back recommendations.

Preferred Option 1 – Scenario 14 supports the goal of reducing call volume for M1 and M2 and decreased travel time for Medic 10 when responding to the central Bellingham areas. Medic 10 provides better coverage to the Cordova region and Mt. Baker in the winter from the Britton Loop Station. Medic 45 at Station 41 provides optimal coverage to the Lummi Reservation and will gain call volume where M1 and M2 previously responded. A Medic unit at Station 75 or 70 will provide quicker service to the Everson, Sumas and Kendall areas (Peaceful Valley). Call volume for the north unit will be significantly slower than the other Medic Units however it does create capacity for the reasons noted. This also locates M45 and M10 at a Fire Station with upgrades to living quarters along with other efficiencies. (Consider a 12-Hour Unit)

Option 2 – Scenario 4 leaves all Medic units at their current locations and adds one Medic Unit at either Station 75, 72 or 70. This scenario will capture a certain amount of calls in the Lynden area however; this scenario does not relieve the call volume for M1 and M2 and it does not achieve a response time under the 10.5 travel interval for other areas. Time travel remains the same but adds more reliability for the rural units; this scenario does not increase time travel reliability for the Bellingham density. This scenario creates longer response times for the Lummi Reservation, particularly on the south end as well as access to Lummi Island for ALS calls from Station 3 and 6. The north Medic Unit will not see a large amount of call volume. (Consider a 12-hour Unit)

Option 3 – Scenario 2 is the current scenario. While scenario 1 has been the deployment model up until March 2020, the efficiencies and safety with this configuration have demonstrated the rationale for a permanent move to Station 3 and 6. This is mostly because of the COVID19 safety created by the distancing of Paramedic Units. WCEMS anticipates this deployment (Station 3 and 6) will be a permanent situation. The Lummi Tribal Community would see increased response times to the south and west in this configuration.

- Medic Unit Funds could be used for alternative programs such as placing either a Senior Paramedic or Supervisor in the north (Lynden) that can respond and provide early interventions and triage for the rural areas while waiting to rendezvous with a medic unit.
- The Lummi Tribal Community has expressed interest in a co-responder model for SUD and Mental Health responses.
- Place a fourth Community Paramedic in the Lynden area for dual role response. Use local EMT's to expand Community Health while available for ALS emergencies.

Final Considerations and Comments

This analysis attempts to provide data for this initiative balanced with considerations from the various stakeholders of the EMS system. Call volume alone does not indicate a need for an additional Paramedic Unit. General estimates predict that an additional Paramedic unit will have a low transport rate (less than 500 transports) as compared to other units. However, all stakeholders agree that an additional Paramedic Unit has been a general expectation since the reorganization of the EMS system and the successful passage of the EMS Levy. This analysis is a response to that evaluation requested in the Strategic Plan. The Teams have provided their top 3 Options for consideration by the TAB and EOB.



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:	06/15/2021			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	

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
05/04/2021	Council Committee of the Whole	DISCUSSED
05/18/2021	Council Committee of the Whole	DISCUSSED
06/01/2021	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: AB2021-296

File ID:	AB2021-296	Version:	1	Status:	Introduced
File Created:	05/13/2021	Entered by:	RSnijder@co.whatcom.wa.us		
Department:	Planning and Development Services Department	File Type:	Ordinance Requiring a Public Hearing		
Assigned to:	Council Committee of the Whole	Final Action:			
Agenda Date:	06/15/2021	Enactment #:			

Primary Contact Email: rsnijder@whatcomcounty.us

TITLE FOR AGENDA ITEM:

Ordinance adopting amendments to the Purchase of Development Rights Program

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

Ordinance to amend Whatcom County Code 3.25A and PDR Program Guidelines. The proposed amendments would change the program's name, update the site selection criteria, and improve program administration.

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
06/01/2021	Council	INTRODUCED	Council Committee of the Whole

Attachments: Staff Memo, Proposed Ordinance, Proposed Ordinance Exhibit A, Proposed Ordinance Exhibit B- Changes, Proposed Ordinance Exhibit B- Clean

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 County Councilmembers
Honorable Executive Sidhu

THROUGH: Mark Personius, PDS Director *MP*

FROM: Becky Snijder van Wissenkerke, PDR Program Administrator *BLS*

DATE: May 11, 2021

SUBJECT: Request to amend Whatcom County Code 3.25A and the PDR Program Guidelines as recommended by the Purchase of Development Rights Oversight Committee

The Purchase of Development Rights Program messaging and outreach were evaluated in 2019. After such evaluation, the Purchase of Development Rights (PDR) Oversight Committee recommends changing the program's name to the Whatcom County Conservation Easement Program. This proposed name better represents the program's purpose: purchasing conservation easements that will protect important agricultural lands, forestland, and ecological areas in Whatcom County. Since the program's establishment, development rights have been removed by placing conservation easements on properties. These conservation easements also protect the land by placing other restrictions, such as limiting the amount of impervious surfaces and prohibiting any use not conducive to agriculture, forestry, or the protection of ecological areas.

In addition to this proposed program name change, the PDR Oversight Committee and PDR Program staff have reviewed Whatcom County Code 3.25A and the PDR Program Guidelines and have identified additional changes that will improve the program's administration. The major change is revising the program's site selection criteria to better identify properties with high conservation value. In 2018, the program expanded to include the protection of forestland and important ecological areas as secondary goals to the program's primary goal of farmland preservation. The current site selection criteria is designed to rank farmland and does not accurately evaluate valuable forestland or important ecological areas. The proposed program guidelines and scoring criteria, as presented in the attached documents, continue to prioritize the protection of agricultural applications while also identifying important forestland and ecological areas for protection.

The PDR Oversight Committee and PDR Program staff recommend this proposed name change and updated guidelines as detailed in the attached ordinance. We look forward to discussing these recommended changes with you.

Please call Becky Snijder van Wissenkerke, PDR Program Administrator, with any questions or concerns at (360)778-5956.

ORDINANCE NO. _____

**ADOPTING AMENDMENTS TO THE
PURCHASE OF DEVELOPMENT RIGHTS PROGRAM**

WHEREAS, Whatcom County government recognizes agriculture and forestry as major contributors to the local economy and a high quality of life for Whatcom County citizens; and

WHEREAS, The Growth Management Act and the County Comprehensive Plan support the retention of agricultural and forestry lands of long term commercial significance and encourage the use of innovative techniques to do so; and

WHEREAS, Ordinance #92-002 enacted a property tax levy known as the Conservation Futures Tax as authorized by RCW 84.34.230 to provide a funding source to assist in acquiring "open space land, farm and agricultural land, and timber land, and a significant Conservation Futures fund balance is available for additional farm land protection efforts"; and

WHEREAS, Ordinance #2002-054 adopted Whatcom County Code Title 3.25A that authorized the creation of a Purchase of Development Rights (PDR) Program that offers voluntary farm agreements that include the purchase of agricultural conservation easements on farmable land within Whatcom County; and

WHEREAS, Ordinance #2002-054 and WCC 3.25A established a Purchase of Development Rights Oversight Committee to provide review and assistance to the PDR Program Administrator; and

WHEREAS, The Whatcom County Council adopted the PDR Guidelines Document through Resolution #2002-040 which includes specific direction for program administration and conservation easement acquisitions; and

WHEREAS, Ordinance #2018-065 amended Whatcom County Code 3.25A to direct the PDR Program to also offer voluntary agreements to purchase forestry and ecological conservations easements on working forestlands and important ecosystem areas within Whatcom County; and

WHEREAS, The PDR Program messaging was evaluated in 2019 and the Purchase of Development Rights Oversight Committee recommended changing the program's name to the Whatcom County Conservation Easement Program, and

WHEREAS, The Purchase of Development Rights Oversight Committee has updated the program guidelines so as to better identify properties with high conservation value, and

WHEREAS, The Purchase of Development Rights Oversight Committee voted unanimously on April 23, 2021 to recommend approval of the proposed program name change, updated guidelines, and updates to Whatcom County Code 3.25A.

1 **NOW, THEREFORE, BE IT ORDAINED** by the Whatcom County Council that
2 Whatcom County Code 3.25A is hereby amended as outlined in Exhibit A to this ordinance.
3

4 **BE IT ALSO ORDAINED** by the Whatcom County Council that the PDR Program
5 Guidelines are also amended as outlined in Exhibit B to this ordinance.
6

7 **ADOPTED** this ____ day of _____, 2021.
8
9

10
11 ATTEST:

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

12
13 _____
14 Dana Brown-Davis, Clerk of the Council
15

Barry Buchanan, Council Chair
16

17
18 APPROVED AS TO FORM:

WHATCOM COUNTY EXECUTIVE
WHATCOM COUNTY, WASHINGTON

19
20 Approved by email/C Quinn/B Snijder
21

22 Civil Deputy Prosecutor

Satpal Sidhu, County Executive

() Approved () Denied

Date Signed: _____
25
26

Exhibit A

1 Chapter 3.25A
 2 ~~AGRICULTURAL, FORESTRY, AND ECOLOGICAL PURCHASE OF DEVELOPMENT RIGHTS~~
 3 ~~PROGRAM~~ WHATCOM COUNTY CONSERVATION EASEMENT PROGRAM
 4
 5 Sections:
 6 **3.25A.010 Short title.**
 7 **3.25A.020 Purpose.**
 8 **3.25A.030 Applicability.**
 9 **3.25A.040 Definitions.**
 10 **3.25A.050 Designation of program administrator – Powers and duties.**
 11 **3.25A.060 ~~Purchase of development rights~~ Conservation easement program oversight committee**
 12 **established – Powers and duties.**
 13 **3.25A.070 Eligibility criteria.**
 14 **3.25A.080 Ranking system.**
 15 **3.25A.090 Conservation easement terms and conditions.**
 16 **3.25A.100 Application and evaluation procedure.**
 17 **3.25A.110 Purchase of ~~development rights~~ conservation easements procedure.**
 18 **3.25A.120 Restriction on buy-back – Extinguishment and exchange of easements.**
 19 **3.25A.130 Authorization.**

Comment [BSvW1]: Name changed to highlight the end goal (conservation easement protecting the land) rather than the method (purchasing development rights)

20
 21 **3.25A.010 Short title.**
 22 This chapter shall be known and may be cited as the “~~Agricultural, Forestry, and Ecological Purchase of~~
 23 ~~Development Rights Program~~ Whatcom County Conservation Easement Program.” For the purpose of
 24 this chapter this program shall be known as the “~~PDRCEP~~” program. (Ord. 2018-065 Exh. A; Ord. 2013-
 25 015 Exh. A; Ord. 2002-054 § 1).
 26

27 **3.25A.020 Purpose.**
 28 To establish a voluntary agricultural, forestry, and ecological ~~purchase of development~~
 29 ~~rights~~ conservation easement program for Whatcom County which will enhance the protection of the
 30 county’s farmland, forestland, and important ecosystem areas, enhance the long-term viability of the
 31 agricultural and forestry enterprises within the county and provide public benefit by retaining properties
 32 in permanent resource use, in addition to the protection of ecosystem functions and values. (Ord. 2018-
 33 065 Exh. A; Ord. 2002-054 § 1).
 34

35 **3.25A.030 Applicability.**
 36 The ~~PDR program~~ CEP shall be available for all qualifying lands, as identified in the ~~PDR program~~ CEP
 37 guidelines, except those lands under the ownership or control of the United States of America, the state
 38 of Washington or an agency or instrumentality thereof. Any conservation easement acquired pursuant
 39 to this chapter shall be voluntarily offered by the owner. (Ord. 2018-065 Exh. A; Ord. 2002-054 § 1).
 40

41 **3.25A.040 Definitions.**
 42 The following definitions shall apply in the interpretation and implementation of this chapter:
 43

44 “Administrator” is that person placed in a managerial position over the daily operations of the ~~PDR~~
 45 ~~program~~ CEP. The administrator shall serve as a direct liaison to the program.
 46

47 “Conservation easement” means a nonpossessory interest in one or more parcels by one or more
 48 qualified easement holders under WCC 3.25A.090(B) acquired under RCW 64.04.130, whether the

49 easement is appurtenant or in gross, voluntarily offered by an owner and acquired by purchase or
50 donation pursuant to the ~~PDR program~~CEP guidelines, imposing limitations or affirmative obligations for
51 the purpose of retaining or protecting agricultural, forestry, and ecosystem values of the parcel or
52 parcels.

53
54 “Development rights” means an interest in and the right to use and subdivide land for any and all
55 residential, commercial and industrial purposes and activities which are not incident to agricultural,
56 forestry, and/or ecosystem uses.

57
58 “Owner” means the owner or owners of the fee simple interest of the parcel.

59
60 “Parcel” means a legal lot of record, lawfully recorded in the Whatcom County auditor’s office. A
61 conservation easement may contain one or more parcels; for purposes of this chapter the term “parcel”
62 shall include all parcels covered by, or proposed to be covered by, the conservation easement.

63
64 The “~~PDR program~~CEP guidelines” shall be adopted by county council and contain the rules and
65 regulations under which the ~~PDR program~~CEP operates. They include eligibility criteria, site selection
66 criteria, a standard conservation easement and other procedures and information necessary to ensure
67 fair and consistent administration of the ~~PDR program~~CEP.

68
69 “Qualifying lands” means those properties meeting the eligibility criteria established in the ~~PDR~~
70 ~~program~~CEP guidelines for which ~~development rights~~conservation easements may be purchased
71 pursuant to this chapter. (Ord. 2018-065 Exh. A; Ord. 2002-054 § 1).

72
73 **3.25A.050 Designation of program administrator – Powers and duties.**

74 A. Designation. The administrator shall be designated by and report to the director of planning and
75 development services.

76
77 B. Powers and Duties. The administrator or his or her designee shall administer the ~~PDR program~~CEP
78 and shall have powers and duties to:

79
80 1. Establish reasonable and standard procedures and forms consistent with this chapter and the ~~PDR~~
81 ~~program~~CEP guidelines for the administration and implementation of the program.

82
83 2. Promote the program in cooperation with the ~~PDR-CEP~~ oversight committee by providing
84 educational materials to the public and conducting informational meetings.

85
86 3. Investigate and pursue, in conjunction with the county, state, federal and other programs available,
87 to provide additional public and private resources to fund the program and to maximize private
88 participation.

89
90 4. Evaluate and rank all applications to determine their eligibility and provide assistance to the ~~PDR~~
91 ~~CEP~~ oversight committee in ranking properties.

92
93 5. Coordinate the preparation of appraisals.

94
95 6. Negotiate conservation easement terms and value with the owner or owners.

96

97 | 7. Provide staff support to the county council, the PDR-CEP oversight committee, and the county's
98 | authorized appraiser.
99 |
100 | 8. For each conservation easement accepted into the program, establish baseline data, and assure
101 | that the terms and conditions of the easement are monitored and complied with by coordinating a
102 | monitoring program with each easement holder. (Ord. 2018-065 Exh. A; Ord. 2002-054 § 1).
103 |
104 | **3.25A.060 ~~Purchase of development rights~~Conservation easement program oversight committee**
105 | **established – Powers and duties.**
106 | A. Establishment. The PDR-CEP oversight committee is hereby established, as follows:
107 |
108 | 1. The committee shall consist of seven members appointed by the county executive and confirmed by
109 | county council. Each member shall be a resident in and of Whatcom County. The committee shall be
110 | comprised of three farmers, one individual representing farm-supporting businesses, one individual
111 | possessing real estate experience, one citizen (nonfarmer) from the unincorporated county, and one
112 | citizen (nonfarmer) from an incorporated city. No members may have an ownership interest in any
113 | of the lands submitted for purchase pursuant to this chapter.
114 |
115 | 2. The members of the committee shall serve at the pleasure of the county council. ~~The initial terms of~~
116 | ~~the members shall be as follows: two members shall be for two years; three members shall be for~~
117 | ~~three years; and two members shall be for four years. Each term after the initial~~Each term shall be
118 | for four years.
119 |
120 | 3. The members of the committee shall serve without pay, but the county council may, at its
121 | discretion, reimburse members for actual and necessary expenses incurred in the performance of
122 | their duties.
123 |
124 | 4. The committee shall elect a chairperson, ~~and~~ vice-chairperson ~~and secretary~~ at its first meeting
125 | each calendar year. ~~The secretary need not be a member of the committee.~~
126 |
127 | 5. The administrator shall be an ex officio member of the committee.
128 |
129 | B. Purpose. To provide oversight and evaluation for the county ~~PDR program~~CEP. The PDR-CEP oversight
130 | committee's role is to advise the council in the selection of eligible lands offered for PDR-CEP
131 | acquisition.
132 |
133 | C. Powers and Duties. The PDR-CEP oversight committee shall have the powers and duties to:
134 |
135 | 1. Promote the program, in cooperation and under the guidance of the administrator, by providing
136 | educational materials to the public and conducting informational meetings.
137 |
138 | 2. Review and make recommendations to the administrator and the county council as to which
139 | conservation easements should be purchased.
140 |
141 | 3. Annually review the ~~PDR program~~CEP guidelines and recommend to the county council any changes
142 | needed to maintain the program's consistency with the comprehensive plan, or to improve the
143 | administration, implementation and effectiveness of the program.
144 |

Comment [BSvW2]: All members serve 4 years during their first term

Comment [BSvW3]: Staff provide secretary duties

145 4. Provide an annual report of program accomplishments to county council and county executive.

146
147 D. Organization – Meetings. Meetings of the committee shall be open and accessible to the public and
148 shall be subject to the Open Public Meetings Act. The committee shall determine its own meeting
149 schedule but shall meet at least annually. A public comment period will be provided at each meeting.
150 Written records of meetings, decisions, findings and recommendations shall be kept and such records
151 shall be public. The committee shall adopt its own rules and procedures for the conduct of business. The
152 committee shall elect a chairperson from among its members who shall preside at its meetings. A
153 quorum shall consist of four members present and the committee shall operate on a “majority rule”
154 basis.

155
156 E. Technical Advisory Committee. A technical advisory committee, without voting privileges, may be
157 formed to advise the PDR-CEP oversight committee on technical/scientific matters as needed.
158 Representatives may include but not be limited to individuals from the following agencies: Cooperative
159 Extension Service, National Resource Conservation Service and Whatcom Conservation District. (Ord.
160 2018-065 Exh. A; Ord. 2002-054 § 1).

161
162 **3.25A.070 Eligibility criteria.**

163 In order for a parcel to be eligible for a conservation easement, it must ~~be located outside of an~~
164 ~~established urban growth area and within Rural 2A, Rural 5A*, Rural 5A, Rural 10A, Residential Rural,~~
165 ~~Rural Residential – Island, Rural Forestry, or Agriculture zoned land and meet any additional~~ eligibility
166 criteria as defined in the PDR program CEP guidelines. (Ord. 2018-065 Exh. A; Ord. 2011-025 § 1 Exh. A;
167 Ord. 2002-054 § 1).

168
169 ~~*The asterisk refers to Rural 5A areas depicted on the official zoning maps with an asterisk that are~~
170 ~~subject to WCC 20.36.252, Rural residential density overlay.~~

171
172 **3.25A.080 Ranking system.**

173 In order to effectuate the purposes of this chapter, parcels for which conservation easement
174 applications have been received shall be evaluated by utilizing the site selection criteria as contained in
175 the PDR program CEP guidelines. The ranking system shall be used to prioritize the acquisition of
176 conservation easements. (Ord. 2018-065 Exh. A; Ord. 2002-054 § 1).

177
178 **3.25A.090 Conservation easement terms and conditions.**

179 Each conservation easement shall conform with the requirements of this chapter. The deed of easement
180 shall be in a form approved by the county attorney, and shall contain, at a minimum, the provisions
181 incorporated in the standard agricultural, forestry, or ecological conservation easement. Central to the
182 purpose of the PDR program CEP are the following:

183
184 A. Allowable Uses. Uses that are compatible with the long-term productivity of the soil for the pursuit of
185 farming or forestry enterprises and/or protection of ecosystem functions and values.

186
187 B. Designation of Easement Holders. The county shall be the easement holder, and, if designated by the
188 county council, one or more other public bodies or qualified organizations, as defined in RCW 64.04.130.

189
190 C. Conservation Easement Duration. A conservation easement acquired under the terms of this chapter
191 shall be in perpetuity. (Ord. 2018-065 Exh. A; Ord. 2002-054 § 1).

Comment [BSvW4]: Leave criteria in guidelines and not list in code.

Comment [BSvW5]: Ord. 2018-065 expanded program to also include forestry and ecological conservation easements.

193 **3.25A.100 Application and evaluation procedure.**

194 Beginning in the first year following the adoption of the ordinance codified in this chapter and
195 continuing thereafter, the county shall conduct a voluntary property selection process generally as
196 follows and pursuant to the PDR program CEP guidelines:

197
198 A. Application. Owners of qualifying lands ~~will be invited to make application for purchase of~~
199 ~~development rights may apply to the CEP- at any time by the county by giving notice in one newspaper of~~
200 ~~general circulation.~~ Application materials will be provided by the administrator and will include, at a
201 minimum, a standard application form and information about the PDR program CEP. Applications shall
202 be submitted to the administrator and reviewed for completeness.

203
204 B. Evaluation. The administrator shall review and determine eligibility and priority classification of
205 applications. The applications ranked by the administrator shall be forwarded to the PDR CEP oversight
206 committee. The committee shall review the applications and establish parcels for easement purchase
207 based on selection criteria contained in PDR program CEP guidelines. The committee shall then forward
208 the parcels to the county council which shall review and prioritize parcels on which it will seek to
209 purchase conservation easements.

210
211 C. Appraisal. ~~Based on anticipated funding, the administrator shall estimate the number of appraisals~~
212 ~~that can be completed during the fiscal year. For those applications that meet the requirements of~~
213 ~~subsection B of this section, the committee shall select applications to be appraised cause an appraisal~~
214 ~~of the applicant's development rights to be made~~ in accordance with PDR program CEP guidelines.

215
216 D. Requirements and Deadlines May Be Waived. Any requirement or deadline set forth in this chapter or
217 the PDR program CEP guidelines may be waived by the county council if, for good cause, it is shown that
218 urgent circumstances exist that warrant consideration of an application. Under such circumstances the
219 council may purchase a conservation easement at any time and through any process it deems necessary.

220
221 E. Reapplication. An owner of a parcel not selected by the county council for purchase of a conservation
222 easement may reapply in the future. (Ord. 2018-065 Exh. A; Ord. 2013-015 Exh. A; Ord. 2002-054 § 1).

223
224 **3.25A.110 Purchase of ~~development rights~~ conservation easements procedure.**

225 Each application for a conservation easement shall be processed and evaluated pursuant to the
226 requirements as contained in the PDR program CEP guidelines which will include at a minimum the
227 following:

228
229 A. ~~Development Rights~~ Conservation Easement Sale. ~~Based on anticipated funding the administrator~~
230 ~~shall estimate the number of development rights that can be acquired from the initial pool of parcels~~
231 ~~identified in WCC 3.25A.100(B). The administrator shall coordinate negotiations with the property~~
232 ~~owners. Upon completion of negotiations, the~~ The administrator shall arrange for an appraisal of the
233 ~~development rights value of placing a conservation easement on the property, to be completed by an~~
234 independent county-authorized appraiser. ~~The value of the conservation easement will include the~~
235 ~~value from eliminating select development rights and imposing certain use restrictions in perpetuity in~~
236 ~~order to protect the agricultural, forestry, and ecosystem values of the property.~~ The PDR CEP oversight
237 committee and administrator shall review the results of the appraisal. The administrator shall, in writing,
238 invite the property owner(s) to ~~sell grant a conservation easement~~ to the county ~~development rights~~ for
239 the amount of the appraised value of such ~~development rights conservation easement~~, subject to the
240 terms and conditions of a proposed deed of easement. Property owners desiring to ~~sell and/or donate~~

Comment [BSvW6]: When the program started, it was set up to have an application deadline, giving a pool of applicants to evaluate. This was set up with the expectation that there would be a high volume of applicants. Due to a lower volume of applicants, the program has been operating on a rolling basis.

Comment [BSvW7]: Applications to be appraised will often be for projects that have already received an agreement for matching funds. This generally includes applicants who applied a previous year.

Comment [BSvW8]: Not necessary to budget for applications received this year, since the conservation easement sale occurs 2-3 years after application is submitted. Administrator can track funding when seeking council approval to purchase.

Comment [BSvW9]: Conservation easements do more than remove development rights. Some value comes from use restrictions. Examples of use restrictions in agricultural conservation easements include: limiting the amount of impervious surfaces, prohibiting uses that impair the ability to farm, limitations on separating water rights from the property, prohibiting mining and exporting material from property, prohibiting the granting of rights-of-way for power lines, among others.

Use restrictions in forestry conservation easements are similar to those in agricultural conservation easements, but with a prohibition on uses that impair the ability to forest the property.

Ecological conservation easements may include the following restrictions: prohibiting the harvest of timber, prohibiting motorized vehicles, prohibiting excavation or grading.

241 | ~~development rights~~grant a conservation easement shall submit a written acceptance of the offer to sell.
242 | Nothing in this chapter shall compel an owner to submit an acceptance of the offer to sell.

243 |
244 | B. Acceptance. ~~An offer to sell development rights~~Requests to purchase conservation easements shall be
245 | ~~forwarded made~~ to the county council for acceptance.

246 |
247 | C. Conservation Easement Established. A conservation easement shall be established when the owner
248 | and an authorized representative of the holder of the easement have each signed the deed of
249 | easement. The deed shall be recorded in the Whatcom County auditor's office.

250 |
251 | ~~D. Offers Not Made – Offers Not Accepted – Invitation to Other Owners. If an owner invited to sell elects~~
252 | ~~not to do so, then the county administrator may send an invitation to sell to the owner(s) of the next~~
253 | ~~highest prioritized parcel(s) remaining on the list of parcels.~~

254 |
255 | E. Costs. If the county council ~~accepts an offer to sell development rights~~approves the purchase of a
256 | conservation easement, the county may pay all other costs including environmental site assessments,
257 | surveys, recording costs, if any, and other charges associated with closing. However, the county shall not
258 | pay expenses or fees incurred by the property owner for independent appraisals or legal, financial, or
259 | other advice, or expenses or fees in connection with the release and subordination of liens to the
260 | easement purchased by the county. (Ord. 2018-065 Exh. A; Ord. 2002-054 § 1).

261 |
262 | **3.25A.120 Restriction on buy-back – Extinguishment and exchange of easements.**

263 | If circumstances arise that render the purpose of this easement impossible to accomplish, the easement
264 | can be extinguished only by judicial proceedings. In the event of such an extinguishment or the taking of
265 | the property by the exercise of the power of eminent domain, grantors shall pay to Whatcom County an
266 | amount determined by subtracting the fair market value of the property subject to this easement from
267 | the fair market value of the property unrestricted by this easement, at the time of extinguishment or
268 | condemnation, if Whatcom County is not compensated for its property interests at the time of the
269 | extinguishment or condemnation. Other details regarding restrictions on buy-back or extinguishment as
270 | may be deemed necessary shall be contained in the PDR program CEP guidelines, and/or the easement
271 | deed. (Ord. 2018-065 Exh. A; Ord. 2013-015 Exh. A; Ord. 2002-054 § 1).

272 |
273 | **3.25A.130 Authorization.**

274 | A. The county is hereby authorized to acquire ~~development rights~~conservation easements from lands
275 | described and prioritized in WCC 3.25A.080. Such acquisition may be accomplished by purchase, gift,
276 | grant, bequest, devise, covenant or contract but only at a price which is equal to or less than the
277 | appraised value determined as provided in this chapter and the PDR program CEP guidelines.

278 |
279 | B. If the owner so elects, the county is authorized to pay the purchase price in a lump-sum single
280 | payment at time of closing, or to enter into contract for installment payments against the purchase
281 | price. When installment purchases are made, the county is authorized to pay interest on the declining
282 | unpaid principal balance at a legal rate of interest consistent with prevailing market conditions at the
283 | time of execution of the installment contract and adjusted for the tax-exempt status of such interest.

284 |
285 | ~~C. After county acquisition of development rights, the county may purchase the remaining agricultural,~~
286 | ~~forestry, or ecosystem rights or other property interests in such land only when requested by the owner~~
287 | ~~and when such acquisition is necessary to maintain agricultural, forestry, or ecosystem uses of the~~
288 | ~~property. (Ord. 2018-065 Exh. A; Ord. 2002-054 § 1).~~

Comment [BSvW10]: Applications accepted on a rolling basis, with the purchase of easements also occurring continuously. There is no wait list.

Comment [BSvW11]: Amended and added to 3.25A.110.A

Exhibit B

Changes

Whatcom County

~~Agricultural, Forestry, and Ecological~~ ~~Purchase of Development~~ ~~Rights~~ Conservation Easement ~~PROGRAM~~ ~~GUIDELINES~~ Program Guidelines

Revised version adopted April 9, 2013,
Second revision adopted November 20, 2018
Third revision adopted [DATE]

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I. INTRODUCTION

These Program Guidelines are authorized under WCC Title 3.25A and serve as rules and procedures for administering the Whatcom County ~~Agricultural, Forestry, and Ecological Purchase of Development Rights (PDR)~~Conservation Easement Program (CEP).

The Guidelines serve two functions:

- A. To provide an overview of the land preservation process for the property owner. Specifically, this information can be found in Section V.
- B. To establish the rules and operational procedures that the ~~PDR-CEP~~ Oversight Committee and the Administrator must follow when operating a ~~Purchase of Development Rights program~~Conservation Easement Program.

II. ~~PDR PROGRAM~~CEP OBJECTIVE AND PRINCIPLES

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Responding to the loss of County farmland, the Whatcom County Executive initiated the development of a Purchase of Development Rights (PDR) program in September of 2001. A PDR Advisory Committee comprised of farmers, citizens and conservation organizations was formed and tasked with assisting County staff in the development of a proposal for County Council consideration. The Purchase of Development Rights Program was enacted through Ordinance 2002-054 in September of 2002.

Since that time, Whatcom County continues to experience a rapid development rate. In Response to the ~~continued~~ loss of ~~agricultural land and of other land types such as~~ forest resource lands and areas of ecological importance, the program expanded in 2018 to protect working forestlands and important ecosystem areas. This expansion was enacted through Ordinance 2018-065. In order to better reflect the program's purpose, the program changed names in 2021 to the Whatcom County Conservation Easement Program. This change was enacted through Ordinance 2021-XXX. These program guidelines have been updated accordingly.

Comment [BSvW1]: Update if approved.

A. Objective

The primary objective of the Whatcom County ~~Purchase of Development Rights~~Conservation Easement Program (CEP), in conjunction with other tools, is the protection of farmland. The secondary objective of the ~~PDR Program~~CEP is the protection of forestland and areas of ecological importance. The Whatcom County ~~Purchase of Development Rights~~Conservation Easement Program will help to sustain the farming and forestry enterprises as well as support healthy ecosystem function throughout Whatcom County.

B. Principles

The ~~PDR Program~~CEP provides a strategic tool to protect County farmland, forestland, and areas of ecological importance.

1. Preserve the County's Agricultural lands, Forestlands and Areas of Ecological Importance

Encourage the protection of a critical mass of agricultural and forestry land to sustain the farm-related and forestry-related businesses and activities that are necessary to support the agricultural and forestry industries in Whatcom County. Additionally, the Program will encourage the protection of areas of ecological importance necessary to sustain ecosystem health and function.

The primary ~~PDR Program~~CEP emphasis will be:

- a. Reduce conversion of land to non-agricultural uses within the Agricultural District;
- b. Provide a buffer to discourage encroachment into the Agricultural District;
- c. Consolidate and protect areas of agricultural land; and
- d. Protect agricultural lands located outside the Agricultural District that are under increased pressure of development.

The secondary ~~PDR Program~~CEP emphases will be:

- a. Reduce conversion of land to non-forestry uses within the Forestry Districts;
- b. Provide a buffer to encroachment of the Forestry Districts;
- c. Consolidate and protect areas of forestry land;

- d. Address commercially significant forestry lands outside the Forestry Districts that are under pressure of development.
- e. Protect areas of ecological importance and support and enhance ecosystem functions within agricultural and forestry lands;
- h. Improve and support habitat connectivity and protection of critical habitat corridors.

2. Offer Effective Program Design

Maintain a voluntary tool for the preservation of productive agricultural and forestry lands, as well as areas of ecological importance in the County that will:

- a. Provide farmers and foresters with the market based economic value for agricultural and forestry land without selling the land;
- b. Provide property owners with the market based economic value for areas of ecological importance without selling the land.
- c. Support and promote ongoing agricultural and forestry activities by offering an attractive option for farmers, foresters, and landowners;
- d. Support and promote ecosystem function by offering an attractive option for landowners; and
- e. Provide for ongoing monitoring and enforcement.

3. Leverage Program Impact and Efficiency

Enhance and support a coordinated approach to the preservation of the agricultural and forestry lands, as well as areas of ecological importance that will:

- a. Create community support for agricultural and forestry preservation initiatives;
- b. Create community support for the protection of areas of ecological importance;
- c. Complement and foster other County programs and policies to preserve farming and agricultural lands;
- d. Complement and foster other County programs and policies to preserve forestry and forestry lands;
- e. Complement and foster other County programs and policies to enhance ecosystem function and protect areas of ecological importance; and
- c. Leverage other public and private funding sources and provide or increase property owner incentives and program effectiveness.

III. ELIGIBILITY CRITERIA

A. Priority Consideration

Areas around the county have been identified to receive priority consideration for ~~PDR Program~~CEP participation.

Agricultural priority areas (Appendix A) include a combination of the ~~twelve initial PDR Target Areas~~, Ten Rural Study Areas, Watershed Improvement District areas, ~~in addition to the~~ lands within the Agriculture Zone, ~~and additional areas identified in the 2019 Agricultural Landscape Analysis~~. ~~The 2019 Agricultural Landscape Analysis also highlights active crop land and contiguous blocks of agricultural lands as identified by the Washington State Department of Agriculture as well as suitable agricultural soils as identified by USDA Natural Resource Conservation Service~~. Preservation of these areas protect designated agricultural lands and can establish a perimeter of PDR farmlands to protect against development encroachment into large blocks of agricultural lands. These lands, due to their soils, land use, and proximity to core agricultural areas, are deemed priority farmlands for program participation due to their vulnerability for conversion to non- agricultural uses.

Comment [BSvW2]: Maps have been updated to include the 2019 Landscape Analysis data.

Forestry priority areas (Appendix B) include lands located within the Rural Forestry zone and areas designated by the Washington State Department of Natural Resources as being priority for protection from conversion under Washington's Forest Action Plan. ~~The 2019 Forestry Landscape Analysis did not identify additional priority areas~~.

Ecological priority areas (Appendix C) include lands containing a mapped Habitat Conservation Area or within 165' of habitat conservation feature, ~~such as This includes~~ fish bearing streams, areas identified under the Washington State Department of Fish and Wildlife's Priority Habitats and Species, and the Chuckanut Wildlife Corridor. ~~Ecological priority areas also include~~ Additionally the mapped FEMA Floodplain and Flood Hazard areas, ~~the have been included in addition to a~~ 300' buffer of the Historic Meander Zone, ~~and additional areas identified in the 2019 Ecological Landscape Analysis~~. ~~The 2019 Ecological Landscape Analysis also highlights watershed protection recommendations and freshwater habitat as identified by the Washington Department of Ecology, among other areas~~.

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B. ~~PDR Program~~CEP Eligibility

Two factors will be important in determining eligibility:

1. Availability of funding to expand the program and
2. Advancement of ~~PDR Program~~CEP objectives. Priority lands will continue to receive preference over other lands through weighted selection criteria.

All applicant ~~properties~~ for ~~PDR Program~~CEP participation must be:

1. ~~Completely or partially~~ within an Agriculture, Rural, Rural Residential, or Rural Forestry zoning designations. Properties located in Urban Growth

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Revised version adopted, November 20, 2018[DATE]

Page 5

Areas are ineligible to participate in the program, unless coordination with cities is a component of an application.

2. At least 1 acre in size.

3. Removing all development rights if the parcel is smaller than 10 acres.

Comment [BSvW3]: Added to match requirements in Section VI.C.1.c.

~~Applications received on parcels smaller than 10 acres may not retain any development rights.~~

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IV. SITE SELECTION CRITERIA

All valid applications will be reviewed to determine if the acquisition of development rights will promote the ~~PDR program's~~ **CEP's** goals and priorities. Selection criteria have been developed to guide, but not control, the review and assessment of eligible properties during selection.

Valid and accepted offers on eligible properties of greater points shall be considered for purchase with available funds before properties receiving lower scores. The criteria, which will be used to evaluate the applications, are outlined below.

Rating instructions: ~~An application will be scored under one of three types of conservation easement selection criteria: 1) Agricultural, 2) Forestry, or 3) Ecological. The agricultural selection criteria allow for a score of up to 1100, while the forestry and ecological selection criteria allow for a score of up to 100. This ensures that agricultural protection is the primary emphasis of the program, with all five criteria sections assessed. There are five to six criteria sections and each criteria section is rated and assigned a point value based on a 100 point scale. Then each section is assigned a weight factor. The five-six agricultural weight factors add up to 1.1 and the five forestry and ecological weight factors each add up to 1.0. When total point values for a section are multiplied by the weight factor, a score will be reached for that section. The total of the 5-section scores result in the final applicant score. Staff performs the ranking, with review and adjustment by the PDR-CEP Oversight Committee.~~

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Comment [BSvW4]: In 2018, the Program expanded to also include forestry and ecological conservation easements. Scoring needed to be updated to address this change, which resulted in three easement categories.

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A. Agricultural Site Selection Criteria

1. General Site Evaluation

~~The points for each criteria are based on a 100 point scale. Higher points are given to site characteristics that are more desirable, such as parcel size, characteristics that reflect a site's threat of conversion, and characteristics that make a site more desirable to farming, such as available water rights.~~

a. Total size of parcel(s) (nominal acres)

1a. 0 – 409.99	0 points
2b. 10 – 19.99 20	15 points
3e. 20 – 49.99	30 points
4d. 50 – 79.99	70 points
5e. ≥ 80	100 points

~~b.a. Number of existing development rights offered under current zoning~~

a. 1-2	20 points
b. 3	40 points
c. 4	60 points
d. 5	80 points
e. ≥ 6	100 points

~~e.b.~~ Adjacent land is conserved by easement or other means (Whatcom Land Trust, NRCS CREP Program, or owned by a municipality or NGO)

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a1. ≥ 1 mile.....0 points
b2. $0.50\frac{1}{2}$ to $0.99\frac{1}{2}$ mile.....25
points

e3. $0.25\frac{1}{4}$ to $0.49\frac{1}{4}$ mile.....50 points

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- d4. < ~~0.25~~^{1/4} mile.....75 points
e5. Adjacent.....100 points

~~d.a. Percent of parcel actively farmed~~

- a. 0-25%25 points
b. 26-50%50 points
c. 51-75%75 points
d. >75%100 points

e.c. Number of legal lots of record

- 1a. 0-2.....20 points
2b. 3.....40 points
e3. 4.....60 points
4d. 5.....80 points
5e. ≥6.....100 points

d. Removal of all ~~remaining~~unused development rights?

1. Unused development rights remaining0 points
2. All removed.....100 points
2. Development rights remaining0 pts

e. Is located ~~Number of~~ within a priority areas parcel is located in:

- 1a. In priority
area0.....100 points
2b. Not in a priority
area1.....50 points
3. 2-3.....100 points

f.a. Legal water availability documentation

- a. Certified Water Right/Access to public water.....100 pts
b. Water Claim50 pts
c. No Water documentation or legal water access.....0 pts

~~g.a. Proximity to major roads or road intersections~~

~~(For purposes of this evaluation, "major roads" means roads with a daily traffic volume of 3,000 or more trips. A list of roads currently meeting this definition is included as Appendix D to this report.)~~

1. Property is at an intersection of major roads.....100 Points
2.1. Property is within 1,500 feet of the intersection
of two major roads.....75 Points
3.1. Property fronts on a major road.....50 Points
4.1. Property is within 2,500 feet of a major road.....25 Points

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~~h.a. Threat of Conversion/Parcelization~~

~~Total Number of Parcels in surrounding ¼ mile~~

- ~~a) Less than 20 parcels..... 50 Points~~
~~b) 20 – 50 parcels..... 100 Points~~
~~c) 50 – 100 parcels..... 50 Points~~
~~d) more than 100 parcels..... 0 Points~~

Once a point value for the section is determined, it is multiplied by a weight factor to indicate the importance (weighted factor for General Site Evaluation section has been 0.235, but is subject to ongoing review by the Committee).

2. Development Pressure

a. Number of existing unused development rights offered under current zoning

- 1a. 1-2..... 20 points
2b. 3..... 40 points
3e. 4..... 60 points
4d. 5..... 80 points
5e. ≥/≥6..... 100 points

b. Proximity to major roads or road intersections

(For purposes of this evaluation, “major roads” means roads with a daily traffic volume of 3,000 or more trips. A list of roads currently meeting this definition is included as Appendix D to this report.)

1. Property is within 2,500 feet of a major road..... 25 points
2. Property fronts on a major road..... 50 points
3. Property is within 1,500 feet of the intersection
of two major roads..... 75 points
4. Property is at an intersection of major roads..... 100 pPoints
Property is within 1,500 feet of the intersection
of two major roads..... 75 Points
Property fronts on a major road..... 50 Points
Property is within 2,500 feet of a major road..... 25 Points

c. Threat of Conversion/Parcelization

Total Number of Parcels in surrounding ¼ mile

- 1.a) Less than < 20 parcels..... 50
pPoints
2.b) 20 – 50 parcels..... 100 pPoints
3.e) 51 – 100 parcels..... 50 pPoints
4.d) more than > 100 parcels..... 0
pPoints

Once a point value for the section is determined, it is multiplied by a weight factor to indicate the importance (weighted factor for Development Pressure section has been 0.2, but is subject to ongoing review by the Committee).

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2.3. Land Soil Evaluation

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Productive farming, forestry and associated activities depend on soil capability (the suitability of soils for most types of field crops and/or timber production). Therefore, emphasis should be placed on the property's soil characteristics. The scoring system uses the NRCS Prime Farmland classifications, LESA classifications and APO soils classifications, including classification of soils of statewide importance as well as consideration given to site index score for forest soils. Highest points are assigned to better agricultural soils and lower points to poorer agricultural soils. Forest soils also receive additional points. Points are assigned based on the productivity and/or characteristics of the soil (profile, texture, slope, other). A soils chart is included as Appendix D. If a soil has a site index rating and a prime soil rating, the rating with the highest number of points will be applied.

Below is a table detailing the soil point system:

LESA Rating	APO or Non-APO Prime 1	Non-APO - Prime 2-8	Soils of Statewide Importance	Site Index
1	100	90	0	0
2	95	85	0	0
3	90	80	0	0
4	85	75	0	0
No Rating	80	70	50	0
Site Index Rating				
1	0	0	0	60
2	0	0	0	50
3	0	0	0	40
4	0	0	0	30
5	0	0	0	20

Farm applications receive points for this section proportional to the percentage of each soil type that exists on the property. An example of how this would work follows: A farm under review is 40 acres, of which 29.79 acres (about 75%) is soil 179-Whatcom Silt Loam 4-9% slopes, which is classified as LESA 4, APO Prime 1; and 10.21 acres (about 25%) is soil 180-Whatcom Silt Loam 9-15% slopes, which is not classified as APO or Prime, but is a soil of Statewide Importance. This farm would score a total of 76.07 points for this Section, as shown:

A	B	C	D	E	F	G	H	I	J	K
Soil #	Area (in acres)	% (B/Total area)	APO Soil	Prime 1- 6?	LESA Rating	Prime Rating	Statewide Soil	Site Index	Points	score (J*C)
179	29.79	74.48%	Y	Y	4	1	0	2	85	63.30
180	10.21	25.53%	N	N	0	0	yes	2	50	12.76
Total area	40									76.07

Once a point value for the section is determined, it is multiplied by a weight factor to indicate the importance (weighted factor for Land Soil Evaluation section has been 0.35, but is subject to ongoing review by the Committee).

4. Agriculture Evaluation

a. Percent of ~~parcel~~property actively farmed

- 1~~a~~. 0-25% 25 points
- 2~~b~~. 26-50% 50 points
- 3~~c~~. 51-75% 75 points
- 4~~d~~. >75% 100 points

b. Legal water availability documentation

1. No Water documentation or legal water access..... 0 points
2. Water Claim 50 points
3. Certified Water Right/Access to public water..... 100 points
- ~~b. Water Claim 50 pts~~
- ~~c. No Water documentation or legal water access..... 0 pts~~

c. Parcel is located in Agriculture District and is less than 40 acres or parcel is located in a Rural Study Area?

1. No..... 0 points
2. Yes..... 100 points

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3. Ecological Evaluation

~~The Washington State Department of Ecology Watershed Characterization report has identified recommendations for addressing water flow processes within sub-watersheds.~~

- ~~a. Protection (Overall importance to Water flow processes)~~
- | | |
|-------------------------------------------|--------------------|
| a. Highest protection | 100 pts |
| b. Protection | 75 pts |
| c. Protection/Restoration | 50 pts |
| d. e. Conservation (no change) | 25 pts |

~~b. a. Water Flow Restoration — Is property owner willing to restore ecosystem processes beyond the minimum required practices?~~

- | | |
|------------------------|-------------------|
| a. Yes | 50 pts |
| b. Maybe/No | 0 pts |

~~c. a. Site contains conservation values (viewsheds, wetlands, notable wildlife habitat, other critical areas)~~

- | | |
|-------------------|-------------------|
| a. Yes | 50 pts |
| b. No | 0 pts |

Once a point value for the section is determined, it is multiplied by a weight factor to indicate the importance (weighted factor for ~~Ecological-Agriculture~~ Evaluation section has been 0.1~~50~~, but is subject to ongoing review by the Committee).

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4.5. Special Considerations

a. Site contains heritage/historical significance, i.e. Heritage Barn Registry

- | | |
|---------------------|------------------------|
| 1. 4- No | 0 points |
| Yes | 1050 points |
| 2. 2- No | 0 pts |

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~~—The Washington State Department of Ecology Watershed Characterization report has identified recommendations for addressing water flow processes within sub-watersheds.~~

~~b. Protection (Overall importance to Water flow processes):~~

- | | |
|----------------------------------------|-----------------------|
| 1. Conservation (no change) | 25 points |
| 2. Protection/Restoration | 50 points |
| 3. Protection | 75 points |
| 4. a- Highest protection | 100 points |
| b. Protection | 75 pts |
| Protection/Restoration | 50 pts |
| Conservation (no change) | 25 pts |

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~~c. Water Flow Restoration — Is property owner willing to restore ecosystem processes beyond the minimum required practices?~~

- | | |
|---------------------------|---------------------|
| 1. a- Maybe/No | 0 points |
|---------------------------|---------------------|

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2. Yes..... 1050
points
- b. Maybe/No..... 0 pts
- d. Site contains conservation values (viewsheds, wetlands, notable wildlife habitat, other critical areas)
1. ~~a. No~~..... 0 points
2. -Yes..... 1050
points
- b. No..... 0 pts
- b. Bargain Sale Opportunity below market value
1. 91% Full Value..... 0 pts
2. 71% - 90% 33 pts
3. 50% - 70% 66 pts
4. < 50% Full Value..... 100 pts
- e. Removal of all remaining development rights?
1. All removed..... 100 pts
2. Development rights remaining 0 pts
- d. Is located within a priority area:
- a. In priority area..... 100 pts
- b. Not in a priority area..... 0 pts

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Once a point value for the section is determined, it is multiplied by a weight factor to indicate the importance (weighted factor for Special Considerations ~~Points~~ section has been 0.10, but is subject to ongoing review by the Committee).

5-6. Matching Funds ~~Secured~~ or Bargain Sale

1. 4-0% secured.....	0 points
2. 25% secured.....	25 points
3. 50% secured.....	50 points
4. 75% secured.....	75 points
5. 100% secured.....	100 points
2. 75% secured.....	75 pts
3. 50% secured.....	50 pts
4. 25% secured.....	25 pts
5. 0% secured.....	0pts

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Once a point value for the section is determined, it is multiplied by a weight factor to indicate the importance (weighted factor for ~~Bonus Points~~ Matching Funds or Bargain Sale section has been 0.10, but is subject to ongoing review by the Committee).

B. Forestry Site Selection Criteria

1. General Site Evaluation

a. Total size of parcel(s) (nominal acres)

1. 0 – 9.99.....	0 points
2. 10 – 19.99.....	15 points
3. 20 – 49.99.....	30 points
4. 50 – 79.99.....	70 points
5. ≥80.....	100 points

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b. Adjacent land is conserved by easement or other means (Whatcom Land Trust, NRCS CREP Program, or owned by a municipality or NGO)

1. >1 mile.....	0 points
2. 0.50 to 0.99 mile.....	25 points
3. 0.25 to 0.49 mile.....	50 points
4. < 0.25 mile.....	75 points
5. Adjacent.....	100 points

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c. Number of legal lots of record

1. 0-2.....	20 points
2. 3.....	40 points
3. 4.....	60 points
4. 5.....	80 points
5. >6.....	100 points

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d. Removal of all unused development rights?

1. Unused development rights remaining.....	0 points
2. All removed.....	100 points

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e. Number of priority areas parcel is located in

1. 0.....	0 points
2. 1.....	50 points
3. 2-3.....	100 points

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Once a point value for the section is determined, it is multiplied by a weight factor to indicate the importance (weighted factor for General Site Evaluation section has been 0.2, but is subject to ongoing review by the Committee).

2. Development Pressure

a. Number of existing unused development rights offered under current zoning

- 1. 1-2..... 20 points
- 2. 3..... 40 points
- 3. 4..... 60 points
- 4. 5..... 80 points
- 5. >6..... 100 points

b. Proximity to major roads or road intersections

(For purposes of this evaluation, "major roads" means roads with a daily traffic volume of 3,000 or more trips. A list of roads currently meeting this definition is included as Appendix D to this report.)

- 5. Property is within 2,500 feet of a major road..... 25 points
- 6. Property fronts on a major road..... 50 points
- 7. Property is within 1,500 feet of the intersection
of two major roads..... 75 points
- 8. Property is at an intersection of major roads..... 100 points

c. Threat of Conversion/Parcelization

Total Number of Parcels in surrounding ¼ mile

- 1. < 20 parcels..... 50 points
- 2. 20 – 50 parcels..... 100 points
- 3. 51 – 100 parcels..... 50 points
- 4. > 100 parcels..... 0 points

Once a point value for the section is determined, it is multiplied by a weight factor to indicate the importance (weighted factor for Development Pressure section has been 0.2, but is subject to ongoing review by the Committee).

3. Forestry Evaluation

a. Site index soil score, spatially weighted

- 1. 5..... 20 points
- 2. 4..... 40 points
- 3. 3..... 60 points
- 4. 2..... 80 points
- 5. 1..... 100 points

b. Property is identified as priority forestland based on State Forest Action Plan?

- 1. No..... 0 points
- 2. Yes..... 100 points

c. Parcel is located in Rural Forestry District or is enrolled as Designated Forest Land?

- 1. No..... 0 points
- 2. Yes..... 100 points

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d. Proximity to existing and contiguous blocks of forestland

1. >0.5 mile..... 0 points
2. 0.26 – 0.5 mile..... 50 points
3. 0.11 – 0.25 mile 75 points
4. ≤0.1 mile..... 100 points

e. Property is located at access to other working forestland?

1. No..... 0 points
2. Yes..... 100 points

Once a point value for the section is determined, it is multiplied by a weight factor to indicate the importance (weighted factor for Forestry Evaluation section has been 0.4, but is subject to ongoing review by the Committee).

4. Special Considerations

a. Site contains existing or proposed trails

3. No..... 0 points
4. Yes..... 100 points

b. The Washington State Department of Ecology Watershed Characterization report has identified recommendations for addressing water flow processes within sub-watersheds. Protection (Overall importance to Water flow processes):

5. Conservation (no change)..... 25 points
6. Protection/Restoration..... 50 points
7. Protection..... 75 points
8. Highest protection..... 100 points

c. Is property owner willing to implement forest management practices beyond the minimum required practices?

1. Maybe/No..... 0 points
2. Yes..... 100 points

d. Site contains conservation values (viewsheds, wetlands, notable wildlife habitat, other critical areas)

1. No..... 0 points
2. Yes..... 100 points

Once a point value for the section is determined, it is multiplied by a weight factor to indicate the importance (weighted factor for Special Considerations section has been 0.10, but is subject to ongoing review by the Committee).

5. Matching Funds or Bargain Sale

1. 0% secured..... 0 points
2. 25% secured..... 25 points
3. 50% secured..... 50 points
4. 75% secured..... 75 points
5. 100% secured..... 100 points

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Once a point value for the section is determined, it is multiplied by a weight factor to indicate the importance (weighted factor for Matching Funds or Bargain Sale section has been 0.10, but is subject to ongoing review by the Committee).

C. Ecological Site Selection Criteria

1. General Site Evaluation

- a. Total size of parcel(s) (nominal acres)
 1. 0 – 9.99.....0 points
 2. 10 – 19.9915 points
 3. 20 – 49.99.....30 points
 4. 50 – 79.99.....70 points
 5. >80.....100 points
- b. Adjacent land is conserved by easement or other means (Whatcom Land Trust, NRCS CREP Program, or owned by a municipality or NGO)
 1. ≥1 mile.....0 points
 2. 0.50 to 0.99 mile.....25 points
 3. 0.25 to 0.49 mile.....50 points
 4. < 0.25 mile.....75 points
 5. Adjacent.....100 points
- c. Number of legal lots of record
 1. 0-2.....20 points
 2. 3.....40 points
 3. 4.....60 points
 4. 5.....80 points
 5. ≥6.....100 points
- d. Removal of all unused development rights?
 1. Unused development rights remaining0 points
 2. All removed.....100 points
- e. Number of priority areas parcel is located in
 1. 0.....0 points
 2. 1.....50 points
 3. 2-3.....100 points

Once a point value for the section is determined, it is multiplied by a weight factor to indicate the importance (weighted factor for General Site Evaluation section has been 0.2, but is subject to ongoing review by the Committee).

2. Development Pressure

- a. Number of existing unused development rights offered under current zoning
 1. 1-2.....20 points
 2. 3.....40 points
 3. 4.....60 points
 4. 5.....80 points

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5. >6..... 100 points

b. Proximity to major roads or road intersections

(For purposes of this evaluation, "major roads" means roads with a daily traffic volume of 3,000 or more trips. A list of roads currently meeting this definition is included as Appendix D to this report.)

1. Property is within 2,500 feet of a major road..... 25 points
2. Property fronts on a major road..... 50 points
3. Property is within 1,500 feet of the intersection
of two major roads..... 75 points
4. Property is at an intersection of major roads..... 100 points

c. Threat of Conversion/Parcelization

Total Number of Parcels in surrounding ¼ mile

1. < 20 parcels..... 50 points
2. 20 – 50 parcels..... 100 points
3. 51 – 100 parcels..... 50 points
4. > 100 parcels..... 0 points

Once a point value for the section is determined, it is multiplied by a weight factor to indicate the importance (weighted factor for Development Pressure section has been 0.2, but is subject to ongoing review by the Committee).

3. Ecological Evaluation

The 2019 Landscape Analysis for the program is used to answer Questions 3.a through 3.c.

a. Protect water quality and quantity landscape analysis score, spatially weighted

1. 0 0 points
2. 0.01 – 0.99..... 20 points
3. 1 – 1.99 40 points
4. 2 – 2.99 60 points
5. 3 – 3.99 80 points
6. 4 – 5..... 100 points

b. Ecologically important aquatic areas landscape analysis score, spatially weighted

1. 0 0 points
2. 0.01 – 0.99..... 20 points
3. 1 – 1.99 40 points
4. 2 – 2.99 60 points
5. 3 – 3.99 80 points
6. 4 – 5..... 100 points

c. Ecologically important terrestrial areas landscape analysis score, spatially weighted

1. 0 0 points
2. 0.01 – 0.99..... 20 points
3. 1 – 1.99 40 points
4. 2 – 2.99 60 points
5. 3 – 3.99 80 points
6. 4 – 5..... 100 points

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- d. Additional ecologically important areas not included in landscape analysis score?
1. No..... 0 points
 2. Yes..... 100 points

Once a point value for the section is determined, it is multiplied by a weight factor to indicate the importance (weighted factor for Ecological Evaluation section has been 0.4, but is subject to ongoing review by the Committee).

4. Special Considerations

- a. Site contains existing or proposed trails
1. No..... 0 points
 2. Yes..... 100 points

- b. The Washington State Department of Ecology Watershed Characterization report has identified recommendations for addressing water flow processes within sub-watersheds. Protection (Overall importance to Water flow processes):

1. Conservation (no change)..... 25 points
2. Protection/Restoration..... 50 points
3. Protection..... 75 points
4. Highest protection..... 100 points

- c. Is property owner willing to restore ecosystem processes beyond the minimum required practices?
2. Maybe/No..... 0 points
 2. Yes..... 100 points

Once a point value for the section is determined, it is multiplied by a weight factor to indicate the importance (weighted factor for Special Considerations section has been 0.10, but is subject to ongoing review by the Committee).

5. Matching Funds or Bargain Sale

6. 0% secured..... 0 points
7. 25% secured..... 25 points
8. 50% secured..... 50 points
9. 75% secured..... 75 points
- 10..... 100% secured..... 100 points

Once a point value for the section is determined, it is multiplied by a weight factor to indicate the importance (weighted factor for Matching Funds or Bargain Sale section has been 0.10, but is subject to ongoing review by the Committee).

6. Final Score

The points for each section are added up and multiplied by a weight factor, which indicates the importance that is placed on a particular characteristic. The weighted scores are then added to provide an overall score (0-140). The higher the score, the more closely the property meets the

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goals of the program and hence is a higher priority for purchase and preservation. Properties which score less than 40 (forty) points will not be recommended for program participation. The ~~PDR-CEP~~ Oversight Committee retains the ability to add or subtract up to 5 points on any application. A write-up of committee opinion will be included in all council proceedings.

V. OVERVIEW OF ~~PDR PROGRAM~~CEP PROCEDURES

A. Outreach and Publicity

Step 1: The County shall ~~annually give notice in one newspaper of general circulation in each area where eligible lands are located which may be acquired~~ develop and distribute outreach materials for the CEP. Outreach ~~The notice~~ shall include the properties eligible to participate, the application process and applicable timeframes and extensions.

Comment [BSvW9]: Applications received on a rolling basis, so an annual notice is no longer applicable.

The Administrator may identify each property with potential development rights within priority consideration areas and provide written notification to the property owners.

B. Application and Ranking

Step 2: Voluntary pre-application screening. Interested property owners may meet with the County ~~PDR Program~~CEP Administrator (Administrator) to review their eligibility and special circumstances, if any.

Step 3: Application. An owner of land eligible for ~~PDR Program~~CEP participation submits an application for County acquisition of property or development rights. The application must be submitted on the form provided by the County. ~~Lot of Record application must be submitted simultaneously unless determination has already been completed.~~

Comment [BSvW10]: Information on Lot of Record in Step 4 below.

Step 4: Lot of Record/Density Determination. An owner of land eligible for ~~PDR Program~~CEP participation submits a Lot of Record application, ~~and signs a Letter of Intent that states that payment for this service must be made upon closing of the easement or should the applicant wish to withdraw their application.~~ This application determines legal status of lots being considered and determines that number of development rights remaining on said lots. ~~PDR Program application may be submitted simultaneously. The Lot of Record determination must be completed before an appraisal can occur.~~

Comment [BSvW11]: Payment due at submittal of application

Step 5: The Administrator reviews each application for completeness, determines if the subject property meets minimum eligibility criteria and assigns a preliminary score based upon the ~~PDR-CEP~~ site selection criteria.

Step 6: The ~~PDR-CEP~~ Oversight Committee reviews ~~PDR Program~~CEP applications and recommends proposed development rights acquisition utilizing the selection criteria. Recommendations for development right acquisition are prepared and forwarded to County Council to approve, deny, or recommend modification.

Step 7: The Administrator estimates the number of appraisals that can be initiated based on available funds and chooses ~~based on~~ the top ranked parcels from the County Council's list of parcels ~~and the timeline of projects with secured grant funding.~~

Comment [BSvW12]: Appraisals are only valid for one year, so it is important to coordinate with grant timelines.

| ~~The property owner is notified in writing of eligibility status.~~

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~~Step 8: Property owners disputing their ranking may request a reconsideration of their ranking to the PDR Oversight Committee within 14 days after receiving written notice. The Committee shall review the reconsideration request at the next regularly scheduled meeting. Special consideration will be given if applicant modifies the original offer to include a bargain sale. The PDR Oversight Committee may, at its discretion, change the site's rank, recommend the site for subsequent consideration, or deny the request.~~

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Comment [BSvW13]: Applications are received and reviewed on a rolling basis, so this no longer applies.

C. Title

Step 9: The Administrator initiates a title search. Closing is conditioned on the resolution of all unapproved title exceptions, within the County's sole discretion, which may require the receipt of subordination agreements or payoff letter.

D. Pricing Estimate and Appraisal

Step 10: The Administrator or designee provides preliminary estimate of value, and notifies the property owner of an estimated range of value within which the appraisal will likely fall. The Administrator or designee sends the applicant a letter of intent, including range of expected value. The letter calls for the signature of property owner(s), ~~and spells out conditions under which costs for further due diligence and the lot of record must be reimbursed to the county if the property owner chooses to withdraw from the program within a specified period of time.~~

Comment [BSvW14]: No longer applicable

Step 10: The Administrator or designee proceeds to verify assumptions through official county processes, such as a formal Lot of Record and density determination, and conduct other due diligence as necessary (such as water rights research and Title research and clearing).

Step 11: Unless Council and the Executive specifically authorize an alternate approach to determine value, the Administrator commissions a full appraisal by a County authorized appraiser to appraise the value of placing a conservation easement on the land that removes development rights ~~value of the land proposed for development rights sale~~. The ~~development rights~~ conservation easement value is the difference between the market value of full ownership of the land, and the agricultural or forestry value.

Comment [BSvW15]: Appraisals value the conservation easement. See VII.E.1.

Step 12: The appraiser ~~submits the completed appraisal~~ (or the alternate determination of value is conducted and submitted) to the Administrator and the Oversight Committee for their review.

Step 13: The Administrator or designee meets with ~~the property owner to review the appraisal~~ (or alternate determination of value), state the offer, review the conservation easement provisions, agreement terms and conditions, and to answer the property owner's questions.

Step 14: If the property owner believes that the land has not been adequately appraised or valued, the owner may, within the time allowed in the schedule, commission an appraisal at the owner's expense.

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E. Offer to Purchase Easement and Agreement

- Step 15: A written offer to purchase development rights based on appraised or determined value is made to the property owner following budget authorization by the County Council, and approval by the County Executive.
- Step 16: Within 30 days, the property owner accepts, rejects or makes a counter ~~offer~~. Counter offers will be reviewed and evaluated by the Oversight Committee and the County's authorized appraiser.
- Step 17: Property owners desiring to sell their development rights sign a Purchase and Sale Agreement.

F. Adjacent Property Owner Notification

- Step 18: Neighboring property owners are notified that adjacent land is in the process of being preserved.

G. Approval

- Step 19: Review materials are presented to the County Executive for review and approval, rejection, or recommendation for modification.
- Step 20: Review materials are sent to other participating entities for partially or ~~wholly~~ funded conservation easements several days prior to any deadline.

I. Settlement

- Step 21: Settlement will occur following County Executive approval of transaction terms and is contingent upon a title search and any other evidence, such as a land survey, that may be necessary to establish clear title.
- Step 22: Payment will be in full at time of settlement unless the County and property owner agree to an installment sale.
- Step 23: Checks are ~~requested~~ from the Finance Manager and settlement is scheduled within a week or two of approval. Federal or state money is dispersed according to federal or state regulation.

J. Recording

- Step 24: The conservation easement will be recorded at the County Auditor's office. The County or its designee will monitor the properties under easement at least annually to ensure compliance with the easement.

VI. CONSERVATION EASEMENTS

A. Description

A conservation easement deed is a legally binding document, which is recorded by the County Auditor, forever restricting the property to agricultural, forestry, and/or ecological and directly associated uses, and for which compensation may be paid. As an easement in gross in perpetuity, restrictions are binding upon the owner and future owners, and run with the land.

B. ~~PDR Program~~ Conservation Easements

At the time of acquisition of development rights from a participating property, a conservation easement is placed on the property permanently restricting development of the site and protecting/preserving the agricultural, forestry, and ecological values associated with the site. The conservation easement must be signed by both the property owner(s) and the County Executive or his/her designee and recorded with the property records for the property. A model conservation easement deed is included in these guidelines as attachment D.

1. Conservation Easement Requirements

Conservation easements shall be on a form approved by the Whatcom County Prosecuting Attorney and shall meet the following basic requirements:

- a. The deed shall be in recordable form and contain an accurate legal description setting forth the metes and bounds of the area subject to the easement;
- b. Restriction is granted in favor of Whatcom County, or if designated by the organizations as defined in RCW64.04.130;
- c. Restriction is granted in perpetuity, and shall bind existing and future property owners; and
- d. Unless specifically provided for, nothing in the restrictions shall be construed to convey to the public a right of access or use of the property, and the owner of the property, his/her heirs, successors and assigns shall retain exclusive right to such access or use subject to the terms of the easement.

2. Filing

After the conservation easement is signed and notarized, it must be recorded with the Whatcom County Auditor's Office.

C. Conservation Easement Conveyance

Conservation easements may be either donated or sold, or a combination of both.

1. Conservation Easement Donation

- a. A donation of a total parcel will not be subject to eligibility except as below in section c. Partial parcel donation shall be considered under the same rule as for development rights sales. Notwithstanding the eligibility of the property, acceptance of a fee interest or partial donation is within the discretion of the County Council.
- b. Whatcom County will accept voluntary donations or bequests of development rights as perpetual easements in gross if meeting eligibility criteria (except priority area criteria) and within the discretion of the County Council.
- c. All properties offered for development rights donation must meet the following minimum eligibility criteria:
 - 1. The ~~PDR-CEP~~ Oversight Committee will consider each offer on a case by-case basis, considering the property's consistency with current and future land uses, and
 - 2. The property must be at least 1 acre in size, and
 - 3. Be in agricultural or forestry use or contain ecological values and has not been irrevocably devoted to a use inconsistent with the above values,
 - 4. Cannot be located within an Urban Growth Area, unless coordination with the proximal small city is a component of the donation.

2. Conservation Easement Sale

- a. Whatcom County will purchase perpetual conservation easements on qualified properties in accordance with the policies and procedures of the Whatcom County ~~Agricultural, Forestry, and Ecological Purchase of Development Rights~~ Conservation Easement Program, with Federal, State, County, and/or private funds and any combination thereof.
- b. All properties offered for conservation easement sale must meet minimum eligibility criteria as contained in Section III.

VII. OPERATIONAL PROCEDURES FOR ACQUIRING ~~PDR~~ CONSERVATION EASEMENTS

A. Outreach and Publicity

~~Annually, notice shall be published in one newspaper of general circulation~~ Outreach shall occur to inform landowners about the program and may include advertising in newspapers or other publications, landowner mailers, and presentations. Application opening and closing dates, if any, will be determined by the ~~PDR-CEP~~ Oversight Committee. The Committee shall have the discretion to consider applications in rounds, or individually on a rolling basis. If selection deadlines are extended, the committee will provide public notice of the extension.

B. Application and Ranking

1. Property owner(s) voluntarily submits an application(s) to the County. The application must be submitted to the County on the form provided by the ~~PDR Program~~ CEP, and according to the relevant public notice. Applicants are to include at a minimum:
 - a. Name(s) and address(es) of the property owner(s) of the site;
 - b. Legal description and parcel number(s);
 - c. Copy of the property deed and title;
 - d. Total acreage of farmland to be included in the ~~PDR Program~~ CEP;
 - e. Current land use and soils;
 - f. Number of dwelling units;
 - g. Description of the farming operation;
 - h. Other information necessary to evaluate property eligibility;
 - ~~i. Lot of Record/Density Determination application and payment, or Lot of Record/Density Determination application and signed Letter of Intent agreeing to terms of payment at the time of easement closing or upon withdrawal from program, or completed Lot of Record/Density Determination; and~~
 - j-i. Acknowledgement of intent to grant to Whatcom County a conservation easement in a form provided by the County.
2. The Administrator shall review each application to determine completeness and eligibility.
3. Applications meeting all minimum eligibility criteria shall be evaluated and scored by the administrator and Oversight Committee according to the site selection criteria. (See Section IV)
4. The ~~PDR-CEP~~ Oversight Committee shall provide the County Council with information and scoring of properties recommended for conservation easement acquisition by the committee. County Council shall approve or deny pursuit of conservation easement acquisitions on the parcels.

Comment [BSvW16]: Not needed with initial application

5. ~~The~~ Administrator shall then arrange appraisals (or alternate determination of value) of eligible applicant properties as determined by the County Council.
6. The ~~PDR-CEP~~ Oversight Committee and Administrator shall provide updates to the County Council discussing recommended purchases, possible program changes, and anticipated budget needs.

C. Appraisal

1. Appraisals for eligible properties shall be conducted to determine the value of ~~development rights~~ a conservation easement on parcels in the order of acquisition priority and in accordance with grant funding timelines until acquisition funds are expended.
 - a. The appraisals are to be made by an independent appraiser qualified to appraise agricultural, forestry, and/or ecological land for ~~development rights~~ conservation easement purchases. An appraiser is deemed qualified if he or she possesses a State of Washington certification as a State Certified General Real appraiser, MAI designation by the Appraisal Institute (or equivalent), and at least five years agricultural lands appraisal experience. Appraisers shall supply a narrative or UAAR form report, which contains information as required by the Uniform Standards of Professional Appraisal Practice (USPAP), Uniform ~~Appriaisal~~ Appraisal Standards of Federal Land Acquisition (UASFLA) and as specified in any contract with the County.
 - b. An appraisal report is an objective report of market facts. The appraisal report must estimate both the unrestricted fee market value of the land only, excluding the value of buildings, and the agricultural or forestry value of the land only, of which the difference is the ~~development rights~~ conservation easement value.
 - c. Both values shall be based primarily on an analysis of comparable sales. If comparable sales data is not available for agricultural lands, the appraiser may use local farmland rental values or capitalized production values to determine the agricultural values of the land.
 - d. A description of the buildings or other improvements shall appear in the appraisal report; however, the buildings will not be valued and therefore will not be considered in determining the development rights value.
 - e. The appraiser shall report whether the subject property has any land use restrictions, public or private and/or physical attributes, which limit the developmental capability of the land.
 - f. The appraiser shall be advised that conservation easements are perpetual. The perpetual nature of the easement shall take precedent over any agricultural zoning status.

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Comment [BSvW17]: Appraisals have always been for conservation easement value. See VII.E.1.

Comment [BSvW18]: Appraisals are only valid for one year, so it is important to coordinate with grant timelines

Comment [BSvW19]: Critical areas restrictions captured here.

- g. The appraisal shall be in writing and may be discussed with the owners prior to the submission of written offers.

h. ~~I~~ If the property owner believes the property has not been adequately appraised, the owner may, within the time allotted, request that a review appraisal be made at the owner's expense. This appraisal must be completed in accordance with the guidelines set forth herein. If the review (owner's) appraisal is not completed within the allotted time, the application will be delayed for future committee consideration. If a review appraisal is completed, the appraisals will be reviewed by the County's Appraiser. The County's Appraiser in consultation with the Program Administrator and the ~~PDR-CEP~~ Oversight Committee will accept, modify or reject the review appraisal. The determination of the County's Appraiser is final.

i. The maximum value of development rights purchased by the County shall be no more than the easement value contained in an appraisal report. The easement value is the difference between the ~~farm~~ land's value before and after the voluntary conservation easement.

2. Council and the Executive may specifically authorize an alternate approach to determine value in accordance with state and local laws, in which case the conditions of that approach would substitute for the appraisal guidelines as set forth in C.1., above.

D. Title and Survey Issues

1. The Administrator shall request a title report confirming that applicant is the owner of the property and has unrestricted legal right to transfer the development rights (i.e. there must be clear title to transfer the property). The title report will be provided to the County Attorney for review.
2. All encumbrances (including but not limited to: liens, mortgages and judgments) against the property must be subordinated, satisfied or removed prior to development rights acquisition. Mortgage and/or lien holder subordination and releases may be required acknowledging that a conservation easement will be placed on the property and subordinating their interest in the property to the deed restriction.
3. At settlement for a County or joint development rights purchase, the ~~PDR Oversight Committee or applicant~~ Administrator shall provide a title insurance policy issued by a title insurance company authorized to conduct business in Washington State by the Washington State Office of Insurance Commissioner. The cost of such title insurance shall be a shared cost, with the county's portion considered a cost incident to the ~~development rights~~ conservation easement purchase and a reimbursable expense from the County's Conservation Futures Fund.
4. It is the property owner's responsibility to survey (or provide a legal description that meets specific standards) any exceptions from the easement and any graveyards or cellular towers that may be located on the property. It is the

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Comment [BSvW20]: Administrator initiates escrow with title company, which issues title insurance policy.

property owner's responsibility to provide a legal description for any commercial

operation on the farm that is not incidental to the overall farming operation, in order to exclude it from the easement. Surveys shall be conducted by a licensed surveyor in accordance with state and federal regulations.

E. Development Rights Value and Purchase Price

1. The maximum value of development rights purchased by the County shall be no more than the easement value contained in an appraisal report. The easement value is the difference between the land's value before and after the voluntary conservation easement.
2. Development rights may only be purchased in perpetuity.

F. Recommendation of ~~Development Rights~~Conservation Easement Purchases by the ~~PDR-CEP~~ Oversight Committee

1. The ~~PDR-CEP~~ Oversight Committee, in making recommendations concerning applications and purchase offers, shall consider the following:
 - a. Evaluation according to the site selection criteria
 - b. Consistency with County Comprehensive Plan
 - c. Cost relative to total allocations and appropriations
 - d. Proximity to other land subject to protection easements
2. Upon receiving the recommendations of the ~~PDR-CEP~~ Oversight Committee and the Administrator, the County Executive shall review the recommendations and shall take final action to authorize or deny proposed purchase terms and offers, consistent with authorization by the County Council.
3. If a property is approved for ~~development rights~~conservation easement purchase, the Administrator will meet with the property owner and review the terms, conditions and amount of the County's offer. A written offer will be provided to the property owner. Written notice shall also be provided to land not approved for ~~development rights~~conservation easement purchase.
4. Within 30 days of receipt of a written offer from the County an applicant must indicate in writing which of the following actions they intend to pursue:
 - a. Accept the offer.
 - b. Reject the offer.
 1. Reject offer outright
 - a. no further action
 - b. participate in future review
 2. Submit a counter offer within 90 days of written notice of offer by the County.
 - c. Failure to notify the County within 30 days shall constitute rejection of the offer.

5. ~~If~~ If the offer is accepted, the Administrator shall prepare a Purchase and Sale agreement. USDA or State Funds must be paid as lump sum. The method of payment shall be specified from the options listed below:
 - a. Lump Sum
 - b. Installment Purchase Agreement (IPA)
 - c. Like-Kind Exchange
 - d. Or a combination of the above
6. For ~~development rights~~conservation easement purchase utilizing the Installment Purchase Agreement (IPA) program, the County Council at settlement shall provide an opinion of legal counsel that the County's obligations to make installment payments of principal and tax-exempt interest over time are legal, valid, and binding. And that such payments are a general obligation of the County for which its full faith, credit, and taxing power are pledged. Interest paid by the County is exempt from federal income taxes.
7. All Agreements of Sale and Conservation Easements require the County Council's approval.

G. Grant of the Agricultural, Forestry, and/or Ecological Protection Conservation Easement

Before the purchase of development rights can be finalized, a conservation easement in a form approved by the County Attorney and consistent with the policies of the ~~PDR Program~~CEP Guidelines, must be placed on the property permanently restricting development of the site and preserving its agricultural, forestry and/or ecological values.


The principal interest of the County is to ensure that lands are preserved and subsequently stewarded in a manner that maintains and enhances their farmland, forestland, and/or ecological values. There may be some instances where there is a public interest in another public entity or non-profit organization to hold the conservation easement, for continued stewardship and protection of the land. The County will consider:

1. The preferences of the donor or seller;
2. Administrative, monitoring, and enforcement issues associated with the conservation easement and the resources available to address these issues;
3. Requirement of Federal, State or County funding sources utilized to purchase ~~development rights~~conservation easements.

H. ~~Development Rights~~Conservation Easement Purchase Recommendations/Submission Requirements

1. County Council: Each recommendation for ~~development rights~~conservation easement purchases with County funds, State funds, Federal funds, private donor funds or a combination of funds shall be presented to the County Council at a

regularly scheduled public meeting.

2.  Letters of Notification: Letters of notification for development rights purchases will be sent to adjoining property owners by the Administrator.

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VIII. CONSERVATION FUTURES FUND

A. Intent

This fund was established in 1992 to be used solely to acquire right and interests in open space land, farm and agricultural land, and timber land, so as to protect, preserve, maintain, improve, restore, limit the future use of, or otherwise conserve the property for public use and enjoyment.

B. Fund Sources

This Conservation Futures Fund is funded by a real property tax applied to all real property within Whatcom County at a rate determined by the county administration and county council.

C. Fund Source Accounts

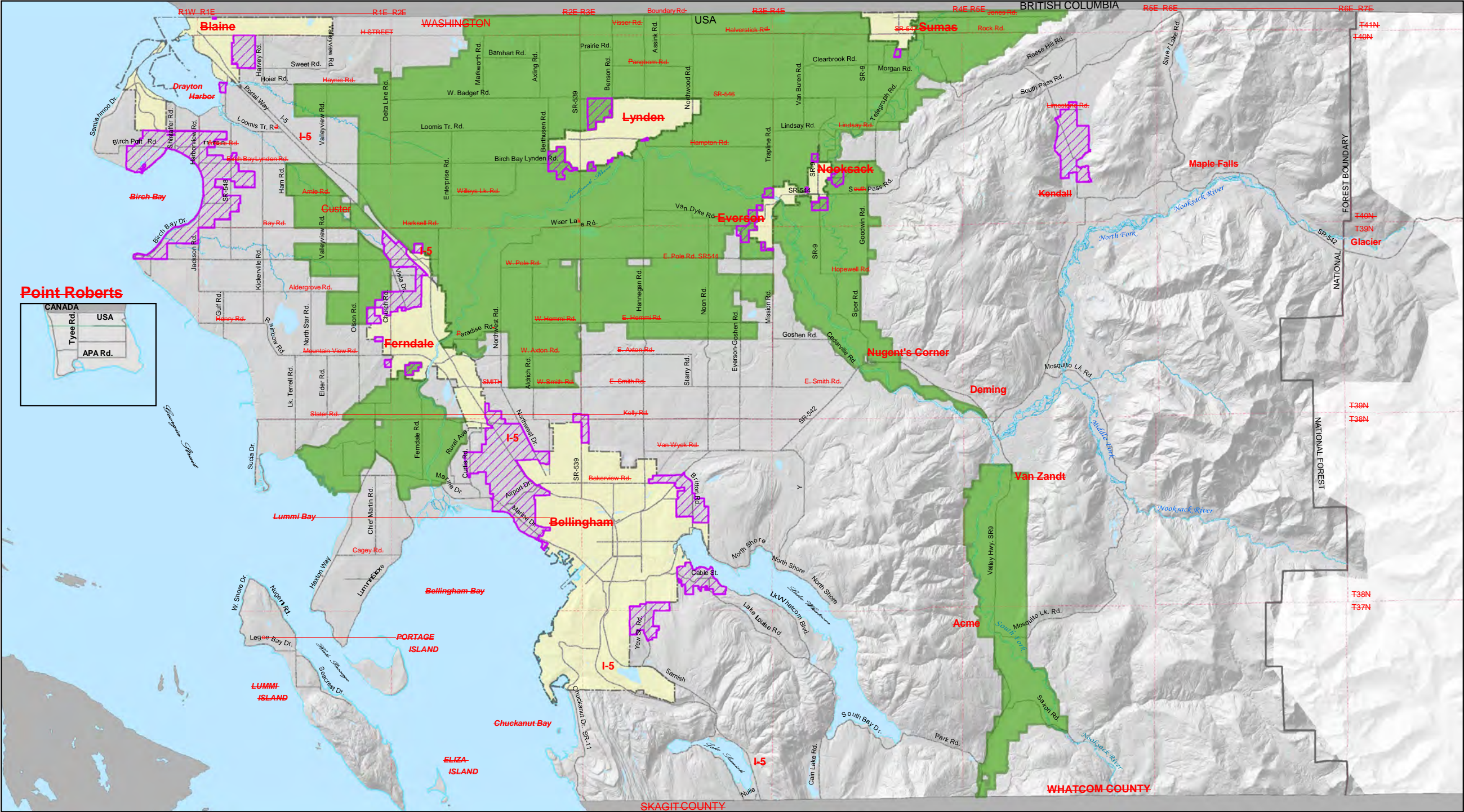
Council shall annually consider an allocation of Conservation Futures Fund to be placed in a ~~Purchase of Development Rights~~Conservation Easement Program Account.

D. Installment Payment Fund




1. The intent of installment payment funds, which are established by the County, is to encumber and invest committed funds for which recipient property owners have elected annual installment payments for a period, which may vary according to the wishes of the property owner.
2. The full consideration of any transaction for which installment payments of five years or less have been elected shall be placed in the fund, less the amount of any first installment to be paid at settlement. This amount shall be invested and annual installment payments shall include the interest accrued.
3. Annual installment payments shall be made on or before January 20th of each year.
4. A property owner may enter into an Installment Purchase Agreement for fifteen (15) to thirty (30) years at an interest rate to be negotiated between the property owner and the County. The property owner will receive semi-annual interest payments that are tax exempt. Principal will be paid in one lump sum at the end of term. The property owner will also receive a security representing the Installment Purchase Agreement. The property owner may sell or assign this Agreement.

E. Public Expenditures

1. All public expenditures from the Conservation Futures Fund are subject to approval by Whatcom County Council and will be made in accordance with approved disbursement procedures.
2. Expenditures from the ~~PDR Program~~CEP Account shall be limited to interests in qualified agricultural, forestry, and/or ecological land participating in the Whatcom County's ~~Agricultural, Forestry, and Ecological Purchase of Development Rights~~Conservation Easement Program, and other expenses necessary to the acquisition of conservation easements authorized under RCW 84.34.200-.240.
3. The annual appropriation to the ~~PDR Program~~CEP by the County Council shall be available for the calendar year in which the appropriation was made and or the subsequent calendar year.



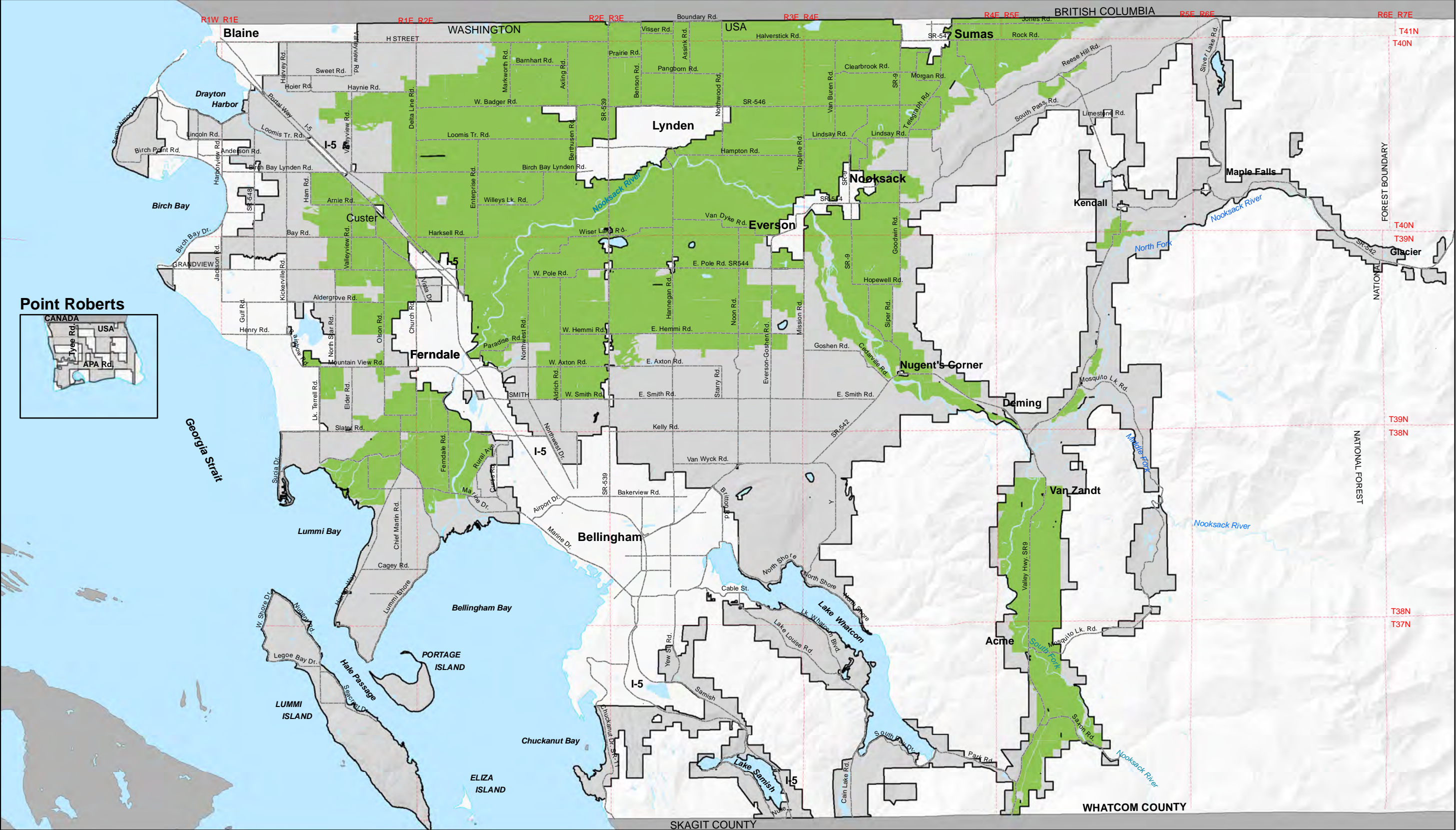
Whatcom County Agricultural Priority Areas
Agriculture Zone, Rural Study Areas,
Initial PDR-Target Areas, and Watershed-
Improvement Districts

-  Urban-Growth Areas
-  Ag. Zone/Rural Study Areas/PDR-Target Areas/WIDs
-  Incorporated City

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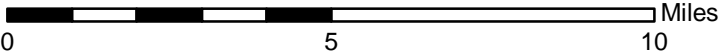


Whatcom County Agricultural Priority Areas

Agriculture Zone, Rural Study Areas, Watershed Improvement Districts, and Additional Areas Identified in the Agricultural Landscape Analysis

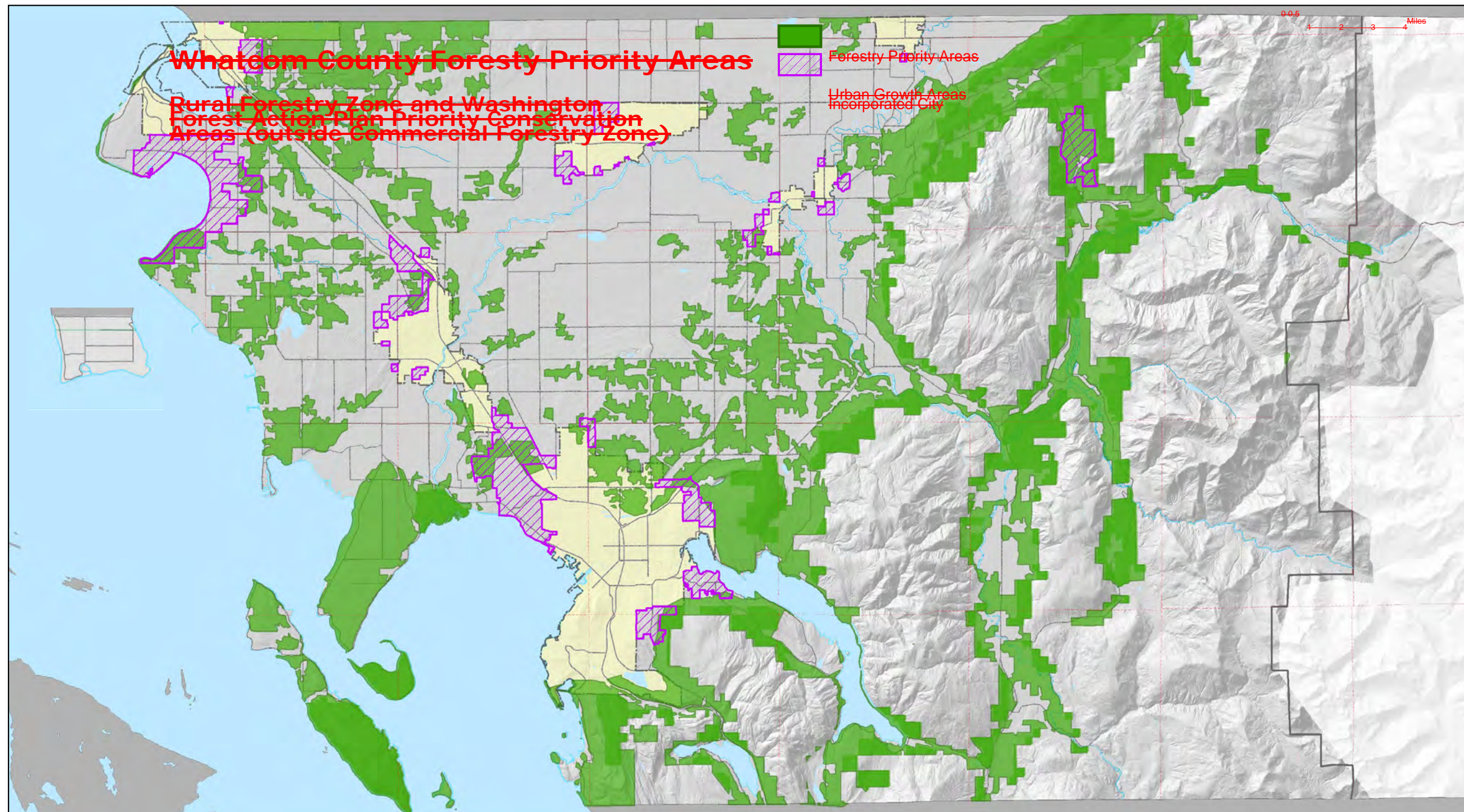


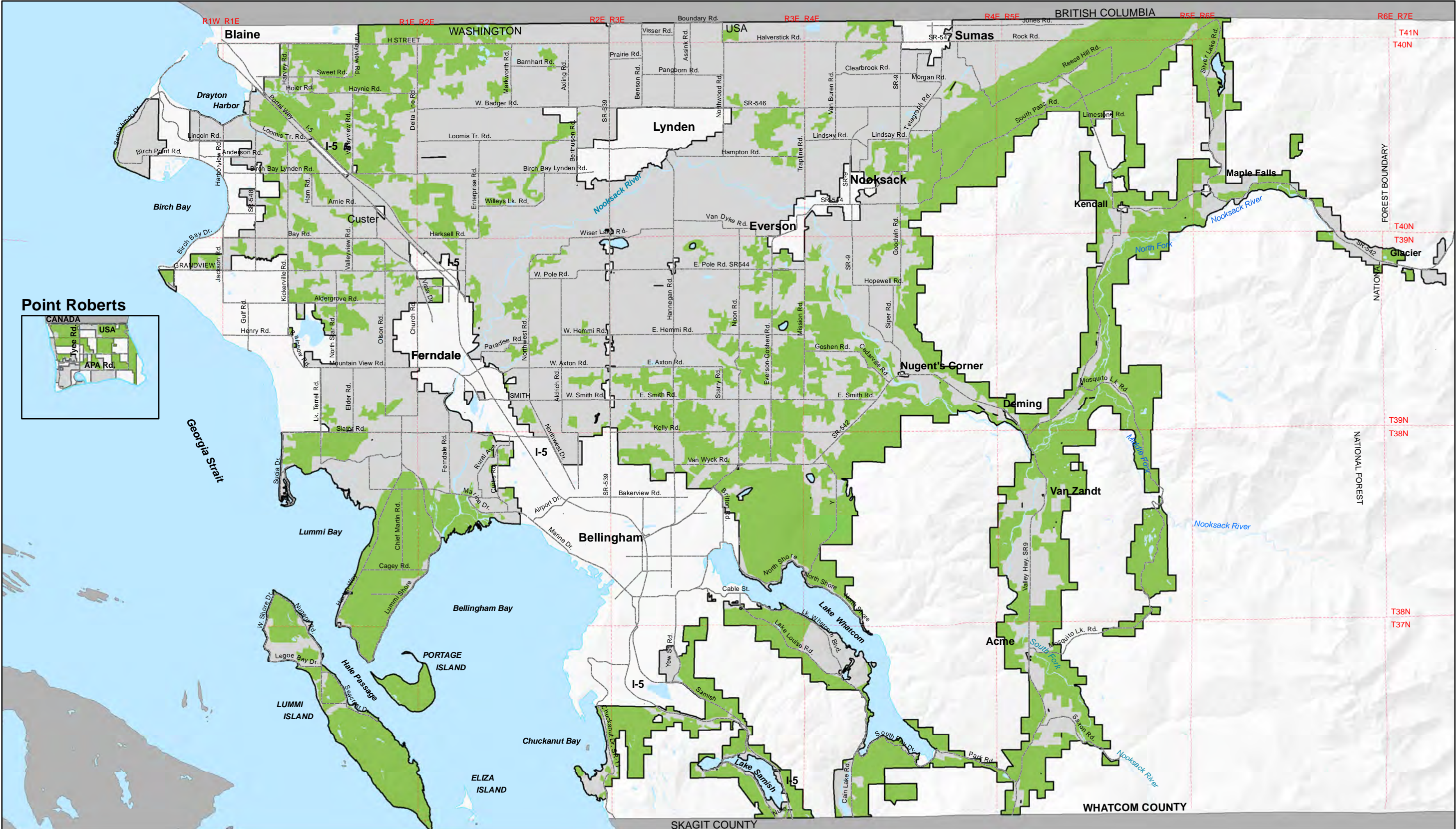
Agricultural Priority Area
Conservation Easement Program Area
(Agriculture, Rural, Rural Residential, and Rural Forestry Zoning Outside Urban Growth Areas)



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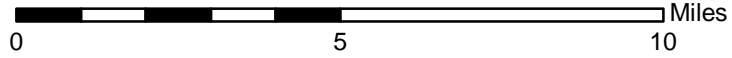




Whatcom County Forestry Priority Areas

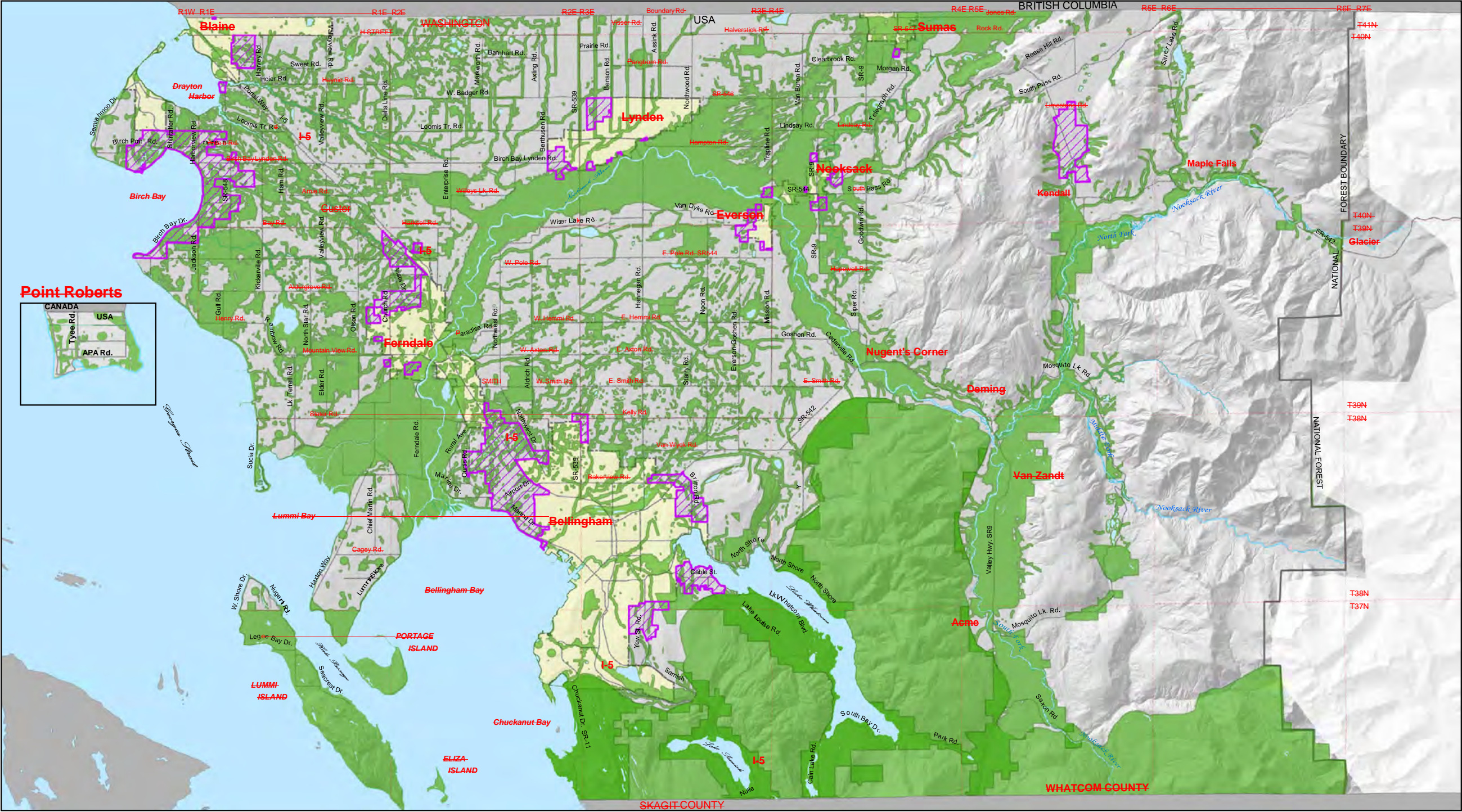
Rural Forestry Zone and WA Forest Action Plan Priority Areas

- Forestry Priority Area
- Conservation Easement Program Area
(Agriculture, Rural, Rural Residential, and Rural Forestry Zoning Outside Urban Growth Areas)



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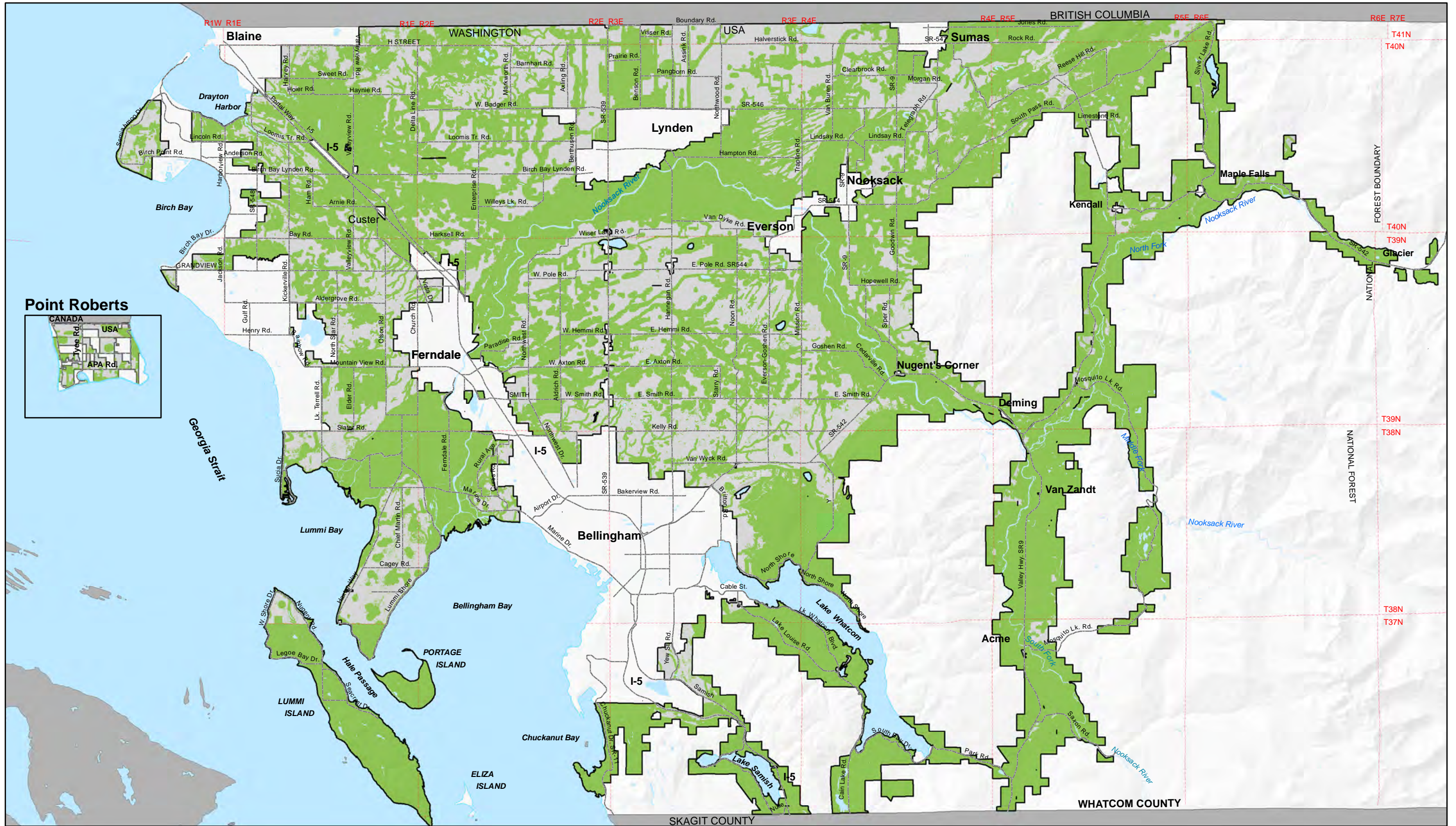


Whatcom County Ecological Priority Areas
Habitat Conservation Areas and FEMA Floodplain
(outside of Commercial Forestry Zone)

- Hab. Conservation Areas/Fema Floodplain
- Urban Growth Areas
- Incorporated City



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0 0.5 1 2 3 4 Miles



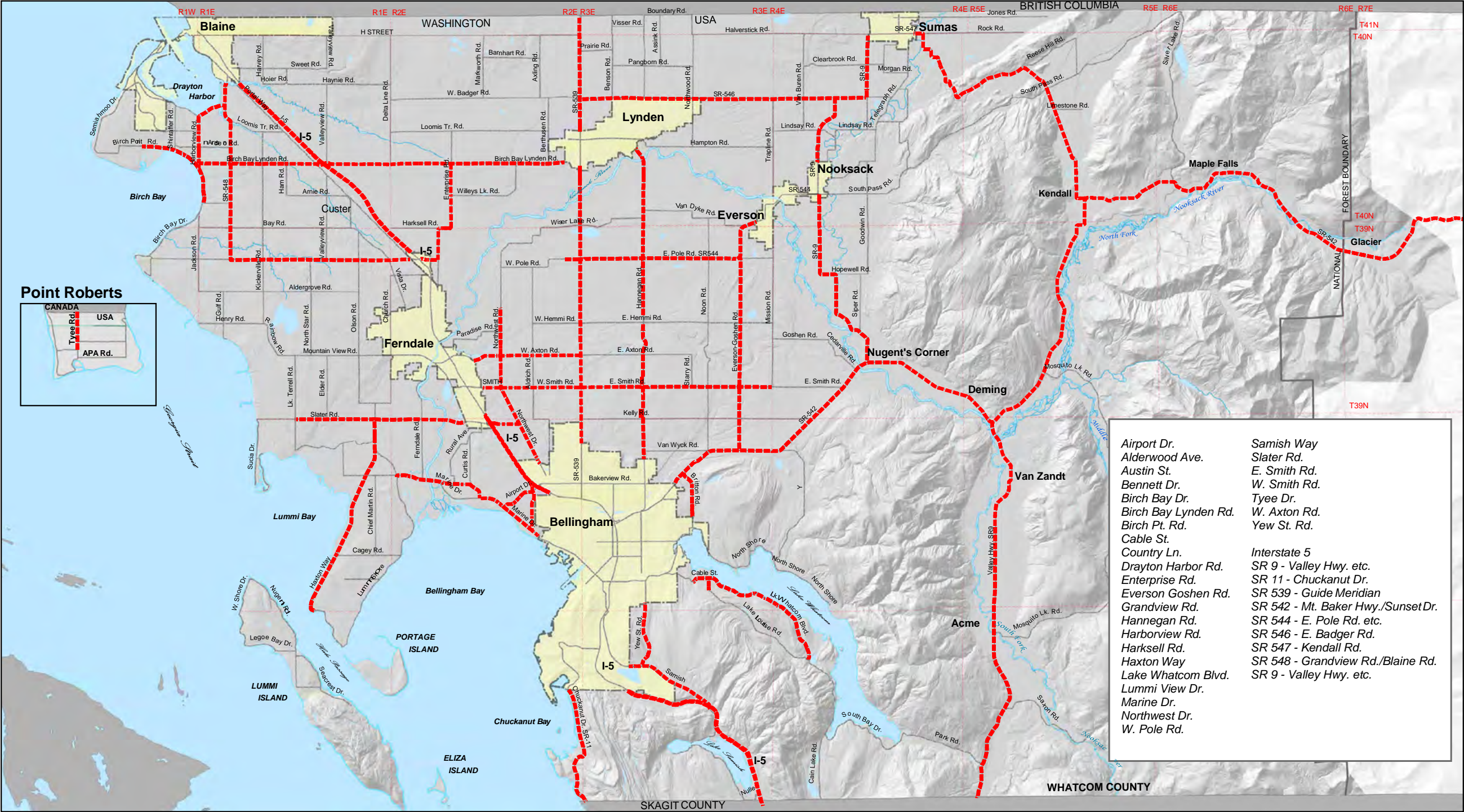
Whatcom County Ecological Priority Areas

Habitat Conservation Areas, FEMA Floodplain, and Additional Areas Identified in the Ecological Landscape Analysis

-  Ecological Priority Area
-  Conservation Easement Program Area (Agriculture, Rural, Rural Residential, and Rural Forestry Zoning Outside Urban Growth Areas)

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Whatcom County

Major Roads - >3,000 Average Daily Trips

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0 0.5 1 2 3 4 Miles

APPENDIX E

Soils List

Soil #	Soil Name	APO y/n	LESA Group	PRIME	STATEWIDE IMPORTANCE	Site Index
1	ANDIC CRYOCHREPTS - 60 TO 90% SLOPES	NN	<u>00</u>	<u>00</u>		
2	ANDIC CRYOCHREPTS-ROCK OUTCROP COMPLEX - 60 TO 90% SLOPES	NN	<u>00</u>	<u>00</u>		
3	ANDIC XEROCHREPTS - 60 TO 90% SLOPES	NN	<u>00</u>	<u>00</u>		3
4	ANDIC XEROCHREPTS-ROCK OUTCROP COMPLEX - 60 TO 90% SLOPES	NN	<u>00</u>	<u>00</u>		3
5	ANDIC XEROCHREPTS-COOL ROCK OUTCROP COMPLEX-60 TO 90% SLOPES	NN	<u>00</u>	<u>00</u>		4
6	BARNESTON GRAVELLY LOAM - 0 TO 8% SLOPES	NN	<u>30</u>	<u>40</u>		2
7	BARNESTON VERY GRAVELLY LOAM - 8 TO 15% SLOPES	NN	<u>00</u>	<u>40</u>		2
8	BARNESTON VERY GRAVELLY LOAM - 15 TO 30% SLOPES	NN	<u>00</u>	<u>00</u>		2
9	BARNESTON VERY GRAVELLY LOAM - 30 TO 60% SLOPES	NN	<u>00</u>	<u>00</u>		2
10	BARNHARDT GRAVELLY LOAM - 0 TO 5% SLOPES	NN	<u>14</u>	<u>14</u>		3
11	BELLINGHAM SILTY CLAY LOAM - 0 TO 2% SLOPES	NN	<u>00</u>	<u>22</u>		
12	BIRCHBAY SILT LOAM - 0 TO 3% SLOPES	<u>YY</u>	<u>1+</u>	<u>1+</u>		3
13	BIRCHBAY SILT LOAM - 3 TO 8% SLOPES	<u>YY</u>	<u>0+</u>	<u>0+</u>	yes	3
14	BIRCHBAY SILT LOAM - 8 TO 15% SLOPES	NN	<u>00</u>	<u>00</u>	yes yes	3
15	BLAINEGATE SILTY CLAY - 0 TO 1% SLOPES	NN	<u>00</u>	<u>00</u>	yes	
16	BLAINEGATE-URBAN LAND COMPLEX - 0 TO 1% SLOPES	NN	<u>00</u>	<u>00</u>		
17	BLETHEN GRAVELLY LOAM - 5 TO 15% SLOPES	NN	<u>00</u>	<u>00</u>	yes yes	3
18	BLETHEN GRAVELLY LOAM - 15 TO 30% SLOPES	NN	<u>00</u>	<u>00</u>	yes yes	3
19	BLETHEN GRAVELLY LOAM - 30 TO 60% SLOPES	NN	<u>00</u>	<u>00</u>		3
20	BLETHEN VERY BOULDERY LOAM - 5 TO 40% SLOPES	NN	<u>00</u>	<u>00</u>		3
21	BOROSAPRISTS - 0 TO 2% SLOPES	NN	<u>00</u>	<u>00</u>		
22	BRISCOT SILT LOAM DRAINED - 0 TO 2% SLOPES	<u>YY</u>	<u>33</u>	<u>25</u>		
23	BRISCOT ORIDIA AND SUMAS SOILS - 0 TO 2% SLOPES	NN	<u>00</u>	<u>55</u>		
24	CHUCKANUT LOAM - 3 TO 8% SLOPES	NN	<u>00</u>	<u>0+</u>	yes	
25	CHUCKANUT LOAM-BEDROCK SUBSTRATUM - 5 TO 15% SLOPES	NN	<u>00</u>	<u>00</u>	yes yes	2
26	CHUCKANUT LOAM-BEDROCK SUBSTRATUM - 15 TO 30% SLOPES	NN	<u>00</u>	<u>00</u>	yes yes	2
27	CHUCKANUT LOAM-BEDROCK SUBSTRATUM - 30 TO 60% SLOPES	NN	<u>00</u>	<u>00</u>		2
28	CHUCKANUT-SHALCAR COMPLEX - 0 TO 15% SLOPES	NN	<u>00</u>	<u>00</u>	yes yes	2
29	CHUCKANUT-URBAN LAND COMPLEX - 5 TO 20% SLOPES	NN	<u>00</u>	<u>00</u>		2
30	CLENDENEN GRAVELLY SILT LOAM - 5 TO 30% SLOPES	NN	<u>00</u>	<u>00</u>		
31	CLIPPER SILT LOAM-DRAINED - 0 TO 2% SLOPES	<u>YY</u>	<u>22</u>	<u>22</u>		
32	COMAR SILT LOAM - 5 TO 15% SLOPES	NN	<u>00</u>	<u>00</u>	yes yes	2
33	COMAR SILT LOAM - 15 TO 30% SLOPES	NN	<u>00</u>	<u>00</u>	yes yes	2
34	COMAR SILT LOAM - 30 TO 60% SLOPES	NN	<u>00</u>	<u>00</u>		2
35	CRINKER VERY CHANNERY SILT LOAM - 30 TO 60% SLOPES	NN	<u>00</u>	<u>00</u>		
36	CUPPLES GRAVELLY LOAM - 5 TO 30% SLOPES	NN	<u>00</u>	<u>00</u>		2
37	CUPPLES GRAVELLY LOAM - 30 TO 60% SLOPES	NN	<u>00</u>	<u>00</u>		2
38	DEKAPEN LOAM - 8 TO 25% SLOPES	NN	<u>00</u>	<u>00</u>	yes	3
39	DEMING GRAVELLY SILT LOAM - 5 TO 30% SLOPES	NN	<u>00</u>	<u>00</u>		
40	DEMING GRAVELLY SILT LOAM - 30 TO 60% SLOPES	NN	<u>00</u>	<u>00</u>		

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41	DIOBSUD GRAVELLY SILT LOAM - 30 TO 60% SLOPES	N	0	0		
42	EDFRO VERY GRAVELLY SILT LOAM - 8 TO 30% SLOPES	N	0	0		
43	EDFRO VERY GRAVELLY SILT LOAM - 30 TO 60% SLOPES	N	0	0		

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94	LABOUNTY SILT LOAM-DRAINED - 0 TO 2% SLOPES	NN	00	22		
95	LARUSH SILT LOAM - 0 TO 3% SLOPES	YY	33	13		2
96	LAXTON LOAM - 0 TO 30% SLOPES	YY	1+	1+		2
97	LAXTON LOAM - 3 TO 8% SLOPES	YY	1+	1+		2
98	LAXTON LOAM - 8 TO 15% SLOPES	NN	00	00	yes yes	2
99	LYNDEN SANDY LOAM	YY	1+	14		3
100	LYNDEN SANDY LOAM - 3 TO 7% SLOPES	YY	1+	14		3
101	LYNDEN-URBAN LAND COMPLEX - 0 TO 5% SLOPES	NN	00	00		3
102	LYNNWOOD SANDY LOAM - 0 TO 5% SLOPES	NN	00	40		3
103	LYNNWOOD SANDY LOAM - 5 TO 20% SLOPES	NN	00	00	yes yes	3
104	MONTBORNE GRAVELLY LOAM - 5 TO 30% SLOPES	NN	00	00		3
105	MONTBORNE GRAVELLY LOAM - 30 TO 60% SLOPES	NN	00	00		3
106	MONTBORNE-RINKER COMPLEX - 30 TO 60% SLOPES	NN	00	00		3
107	MT. VERNON FINE SANDY LOAM - 0 TO 2% SLOPES	YY	22	13		2
108	NATI LOAM - 5 TO 15% SLOPES	NN	00	00	yes yes	2
109	NATO LOAM = 15 TO 30% SLOPES	NN	00	00	yes yes	2
110	NATI LOAM - 30 TO 60% SLOPES	NN	00	00		3
111	NEPTUNE VERY GRAVELLY SANDY LOAM- 0 TO 3% SLOPES	NN	00	40		3
112	OAKES VERY GRAVELLY LOAM - 8 TO 30% SLOPES	NN	00	00		2
113	OAKES VERY GRAVELLY LOAM - 30 TO 60% SLOPES	NN	00	00		2
114	OAKES VERY GRAVELLY LOAM - 60 TO 80% SLOPES	NN	00	00		4
115	ORIDIA SILT LOAM-DRAINED - 0 TO 2% SLOPES	YY	33	25		
116	PANGBORN MUCK-DRAINED - 0 TO 2% SLOPES	YY	33	22		
117	PICKETT-ROCK OUTCROP COMPLEX - 5 TO 30% SLOPES	NN	00	00		4
118	PICKETT-ROCK OUTCROP COMPLEX - 30 TO 60% SLOPES	NN	00	00		4
119	PILCHUCK LOAMY FINE SAND - 0 TO 3% SLOPES	NN	00	70		3
120	PITS	NN	00	00		
121	POTCHUB LOAM - 8 TO 30% SLOPES	NN	00	00		
122	POTCHUB LOAM - 30 TO 60% SLOPES	NN	00	00		
123	PUGET SILT LOAM-DRAINED - 0 TO 2% SLOPES	YY	33	25		
124	PUYALLUP FINE SANDY LOAM - 0 TO 2% SLOPES	YY	22	43		2
125	REVEL LOAM - 5 TO 30% SLOPES	NN	00	00		4
126	REVEL LOAM - 30 TO 60% SLOPES	NN	00	00		4
127	REVEL-WELCOME-ROCK OUTCROP COMPLEX - 30 TO 60% SLOPES	NN	00	00		4
128	RINKER VERY CHANNERY SILT LOAM - 8 TO 30% SLOPES	NN	00	00	yes	3
129	RINKER VERY CHANNERY SILT LOAM - 30 TO 60% SLOPES	NN	00	00		3
130	RIVERWASH	NN	00	00		
131	ROCK OUTCROP	NN	00	00		
132	ROCK OUTCROP-KULSHAN COMPLEX - 60 TO 90% SLOPES	NN	00	00		
133	RUBBLE LAND	NN	00	00		
134	SAAR GRAVELLY SILT LOAM - 5 TO 30% SLOPES	NN	00	00		
135	SAAR GRAVELLY SILT LOAM - 30 TO 60% SLOPES	NN	00	00		
136	SAAR-HARTNIT COMPLEX - 5 TO 40% SLOPES	NN	00	00		
137	SANDUN VERY GRAVELLY SANDY LOAM - 5 TO 30% SLOPES	NN	00	00		
138	SANDUN VERY GRAVELLY SANDY LOAM - 30 TO 60% SLOPES	NN	00	00		
139	SEHOME LOAM - 2 TO 8% SLOPES	YY	00	1+		2
140	SEHOME LOAM - 8 TO 15% SLOPES	NN	00	00	yes yes	2
141	SEHOME GRAVELLY LOAM - 15 TO 30% SLOPES	NN	00	00	yes	2

Revised version adopted, November 20, 2018

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					yes	
142	SEHOME GRAVELLY LOAM - 30 TO 60% SLOPES	NN	00	00		2
143	SHALCAR MUCK-DRAINED - 0 TO 2% SLOPES	YY	33	22		

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144	SHALCAR AND FISHTRAP SOILS - 0 TO 2% SLOPES	NN	00	22		
145	SHUKSAN GRAVELLY SILT LOAM - 5 TO 30% SLOPES	NN	00	00		
146	SHUKSAN GRAVELLY SILT LOAM - 30 TO 60% SLOPES	NN	00	00	yes	
147	SHUKSAN-KULSHAN-ROCK OUTCROP COMPLEX - 50 TO 80% SLOPES	NN	00	00		
148	SKIPOPA SILT LOAM - 0 TO 8% SLOPES	YY	00	2+		3
149	SKIPOPA-BLAINEGATE COMPLEX - 0 TO 8% SLOPES	NN	00	20	yes	3
150	SKYKOMISH VERY GRAVELLY LOAM - 3 TO 30% SLOPES	NN	00	00		3
151	SNOHOMISH SILT LOAM-DRAINED - 0 TO 2% SLOPES	YY	33	25		
152	SNOQUALMIE GRAVELLY LOAMY SAND - 0 TO 3% SLOPES	NN	00	40	yes	3
153	SORENSEN VERY GRAVELLY SILT LOAM - 8 TO 30% SLOPES	NN	00	00	yes	2
154	SORENSEN VERY GRAVELLY SILT LOAM - 30 TO 60% SLOPES	NN	00	00		2
155	SPRINGSTEEN VERY GRAVELLY LOAM - 30 TO 60% SLOPES	NN	00	00		
156	SQUALICUM GRAVELLY LOAM - 5 TO 15% SLOPES	NN	00	00	yes yes	2
157	SQUALICUM GRAVELLY LOAM - 15 TO 30% SLOPES	NN	00	00	yes	2
158	SQUALICUM GRAVELLY LOAM - 30 TO 60% SLOPES	NN	00	00		2
159	SQUALICUM-URBAN LAND COMPLEX - 5 ATO 20% SLOPES	NN	00	00		2
160	SQUIRES VERY CHANNERY LOAM - 5 TO 30% SLOPES	NN	00	00		2
161	SQUIRES VERY CHANNERY LOAM - 30 TO 60% SLOPES	NN	00	00		2
162	SUMAS SILT LOAM-DRAINED - 0 TO 2% SLOPES	YY	33	25		
163	TACOMA SILT LOAM - 0 TO 1% SLOPES	NN	00	50		
164	TACOMA SILT LOAM-DRAINED - 0 TO 1% SLOPES	NN	00	50		
165	TROMP LOAM - 0 TO 2% SLOPES	YY	1+	1+		3
166	TWINSI VERY GRAVELLY LOAM - 30 TO 60% SLOPES	NN	00	00		
167	TWINSI VERY STONY LOAM - 30 TO 60% SLOPES	NN	00	00		
168	TYPIC CRYORTHODS - 60 TO 90% SLOPES	NN	00	00		
169	TYPIC CRYORTHODS-ROCK OUTCROP COMPLEX - 60 TO 90% SLOPES	NN	00	00		
170	TYPIC PSAMMAQUENTS-TIDAL - 0 TO 1% SLOPES	NN	00	00	yes	
171	URBAN LAND	NN	00	00		
172	URBAN LAND-WHATCOM-LABOUNTY COMPLEX - 0 TO 8% SLOPES	NN	00	00	yes	2
173	VANZANDT VERY GRAVELLY LOAM - 5 TO 15% SLOPES	NN	00	00		2
174	VANZANDT VERY GRAVELLY LOAM - 15 TO 30% SLOPES	NN	00	00		2
175	VANZANDT VERY GRAVELLY LOAM - 30 TO 60% SLOPES	NN	00	00		2
176	WELCOME LOAM - 5 TO 30% SLOPES	NN	00	00	yes	3
177	WELCOME LOAM - 30 TO 60% SLOPES	NN	00	00		3
178	WHATCOM SILT LOAM - 0 TO 3% SLOPES	YY	22	1+		2
179	WHATCOM SILT LOAM - 3 TO 8% SLOPES	YY	44	1+		2
180	WHATCOM SILT LOAM - 8 TO 15% SLOPES	NN	00	00	yes	2
181	WHATCOM SILT LOAM - 30 TO 60% SLOPES	NN	00	00		2
182	WHATCOM-LABOUNTY SILT LOAMS - 0 TO 8% SLOPES	NN	44	22		2
183	WHATCOM-LABOUNTY SILT LOAMS - 0 TO 15% SLOPES	NN	00	20	yes	2
184	WHITEHORN WILT LOAM - 0 TO 2% SLOPES	YY	33	22		
185	WICKERSHAM CHANNERY SILT LOAM - 0 TO 8% SLOPES	NN	44	14		2
186	WINSTON SILT LOAM - 0 TO 3% SLOPES	YY	00	1+		2
187	WINSTON LOAM - 3 TO 15% SLOPES	NN	00	00	yes	2
188	WINSTON LOAM - 15 TO 40% SLOPES	NN	00	00	yes	2
189	WISEMAN VERY CHANNERY SAND LOAM - 0 TO 8% SLOPES	NN	00	40		3
190	WOLLARD GRAVELLY SILT LOAM - 30 TO 60% SLOPES	NN	00	00		
191	YELM LOAM - 3 TO 8% SLOPES	YY	1+	1+	yes	2
192	YELM-URBAN LAND COMPLEX - 0 TO 3% SLOPES	NN	00	00		2

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APPENDIX F

Model Conservation Easement Deed

A sample Conservation Easement Deed based on the assumption of matching funds from the USDA-NRCS Agricultural Conservation Easement Program, is included in the following pages.

After Recording Return To:

Whatcom County
311 Grand Avenue, Suite 108
Bellingham, WA 98225-4082

DOCUMENT TITLE: AGRICULTURAL CONSERVATION EASEMENT

GRANTOR: OWNERS

GRANTEES: WHATCOM LAND TRUST AND WHATCOM COUNTY

ABBR. LEGAL DESCRIPTION: Parcel # XXXXXXXXXXXX 0000

AGRICULTURAL CONSERVATION EASEMENT DEED

This Agricultural Conservation Easement Deed ("Deed") is made and entered into this ____ day of ___, 20__ by OWNERS ("Grantor"), the WHATCOM LAND TRUST ("Trust"), and WHATCOM COUNTY, WASHINGTON ("County") ("Grantees"), and the United States Department of Agriculture, Natural Resources Conservation Service ("NRCS") acting on behalf of the Commodity Credit Corporation, as its interest appears herein, for the purpose of forever conserving the agricultural productivity of the Protected Property and its value for resource preservation and as open space. Further, the State of Washington, by and through the Washington State Recreation and Conservation Office (RCO) is a third party beneficiary and has certain rights herein, including third party right of enforcement.

RECITALS:

The following recitals are a material part of this Easement:

Grantor is fee simple owner of real property (the "Protected Property") in Whatcom County, Washington, that is the subject of this Easement. Exhibit B is the legal

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~~description and Exhibit C is a site plan for that Protected Property, both of which are attached and incorporated herein by reference.~~

~~Under the authority of the Agricultural Conservation Easement Program, (16 U.S.C. Sections 3838h and 3838i) the United States Department of Agriculture's Natural Resources Conservation Service (herein the "United States") has provided on behalf of the Commodity Credit Corporation \$XX,XXX (XX thousand and 00/100 dollars) to Grantee for the acquisition of this Conservation Easement, entitling the United States to the rights identified herein.~~

~~While "Grantees" include the Whateom Land Trust and Whateom County, use of the term "Grantees" does not imply that joint approval is required to exercise Grantees' rights and responsibilities under this Easement. Those rights and responsibilities may be independently exercised by any Grantee.~~

~~The Protected Property is approximately XX acres and is currently farmed.~~

~~The Protected Property has significant agricultural value to Grantees and to the people of Whateom County and the State of Washington. The agricultural values include productive soil types and agricultural infrastructure as described in Exhibit E.~~

~~Grantor and Grantees agree that the conveyance of rights and imposition of restrictions described in this Easement furthers the intent of Whateom County Ordinance No. 2002-054, provided in Exhibit D, to preserve land for agricultural purposes and has substantial public benefits.~~

~~As owner of the Protected Property, Grantor has the right to convey the rights and restrictions contained in this Easement in perpetuity.~~

~~This Easement is acquired in part with a grant from RCO pursuant to that certain grant agreement (#XX) between RCO and Grantee, signed by RCO on date and by Grantee on date ("RCO Grant Agreement"). RCO is a third-party beneficiary of certain rights under this easement, including those identified in Exhibit H (State of Washington Recreation and Conservation Office Third Party Rights and Requirements), which is attached hereto and incorporated herein by reference and will run with the land in perpetuity.~~

~~CONVEYANCE AND CONSIDERATION.~~

~~For the reasons stated above, in consideration of mutual covenants, terms, conditions, and restrictions contained in this Easement, and in consideration of payment of \$XX,XXX by Whateom County, RCO and the United States to Grantor, Grantor~~

_____ hereby grants, conveys and warrants to Grantees a Conservation Easement in perpetuity over the Protected Property, consisting of certain rights and restrictions as defined in this Easement Deed.

_____ This Easement Deed is a conveyance of an interest in real property under the provisions of RCW 64.04.130.

_____ Grantor and Grantees intend that this Easement run with the land and that it shall be binding upon Grantor's, successors and assigns in perpetuity.

_____ PURPOSE.

_____ The purpose of this Easement is to: (1) protect the present and future ability to use the Protected Property for agricultural purposes; (2) preserve the soil as a valuable resource and prevent activities that will impair the ability, now or in the future, to use the soil to produce food and fiber; (3) enable the Protected Property to remain in agricultural use for the production of food and fiber by preserving and protecting in perpetuity its agricultural values, character, use and utility, and to prevent any use or condition of the Protected Property that would significantly impair or interfere with its agricultural values, character, use or utility. This statement of purpose is intended as a substantive provision of the Easement. Any ambiguity or uncertainty regarding the application of the provisions of this Easement will be resolved so as to further this purpose. The grant of this Easement will also serve the "conservation purpose" of farmland protection as identified in Section 170(h)(4)(A) of the Internal Revenue Code.

_____ RELATIONSHIP OF PARTIES.

_____ Unless noted otherwise, Whatcom County and the Whatcom Land Trust share all rights and responsibilities of Grantees under this Easement. For purposes of administering, monitoring and enforcing the terms of the Easement, the Whatcom Land Trust is the lead Grantee, unless Grantor is notified otherwise. As the lead Grantee, the Whatcom Land Trust has authority to act alone and at its sole discretion in exercising all rights and responsibilities of Grantees under this Easement. Grantor shall treat the Whatcom Land Trust as its contact for all matters regarding this Easement. Whatcom County and the Whatcom Land Trust may jointly take enforcement action, or if the Whatcom Land Trust fails to enforce the terms of this Easement, Whatcom County may do so alone.

_____ The Trust will consult the County regarding any violation of the Easement that threatens the purpose of this Easement as described in Section III. If a less serious violation is determined to have occurred, the Trust will report to the County the nature of the violation and the response to that violation by the Trust.

~~The above Section IV.A. does not pertain to monitoring and enforcement of a conservation plan, the responsibility for which rests with the Natural Resource Conservation Service and Whatecom County as described in Section VIII A below.~~

~~RIGHT OF ENFORCEMENT.~~

~~Under this Conservation Easement, the United States is granted the right of enforcement in order to protect the public investment. This is a vested property right that cannot be condemned by State or local government. The Secretary of the United States Department of Agriculture (the Secretary) or his or her assigns, on behalf of the United States, may exercise this right of enforcement under any authority available under State or Federal law if the Grantees fail to enforce any of the terms of this Conservation Easement, as determined in the sole discretion of the Secretary.~~

~~The United States shall be entitled to recover any and all administrative and legal costs from the County Grantee, including attorney's fees or expenses, associated with any enforcement or remedial action as it relates to the enforcement of this Easement.~~

~~Additionally, the United States is granted the right to enter the Property at a reasonable time and upon reasonable prior written notice to Grantor, for the purpose of making a general inspection of the Protected Property, in accordance with Agricultural Conservation Easement Program requirements.~~

~~PERMITTED USES AND ACTIVITIES. Grantor may:~~

~~Engage in the production of food and fiber and other uses and activities consistent with the purpose of this Easement so long as those uses or activities are not expressly prohibited in Section VII below.~~

~~Continue any use or activity not permitted by this easement at the time this Easement is signed provided it is not contrary to the purposes of this Easement and provided that such use or activity is described in this section.~~

~~Remove, Maintain, Expand, or Replace, existing agricultural structures and roads and construct new agricultural structures, roads, and improvements used primarily for agricultural enterprises on the Protected Property within the "Farmstead", as defined in Section XII of this Easement, and shown on Exhibit E, so long as expansion or new construction does not exceed the area of impervious surfaces allowed in Section VII~~

~~Agricultural structures may include, without limitation, fencing, offices, warehouses, temporary farm-worker housing, livestock housing and related structures, equipment storage and maintenance facilities, facilities related to the processing and sale of farm products predominately grown on the Protected Property, temporary hoop houses and temporary greenhouses with no foundation so long as the structures' primary use is to support the agricultural activities on the Protected Property or agricultural activities on other property under the control of the Grantor.~~

~~On the "Farmstead", as defined in Section XII of this Easement, and shown in Exhibit D, engage in any uses or activities, including removal, replacement, maintenance, and remodeling of a single family residence, that do not impair the ability to farm the remainder of the Protected Property in the present or future and that are not prohibited by Section VII below. The construction and maintenance of an Accessory Dwelling Unit (ADU) is allowed within the "Farmstead" so long as it is allowed through Whatcom County Planning and Development Services.~~

~~Plant or maintain trees on the Agricultural Land, as defined in Section XII of this Easement only as follows:~~

~~Maintain a woodlot for the production of firewood to be used on the Protected Property;~~

~~Plant Christmas trees and short rotation hardwoods not subject to the excise tax imposed by RCW 84.33, provided that adequate provision is made for the removal of trees, including stumps and roots, at the termination of the Christmas tree or short rotation hardwood farming operation.~~

~~Install and maintain trees on the riparian portion of the property according to the Conservation Reserve Enhancement Program and/or Best Management Practices in coordination with the Whatcom Conservation District.~~

~~Install a small scale wind power generator for the primary purpose of generating electric power for use on the Protected Property, provided however that incidentally generated excess power may be sold through the electric grid and further provided that Grantee must approve the scale and location of any such small scale wind power generator prior to installation.~~

~~Grantor has the right to conduct non farm related commercial or industrial activity provided that conduct of such activity uses no more than one percent (1%) or one acre of the Protected Property, whichever is less, or provided such activity utilizes buildings existing at the time the Conservation Easement is signed and does not involve installation of facilities or expenditure of capital that would hinder the future use of buildings for agricultural purposes. Said activity must be compatible with the purpose of this Conservation Easement and agriculture and forestry uses of the~~

~~Protected Property and subordinate to the agricultural and residential use of the Protected Property.
Activities which market petroleum or chemical products are prohibited.~~

~~PROHIBITED USES AND ACTIVITIES.~~

~~Unless specifically permitted by Section VI above, and as may be necessary to carry out those reserved rights, Grantor shall not engage in or permit any of the following activities on the Protected Property:~~

~~Use or activities inconsistent with the purpose of this Easement.~~

~~Place or construct any residential building, structures, or other residential improvements of any kind except those utilized to house farm workers.~~

~~Cover more than two percent (2%) of the area (approximately XX,XXX square feet) of the Protected Property with impervious surfaces, including, without limitation, asphalt, concrete, buildings, or ponds, except animal waste holding ponds.~~

~~Construct non-agricultural structures or facilities.~~

~~Conduct any use or activity that removes or damages the long term viability of the soil or impairs the ability to farm the Protected Property except for conservation or best management practices as specified in the NRCS Field Office Technical Guide for Whatcom County.~~

~~Transfer, encumber, sell, relinquish, forfeit or otherwise separate water rights from title to the Protected Property except that with the consent of the County, such portion of the Water Rights that are excess and not then needed for agricultural purposes on the Property may either be leased for a period not to exceed ten years for the beneficial use for agricultural activities on land other than the Protected Property, or temporarily enrolled in the state Trust Water Right Program for a period not to exceed ten years or conveyed to the County as provided in Section VII, so long as sufficient water rights are retained by grantor to ensure adequate water to carry on agricultural activities on the protected land now and in the future.~~

~~Mine or extract soil, sand, gravel, oil or other mineral, except that Grantor may extract soil, sand, and gravel solely for a permitted use on the Protected Property in a manner consistent with the conservation purposes of this easement. Such alteration shall not exceed two acres. Land subject to such alteration shall be returned to pre-activity conditions in accordance with baseline data set forth in Exhibit E.~~

~~Use off road motor vehicles on the Protected Property or grant permission for such use except as necessary in the accomplishment of the agriculture, forestry, habitat management, law enforcement and public safety, or conservation uses of the Protected Property, provided that no use of motorized vehicles shall create impacts that are detrimental to the productivity of the soils on the Protected Property and the Purposes of this Easement Deed.~~

~~Grant easements or rights of way for power lines, gas lines, sewer lines, water lines, telecommunications towers, and wind farms.~~

~~Expand or intensify any use or activity existing at the time this Easement Deed is signed that is contrary to the purpose of this Easement or prohibited in this section.~~

~~The dumping or accumulation of trash on the Protected Property is prohibited, except that the storage of agricultural products for use on the Protected Property and by products generated on the Protected Property is permitted.~~

~~WATER RIGHTS:~~

~~The Parties agree that the Water Rights must be maintained on the Protected Property to ensure the protection of the Agricultural Values.~~

~~Grantee Trust will include reference, in Baseline Report, to water rights associated with the Protected Property. The documentation of the water rights are attached to this Easement in Exhibit F. In its monitoring visits, Grantee Trust will inquire regarding the status and protection of water rights and will include in its Annual Monitoring Report any new information about water rights on the Protected Property and concerns, if any, about whether water rights are being protected. If at any time Grantee Trust believes that Grantor is not sufficiently informed about protecting Grantor's water rights, Grantee Trust will refer Grantor to Whateom County and will urge Grantor to take the Water Rights protection actions.~~

~~Under this Easement, Grantor is obligated to take appropriate action to protect water rights on the Protected Property. Section IV. RELATIONSHIP OF PARTIES notwithstanding, Whateom County, not the Trust, has responsibility for enforcing this Grantor obligation. If Grantor fails to take appropriate action to protect water rights on the Protected Property, Whateom County may pursue remedies in accordance with Sections XIII and XIV of this Easement or may itself take appropriate action to protect the water rights.~~

~~If Grantor is unable or unwilling to take the Water Rights protection action, and the Water Rights are under threat of abandonment, relinquishment, loss or forfeiture,~~

~~Grantor shall convey ownership of said Water Rights to County for County's use in order to maintain the agricultural activity on the Protected Property.~~

~~CONSERVATION PLAN:~~

~~As required by section 1238I of the Food Security Act of 1985, as amended, the Grantor, its successors, or assigns, shall conduct all agricultural operations on the Protected Property in a manner consistent with a Conservation Plan prepared in consultation with NRCS and approved by the Conservation District. This conservation plan shall be developed using standards and specifications of the NRCS Field Office Technical Guide and 7 CFR Part 12 that are in effect on the date this Easement Deed is executed. However, the Grantor may develop and implement a Conservation Plan that proposes a higher level of conservation and is consistent with NRCS Field Office Technical Guide standards and specifications. The Conservation Plan is incorporated into this Conservation Easement Deed by reference. NRCS shall have the right to enter upon the Protected Property, with advanced notice to the Grantor, in order to monitor compliance with the Conservation Plan.~~

~~In the event of noncompliance with the Conservation Plan, NRCS shall work with the Grantor to explore methods of compliance and give the Grantor a reasonable amount of time, not to exceed twelve months, to take corrective action. If the Grantor does not comply with the conservation plan, NRCS will inform the County of the Grantor's noncompliance. The County shall take all reasonable steps (including efforts at securing voluntary compliance and, if necessary, appropriate legal action) to secure compliance with the conservation plan following written notification from NRCS that (a) there is a substantial, ongoing event or circumstance of non-compliance with the conservation plan, (b) NRCS has worked with the Grantor to correct such noncompliance, and (c) Grantor has exhausted its appeal rights under applicable NRCS regulations. The landowner shall be liable for any costs incurred by NRCS as a result of landowner's negligence or failure to comply with the easement requirements as it relates to conservation planning violations.~~

~~If the NRCS standards and specifications for highly erodible land are revised after the date of this Deed based on an Act of Congress, NRCS will work cooperatively with the Grantor to develop and implement a revised Conservation Plan. The provisions of this section apply to the highly erodible land conservation requirements of the Farm and Ranch Lands Protection Program and are not intended to affect other natural resources conservation requirements to which the Grantor may be or become subject.~~

~~For the purpose of this Conservation Easement, references and requirements relating to highly erodible lands do not apply to land over which this Conservation Easement~~

_____ is granted. There are no highly erodible lands on the Protected Property and none have been designated in Whateom County.

_____ **~~RIGHTS CONVEYED TO GRANTEES.~~**

_____ To accomplish the purpose of this Easement, the following rights are conveyed to Grantees:

_____ To accomplish the purpose of this Easement and to enforce specific rights and restrictions contained in the Easement Deed.

_____ (1) To enter the land at least once a year, at a mutually agreeable time and upon notice to the Grantor, for the purpose of inspection and monitoring compliance with this Easement;

_____ (2) To enter the land at such other times as necessary if the Trust has reason to believe that a violation of the Easement is occurring or has occurred, for the purpose of mitigating or terminating the violation and otherwise enforcing the provisions of the Easement. Such entry will be with prior notice as is reasonable under the circumstances.

_____ In the event of uses or activities inconsistent with the purpose and provisions of this Easement, The Trust may obtain damages, an injunction, abatement, rescission, restoration and any other remedies available in law or equity.

_____ Forbearance by The Trust to exercise any rights under this Easement in the event of a breach shall not be deemed to be a waiver of Grantees' rights under the Easement.

_____ **~~NO PUBLIC ACCESS.~~**

_____ This Easement provides no right of access to the general public.

_____ **~~BASELINE DATA.~~**

_____ To establish the present condition of the Protected Property so that Grantees are able to monitor future uses and assure compliance with the terms of this Easement, Grantees will, at their expense, by the date of this Easement prepare baseline data sufficient to establish the condition of the Protected Property as of the signing of this Easement Deed. The baseline data may consist of reports, maps, photographs, and other documentation. Grantor and Grantee will execute a statement verifying that the baseline data accurately represents the condition of the Protected Property as of this time. Baseline data is contained in Exhibit E. The baseline data will delineate the Farmstead and Agricultural Land as defined below.

_____ The baseline data will specifically establish the extent of the Farmstead, which includes that portion of the Protected Property used for agricultural buildings, structures and improvements

~~and those adjacent areas where future expansion of buildings, structures and improvements are contemplated. In this Easement Deed, the Farmstead is located in the same area as delineated by the baseline data.~~

~~The area not included in the Farmstead will be depicted under the category of Agricultural Land. Agricultural Land may include nonfarm areas such as critical areas and woodlands as well as cropland or grazing land.~~

~~INFORMAL DISPUTE RESOLUTION.~~

~~Grantor agrees to notify the Trust of any intended action that a reasonable person might believe would violate the terms of this Easement. Should a dispute arise concerning compliance with this Easement, Grantor and the Trust will meet within 15 days to discuss the matter in dispute. By mutual agreement, the Grantor and the Trust may agree to refer the matter in dispute to mediation or arbitration under such rules as the parties may agree. If arbitration is pursued, the prevailing party will be entitled to such relief as may be granted, to a reasonable sum for its costs and expenses related to the arbitration, including fees and expenses of the arbitrator and attorneys. The Trust may, at its discretion, forgo these informal dispute resolution alternatives if continuation of the use or activity in dispute threatens the purpose of this Easement.~~

~~GRANTEES' REMEDIES.~~

~~If Grantees determine that the Grantor is in violation of the terms of this Easement or that a violation is threatened, Grantees shall give written notice to the Grantor of such violation and request corrective action sufficient to cure the violation and to restore the Protected Property to its prior condition.~~

~~If Grantor does not take immediate action to cure the violation and restore the Protected Property, Grantees may institute legal proceedings for injunctive relief, abatement, restoration, or damages, including costs and attorneys' fees reasonably incurred in prosecuting the action, and any other remedies available in law or equity.~~

~~In the event Grantees or the United States take legal action to enforce the terms of this Easement, the cost of restoring the Protected Property and Grantees' and the United States' reasonable enforcement expenses, including attorneys' and consultants' fees, shall be borne by the Grantor. In the event Grantees secure redress for an Easement violation without initiating or completing judicial proceedings, the cost of such restoration and reasonable expenses shall be borne by the Grantor. If Grantor ultimately prevails in any judicial proceedings initiated by Grantees or the United States to enforce the terms of this Easement, each party shall bear its own costs.~~

~~If Grantees, in their sole discretion, determine that circumstances require immediate action to prevent or mitigate significant damage in violation of this Easement,~~

~~Grantees may immediately pursue their legal remedies without prior notice to Grantor as set forth in paragraph A.~~

~~Grantees may not recover damages or require restoration for damage to the Protected Property resulting from causes beyond Grantor's control, such as fire, flood, storm, or earth movement that Grantor could not reasonably have anticipated or prevented.~~

~~RESPONSIBILITY FOR COST AND LIABILITIES.~~

~~Grantor retains all responsibilities and shall bear all costs and liabilities of any kind related to the ownership, operation, upkeep and maintenance of the Protected Property, including maintenance of adequate liability insurance and payment of all taxes. Grantees assume no affirmative obligations for the management, supervision or control of the Protected Property or any of the activities occurring on the Protected Property. Grantor shall indemnify Grantees and the United States and RCO, and hold Grantees and the United States and RCO harmless from all damages, costs (including, but not limited to, attorneys' fees and other costs of defense incurred by Grantees), and other expenses of every kind arising from or incident to any claim or action for damages including but not limited to, the release, use or deposit of any hazardous material (as defined in Section XIX. L. below) on the Protected Property, injury or loss suffered or alleged to have been suffered on or with respect to the Protected Property.~~

~~EXTINGUISHMENT AND TRANSFER.~~

~~The United States Right of Enforcement is a vested property right that cannot be condemned by State or local government. If circumstances arise that render the purpose of this Easement impossible to accomplish, the Easement can be extinguished only by judicial proceedings and upon approval of the United States. In the event of such an extinguishment or the taking of the Protected Property by the exercise of the power of eminent domain, Grantor shall pay to Whateom County and the United States in proportion to their contribution to the purchase price. At the time this Deed was recorded the United States contribution was 50 percent and Whateom County's contribution was 50 percent. In the event this easement is terminated or extinguished, NRCS shall collect the Commodity Credit Corporation's share of the conservation easement based on the appraised fair market value of the conservation easement at the time the easement is extinguished or terminated. The Commodity Credit Corporation's share will be in proportion to its percentage of original investment.~~

~~Grantor agrees to:~~

~~Incorporate the terms of this Easement by reference in any deed, lease, executory contract or other legal instrument by which it divest itself, or~~

~~intends to divest itself, of any permanent or temporary interest in the Protected Property.~~

~~Give written notice to the Grantees of the transfer of any interest in the Protected Property no later than 45 days prior to the date of such transfer. Such notice shall include the name, address, and telephone number of the prospective recipient. Failure to provide such notice to the Grantees shall not limit the legal obligations imposed by this Easement on any recipient of an interest in the Protected Property.~~

~~Whatecom Land Trust's rights and interest in this Easement are assignable only to an agency or organization that is approved by United States and Whatecom County and authorized to hold conservation easements under RCW 64.04.130 or RCW 84.34.250, or otherwise qualified at the time of transfer under Section 170(h) of the Internal Revenue Code of 1986, as amended. As a condition of such transfer, Grantees shall require that the transferee exercise its rights under the assignment consistent with the purpose of this Easement. Grantees shall notify Grantor and NRCS in writing in advance of such an assignment. The failure of Grantees to give such notice shall not affect the validity of such assignment, nor shall it impair the validity of this Easement or limit its enforceability.~~

~~AMENDMENT:~~

~~Upon approval of the United States, Grantor and all Grantees may agree to amend this Easement provided that such an amendment does not diminish the effectiveness of this Easement in carrying out its purpose and that the result of the amendment is to strengthen the effectiveness of the Easement.~~

~~SUBORDINATION:~~

~~Any mortgage or lien arising after the date of this conservation easement Deed shall be subordinated to the terms of this easement, substantially in the form of the instrument attached hereto as Exhibit G.~~

~~GENERAL PROVISIONS~~

~~Notices:~~

~~Any notice under this Conservation Easement Deed must be in writing and be personally delivered, delivered by recognized overnight courier service, given by mail or via facsimile. E-mail transmission of notice shall not be effective. All notices must be addressed to the parties at the following addresses, or at such other addresses as the parties may from time to time direct in writing:~~

~~Grantor: Owners
Address
Bellingham, WA 98226~~

~~Grantee, Trust: Whateom Land Trust PO Box 6131
Bellingham, WA 98227~~

~~Grantee, County: Whateom County
Attn: Agricultural PDR Administrator 5280 Northwest Drive
Bellingham, WA 98226~~

~~NRCS: USDA NRCS
316 West Boone Avenue, Suite 450
Spokane, WA 99201~~

~~RCO: Recreation and Conservation Office PO Box 40917
Olympia WA 98504 0917~~

~~Any notice will be deemed to have been given, when personally delivered, and if delivered by courier service, one business day after deposit with the courier service, and if mailed, two business days after deposit in the U.S. mail, and if delivered by facsimile, the same day as verified.~~

~~Controlling Law:~~

~~The interpretation or performance of this Easement shall be governed by the laws of the State of Washington. Any legal proceeding regarding this Easement shall be initiated in Whateom County Superior Court.~~

~~Liberal Construction:~~

~~Any general rule of construction to the contrary notwithstanding, this Easement shall be liberally construed in favor of the grant to effect the purpose of this Easement and the policy and purpose of RCW 64.04.130 and Chapter 84.34 RCW and Whateom County Ordinance 2002-054. If any provision in this instrument is found to be ambiguous, an interpretation consistent with the purpose of this Easement that would render that provision valid shall be favored over an interpretation that would render it invalid.~~

~~Severability:~~

~~If any provision of this Easement, or its application to any person or circumstance, is found to be invalid, the remainder of the Easement, or its application of such provision to persons or circumstances other than those to which it is found to be invalid, as the case may be, shall not be affected.~~

~~Entire Agreement.~~

~~This instrument sets forth the entire agreement of the parties with respect to the Protected Property and supersedes all prior discussions, negotiations, understandings, or agreements relating to the Property, all of which are merged into this Easement.~~

~~No Forfeiture.~~

~~Nothing contained in this Easement will result in a forfeiture or revision of Grantor's title in any respect.~~

~~Warranty of Good Title.~~

~~Grantor warrants that Grantor has good title to the Protected Property; that the Grantor has the right to convey this conservation easement; and that the Protected Property is free and clear of any encumbrances other than those listed below.~~

~~Grantor Grantees.~~

~~The terms "Grantors" and "Grantees," wherever used in this Easement, and any pronouns used in their place, shall be held to mean and include respectively the above named Grantor, its, successors, and assigns, and the above named Grantees, their successors and assigns.~~

~~Successors and Assigns.~~

~~The covenants, terms, conditions, and restrictions of this Easement shall be binding upon, and inure to the benefit of, the parties to this Easement and their respective, successors, and assigns, and shall continue as a servitude running in perpetuity with the Protected Property.~~

~~Federal Enforcement.~~

~~In the event that the Grantees fail to enforce the terms of this Easement as determined in the sole discretion of the Secretary of the United States Department of Agriculture ("Secretary"), the Secretary, his or her successors and assigns shall have the right to enforce the terms of the Easement through any and all authorities available under Federal or State law. In the event that Grantees attempt to terminate, transfer or otherwise divest themselves of rights, title or interest in the Easement or extinguish the Easement without prior consent of the Secretary, all right, title, or interest in this Easement shall become vested in the United States of America. The United States shall be entitled to recover any and all administrative and legal costs from the County Grantee, including attorney fees or expenses, associated with any enforcement or remedial action as it relates to the ACEP.~~

General Indemnification

~~Grantor shall indemnify and hold harmless Grantees and the United States, their employees, agents and assigns for any and all liabilities, claims, demands, losses, expenses, damages, fines, fees, penalties, suits, proceedings, actions and costs of actions, sanctions asserted by or on behalf of any person or governmental authority, and other liabilities (whether legal or equitable in nature and including, without limitation, court costs, and reasonable attorney's fees and attorney's fees on appeal) to which Grantees may be subject or incur relating to the Protected Property, which may arise from, but is not limited to, Grantor's negligent acts or omissions or Grantor's breach of any representation, warranty, covenant, agreements contained in this Conservation Easement Deed, or violations of any Federal, State, or local laws, including all Environmental Laws.~~

Environmental Warranty

~~Grantor warrants that it is in compliance with, and shall remain in compliance with, all applicable Environmental Laws. Grantor warrants that there are no notices by any governmental authority of any violation or alleged violation of, non-compliance or alleged non-compliance with or any liability under any Environmental Law relating to the operations or conditions of the Protected Property. Grantor further warrants that it has no actual knowledge of a release or threatened release of Hazardous Materials, as such substances and wastes are defined by applicable federal and state law.~~

~~Moreover, Grantor hereby promises to hold harmless and indemnify the Grantees against all litigation, claims, demands, penalties and damages, including reasonable attorneys' fees, arising from or connected with the release or threatened release of any Hazardous Materials on, at, beneath or from the Protected Property, or arising from or connected with a violation of any Environmental Laws by Grantor or any other prior owner of the Protected Property. Grantor's indemnification obligation shall not be affected by any authorizations provided by the Trust, the County, or the United States to Grantor with respect to the Protected Property or any restoration activities carried out by the Trust or the County at the Protected Property; provided, however, that Grantee shall be responsible for any Hazardous Materials contributed after this date to the Protected Property by Trust or the County.~~

~~"Environmental Law" or "Environmental Laws" means any and all Federal, state, local or municipal laws, rules, orders, regulations, statutes, ordinances, codes, guidelines, policies or requirements of any governmental authority regulating or imposing standards of liability or standards of conduct (including common law) concerning air, water, solid waste, hazardous materials, worker and community right to know, hazard communication, noise, radioactive material, resource protection, subdivision, inland wetlands and watercourses, health protection and similar environmental health, safety, building and land use as may now or at any time hereafter be in effect.~~

~~“Hazardous Materials” means any petroleum, petroleum products, fuel oil, waste oils, explosives, reactive materials, ignitable materials, corrosive materials, hazardous chemicals, hazardous wastes, hazardous substances, extremely hazardous substances, toxic substances, toxic chemicals, radioactive materials, infectious materials and any other element, compound, mixture, solution or substance which may pose a present or potential hazard to human health or the environment.~~

~~Merger~~

~~The Grantor and Grantee explicitly agree that it is their express intent, forming a part of the consideration hereunder, that the provisions of this conservation easement deed are set forth herein are to last in perpetuity, and that to that end no purchase or transfer of the underlying fee interest in the protected property by or to the Grantee, the United States, or any successor or assignee will be deemed to eliminate these conservation easement terms, or any portion thereof, pursuant to the doctrine of “Merger” or any other legal doctrine.~~

~~In the event that either Grantee takes legal title to Grantor’s interest in the Protected Property, that Grantee shall commit the monitoring and enforcement of the Conservation Easement to another qualified organization within the meaning of section 107(b)(3) of the United States Internal Revenue Code (1986) as amended, which organization has among its purposes the conservation and preservation of land and water areas.~~

~~This Agricultural Land Easement is acquired with funds provided, in part, under the Agricultural Conservation Easement Program (ACEP). The EXHIBIT A is attached hereto and incorporated herein by reference and will run with the land in perpetuity [or for the maximum duration allowed under applicable State laws]. As required by 16~~

~~U.S.C. Section 3865 et seq. and 7 CFR Part 1468 et seq. and as a condition of receiving ACEP funds, all present and future use of the Protected Property identified in EXHIBIT B is and will remain subject to the terms and conditions described forthwith in this Addendum entitled Minimum Deed Terms For The Protection Of Agricultural Use in EXHIBIT A that is appended to and made a part of this easement deed.~~

~~SCHEDULE OF EXHIBITS:~~

~~Minimum Terms for Agricultural Land Easements
Legal Description of Property Subject to Easement
Site Map
Ordinance # 2002-054
Baseline Data
Water Rights
Subordination Agreement example~~

~~State of Washington Recreation and Conservation Office Third Party Rights and Requirements~~

~~TO HAVE AND TO HOLD unto Grantees and the United States of America, and their successors, and assigns forever.~~

~~PAGE IS INTENTIONALLY BLANK; SIGNATURE PAGES FOLLOW~~

Figure 6

Figure 6 displays two plots related to the model fit. The top plot shows the log-likelihood function versus the parameter estimate, indicating convergence. The bottom plot shows the estimated parameters for the model.

~~My commission expires _____~~

~~WHATCOM COUNTY does hereby accept the above Agricultural Conservation Easement Deed.~~

~~Dated: __~~

~~Grantee~~

By _____

~~Jack Louws, County Executive~~

~~Approved as to Legal Form: By _____~~

~~Senior Civil Deputy Prosecuting Attny~~

~~STATE OF WASHINGTON~~)

~~SS.~~

~~COUNTY OF WHATCOM~~)

I certify that I know or have satisfactory evidence that _____ is the person who appeared before me, and said person acknowledged that he/she signed this instrument, on oath stated that he/she was authorized to execute the instrument and acknowledged it as the _____

_____ of _____ voluntary act of such party for the uses and purposes mentioned in the _____ to be the free and
instrument.

~~Dated: _____~~

~~Notary Public~~

Print Name _____

~~My commission expires _____~~

~~(Use this space for notarial stamp/seal)~~

The WHATCOM LAND TRUST, a Washington nonprofit corporation, does hereby accept the above-
Agricultural Conservation Easement Deed.

Dated: ____

By _____

Its _____

STATE OF WASHINGTON _____)

) ss.

COUNTY OF WHATCOM _____)

I certify that I know or have satisfactory evidence that _____ is the person who appeared before me, and
said person acknowledged that he/she signed this instrument, on oath stated that he/she was authorized
to execute the instrument and acknowledged it as the

_____ of _____ voluntary act of such party for the uses and purposes mentioned in the _____ to be the free and
instrument.

Dated: ____

Notary Public
Print Name _____

(Use this space for notarial stamp/seal)

My commission expires _____

~~THE STATE OF WASHINGTON, BY AND THROUGH THE WASHINGTON STATE RECREATION AND CONSERVATION OFFICE, Third Party Beneficiary, does hereby accept the above Grant Deed of Agricultural Conservation Easement.~~

~~Dated: __~~

By _____

~~Its~~ _____

~~STATE OF WASHINGTON~~)~~SS.~~

~~COUNTY OF THURSTON~~)

I certify that I know or have satisfactory evidence that _____ is the person who appeared before me, and said person acknowledged that he/she signed this instrument, on oath stated that he/she was authorized to execute the instrument and acknowledged it as the _____

_____ of _____ voluntary act of such party for the uses and purposes mentioned in the _____ to be the free and
instrument.

~~Dated: -~~

~~Notary Public~~

Print Name _____ My commission expires _____

~~(Use this space for notarial stamp/seal)~~

~~EXHIBIT A~~

~~MINIMUM TERMS FOR AGRICULTURAL LAND EASEMENTS~~

~~The Agricultural Conservation Easement Program, 16 U.S.C. Section 3865 et seq., facilitated and provided funding for the purchase of an Agricultural Land Easement (ALE) on real property described in Exhibit B, hereafter referred to as "the Protected Property", for the purpose of protecting the agricultural use and future viability, and related conservation values, by limiting nonagricultural uses on the Protected Property.~~

~~The OWNERS (collectively Grantor), WHATCOM COUNTY AND WHATCOM LAND TRUST (collectively Grantee), and the United States of America (the United States), acting by and through the United States Department of Agriculture (USDA) Natural Resources Conservation Service (NRCS) on behalf of the Commodity Credit Corporation (CCC) (jointly referred to as the "Parties") acknowledge that the ALE is acquired by the Grantee to protect the agricultural use and future viability, and related conservation values, by limiting nonagricultural uses on the Protected Property. Baseline conditions of the Protected Property are set forth in a Baseline Documentation Report, a copy of which is appended to this easement deed. Notwithstanding any other provision of the ALE, the Parties agree that all present and future use of the Protected Property is and will remain subject to all of the following terms and conditions identified in Section I and II. If the terms and conditions in Section I and II are inconsistent with terms and conditions in other sections of the ALE, Section I and II will control. If other sections of the of the ALE have terms and conditions that are consistent with, but more restrictive than the terms and conditions in Section I, Paragraphs 1, 2, and 3, those more restrictive terms and conditions will control. If other sections of the ALE are more restrictive than Section I Paragraph 4 and Section II then Section I Paragraph 4 and Section II will control.~~

~~SECTION I. MINIMUM CONSERVATION DEED RESTRICTIONS~~

~~Even if the Protected Property consists of more than one parcel for real estate tax or any other purpose or if it may have been acquired previously as separate parcels, it will be considered one parcel for purposes of this Easement, and the restrictions and covenants of this Easement will apply to the Protected Property as a whole.~~

~~The Grantor and Grantee and their respective heirs, successors, agents, assigns, lessees, and any other person claiming under them must comply with all terms and conditions of this easement, including the following:~~

~~**Agricultural Land Easement Plan.** As required by 16 U.S.C. Section 3865a, agricultural production and related uses of the Protected Property are subject to an ALE Plan, as approved NRCS, to promote the long-term viability of the land to meet the ALE purposes. The ALE Plan must also be approved by the Grantor and the Grantee. Grantor agrees the use~~

~~of the property will be subject to the ALE Plan on the Protected Property.~~

~~The ALE Plan is incorporated by reference and must not include any provisions inconsistent with the conservation purposes of this ALE. The Grantee and Grantor agree to update the Plan in the event the agricultural uses of the Protected Property change. A copy of the current ALE Plan is kept on file with the Grantee.~~

~~The Grantee must take all reasonable steps to secure compliance with the ALE Plan. In the event of substantial or ongoing noncompliance with the ALE Plan or the requirement to update the Plan, NRCS may notify the Grantee. NRCS will give the Grantee and Grantor a reasonable amount of time, not to exceed 180 days, to take corrective action. If Grantee fails to enforce the terms of the ALE, including, but not limited to compliance with the ALE Plan, the United States may exercise its right of enforcement.~~

~~**Limitation on Impervious Surfaces.** Impervious surfaces will not exceed 4% of the Protected Property, excluding NRCS approved conservation practices. Impervious surfaces are defined as material that does not allow water to percolate into the soil on the Protected Property; including, but not limited to, residential buildings, agricultural buildings with or without flooring, paved areas, and any other surfaces that are covered by asphalt, concrete, or roofs. This limitation does not include public roads or other roads owned and controlled by parties with rights superior to those rights conveyed to Grantee by this ALE.~~

~~**Limitations on Nonagricultural Uses.** Any activities inconsistent with the purposes of the ALE are prohibited. The following activities are inconsistent with the purposes of ALE and specifically prohibited, subject to the qualifications stated below:~~

~~*Subdivision*~~

~~Separate conveyance of a portion of the Protected Property or division or subdivision of the Protected Property is prohibited, except where State or local regulations explicitly require subdivision to construct residences for employees working on the Protected Property. Grantor must provide written notice and evidence of such requirements to Grantee and the Chief of NRCS or his or her authorized designee (Chief of NRCS) prior to division of the Protected Property.~~

~~*Industrial or Commercial Uses* Industrial or commercial activities on the Protected Property are prohibited except for the following:~~

~~agricultural production and related uses conducted as described in the ALE Plan;~~

~~the sale of excess power generated in the operation of alternative energy structures and associated equipment or other energy structures that Grantee approves in writing as being consistent with the conservation~~

~~_____~~
~~_____~~ purposes of this Easement;
~~_____~~

~~_____~~ temporary or seasonal outdoor activities or events that do not harm the agricultural use, future viability, and related conservation values of the Protected Property herein protected;
~~_____~~

~~_____~~ commercial enterprises related to agriculture or forestry including but not limited to agritourism, processing, packaging, and marketing of farm or forest products, farm machinery repair, and small-scale farm wineries; and
~~_____~~

~~_____~~ small-scale commercial enterprises compatible with agriculture or forestry, including but not limited to cafés, shops, and studios for arts or crafts.
~~_____~~

~~_____~~ *Construction on the Protected Property* All new structures and improvements must be located within the Building Envelopes, containing approximately XX acres and described in EXHIBIT E which is appended to and made a part of the ALE.

~~_____~~ The boundaries and location of the Building Envelopes may be adjusted if Grantee and the Chief of NRCS provide prior written approval of the adjusted boundaries and location. The Building Envelopes may not increase in size and the adjusted Building Envelopes must provide equal or greater protection of the agricultural use and future viability, and related conservation values of the Protected Property.
~~_____~~

~~_____~~ Utilities to serve approved buildings or structures, including on-farm energy structures allowed under **Section I, Paragraph (4)(C)** and agricultural structures that neither individually nor collectively have an adverse impact on the agricultural use and future viability and related conservation values of the Protected Property, may be built outside of the Building Envelope with prior written approval of the Grantee provided that the utilities or agricultural structures are consistent with the ALE Plan described Section I, Paragraph I.
~~_____~~

~~_____~~ New roads may be constructed if they are within impervious surface limits, approved in advance by Grantee, and necessary to carry out the agricultural operations or other allowed uses on the Protected Property.
~~_____~~

~~_____~~ Maintenance of existing roads documented on the Baseline Documentation Report is allowed; however, existing roads may not be widened or improved unless widening and improving is within impervious surface limits, approved in advance by Grantee, and necessary to carry out the agricultural operations or other allowed uses on the Protected Property.
~~_____~~

~~_____~~ Fences may be maintained and replaced and new fences installed if they are necessary for agricultural operations on the Protected Property or to mark boundaries of the Protected Property.
~~_____~~

~~Granting of easements for utilities and roads~~—The granting or modification of easements for utilities and roads is prohibited when the utility or road will adversely impact the agricultural use and future viability, and related conservation values of the Protected Property as determined by the Grantee in consultation with the Chief of NRCS.

~~Surface Alteration~~—Grading, blasting, filling, sod farming, earth removal or any other activity that will disturb the soil surface or materially alter the topography, surface or subsurface water systems, or wetlands of the Protected Property is prohibited, except as follows:

~~dam construction to create ponds for agricultural use, fire protection, or wildlife enhancement, or wetland restoration, enhancement or creation, in accordance with an ALE Plan;~~

~~erosion and sediment control pursuant to a plan approved by the Grantee;~~

~~as required in the construction of approved buildings, structures, roads, and utilities provided that the required alteration has been approved in writing by Grantee as being consistent with the conservation purpose of this Easement; or~~

~~Agricultural activities conducted in accordance with the ALE Plan.~~

~~Oil, Gas, or Mineral Exploration and Extraction~~—Mining or extraction of soil, sand, gravel, oil, natural gas, fuel, coal, or any other mineral substance owned by Grantor as of the date of this ALE or later acquired by Grantor, using any surface mining, subsurface mining, or dredging method, from Protected Property is prohibited, except for limited mining activities for materials (e.g., sand, gravel, or shale) used for agricultural operations on the Protected Property. Extraction of materials used for agricultural operations must be limited to a small, defined area or acreage identified in EXHIBIT E and must not harm the conservation values or the agricultural uses of the Protected Property.

~~Impervious surfaces as defined in Section I, Paragraph (2) of this Easement will include any surface disturbance or impervious surfaces associated with oil and gas exploration and extraction associated with uses permitted by this paragraph.~~

~~If a third party owns or leases the oil, natural gas, or any other mineral substance at the time this ALE is executed, and their interests have not been subordinated to this ALE, the Grantor must require, to the greatest extent possible, that any oil, natural gas, and mineral exploration and extraction conducted by such third party is conducted in accordance with this paragraph (F).~~

~~Preserving Agricultural Uses.~~ The provisions of this ALE Deed and associated exhibits will not be interpreted to restrict the types of agricultural operations that can function on the Protected Property, so long as the agricultural operations are consistent with the ALE Plan and do not violate Federal laws, including Federal drug laws. No uses will be allowed that decrease the ALE's protection for the agricultural use and future viability, and related conservation values of the Protected Property. Allowed uses of the Protected Property include, the specific uses allowed in Section I, Paragraph (3)(B) (i) (vii) and the following activities, subject to the qualifications stated below:

~~Agricultural Production~~ The production, processing, and marketing of agricultural crops and livestock is allowed provided it is conducted in a manner consistent with the terms of the ALE Plan described in Section I, Paragraph I.

~~Forest Management and Timber Harvest~~ Forest management and timber harvesting is allowed, provided it is carried out to the extent practicable, in accordance with current, generally accepted best management practices for the sites, soils, and terrain of the Protected Property. In addition, if the Protected Property contains 40 contiguous acres of forest or 20 percent of the Protected Property is forestland then forest management and timber harvesting must be performed in accordance with a written forest management plan. The forest management plan must be prepared by a professional resource manager, in consultation with the Grantee. A forest management plan will not be required for the following allowed noncommercial activities: (i) cutting of trees for the construction of allowed roads, utilities, buildings and structures on the Protected Property, (ii) cutting of trees for trail clearing, (iii) cutting of trees for domestic use as firewood or for other domestic uses by Grantor, (iv) removal of trees posing an imminent hazard to the health or safety of persons or livestock, or (v) removal of invasive species.

~~On Farm Energy Production~~ Renewable energy production is allowed for the purpose of generating energy for the agricultural and residential needs of the Protected Property. Renewable energy sources must be built and maintained within impervious surface limits, with minimal impact on the conservation values of the Protected Property and consistent with the purposes of the ALE.

~~Grassland Uses of the Protected Property~~ Grantors are allowed to graze, hay, harvest for hay and noncrop seed production, mow, construct fire breaks, conduct fire suppression and rehabilitation activities, and conduct common grazing practices, including cultural practices, consistent with the provisions and conservation purposes of this ALE. The term "common grazing practices" means those practices customary to the region where the Protected Property is located related to livestock grazing, forage management, and maintenance of infrastructure required to conduct

~~livestock grazing on the Protected Property. Grantors must not hay, mow, or harvest for seed during certain nesting seasons for birds whose populations are in significant decline as identified by Grantee or NRCS. Determinations of nesting seasons for birds whose populations are in significant decline will be made in writing to the Grantors, or set forth within the ALE Plan for the Protected Property.~~

~~SECTION II. PROTECTION OF THE UNITED STATES' INTERESTS~~

~~**United States Right of Enforcement.** Pursuant to 16 U.S.C. Section 3865 et seq., the United States is granted the right of enforcement that it may exercise only if the terms of the ALE are not enforced by the holder of the ALE. The Secretary of the United States Department of Agriculture (the Secretary) or his or her assigns, on behalf of the United States, may exercise this right of enforcement under any authority available under State or Federal law if the Grantee, or its successors or assigns, fails to enforce any of the terms of this ALE, as determined in the sole discretion of the Secretary.~~

~~In the event the United States exercises this right of enforcement, it is entitled to recover any and all administrative and legal costs associated with any enforcement or remedial action related to the enforcement of this Easement from the Grantor, including, but not limited to, attorney's fees and expenses related to Grantor's violations. In the event the United States exercises this right of enforcement, it is entitled to recover any and all administrative and legal costs associated with any enforcement of this Easement from the Grantee, including, but not limited to, attorney's fees and expenses related to Grantee's violations or failure to enforce the easement against the Grantor.~~

~~The Grantee will annually monitor compliance and provide the United States with an annual monitoring report that documents that the Grantee and Grantor are in compliance with the ALE and ALE Plan. If the annual monitoring report is insufficient or is not provided annually, or if the United States has evidence of an unaddressed violation, as determined by the Secretary, the United States may exercise its right of inspection. For purposes of inspection and enforcement of the ALE, the ALE Plan, and the United States Cooperative Agreement with the Grantee, the United States will have reasonable access to the Protected Property with advance notice to Grantee and Grantor or Grantor's representative.~~

~~In the event of an emergency, the United States may enter the Protected Property to prevent, terminate, or mitigate a potential or unaddressed violation of these restrictions and will give notice to Grantee and Grantor or Grantor's representative at the earliest practicable time.~~

~~**General Disclaimer.** The United States, its employees, agents, and assigns disclaim and will not be held responsible for Grantee's or Grantor's negligent acts or omissions or Grantee's or Grantor's breach of any representation, warranty, covenant, or agreements contained in this ALE Deed, or violations of any Federal, State, or local laws, including all Environmental Laws including, without limitation, those that give rise to liabilities, claims,~~

~~demands, losses, expenses, damages, fines, fees, penalties, suits, proceedings, actions, costs of actions, or sanctions asserted by or on behalf of any person or governmental authority, and other liabilities (whether legal or equitable in nature and including, without limitation, court costs, and reasonable attorneys' fees and attorneys' fees on appeal) to which the United States may be subject or incur relating to the Protected Property.~~

~~**Environmental Warranty.** Grantor warrants that it is in compliance with, and will remain in compliance with, all applicable Environmental Laws. Grantor warrants that there are no notices by any governmental authority of any violation or alleged violation of, noncompliance or alleged noncompliance with, or any liability under, any Environmental Law relating to the operations or conditions of the Protected Property. Grantor further warrants that it has no actual knowledge of a release or threatened release of Hazardous Materials, as such substances and wastes are defined by applicable Federal and State law.~~

~~Moreover, Grantor hereby promises to hold harmless and indemnify Grantee and the United States against all litigation, claims, demands, penalties and damages, including reasonable attorneys' fees, arising from or connected with the release or threatened release of any hazardous materials on, at, beneath or from the Protected Property, or arising from or connected with a violation of any Environmental Laws by Grantor or any other prior owner of the Protected Property. Grantor's indemnification obligation will not be affected by any authorizations provided by Grantee or the United States to Grantor with respect to the Protected Property or any restoration activities carried out by Grantee at the Protected Property; provided, however, that Grantee will be responsible for any Hazardous Materials contributed after this date to the Protected Property by Grantee.~~

~~"Environmental Law" or "Environmental Laws" means any and all Federal, State, local or municipal laws, rules, orders, regulations, statutes, ordinances, codes, guidelines, policies, or requirements of any governmental authority regulating or imposing standards of liability or standards of conduct (including common law) concerning air, water, solid waste, hazardous materials, worker and community right to know, hazard communication, noise, radioactive material, resource protection, subdivision, inland wetlands and watercourses, health protection, and similar environmental health, safety, building, and land use as may now or at any time hereafter be in effect.~~

~~"Hazardous Materials" means any petroleum, petroleum products, fuel oil, waste oils, explosives, reactive materials, ignitable materials, corrosive materials, hazardous chemicals, hazardous wastes, hazardous substances, extremely hazardous substances, toxic substances, toxic chemicals, radioactive materials, infectious materials, and any other element, compound, mixture, solution, or substance that may pose a present or potential hazard to human health or the environment.~~

~~**Extinguishment, Termination, and Condemnation.** The interests and rights under this Agricultural Land Easement may only be extinguished or terminated with written approval of the Grantee and the United States. Due to the Federal interest in this ALE, the United~~

~~States must review and approve any proposed extinguishment, termination, or condemnation action that may affect its Federal interest in the Protected Property.~~

~~With respect to a proposed extinguishment, termination, or condemnation action, the Grantee and the United States stipulate that the fair market value of the ALE is 35 % percent, hereinafter the "Proportionate Share," of the fair market value of the land unencumbered by this ALE. The Proportionate Share will remain constant over time.~~

~~If this ALE is extinguished, terminated, or condemned, in whole or in part, then the Grantor must reimburse Grantee and the United States an amount equal to the Proportionate Share of the fair market value of the land unencumbered by this ALE. The fair market value will be determined at the time all or a part of this ALE is terminated, extinguished, or condemned by an appraisal that meets the Uniform Standards of Professional Appraisal Practice (USPAP) or Uniform Acquisition Standards or Federal Land Acquisition (UASFLA). The appraisal must be completed by a certified general appraiser and be approved by the Grantee and the United States.~~

~~The allocation of the Proportionate Share between the Grantee and the United States will be as follows: (a) to the Grantee or its designee, 50 percent of the Proportionate Share; and (b) to the United States 50 percent of the Proportionate Share. Until such time as the Grantee and the United States receive the Proportionate Share from the Grantor or the Grantor's successor or assign, the Grantee and the United States each have a lien against the Protected Property for the amount of the Proportionate Share due each of them. If proceeds from termination, extinguishment, or condemnation are paid directly to Grantee, the Grantee must reimburse the United States for the amount of the Proportionate Share due to the United States.~~

~~**Amendment.** This ALE may be amended only if, in the sole and exclusive judgment of the Grantee and United States, by and through the Chief of NRCS, such amendment is consistent with the purposes of this ALE and complies with all applicable laws and regulations. The Grantee must provide timely written notice to the Chief of NRCS of any proposed amendments. Prior to the signing and recordation of the amended ALE, such amendments must be mutually agreed upon by the Grantee, Grantor, and United States, by and through the Chief of NRCS. Any purported amendment that is recorded without the prior approval of the United States is null and void.~~

_____~~1~~_____~~EXHIBIT B~~
_____~~2~~_____
_____~~3~~_____~~Legal Description~~
_____~~4~~
_____~~5~~
_____~~DESCRIPTION~~
_____~~N 6~~
_____~~7~~_____~~SITUATE IN WHATCOM COUNTY, WASHINGTON 8~~
_____~~9~~_____~~SUBJECT TO AND/OR TOGETHER WITH ALL EASEMENTS, COVENANTS,~~
_____~~10~~_____~~RESTRICTIONS AND/OR AGREEMENTS OF RECORD, OR OTHERWISE 11~~
_____~~12~~_____~~APN/Parcel ID: XXXXXXXXXXXXXX 0000~~

_____ 1	Exhibit C – Site Map
_____ 2	

B-1

SPONSORED BY: Planning

PROPOSED BY: Planning

INTRODUCTION DATE: 8/13/02

ORDINANCE NO. 2002-054

**ESTABLISHING AN AGRICULTURAL PURCHASE OF DEVELOPMENT RIGHTS
PROGRAM AND OVERSIGHT COMMITTEE**

WHEREAS, Whatcom County government recognizes agriculture as a major contributor to the local economy and a high quality of life for Whatcom County citizens; and

WHEREAS, The Growth Management Act and the County Comprehensive Plan support the retention of agricultural lands of long term commercial significance and encourage the use of innovative techniques to do so; and

WHEREAS, Ordinance #92-002 enacted a property tax levy known as the Conservation Futures Tax as authorized by RCW 84.34.230 to provide a funding source to assist in acquiring open space, wetlands, farm and agricultural land, and timber land; and

WHEREAS, Resolution # 2001-049 authorized the creation of a Purchase of Development Rights Steering Committee with the charge to develop a PDR program for Whatcom County by April 30, 2002 and authorized the County Executive to expend up to \$30,000 for outside contract assistance in preparing the PDR program; and

WHEREAS, Resolution #2001-049 also committed the Council to expend a fair and significant share of the Conservation Futures Funds for acquiring interest in agricultural lands; and

WHEREAS, The Purchase of Development Rights Steering Committee met regularly from October 2001 through April 2002 and forwarded a recommendation in May of 2002; and

WHEREAS, Council reviewed the Purchase of Development recommendation from the PDR Steering Committee and requested PDS staff to develop a Purchase of Development Rights Ordinance; and

WHEREAS, Council held a public hearing on September 10, 2002 to take public comment on the Agricultural Purchase of Development Rights program.

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

1. The Agricultural Purchase of Development Rights program is adopted as attached in Exhibit 1.

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 10 day of September, 2002.

ATTEST:

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON



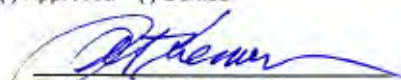
Dana Brown-Davis,
Clerk of the Council



Ward Nelson, Council Chair

APPROVED as to form

(☒) Approved (☐) Denied


Karen N. Frakes, Civil Deputy Prosecutor
Pete Kremen, Executive

~~EXHIBIT E Baseline Documentation~~

~~The Baseline Data Inventory for the Agricultural Conservation Easement Deed is maintained by the
Whatecom Land Trust. The remainder of this page is intentionally blank.~~

1	EXHIBIT F Water Rights Documentation
2	
3	

~~EXHIBIT G – Subordination Agreement~~

~~When recorded return to:~~

~~Grantor; Grantee: _____~~

~~Legal Description~~

~~Abbreviated form: _____ Additional legal at Exhibit A.~~

~~Assessor's Tax Parcel Number: _____~~

~~Reference number(s) of related/assigned/released documents: _____ Reference(s) to document(s) appears on page(s) _____~~

~~SUBORDINATION AGREEMENT~~

~~NOTICE: THIS SUBORDINATION AGREEMENT RESULTS IN YOUR SECURITY INTEREST IN THE PROPERTY BECOMING SUBJECT TO AND OF LOWER PRIORITY THAN THE LIEN OF SOME OTHER OR LATER INSTRUMENT.~~

~~The undersigned subordinator agrees as follows:~~

~~_____ ("Subordinator") is the owner and holder of a mortgage dated _____, which was recorded under Auditor's File No. _____, records of _____ County;~~

~~_____ ("Easement Holder") is the holder of a conservation easement dated _____, 20____, executed by [("Owner") or ("Owners")] (as hereinafter defined) which will be recorded concurrently with this Subordination Agreement;~~

~~_____, [husband and wife,] [("Owner") or ("Owners")] [is the owner or are the owners] of all the real property described in the conservation easement identified above in Paragraph 2.~~

In consideration of benefits to Subordinator from [("Owner") or ("Owners")], receipt and sufficiency of which is hereby acknowledged, the Subordinator does hereby unconditionally subordinate the lien of the mortgage identified above in Paragraph 1 to the conservation easement identified above in Paragraph 2.

This Agreement shall be the whole and only agreement between the parties hereto with regard to the subordination of the lien or charge of the mortgage first above mentioned to the conservation easement in favor of Easement Holder above referred to and shall supersede and cancel any prior agreements as to such, or any subordination including, but not limited to, those provisions, if any, contained in the mortgage first above mentioned, which provided for the subordination of the lien or charge thereof to a mortgage to be thereafter executed.

The heirs, administrators, assigns and successors in interest of the Subordinator shall be bound by this agreement. Where the word mortgage appears herein it shall also be considered as deed of trust, and gender and number of pronouns considered to conform to undersigned.

Executed this ____ day of __, 20__.

SUBORDINATOR _____ SUBORDINATOR

(Name) (Name)

STATE OF WASHINGTON _____)

) ss.

COUNTY OF _____)

I _____ certify that I _____ know or _____ have satisfactory evidence that _____ is the person who appeared before me, and said person acknowledged that he/she signed this instrument, on oath stated that he/she was authorized to execute the instrument and acknowledged it as the _____ of _____ to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: __

~~EXHIBIT H~~

~~State of Washington Recreation and Conservation Office Third Party Rights and Requirements~~

~~GENERAL~~

~~As indicated on page 1, Washington State Recreation and Conservation Office (“RCO”) is a third-party beneficiary to this Easement, which was acquired in part with a grant from RCO pursuant to grant agreement #XX between RCO and Whatcom County.~~

~~Permanent protection of the Protected Property will further the purposes of the Washington State Farmlands Preservation Account (FPA) established under RCW 79A.15.130(1), which provides that moneys appropriated to the FPA “must be distributed for the acquisition and preservation of farmlands in order to maintain the opportunity for agricultural activity upon these lands.” The legislatively declared policies of the State of Washington in the Washington State Open Space Tax Act, Chapter 84.34 RCW (OSTA), provide that “it is in the best interest of the state to maintain, preserve, conserve, and otherwise continue in existence adequate open space lands for the production of food, fiber and forest crop, and to assure the use and enjoyment of natural resources and scenic beauty for the economic and social well-being of the state and its citizens.”~~

~~RCO PROHIBITED USES~~

~~**Commercial feedlots.** The establishment or maintenance of a commercial feedlot is prohibited. For purposes of this Easement, a commercial feedlot is defined as a permanently constructed confined area or facility within which the land is not grazed or cropped annually, and that is used to receive livestock that are confined solely for the purpose of growing or finishing. However, seasonal confinement of animals raised on the Protected Property and year round confinement for the commercial production of dairy products on the Protected Property are expressly permitted. Furthermore, nothing in this Section shall prevent Grantor from leasing pasture for the grazing of livestock owned by others.~~

~~**No aquaculture.** Grantor shall not engage in, or permit others to engage in, the commercial production of cultivated marine or freshwater aquatic products on the Protected Property.~~

~~**No Compensatory Mitigation.** The creation, enhancement, restoration or preservation of wetlands, fish or wildlife habitat, or other natural resources for the purpose of, directly or indirectly, compensating for or mitigating resource losses or damages in any way associated with actual or potential impacts of development except for impacts caused by Grantor on the Protected Property (“Compensatory Mitigation”) is prohibited on the~~

~~Protected Property. Compensatory Mitigation includes, but is not limited to, mitigation banking, conservation banking, and any other sale or exchange of mitigation credits based on the creation, restoration, enhancement and/or preservation of such natural resources within the Protected Property.~~

~~RCO THIRD PARTY RIGHT OF ENFORCEMENT~~

~~RCO is hereby granted third party right of enforcement of this Easement. As such, RCO may exercise all of the rights and remedies provided to Grantee herein, and is entitled to all of the indemnifications provided to Grantee in this Easement. RCO and Grantee each have independent authority to enforce the terms of this Easement; provided, however, that RCO expects that Grantee shall have primary responsibility for monitoring and enforcement of the Easement. In the event that RCO and Grantee do not agree as to whether the Grantor is complying with the terms of the easement, RCO or Grantee may proceed with enforcement actions without the consent of the other. If RCO elects to enforce the terms of this Easement, it shall first follow the dispute resolution process and remedies described in Sections XIII and XIV of the easement; provided, however, that RCO shall not be obligated to repeat any non-judicial dispute resolution steps already taken by Grantee.~~

~~This third party right of enforcement does not extend to any other third party except as described within the terms of this easement and exhibits and will automatically transfer to another State agency charged with maintaining, preserving and/or restoring agricultural lands in the event RCO is dissolved or reorganized.~~

~~In the event that the Easement is transferred or assigned without the consent of RCO, which consent shall not be unreasonably withheld, RCO may require that Grantee pay to RCO, at RCO's election, the higher of (i) an amount equal to the fair market value of this Easement, which shall be determined as provided in Section II (5) and distributed as further provided in Section II (5); or (ii) an amount equal to the Total Project Cost as specified in the RCO Grant Agreement with interest due and payable from the date of breach at the rate provided for in RCW 43.17.240, as may be amended from time to time.~~

~~In the event that the Protected Property is used by Grantor in a manner that is not consistent with the Purpose of this Easement or the terms of the RCO Grant Agreement, RCO shall have the right, in addition to any other remedies described in this Easement, to require that Grantor pay to RCO, at RCO's election, the higher of (i) an amount equal to the fair market value of this Easement, which shall be determined as provided in Section II (5) and distributed as further provided in Section II (5); or (ii) an amount equal to the Total Project Cost as specified in the RCO Grant Agreement with interest due and payable from the date of breach at the rate provided for in RCW 43.17.240, as may be amended from time to time. Any costs, fees or damages paid by Grantor for enforcement of this Easement or restoration of the Conservation Values pursuant to Exhibit E shall be deducted from this amount. RCO agrees that it will follow the dispute~~

~~resolution process and remedies described in Sections XIII and XIV before exercising this right, unless legally compelled to do otherwise. Any amounts due and owing RCO under this paragraph shall be due and owing within 120 days of receiving a written demand for repayment by RCO. Upon Grantor's repayment of such amount to RCO, Grantee and RCO agree to prepare and record, a deed amendment to release Grantor from any further obligations to RCO or Grantee under this Easement.~~

~~SUBSEQUENT TRANSFER OR EXTINGUISHMENT~~

~~**Extinguishment.** If circumstances arise in the future that render the Purpose of this Easement impossible to accomplish, this Easement can only be terminated or extinguished, whether in whole or in part, by judicial proceedings in a court of competent jurisdiction.~~

~~The amount of the proceeds to which Grantee and any Beneficiary to this Easement shall be entitled, after the satisfaction of prior claims, from any sale, exchange, or involuntary conversion of all or any portion of the Protected Property subsequent to such termination or extinguishment, shall be determined, unless otherwise provided by Washington law at the time, in accordance with Section XVI. Grantee may use all such proceeds for the acquisition of property interests that are substantially equivalent to those conveyed by this Easement. Grantee shall consult with and receive the approval of RCO in the selection of any replacement property interests. Upon acquisition of such replacement property interests, Grantee shall convey to RCO the same or substantially equivalent rights as provided for in this Easement.~~

~~In granting this Easement, Grantor has considered the fact that any use of the Property that is prohibited by this Easement, or any other use as determined to be inconsistent with the Purpose of this Easement, may become economically more valuable than permitted uses. It is the intent of both Grantor and Grantee that such circumstances shall not justify the termination or extinguishment of this Easement. Grantor's inability to carry on any or all of the permitted uses, or the unprofitability of doing so, shall not impair the validity of this Easement or be considered grounds for its termination or extinguishment.~~

~~**Valuation.** This Easement constitutes a real property interest immediately vested in Grantee. For purposes of this Section, the Parties stipulate that this Easement has a fair market value determined by multiplying (a) the then fair market value of the Protected Property unencumbered by the Easement (minus any increase in value attributable to improvements on the Protected Property), at the time of termination or extinguishment, as determined by an appraisal that meets RCO requirements for appraisals, by (b) the ratio of the value of the Easement at the time of this grant to the value of the Protected Property, unencumbered by the Easement, at the time of this grant.~~

~~For purposes of this Section, the Parties agree that the ratio of the value of the Easement to the value of Grantor's property unencumbered by the Easement is 35% and shall remain constant.~~

~~**Distribution of Proceeds.** In the event of extinguishment of this Easement pursuant to Section XVI, condemnation of this Easement pursuant to Exhibit A, or damages received by Grantor in an amount equal to the fair market value of this Easement pursuant to Section XIV, any proceeds attributable to the value of the Easement RCO is entitled to 45.75% of any such proceeds.~~

~~**Subsequent Transfers.** Grantor agrees to: (1) incorporate by express reference the terms of this Easement in any deed or other legal instrument by which it divests itself of any interest in all or a portion of the Protected Property; and (2) describe this Easement in and append it to, any executory contract for the transfer of any interest in the Protected Property. Grantor further agrees to give written notice to the Grantee of the transfer of any interest at least thirty (30) days prior to the date of such transfer. Such notice to Grantee shall include the name, address, and telephone number of the prospective transferee or such transferee's representative. The failure of the Grantor to perform any act required by this Section 5.4 shall not impair the validity of this Easement or limit its enforceability in any way.~~

~~AMENDMENT.~~

~~**Amendment.** If circumstances arise under which an amendment to or modification of this Easement would be appropriate, the Parties are free to jointly amend this Easement provided that the Parties first obtain the written consent of each Beneficiary to this Easement. Any such amendment shall be consistent with the Purpose of this Easement, shall not affect the qualification of this Easement or the status of Grantee under any applicable laws, shall not shorten the duration of this Easement and shall be recorded in the official records of Whatcom County, Washington, and any other jurisdiction in which such recording is required.~~

~~ASSIGNMENT~~

~~**Assignment.** Grantee's Interest. Grantee's interest in this Easement is transferable with prior written notice to and consent of RCO, but Grantee may assign its rights and obligations under this Easement only to an organization that is a qualified holder at the time of transfer under RCW 64.04.130, as amended, and a qualified recipient of grant funds from the farmlands preservation account under RCW 79A.15.139. Grantee shall not assign this Easement without notice to and consent of Grantor and RCO, which consent shall not be unreasonably withheld. As conditions of such transfer, Grantee shall require that assignee (a) continue to carry out the Purpose of this Easement and (b) comply with the terms of the RCO Grant Agreement, as described in Section 1.1 of this exhibit. Grantee shall notify Grantor in writing, at Grantor's last known address, in advance of such assignment. The assignment shall not be valid without such notice;~~

~~provided, however, that the failure of Grantee to give such notice shall not impair the validity of this Easement or limit its enforceability in any way.~~

~~**Succession.** If at any time it becomes impossible for Grantee to ensure compliance with the covenants contained herein and Grantee has not named a successor organization, or the Grantee shall cease to exist, then Grantee's rights and duties hereunder shall become vested and fall upon RCO, who may then assign Grantee's rights and duties hereunder to an organization with a similar mission to that of Grantee.~~

~~**NO MERGER.**~~

~~**No Merger.** In the event that Grantee acquires all or a portion of the fee title to the Protected Property, it is the intent of the Parties that no merger of title shall take place that would merge the restrictions of this Easement with fee title to the Protected Property and thereby eliminate them, and that the restrictions on the use of the Protected Property, as embodied in the Easement, shall, in the event that all or a portion of title become vested in Grantee, become and remain permanent and perpetual restrictions on the use of the Protected Property. Grantee covenants to do what is required to prevent merger of title, including, if necessary, assignment of the Easement to an appropriate third party pursuant to Section XIX-M.~~

~~**COSTS OF ENFORCEMENT.**~~

~~**1.1. Costs of Enforcement.** In the event the RCO exercises this right of enforcement, it is entitled to recover any and all administrative and legal costs associated with any enforcement or remedial action related to the enforcement of this Easement from the Grantor, including, but not limited to, attorney's fees and expenses related to Grantor's violations. In the event the RCO exercises this right of enforcement, it is entitled to recover any and all administrative and legal costs associated with any enforcement of this Easement from the Grantee, including, but not limited to, attorney's fees and expenses related to Grantee's violations or failure to enforce the easement against the Grantor.~~

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PURCHASE OF DEVELOPMENT RIGHTS PROGRAM

After Recording Return To:

Whatcom County
311 Grand Avenue, Suite 108
Bellingham, WA 98225

DOCUMENT TITLE: **AGRICULTURAL CONSERVATION EASEMENT**

GRANTOR: _____

GRANTEES: **WHATCOM LAND TRUST AND WHATCOM COUNTY**

ABBR. LEGAL DESCRIPTION:

Full Legal Description in Exhibit A

TAX PARCEL # _____

AGRICULTURAL CONSERVATION EASEMENT DEED

This Conservation Easement Deed ("Deed") is made and entered into this _____ day of
20____, by _____ ("Grantor"), the WHATCOM LAND TRUST

(“Trust”), and WHATCOM COUNTY, WASHINGTON (“County”) (“collectively, Grantees”), and with a right of enforcement to the United States of America (the United States), acting by and through the United States Department of Agriculture (USDA) Natural Resources Conservation Service (NRCS) on behalf of the Commodity Credit Corporation (CCC), as its interest appears herein, for the purpose of forever conserving the agricultural productivity of the Protected Property and its value for resource preservation and as open space.

1. RECITALS

- 1.1. Grantor is fee simple owner of real property (the “Protected Property”) in Whatcom County, Washington, that is the subject of this Easement. Exhibit A is the legal description and Exhibit B is a site plan for that Protected Property, both of which are attached and incorporated herein by reference.
- 1.2. While “Grantees” include the Whatcom Land Trust and Whatcom County, use of the term “Grantees” does not imply that joint approval is required to exercise Grantees’ rights and responsibilities under this Easement. Those rights and responsibilities may be independently exercised by any Grantee.
- 1.3. The Protected Property is approximately _____ acres and is currently farmed.
- 1.4. The Protected Property has significant agricultural value to Grantees and to the people of Whatcom County and the State of Washington. The agricultural values include productive soil types and agricultural infrastructure as described in Baseline Documentation (Exhibit D). It is the intent of all parties that the agricultural values described in the baseline shall remain for the life of this easement and shall be used along with annual monitoring to identify future changes on the easement area.
- 1.5. Grantor and Grantees agree that the conveyance of rights and imposition of restrictions described in this Easement furthers the intent of Whatcom County Ordinance No. 2002-054, provided in Exhibit C, which establishes the Purchase of Development Rights Program to preserve land for agricultural purposes and has substantial public benefits.
- 1.6. As owner of the Protected Property, Grantor has the right to convey the rights and restrictions contained in this Easement in perpetuity.
- 1.7. Under the authority of the Agricultural Conservation Easement Program, (16 U.S.C. Sections 3838h and 3838i) the United States Department of Agriculture’s Natural Resources Conservation Service (herein “NRCS”) has provided on behalf of the Commodity Credit Corporation \$ _____ (_____ and 00/100 dollars) to Grantee for the acquisition of this Conservation Easement, entitling the United States to the rights identified herein.

2. CONVEYANCE AND CONSIDERATION

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2.1. For the reasons stated above, in consideration of mutual covenants, terms, conditions, and restrictions contained in this Easement, and in consideration of payment of \$ _____ by the Whatcom County and the NRCS to Grantor, Grantor hereby grants, conveys and warrants to Grantees a Conservation Easement in perpetuity over the Protected Property, consisting of certain rights and restrictions as defined in this Easement Deed.

2.2. This Easement Deed is a conveyance of an interest in real property under the provisions of RCW 64.04.130.

2.3. Grantor and Grantees intend that this Easement run with the land and that it shall be binding upon Grantor's, successors and assigns in perpetuity.

3. PURPOSE

The purpose of this Easement is to: (1) protect the present and future ability to use the Protected Property for agricultural purposes; (2) preserve the soil as a valuable resource and prevent activities that will impair the ability, now or in the future, to use the soil to produce food and fiber; (3) enable the Protected Property to remain in agricultural use for the production of food and fiber by preserving and protecting in perpetuity its agricultural values, character, use and utility, and to prevent any use or condition of the Protected Property that would significantly impair or interfere with its agricultural values, character, use or utility. This statement of purpose is intended as a substantive provision of the Easement. Any ambiguity or uncertainty regarding the application of the provisions of this Easement will be resolved so as to further this purpose. The granting of this Easement will also serve the "conservation purpose" of farmland protection as identified in Section 170(h)(4)(A) of the Internal Revenue Code.

4. RELATIONSHIP OF PARTIES

4.1. Unless noted otherwise, Whatcom County and the Whatcom Land Trust share all rights and responsibilities of Grantees under this Easement. For purposes of administering, monitoring and enforcing the terms of the Easement, the Whatcom Land Trust is the lead Grantee, unless Grantor is notified otherwise. As the lead Grantee, the Whatcom Land Trust has authority to act alone and at its sole discretion in exercising all rights and responsibilities of Grantees under this Easement. Grantor shall treat the Whatcom Land Trust as its contact for all matters regarding this Easement. Whatcom County and the Whatcom Land Trust may jointly take enforcement action, or if the Whatcom Land Trust fails to enforce the terms of this Easement, Whatcom County may do so alone.

4.2. The Trust will consult the County regarding any violation of the Easement that threatens the purpose of this Easement as described in Section 3. If a less serious violation is determined to have occurred, the Trust will report to the County the nature of the violation and the response to that violation by the Trust.

4.3. The above Section 4.1. does not pertain to monitoring and enforcement of a conservation farm plan, the responsibility for which rests with NRCS and Whatcom County as described in Section 9.

5. RIGHT OF ENFORCEMENT

Under this Conservation Easement, the United States is granted the right of enforcement in order to protect the public investment. This is a vested property right that cannot be condemned by State or local government. The Secretary of the United States Department of Agriculture (the Secretary) or his or her assigns, on behalf of the United States, may exercise this right of enforcement under any authority available under State or Federal law if the Grantees fail to enforce any of the terms of this Conservation Easement, as determined in the sole discretion of the Secretary.

The United States shall be entitled to recover any and all administrative and legal costs from the County Grantee, including attorney's fees or expenses, associated with any enforcement or remedial action as it relates to the enforcement of this Easement.

Additionally, the United States is granted the right to enter the Property at a reasonable time and upon reasonable prior written notice to Grantor, for the purpose of making a general inspection of the Protected Property, in accordance with the Agricultural Conservation Easement Program requirements.

6. PERMITTED USES AND ACTIVITIES

Grantor may:

6.1. Engage in the production of food and fiber and other uses and activities consistent with the purpose of this Easement so long as those uses or activities are not expressly prohibited in Section 7 below.

6.2. Continue any use or activity not permitted by this easement at the time this Easement is signed provided it is not contrary to the purposes of this Easement and provided that such use or activity is described in this section.

6.3. Remove, Maintain, Expand, or Replace, existing agricultural structures and roads and construct new agricultural structures, roads, and improvements used primarily for agricultural enterprises on the Protected Property within the "Farmstead", as defined in Section 12 of this Easement, and shown on Exhibit B, so long as expansion or new construction does not exceed the area of impervious surfaces allowed in Section 7.4. Agricultural structures may include, without limitation, fencing, offices, warehouses, temporary farm worker housing, livestock housing and related structures, equipment storage and maintenance facilities, facilities related to the processing and sale of farm products predominately grown on the Protected Property.

temporary hoop houses and temporary greenhouses with no foundation so long as the structures' primary use is to support the agricultural activities on the Protected Property or agricultural activities on other property under the control of the Grantor.

- 6.4. Remove, Maintain, Expand, or Replace temporary hoop houses and temporary greenhouses with no foundation outside of the Farmstead area so long as the structures' primary use is to support the agricultural activities on the Protected Property or agricultural activities on other property under the control of the Grantor.
- 6.5. On the "Farmstead", as defined in Section 12 of this Easement, and shown in Exhibit B, engage in any uses or activities, that do not impair the ability to farm the remainder of the Protected Property in the present or future and that are not prohibited by Section 7 below.
- 6.6. Plant or maintain trees on the Agricultural Land, as defined in Section 12 of this Easement only as follows:
 - 6.6.1. Maintain a woodlot for the production of firewood to be used on the Protected Property.
 - 6.6.2. Plant Christmas trees and short rotation hardwoods not subject to the excise tax imposed by RCW 84.33, provided that adequate provision is made for the removal of trees, including stumps and roots, at the termination of the Christmas tree or short rotation hardwood farming operation.
 - 6.6.3. Install and maintain trees on the riparian portion of the property according to the Conservation Reserve Enhancement Program and/or Best Management Practices in coordination with the Whatcom Conservation District.
 - 6.6.4. Plant and maintain trees to provide shading for grazing livestock.
 - 6.6.5. Plant and maintain trees used in fruit or nut production.
- 6.7. Install a small-scale wind and solar power generator for the primary purpose of generating electric power for use on the Protected Property, provided however that incidentally generated excess power may be sold through the electric grid and further provided that Grantee must approve the scale and location of any such small-scale wind and solar power generator prior to installation.
- 6.8. Grantor has the right to conduct non-farm related commercial or industrial activity provided that conduct of such activity uses no more than one percent (1%) or one acre of the Protected Property, whichever is less, or provided such activity utilizes buildings existing at the time the Conservation Easement is signed and does not involve installation of facilities or expenditure of capital that would hinder the future use of buildings for agricultural purposes. Said activity must be compatible with the purpose of this Conservation Easement and agriculture and forestry uses of the Protected Property and subordinate to the agricultural and residential use of the Protected Property. Activities which market petroleum or chemical products are prohibited.

7. PROHIBITED USES AND RESTRICTIONS ON PERMITTED USES

Unless specifically permitted by Section 6 above, and as may be necessary to carry out those reserved rights, Grantor shall not engage in or permit any of the following activities on the Protected Property:

- 7.1. Use or activities inconsistent with the purpose of this Easement.
- 7.2. Legal or “de facto” division, subdivision, or partitioning of the land or the separate sale of any portion of the Property, even if that portion of the Property constitutes a separate legal parcel. This restriction does not prohibit minor boundary line adjustments with adjoining agricultural land, provided there is no net loss of land to the Property, and provided that no new parcel may be created by such boundary line adjustments, and such adjustments does not affect over two acres in total for the entire Property. Any new land gained through a boundary line adjustment is subject to the terms of this agreement.
- 7.3. Place or construct any residential building, structures, or other residential improvements of any kind except those utilized to house farm workers.
- 7.4. Cover more than two percent (2%) of the area (approximately _____ square feet) of the Protected Property with impervious surfaces, including, without limitation, asphalt, concrete, buildings, or ponds, except animal waste holding ponds.
- 7.5. Construct non-agricultural structures or facilities.
- 7.6. Conduct any use or activity that removes or damages the long-term viability of the soil or impairs the ability to farm the Protected Property except for conservation or best management practices as specified in the NRCS Field Office Technical Guide for Whatcom County.
- 7.7. Transfer, encumber, sell, relinquish, forfeit or otherwise separate water rights from title to the Protected Property except that with the consent of the County, such portion of the Water Rights that are excess and not then needed for agricultural purposes on the Property may either be leased for a period not to exceed ten years for the beneficial use for agricultural activities on land other than the Protected Property, or temporarily enrolled in the state Trust Water Right Program for a period not to exceed ten years or conveyed to the County as provided in Section 8, so long as sufficient water rights are retained by grantor to ensure adequate water to carry on agricultural activities on the protected land now and in the future.
- 7.8. Mine or extract soil, sand, gravel, oil or other mineral, except that Grantor may extract soil, sand, and gravel solely for a permitted use on the Protected Property in a manner consistent with the conservation purposes of this easement. Such alteration shall not exceed two acres.
- 7.9. Use off-road motor vehicles on the Protected Property or grant permission for such use except as necessary in the accomplishment of the agriculture, forestry, habitat management, law

enforcement and public safety, or conservation uses of the Protected Property, provided that no use of motorized vehicles shall create impacts that are detrimental to the productivity of the soils on the Protected Property and the Purposes of this Easement Deed.

7.10. Grant easements or rights-of-way for power lines, gas lines, sewer lines, water lines, telecommunications towers, and wind farms.

7.11. Expand or intensify any use or activity existing at the time this Easement Deed is signed that is contrary to the purpose of this Easement or prohibited in this section.

7.12. The dumping or accumulation of trash on the Protected Property is prohibited, except that the storage of agricultural products for use on the Protected Property and by-products generated on the Protected Property is permitted.

8. WATER RIGHTS

8.1. The Parties agree that any Water Rights must be maintained on the Protected Property to ensure the protection of the Agricultural Values.

8.2. Trust will include reference, in Baseline Documentation (Exhibit D), to any water rights associated with the Protected Property. In its monitoring visits, Trust will inquire regarding the status and protection of water rights and will include in its Annual Monitoring Report any new information about water rights on the Protected Property and concerns, if any, about whether water rights are being protected. If at any time Trust believe that Grantor is not sufficiently informed about protecting Grantor's water rights, Trust will refer Grantor to Whatcom County and will urge Grantor to take the Water Rights protection actions.

8.3. Under this Easement, Grantor is obligated to take appropriate action to protect water rights on the Protected Property. Section 4 RELATIONSHIP OF PARTIES notwithstanding, Whatcom County, not the Trust, has responsibility for enforcing this Grantor obligation. If Grantor fails to take appropriate action to protect water rights on the Protected Property, Whatcom County may pursue remedies in accordance with Sections 13 and 14 of this Easement or may itself take appropriate action to protect the water rights.

8.4. If Grantor is unable or unwilling to take the Water Rights protection action, and the Water Rights are under threat of abandonment, relinquishment, loss or forfeiture, Grantor shall convey ownership of said Water Rights to County for County's use in order to maintain the agricultural activity on the Protected Property.

9. CONSERVATION PLAN

9.1. As required by section 1238I of the Food Security Act of 1985, as amended, the Grantor, its successors, or assigns, shall conduct all agricultural operations on the Protected Property in a manner consistent with a Conservation Plan prepared in consultation with the Whatcom Conservation District and approved by NRCS. This conservation plan shall be developed

using standards and specifications of the NRCS Field Office Technical Guide and 7 CFR Part 12 that are in effect on the date this Easement Deed is executed. However, the Grantor may develop and implement a Conservation Plan that proposes a higher level of conservation and is consistent with NRCS Field Office Technical Guide standards and specifications. The Conservation Plan is incorporated into this Conservation Easement Deed by reference. NRCS shall have the right to enter upon the Protected Property, with advanced notice to the Grantor, in order to monitor compliance with the Conservation Plan.

9.2. In the event of noncompliance with the Conservation Plan, NRCS shall work with the Grantor to explore methods of compliance and give the Grantor a reasonable amount of time, not to exceed twelve months, to take corrective action. If the Grantor does not comply with the conservation plan, NRCS will inform the County of the Grantor's noncompliance. The County shall take all reasonable steps (including efforts at securing voluntary compliance and, if necessary, appropriate legal action) to secure compliance with the conservation plan following written notification from NRCS that (a) there is a substantial, ongoing event or circumstance of non-compliance with the conservation plan, (b) NRCS has worked with the Grantor to correct such noncompliance, and (c) Grantor has exhausted its appeal rights under applicable NRCS regulations. The landowner shall be liable for any costs incurred by NRCS as a result of landowner's negligence or failure to comply with the easement requirements as it relates to conservation planning violations.

9.3. If the NRCS standards and specifications for highly erodible land are revised after the date of this Deed based on an Act of Congress, NRCS will work cooperatively with the Grantor to develop and implement a revised Conservation Plan. The provisions of this section apply to the highly erodible land conservation requirements of the Farm and Ranch Lands Protection Program and are not intended to affect other natural resources conservation requirements to which the Grantor may be or become subject.

9.4. For the purpose of this Conservation Easement, references and requirements relating to highly erodible lands do not apply to land over which this Conservation Easement is granted. There are no highly erodible lands on the Protected Property and none have been designated in Whatcom County.

10. RIGHTS CONVEYED TO GRANTEES

To accomplish the purpose of this Easement, the following rights are conveyed to Grantees:

10.1. To accomplish the purpose of this Easement and to enforce specific rights and restrictions contained in the Easement Deed.

10.2. To enter the land at least once a year, at a mutually agreeable time and upon notice to the Grantor, for the purpose of inspection and monitoring compliance with this Easement.

10.3. To enter the land at such other times as necessary if Grantees have reason to believe that a violation of the Easement is occurring or has occurred, for the purpose of mitigating or

terminating the violation and otherwise enforcing the provisions of the Easement. Such entry will be with prior notice as is reasonable under the circumstances.

10.4. In the event of uses or activities inconsistent with the purpose and provisions of this Easement, the Grantees may obtain damages, an injunction, abatement, rescission, restoration and any other remedies available in law or equity.

10.5. Forbearance by the Grantees to exercise any rights under this Easement in the event of a breach shall not be deemed to be a waiver of Grantees' rights under the Easement.

11. NO PUBLIC ACCESS

This Easement provides no right of access to the general public.

12. BASELINE DOCUMENTATION

12.1. To establish the present condition of the Protected Property so that Grantees are able to monitor future uses and assure compliance with the terms of this Easement, Grantees will, at their expense, by the date of this Easement prepare Baseline Documentation sufficient to establish the condition of the Protected Property as of the signing of this Easement Deed. The Baseline Documentation may consist of reports, maps, photographs, and other documentation. Grantor and Grantees will execute a statement verifying that the Baseline Documentation accurately represents the condition of the Protected Property as of this time. Baseline Documentation is contained in Exhibit D. The Baseline Documentation will delineate the Farmstead and Agricultural Land as defined below.

12.2. The Baseline Documentation will specifically establish the area and extent of the Farmstead, which includes that portion of the Property used for residential buildings and buildings and uses accessory to residential buildings, as well as that portion used for agricultural buildings, structures and improvements and those adjacent areas where future expansion of buildings, structures and improvements are contemplated. In this Easement Deed, the Farmstead is located in the same area as delineated by the baseline data.

12.3. The area not included in the Farmstead will be depicted under the category of Agricultural Land. Agricultural Land may include nonfarm areas, such as woodlands, as well as cropland or grazing land.

13. INFORMAL DISPUTE RESOLUTION

Grantor agrees to notify the Trust of any intended action that a reasonable person might believe would violate the terms of this Easement. Should a dispute arise concerning compliance with this Easement, Grantor and the Trust will meet within 15 days to discuss the matter in dispute. By mutual agreement, the Grantor and the Trust may agree to refer the matter in dispute to mediation or arbitration under such rules as the parties may agree. If arbitration is pursued, the prevailing party will

be entitled to such relief as may be granted, to a reasonable sum for its costs and expenses related to the arbitration, including fees and expenses of the arbitrator and attorneys. The Trust may, at its discretion, forgo these informal dispute resolution alternatives if continuation of the use or activity in dispute threatens the purpose of this Easement.

14. GRANTEES' REMEDIES

14.1. If Grantees determine that the Grantor is in violation of the terms of this Easement or that a violation is threatened, Grantees shall give written notice to the Grantor of such violation and request corrective action sufficient to cure the violation and to restore the Protected Property to its prior condition.

14.2. Grantees may institute legal proceedings for injunctive relief, abatement, restoration, or damages, including costs and attorneys' fees reasonably incurred in prosecuting the action, and any other remedies available in law or equity if Grantor:

14.2.1. Fails to cure the violation within thirty (30) days after receipt of notice thereof from Grantees;

14.2.2. Under circumstances where the violation cannot reasonably be cured within the thirty (30) day period, fails to begin curing such violation within the thirty (30) day period;
or

14.2.3. Fails to continue diligently to cure such violation until finally cured.

14.3. In the event Grantees or the United States take legal action to enforce the terms of this Easement, the cost of restoring the Protected Property and Grantees' and the United States' reasonable enforcement expenses, including attorneys' and consultants' fees, shall be borne by the Grantor. In the event Grantees secure redress for an Easement violation without initiating or completing judicial proceedings, the cost of such restoration and reasonable expenses shall be borne by the Grantor. If Grantor ultimately prevails in any judicial proceedings initiated by Grantees or the United States to enforce the terms of this Easement, each party shall bear its own costs.

14.4. If Grantees, in their sole discretion, determine that circumstances require immediate action to prevent or mitigate significant damage in violation of this Easement, Grantees may immediately pursue their legal remedies without prior notice to Grantor as set forth in Section 14.1.

14.5. Grantees may not recover damages or require restoration for damage to the Protected Property resulting from causes beyond Grantor's control, such as fire, flood, storm, or earth movement that Grantor could not reasonably have anticipated or prevented.

15. RESPONSIBILITY FOR COST AND LIABILITIES

Grantor retains all responsibilities and shall bear all costs and liabilities of any kind related to the ownership, operation, upkeep and maintenance of the Protected Property, including maintenance of adequate liability insurance and payment of all taxes. Grantees assume no affirmative obligations for the management, supervision or control of the Protected Property or any of the activities occurring on the Protected Property. Grantor shall indemnify Grantees and the United States, and hold Grantees and the United States harmless from all damages, costs (including, but not limited to, attorneys' fees and other costs of defense incurred by Grantees), and other expenses of every kind arising from or incident to any claim or action for damages including but not limited to, the release, use or deposit of any hazardous material (as defined in Section 19.12. below) on the Protected Property, injury or loss suffered or alleged to have been suffered on or with respect to the Protected Property.

16. EXTINGUISHMENT AND TRANSFER

16.1. The United States Right of Enforcement is a vested property right that cannot be condemned by State or local government. If circumstances arise that render the purpose of this Easement impossible to accomplish, the Easement can be extinguished only by judicial proceedings and upon approval of the United States. In the event of such an extinguishment or the taking of the Protected Property by the exercise of the power of eminent domain, Grantor shall pay to Whatcom County and the United States in proportion to their contribution to the purchase price. At the time this Deed was recorded the United States contribution was 50 percent and Whatcom County's contribution was 50 percent. In the event this easement is terminated or extinguished, NRCS shall collect the Commodity Credit Corporation's share of the conservation easement based on the appraised fair market value of the conservation easement at the time the easement is extinguished or terminated. The Commodity Credit Corporation's share will be in proportion to its percentage of original investment.

16.2. Grantor agrees to:

16.2.1. Incorporate the terms of this Easement by reference in any deed, lease, executory contract or other legal instrument by which it divest itself, or intends to divest itself, of any permanent or temporary interest in the Protected Property.

16.2.2. Give written notice to the Grantees of the transfer of any interest in the Protected Property no later than 45 days prior to the date of such transfer. Such notice shall include the name, address, and telephone number of the prospective recipient. Failure to provide such notice to the Grantees shall not limit the legal obligations imposed by this Easement on any recipient of an interest in the Protected Property.

16.3. Whatcom Land Trust's rights and interest in this Easement are assignable only to an agency or organization that is approved by the United States and Whatcom County and authorized to hold conservation easements under RCW 64.04.130 or RCW 84.34.250, or otherwise qualified at the time of transfer under Section 170(h) of the Internal Revenue Code of 1986, as amended. As a condition of such transfer, Grantees shall require that the transferee exercise its rights under the assignment consistent with the purpose of this Easement. Grantees shall notify Grantor and NRCS in writing in advance of such an assignment. The failure of Grantees to

give such notice shall not affect the validity of such assignment, nor shall it impair the validity of this Easement or limit its enforceability.

17. AMENDMENT

If circumstances arise under which an amendment to or modification of this Easement would be appropriate, the Parties are free to jointly amend this Easement provided that the Parties first obtain the written consent of each Beneficiary to this Easement. Any such amendment shall be consistent with the Purpose of this Easement, shall not affect the qualification of this Easement or the status of Grantees under any applicable laws, shall not shorten the duration of this Easement and shall be recorded in the official records of Whatcom County, Washington, and any other jurisdiction in which such recording is required.

18. SUBORDINATION

Any mortgage or lien arising after the date of this conservation easement Deed shall be subordinated to the terms of this easement, substantially in the form of the instrument attached hereto as Exhibit E.

19. GENERAL PROVISIONS

19.1. Effective Date. The Effective Date of this Easement shall be the date on which the Grantor executed this Easement.

19.2. Notices. Any notice under this Agricultural Conservation Easement Deed must be in writing and be personally delivered, delivered by recognized overnight courier service, given by mail or via facsimile. E-mail transmission of notice shall not be effective. All notices must be addressed to the parties at the following addresses, or at such other addresses as the parties may from time to time direct in writing:

Grantor:

Grantee, Trust: Whatcom Land Trust

PO Box 6131
Bellingham, WA 98227

Grantee, County: Whatcom County PDS

Attn: PDR Program Administrator
5280 Northwest Drive
Bellingham, WA 98226

Third Party Grantee, NRCS: USDA-NRCS

Attn: Easement Programs

11707 E. Sprague Ave, Suite 301
Spokane Valley, WA 99206

Any notice will be deemed to have been given, when personally delivered, and if delivered by courier service, one business day after deposit with the courier service, and if mailed, two business days after deposit in the U.S. mail, and if delivered by facsimile, the same day as verified.

19.3. Controlling Law. The interpretation or performance of this Easement shall be governed by the laws of the State of Washington. Any legal proceeding regarding this Easement shall be initiated in Whatcom County Superior Court.

19.4. Liberal Construction. Any general rule of construction to the contrary notwithstanding, this Easement shall be liberally construed in favor of the grant to affect the purpose of this Easement and the policy and purpose of RCW 64.04.130 and Chapter 84.34 RCW and Whatcom County Ordinance 2002-054. If any provision in this instrument is found to be ambiguous, an interpretation consistent with the purpose of this Easement that would render that provision valid shall be favored over an interpretation that would render it invalid.

19.5. Severability. If any provision of this Easement, or its application to any person or circumstance, is found to be invalid, the remainder of the Easement, or its application of such provision to persons or circumstances other than those to which it is found to be invalid, as the case may be, shall not be affected.

19.6. Entire Agreement. This instrument sets forth the entire agreement of the parties with respect to the Protected Property and supersedes all prior discussions, negotiations, understandings, or agreements relating to the Property, all of which are merged into this Easement.

19.7. No Forfeiture. Nothing contained in this Easement will result in a forfeiture or revision of Grantor's title in any respect.

19.8. Warranty of Good Title. Grantor warrants that Grantor has good title to the Protected Property; that the Grantor has the right to convey this conservation easement; and that the Protected Property is free and clear of any encumbrances other than those listed below.

19.9. Grantor-Grantees. The terms "Grantors" and "Grantees," wherever used in this Easement, and any pronouns used in their place, shall be held to mean and include respectively the above named Grantor, its, successors, and assigns, and the above-named Grantees, their successors and assigns.

19.10. Successors and Assigns. The covenants, terms, conditions, and restrictions of this Easement shall be binding upon, and inure to the benefit of, the parties to this Easement and their respective, successors, and assigns, and shall continue as a servitude running in perpetuity with the Protected Property.

19.11. Federal Enforcement. In the event that the Grantees fail to enforce the terms of this Easement as determined in the sole discretion of the Secretary of the United States Department of

Agriculture ("Secretary"), the Secretary, his or her successors and assigns shall have the right to enforce the terms of the Easement through any and all authorities available under Federal or State law. In the event that Grantees attempt to terminate, transfer or otherwise divest themselves of rights, title or interest in the Easement or extinguish the Easement without prior consent of the Secretary, all right, title, or interest in this Easement shall become vested in the United States of America. The United States shall be entitled to recover any and all administrative and legal costs from the County Grantee, including attorney fees or expenses, associated with any enforcement or remedial action as it relates to the ACEP.

19.12. General Indemnification. Grantor shall indemnify and hold harmless Grantees and the United States, their employees, agents and assigns for any and all liabilities, claims, demands, losses, expenses, damages, fines, fees, penalties, suits, proceedings, actions and costs of actions, sanctions asserted by or on behalf of any person or governmental authority, and other liabilities (whether legal or equitable in nature and including, without limitation, court costs, and reasonable attorney's fees and attorney's fees on appeal) to which Grantees may be subject or incur relating to the Protected Property, which may arise from, but is not limited to, Grantor's negligent acts or omissions or Grantor's breach of any representation, warranty, covenant, agreements contained in this Conservation Easement Deed, or violations of any Federal, State, or local laws, including all Environmental Laws.

19.13. Environmental Warranty. Grantor warrants that it is in compliance with, and shall remain in compliance with, all applicable Environmental Laws. Grantor warrants that there are no notices by any governmental authority of any violation or alleged violation of, non-compliance or alleged non-compliance with or any liability under any Environmental Law relating to the operations or conditions of the Protected Property. Grantor further warrants that it has no actual knowledge of a release or threatened release of Hazardous Materials, as such substances and wastes are defined by applicable federal and state law.

19.13.1. Moreover, Grantor hereby promises to hold harmless and indemnify the Grantees against all litigation, claims, demands, penalties and damages, including reasonable attorneys' fees, arising from or connected with the release or threatened release of any Hazardous Materials on, at, beneath or from the Protected Property, or arising from or connected with a violation of any Environmental Laws by Grantor or any other prior owner of the Protected Property. Grantor's indemnification obligation shall not be affected by any authorizations provided by the Trust, the County, or the United States to Grantor with respect to the Protected Property or any restoration activities carried out by the Trust or the County at the Protected Property; provided, however, that Grantee shall be responsible for any Hazardous Materials contributed after this date to the Protected Property by Trust or the County.

19.13.2. "Environmental Law" or "Environmental Laws" means any and all Federal, state, local or municipal laws, rules, orders, regulations, statutes, ordinances, codes, guidelines, policies or requirements of any governmental authority regulating or imposing standards of liability or standards of conduct (including common law) concerning air, water, solid waste, hazardous materials, worker and community right-to-know, hazard communication, noise, radioactive material, resource protection, subdivision, inland wetlands and watercourses, health protection and similar

environmental health, safety, building and land use as may now or at any time hereafter be in effect.

19.13.3. "Hazardous Materials" means any petroleum, petroleum products, fuel oil, waste oils, explosives, reactive materials, ignitable materials, corrosive materials, hazardous chemicals, hazardous wastes, hazardous substances, extremely hazardous substances, toxic substances, toxic chemicals, radioactive materials, infectious materials and any other element, compound, mixture, solution or substance which may pose a present or potential hazard to human health or the environment.

19.14. Recordation. Grantees shall record this instrument in a timely fashion in the official records of Whatcom County, Washington, and in any other appropriate jurisdictions, and may re-record it at any time as may be required to preserve its rights in this Easement.

19.15. No Merger. In the event that Grantees acquire all or a portion of the fee title to the Protected Property, it is the intent of the Parties that no merger of title shall take place that would merge the restrictions of this Easement with fee title to the Protected Property and thereby eliminate them, and that the restrictions on the use of the Protected Property, as embodied in the Easement, shall, in the event that all or a portion of title become vested in Grantees, become and remain permanent and perpetual restrictions on the use of the Protected Property. Grantees covenant to do what is required to prevent merger of title, including, if necessary, assignment of the Easement to an appropriate third party.

19.15.1. In the event that either Grantee takes legal title to Grantor's interest in the Protected Property, that Grantee shall commit the monitoring and enforcement of the Conservation Easement to another qualified organization within the meaning of section 170 (h)(3) of the United States Internal Revenue Code (1986) as amended, which organization has among its purposes the conservation and preservation of land and water areas.

20. RCPP MINIMUM DEED TERMS

This Conservation Easement is acquired with funds provided, in part, under the Regional Conservation Partnership Program (RCPP) (16 U.S.C. Section 3871 et seq. and 7 CFR part 1464). The Exhibit F is attached hereto and incorporated herein by reference and will run with the land in perpetuity. As required by the RCPP, and as a condition of receiving RCPP funds, all present and future use of the Protected Property identified in Exhibit A (legal description) is and will remain subject to the terms and conditions described forthwith in this Addendum entitled RCPP Minimum Deed Terms in Exhibit F that is appended to and made a part of this easement deed. The rights of the United States acquired under this Conservation Easement shall be unaffected by any subsequent amendments or repeal of the RCPP.

21. SCHEDULE OF EXHIBITS

21.1. Exhibit A. Legal Description

21.2. Exhibit B. Site Map

21.3. Exhibit C. Ordinance

21.4. Exhibit D. Baseline Documentation

21.5. Exhibit E. Subordination Agreement Example

21.6. Exhibit F. RCPP Minimum Deed Terms

TO HAVE AND TO HOLD unto Grantees and the State of Washington, and their successors, and assigns forever.

REMAINDER OF PAGE IS INTENTIONALLY BLANK; SIGNATURE PAGES FOLLOW

IN WITNESS WHEREOF, the undersigned Grantor has executed this instrument this _____ day of _____, 20____.

Grantor

STATE OF WASHINGTON _____)
_____) ss.
COUNTY OF WHATCOM _____)

I certify that I know or have satisfactory evidence that _____, is the person who appeared before me, and said person acknowledged that they signed this instrument, on oath stated that they were authorized to execute the instrument and acknowledged it as the _____ of _____ to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: _____

Notary Public
Print Name
My commission expires _____

(Use this space for notarial stamp/seal)

WHATCOM COUNTY does hereby accept the above Agricultural Conservation Easement Deed.

Dated: _____
_____ Grantee

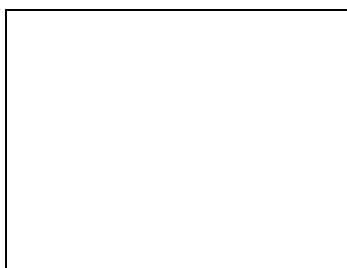
By _____
Satpal Sidhu, County Executive

Approved as to Legal Form: _____ By _____
Senior Civil Deputy Prosecuting Attny

STATE OF WASHINGTON _____)
_____) ss.
COUNTY OF WHATCOM _____)

I certify that I know or have satisfactory evidence that _____ is the
person who appeared before me, and said person acknowledged that they signed this instrument, on oath stated
that they were authorized to execute the instrument and acknowledged it as the
_____ of _____ to be the free and
voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: _____



Notary Public
Print Name
My commission expires _____

(Use this space for notarial stamp/seal)

The WHATCOM LAND TRUST, a Washington nonprofit corporation, does hereby accept the above
Agricultural Conservation Easement Deed.

Dated: _____

_____ By _____

Its _____

STATE OF WASHINGTON _____)
_____) ss.
COUNTY OF WHATCOM _____)

I certify that I know or have satisfactory evidence that _____ is the person who appeared before me, and said person acknowledged that they signed this instrument, on oath stated that they were authorized to execute the instrument and acknowledged it as the _____ of _____ to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: _____



(Use this space for notarial stamp/seal)

Notary Public
Print Name
My commission expires _____

THE UNITED STATES OF AMERICA, BY AND THROUGH THE NATURAL RESOURCES CONSERVATION SERVICE, Third Party Beneficiary, does hereby accept the above Grant Deed of Agricultural Conservation Easement.

Dated: _____

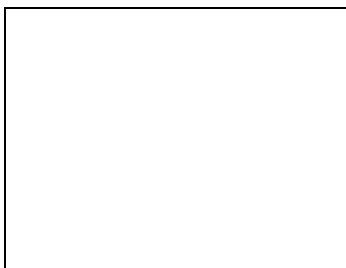
By _____

Its _____

STATE OF WASHINGTON)
) ss.
COUNTY OF THURSTON)

I certify that I know or have satisfactory evidence that _____ is the person who appeared before me, and said person acknowledged that they signed this instrument, on oath stated that they were authorized to execute the instrument and acknowledged it as the _____ of _____ to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: _____



(Use this space for notarial stamp/seal)

Notary Public
Print Name
My commission expires _____

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3	<u>EXHIBIT A</u>
4	<u>Legal Description</u>
5	
6	<u>APN/Parcel ID:</u>

Exhibit B
Site Map

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EXHIBIT C
Ordinance

SPONSORED BY: Planning

PROPOSED BY: Planning

INTRODUCTION DATE: 8/13/02

ORDINANCE NO. 2002-054

**ESTABLISHING AN AGRICULTURAL PURCHASE OF DEVELOPMENT RIGHTS
PROGRAM AND OVERSIGHT COMMITTEE**

WHEREAS, Whatcom County government recognizes agriculture as a major contributor to the local economy and a high quality of life for Whatcom County citizens; and

WHEREAS, The Growth Management Act and the County Comprehensive Plan support the retention of agricultural lands of long term commercial significance and encourage the use of innovative techniques to do so; and

WHEREAS, Ordinance #92-002 enacted a property tax levy known as the Conservation Futures Tax as authorized by RCW 84.34.230 to provide a funding source to assist in acquiring open space, wetlands, farm and agricultural land , and timber land; and

WHEREAS, Resolution # 2001-049 authorized the creation of a Purchase of Development Rights Steering Committee with the charge to develop a PDR program for Whatcom County by April 30, 2002 and authorized the County Executive to expend up to \$30,000 for outside contract assistance in preparing the PDR program; and

WHEREAS, Resolution #2001-049 also committed the Council to expend a fair and significant share of the Conservation Futures Funds for acquiring interest in agricultural lands; and

WHEREAS, The Purchase of Development Rights Steering Committee met regularly from October 2001 through April 2002 and forwarded a recommendation in May of 2002; and

WHEREAS, Council reviewed the Purchase of Development recommendation from the PDR Steering Committee and requested PDS staff to develop a Purchase of Development Rights Ordinance; and

WHEREAS, Council held a public hearing on September 10, 2002 to take public comment on the Agricultural Purchase of Development Rights program.

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

1. The Agricultural Purchase of Development Rights program is adopted as attached in Exhibit 1.

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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 10 day of September, 2002.

ATTEST:



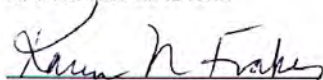
Dana Brown-Davis,
Clerk of the Council

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

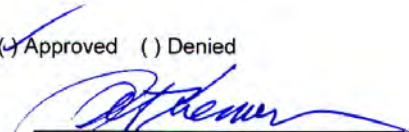

Ward Nelson, Council Chair

APPROVED as to form

☒ Approved ☐ Denied



Karen N. Frakes, Civil Deputy Prosecutor


Pete Kremen, Executive

Date: _____

EXHIBIT D
Baseline Documentation

The Baseline Documentation for the _____ Agricultural Conservation Easement is kept by the
Whatcom Land Trust at 412 N Commercial, Bellingham WA 98225. The remainder of this page is
intentionally blank.

EXHIBIT E
Subordination Agreement Example

When recorded return to:

Grantor: _____

Grantee: _____

Legal Description

Abbreviated form: _____

Additional legal at Exhibit B.

Assessor's Tax Parcel Number: _____

Reference number(s) of related/assigned/released documents: _____

Reference(s) to document(s) appears on page(s) _____

SUBORDINATION AGREEMENT

NOTICE: THIS SUBORDINATION AGREEMENT RESULTS IN YOUR SECURITY INTEREST IN THE PROPERTY BECOMING SUBJECT TO AND OF LOWER PRIORITY THAN THE LIEN OF SOME OTHER OR LATER INSTRUMENT.

The undersigned subordinator agrees as follows:

1. _____ ("Subordinator") is the owner and holder of a mortgage dated _____, which was recorded under Auditor's File No. _____, records of _____ County;
2. _____ ("Easement Holder") is the holder of a conservation easement dated _____, 20____, executed by [("*Owner*") or ("*Owners*")], (as hereinafter defined) which will be recorded concurrently with this Subordination Agreement;

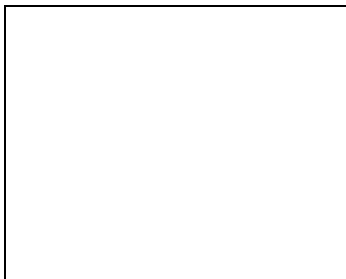
SUBORDINATOR SUBORDINATOR

(Name) (Name)

STATE OF WASHINGTON)
) ss.
COUNTY OF)

I certify that I know or have satisfactory evidence that
is the person who appeared before me, and said person acknowledged that they signed this instrument, on
oath stated that they were authorized to execute the instrument and acknowledged it as the
of to be the free and
voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: _____



Notary Public
Print Name
My commission expires _____

(Use this space for notarial stamp/seal)

EXHIBIT F
RCPP Minimum Deed Terms

The Regional Conservation Partnership Program (16 U.S.C. Section 3871 et seq.), facilitated and provided funding for the purchase of a Conservation Easement (“Conservation Easement”) on real property described in Exhibit A, hereafter referred to as the “Protected Property,” to further the restoration, protection, enhancement, management, maintenance, and monitoring of agricultural values on the Protected Property (the “Conservation Values”).

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The _____ (collectively “Grantor”), the **Whatcom Land Trust** (“Trust”), and **Whatcom County, Washington** (“County”) (“collectively, Grantees”), and the **United States of America** (the “United States”) and its assigns, acting by and through the United States Department of Agriculture (“USDA”) Natural Resources Conservation Service (“NRCS”) on behalf of the Commodity Credit Corporation (“CCC”) (jointly referred to as the “Parties”) acknowledge that the Conservation Easement is acquired by the Grantee for the purpose of the restoration, protection, enhancement, management, maintenance, and monitoring of the Conservation Values (the “purposes of the Conservation Easement”). Decision making on behalf of NRCS is delegated to the Chief of NRCS or authorized designee (hereafter referred to as “Chief of NRCS”). Baseline conditions of the Protected Property are set forth in a Baseline Documentation Report, a copy of which is maintained in the files of the Trust.

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In order to ensure compliance with the Regional Conservation Partnership Program, 16 U.S.C. Section 3871 et. seq. and 7 CFR part 1464, the following rule of interpretation will govern any and all inconsistencies between this Exhibit and other provisions of the Conservation Easement. Notwithstanding any other provision of the Conservation Easement, the Parties agree that all present and future use of the Protected Property is and will remain subject to all of the following terms and conditions identified in Sections I and II. If the terms and conditions in Sections I and II are inconsistent with terms and conditions in other sections of the Conservation Easement, Sections I and II will control; however, if other sections of the Conservation Easement have terms and conditions that are consistent with, but more restrictive to the rights of the Grantor than the terms and conditions in Section I, Paragraphs 1, 2, and 4, those more restrictive terms and conditions will control. If other sections of the Conservation Easement are more restrictive to the rights of the Grantor than Section I, Paragraph 3 and Section II, then Section I, Paragraph 3 and Section II will control.

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SECTION I - MINIMUM CONSERVATION DEED RESTRICTIONS

Even if the Protected Property consists of more than one parcel for real estate tax or any other purpose or if it was acquired previously as separate parcels, it will be considered one parcel for purposes of the Conservation Easement, and the restrictions and covenants of this Conservation Easement will apply to the Protected Property as a whole.

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The terms and conditions of the Conservation Easement run with the land and are binding upon the Grantor and Grantee and their respective heirs, successors, agents, assigns, lessees, and any other person claiming under them must comply with all terms and conditions of this easement, including the following:

1. Limitation on Impervious Surfaces. Impervious surfaces will not exceed 2 percent of the Protected Property, excluding NRCS-approved conservation practices. Impervious surfaces are defined as material that does not allow water to percolate into the soil on the Protected Property, including, but not limited to, buildings with or without flooring, paved areas, and any other surfaces that are covered by asphalt, concrete, or roofs. This limitation does not include public roads or other roads owned and controlled by parties with rights superior to those rights conveyed to Grantee by this Conservation Easement.

2. Limitations on Uses. Any uses or activities that are inconsistent with the purposes of the Conservation Easement are prohibited. The following activities are inconsistent with the purposes of the Conservation Easement and are specifically prohibited, subject to the qualifications stated below:

(A) Subdivision – Separate conveyance of a portion of the Protected Property or division or subdivision of the Protected Property is prohibited.

(B) Industrial or Commercial Uses – Industrial or commercial activities on the Protected Property are prohibited except for the following:

(i) Uses consistent with the purposes of the Conservation Easement;

(ii) The sale of excess power generated in the operation of renewable energy structures and associated equipment or other energy structures that Grantee approves in writing as being consistent with the purposes of the Conservation Easement;

(iii) Temporary or seasonal outdoor activities or events that do not harm the Conservation Values;

(iv) Commercial enterprises related to agriculture or forestry including but not limited to agritourism, processing, packaging, and marketing of farm or forest products, farm machinery repair, and farm wineries.; and

(v) Small-scale commercial enterprises compatible with agriculture or forestry, including but not limited to cafés, shops, and studios for arts or crafts.

(C) Construction on the Protected Property – Except as otherwise permitted in this Section I, Paragraph 2(C), all structures and improvements must be located within the Building Envelope(s), containing approximately _____ total acres and described or shown in Exhibit B, which is appended to and made a part of this Conservation Easement.

The identified boundaries and locations of the approved Building Envelope(s) may be adjusted only with prior written approval from the Grantee and the Chief of NRCS. The adjusted Building Envelope(s) may not be larger than the approved Building Envelope(s) and must provide equal or greater protection of the Conservation Values. Following receipt of written approval to adjust identified Building Envelope(s), the Grantor and Grantee shall amend this Conservation Easement to add an exhibit that describes the subsequently approved boundaries and locations of the Building Envelope(s).

Agricultural structures and utilities to serve approved buildings or structures, including on-farm energy structures allowed under **Section I, Paragraph 2(B)(ii)** and in this **Section I, Paragraph 2(C)**, that neither individually nor collectively have an adverse impact on the Conservation Values, may be located outside of the Building Envelope(s) with prior written approval of the Grantee.

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New roads may be constructed if they are approved in advance by Grantee, within impervious surface limits, and necessary to carry out the agricultural operations or other allowed uses on the Protected Property.

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Maintenance of existing roads documented on the Baseline Documentation Report is allowed; however, existing roads may not be widened or improved unless widening and improving is within impervious surface limits, approved in advance by Grantee, and necessary to carry out the agricultural operations or other allowed uses on the Protected Property.

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Fences may be maintained and replaced, and new fences installed if they are necessary for agricultural operations or other allowed uses on the Protected Property or to mark boundaries of the Protected Property. Maintenance, replacement, and installation of fences must be conducted in a manner consistent with the purposes of the Conservation Easement.

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(D) *Granting of Easements for Utilities and Roads* – The granting or modification of easements for utilities and roads is prohibited when the utility or road will adversely impact the Conservation Values as determined by the Grantee in consultation with the Chief of NRCS.

(E) *Surface Alteration* – Grading, blasting, filling, sod farming, earth removal, or any other activity that will disturb the soil surface or materially alter the topography, surface or subsurface water systems, or wetlands of the Protected Property is prohibited, except as follows:

(i) Dam construction pursuant to a plan approved by the Grantee to create ponds for agricultural use, fire protection, or wildlife enhancement, including enhancement through wetland restoration, enhancement or creation;

(ii) Erosion and sediment control pursuant to a plan approved by the Grantee;

(iii) Soil disturbance activities required in the maintenance or construction of approved buildings, structures, roads, and utilities provided that the required alteration has been approved in writing by Grantee as being consistent with the purposes of the Conservation Easement; and

(iv) Agricultural activities and related conservation activities conducted in accordance with this Conservation Easement and the RCPP Easement Plan as described in Section I, paragraph 4.

(F) Surface and Subsurface Mineral Exploration and Extraction –

Mining or extraction of soil, sand, gravel, oil, natural gas, fuel, coal, or any other mineral substance owned by Grantor as of the date of this Conservation Easement or later acquired by Grantor, using any surface mining, subsurface mining, or dredging method, from the Protected Property is prohibited except as otherwise provided in this Paragraph (F).

If a third party owns or leases the oil, natural gas, or any other mineral rights associated with the Protected Property prior to the time this Conservation Easement is executed, and their interests have not been subordinated to this Conservation Easement, the Grantor must require, to the greatest extent possible, that any oil, natural gas, and mineral exploration and extraction conducted by such third party is conducted in accordance with this Paragraph (F). Any mineral leases or other conveyances of minerals entered into or renewed after the date of this Conservation Easement are subordinate to the terms of this Conservation Easement and must incorporate by reference this Conservation Easement.

Limited mining activities for materials (e.g., sand, gravel, or shale) used to facilitate the agricultural operations on the Protected Property are allowed where the extraction of such materials is limited, localized, and small with a defined area and acreage approved prior to extraction by the Grantee, not to exceed two acres, and does not harm the Conservation Values.

Subsurface mineral development on the Protected Property is allowed in accordance with this Paragraph (F), if approved by Grantee and Chief of NRCS. Grantee and Grantor must demonstrate prior to the initiation of mineral development activity that such subsurface mineral development shall—

- (i) Be conducted in accordance with applicable State law;
- (ii) Have a limited and localized impact;
- (iii) Not harm the Conservation Values;
- (iv) Not materially alter or affect the existing topography, as determined by Grantee and the Chief of NRCS;
- (v) Comply with a subsurface mineral development plan that includes a plan for the remediation of impacts to the Conservation Values, which includes reclaiming and restoring all areas of the Protected Property that are impacted by the subsurface mineral development and such plan is approved by Grantee and the Chief of NRCS prior to the initiation of mineral development activity;
- (vi) Not be accomplished by any surface-mining method;
- (vii) Be within the impervious surface limits described in Section I, Paragraph 1; and
- (viii) Use practices and technologies that minimize the duration and intensity

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of impacts to the Conservation Values.

All areas of the Protected Property that are impacted by subsurface mineral development pursuant to this section must be reclaimed and restored within a reasonable time, as determined by the Grantee and Chief of NRCS, at cessation of subsurface mineral development activities.

Impervious surfaces, as defined in Section I, Paragraph 1, include any surface disturbance or impervious surfaces associated with subsurface mineral development allowed by this paragraph.

3. Allowed Uses. The provisions of this Conservation Easement and associated exhibits will not be interpreted to restrict the types of agricultural operations that can function on the Protected Property, so long as the agricultural operations are consistent with the long-term viability of the Protected Property and the purposes of the Conservation Easement. No uses will be allowed that violate Federal laws, including Federal drug laws or that decrease the Conservation Easement's protection for the Conservation Values. Allowed uses of the Protected Property include the specific uses allowed in Section I, Paragraph (2)(B) (i)-(v) and the following activities, subject to the qualifications stated below:

(A) Agricultural Production – The production, processing, and marketing of agricultural crops, livestock, and forest products is allowed provided it is conducted in a manner consistent with the terms of the Conservation Easement and the RCPP Easement Plan described in Section I, Paragraph 4.

(B) On-Farm Energy Production – Renewable energy production is allowed for the purpose of generating energy for the agricultural and residential needs of the Protected Property. Renewable energy sources must be built and maintained within impervious surface limits and consistent with the purposes of the Conservation Easement.

4. RCPP Easement Plan. The Grantee shall prepare an RCPP Easement Plan in consultation with the Grantor and, as needed, the Chief of NRCS. The Grantee agrees to update the RCPP Easement Plan, in consultation with the Grantor and as needed, the Chief of NRCS, in the event the uses or ownership of the Protected Property change. A copy of the current RCPP Easement Plan is kept on file with the Grantee.

The RCPP Easement Plan shall describe the farm or ranch management system, describe the natural resource concerns on the Protected Property, describe the conservation measures and practices that may be implemented to address the identified resource concerns, promote the long-term viability of the land to meet the purposes of the Conservation Easement, and identify, as applicable, permissible and prohibited activities and any associated restoration plans.

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SECTION II – PROTECTION OF THE UNITED STATES' INTERESTS AND EASEMENT ENFORCEMENT

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1. General Disclaimer and Grantor Warranty. The United States, its employees, agents, and assigns disclaim and will not be held responsible for Grantee's or Grantor's negligent acts or omissions or Grantee's or Grantor's breach of any representation, warranty, covenant, or agreements contained in this Conservation Easement Deed, or violations of any Federal, State, or local laws, including all Environmental Laws (defined below) including, without limitation, those that give rise to liabilities, claims, demands, losses, expenses, damages, fines, fees, penalties, suits, proceedings, actions, costs of actions, or sanctions asserted by or on behalf of any person or governmental authority, and other liabilities (whether legal or equitable in nature and including, without limitation, court costs, and reasonable attorneys' fees and attorneys' fees on appeal) to which the United States may be subject or incur relating to the Protected Property.

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Grantor must indemnify and hold harmless the United States, its employees, agents, and assigns for any and all liabilities, claims, demands, losses, expenses, damages, fines, fees, penalties, suits, proceedings, actions and costs of actions, sanctions asserted by or on behalf of any person or governmental authority, and other liabilities (whether legal or equitable in nature and including, without limitation, court costs, and reasonable attorneys' fees and attorneys' fees on appeal) to which United States may be subject or incur relating to the Protected Property, which may arise from, but are not limited to, Grantor's negligent acts, omissions, or breach of any representation, warranty, covenant, agreements contained in this Conservation Easement Deed or violations of any Federal, State, or local laws, including all Environmental Laws.

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2. Environmental Warranty. Grantor warrants that it is in compliance with, and will remain in compliance with, all applicable Environmental Laws. Grantor warrants that there are no notices by any governmental authority of any violation or alleged violation of, noncompliance or alleged noncompliance with, or any liability under, any Environmental Law relating to the operations or conditions of the Protected Property. Grantor further warrants that it has no actual knowledge of an undisclosed release or threatened release of Hazardous Materials (defined below), as such substances and wastes are defined by applicable Federal and State law.

Furthermore, Grantor warrants the information disclosed to Grantee and United States regarding any past violations or noncompliance with Environmental Laws and associated remedial actions, or any past releases of Hazardous Materials and any associated remedial actions is complete and accurate.

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Moreover, Grantor hereby promises to hold harmless and indemnify Grantee and the United States against all litigation, claims, demands, penalties and damages, including reasonable attorneys' fees, arising from or connected with the release or threatened release of any hazardous materials on, at, beneath or from the Protected Property, or arising from or

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connected with a violation of any Environmental Laws by Grantor or any other prior owner of the Protected Property. Grantor's indemnification obligation will not be affected by any authorizations provided by Grantee or the United States to Grantor with respect to the Protected Property or any restoration activities carried out by Grantee on the Protected Property; provided, however, that Grantee will be responsible for any Hazardous Materials contributed after this date to the Protected Property by Grantee.

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▲ "Environmental Law" or "Environmental Laws" means any and all Federal, State, local or municipal laws, rules, orders, regulations, statutes, ordinances, codes, guidelines, policies, or requirements of any governmental authority regulating or imposing standards of liability or standards of conduct (including common law) concerning air, water, solid waste, hazardous materials, worker and community right-to-know, hazard communication, noise, radioactive material, resource protection, subdivision, inland wetlands and watercourses, health protection, and similar environmental health, safety, building, and land use as may now or at any time hereafter be in effect.

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▲ "Hazardous Materials" means any petroleum, petroleum products, fuel oil, waste oils, explosives, reactive materials, ignitable materials, corrosive materials, hazardous chemicals, hazardous wastes, hazardous substances, extremely hazardous substances, toxic substances, toxic chemicals, radioactive materials, infectious materials, and any other element, compound, mixture, solution, or substance that may pose a present or potential hazard to human health or the environment.

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▲ **3. Extinguishment, Termination, and Condemnation.** The interests and rights under this Conservation Easement may only be extinguished or terminated with written approval of the Grantee and the United States. Due to the Federal interest in this Conservation Easement, any proposed extinguishment, termination, or condemnation action that may affect the United States' interest in the Protected Property must be reviewed and approved by the United States.

With respect to a proposed extinguishment, termination, or condemnation action, the Grantee and the United States stipulate that the fair market value of the Conservation Easement is percent, hereinafter the "Proportionate Share," of the fair market value of the land unencumbered by this Conservation Easement. The Proportionate Share will remain constant over time.

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▲ If this Conservation Easement is extinguished, terminated, or condemned, in whole or in part, then the Grantor must reimburse Grantee and the United States an amount equal to the Proportionate Share of the fair market value of the land unencumbered by this Conservation Easement. The fair market value will be determined at the time all or a part of this Conservation Easement is terminated, extinguished, or condemned by an appraisal that meets the Uniform Standards of Professional Appraisal Practice (USPAP) or Uniform Acquisition Standards or Federal Land Acquisition (UASFLA). The appraisal must be completed by a certified general appraiser and be approved by the Grantee and the United States.

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The allocation of the Proportionate Share between the Grantee and the United States will be as follows: (a) to the Grantee or its designee, 50 percent of the Proportionate Share; and (b) to the United States 50 percent of the Proportionate Share. Until such time as the Grantee and the United States receive the Proportionate Share from the Grantor or the Grantor's successor or assign, the Grantee and the United States each have a lien against the Protected Property for the amount of the Proportionate Share due each of them. If proceeds from termination, extinguishment, or condemnation are paid directly to Grantee, the Grantee must reimburse the United States for the amount of the Proportionate Share due to the United States.

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4. Amendment. This Conservation Easement may be amended only if, in the sole and exclusive judgment of the Grantee and United States, by and through the Chief of NRCS, such amendment is consistent with the purposes of the Conservation Easement and complies with all applicable laws, regulations, and program policy. The Grantee must provide timely written notice to the Chief of NRCS of any proposed amendments. Prior to the signing and recordation of the amended Conservation Easement, such amendments must be mutually agreed upon by the Grantee, Grantor, and United States, by and through the Chief of NRCS. Any purported amendment that is recorded without the prior approval of the United States is null and void.

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5. United States Right of Enforcement. In consideration of the RCPP funds received for the acquisition of this Conservation Easement, the United States is also granted this right of enforcement that it may exercise only if the terms of the Conservation Easement are not enforced by the holder of the Conservation Easement. The Secretary of the United States Department of Agriculture (the Secretary) or the Secretary's assigns, on behalf of the United States, may exercise this right of enforcement under any authority available under State or Federal law if the Grantee, or its successors or assigns, fails to enforce any of the terms of this Conservation Easement, as determined in the sole discretion of the Secretary.

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In the event the United States exercises this right of enforcement, it is entitled to recover any and all administrative and legal costs associated with any enforcement or remedial action related to the enforcement of this Easement from the Grantor, including, but not limited to, attorney's fees and expenses related to Grantor's violations. In the event the United States exercises this right of enforcement, it is entitled to recover any and all administrative and legal costs associated with any enforcement of this Easement from the Grantee, including, but not limited to, attorney's fees and expenses related to Grantee's violations or failure to enforce the easement against the Grantor up to the amount of the United States contribution to the purchase of the Conservation Easement.

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The Grantee will annually monitor compliance and provide the United States with an annual monitoring report that documents that the Grantee and Grantor are in compliance with the Conservation Easement. If the annual monitoring report is insufficient or is not provided annually, or if the United States has a reasonable and articulable belief of an unaddressed violation, as determined by the Secretary, the United States may exercise its right of inspection. For purposes of inspection and enforcement of the Conservation Easement, the United States will have reasonable access to the Protected Property. Prior to its inspection of

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the Protected Property, the United States shall provide advance notice to Grantee and Grantor and provide Grantee and Grantor a reasonable opportunity to participate in the inspection.

In the event of an emergency, the United States may enter the Protected Property to prevent, terminate, or mitigate a potential or unaddressed violation of this Conservation Easement and will give notice to Grantee and Grantor at the earliest practicable time.

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Exhibit B

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Whatcom County Conservation Easement Program Guidelines

Revised version adopted April 9, 2013,
Second revision adopted November 20, 2018
Third revision adopted [DATE]



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I. INTRODUCTION

These Program Guidelines are authorized under WCC Title 3.25A and serve as rules and procedures for administering the Whatcom County Conservation Easement Program (CEP).

The Guidelines serve two functions:

- A. To provide an overview of the land preservation process for the property owner. Specifically, this information can be found in Section V.
- B. To establish the rules and operational procedures that the CEP Oversight Committee and the Administrator must follow when operating a Conservation Easement Program.

II. CEP OBJECTIVE AND PRINCIPLES

Responding to the loss of County farmland, the Whatcom County Executive initiated the development of a Purchase of Development Rights (PDR) program in September of 2001. A PDR Advisory Committee comprised of farmers, citizens and conservation organizations was formed and tasked with assisting County staff in the development of a proposal for County Council consideration. The Purchase of Development Rights Program was enacted through Ordinance 2002-054 in September of 2002.

Since that time, Whatcom County continues to experience a rapid development rate. In Response to the loss of forest resource lands and areas of ecological importance, the program expanded in 2018 to protect working forestlands and important ecosystem areas. This expansion was enacted through Ordinance 2018-065. In order to better reflect the program's purpose, the program changed names in 2021 to the Whatcom County Conservation Easement Program. This change was enacted through Ordinance 2021-XXX. These program guidelines have been updated accordingly.

A. Objective

The primary objective of the Whatcom County Conservation Easement Program (CEP), in conjunction with other tools, is the protection of farmland. The secondary objective of the CEP is the protection of forestland and areas of ecological importance. The Whatcom County Conservation Easement Program will help to sustain the farming and forestry enterprises as well as support healthy ecosystem function throughout Whatcom County.

B. Principles

The CEP provides a strategic tool to protect County farmland, forestland, and areas of ecological importance.

1. Preserve the County's Agricultural lands, Forestlands and Areas of Ecological Importance

Encourage the protection of a critical mass of agricultural and forestry land to sustain the farm-related and forestry-related businesses and activities that are necessary to support the agricultural and forestry industries in Whatcom County. Additionally, the Program will encourage the protection of areas of ecological importance necessary to sustain ecosystem health and function.

The primary CEP emphasis will be:

- a. Reduce conversion of land to non-agricultural uses within the Agricultural District;
- b. Provide a buffer to discourage encroachment into the Agricultural District;
- c. Consolidate and protect areas of agricultural land; and
- d. Protect agricultural lands located outside the Agricultural District that are under increased pressure of development.

The secondary CEP emphases will be:

- a. Reduce conversion of land to non-forestry uses within the Forestry

- Districts;
- b. Provide a buffer to encroachment of the Forestry Districts;
- c. Consolidate and protect areas of forestry land;
- d. Address commercially significant forestry lands outside the Forestry Districts that are under pressure of development.
- e. Protect areas of ecological importance and support and enhance ecosystem functions within agricultural and forestry lands;
- h. Improve and support habitat connectivity and protection of critical habitat corridors.

2. Offer Effective Program Design

Maintain a voluntary tool for the preservation of productive agricultural and forestry lands, as well as areas of ecological importance in the County that will:

- a. Provide farmers and foresters with the market based economic value for agricultural and forestry land without selling the land;
- b. Provide property owners with the market based economic value for areas of ecological importance without selling the land.
- c. Support and promote ongoing agricultural and forestry activities by offering an attractive option for farmers, foresters, and landowners;
- d. Support and promote ecosystem function by offering an attractive option for landowners; and
- e. Provide for ongoing monitoring and enforcement.

3. Leverage Program Impact and Efficiency

Enhance and support a coordinated approach to the preservation of the agricultural and forestry lands, as well as areas of ecological importance that will:

- a. Create community support for agricultural and forestry preservation initiatives;
- b. Create community support for the protection of areas of ecological importance;
- c. Complement and foster other County programs and policies to preserve farming and agricultural lands;
- d. Complement and foster other County programs and policies to preserve forestry and forestry lands;
- e. Complement and foster other County programs and policies to enhance ecosystem function and protect areas of ecological importance; and
- c. Leverage other public and private funding sources and provide or increase property owner incentives and program effectiveness.

III. ELIGIBILITY CRITERIA

A. Priority Consideration

Areas around the county have been identified to receive priority consideration for CEP participation.

Agricultural priority areas (Appendix A) include a combination of the Ten Rural Study Areas, Watershed Improvement District areas, lands within the Agriculture Zone, and additional areas identified in the 2019 Agricultural Landscape Analysis. The 2019 Agricultural Landscape Analysis also highlights active crop land and contiguous blocks of agricultural lands as identified by the Washington State Department of Agriculture as well as suitable agricultural soils as identified by USDA Natural Resource Conservation Service. Preservation of these areas protect designated agricultural lands and can establish a perimeter of PDR farmlands to protect against development encroachment into large blocks of agricultural lands. These lands, due to their soils, land use, and proximity to core agricultural areas, are deemed priority farmlands for program participation due to their vulnerability for conversion to non- agricultural uses.

Forestry priority areas (Appendix B) include lands located within the Rural Forestry zone and areas designated by the Washington State Department of Natural Resources as being priority for protection from conversion under Washington's Forest Action Plan. The 2019 Forestry Landscape Analysis did not identify additional priority areas.

Ecological priority areas (Appendix C) include lands containing a mapped Habitat Conservation Area or within 165' of habitat conservation feature, such as fish bearing streams, areas identified under the Washington State Department of Fish and Wildlife's Priority Habitats and Species, and the Chuckanut Wildlife Corridor. Ecological priority areas also include mapped FEMA Floodplain and Flood Hazard areas, the 300' buffer of the Historic Meander Zone, and additional areas identified in the 2019 Ecological Landscape Analysis. The 2019 Ecological Landscape Analysis also highlights watershed protection recommendations and freshwater habitat as identified by the Washington Department of Ecology, among other areas.

B. CEP Eligibility

Two factors will be important in determining eligibility:

1. Availability of funding to expand the program and
2. Advancement of CEP objectives. Priority lands will continue to receive preference over other lands through weighted selection criteria.

All applicant properties for CEP participation must be:

1. **Completely or partially within an Agriculture, Rural, Rural Residential, or Rural Forestry zoning designations. Properties located in Urban Growth Areas are ineligible to participate in the program, unless coordination with cities is a component of an application.**
2. **At least 1 acre in size.**
3. **Removing all development rights if the parcel is smaller than 10 acres.**

IV. SITE SELECTION CRITERIA

All valid applications will be reviewed to determine if the acquisition of development rights will promote the CEP's goals and priorities. Selection criteria have been developed to guide, but not control, the review and assessment of eligible properties during selection.

Valid and accepted offers on eligible properties of greater points shall be considered for purchase with available funds before properties receiving lower scores. The criteria, which will be used to evaluate the applications, are outlined below.

Rating instructions: An application will be scored under one of three types of conservation easement selection criteria: 1) Agricultural, 2) Forestry, or 3) Ecological. The agricultural selection criteria allow for a score of up to 110, while the forestry and ecological selection criteria allow for a score of up to 100. This ensures that agricultural protection is the primary emphasis of the program. There are five to six criteria sections and each criteria section is rated and assigned a point value based on a 100 point scale. Then each section is assigned a weight factor. The six agricultural weight factors add up to 1.1 and the five forestry and ecological weight factors each add up to 1.0. When total point values for a section are multiplied by the weight factor, a score will be reached for that section. The total of the section scores result in the final applicant score. Staff performs the ranking, with review and adjustment by the CEP Oversight Committee.

A. Agricultural Site Selection Criteria

1. General Site Evaluation

a. Total size of parcel(s) (nominal acres)

1. 0 – 9.99.....	0 points
2. 10 – 19.99	15 points
3. 20 – 49.99.....	30 points
4. 50 – 79.99.....	70 points
5. ≥80.....	100 points

b. Adjacent land is conserved by easement or other means (Whatcom Land Trust, NRCS CREP Program, or owned by a municipality or NGO)

1. ≥1 mile.....	0 points
2. 0.50 to 0.99 mile.....	25 points
3. 0.25 to 0.49 mile.....	50 points
4. < 0.25 mile.....	75 points
5. Adjacent.....	100 points

c. Number of legal lots of record

1. 0-2.....	20 points
2. 3.....	40 points
3. 4.....	60 points
4. 5.....	80 points
5. ≥ 6.....	100 points

- d. Removal of all unused development rights?
 1. Unused development rights remaining0 points
 2. All removed.....100 points
- e. Number of priority areas parcel is located in
 1. 0.....0 points
 2. 1.....50 points
 3. 2-3.....100 points

Once a point value for the section is determined, it is multiplied by a weight factor to indicate the importance (weighted factor for General Site Evaluation section has been 0.2, but is subject to ongoing review by the Committee).

2. Development Pressure

- a. Number of existing unused development rights offered under current zoning
 1. 1-2..... 20 points
 2. 3..... 40 points
 3. 4..... 60 points
 4. 5..... 80 points
 5. ≥6..... 100 points
- b. Proximity to major roads or road intersections
(For purposes of this evaluation, “major roads” means roads with a daily traffic volume of 3,000 or more trips. A list of roads currently meeting this definition is included as Appendix D to this report.)
 1. Property is within 2,500 feet of a major road..... 25 points
 2. Property fronts on a major road..... 50 points
 3. Property is within 1,500 feet of the intersection
 of two major roads..... 75 points
 4. Property is at an intersection of major roads..... 100 points
- c. Threat of Conversion/Parcelization
 Total Number of Parcels in surrounding ¼ mile
 1. < 20 parcels..... 50 points
 2. 20 – 50 parcels..... 100 points
 3. 51 – 100 parcels..... 50 points
 4. > 100 parcels..... 0 points

Once a point value for the section is determined, it is multiplied by a weight factor to indicate the importance (weighted factor for Development Pressure section has been 0.2, but is subject to ongoing review by the Committee).

3. Soil Evaluation

Productive farming, forestry and associated activities depend on soil capability (the suitability of soils for most types of field crops and/or timber production). Therefore, emphasis should be placed on the property's soil characteristics. The scoring system uses the NRCS Prime Farmland classifications, LESA classifications and APO soils classifications, including classification of soils of statewide importance as well as consideration given to site index score for forest soils. Highest points are assigned to better agricultural soils and lower points to poorer agricultural soils. Forest soils also receive additional points. Points are assigned based on the productivity and/or characteristics of the soil (profile, texture, slope, other). A soils chart is included as Appendix D. If a soil has a site index rating and a prime soil rating, the rating with the highest number of points will be applied.

Below is a table detailing the soil point system:

LESA Rating	APO or Non-APO Prime 1	Non-APO - Prime 2-8	Soils of Statewide Importance	Site Index
1	100	90	0	0
2	95	85	0	0
3	90	80	0	0
4	85	75	0	0
No Rating	80	70	50	0
Site Index Rating				
1	0	0	0	60
2	0	0	0	50
3	0	0	0	40
4	0	0	0	30
5	0	0	0	20

Farm applications receive points for this section proportional to the percentage of each soil type that exists on the property. An example of how this would work follows: A farm under review is 40 acres, of which 29.79 acres (about 75%) is soil 179-Whatcom Silt Loam 4-9% slopes, which is classified as LESA 4, APO Prime 1; and 10.21 acres (about 25%) is soil 180-Whatcom Silt Loam 9-15% slopes, which is not classified as APO or Prime, but is a soil of Statewide Importance. This farm would score a total of 76.07 points for this Section, as shown:

A	B	C	D	E	F	G	H	I	J	K
Soil #	Area (in acres)	% (B/Total area)	APO Soil	Prime 1- 6?	LESA Rating	Prime Rating	Statewide Soil	Site Index	Points	score (J*C)
179	29.79	74.48%	Y	Y	4	1	0	2	85	63.30
180	10.21	25.53%	N	N	0	0	yes	2	50	12.76
Total area	40									76.07

Once a point value for the section is determined, it is multiplied by a weight factor to indicate the importance (weighted factor for Soil Evaluation section has been 0.35, but is subject to ongoing review by the Committee).

4. Agriculture Evaluation

- a. Percent of property actively farmed
 - 1. 0-25% 25 points
 - 2. 26-50% 50 points
 - 3. 51-75% 75 points
 - 4. >75% 100 points
- b. Legal water availability documentation
 - 1. No Water documentation or legal water access..... 0 points
 - 2. Water Claim 50 points
 - 3. Certified Water Right/Access to public water..... 100 points
- c. Parcel is located in Agriculture District and is less than 40 acres or parcel is located in a Rural Study Area?
 - 1. No..... 0 points
 - 2. Yes..... 100 points

Once a point value for the section is determined, it is multiplied by a weight factor to indicate the importance (weighted factor for Agriculture Evaluation section has been 0.15, but is subject to ongoing review by the Committee).

5. Special Considerations

- a. Site contains heritage/historical significance, i.e. Heritage Barn Registry
 - 1. No..... 0 points
 - 2. Yes..... 100 points
- b. The Washington State Department of Ecology Watershed Characterization report has identified recommendations for addressing water flow processes within sub-watersheds. Protection (Overall importance to Water flow processes):
 - 1. Conservation (no change)..... 25 points
 - 2. Protection/Restoration..... 50 points
 - 3. Protection..... 75 points
 - 4. Highest protection..... 100 points
- c. Is property owner willing to restore ecosystem processes beyond the minimum required practices?
 - 1. Maybe/No..... 0 points
 - 2. Yes..... 100 points
- d. Site contains conservation values (viewsheds, wetlands, notable wildlife habitat, other critical areas)
 - 1. No..... 0 points
 - 2. Yes..... 100 points

Once a point value for the section is determined, it is multiplied by a weight factor to indicate the importance (weighted factor for Special Considerations section has been 0.10, but is subject to ongoing review by the Committee).

6. Matching Funds or Bargain Sale

- | | |
|----------------------|------------|
| 1. 0% secured..... | 0 points |
| 2. 25% secured..... | 25 points |
| 3. 50% secured..... | 50 points |
| 4. 75% secured..... | 75 points |
| 5. 100% secured..... | 100 points |

Once a point value for the section is determined, it is multiplied by a weight factor to indicate the importance (weighted factor for Matching Funds or Bargain Sale section has been 0.10, but is subject to ongoing review by the Committee).

B. Forestry Site Selection Criteria

1. General Site Evaluation

- | | |
|-------------------------------------------------------------------------------------------------------------------------------------|------------|
| a. Total size of parcel(s) (nominal acres) | |
| 1. 0 – 9.99..... | 0 points |
| 2. 10 – 19.99 | 15 points |
| 3. 20 – 49.99..... | 30 points |
| 4. 50 – 79.99..... | 70 points |
| 5. ≥80..... | 100 points |
| b. Adjacent land is conserved by easement or other means (Whatcom Land Trust, NRCS CREP Program, or owned by a municipality or NGO) | |
| 1. ≥1 mile..... | 0 points |
| 2. 0.50 to 0.99 mile..... | 25 points |
| 3. 0.25 to 0.49 mile..... | 50 points |
| 4. < 0.25 mile..... | 75 points |
| 5. Adjacent..... | 100 points |
| c. Number of legal lots of record | |
| 1. 0-2..... | 20 points |
| 2. 3..... | 40 points |
| 3. 4..... | 60 points |
| 4. 5..... | 80 points |
| 5. ≥6..... | 100 points |
| d. Removal of all unused development rights? | |
| 1. Unused development rights remaining | 0 points |
| 2. All removed..... | 100 points |
| e. Number of priority areas parcel is located in | |
| 1. 0..... | 0 points |
| 2. 1..... | 50 points |
| 3. 2-3..... | 100 points |

Once a point value for the section is determined, it is multiplied by a weight factor to indicate the importance (weighted factor for General Site Evaluation section has been 0.2, but is subject to ongoing review by the Committee).

2. Development Pressure

- a. Number of existing unused development rights offered under current zoning
 1. 1-2..... 20 points
 2. 3..... 40 points
 3. 4..... 60 points
 4. 5..... 80 points
 5. ≥6..... 100 points
- b. Proximity to major roads or road intersections
(For purposes of this evaluation, “major roads” means roads with a daily traffic volume of 3,000 or more trips. A list of roads currently meeting this definition is included as Appendix D to this report.)
 5. Property is within 2,500 feet of a major road..... 25 points
 6. Property fronts on a major road..... 50 points
 7. Property is within 1,500 feet of the intersection
of two major roads..... 75 points
 8. Property is at an intersection of major roads..... 100 points
- c. Threat of Conversion/Parcelization
Total Number of Parcels in surrounding ¼ mile
 1. < 20 parcels..... 50 points
 2. 20 – 50 parcels..... 100 points
 3. 51 – 100 parcels..... 50 points
 4. > 100 parcels..... 0 points

Once a point value for the section is determined, it is multiplied by a weight factor to indicate the importance (weighted factor for Development Pressure section has been 0.2, but is subject to ongoing review by the Committee).

3. Forestry Evaluation

- a. Site index soil score, spatially weighted
 1. 5 20 points
 2. 4 40 points
 3. 3 60 points
 4. 2 80 points
 5. 1..... 100 points
- b. Property is identified as priority forestland based on State Forest Action Plan?
 1. No 0 points
 2. Yes..... 100 points
- c. Parcel is located in Rural Forestry District or is enrolled as Designated Forest Land?
 1. No..... 0 points
 2. Yes..... 100 points
- d. Proximity to existing and contiguous blocks of forestland
 1. >0.5 mile..... 0 points
 2. 0.26 – 0.5 mile..... 50 points
 3. 0.11 – 0.25 mile 75 points

4. ≤ 0.1 mile..... 100 points

e. Property is located at access to other working forestland?

1. No..... 0 points

2. Yes..... 100 points

Once a point value for the section is determined, it is multiplied by a weight factor to indicate the importance (weighted factor for Forestry Evaluation section has been 0.4, but is subject to ongoing review by the Committee).

4. Special Considerations

a. Site contains existing or proposed trails

3. No..... 0 points

4. Yes..... 100 points

b. The Washington State Department of Ecology Watershed Characterization report has identified recommendations for addressing water flow processes within sub-watersheds. Protection (Overall importance to Water flow processes):

5. Conservation (no change)..... 25 points

6. Protection/Restoration..... 50 points

7. Protection..... 75 points

8. Highest protection..... 100 points

c. Is property owner willing to implement forest management practices beyond the minimum required practices?

1. Maybe/No..... 0 points

2. Yes..... 100 points

d. Site contains conservation values (viewsheds, wetlands, notable wildlife habitat, other critical areas)

1. No.....0 points

2. Yes..... 100 points

Once a point value for the section is determined, it is multiplied by a weight factor to indicate the importance (weighted factor for Special Considerations section has been 0.10, but is subject to ongoing review by the Committee).

5. Matching Funds or Bargain Sale

1. 0% secured..... 0 points

2. 25% secured..... 25 points

3. 50% secured..... 50 points

4. 75% secured..... 75 points

5. 100% secured..... 100 points

Once a point value for the section is determined, it is multiplied by a weight factor to indicate the importance (weighted factor for Matching Funds or Bargain Sale section has been 0.10, but is subject to ongoing review by the Committee).

C. Ecological Site Selection Criteria

1. General Site Evaluation

- a. Total size of parcel(s) (nominal acres)
 - 1. 0 – 9.99.....0 points
 - 2. 10 – 19.9915 points
 - 3. 20 – 49.99.....30 points
 - 4. 50 – 79.99.....70 points
 - 5. ≥80.....100 points
- b. Adjacent land is conserved by easement or other means (Whatcom Land Trust, NRCS CREP Program, or owned by a municipality or NGO)
 - 1. ≥1 mile.....0 points
 - 2. 0.50 to 0.99 mile.....25 points
 - 3. 0.25 to 0.49 mile.....50 points
 - 4. < 0.25 mile.....75 points
 - 5. Adjacent.....100 points
- c. Number of legal lots of record
 - 1. 0-2.....20 points
 - 2. 3.....40 points
 - 3. 4.....60 points
 - 4. 5.....80 points
 - 5. ≥6.....100 points
- d. Removal of all unused development rights?
 - 1. Unused development rights remaining0 points
 - 2. All removed.....100 points
- e. Number of priority areas parcel is located in
 - 1. 0.....0 points
 - 2. 1.....50 points
 - 3. 2-3.....100 points

Once a point value for the section is determined, it is multiplied by a weight factor to indicate the importance (weighted factor for General Site Evaluation section has been 0.2, but is subject to ongoing review by the Committee).

2. Development Pressure

- a. Number of existing unused development rights offered under current zoning
 - 1. 1-2.....20 points
 - 2. 3.....40 points
 - 3. 4.....60 points
 - 4. 5.....80 points
 - 5. ≥6.....100 points
- b. Proximity to major roads or road intersections
(For purposes of this evaluation, “major roads” means roads with a daily traffic

volume of 3,000 or more trips. A list of roads currently meeting this definition is included as Appendix D to this report.)

1. Property is within 2,500 feet of a major road..... 25 points
2. Property fronts on a major road..... 50 points
3. Property is within 1,500 feet of the intersection
of two major roads..... 75 points
4. Property is at an intersection of major roads..... 100 points

c. Threat of Conversion/Parcelization

Total Number of Parcels in surrounding ¼ mile

1. < 20 parcels..... 50 points
2. 20 – 50 parcels..... 100 points
3. 51 – 100 parcels..... 50 points
4. > 100 parcels..... 0 points

Once a point value for the section is determined, it is multiplied by a weight factor to indicate the importance (weighted factor for Development Pressure section has been 0.2, but is subject to ongoing review by the Committee).

3. Ecological Evaluation

The 2019 Landscape Analysis for the program is used to answer Questions 3.a through 3.c.

a. Protect water quality and quantity landscape analysis score, spatially weighted

1. 0 0 points
2. 0.01 – 0.99..... 20 points
3. 1 – 1.99 40 points
4. 2 – 2.99 60 points
5. 3 – 3.99 80 points
6. 4 – 5..... 100 points

b. Ecologically important aquatic areas landscape analysis score, spatially weighted

1. 0 0 points
2. 0.01 – 0.99..... 20 points
3. 1 – 1.99 40 points
4. 2 – 2.99 60 points
5. 3 – 3.99 80 points
6. 4 – 5..... 100 points

c. Ecologically important terrestrial areas landscape analysis score, spatially weighted

1. 0 0 points
2. 0.01 – 0.99..... 20 points
3. 1 – 1.99 40 points
4. 2 – 2.99 60 points
5. 3 – 3.99 80 points
6. 4 – 5..... 100 points

d. Additional ecologically important areas not included in landscape analysis score?

1. No..... 0 points
2. Yes..... 100 points

Once a point value for the section is determined, it is multiplied by a weight factor to indicate the importance (weighted factor for Ecological Evaluation section has been 0.4, but is subject to ongoing review by the Committee).

4. Special Considerations

- a. Site contains existing or proposed trails
 - 1. No..... 0 points
 - 2. Yes..... 100 points
- b. The Washington State Department of Ecology Watershed Characterization report has identified recommendations for addressing water flow processes within sub-watersheds. Protection (Overall importance to Water flow processes):
 - 1. Conservation (no change)..... 25 points
 - 2. Protection/Restoration..... 50 points
 - 3. Protection..... 75 points
 - 4. Highest protection..... 100 points
- c. Is property owner willing to restore ecosystem processes beyond the minimum required practices?
 - 2. Maybe/No..... 0 points
 - 2. Yes..... 100 points

Once a point value for the section is determined, it is multiplied by a weight factor to indicate the importance (weighted factor for Special Considerations section has been 0.10, but is subject to ongoing review by the Committee).

5. Matching Funds or Bargain Sale

- 6. 0% secured..... 0 points
- 7. 25% secured..... 25 points
- 8. 50% secured..... 50 points
- 9. 75% secured..... 75 points
- 10..... 100%
- secured..... 100 points

Once a point value for the section is determined, it is multiplied by a weight factor to indicate the importance (weighted factor for Matching Funds or Bargain Sale section has been 0.10, but is subject to ongoing review by the Committee).

Final Score

The points for each section are added up and multiplied by a weight factor, which indicates the importance that is placed on a particular characteristic. The weighted scores are then added to provide an overall score (0-110). The higher the score, the more closely the property meets the goals of the program and hence is a higher priority for purchase and preservation. Properties which score less than 40 (forty) points will not be recommended for program participation. The CEP Oversight Committee retains the ability to add or subtract up to 5 points on any application. A write-up of committee opinion will be included in all council proceedings.

V. OVERVIEW OF CEP PROCEDURES

A. Outreach and Publicity

Step 1: The County shall develop and distribute outreach materials for the CEP. Outreach shall include the properties eligible to participate, the application process and applicable timeframes and extensions.

The Administrator may identify each property with potential development rights within priority consideration areas and provide written notification to the property owners.

B. Application and Ranking

Step 2: Voluntary pre-application screening. Interested property owners may meet with the County CEP Administrator (Administrator) to review their eligibility and special circumstances, if any.

Step 3: Application. An owner of land eligible for CEP participation submits an application for County acquisition of property or development rights. The application must be submitted on the form provided by the County.

Step 4: Lot of Record/Density Determination. An owner of land eligible for CEP participation submits a Lot of Record application. This application determines legal status of lots being considered and determines that number of development rights remaining on said lots. The Lot of Record determination must be completed before an appraisal can occur.

Step 5: The Administrator reviews each application for completeness, determines if the subject property meets minimum eligibility criteria and assigns a preliminary score based upon the CEP site selection criteria.

Step 6: The CEP Oversight Committee reviews CEP applications and recommends proposed development rights acquisition utilizing the selection criteria. Recommendations for development right acquisition are prepared and forwarded to County Council to approve, deny, or recommend modification.

Step 7: The Administrator estimates the number of appraisals that can be initiated based on available funds and chooses based on the top ranked parcels from the County Council's list of parcels and the timeline of projects with secured grant funding.

C. Title

Step 9: The Administrator initiates a title search. Closing is conditioned on the resolution of all unapproved title exceptions, within the County's sole discretion, which may require the receipt of subordination agreements or payoff letter.

D. Pricing Estimate and Appraisal

- Step 10: The Administrator or designee provides preliminary estimate of value, and notifies the property owner of an estimated range of value within which the appraisal will likely fall. The Administrator or designee sends the applicant a letter of intent, including range of expected value. The letter calls for the signature of property owner(s).
- Step 10: The Administrator or designee proceeds to verify assumptions through official county processes, such as a formal Lot of Record and density determination, and conduct other due diligence as necessary (such as water rights research and Title research and clearing).
- Step 11: Unless Council and the Executive specifically authorize an alternate approach to determine value, the Administrator commissions a full appraisal by a County authorized appraiser to appraise the value of placing a conservation easement on the land that removes development rights. The conservation easement value is the difference between the market value of full ownership of the land, and the agricultural or forestry value.
- Step 12: The appraiser submits the completed appraisal (or the alternate determination of value is conducted and submitted) to the Administrator and the Oversight Committee for their review.
- Step 13: The Administrator or designee meets with the property owner to review the appraisal (or alternate determination of value), state the offer, review the conservation easement provisions, agreement terms and conditions, and to answer the property owner's questions.
- Step 14: If the property owner believes that the land has not been adequately appraised or valued, the owner may, within the time allowed in the schedule, commission an appraisal at the owner's expense.

E. Offer to Purchase Easement and Agreement

- Step 15: A written offer to purchase development rights based on appraised or determined value is made to the property owner following budget authorization by the County Council, and approval by the County Executive.
- Step 16: Within 30 days, the property owner accepts, rejects or makes a counter offer. Counter offers will be reviewed and evaluated by the Oversight Committee and the County's authorized appraiser.
- Step 17: Property owners desiring to sell their development rights sign a Purchase and Sale Agreement.

F. Adjacent Property Owner Notification

- Step 18: Neighboring property owners are notified that adjacent land is in the process of

being preserved.

G. Approval

- Step 19: Review materials are presented to the County Executive for review and approval, rejection, or recommendation for modification.
- Step 20: Review materials are sent to other participating entities for partially or wholly funded conservation easements several days prior to any deadline.

I. Settlement

- Step 21: Settlement will occur following County Executive approval of transaction terms and is contingent upon a title search and any other evidence, such as a land survey, that may be necessary to establish clear title.
- Step 22: Payment will be in full at time of settlement unless the County and property owner agree to an installment sale.
- Step 23: Checks are requested from the Finance Manager and settlement is scheduled within a week or two of approval. Federal or state money is dispersed according to federal or state regulation.

J. Recording

- Step 24: The conservation easement will be recorded at the County Auditor's office. The County or its designee will monitor the properties under easement at least annually to ensure compliance with the easement.

VI. CONSERVATION EASEMENTS

A. Description

A conservation easement deed is a legally binding document, which is recorded by the County Auditor, forever restricting the property to agricultural, forestry, and/or ecological and directly associated uses, and for which compensation may be paid. As an easement in gross in perpetuity, restrictions are binding upon the owner and future owners, and run with the land.

B. Conservation Easements

At the time of acquisition of development rights from a participating property, a conservation easement is placed on the property permanently restricting development of the site and protecting/preserving the agricultural, forestry, and ecological values associated with the site. The conservation easement must be signed by both the property owner(s) and the County Executive or his/her designee and recorded with the property records for the property. A model conservation easement deed is included in these guidelines as attachment D.

1. Conservation Easement Requirements

Conservation easements shall be on a form approved by the Whatcom County Prosecuting Attorney and shall meet the following basic requirements:

- a. The deed shall be in recordable form and contain an accurate legal description setting forth the metes and bounds of the area subject to the easement;
- b. Restriction is granted in favor of Whatcom County, or if designated by the organizations as defined in RCW64.04.130;
- c. Restriction is granted in perpetuity, and shall bind existing and future property owners; and
- d. Unless specifically provided for, nothing in the restrictions shall be construed to convey to the public a right of access or use of the property, and the owner of the property, his/her heirs, successors and assigns shall retain exclusive right to such access or use subject to the terms of the easement.

2. Filing

After the conservation easement is signed and notarized, it must be recorded with the Whatcom County Auditor's Office.

C. Conservation Easement Conveyance

Conservation easements may be either donated or sold, or a combination of both.

1. Conservation Easement Donation

- a. A donation of a total parcel will not be subject to eligibility except as below in section c. Partial parcel donation shall be considered under the same rule as for development rights sales. Notwithstanding the eligibility of the property, acceptance of a fee interest or partial donation is within the discretion of the County Council.
- b. Whatcom County will accept voluntary donations or bequests of development rights as perpetual easements in gross if meeting eligibility criteria (except priority area criteria) and within the discretion of the County Council.
- c. All properties offered for development rights donation must meet the following minimum eligibility criteria:
 - 1. The CEP Oversight Committee will consider each offer on a case by-case basis, considering the property's consistency with current and future land uses, and
 - 2. The property must be at least 1 acre in size, and
 - 3. Be in agricultural or forestry use or contain ecological values and has not been irrevocably devoted to a use inconsistent with the above values,
 - 4. Cannot be located within an Urban Growth Area, unless coordination with the proximal small city is a component of the donation.

2. Conservation Easement Sale

- a. Whatcom County will purchase perpetual conservation easements on qualified properties in accordance with the policies and procedures of the Whatcom County Conservation Easement Program, with Federal, State, County, and/or private funds and any combination thereof.
- b. All properties offered for conservation easement sale must meet minimum eligibility criteria as contained in Section III.

VII. OPERATIONAL PROCEDURES FOR ACQUIRING CONSERVATION EASEMENTS

A. Outreach and Publicity

Outreach shall occur to inform landowners about the program and may include advertising in newspapers or other publications, landowner mailers, and presentations. Application opening and closing dates, if any, will be determined by the CEP Oversight Committee. The Committee shall have the discretion to consider applications in rounds, or individually on a rolling basis. If selection deadlines are extended, the committee will provide public notice of the extension.

B. Application and Ranking

1. Property owner(s) voluntarily submits an application(s) to the County. The application must be submitted to the County on the form provided by the CEP, and according to the relevant public notice. Applicants are to include at a minimum:
 - a. Name(s) and address(es) of the property owner(s) of the site;
 - b. Legal description and parcel number(s);
 - c. Copy of the property deed and title;
 - d. Total acreage of farmland to be included in the CEP;
 - e. Current land use and soils;
 - f. Number of dwelling units;
 - g. Description of the farming operation;
 - h. Other information necessary to evaluate property eligibility;
 - i. Acknowledgement of intent to grant to Whatcom County a conservation easement in a form provided by the County.
2. The Administrator shall review each application to determine completeness and eligibility.
3. Applications meeting all minimum eligibility criteria shall be evaluated and scored by the administrator and Oversight Committee according to the site selection criteria. (See Section IV)
4. The CEP Oversight Committee shall provide the County Council with information and scoring of properties recommended for conservation easement acquisition by the committee. County Council shall approve or deny pursuit of conservation easement acquisitions on the parcels.
5. The Administrator shall then arrange appraisals (or alternate determination of value) of eligible applicant properties as determined by the County Council.
6. The CEP Oversight Committee and Administrator shall provide updates to the County Council discussing recommended purchases, possible program changes,

and anticipated budget needs.

C. Appraisal

1. Appraisals for eligible properties shall be conducted to determine the value of a conservation easement on parcels in the order of acquisition priority and in accordance with grant funding timelines until acquisition funds are expended.
 - a. The appraisals are to be made by an independent appraiser qualified to appraise agricultural, forestry, and/or ecological land for conservation easement purchases. An appraiser is deemed qualified if he or she possesses a State of Washington certification as a State Certified General Real appraiser, MAI designation by the Appraisal Institute (or equivalent), and at least five years agricultural lands appraisal experience. Appraisers shall supply a narrative or UAAR form report, which contains information as required by the Uniform Standards of Professional Appraisal Practice (USPAP), Uniform Appraisal Standards of Federal Land Acquisition (UASFLA) and as specified in any contract with the County.
 - b. An appraisal report is an objective report of market facts. The appraisal report must estimate both the unrestricted fee market value of the land only, excluding the value of buildings, and the agricultural or forestry value of the land only, of which the difference is the conservation easement value.
 - c. Both values shall be based primarily on an analysis of comparable sales. If comparable sales data is not available for agricultural lands, the appraiser may use local farmland rental values or capitalized production values to determine the agricultural values of the land.
 - d. A description of the buildings or other improvements shall appear in the appraisal report; however, the buildings will not be valued and therefore will not be considered in determining the development rights value.
 - e. The appraiser shall report whether the subject property has any land use restrictions, public or private and/or physical attributes, which limit the developmental capability of the land.
 - f. The appraiser shall be advised that conservation easements are perpetual. The perpetual nature of the easement shall take precedent over any agricultural zoning status.
 - g. The appraisal shall be in writing and may be discussed with the owners prior to the submission of written offers.
 - h. If the property owner believes the property has not been adequately appraised, the owner may, within the time allotted, request that a review appraisal be made at the owner's expense. This appraisal must be completed in accordance with the guidelines set forth herein. If the review (owner's) appraisal is not completed within the allotted time, the application will be delayed for future

committee consideration. If a review appraisal is completed, the appraisal will be reviewed by the County's Appraiser. The County's Appraiser in consultation with the Program Administrator and the CEP Oversight Committee will accept, modify or reject the review appraisal. The determination of the County's Appraiser is final.

- i. The maximum value of development rights purchased by the County shall be no more than the easement value contained in an appraisal report. The easement value is the difference between the land's value before and after the voluntary conservation easement.
2. Council and the Executive may specifically authorize an alternate approach to determine value in accordance with state and local laws, in which case the conditions of that approach would substitute for the appraisal guidelines as set forth in C.1., above.

D. Title and Survey Issues

1. The Administrator shall request a title report confirming that applicant is the owner of the property and has unrestricted legal right to transfer the development rights (i.e. there must be clear title to transfer the property). The title report will be provided to the County Attorney for review.
2. All encumbrances (including but not limited to: liens, mortgages and judgments) against the property must be subordinated, satisfied or removed prior to development rights acquisition. Mortgage and/or lien holder subordination and releases may be required acknowledging that a conservation easement will be placed on the property and subordinating their interest in the property to the deed restriction.
3. At settlement for a County or joint development rights purchase, the Administrator shall provide a title insurance policy issued by a title insurance company authorized to conduct business in Washington State by the Washington State Office of Insurance Commissioner. The cost of such title insurance shall be a shared cost, with the county's portion considered a cost incident to the conservation easement purchase and a reimbursable expense from the County's Conservation Futures Fund.
4. It is the property owner's responsibility to survey (or provide a legal description that meets specific standards) any exceptions from the easement and any graveyards or cellular towers that may be located on the property. It is the property owner's responsibility to provide a legal description for any commercial operation on the farm that is not incidental to the overall farming operation, in order to exclude it from the easement. Surveys shall be conducted by a licensed surveyor in accordance with state and federal regulations.

E. Development Rights Value and Purchase Price

1. The maximum value of development rights purchased by the County shall be no more than the easement value contained in an appraisal report. The easement value is the difference between the land's value before and after the voluntary conservation easement.
2. Development rights may only be purchased in perpetuity.

F. Recommendation of Conservation Easement Purchases by the CEP Oversight Committee

1. The CEP Oversight Committee, in making recommendations concerning applications and purchase offers, shall consider the following:
 - a. Evaluation according to the site selection criteria
 - b. Consistency with County Comprehensive Plan
 - c. Cost relative to total allocations and appropriations
 - d. Proximity to other land subject to protection easements
2. Upon receiving the recommendations of the CEP Oversight Committee and the Administrator, the County Executive shall review the recommendations and shall take final action to authorize or deny proposed purchase terms and offers, consistent with authorization by the County Council.
3. If a property is approved for conservation easement purchase, the Administrator will meet with the property owner and review the terms, conditions and amount of the County's offer. A written offer will be provided to the property owner. Written notice shall also be provided to land not approved for conservation easement purchase.
4. Within 30 days of receipt of a written offer from the County an applicant must indicate in writing which of the following actions they intend to pursue:
 - a. Accept the offer.
 - b. Reject the offer.
 1. Reject offer outright
 - a. no further action
 - b. participate in future review
 2. Submit a counter offer within 90 days of written notice of offer by the County.
 - c. Failure to notify the County within 30 days shall constitute rejection of the offer.
5. If the offer is accepted, the Administrator shall prepare a Purchase and Sale agreement. USDA or State Funds must be paid as lump sum. The method of payment shall be specified from the options listed below:
 - a. Lump Sum
 - b. Installment Purchase Agreement (IPA)
 - c. Like-Kind Exchange
 - d. Or a combination of the above

6. For conservation easement purchase utilizing the Installment Purchase Agreement (IPA) program, the County Council at settlement shall provide an opinion of legal counsel that the County's obligations to make installment payments of principal and tax-exempt interest over time are legal, valid, and binding. And that such payments are a general obligation of the County for which its full faith, credit, and taxing power are pledged. Interest paid by the County is exempt from federal income taxes.
7. All Agreements of Sale and Conservation Easements require the County Council's approval.

G. Grant of the Agricultural, Forestry, and/or Ecological Protection Conservation Easement

Before the purchase of development rights can be finalized, a conservation easement in a form approved by the County Attorney and consistent with the policies of the CEP Guidelines, must be placed on the property permanently restricting development of the site and preserving its agricultural, forestry and/or ecological values.

The principal interest of the County is to ensure that lands are preserved and subsequently stewarded in a manner that maintains and enhances their farmland, forestland, and/or ecological values. There may be some instances where there is a public interest in another public entity or non-profit organization to hold the conservation easement, for continued stewardship and protection of the land. The County will consider:

1. The preferences of the donor or seller;
2. Administrative, monitoring, and enforcement issues associated with the conservation easement and the resources available to address these issues;
3. Requirement of Federal, State or County funding sources utilized to purchase conservation easements.

H. Conservation Easement Purchase Recommendations/Submission Requirements

1. County Council: Each recommendation for conservation easement purchases with County funds, State funds, Federal funds, private donor funds or a combination of funds shall be presented to the County Council at a regularly scheduled public meeting.
2. Letters of Notification: Letters of notification for development rights purchases will be sent to adjoining property owners by the Administrator.

VIII. CONSERVATION FUTURES FUND

A. Intent

This fund was established in 1992 to be used solely to acquire right and interests in open space land, farm and agricultural land, and timber land, so as to protect, preserve, maintain, improve, restore, limit the future use of, or otherwise conserve the property for public use and enjoyment.

B. Fund Sources

This Conservation Futures Fund is funded by a real property tax applied to all real property within Whatcom County at a rate determined by the county administration and county council.

C. Fund Source Accounts

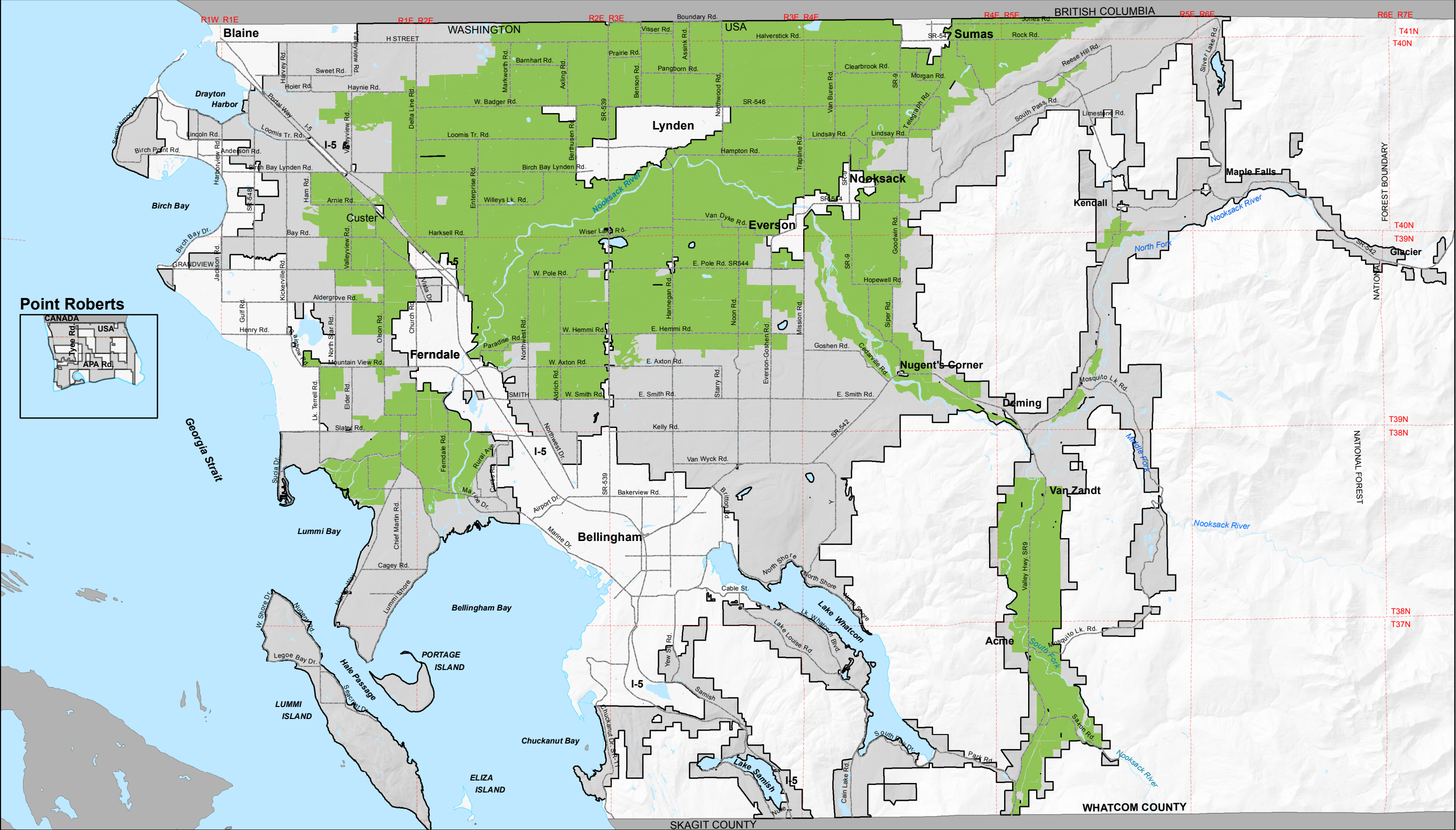
Council shall annually consider an allocation of Conservation Futures Fund to be placed in a Conservation Easement Program Account.

D. Installment Payment Fund

1. The intent of installment payment funds, which are established by the County, is to encumber and invest committed funds for which recipient property owners have elected annual installment payments for a period, which may vary according to the wishes of the property owner.
2. The full consideration of any transaction for which installment payments of five years or less have been elected shall be placed in the fund, less the amount of any first installment to be paid at settlement. This amount shall be invested and annual installment payments shall include the interest accrued.
3. Annual installment payments shall be made on or before January 20th of each year.
4. A property owner may enter into an Installment Purchase Agreement for fifteen (15) to thirty (30) years at an interest rate to be negotiated between the property owner and the County. The property owner will receive semi-annual interest payments that are tax exempt. Principal will be paid in one lump sum at the end of term. The property owner will also receive a security representing the Installment Purchase Agreement. The property owner may sell or assign this Agreement.



E. Public Expenditures

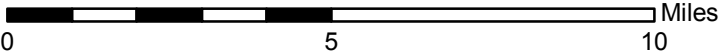
1. All public expenditures from the Conservation Futures Fund are subject to approval by Whatcom County Council and will be made in accordance with approved disbursement procedures.
2. Expenditures from the CEP Account shall be limited to interests in qualified agricultural, forestry, and/or ecological land participating in the Whatcom County Conservation Easement Program, and other expenses necessary to the acquisition of conservation easements authorized under RCW 84.34.200-.240.
3. The annual appropriation to the CEP by the County Council shall be available for the calendar year in which the appropriation was made and or the subsequent calendar year.



Whatcom County Agricultural Priority Areas

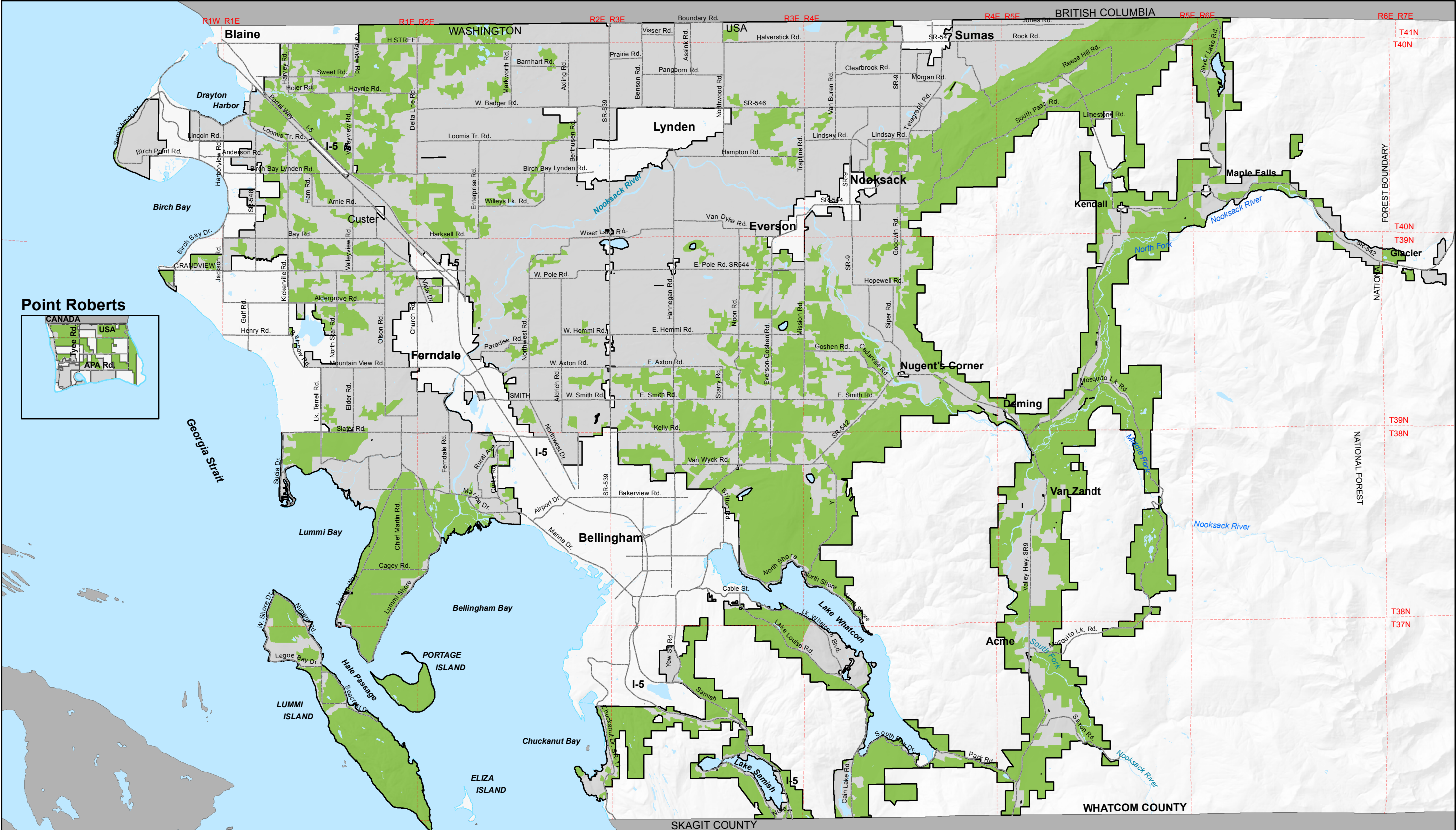
Agriculture Zone, Rural Study Areas, Watershed Improvement Districts, and Additional Areas Identified in the Agricultural Landscape Analysis

-  Agricultural Priority Area
-  Conservation Easement Program Area (Agriculture, Rural, Rural Residential, and Rural Forestry Zoning Outside Urban Growth Areas)



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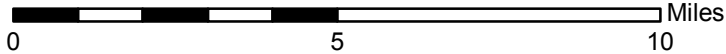
Whatcom County Forestry Priority Areas

Rural Forestry Zone and WA Forest Action Plan
Priority Areas



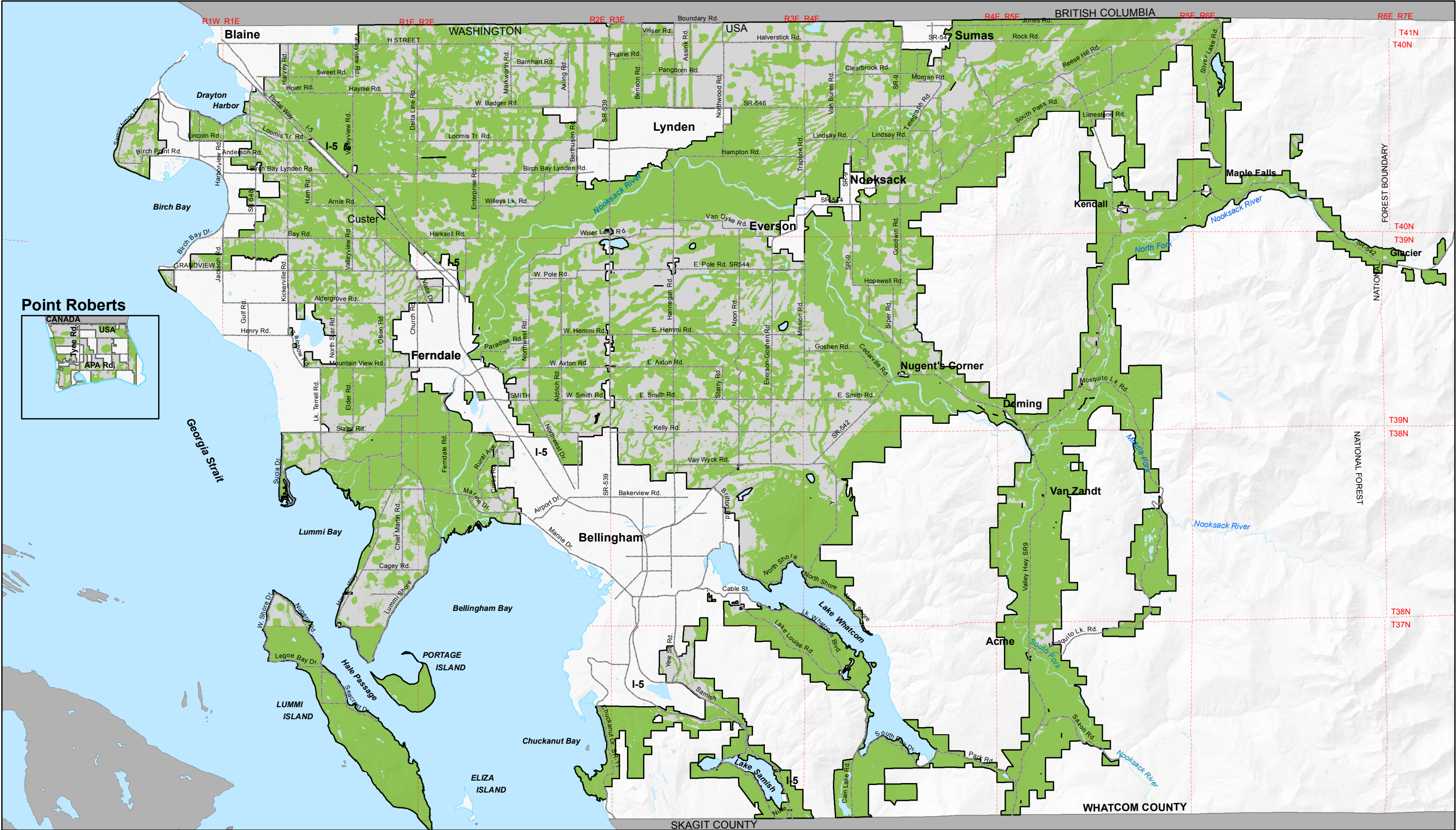
Forestry Priority Area

Conservation Easement Program Area
(Agriculture, Rural, Rural Residential, and Rural Forestry
Zoning Outside Urban Growth Areas)





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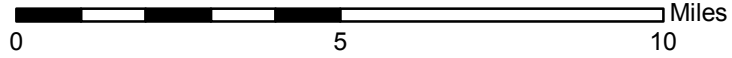
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Whatcom County Ecological Priority Areas

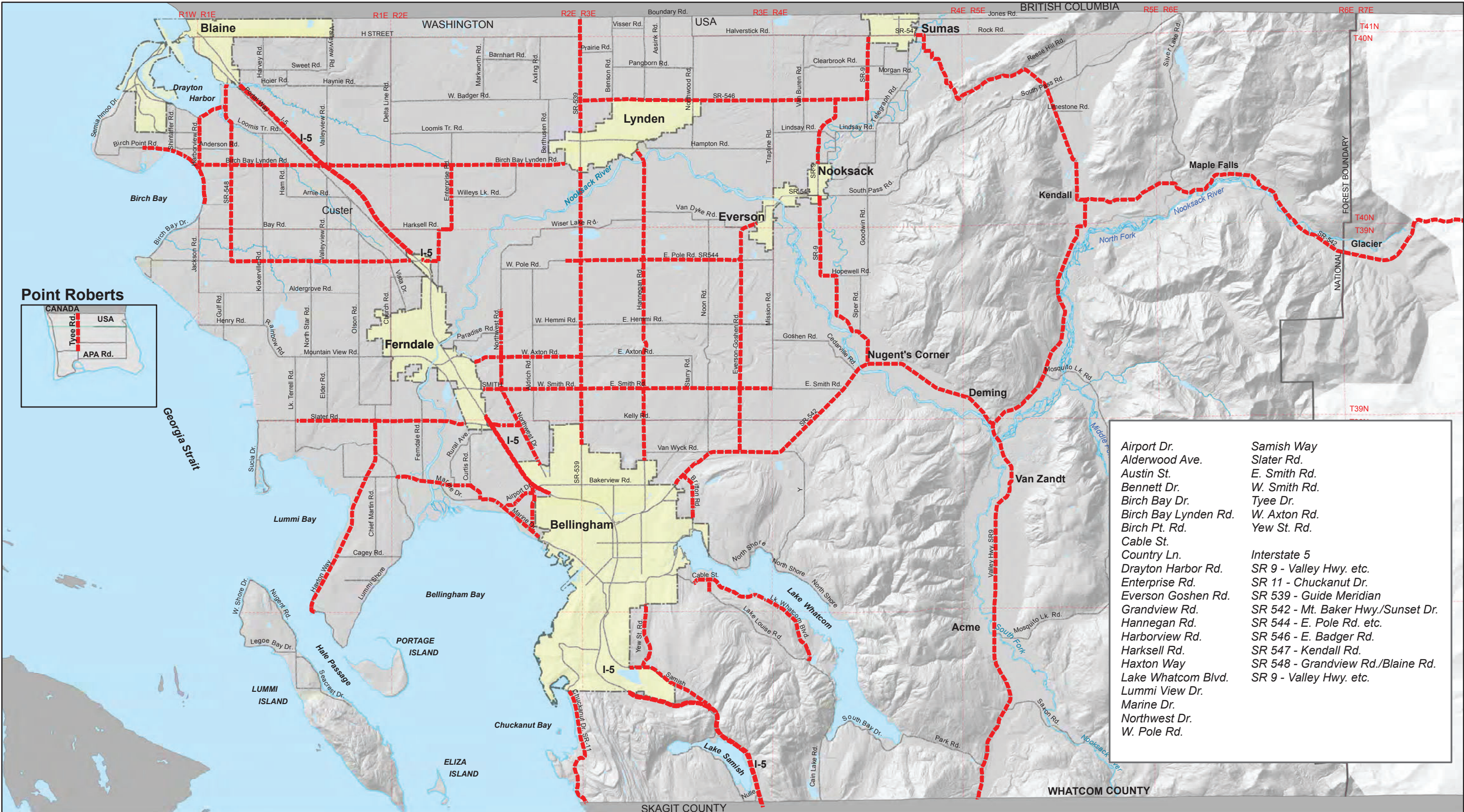
Habitat Conservation Areas, FEMA Floodplain, and Additional Areas Identified in the Ecological Landscape Analysis

-  Ecological Priority Area
-  Conservation Easement Program Area (Agriculture, Rural, Rural Residential, and Rural Forestry Zoning Outside Urban Growth Areas)



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Whatcom County

Major Roads - >3,000 Average Daily Trips

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0 0.5 1 2 3 4 Miles
409

APPENDIX E

Soils List

Soil #	Soil Name	APO y/n	LESA Group	PRIME	STATEWIDE IMPORTANCE	Site Index
1	ANDIC CRYOCHREPTS - 60 TO 90% SLOPES	N	0	0		
2	ANDIC CRYOCHREPTS-ROCK OUTCROP COMPLEX - 60 TO 90% SLOPES	N	0	0		
3	ANDIC XEROCHREPTS - 60 TO 90% SLOPES	N	0	0		3
4	ANDIC XEROCHREPTS-ROCK OUTCROP COMPLEX - 60 TO 90% SLOPES	N	0	0		3
5	ANDIC XEROCHREPTS-COOL ROCK OUTCROP COMPLEX-60 TO 90% SLOPES	N	0	0		4
6	BARNESTON GRAVELLY LOAM - 0 TO 8% SLOPES	N	3	4		2
7	BARNESTON VERY GRAVELLY LOAM - 8 TO 15% SLOPES	N	0	4		2
8	BARNESTON VERY GRAVELLY LOAM - 15 TO 30% SLOPES	N	0	0		2
9	BARNESTON VERY GRAVELLY LOAM - 30 TO 60% SLOPES	N	0	0		2
10	BARNHARDT GRAVELLY LOAM - 0 TO 5% SLOPES	N	1	1		3
11	BELLINGHAM SILTY CLAY LOAM - 0 TO 2% SLOPES	N	0	2		
12	BIRCHBAY SILT LOAM - 0 TO 3% SLOPES	Y	1	1		3
13	BIRCHBAY SILT LOAM - 3 TO 8% SLOPES	Y	0	0	yes	3
14	BIRCHBAY SILT LOAM - 8 TO 15% SLOPES	N	0	0	yes	3
15	BLAINEGATE SILTY CLAY - 0 TO 1% SLOPES	N	0	0	yes	
16	BLAINEGATE-URBAN LAND COMPLEX - 0 TO 1% SLOPES	N	0	0		
17	BLETHEN GRAVELLY LOAM - 5 TO 15% SLOPES	N	0	0	yes	3
18	BLETHEN GRAVELLY LOAM - 15 TO 30% SLOPES	N	0	0	yes	3
19	BLETHEN GRAVELLY LOAM - 30 TO 60% SLOPES	N	0	0		3
20	BLETHEN VERY BOULDERY LOAM - 5 TO 40% SLOPES	N	0	0		3
21	BOROSAPRISTS - 0 TO 2% SLOPES	N	0	0		
22	BRISCOT SILT LOAM DRAINED - 0 TO 2% SLOPES	Y	3	2		
23	BRISCOT ORIDIA AND SUMAS SOILS - 0 TO 2% SLOPES	N	0	5		
24	CHUCKANUT LOAM - 3 TO 8% SLOPES	N	0	0	yes	
25	CHUCKANUT LOAM-BEDROCK SUBSTRATUM - 5 TO 15% SLOPES	N	0	0	yes	2
26	CHUCKANUT LOAM-BEDROCK SUBSTRATUM - 15 TO 30% SLOPES	N	0	0	yes	2
27	CHUCKANUT LOAM-BEDROCK SUBSTRATUM - 30 TO 60% SLOPES	N	0	0		2
28	CHUCKANUT-SHALCAR COMPLEX - 0 TO 15% SLOPES	N	0	0	yes	2
29	CHUCKANUT-URBAN LAND COMPLEX - 5 TO 20% SLOPES	N	0	0		2
30	CLENDENEN GRAVELLY SILT LOAM - 5 TO 30% SLOPES	N	0	0		
31	CLIPPER SILT LOAM-DRAINED - 0 TO 2% SLOPES	Y	2	2		
32	COMAR SILT LOAM - 5 TO 15% SLOPES	N	0	0	yes	2
33	COMAR SILT LOAM - 15 TO 30% SLOPES	N	0	0	yes	2
34	COMAR SILT LOAM - 30 TO 60% SLOPES	N	0	0		2
35	CRINKER VERY CHANNERY SILT LOAM - 30 TO 60% SLOPES	N	0	0		
36	CUPPLES GRAVELLY LOAM - 5 TO 30% SLOPES	N	0	0		2
37	CUPPLES GRAVELLY LOAM - 30 TO 60% SLOPES	N	0	0		2
38	DEKAPEN LOAM - 8 TO 25% SLOPES	N	0	0	yes	3
39	DEMING GRAVELLY SILT LOAM - 5 TO 30% SLOPES	N	0	0		
40	DEMING GRAVELLY SILT LOAM - 30 TO 60% SLOPES	N	0	0		
41	DIOBSUD GRAVELLY SILT LOAM - 30 TO 60% SLOPES	N	0	0		
42	EDFRO VERY GRAVELLY SILT LOAM - 8 TO 30% SLOPES	N	0	0		
43	EDFRO VERY GRAVELLY SILT LOAM - 30 TO 60% SLOPES	N	0	0		

44	EDFRO VERY STONY SILT LOAM - 30 TO 60% SLOPES	N	0	0		
45	EDMONDS-WOODLYN LOAMS - DRAINED - 0 TO 2% SLOPES	Y	0	0		
46	ELIZA SILT LOAM - DRAINED - 0 TO 1% SLOPES	N	0	5		
47	ELIZA-TACOMA SILT LOAMS - 0 TO 1% SLOPES	N	0	5		
48	EVERETT GRAVELLY SANDY LOAM-HARD SUBSTRATUM - 2 TO 8% SLOPES	N	0	4		3
49	EVERETT VERY GRAVELLY SANDY LOAM - 8 TO 15% SLOPES	N	0	4		3
50	EVERETT VERY GRAVELLY SANDY LOAM - 15 TO 35% SLOPES	N	0	0	yes	3
51	EVERETT COMPLEX - 2 TO 8% SLOPES	N	0	4		3
52	EVERETT-URBAN LAND COMPLEX - 5 TO 20% SLOPES	N	0	0		3
53	EVERSON SILT LOAM-DRAINED - 0 TO 2% SLOPES	N	2	2		
54	FISHTRAP MUCK-DRAINED - 0 TO 2% SLOPES	Y	3	2		
55	GALLUP SILT LOAM - 30 TO 60% SLOPES	N	0	0		
56	GALLUP SILT LOAM - 60 TO 80%	N	0	0		
57	GALLUP SILT LOAM-COLD - 30 TO 60% SLOPES	N	0	0		
58	GALLUP SILT LOAM-COLD - 60 TO 80% SLOPES	N	0	0		
59	GETCHELL LOAM - 3 TO 30% SLOPES	N	0	0		
60	GETCHELL LOAM - 30 TO 60% SLOPES	N	0	0		
61	HALE SILT LOAM - 0 TO 2% SLOPES	N	0	2		4
62	HALE SILT LOAM-DRAINED - 0 TO 2% SLOPES	Y	2	2		4
63	HALLENTON SILT LOAM-DRAINED - 0 TO 1% SLOPES	N	0	2		
64	HANNEGAN VERY GRAVELLY LOAM - 15 TO 40% SLOPES	N	0	0		
65	HARTNIT SILT LOAM-COLD - 5 TO 30% SLOPES	N	0	0		
66	HARTNIT SILT LOAM-COLD - 30 TO 60% SLOPES	N	0	0		
67	HARTNIT-GALLUP-ROCK OUTCROP COMPLEX - 50 TO 80% SLOPES	N	0	0		
68	HEISLER VERY GRAVELLY SILT LOAM - 8 TO 30%	N	0	0	yes	2
69	HEISLER VERY GRAVELLY SILT LOAM - 30 TO 60% SLOPES	N	0	0		2
70	HINKER VERY CHANNERY SILT LOAM - 5 TO 30% SLOPES	N	0	0		
71	HINKER VERY CHANNERY SILT LOAM - 30 TO 60% SLOPES	N	0	0		
72	HISTOSOLS-PONDED - 0 TO 1% SLOPES	N	0	2		
73	HOVDE SILT LOAM - 0 TO 2% SLOPES	N	0	0	yes	
74	HOZOMEEN GRAVELLY LOAM - 20 TO 45% SLOPES	N	0	0		
75	HYDRAQUENTS-TITAL - 0 TO 1% SLOPES	N	0	0		
76	JACKMAN GRAVELLY SILT LOAM - 30 TO 60% SLOPES	N	0	0		
77	JORGENSEN GRAVELLY SILT LOAM - 3 TO 15% SLOPES	N	0	0		
78	JUG VERY GRAVELLY LOAM - 3 TO 15% SLOPES	N	0	0	yes	2
79	KICKERVILLE SILT LOAM - 0 TO 3% SLOPES	Y	1	1		2
80	KICKERVILLE SILT LOAM -3 TO 8% SLOPES	Y	1	1		2
81	KICKERVILLE SILT LOAM - 8 TO 15% SLOPES	N	0	0	yes	2
82	KICKERVILLE-URBAN LAND COMPLEX - 0 TO 3% SLOPES	N	0	0		2
83	KINDY GRAVELLY SILT LOAM - 8 TO 30% SLOPES	N	0	0		4
84	KINDY GRAVELLY SILT LOAM - 30 TO 60% SLOPES	N	0	0		4
85	KINDY-OSO COMPLEX - 5 TO 40% SLOPES	N	0	0		
86	KLAWATTI VERY GRAVELLY LOAM - 30 TO 60% SLOPES	N	0	0		
87	KLAWATTI V. GRAVELLY SANDY LOAM-SERPENTINE-10 TO 30% SLOPES	N	0	0		
88	KLAWATTI V. GRAVELLY SANDY LOAM-SERPENTINE-10 TO 30% SLOPES	N	0	0		
89	KLAWATTI-ROCK OUTCROP COMPLEX - 60 TO 80% SLOPES	N	0	0		
90	KLINE GRAVELLY SANDY LOAM - 2 TO 8% SLOPES	N	0	4		3
91	KULSHAN LOAM - 5 TO 30% SLOPES	N	0	0		
92	KILSHAN LOAM - 30 TO 60% SLOPES	N	0	0		
93	LABOUNTY SILT LOAM - 0 TO 2% SLOPES	N	4	2		

94	LABOUNTY SILT LOAM-DRAINED - 0 TO 2% SLOPES	N	0	2		
95	LARUSH SILT LOAM - 0 TO 3% SLOPES	Y	3	1		2
96	LAXTON LOAM - 0 TO 30% SLOPES	Y	1	1		2
97	LAXTON LOAM - 3 TO 8% SLOPES	Y	1	1		2
98	LAXTON LOAM - 8 TO 15% SLOPES	N	0	0	yes	2
99	LYNDEN SANDY LOAM	Y	1	1		3
100	LYNDEN SANDY LOAM - 3 TO 7% SLOPES	Y	1	1		3
101	LYNDEN-URBAN LAND COMPLEX - 0 TO 5% SLOPES	N	0	0		3
102	LYNNWOOD SANDY LOAM - 0 TO 5% SLOPES	N	0	4		3
103	LYNNWOOD SANDY LOAM - 5 TO 20% SLOPES	N	0	0	yes	3
104	MONTBORNE GRAVELLY LOAM - 5 TO 30% SLOPES	N	0	0		3
105	MONTBORNE GRAVELLY LOAM - 30 TO 60% SLOPES	N	0	0		3
106	MONTBORNE-RINKER COMPLEX - 30 TO 60% SLOPES	N	0	0		3
107	MT. VERNON FINE SANDY LOAM - 0 TO 2% SLOPES	Y	2	1		2
108	NATI LOAM - 5 TO 15% SLOPES	N	0	0	yes	2
109	NATO LOAM = 15 TO 30% SLOPES	N	0	0	yes	2
110	NATI LOAM - 30 TO 60% SLOPES	N	0	0		3
111	NEPTUNE VERY GRAVELLY SANDY LOAM- 0 TO 3% SLOPES	N	0	4		3
112	OAKES VERY GRAVELLY LOAM - 8 TO 30% SLOPES	N	0	0		2
113	OAKES VERY GRAVELLY LOAM - 30 TO 60% SLOPES	N	0	0		2
114	OAKES VERY GRAVELLY LOAM - 60 TO 80% SLOPES	N	0	0		4
115	ORIDIA SILT LOAM-DRAINED - 0 TO 2% SLOPES	Y	3	2		
116	PANGBORN MUCK-DRAINED - 0 TO 2% SLOPES	Y	3	2		
117	PICKETT-ROCK OUTCROP COMPLEX - 5 TO 30% SLOPES	N	0	0		4
118	PICKETT-ROCK OUTCROP COMPLEX - 30 TO 60% SLOPES	N	0	0		4
119	PILCHUCK LOAMY FINE SAND - 0 TO 3% SLOPES	N	0	7		3
120	PITS	N	0	0		
121	POTCHUB LOAM - 8 TO 30% SLOPES	N	0	0		
122	POTCHUB LOAM - 30 TO 60% SLOPES	N	0	0		
123	PUGET SILT LOAM-DRAINED - 0 TO 2% SLOPES	Y	3	2		
124	PUYALLUP FINE SANDY LOAM - 0 TO 2% SLOPES	Y	2	4		2
125	REVEL LOAM - 5 TO 30% SLOPES	N	0	0		4
126	REVEL LOAM - 30 TO 60% SLOPES	N	0	0		4
127	REVEL-WELCOME-ROCK OUTCROP COMPLEX - 30 TO 60% SLOPES	N	0	0		4
128	RINKER VERY CHANNERY SILT LOAM - 8 TO 30% SLOPES	N	0	0	yes	3
129	RINKER VERY CHANNERY SILT LOAM - 30 TO 60% SLOPES	N	0	0		3
130	RIVERWASH	N	0	0		
131	ROCK OUTCROP	N	0	0		
132	ROCK OUTCROP-KULSHAN COMPLEX - 60 TO 90% SLOPES	N	0	0		
133	RUBBLE LAND	N	0	0		
134	SAAR GRAVELLY SILT LOAM - 5 TO 30% SLOPES	N	0	0		
135	SAAR GRAVELLY SILT LOAM - 30 TO 60% SLOPES	N	0	0		
136	SAAR-HARTNIT COMPLEX - 5 TO 40% SLOPES	N	0	0		
137	SANDUN VERY GRAVELLY SANDY LOAM - 5 TO 30% SLOPES	N	0	0		
138	SANDUN VERY GRAVELLY SANDY LOAM - 30 TO 60% SLOPES	N	0	0		
139	SEHOME LOAM - 2 TO 8% SLOPES	Y	0	1		2
140	SEHOME LOAM - 8 TO 15% SLOPES	N	0	0	yes	2
141	SEHOME GRAVELLY LOAM - 15 TO 30% SLOPES	N	0	0	yes	2
142	SEHOME GRAVELLY LOAM - 30 TO 60% SLOPES	N	0	0		2
143	SHALCAR MUCK-DRAINED - 0 TO 2% SLOPES	Y	3	2		

144	SHALCAR AND FISHTRAP SOILS - 0 TO 2% SLOPES	N	0	2		
145	SHUKSAN GRAVELLY SILT LOAM - 5 TO 30% SLOPES	N	0	0		
146	SHUKSAN GRAVELLY SILT LOAM - 30 TO 60% SLOPES	N	0	0	yes	
147	SHUKSAN-KULSHAN-ROCK OUTCROP COMPLEX - 50 TO 80% SLOPES	N	0	0		
148	SKIPOPA SILT LOAM - 0 TO 8% SLOPES	Y	0	2		3
149	SKIPOPA-BLAINEGATE COMPLEX - 0 TO 8% SLOPES	N	0	2	yes	3
150	SKYKOMISH VERY GRAVELLY LOAM - 3 TO 30% SLOPES	N	0	0		3
151	SNOHOMISH SILT LOAM-DRAINED - 0 TO 2% SLOPES	Y	3	2		
152	SNOQUALMIE GRAVELLY LOAMY SAND - 0 TO 3% SLOPES	N	0	4	yes	3
153	SORENSEN VERY GRAVELLY SILT LOAM - 8 TO 30% SLOPES	N	0	0	yes	2
154	SORENSEN VERY GRAVELLY SILT LOAM - 30 TO 60% SLOPES	N	0	0		2
155	SPRINGSTEEN VERY GRAVELLY LOAM - 30 TO 60% SLOPES	N	0	0		
156	SQUALICUM GRAVELLY LOAM - 5 TO 15% SLOPES	N	0	0	yes	2
157	SQUALICUM GRAVELLY LOAM - 15 TO 30% SLOPES	N	0	0		2
158	SQUALICUM GRAVELLY LOAM - 30 TO 60% SLOPES	N	0	0		2
159	SQUALICUM-URBAN LAND COMPLEX - 5 ATO 20% SLOPES	N	0	0		2
160	SQUIRES VERY CHANNERY LOAM - 5 TO 30% SLOPES	N	0	0		2
161	SQUIRES VERY CHANNERY LOAM - 30 TO 60% SLOPES	N	0	0		2
162	SUMAS SILT LOAM-DRAINED - 0 TO 2% SLOPES	Y	3	2		
163	TACOMA SILT LOAM - 0 TO 1% SLOPES	N	0	5		
164	TACOMA SILT LOAM-DRAINED - 0 TO 1% SLOPES	N	0	5		
165	TROMP LOAM - 0 TO 2% SLOPES	Y	1	1		3
166	TWINSI VERY GRAVELLY LOAM - 30 TO 60% SLOPES	N	0	0		
167	TWINSI VERY STONY LOAM - 30 TO 60% SLOPES	N	0	0		
168	TYPIC CRYORTHODS - 60 TO 90% SLOPES	N	0	0		
169	TYPIC CRYORTHODS-ROCK OUTCROP COMPLEX - 60 TO 90% SLOPES	N	0	0		
170	TYPIC PSAMMAQUENTS-TIDAL - 0 TO 1% SLOPES	N	0	0	yes	
171	URBAN LAND	N	0	0		
172	URBAN LAND-WHATCOM-LABOUNTY COMPLEX - 0 TO 8% SLOPES	N	0	0	yes	2
173	VANZANDT VERY GRAVELLY LOAM - 5 TO 15% SLOPES	N	0	0		2
174	VANZANDT VERY GRAVELLY LOAM - 15 TO 30% SLOPES	N	0	0		2
175	VANZANDT VERY GRAVELLY LOAM - 30 TO 60% SLOPES	N	0	0		2
176	WELCOME LOAM - 5 TO 30% SLOPES	N	0	0	yes	3
177	WELCOME LOAM - 30 TO 60% SLOPES	N	0	0		3
178	WHATCOM SILT LOAM - 0 TO 3% SLOPES	Y	2	1		2
179	WHATCOM SILT LOAM - 3 TO 8% SLOPES	Y	4	1		2
180	WHATCOM SILT LOAM - 8 TO 15% SLOPES	N	0	0		2
181	WHATCOM SILT LOAM - 30 TO 60% SLOPES	N	0	0		2
182	WHATCOM-LABOUNTY SILT LOAMS - 0 TO 8% SLOPES	N	4	2		2
183	WHATCOM-LABOUNTY SILT LOAMS - 0 TO 15% SLOPES	N	0	2	yes	2
184	WHITEHORN WILT LOAM - 0 TO 2% SLOPES	Y	3	2		
185	WICKERSHAM CHANNERY SILT LOAM - 0 TO 8% SLOPES	N	4	1		2
186	WINSTON SILT LOAM - 0 TO 3% SLOPES	Y	0	1		2
187	WINSTON LOAM - 3 TO 15% SLOPES	N	0	0		2
188	WINSTON LOAM - 15 TO 40% SLOPES	N	0	0		2
189	WISEMAN VERY CHANNERY SAND LOAM - 0 TO 8% SLOPES	N	0	4		3
190	WOLLARD GRAVELLY SILT LOAM - 30 TO 60% SLOPES	N	0	0		
191	YELM LOAM - 3 TO 8% SLOPES	Y	1	1	yes	2
192	YELM-URBAN LAND COMPLEX - 0 TO 3% SLOPES	N	0	0		2

APPENDIX F

Model Conservation Easement Deed

A sample Conservation Easement Deed based on the assumption of matching funds from the USDA-NRCS Agricultural Conservation Easement Program, is included in the following pages.

After Recording Return To:

Whatcom County
311 Grand Avenue, Suite 108
Bellingham, WA 98225

DOCUMENT TITLE: _____ **AGRICULTURAL CONSERVATION EASEMENT**

GRANTOR: _____

GRANTEES: **WHATCOM LAND TRUST AND WHATCOM COUNTY**

ABBR. LEGAL DESCRIPTION:

Full Legal Description in Exhibit A

TAX PARCEL # _____

AGRICULTURAL CONSERVATION EASEMENT DEED

This Conservation Easement Deed ("Deed") is made and entered into this ____ day of _____ 20__, by _____ ("Grantor"), the WHATCOM LAND TRUST ("Trust"), and WHATCOM COUNTY, WASHINGTON ("County") ("collectively, Grantees"), and with a right of enforcement to the United States of America (the United States), acting by and through the United States Department of Agriculture (USDA) Natural Resources Conservation Service (NRCS) on behalf of the Commodity Credit Corporation (CCC), as its interest appears herein, for the purpose of forever conserving the agricultural productivity of the Protected Property and its value for resource preservation and as open space.

1. RECITALS

- 1.1. Grantor is fee simple owner of real property (the "Protected Property") in Whatcom County, Washington, that is the subject of this Easement. Exhibit A is the legal description and Exhibit B is a site plan for that Protected Property, both of which are attached and incorporated herein by reference.

- 1.2. While “Grantees” include the Whatcom Land Trust and Whatcom County, use of the term “Grantees” does not imply that joint approval is required to exercise Grantees’ rights and responsibilities under this Easement. Those rights and responsibilities may be independently exercised by any Grantee.
- 1.3. The Protected Property is approximately _____ acres and is currently farmed.
- 1.4. The Protected Property has significant agricultural value to Grantees and to the people of Whatcom County and the State of Washington. The agricultural values include productive soil types and agricultural infrastructure as described in Baseline Documentation (Exhibit D). It is the intent of all parties that the agricultural values described in the baseline shall remain for the life of this easement and shall be used along with annual monitoring to identify future changes on the easement area.
- 1.5. Grantor and Grantees agree that the conveyance of rights and imposition of restrictions described in this Easement furthers the intent of Whatcom County Ordinance No. 2002-054, provided in Exhibit C, which establishes the Purchase of Development Rights Program to preserve land for agricultural purposes and has substantial public benefits.
- 1.6. As owner of the Protected Property, Grantor has the right to convey the rights and restrictions contained in this Easement in perpetuity.
- 1.7. Under the authority of the Agricultural Conservation Easement Program, (16 U.S.C. Sections 3838h and 3838i) the United States Department of Agriculture’s Natural Resources Conservation Service (herein “NRCS”) has provided on behalf of the Commodity Credit Corporation \$_____ (_____ and 00/100 dollars) to Grantee for the acquisition of this Conservation Easement, entitling the United States to the rights identified herein.

2. CONVEYANCE AND CONSIDERATION

- 2.1. For the reasons stated above, in consideration of mutual covenants, terms, conditions, and restrictions contained in this Easement, and in consideration of payment of \$_____ by the Whatcom County and the NRCS to Grantor, Grantor hereby grants, conveys and warrants to Grantees a Conservation Easement in perpetuity over the Protected Property, consisting of certain rights and restrictions as defined in this Easement Deed.
- 2.2. This Easement Deed is a conveyance of an interest in real property under the provisions of RCW 64.04.130.
- 2.3. Grantor and Grantees intend that this Easement run with the land and that it shall be binding upon Grantor’s, successors and assigns in perpetuity.

3. PURPOSE

The purpose of this Easement is to: (1) protect the present and future ability to use the Protected Property for agricultural purposes; (2) preserve the soil as a valuable resource and prevent activities that will impair the ability, now or in the future, to use the soil to produce food and fiber; (3) enable the Protected Property to remain in agricultural use for the production of food and fiber by preserving and protecting in perpetuity its agricultural values, character, use and utility, and to prevent any use or condition of the Protected Property that would significantly impair or interfere with its agricultural values, character, use or utility. This statement of purpose is intended as a substantive provision of the Easement. Any ambiguity or uncertainty regarding the application of the provisions of this Easement will be resolved so as to further this purpose. The granting of this Easement will also serve the "conservation purpose" of farmland protection as identified in Section 170(h)(4)(A) of the Internal Revenue Code.

4. RELATIONSHIP OF PARTIES

- 4.1. Unless noted otherwise, Whatcom County and the Whatcom Land Trust share all rights and responsibilities of Grantees under this Easement. For purposes of administering, monitoring and enforcing the terms of the Easement, the Whatcom Land Trust is the lead Grantee, unless Grantor is notified otherwise. As the lead Grantee, the Whatcom Land Trust has authority to act alone and at its sole discretion in exercising all rights and responsibilities of Grantees under this Easement. Grantor shall treat the Whatcom Land Trust as its contact for all matters regarding this Easement. Whatcom County and the Whatcom Land Trust may jointly take enforcement action, or if the Whatcom Land Trust fails to enforce the terms of this Easement, Whatcom County may do so alone.
- 4.2. The Trust will consult the County regarding any violation of the Easement that threatens the purpose of this Easement as described in Section 3. If a less serious violation is determined to have occurred, the Trust will report to the County the nature of the violation and the response to that violation by the Trust.
- 4.3. The above Section 4.1. does not pertain to monitoring and enforcement of a conservation farm plan, the responsibility for which rests with NRCS and Whatcom County as described in Section 9.

5. RIGHT OF ENFORCEMENT

Under this Conservation Easement, the United States is granted the right of enforcement in order to protect the public investment. This is a vested property right that cannot be condemned by State or local government. The Secretary of the United States Department of Agriculture (the Secretary) or his or her assigns, on behalf of the United States, may exercise this right of enforcement under any authority available under State or Federal law if the Grantees fail to enforce any of the terms of this Conservation Easement, as determined in the sole discretion of the Secretary.

The United States shall be entitled to recover any and all administrative and legal costs from the County Grantee, including attorney's fees or expenses, associated with any enforcement or remedial action as it relates to the enforcement of this Easement.

Additionally, the United States is granted the right to enter the Property at a reasonable time and upon reasonable prior written notice to Grantor, for the purpose of making a general inspection of the Protected Property, in accordance with the Agricultural Conservation Easement Program requirements.

6. PERMITTED USES AND ACTIVITIES

Grantor may:

- 6.1. Engage in the production of food and fiber and other uses and activities consistent with the purpose of this Easement so long as those uses or activities are not expressly prohibited in Section 7 below.
- 6.2. Continue any use or activity not permitted by this easement at the time this Easement is signed provided it is not contrary to the purposes of this Easement and provided that such use or activity is described in this section.
- 6.3. Remove, Maintain, Expand, or Replace, existing agricultural structures and roads and construct new agricultural structures, roads, and improvements used primarily for agricultural enterprises on the Protected Property within the "Farmstead", as defined in Section 12 of this Easement, and shown on Exhibit B, so long as expansion or new construction does not exceed the area of impervious surfaces allowed in Section 7.4. Agricultural structures may include, without limitation, fencing, offices, warehouses, temporary farm worker housing, livestock housing and related structures, equipment storage and maintenance facilities, facilities related to the processing and sale of farm products predominately grown on the Protected Property, temporary hoop houses and temporary greenhouses with no foundation so long as the structures' primary use is to support the agricultural activities on the Protected Property or agricultural activities on other property under the control of the Grantor.
- 6.4. Remove, Maintain, Expand, or Replace temporary hoop houses and temporary greenhouses with no foundation outside of the Farmstead area so long as the structures' primary use is to support the agricultural activities on the Protected Property or agricultural activities on other property under the control of the Grantor.
- 6.5. On the "Farmstead", as defined in Section 12 of this Easement, and shown in Exhibit B, engage in any uses or activities, that do not impair the ability to farm the remainder of the Protected Property in the present or future and that are not prohibited by Section 7 below.
- 6.6. Plant or maintain trees on the Agricultural Land, as defined in Section 12 of this Easement only as follows:

- 6.6.1. Maintain a woodlot for the production of firewood to be used on the Protected Property.
- 6.6.2. Plant Christmas trees and short rotation hardwoods not subject to the excise tax imposed by RCW 84.33, provided that adequate provision is made for the removal of trees, including stumps and roots, at the termination of the Christmas tree or short rotation hardwood farming operation.
- 6.6.3. Install and maintain trees on the riparian portion of the property according to the Conservation Reserve Enhancement Program and/or Best Management Practices in coordination with the Whatcom Conservation District.
- 6.6.4. Plant and maintain trees to provide shading for grazing livestock.
- 6.6.5. Plant and maintain trees used in fruit or nut production.
- 6.7. Install a small-scale wind and solar power generator for the primary purpose of generating electric power for use on the Protected Property, provided however that incidentally generated excess power may be sold through the electric grid and further provided that Grantee must approve the scale and location of any such small-scale wind and solar power generator prior to installation.
- 6.8. Grantor has the right to conduct non-farm related commercial or industrial activity provided that conduct of such activity uses no more than one percent (1%) or one acre of the Protected Property, whichever is less, or provided such activity utilizes buildings existing at the time the Conservation Easement is signed and does not involve installation of facilities or expenditure of capital that would hinder the future use of buildings for agricultural purposes. Said activity must be compatible with the purpose of this Conservation Easement and agriculture and forestry uses of the Protected Property and subordinate to the agricultural and residential use of the Protected Property. Activities which market petroleum or chemical products are prohibited.

7. PROHIBITED USES AND RESTRICTIONS ON PERMITTED USES

Unless specifically permitted by Section 6 above, and as may be necessary to carry out those reserved rights, Grantor shall not engage in or permit any of the following activities on the Protected Property:

- 7.1. Use or activities inconsistent with the purpose of this Easement.
- 7.2. Legal or “de facto” division, subdivision, or partitioning of the land or the separate sale of any portion of the Property, even if that portion of the Property constitutes a separate legal parcel. This restriction does not prohibit minor boundary line adjustments with adjoining agricultural land, provided there is no net loss of land to the Property, and provided that no new parcel may be created by such boundary line adjustments, and such adjustments does not affect over

two acres in total for the entire Property. Any new land gained through a boundary line adjustment is subject to the terms of this agreement.

- 7.3. Place or construct any residential building, structures, or other residential improvements of any kind except those utilized to house farm workers.
- 7.4. Cover more than two percent (2%) of the area (approximately _____ square feet) of the Protected Property with impervious surfaces, including, without limitation, asphalt, concrete, buildings, or ponds, except animal waste holding ponds.
- 7.5. Construct non-agricultural structures or facilities.
- 7.6. Conduct any use or activity that removes or damages the long-term viability of the soil or impairs the ability to farm the Protected Property except for conservation or best management practices as specified in the NRCS Field Office Technical Guide for Whatcom County.
- 7.7. Transfer, encumber, sell, relinquish, forfeit or otherwise separate water rights from title to the Protected Property except that with the consent of the County, such portion of the Water Rights that are excess and not then needed for agricultural purposes on the Property may either be leased for a period not to exceed ten years for the beneficial use for agricultural activities on land other than the Protected Property, or temporarily enrolled in the state Trust Water Right Program for a period not to exceed ten years or conveyed to the County as provided in Section 8, so long as sufficient water rights are retained by grantor to ensure adequate water to carry on agricultural activities on the protected land now and in the future.
- 7.8. Mine or extract soil, sand, gravel, oil or other mineral, except that Grantor may extract soil, sand, and gravel solely for a permitted use on the Protected Property in a manner consistent with the conservation purposes of this easement. Such alteration shall not exceed two acres.
- 7.9. Use off-road motor vehicles on the Protected Property or grant permission for such use except as necessary in the accomplishment of the agriculture, forestry, habitat management, law enforcement and public safety, or conservation uses of the Protected Property, provided that no use of motorized vehicles shall create impacts that are detrimental to the productivity of the soils on the Protected Property and the Purposes of this Easement Deed.
- 7.10. Grant easements or rights-of-way for power lines, gas lines, sewer lines, water lines, telecommunications towers, and wind farms.
- 7.11. Expand or intensify any use or activity existing at the time this Easement Deed is signed that is contrary to the purpose of this Easement or prohibited in this section.
- 7.12. The dumping or accumulation of trash on the Protected Property is prohibited, except that the storage of agricultural products for use on the Protected Property and by-products generated on the Protected Property is permitted.

8. WATER RIGHTS

- 8.1. The Parties agree that any Water Rights must be maintained on the Protected Property to ensure the protection of the Agricultural Values.
- 8.2. Trust will include reference, in Baseline Documentation (Exhibit D), to any water rights associated with the Protected Property. In its monitoring visits, Trust will inquire regarding the status and protection of water rights and will include in its Annual Monitoring Report any new information about water rights on the Protected Property and concerns, if any, about whether water rights are being protected. If at any time Trust believe that Grantor is not sufficiently informed about protecting Grantor's water rights, Trust will refer Grantor to Whatcom County and will urge Grantor to take the Water Rights protection actions.
- 8.3. Under this Easement, Grantor is obligated to take appropriate action to protect water rights on the Protected Property. Section 4 RELATIONSHIP OF PARTIES notwithstanding, Whatcom County, not the Trust, has responsibility for enforcing this Grantor obligation. If Grantor fails to take appropriate action to protect water rights on the Protected Property, Whatcom County may pursue remedies in accordance with Sections 13 and 14 of this Easement or may itself take appropriate action to protect the water rights.
- 8.4. If Grantor is unable or unwilling to take the Water Rights protection action, and the Water Rights are under threat of abandonment, relinquishment, loss or forfeiture, Grantor shall convey ownership of said Water Rights to County for County's use in order to maintain the agricultural activity on the Protected Property.

9. CONSERVATION PLAN

- 9.1. As required by section 1238I of the Food Security Act of 1985, as amended, the Grantor, its successors, or assigns, shall conduct all agricultural operations on the Protected Property in a manner consistent with a Conservation Plan prepared in consultation with the Whatcom Conservation District and approved by NRCS. This conservation plan shall be developed using standards and specifications of the NRCS Field Office Technical Guide and 7 CFR Part 12 that are in effect on the date this Easement Deed is executed. However, the Grantor may develop and implement a Conservation Plan that proposes a higher level of conservation and is consistent with NRCS Field Office Technical Guide standards and specifications. The Conservation Plan is incorporated into this Conservation Easement Deed by reference. NRCS shall have the right to enter upon the Protected Property, with advanced notice to the Grantor, in order to monitor compliance with the Conservation Plan.
- 9.2. In the event of noncompliance with the Conservation Plan, NRCS shall work with the Grantor to explore methods of compliance and give the Grantor a reasonable amount of time, not to exceed twelve months, to take corrective action. If the Grantor does not comply with the conservation plan, NRCS will inform the County of the Grantor's noncompliance. The County shall take all reasonable steps (including efforts at securing voluntary compliance and, if necessary, appropriate legal action) to secure compliance with the conservation plan following written notification from NRCS that (a) there is a substantial, ongoing event or circumstance of non-compliance with the conservation plan, (b) NRCS has worked with the Grantor to

correct such noncompliance, and (c) Grantor has exhausted its appeal rights under applicable NRCS regulations. The landowner shall be liable for any costs incurred by NRCS as a result of landowner's negligence or failure to comply with the easement requirements as it relates to conservation planning violations.

- 9.3. If the NRCS standards and specifications for highly erodible land are revised after the date of this Deed based on an Act of Congress, NRCS will work cooperatively with the Grantor to develop and implement a revised Conservation Plan. The provisions of this section apply to the highly erodible land conservation requirements of the Farm and Ranch Lands Protection Program and are not intended to affect other natural resources conservation requirements to which the Grantor may be or become subject.
- 9.4. For the purpose of this Conservation Easement, references and requirements relating to highly erodible lands do not apply to land over which this Conservation Easement is granted. There are no highly erodible lands on the Protected Property and none have been designated in Whatcom County.

10. RIGHTS CONVEYED TO GRANTEES

To accomplish the purpose of this Easement, the following rights are conveyed to Grantees:

- 10.1. To accomplish the purpose of this Easement and to enforce specific rights and restrictions contained in the Easement Deed.
- 10.2. To enter the land at least once a year, at a mutually agreeable time and upon notice to the Grantor, for the purpose of inspection and monitoring compliance with this Easement.
- 10.3. To enter the land at such other times as necessary if Grantees have reason to believe that a violation of the Easement is occurring or has occurred, for the purpose of mitigating or terminating the violation and otherwise enforcing the provisions of the Easement. Such entry will be with prior notice as is reasonable under the circumstances.
- 10.4. In the event of uses or activities inconsistent with the purpose and provisions of this Easement, the Grantees may obtain damages, an injunction, abatement, rescission, restoration and any other remedies available in law or equity.
- 10.5. Forbearance by the Grantees to exercise any rights under this Easement in the event of a breach shall not be deemed to be a waiver of Grantees' rights under the Easement.

11. NO PUBLIC ACCESS

This Easement provides no right of access to the general public.

12. BASELINE DOCUMENTATION

- 12.1. To establish the present condition of the Protected Property so that Grantees are able to monitor future uses and assure compliance with the terms of this Easement, Grantees will, at their expense, by the date of this Easement prepare Baseline Documentation sufficient to establish the condition of the Protected Property as of the signing of this Easement Deed. The Baseline Documentation may consist of reports, maps, photographs, and other documentation. Grantor and Grantees will execute a statement verifying that the Baseline Documentation accurately represents the condition of the Protected Property as of this time. Baseline Documentation is contained in Exhibit D. The Baseline Documentation will delineate the Farmstead and Agricultural Land as defined below.
- 12.2. The Baseline Documentation will specifically establish the area and extent of the Farmstead, which includes that portion of the Property used for residential buildings and buildings and uses accessory to residential buildings, as well as that portion used for agricultural buildings, structures and improvements and those adjacent areas where future expansion of buildings, structures and improvements are contemplated. In this Easement Deed, the Farmstead is located in the same area as delineated by the baseline data.
- 12.3. The area not included in the Farmstead will be depicted under the category of Agricultural Land. Agricultural Land may include nonfarm areas, such as woodlands, as well as cropland or grazing land.

13. INFORMAL DISPUTE RESOLUTION

Grantor agrees to notify the Trust of any intended action that a reasonable person might believe would violate the terms of this Easement. Should a dispute arise concerning compliance with this Easement, Grantor and the Trust will meet within 15 days to discuss the matter in dispute. By mutual agreement, the Grantor and the Trust may agree to refer the matter in dispute to mediation or arbitration under such rules as the parties may agree. If arbitration is pursued, the prevailing party will be entitled to such relief as may be granted, to a reasonable sum for its costs and expenses related to the arbitration, including fees and expenses of the arbitrator and attorneys. The Trust may, at its discretion, forgo these informal dispute resolution alternatives if continuation of the use or activity in dispute threatens the purpose of this Easement.

14. GRANTEES' REMEDIES

- 14.1. If Grantees determine that the Grantor is in violation of the terms of this Easement or that a violation is threatened, Grantees shall give written notice to the Grantor of such violation and request corrective action sufficient to cure the violation and to restore the Protected Property to its prior condition.
- 14.2. Grantees may institute legal proceedings for injunctive relief, abatement, restoration, or damages, including costs and attorneys' fees reasonably incurred in prosecuting the action, and any other remedies available in law or equity if Grantor:

- 14.2.1. Fails to cure the violation within thirty (30) days after receipt of notice thereof from Grantees;
 - 14.2.2. Under circumstances where the violation cannot reasonably be cured within the thirty (30) day period, fails to begin curing such violation within the thirty (30) day period; or
 - 14.2.3. Fails to continue diligently to cure such violation until finally cured.
- 14.3. In the event Grantees or the United States take legal action to enforce the terms of this Easement, the cost of restoring the Protected Property and Grantees' and the United States' reasonable enforcement expenses, including attorneys' and consultants' fees, shall be borne by the Grantor. In the event Grantees secure redress for an Easement violation without initiating or completing judicial proceedings, the cost of such restoration and reasonable expenses shall be borne by the Grantor. If Grantor ultimately prevails in any judicial proceedings initiated by Grantees or the United States to enforce the terms of this Easement, each party shall bear its own costs.
- 14.4. If Grantees, in their sole discretion, determine that circumstances require immediate action to prevent or mitigate significant damage in violation of this Easement, Grantees may immediately pursue their legal remedies without prior notice to Grantor as set forth in Section 14.1.
- 14.5. Grantees may not recover damages or require restoration for damage to the Protected Property resulting from causes beyond Grantor's control, such as fire, flood, storm, or earth movement that Grantor could not reasonably have anticipated or prevented.

15. RESPONSIBILITY FOR COST AND LIABILITIES

Grantor retains all responsibilities and shall bear all costs and liabilities of any kind related to the ownership, operation, upkeep and maintenance of the Protected Property, including maintenance of adequate liability insurance and payment of all taxes. Grantees assume no affirmative obligations for the management, supervision or control of the Protected Property or any of the activities occurring on the Protected Property. Grantor shall indemnify Grantees and the United States, and hold Grantees and the United States harmless from all damages, costs (including, but not limited to, attorneys' fees and other costs of defense incurred by Grantees), and other expenses of every kind arising from or incident to any claim or action for damages including but not limited to, the release, use or deposit of any hazardous material (as defined in Section 19.12. below) on the Protected Property, injury or loss suffered or alleged to have been suffered on or with respect to the Protected Property.

16. EXTINGUISHMENT AND TRANSFER

- 16.1. The United States Right of Enforcement is a vested property right that cannot be condemned by State or local government. If circumstances arise that render the purpose of this Easement

impossible to accomplish, the Easement can be extinguished only by judicial proceedings and upon approval of the United States. In the event of such an extinguishment or the taking of the Protected Property by the exercise of the power of eminent domain, Grantor shall pay to Whatcom County and the United States in proportion to their contribution to the purchase price. At the time this Deed was recorded the United States contribution was 50 percent and Whatcom County's contribution was 50 percent. In the event this easement is terminated or extinguished, NRCS shall collect the Commodity Credit Corporation's share of the conservation easement based on the appraised fair market value of the conservation easement at the time the easement is extinguished or terminated. The Commodity Credit Corporation's share will be in proportion to its percentage of original investment.

16.2. Grantor agrees to:

16.2.1. Incorporate the terms of this Easement by reference in any deed, lease, executory contract or other legal instrument by which it divest itself, or intends to divest itself, of any permanent or temporary interest in the Protected Property.

16.2.2. Give written notice to the Grantees of the transfer of any interest in the Protected Property no later than 45 days prior to the date of such transfer. Such notice shall include the name, address, and telephone number of the prospective recipient. Failure to provide such notice to the Grantees shall not limit the legal obligations imposed by this Easement on any recipient of an interest in the Protected Property.

16.3. Whatcom Land Trust's rights and interest in this Easement are assignable only to an agency or organization that is approved by the United States and Whatcom County and authorized to hold conservation easements under RCW 64.04.130 or RCW 84.34.250, or otherwise qualified at the time of transfer under Section 170(h) of the Internal Revenue Code of 1986, as amended. As a condition of such transfer, Grantees shall require that the transferee exercise its rights under the assignment consistent with the purpose of this Easement. Grantees shall notify Grantor and NRCS in writing in advance of such an assignment. The failure of Grantees to give such notice shall not affect the validity of such assignment, nor shall it impair the validity of this Easement or limit its enforceability.

17. AMENDMENT

If circumstances arise under which an amendment to or modification of this Easement would be appropriate, the Parties are free to jointly amend this Easement provided that the Parties first obtain the written consent of each Beneficiary to this Easement. Any such amendment shall be consistent with the Purpose of this Easement, shall not affect the qualification of this Easement or the status of Grantees under any applicable laws, shall not shorten the duration of this Easement and shall be recorded in the official records of Whatcom County, Washington, and any other jurisdiction in which such recording is required.

18. SUBORDINATION

Any mortgage or lien arising after the date of this conservation easement Deed shall be subordinated to the terms of this easement, substantially in the form of the instrument attached hereto as Exhibit E.

19. GENERAL PROVISIONS

19.1. Effective Date. The Effective Date of this Easement shall be the date on which the Grantor executed this Easement.

19.2. Notices. Any notice under this Agricultural Conservation Easement Deed must be in writing and be personally delivered, delivered by recognized overnight courier service, given by mail or via facsimile. E-mail transmission of notice shall not be effective. All notices must be addressed to the parties at the following addresses, or at such other addresses as the parties may from time to time direct in writing:

Grantor:

Grantee, Trust:

Whatcom Land Trust
PO Box 6131
Bellingham, WA 98227

Grantee, County:

Whatcom County PDS
Attn: PDR Program Administrator
5280 Northwest Drive
Bellingham, WA 98226

Third Party Grantee, NRCS: USDA-NRCS

Attn: Easement Programs
11707 E. Sprague Ave, Suite 301
Spokane Valley, WA 99206

Any notice will be deemed to have been given, when personally delivered, and if delivered by courier service, one business day after deposit with the courier service, and if mailed, two business days after deposit in the U.S. mail, and if delivered by facsimile, the same day as verified.

19.3. Controlling Law. The interpretation or performance of this Easement shall be governed by the laws of the State of Washington. Any legal proceeding regarding this Easement shall be initiated in Whatcom County Superior Court.

19.4. Liberal Construction. Any general rule of construction to the contrary notwithstanding, this Easement shall be liberally construed in favor of the grant to affect the purpose of this Easement and the policy and purpose of RCW 64.04.130 and Chapter 84.34 RCW and Whatcom County Ordinance 2002-054. If any provision in this instrument is found to be

ambiguous, an interpretation consistent with the purpose of this Easement that would render that provision valid shall be favored over an interpretation that would render it invalid.

- 19.5. Severability. If any provision of this Easement, or its application to any person or circumstance, is found to be invalid, the remainder of the Easement, or its application of such provision to persons or circumstances other than those to which it is found to be invalid, as the case may be, shall not be affected.
- 19.6. Entire Agreement. This instrument sets forth the entire agreement of the parties with respect to the Protected Property and supersedes all prior discussions, negotiations, understandings, or agreements relating to the Property, all of which are merged into this Easement.
- 19.7. No Forfeiture. Nothing contained in this Easement will result in a forfeiture or revision of Grantor's title in any respect.
- 19.8. Warranty of Good Title. Grantor warrants that Grantor has good title to the Protected Property; that the Grantor has the right to convey this conservation easement; and that the Protected Property is free and clear of any encumbrances other than those listed below.
- 19.9. Grantor-Grantees. The terms "Grantors" and "Grantees," wherever used in this Easement, and any pronouns used in their place, shall be held to mean and include respectively the above named Grantor, its, successors, and assigns, and the above-named Grantees, their successors and assigns.
- 19.10. Successors and Assigns. The covenants, terms, conditions, and restrictions of this Easement shall be binding upon, and inure to the benefit of, the parties to this Easement and their respective, successors, and assigns, and shall continue as a servitude running in perpetuity with the Protected Property.
- 19.11. Federal Enforcement. In the event that the Grantees fail to enforce the terms of this Easement as determined in the sole discretion of the Secretary of the United States Department of Agriculture ("Secretary"), the Secretary, his or her successors and assigns shall have the right to enforce the terms of the Easement through any and all authorities available under Federal or State law. In the event that Grantees attempt to terminate, transfer or otherwise divest themselves of rights, title or interest in the Easement or extinguish the Easement without prior consent of the Secretary, all right, title, or interest in this Easement shall become vested in the United States of America. The United States shall be entitled to recover any and all administrative and legal costs from the County Grantee, including attorney fees or expenses, associated with any enforcement or remedial action as it relates to the ACEP.
- 19.12. General Indemnification. Grantor shall indemnify and hold harmless Grantees and the United States, their employees, agents and assigns for any and all liabilities, claims, demands, losses, expenses, damages, fines, fees, penalties, suits, proceedings, actions and costs of actions, sanctions asserted by or on behalf of any person or governmental authority, and other liabilities (whether legal or equitable in nature and including, without limitation, court costs, and reasonable attorney's fees and attorney's fees on appeal) to which Grantees may be subject or incur relating to the Protected Property, which may arise from, but is not limited to,

Grantor's negligent acts or omissions or Grantor's breach of any representation, warranty, covenant, agreements contained in this Conservation Easement Deed, or violations of any Federal, State, or local laws, including all Environmental Laws.

19.13. Environmental Warranty. Grantor warrants that it is in compliance with, and shall remain in compliance with, all applicable Environmental Laws. Grantor warrants that there are no notices by any governmental authority of any violation or alleged violation of, non-compliance or alleged non-compliance with or any liability under any Environmental Law relating to the operations or conditions of the Protected Property. Grantor further warrants that it has no actual knowledge of a release or threatened release of Hazardous Materials, as such substances and wastes are defined by applicable federal and state law.

19.13.1. Moreover, Grantor hereby promises to hold harmless and indemnify the Grantees against all litigation, claims, demands, penalties and damages, including reasonable attorneys' fees, arising from or connected with the release or threatened release of any Hazardous Materials on, at, beneath or from the Protected Property, or arising from or connected with a violation of any Environmental Laws by Grantor or any other prior owner of the Protected Property. Grantor's indemnification obligation shall not be affected by any authorizations provided by the Trust, the County, or the United States to Grantor with respect to the Protected Property or any restoration activities carried out by the Trust or the County at the Protected Property; provided, however, that Grantee shall be responsible for any Hazardous Materials contributed after this date to the Protected Property by Trust or the County.

19.13.2. "Environmental Law" or "Environmental Laws" means any and all Federal, state, local or municipal laws, rules, orders, regulations, statutes, ordinances, codes, guidelines, policies or requirements of any governmental authority regulating or imposing standards of liability or standards of conduct (including common law) concerning air, water, solid waste, hazardous materials, worker and community right-to-know, hazard communication, noise, radioactive material, resource protection, subdivision, inland wetlands and watercourses, health protection and similar environmental health, safety, building and land use as may now or at any time hereafter be in effect.

19.13.3. "Hazardous Materials" means any petroleum, petroleum products, fuel oil, waste oils, explosives, reactive materials, ignitable materials, corrosive materials, hazardous chemicals, hazardous wastes, hazardous substances, extremely hazardous substances, toxic substances, toxic chemicals, radioactive materials, infectious materials and any other element, compound, mixture, solution or substance which may pose a present or potential hazard to human health or the environment.

19.14. Recordation. Grantees shall record this instrument in a timely fashion in the official records of Whatcom County, Washington, and in any other appropriate jurisdictions, and may re-record it at any time as may be required to preserve its rights in this Easement.

19.15. No Merger. In the event that Grantees acquire all or a portion of the fee title to the Protected Property, it is the intent of the Parties that no merger of title shall take place that would merge

the restrictions of this Easement with fee title to the Protected Property and thereby eliminate them, and that the restrictions on the use of the Protected Property, as embodied in the Easement, shall, in the event that all or a portion of title become vested in Grantees, become and remain permanent and perpetual restrictions on the use of the Protected Property. Grantees covenant to do what is required to prevent merger of title, including, if necessary, assignment of the Easement to an appropriate third party.

19.15.1. In the event that either Grantee takes legal title to Grantor's interest in the Protected Property, that Grantee shall commit the monitoring and enforcement of the Conservation Easement to another qualified organization within the meaning of section 170 (h)(3) of the United States Internal Revenue Code (1986) as amended, which organization has among its purposes the conservation and preservation of land and water areas.

20. RCPP MINIMUM DEED TERMS

This Conservation Easement is acquired with funds provided, in part, under the Regional Conservation Partnership Program (RCPP) (16 U.S.C. Section 3871 et seq. and 7 CFR part 1464). The Exhibit F is attached hereto and incorporated herein by reference and will run with the land in perpetuity. As required by the RCPP, and as a condition of receiving RCPP funds, all present and future use of the Protected Property identified in Exhibit A (legal description) is and will remain subject to the terms and conditions described forthwith in this Addendum entitled RCPP Minimum Deed Terms in Exhibit F that is appended to and made a part of this easement deed. The rights of the United States acquired under this Conservation Easement shall be unaffected by any subsequent amendments or repeal of the RCPP.

21. SCHEDULE OF EXHIBITS

- 21.1. Exhibit A. Legal Description
- 21.2. Exhibit B. Site Map
- 21.3. Exhibit C. Ordinance
- 21.4. Exhibit D. Baseline Documentation
- 21.5. Exhibit E. Subordination Agreement Example
- 21.6. Exhibit F. RCPP Minimum Deed Terms

TO HAVE AND TO HOLD unto Grantees and the State of Washington, and their successors, and assigns forever.

REMAINDER OF PAGE IS INTENTIONALLY BLANK; SIGNATURE PAGES FOLLOW

Its _____

I certify that I know or have satisfactory evidence that _____ is the person who appeared before me, and said person acknowledged that they signed this instrument, on oath stated that they were authorized to execute the instrument and acknowledged it as the _____ of _____ to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Notary Public
Print Name _____
My commission expires _____

By _____

Its _____

[illegible]

I certify that I know or have satisfactory evidence that _____ is the person who appeared before me, and said person acknowledged that they signed this instrument, on oath stated that they were authorized to execute the instrument and acknowledged it as the _____ of _____ to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: _____

Notary Public
Print Name _____
My commission expires _____

(Use this space for notarial stamp/seal)

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EXHIBIT A
Legal Description

APN/Parcel ID: _____

Exhibit B
Site Map

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EXHIBIT C
Ordinance

SPONSORED BY: Planning

PROPOSED BY: Planning

INTRODUCTION DATE: 8/13/02

ORDINANCE NO. 2002-054

**ESTABLISHING AN AGRICULTURAL PURCHASE OF DEVELOPMENT RIGHTS
PROGRAM AND OVERSIGHT COMMITTEE**

WHEREAS, Whatcom County government recognizes agriculture as a major contributor to the local economy and a high quality of life for Whatcom County citizens; and

WHEREAS, The Growth Management Act and the County Comprehensive Plan support the retention of agricultural lands of long term commercial significance and encourage the use of innovative techniques to do so; and

WHEREAS, Ordinance #92-002 enacted a property tax levy known as the Conservation Futures Tax as authorized by RCW 84.34.230 to provide a funding source to assist in acquiring open space, wetlands, farm and agricultural land , and timber land; and

WHEREAS, Resolution # 2001-049 authorized the creation of a Purchase of Development Rights Steering Committee with the charge to develop a PDR program for Whatcom County by April 30, 2002 and authorized the County Executive to expend up to \$30,000 for outside contract assistance in preparing the PDR program; and

WHEREAS, Resolution #2001-049 also committed the Council to expend a fair and significant share of the Conservation Futures Funds for acquiring interest in agricultural lands; and

WHEREAS, The Purchase of Development Rights Steering Committee met regularly from October 2001 through April 2002 and forwarded a recommendation in May of 2002; and

WHEREAS, Council reviewed the Purchase of Development recommendation from the PDR Steering Committee and requested PDS staff to develop a Purchase of Development Rights Ordinance; and

WHEREAS, Council held a public hearing on September 10, 2002 to take public comment on the Agricultural Purchase of Development Rights program.

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

1. The Agricultural Purchase of Development Rights program is adopted as attached in Exhibit 1.

- 1 2. Adjudication of invalidity of any of the sections, clauses, or provisions of this
2 ordinance shall not affect or impair the validity of the ordinance as a whole or any
3 part thereof other than the part so declared to be invalid.
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8 **ADOPTED** this 10 day of September, 2002.
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10
11 **ATTEST:**

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13 

14 Dana Brown-Davis,
15 Clerk of the Council

16 **WHATCOM COUNTY COUNCIL**
17 **WHATCOM COUNTY, WASHINGTON**

18 
19 Ward Nelson, Council Chair

20 **APPROVED** as to form

21 ☒ Approved ☐ Denied

22 
23 Karen N. Frakes, Civil Deputy Prosecutor


Pete Kremen, Executive

Date: _____

EXHIBIT D
Baseline Documentation

The Baseline Documentation for the _____ Agricultural Conservation Easement is kept by the Whatcom Land Trust at 412 N Commercial, Bellingham WA 98225. The remainder of this page is intentionally blank.

EXHIBIT E
Subordination Agreement Example

When recorded return to:

Grantor: _____

Grantee: _____

Legal Description

Abbreviated form: _____

Additional legal at Exhibit B.

Assessor's Tax Parcel Number: _____

Reference number(s) of related/assigned/released documents: _____

Reference(s) to document(s) appears on page(s) _____

SUBORDINATION AGREEMENT

NOTICE: THIS SUBORDINATION AGREEMENT RESULTS IN YOUR SECURITY INTEREST IN THE PROPERTY BECOMING SUBJECT TO AND OF LOWER PRIORITY THAN THE LIEN OF SOME OTHER OR LATER INSTRUMENT.

The undersigned subordinator agrees as follows:

1. _____ ("Subordinator") is the owner and holder of a mortgage dated _____, which was recorded under Auditor's File No. _____, records of _____ County;
2. _____ ("Easement Holder") is the holder of a conservation easement dated _____, 20__, executed by [("Owner") or ("Owners")] (as hereinafter defined) which will be recorded concurrently with this Subordination Agreement;

3. _____, [*husband and wife,*] [("*Owner*") **or** ("*Owners*")] [*is the owner or are the owners*] of all the real property described in the conservation easement identified above in Paragraph 2.
4. In consideration of benefits to Subordinator from [("*Owner*") **or** ("*Owners*")], receipt and sufficiency of which is hereby acknowledged, the Subordinator does hereby unconditionally subordinate the lien of the mortgage identified above in Paragraph 1 to the conservation easement identified above in Paragraph 2.
5. This Agreement shall be the whole and only agreement between the parties hereto with regard to the subordination of the lien or charge of the mortgage first above mentioned to the conservation easement in favor of Easement Holder above referred to and shall supersede and cancel any prior agreements as to such, or any subordination including, but not limited to, those provisions, if any, contained in the mortgage first above mentioned, which provided for the subordination of the lien or charge thereof to a mortgage to be thereafter executed.
6. The heirs, administrators, assigns and successors in interest of the Subordinator shall be bound by this agreement. Where the word mortgage appears herein it shall also be considered as deed of trust, and gender and number of pronouns considered to conform to undersigned.

Executed this _____ day of _____, 20__.

SUBORDINATOR

SUBORDINATOR

(Name)

(Name)

STATE OF WASHINGTON)
) ss.

COUNTY OF _____)

I certify that I know or have satisfactory evidence that _____
is the person who appeared before me, and said person acknowledged that they signed this instrument, on
oath stated that they were authorized to execute the instrument and acknowledged it as the
_____ of _____ to be the free and
voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: _____



(Use this space for notarial stamp/seal)

Notary Public
Print Name _____
My commission expires _____

EXHIBIT F

RCPD Minimum Deed Terms

The Regional Conservation Partnership Program (16 U.S.C. Section 3871 et seq.), facilitated and provided funding for the purchase of a Conservation Easement (“Conservation Easement”) on real property described in Exhibit A, hereafter referred to as the “Protected Property,” to further the restoration, protection, enhancement, management, maintenance, and monitoring of agricultural values on the Protected Property (the “Conservation Values”).

The _____ (collectively “Grantor”), the **Whatcom Land Trust** (“Trust”), and **Whatcom County, Washington** (“County”) (“collectively, Grantees”), and the **United States of America** (the “United States”) and its assigns, acting by and through the United States Department of Agriculture (“USDA”) Natural Resources Conservation Service (“NRCS”) on behalf of the Commodity Credit Corporation (“CCC”) (jointly referred to as the “Parties”) acknowledge that the Conservation Easement is acquired by the Grantee for the purpose of the restoration, protection, enhancement, management, maintenance, and monitoring of the Conservation Values (the “purposes of the Conservation Easement”). Decision making on behalf of NRCS is delegated to the Chief of NRCS or authorized designee (hereafter referred to as “Chief of NRCS”). Baseline conditions of the Protected Property are set forth in a Baseline Documentation Report, a copy of which is maintained in the files of the Trust.

In order to ensure compliance with the Regional Conservation Partnership Program, 16 U.S.C. Section 3871 et. seq. and 7 CFR part 1464, the following rule of interpretation will govern any and all inconsistencies between this Exhibit and other provisions of the Conservation Easement. Notwithstanding any other provision of the Conservation Easement, the Parties agree that all present and future use of the Protected Property is and will remain subject to all of the following terms and conditions identified in Sections I and II. If the terms and conditions in Sections I and II are inconsistent with terms and conditions in other sections of the Conservation Easement, Sections I and II will control; however, if other sections of the Conservation Easement have terms and conditions that are consistent with, but more restrictive to the rights of the Grantor than the terms and conditions in Section I, Paragraphs 1, 2, and 4, those more restrictive terms and conditions will control. If other sections of the Conservation Easement are more restrictive to the rights of the Grantor than Section I, Paragraph 3 and Section II, then Section I, Paragraph 3 and Section II will control.

SECTION I - MINIMUM CONSERVATION DEED RESTRICTIONS

Even if the Protected Property consists of more than one parcel for real estate tax or any other purpose or if it was acquired previously as separate parcels, it will be considered one parcel for purposes of the Conservation Easement, and the restrictions and covenants of this Conservation Easement will apply to the Protected Property as a whole.

The terms and conditions of the Conservation Easement run with the land and are binding upon the Grantor and Grantee and their respective heirs, successors, agents, assigns, lessees, and any other person claiming under them must comply with all terms and conditions of this easement, including the following:

1. Limitation on Impervious Surfaces. Impervious surfaces will not exceed 2 percent of the Protected Property, excluding NRCS-approved conservation practices. Impervious surfaces are defined as material that does not allow water to percolate into the soil on the Protected Property, including, but not limited to, buildings with or without flooring, paved areas, and any other surfaces that are covered by asphalt, concrete, or roofs. This limitation does not include public roads or other roads owned and controlled by parties with rights superior to those rights conveyed to Grantee by this Conservation Easement.

2. Limitations on Uses. Any uses or activities that are inconsistent with the purposes of the Conservation Easement are prohibited. The following activities are inconsistent with the purposes of the Conservation Easement and are specifically prohibited, subject to the qualifications stated below:

(A) *Subdivision* – Separate conveyance of a portion of the Protected Property or division or subdivision of the Protected Property is prohibited.

(B) *Industrial or Commercial Uses* – Industrial or commercial activities on the Protected Property are prohibited except for the following:

(i) Uses consistent with the purposes of the Conservation Easement;

(ii) The sale of excess power generated in the operation of renewable energy structures and associated equipment or other energy structures that Grantee approves in writing as being consistent with the purposes of the Conservation Easement;

(iii) Temporary or seasonal outdoor activities or events that do not harm the Conservation Values;

(iv) Commercial enterprises related to agriculture or forestry including but not limited to agritourism, processing, packaging, and marketing of farm or forest products, farm machinery repair, and farm wineries.; and

(v) Small-scale commercial enterprises compatible with agriculture or forestry, including but not limited to cafés, shops, and studios for arts or crafts.

(C) *Construction on the Protected Property* – Except as otherwise permitted in this **Section I, Paragraph 2(C)**, all structures and improvements must be located within the Building Envelope(s), containing approximately ____ total acres and described or shown in Exhibit B, which is appended to and made a part of this Conservation Easement.

The identified boundaries and locations of the approved Building Envelope(s) may be adjusted only with prior written approval from the Grantee and the Chief of NRCS. The adjusted Building Envelope(s) may not be larger than the approved Building Envelope(s) and must provide equal or greater protection of the Conservation Values. Following receipt of written approval to adjust identified Building Envelope(s), the Grantor and Grantee shall amend this Conservation Easement to add an exhibit that describes the subsequently approved boundaries and locations of the Building Envelope(s).

Agricultural structures and utilities to serve approved buildings or structures, including on-farm energy structures allowed under **Section I, Paragraph 2(B)(ii)** and in this **Section I, Paragraph 2(C)**, that neither individually nor collectively have an adverse impact on the Conservation Values, may be located outside of the Building Envelope(s) with prior written approval of the Grantee.

New roads may be constructed if they are approved in advance by Grantee, within impervious surface limits, and necessary to carry out the agricultural operations or other allowed uses on the Protected Property.

Maintenance of existing roads documented on the Baseline Documentation Report is allowed; however, existing roads may not be widened or improved unless widening and improving is within impervious surface limits, approved in advance by Grantee, and necessary to carry out the agricultural operations or other allowed uses on the Protected Property.

Fences may be maintained and replaced, and new fences installed if they are necessary for agricultural operations or other allowed uses on the Protected Property or to mark boundaries of the Protected Property. Maintenance, replacement, and installation of fences must be conducted in a manner consistent with the purposes of the Conservation Easement.

(D) *Granting of Easements for Utilities and Roads* – The granting or modification of easements for utilities and roads is prohibited when the utility or road will adversely impact the Conservation Values as determined by the Grantee in consultation with the Chief of NRCS.

(E) *Surface Alteration* – Grading, blasting, filling, sod farming, earth removal, or any other activity that will disturb the soil surface or materially alter the topography, surface or subsurface water systems, or wetlands of the Protected Property is prohibited, except as follows:

- (i) Dam construction pursuant to a plan approved by the Grantee to create ponds for agricultural use, fire protection, or wildlife enhancement, including enhancement through wetland restoration, enhancement or creation;
- (ii) Erosion and sediment control pursuant to a plan approved by the Grantee;
- (iii) Soil disturbance activities required in the maintenance or construction of approved buildings, structures, roads, and utilities provided that the required alteration has been approved in writing by Grantee as being consistent with the purposes of the Conservation Easement; and
- (iv) Agricultural activities and related conservation activities conducted in accordance with this Conservation Easement and the RCPP Easement Plan as described in Section I, paragraph 4.

(F) Surface and Subsurface Mineral Exploration and Extraction –

Mining or extraction of soil, sand, gravel, oil, natural gas, fuel, coal, or any other mineral substance owned by Grantor as of the date of this Conservation Easement or later acquired by Grantor, using any surface mining, subsurface mining, or dredging method, from the Protected Property is prohibited except as otherwise provided in this Paragraph (F).

If a third party owns or leases the oil, natural gas, or any other mineral rights associated with the Protected Property prior to the time this Conservation Easement is executed, and their interests have not been subordinated to this Conservation Easement, the Grantor must require, to the greatest extent possible, that any oil, natural gas, and mineral exploration and extraction conducted by such third party is conducted in accordance with this Paragraph (F). Any mineral leases or other conveyances of minerals entered into or renewed after the date of this Conservation Easement are subordinate to the terms of this Conservation Easement and must incorporate by reference this Conservation Easement.

Limited mining activities for materials (e.g., sand, gravel, or shale) used to facilitate the agricultural operations on the Protected Property are allowed where the extraction of such materials is limited, localized, and small with a defined area and acreage approved prior to extraction by the Grantee, not to exceed two acres, and does not harm the Conservation Values.

Subsurface mineral development on the Protected Property is allowed in accordance with this Paragraph (F), if approved by Grantee and Chief of NRCS. Grantee and Grantor must demonstrate prior to the initiation of mineral development activity that such subsurface mineral development shall—

- (i) Be conducted in accordance with applicable State law;
- (ii) Have a limited and localized impact;
- (iii) Not harm the Conservation Values;
- (iv) Not materially alter or affect the existing topography, as determined by Grantee and the Chief of NRCS;
- (v) Comply with a subsurface mineral development plan that includes a plan for the remediation of impacts to the Conservation Values, which includes reclaiming and restoring all areas of the Protected Property that are impacted by the subsurface mineral development and such plan is approved by Grantee and the Chief of NRCS prior to the initiation of mineral development activity;
- (vi) Not be accomplished by any surface-mining method;
- (vii) Be within the impervious surface limits described in Section I, Paragraph 1; and
- (viii) Use practices and technologies that minimize the duration and intensity

of impacts to the Conservation Values.

All areas of the Protected Property that are impacted by subsurface mineral development pursuant to this section must be reclaimed and restored within a reasonable time, as determined by the Grantee and Chief of NRCS, at cessation of subsurface mineral development activities.

Impervious surfaces, as defined in Section I, Paragraph 1, include any surface disturbance or impervious surfaces associated with subsurface mineral development allowed by this paragraph.

3. Allowed Uses. The provisions of this Conservation Easement and associated exhibits will not be interpreted to restrict the types of agricultural operations that can function on the Protected Property, so long as the agricultural operations are consistent with the long-term viability of the Protected Property and the purposes of the Conservation Easement. No uses will be allowed that violate Federal laws, including Federal drug laws or that decrease the Conservation Easement's protection for the Conservation Values. Allowed uses of the Protected Property include the specific uses allowed in Section I, Paragraph (2)(B) (i)-(v) and the following activities, subject to the qualifications stated below:

(A) *Agricultural Production* – The production, processing, and marketing of agricultural crops, livestock, and forest products is allowed provided it is conducted in a manner consistent with the terms of the Conservation Easement and the RCPP Easement Plan described in Section I, Paragraph 4.

(B) *On-Farm Energy Production* – Renewable energy production is allowed for the purpose of generating energy for the agricultural and residential needs of the Protected Property. Renewable energy sources must be built and maintained within impervious surface limits and consistent with the purposes of the Conservation Easement.

4. RCPP Easement Plan. The Grantee shall prepare an RCPP Easement Plan in consultation with the Grantor and, as needed, the Chief of NRCS. The Grantee agrees to update the RCPP Easement Plan, in consultation with the Grantor and as needed, the Chief of NRCS, in the event the uses or ownership of the Protected Property change. A copy of the current RCPP Easement Plan is kept on file with the Grantee.

The RCPP Easement Plan shall describe the farm or ranch management system, describe the natural resource concerns on the Protected Property, describe the conservation measures and practices that may be implemented to address the identified resource concerns, promote the long-term viability of the land to meet the purposes of the Conservation Easement, and identify, as applicable, permissible and prohibited activities and any associated restoration plans.

SECTION II – PROTECTION OF THE UNITED STATES’ INTERESTS AND EASEMENT ENFORCEMENT

1. General Disclaimer and Grantor Warranty. The United States, its employees, agents, and assigns disclaim and will not be held responsible for Grantee’s or Grantor’s negligent acts or omissions or Grantee’s or Grantor’s breach of any representation, warranty, covenant, or agreements contained in this Conservation Easement Deed, or violations of any Federal, State, or local laws, including all Environmental Laws (defined below) including, without limitation, those that give rise to liabilities, claims, demands, losses, expenses, damages, fines, fees, penalties, suits, proceedings, actions, costs of actions, or sanctions asserted by or on behalf of any person or governmental authority, and other liabilities (whether legal or equitable in nature and including, without limitation, court costs, and reasonable attorneys’ fees and attorneys’ fees on appeal) to which the United States may be subject or incur relating to the Protected Property.

Grantor must indemnify and hold harmless the United States, its employees, agents, and assigns for any and all liabilities, claims, demands, losses, expenses, damages, fines, fees, penalties, suits, proceedings, actions and costs of actions, sanctions asserted by or on behalf of any person or governmental authority, and other liabilities (whether legal or equitable in nature and including, without limitation, court costs, and reasonable attorneys’ fees and attorneys’ fees on appeal) to which United States may be subject or incur relating to the Protected Property, which may arise from, but are not limited to, Grantor’s negligent acts, omissions, or breach of any representation, warranty, covenant, agreements contained in this Conservation Easement Deed or violations of any Federal, State, or local laws, including all Environmental Laws.

2. Environmental Warranty. Grantor warrants that it is in compliance with, and will remain in compliance with, all applicable Environmental Laws. Grantor warrants that there are no notices by any governmental authority of any violation or alleged violation of, noncompliance or alleged noncompliance with, or any liability under, any Environmental Law relating to the operations or conditions of the Protected Property. Grantor further warrants that it has no actual knowledge of an undisclosed release or threatened release of Hazardous Materials (defined below), as such substances and wastes are defined by applicable Federal and State law.

Furthermore, Grantor warrants the information disclosed to Grantee and United States regarding any past violations or noncompliance with Environmental Laws and associated remedial actions, or any past releases of Hazardous Materials and any associated remedial actions is complete and accurate.

Moreover, Grantor hereby promises to hold harmless and indemnify Grantee and the United States against all litigation, claims, demands, penalties and damages, including reasonable attorneys’ fees, arising from or connected with the release or threatened release of any hazardous materials on, at, beneath or from the Protected Property, or arising from or

connected with a violation of any Environmental Laws by Grantor or any other prior owner of the Protected Property. Grantor's indemnification obligation will not be affected by any authorizations provided by Grantee or the United States to Grantor with respect to the Protected Property or any restoration activities carried out by Grantee on the Protected Property; provided, however, that Grantee will be responsible for any Hazardous Materials contributed after this date to the Protected Property by Grantee.

"Environmental Law" or "Environmental Laws" means any and all Federal, State, local or municipal laws, rules, orders, regulations, statutes, ordinances, codes, guidelines, policies, or requirements of any governmental authority regulating or imposing standards of liability or standards of conduct (including common law) concerning air, water, solid waste, hazardous materials, worker and community right-to-know, hazard communication, noise, radioactive material, resource protection, subdivision, inland wetlands and watercourses, health protection, and similar environmental health, safety, building, and land use as may now or at any time hereafter be in effect.

"Hazardous Materials" means any petroleum, petroleum products, fuel oil, waste oils, explosives, reactive materials, ignitable materials, corrosive materials, hazardous chemicals, hazardous wastes, hazardous substances, extremely hazardous substances, toxic substances, toxic chemicals, radioactive materials, infectious materials, and any other element, compound, mixture, solution, or substance that may pose a present or potential hazard to human health or the environment.

3. Extinguishment, Termination, and Condemnation. The interests and rights under this Conservation Easement may only be extinguished or terminated with written approval of the Grantee and the United States. Due to the Federal interest in this Conservation Easement, any proposed extinguishment, termination, or condemnation action that may affect the United States' interest in the Protected Property must be reviewed and approved by the United States.

With respect to a proposed extinguishment, termination, or condemnation action, the Grantee and the United States stipulate that the fair market value of the Conservation Easement is percent, hereinafter the "Proportionate Share," of the fair market value of the land unencumbered by this Conservation Easement. The Proportionate Share will remain constant over time.

If this Conservation Easement is extinguished, terminated, or condemned, in whole or in part, then the Grantor must reimburse Grantee and the United States an amount equal to the Proportionate Share of the fair market value of the land unencumbered by this Conservation Easement. The fair market value will be determined at the time all or a part of this Conservation Easement is terminated, extinguished, or condemned by an appraisal that meets the Uniform Standards of Professional Appraisal Practice (USPAP) or Uniform Acquisition Standards or Federal Land Acquisition (UASFLA). The appraisal must be completed by a certified general appraiser and be approved by the Grantee and the United States.

The allocation of the Proportionate Share between the Grantee and the United States will be as follows: (a) to the Grantee or its designee, 50 percent of the Proportionate Share; and (b) to the United States 50 percent of the Proportionate Share. Until such time as the Grantee and the United States receive the Proportionate Share from the Grantor or the Grantor's successor or assign, the Grantee and the United States each have a lien against the Protected Property for the amount of the Proportionate Share due each of them. If proceeds from termination, extinguishment, or condemnation are paid directly to Grantee, the Grantee must reimburse the United States for the amount of the Proportionate Share due to the United States.

4. Amendment. This Conservation Easement may be amended only if, in the sole and exclusive judgment of the Grantee and United States, by and through the Chief of NRCS, such amendment is consistent with the purposes of the Conservation Easement and complies with all applicable laws, regulations, and program policy. The Grantee must provide timely written notice to the Chief of NRCS of any proposed amendments. Prior to the signing and recordation of the amended Conservation Easement, such amendments must be mutually agreed upon by the Grantee, Grantor, and United States, by and through the Chief of NRCS. Any purported amendment that is recorded without the prior approval of the United States is null and void.

5. United States Right of Enforcement. In consideration of the RCPP funds received for the acquisition of this Conservation Easement, the United States is also granted this right of enforcement that it may exercise only if the terms of the Conservation Easement are not enforced by the holder of the Conservation Easement. The Secretary of the United States Department of Agriculture (the Secretary) or the Secretary's assigns, on behalf of the United States, may exercise this right of enforcement under any authority available under State or Federal law if the Grantee, or its successors or assigns, fails to enforce any of the terms **of this Conservation Easement, as determined in the sole discretion of the Secretary.**

In the event the United States exercises this right of enforcement, it is entitled to recover any and all administrative and legal costs associated with any enforcement or remedial action related to the enforcement of this Easement from the Grantor, including, but not limited to, attorney's fees and expenses related to Grantor's violations. In the event the United States exercises this right of enforcement, it is entitled to recover any and all administrative and legal costs associated with any enforcement of this Easement from the Grantee, including, but not limited to, attorney's fees and expenses related to Grantee's violations or failure to enforce the easement against the Grantor up to the amount of the United States contribution to the purchase of the Conservation Easement.

The Grantee will annually monitor compliance and provide the United States with an annual monitoring report that documents that the Grantee and Grantor are in compliance with the Conservation Easement. If the annual monitoring report is insufficient or is not provided annually, or if the United States has a reasonable and articulable belief of an unaddressed violation, as determined by the Secretary, the United States may exercise its right of inspection. For purposes of inspection and enforcement of the Conservation Easement, the United States will have reasonable access to the Protected Property. Prior to its inspection of

the Protected Property, the United States shall provide advance notice to Grantee and Grantor and provide Grantee and Grantor a reasonable opportunity to participate in the inspection.

In the event of an emergency, the United States may enter the Protected Property to prevent, terminate, or mitigate a potential or unaddressed violation of this Conservation Easement and will give notice to Grantee and Grantor at the earliest practicable time.



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:	Referred to Committee (public testimony already received)
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 Committee of the Whole			Final Action:	
Agenda Date:	06/15/2021			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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05/04/2021	Council	INTRODUCED FOR PUBLIC HEARING	Council
05/18/2021	Council	HEARD PUBLIC TESTIMONY AND HELD IN COUNCIL	Council Committee of the Whole
06/01/2021	Council Committee of the Whole	DISCUSSED AND MOTION(S) APPROVED	
06/01/2021	Council	REFERRED TO COMMITTEE	Council Committee of the Whole

Attachments: Proposed Ordinance for June 15 Introduction, Letter from Mayor of Blaine 4.14.2021, Drayton NSZ Department Comments, WDFW Drayton Harbor, Link to Drayton Harbor - Dearborn Public Comments

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, our local Native American tribal members have a limited number of sources to hunt wildlife they have used as an integral part of their cultural traditions since time immemorial; and

WHEREAS, previous laws restricting Non-Native Americans from hunting and fishing in areas where Native Americans have retained their rights under the 1855 Treaty of Point Elliot have resulted in tribal members becoming the target of protests, discrimination and in some cases violence; and

WHEREAS, where possible Whatcom County seeks to harmonize County laws with Tribal treaty rights so as to reduce the potential for misunderstandings, conflict and discrimination; and

WHEREAS, the Lummi restrict tribal members from using firearms within 1,000 feet of an occupied house; 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 ordinance):

- 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 the boundaries of which will be the greater of (a) one thousand (1,000) feet from the high tide mark of the shoreline, or (b) the city limits of Blaine, 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

Resolution 1765-19

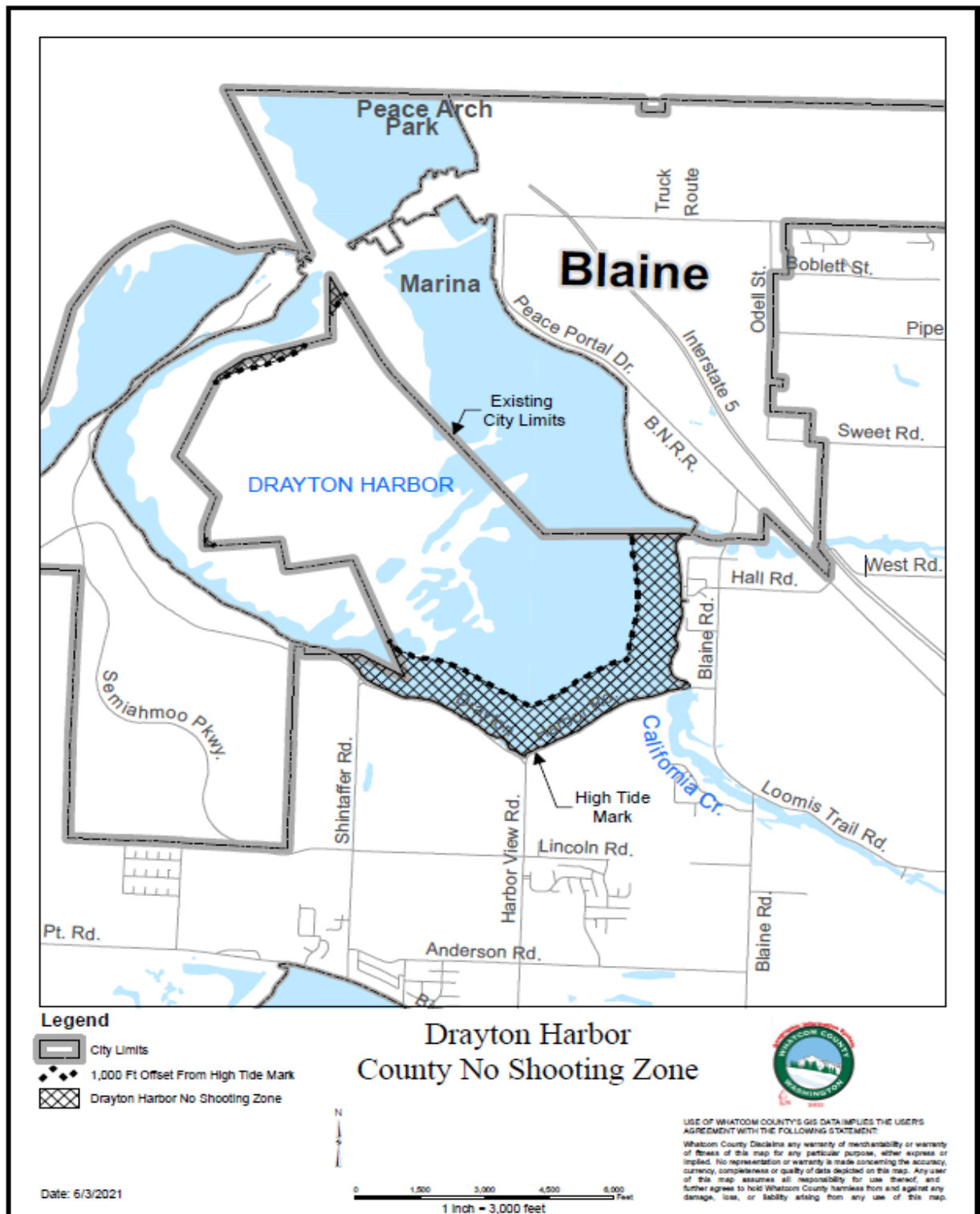
Page 1 of 1

Exhibit B
(Whatcom County Drayton Harbor No Shooting Zone)

9.32.350 No shooting zone number ____ established.

UNINCORPORATED WHATCOM COUNTY ALL WITHIN DRAYTON HARBOR BLAINE WASHINGTON DESCRIBED AS FOLLOWS:

THOSE PORTIONS OF SAID HARBOR WITHIN 1,000 FEET WATERWARD OF THE HIGH TIDE MARK OF THE SHORELINE OF SAID HARBOR OR THE LIMITS OF THE CITY OF BLAINE, WHATCOM COUNTY, WASHINGTON WHICH EVER IS GREATER DISTANCE FROM SAID HIGH TIDE MARK.





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,

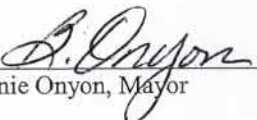
Whereas, the Revised Code of Washington (RCW 36.32.120) provides Whatcom County authority to designate no shooting zones, and

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.

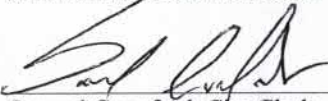
PASSED BY THE CITY COUNCIL OF BLAINE, WASHINGTON, on the 8th day of July, 2019, and approved by the Mayor on the same day.

CITY OF BLAINE, WASHINGTON



Bonnie Onyon, Mayor

ATTEST/AUTHENTICATE:



Samuel Crawford, City Clerk



PROPOSED DRAYTON HARBOR NO SHOOTING ZONE ORDINANCE (CITY OF BLAINE PROPOSAL) - COMMENTS FROM WHATCOM COUNTY DEPARTMENTS

Per Whatcom County Code 9.32.060(B), the proposed ordinance to establish a no shooting zone in Drayton Harbor (City of Blaine proposal) was routed to the following County departments for comment: Prosecuting Attorney, Sheriff, Executive, Planning and Development Services, and Public Work.

As of today, May 10, 2021, the following comments have been received:

Public Works (Administration and Engineering): "We reviewed the ordinance. We have no objections, it is good to proceed from our end."

Planning and Development Services: "PDS has no comments."

Sheriff's Department: "We have received few complaints about hunting/shooting over the years in the Drayton Harbor area."



State of Washington
DEPARTMENT OF FISH AND WILDLIFE

North Puget Sound • Region 4 • 16018 Mill Creek Blvd., Mill Creek, WA 98012-1296
Telephone: (425) 775-1311 • Fax: (425) 338-1066

May 5, 2021

Dear Whatcom County Council,

The Washington Department of Fish and Wildlife (WDFW) appreciates the opportunity to comment on the proposed Non-Shooting Zone for Drayton and Dearborn Harbor. These areas are important recreational areas to the citizens of Washington and are co-managed by the Point Elliott Treaty Tribes and the WDFW.

WDFW regulates hunting and prioritizes public safety in establishment of hunting regulations throughout the State. The current hunting season in Drayton and Dearborn Harbors is very restricted for firearms and season length. The hunting seasons in these two areas run approximately October towards end of December for big game and towards end of January for waterfowl. WDFW Enforcement officers are the primary responders to hunting and public safety issues in these areas during the hunting seasons. Enforcement reports indicate little to no public safety issues.

According to the Revised Code of Washington 9A.41.030 (2)(a): (2) *Cities, towns, counties, and other municipalities may enact laws and ordinances: (a) Restricting the discharge of firearms in any portion of their respective jurisdictions where there is a reasonable likelihood that humans, domestic animals, or property will be jeopardized*; and according to the Whatcom County Code 9.32 Unlawful Discharge of Firearms: *the Council may initiate the creation of a non shooting zone if it would be in the best interest of public health, safety, and welfare* WDFW has not documented or responded to any incidents that fall into the above categories and would like to respectfully request any documented examples related to above examples collected by the following county departments: prosecutors office, sheriff's office, planning department, public works department and any other applicable departments. This data will allow state, Tribal, and local law enforcement officers to have a more robust discussion and brainstorm solutions.

WDFW is willing to work with local city and county departments to find solutions including education related to legal shooting hours, hunting boundaries, and other concerns from the community. WDFW looks forward to working with Whatcom County and the City of Blaine to continuing to provide recreational opportunities to the citizens of Washington and responding to public safety issues when they arise.

Please let me know if you have any questions or would like to discuss further,

Fenner Yarborough

Fenner Yarborough
Washington Department of Fish and Wildlife
Wildlife Regional Program Manager

[Link to Drayton Harbor – Dearborn No Shooting Zone
Public Comments](#)



Whatcom County

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

Agenda Bill Master Report

File Number: AB2021-339

File ID:	AB2021-339	Version:	1	Status:	Agenda Ready
File Created:	06/08/2021	Entered by:	DBrown@co.whatcom.wa.us		
Department:	Council Office	File Type:	Discussion		
Assigned to:	Council Committee of the Whole			Final Action:	
Agenda Date:	06/15/2021			Enactment #:	

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

TITLE FOR AGENDA ITEM:

Discussion to establish a process for filling district court judicial vacancy

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

A judicial vacancy is expected to occur July 1, 2021. The Council is required to fill the vacancy per state and county law.

Per RCW 3.34.060:

District judges-Eligibility and qualifications.

To be eligible to file a declaration of candidacy for and to serve as a district court judge, a person must:

- (1) Be a registered voter of the district court district and electoral district, if any; and
- (2) Be either:
 - (a) A lawyer admitted to practice law in the state of Washington; or
 - (b) In those districts having a population of less than five thousand persons, a person who has taken and passed by January 1, 2003, the qualifying examination for a lay candidate for judicial officer as provided by rule of the supreme court.

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: AB2021-279

File ID:	AB2021-279	Version:	1	Status:	Referred to Committee (public testimony already received)
File Created:	05/04/2021	Entered by:	DBrown@co.whatcom.wa.us		
Department:	Council Office	File Type:	Ordinance		
Assigned to:	Council Committee of the Whole			Final Action:	
Agenda Date:	06/15/2021			Enactment #:	

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

TITLE FOR AGENDA ITEM:

Ordinance submitting to the qualified voters of Whatcom County a proposal to amend Whatcom County Charter Section 8.22 to align requirements for amending the Charter by citizen initiative with Washington State norms

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

This ordinance provides for submission to the qualified voters of Whatcom County (at the November 2021 General Election) a charter amendment specifying that “The public may propose amendments to the Charter by registering with the Auditor an initiative petition bearing the signatures of registered voters of the county equal in number to, but not less than, fifteen (15) percent of the number of votes cast in the county in the last county executive election.” The changes would amend Section 8.22 of the County Charter

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
05/04/2021	Council	INTRODUCED FOR PUBLIC HEARING	Council
06/01/2021	Council	REFERRED TO COMMITTEE	Council Committee of the Whole

Attachments: PROPOSED ORDINANCE, AGENDA REVISION NOTICE FOR 5.4.2021

ORDINANCE NO. _____

**SUBMITTING TO THE QUALIFIED VOTERS OF WHATCOM COUNTY A PROPOSAL TO
AMEND WHATCOM COUNTY CHARTER SECTION 8.22 TO ALIGN REQUIREMENTS
FOR AMENDING THE CHARTER BY CITIZEN INITIATIVE WITH WASHINGTON STATE
NORMS**

WHEREAS, Washington State secures the right of citizens to make and remake their laws, to petition to place laws directly on the ballot for other voters; and

WHEREAS, RCW 29A.72.160 states that persons proposing any initiative measure must obtain signatures of legal voters equal to or exceeding eight percent of the votes cast for the office of governor at the last regular gubernatorial election; and

WHEREAS, the Whatcom County Charter Section 8.22, Amendments by the Public, states that "The public may propose amendments to the Charter by registering with the Auditor an initiative petition bearing the signatures of registered voters of the county equal in number to, but not less than, fifteen (15) percent of the number of votes cast in the county in the last gubernatorial election"; and

WHEREAS, the norm in Washington State is to use the percentage of votes cast for the highest executive office of the entity to which the initiative petition for charter amendment is addressed. For statewide initiatives that means the latest gubernatorial race, for county initiatives the latest county executive race, for city initiatives, the latest mayoral race; and

WHEREAS, five of the six First-Class Cities in Washington State use the percentage of votes cast in the most recent mayoral race, as do all other cities where citizen-initiated charter amendments are permitted; and

WHEREAS, of the four counties with county executive-council charters, Snohomish is the only other county using the gubernatorial vote; and

WHEREAS, gubernatorial and county elections are held in different years, with far higher turnout in gubernatorial elections (137,935 votes cast for governor in 2020, vs. 80,734 votes cast for county executive in 2019), making gubernatorial turnout a vastly disproportionate standard for county initiatives; and

WHEREAS, the Whatcom County Charter sets a higher bar than other local governments in Washington State; and

WHEREAS, the Whatcom County Council supports the right of citizens to make and remake their laws and to petition to place charter amendments directly on the ballot for other voters to consider; and

WHEREAS, the Whatcom County Council does not wish to unduly burden citizens who wish to exercise their rights to propose amendments to their charter.

NOW, THEREFORE, BE IT ORDAINED by the Whatcom County Council that the County Auditor place on the November 2021 general election ballot a charter amendment specifying that "The public may propose amendments to the Charter by registering with the Auditor an initiative petition bearing the signatures of registered voters of the county equal in number to, but not less than, fifteen (15) percent of the number of votes cast in the county in the last county executive election." The changes would amend Section 8.22 of the County Charter as shown in Exhibit A.

ADOPTED this _____ day of _____ 2021.

ATTEST:

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

Dana Brown-Davis, Council Clerk

Barry Buchanan, Council Chair

APPROVED AS TO FORM:

() Approved () Denied

Approved by Karen Frakes via email/LB
Civil Deputy Prosecutor

Satpal Sidhu, County Executive

Date:_____

EXHIBIT A

Section 8.22 Amendments by the Public.

The public may propose amendments to the Charter by registering with the Auditor an initiative petition bearing the signatures of registered voters of the county equal in number to, but not less than, fifteen (15) percent of the number of votes cast in the county in the last gubernatorial County Executive election. Signatures shall be registered not more than one hundred twenty (120) days following filing of the petition with the Auditor, who shall submit the amendments to the voters. The one hundred and twenty (120) day period shall begin upon receipt of official notification to petitioner(s) by the Prosecuting Attorney's Office either by certified mail or messenger. If the last day for collecting signatures falls on a weekend or legal holiday, then the one hundred and twenty (120) day period shall extend to the end of the next business day.



Whatcom County

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

Agenda Bill Master Report

File Number: MIN2021-047

File ID:	MIN2021-047	Version:	1	Status:	Agenda Ready
File Created:	06/02/2021	Entered by:	KFelbing@co.whatcom.wa.us		
Department:	Council Office	File Type:	Minutes Consent		
Assigned to:	Council			Final Action:	
Agenda Date:	06/15/2021			Enactment #:	

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

TITLE FOR AGENDA ITEM:

Committee of the Whole Executive Session for June 1, 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 Jun 1 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 10 A.M. (TO
PARTICIPATE, SEE INSTRUCTIONS AT
www.whatcomcounty.us/joinvirtualcouncil OR CALL 360.778.5010)
Tuesday, June 1, 2021**

9:30 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 9:30 a.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

Announcements

Committee Discussion

Attorney Present: None.

Buchanan stated that discussion of agenda item one may take place in executive session pursuant to RCW 42.30.140(4)(a). Executive session will conclude no later than 10 a.m. If the meeting extends beyond the stated conclusion time, staff will make a public announcement.

Frazey moved to go into executive session until no later than 10 a.m. to discuss the agenda items pursuant to the RCW citations as announced by the Council Chair. The motion was seconded by Byrd.

The motion carried by the following vote:

Aye: 6 - Browne, Buchanan, Byrd, Donovan, Elenbaas, and Frazey

Nay: 0

Out of the Meeting: 1 - Kershner

1. [AB2021-311](#) 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)]

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 9:50 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: MIN2021-048

File ID:	MIN2021-048	Version:	1	Status:	Agenda Ready
File Created:	06/03/2021	Entered by:	KFelbing@co.whatcom.wa.us		
Department:	Council Office	File Type:	Minutes Consent		
Assigned to:	Council			Final Action:	
Agenda Date:	06/15/2021			Enactment #:	

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

TITLE FOR AGENDA ITEM:

Committee of the Whole for June 1, 2021

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

None

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:

Attachments: Draft Minutes Committee of the Whole Jun 1 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, June 1, 2021**

2:10 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 2:10 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

Announcements

Special Presentation

1. [AB2020-219](#) Discussion and update on strategies and other items related to COVID-19 (Council and Health Board)

Erika Lautenbach, Health Department Director, gave the following updates:

- A reached milestone of over half of Whatcom County's population having initiated (at least one dose) the COVID-19 vaccine
- Resolution of data inoperability issues with the State system and the system that our tribal partners report data into. Vaccination records still need to be input which will affect the County's percent of those vaccinated.
- A decreased demand at the community vaccination center and the last day of operation in two weeks

She answered questions about matching potential vaccine venues with partners who can administer the vaccine, whether the county gets credit for vaccine doses administered to Whatcom County residents in a different county, and whether there is still a high number of people hospitalized with COVID-19.

This agenda item was DISCUSSED.

2. [AB2021-317](#) Presentation regarding efforts to gather input from local stakeholders on the possible opening of a refugee resettlement office in Whatcom County

Steven Shetterly, Bellingham Covenant Church and World Relief, briefed the Councilmembers and gave a presentation.

Clerk's note: Shetterly's connection was lost part-way through his presentation so the Councilmembers went on to the next agenda item. They came back to this item after AB2021-306 started below.

Committee Discussion

1. [AB2021-306](#) Discussion and update on the American Rescue Plan Act with Executive Sidhu
Satpal Sidhu, County Executive, began to brief the Councilmembers on this item but after a short period of time the previous speaker was able to rejoin the meeting, so Sidhu stopped his briefing and Councilmembers went back to AB2021-317. See notes on this item below after AB2021-317.

Special Presentation (Continued from above)

2. [AB2021-317](#) Presentation regarding efforts to gather input from local stakeholders on the possible opening of a refugee resettlement office in Whatcom County

Shetterly continued his presentation and answered questions about how to balance this effort with Whatcom County's already low vacancy rates, what he is asking of the Council, whether Whatcom County residents might be displaced because of the existing housing shortage if refugees are invited to come here, and whether there is a requirement for refugees to commit to the religious organizations that bring them in.

Kershner moved to recommend that the Council refer this item to the Public Health Advisory Board or Housing Advisory Committee for potential recommendations on impacts to the programs in Whatcom County that are currently in place to help house our homeless population before they make a recommendation as a Council to support or not support this program. The motion was seconded by Byrd.

Councilmembers discussed the motion.

Kershner clarified her motion to ask the staff that work on housing and homelessness in our community to weigh in back to the Council so that the Council could have an informed opinion before they support or not support it.

Shetterly stated he does not need a statement of support though he would be happy to receive one. This was an informational meeting.

Kershner withdrew her motion.

Shetterly continued to answer questions and Councilmembers continued to discuss the item.

Satpal Sidhu, County Executive, spoke about his conversations with Shetterly on this topic and his suggestion that he present to the

Councilmembers.

This agenda item was PRESENTED AND DISCUSSED.

Committee Discussion

1. [AB2021-306](#) Discussion and update on the American Rescue Plan Act with Executive Sidhu

The following people briefed the Councilmembers and answered questions:

- Satpal Sidhu, County Executive
- Tyler Schroeder, Executive's Office

They answered questions about the qualified census track and how it relates to ideas and decisions regarding childcare, and amending the proposed Ordinance for introduction tonight to state that no additional monies shall be appropriated from this fund without prior approval of the County Council.

This agenda item was DISCUSSED.

Committee Discussion and Recommendation to Council

1. [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

Clerk's note: AB2021-185 and AB2021-186 were discussed together. See notes for AB2021-186 under AB2021-185.

Byrd briefed the Councilmembers on an acceptance of a 1000 foot or the City of limits of Blaine (whichever is greater) buffer by the different groups except for the City of Blaine.

Councilmembers discussed this item and the next agenda item, AB2021-186.

Donovan moved and Frazey seconded that **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) be RECOMMENDED FOR ADOPTION.

The motion carried by the following vote:

Aye: 5 - Browne, Buchanan, Byrd, Donovan, and Frazey

Nay: 2 - Kershner and Elenbaas

Councilmembers discussed **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)

Browne moved to recommend moving **AB2021-185** forward with an amendment that the boundary applies to one thousand (1,000) feet from the shore, or the city limits of Blaine, whichever is further. The motion was seconded by Byrd.

Councilmembers discussed the motion, implications for enforcement, and whether it would require that a new ordinance be introduced.

Browne restated his motion to recommend that an ordinance be introduced tonight with language that states the boundaries would be set to the City limits of Blaine or 1000 feet, whichever is further from the shore.

Councilmembers continued to discuss the motion and whether the proposed Ordinance should be formally submitted to the City of Blaine, the different tribes, and hunting associations so they are all aware.

Browne's motion that an ordinance be introduced tonight with language that states the boundaries would be set to the City limits of Blaine or 1000 feet, whichever is further from the shore, carried by the following vote:

Aye: 6 - Browne, Buchanan, Byrd, Donovan, Elenbaas and Kershner

Nay: 1 - Frazey

Absent: 0

2. [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

Clerk's note: AB2021-185 and AB2021-186 were discussed together. See notes under AB2021-185 for this item.

ACTION FOR THIS FILE AS DISCUSSED IN AB2021-185: Donovan's motion that the Ordinance Requiring a Public Hearing be RECOMMENDED FOR ADOPTION carried by the following vote:

Aye: 5 - Browne, Buchanan, Byrd, Donovan and Frazey

Nay: 2 - Elenbaas and Kershner

Absent: 0

Items Added by Revision

There were no agenda items added by revision.

Other Business

There was no other business.

Adjournment

The meeting adjourned at 3:43 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: MIN2021-049

File ID:	MIN2021-049	Version:	1	Status:	Agenda Ready
File Created:	06/07/2021	Entered by:	KFelbing@co.whatcom.wa.us		
Department:	Council Office	File Type:	Minutes Consent		
Assigned to:	Council			Final Action:	
Agenda Date:	06/15/2021			Enactment #:	

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

TITLE FOR AGENDA ITEM:

Regular County Council for June 1, 2021

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

None

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:

Attachments: Draft Minutes Council Jun 1 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)**

Tuesday, June 1, 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: 6 - Rud Browne, Barry Buchanan, Tyler Byrd, Todd Donovan, Ben Elenbaas, and Carol Frazey

Absent: 1 - Kathy Kershner

FLAG SALUTE

ANNOUNCEMENTS

COUNTY EXECUTIVE'S REPORT

Satpal Sidhu, County Executive, reported on an allocation of \$44,528,542 of the Coronavirus State and Local Fiscal Recovery Funds authorized under the America Rescue Plan Act (ARPA). The first 50% installment has been deposited and the second is expected in approximately 12 months.

MINUTES CONSENT

Byrd moved to accept the minutes consent items. The motion was seconded by Frazey (see votes on individual items below).

1. [MIN2021-044](#) Committee of the Whole Executive Session for May 18, 2021

Byrd moved and Frazey seconded that the Minutes Consent be APPROVED BY CONSENT. The motion carried by the following vote:

Aye: 6 - Browne, Buchanan, Byrd, Donovan, Elenbaas, and Frazey

Nay: 0

Absent: 1 - Kershner

2. [MIN2021-045](#) Committee of the Whole for May 18, 2021

Byrd moved and Frazey seconded that the Minutes Consent be APPROVED BY CONSENT. The motion carried by the following vote:

Aye: 6 - Browne, Buchanan, Byrd, Donovan, Elenbaas, and Frazey

Nay: 0

Absent: 1 - Kershner

3. [MIN2021-046](#) Regular County Council for May 18, 2021

Byrd moved and Frazey seconded that the Minutes Consent be APPROVED BY CONSENT. The motion carried by the following vote:

Aye: 6 - Browne, Buchanan, Byrd, Donovan, Elenbaas, and Frazey

Nay: 0

Absent: 1 - Kershner

PUBLIC HEARINGS

1. [AB2021-261](#) Ordinance granting Cellco Partnership d/b/a Verizon Wireless, a non-exclusive franchise for the provision of wireless telecommunications services

Council staff played a short instructional video about how to speak at the meeting.

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. The motion carried by the following vote:

Aye: 6 - Browne, Buchanan, Byrd, Donovan, Elenbaas, and Frazey

Nay: 0

Absent: 1 - Kershner

Enactment No: ORD 2021-031

2. [AB2021-278](#) Ordinance submitting to the qualified voters of Whatcom County a proposal to amend Whatcom County Charter Sections 5.40 and 5.41 to align signature requirements for citizen initiatives with Washington State norms

Buchanan opened the Public Hearing and the following people spoke:

- Cindy Madigan
- Nancy Sheng
- Andrew Hansen

Hearing no one else, Buchanan closed the Public Hearing.

Donovan moved and Byrd seconded that the Ordinance Requiring a Public Hearing be ADOPTED.

Buchanan stated that this item requires a supermajority vote.

Councilmembers discussed when the item was introduced, whether it was

intended that the Council should be able to take action on the Charter, the difference between this item and AB2021-279, whether people have tried to put initiatives to change the Charter on the ballot in the past, the role of the Charter Review Commission, and what this Ordinance would accomplish if adopted in regards to proposing Charter amendments.

The following people also spoke:

- Satpal Sidhu, County Executive
- Karen Frakes, Prosecuting Attorney's Office

Donovan's motion that the Ordinance Requiring a Public Hearing be ADOPTED carried by the following vote:

Aye: 5 - Browne, Buchanan, Byrd, Donovan, and Frazey

Nay: 1 - Elenbaas

Absent: 1 - Kershner

Enactment No: ORD 2021-032

3. [AB2021-279](#) Ordinance submitting to the qualified voters of Whatcom County a proposal to amend Whatcom County Charter Section 8.22 to align requirements for amending the Charter by citizen initiative with Washington State norms

Browne moved and Frazey seconded that the Ordinance be adopted, but they had not yet done the public hearing so the ***motion was withdrawn***.

Buchanan opened the Public Hearing and the following people spoke:

- Cindy Madigan
- Andrew Hansen
- Nancy Sheng
- Dan Johnson

Hearing no one else, Buchanan closed the Public Hearing.

Buchanan moved and Frazey seconded that the Ordinance Requiring a Public Hearing be ADOPTED. The motion was seconded by Frazey.

Councilmembers discussed the motion and whether there should be a high bar to be able to change the Charter outside of the Charter Review Commission process.

Buchanan moved and Frazey seconded that the Ordinance Requiring a

Public Hearing be held for two weeks and be REFERRED TO COMMITTEE. The motion was seconded by Frazey.

Councilmembers continued to discuss the item and the motion to hold.

Karen Frakes, Prosecuting Attorney's Office, stated the beginning of August would be the date by which this proposed Ordinance would need to get to the Auditor in order to be on the ballot.

Councilmembers continued to discuss the Ordinance and how the Charter has been and should be amended.

Dana Brown-Davis, Clerk of the Council, stated they would not need to hold a public hearing again if they choose to hold this item tonight.

Councilmembers concurred that Elenbaas and Byrd would work together to answer Byrd's questions about amendments proposed by the Charter Review Commission in the past and that holding the item would not keep the proposal from going on the ballot this year.

Buchanan's motion that the Ordinance Requiring a Public Hearing be held for two weeks and be REFERRED TO COMMITTEE carried by the following vote:

Aye: 6 - Browne, Buchanan, Byrd, Donovan, Elenbaas, and Frazey

Nay: 0

Absent: 1 - Kershner

OPEN SESSION (20 MINUTES)

Council staff played a short instructional video about how to speak at the meeting.

The following people spoke:

- Misty Flowers
- Richard Tran
- Dan Johnson
- Natalie Chavez

Hearing no one else, Buchanan closed the Open Session.

OTHER ITEMS

(From Council Finance and Administrative Services Committee)

1. [AB2021-289](#) Ordinance amending the 2021 Whatcom County Budget, request No. 8, in the amount of \$1,250,000

Browne reported for the Finance and Administrative Services Committee and ***moved*** that the Ordinance be ADOPTED.

Councilmembers commented on the project and discussed the motion.

Alex Jeffers, Whatcom Land Trust, answered what the County is gaining by acquiring the property and whether the owners of the property approached the County about it or whether the County sought the property owners out.

Browne's motion that the Ordinance be ADOPTED carried by the following vote:

Aye: 5 - Browne, Buchanan, Byrd, Donovan, and Frazey

Nay: 1 - Elenbaas

Absent: 1 - Kershner

Enactment No: ORD 2021-033

2. [AB2021-291](#) Request authorization for the County Executive to enter into an interlocal agreement between Whatcom County and City of Bellingham for logistical and administrative support services to Whatcom Unified Command, in the amount of \$60,000

Browne reported for the Finance and Administrative Services Committee and moved that the Interlocal be AUTHORIZED. The motion carried by the following vote:

Aye: 6 - Browne, Buchanan, Byrd, Donovan, Elenbaas, and Frazey

Nay: 0

Absent: 1 - Kershner

3. [AB2021-292](#) Request authorization for the County Executive to enter into a contract amendment between Whatcom County and Opportunity Council to support a single point of entry, to connect families and professionals concerned about a child's development to resources and services in the amount of \$9,081 for a total amended contract amount of \$89,230

Browne reported for the Finance and Administrative Services Committee and moved that the Contract be AUTHORIZED. The motion carried by the following vote:

Aye: 6 - Browne, Buchanan, Byrd, Donovan, Elenbaas, and Frazey

Nay: 0

Absent: 1 - Kershner

4. [AB2021-298](#) Request authorization for the County Executive to enter into a contract amendment between Whatcom County and Northwest Workforce Council to provide reimbursement of wages and benefits for eligible temporary employees working in various COVID-related positions, in the estimated amount of \$94,000 for a total estimated contract amount of \$220,000

Browne reported for the Finance and Administrative Services Committee and moved that the Contract be AUTHORIZED. The motion carried by the following vote:

Aye: 6 - Browne, Buchanan, Byrd, Donovan, Elenbaas, and Frazey

Nay: 0

Absent: 1 - Kershner

5. [AB2021-299](#) Request authorization for the County Executive to enter into a contract between Whatcom County and Pacific Security to provide COVID-related security services, in the amount of \$71,736

Browne reported for the Finance and Administrative Services Committee and ***moved*** that the Contract be AUTHORIZED.

Councilmembers discussed the motion and whether security services are still needed.

Satpal Sidhu, County Executive, also spoke.

Browne's motion that the Contract be AUTHORIZED carried by the following vote:

Aye: 4 - Browne, Buchanan, Donovan, and Frazey

Nay: 2 - Byrd, and Elenbaas

Absent: 1 - Kershner

6. [AB2021-301](#) Request authorization for the County Executive to enter into a contract between Whatcom County and Opportunity Council to provide funding for an outreach worker and consulting services to the Homeless Outreach Team, in the amount of \$120,776

Browne reported for the Finance and Administrative Services Committee and ***moved*** that the Contract be AUTHORIZED.

Tyler Schroeder, Executive's Office, answered whether it is a one-year contract or if it will be reoccurring and whether they anticipate it will

continue beyond the one-year time frame.

Browne's motion that the Contract be AUTHORIZED carried by the following vote:

Aye: 6 - Browne, Buchanan, Byrd, Donovan, Elenbaas, and Frazey

Nay: 0

Absent: 1 - Kershner

7. [AB2021-302](#) Request authorization for the County Executive to enter into an agreement between Whatcom County and the County Road Administrative Board (CRAB) in order to receive Rural Arterial Preservation grant funding for the Birch Bay/Lynden Road Pavement Rehabilitation project in the amount of \$510,000

Browne reported for the Finance and Administrative Services Committee and **moved** that the Contract be AUTHORIZED.

Councilmembers and Satpal Sidhu, County Executive, discussed the item.

Browne's motion that the Contract be AUTHORIZED carried by the following vote:

Aye: 6 - Browne, Buchanan, Byrd, Donovan, Elenbaas, and Frazey

Nay: 0

Absent: 1 - Kershner

8. [AB2021-313](#) Request authorization for the County Executive to enter into a contract between Whatcom County and West Publishing for online database subscriptions in the amount of \$151,680.00

Browne reported for the Finance and Administrative Services Committee and **moved** that the Contract be AUTHORIZED.

Karen Frakes, Prosecuting Attorney's Office, answered what the online database is and whether a subscription to it is needed, and Councilmembers and Frakes discussed the vendor, whether the information should be available for everyone and what would happen if the funding is not approved.

Browne's motion that the Contract be AUTHORIZED carried by the following vote:

Aye: 6 - Browne, Buchanan, Byrd, Donovan, Elenbaas, and Frazey

Nay: 0

Absent: 1 - Kershner

9. [AB2021-315](#) Request authorization for the County Executive to purchase a Conservation Easement

from the City of Lynden for Glenning Park, in the amount of \$250,000

Browne reported for the Finance and Administrative Services Committee and **moved** that the Agreement be AUTHORIZED.

Councilmembers discussed the motion and earlier comments about whether the County should be paying for this.

Browne's motion that the Agreement be AUTHORIZED carried by the following vote:

Aye: 6 - Browne, Buchanan, Byrd, Donovan, Elenbaas, and Frazey

Nay: 0

Absent: 1 - Kershner

10. [AB2021-316](#) Request authorization for the County Executive to purchase a Conservation and Public Access Easement from the Whatcom Land Trust for the Upper Skookum Creek property, in the amount of \$1,250,000

Browne reported for the Finance and Administrative Services Committee and moved that the Agreement be AUTHORIZED. The motion carried by the following vote:

Aye: 5 - Browne, Buchanan, Byrd, Donovan, and Frazey

Nay: 1 - Elenbaas

Absent: 1 - Kershner

(From Council Committee of the Whole)

11. [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

Dana Brown-Davis, Clerk of the Council, answered questions about the process for this Ordinance.

Buchanan reported for Committee of the Whole and stated that it was recommended in Committee of the Whole to go with Councilmember Browne's proposed amendments then move it to Introduction tonight.

Browne moved that the Ordinance be amended by adding the following Whereas statements:

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, our local Native American tribal members have a limited number of sources to hunt wildlife they have used as an integral part of their cultural traditions since time immemorial; and

WHEREAS, previous laws restricting Non-Native American's from hunting and fishing in areas where Native American's have retained their rights under the 1855 Treaty of Point Elliot have resulted in tribal members becoming the target of protests, discrimination and in some case violence; and

WHEREAS, where possible Whatcom County seeks to harmonize County laws with Tribal treaties rights so as to reduce the potential for misunderstandings, conflict and discrimination; and

WHEREAS, the Lummi restrict tribal members from using firearms within a 1,000 of a occupied house; 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

The motion was seconded by Elenbaas.

Councilmembers discussed whether the Ordinance should be held and referred to committee.

Donovan moved and Byrd seconded that the Ordinance Requiring a Public Hearing be held and REFERRED TO COMMITTEE and sent to Council Committee of the Whole.

Councilmembers discussed the motion and a request to send an invitation to the City of Blaine and the tribal members to attend the committee discussion in two weeks.

Browne suggested a friendly amendment to Donovan's motion to add a request to staff to update the map.

Donovan accepted the friendly amendment.

Donovan's motion that the Ordinance Requiring a Public Hearing be held and REFERRED TO COMMITTEE and sent to Council Committee of the Whole and that they request staff to update the map carried by the following vote:

Aye: 6 - Browne, Buchanan, Byrd, Donovan, Elenbaas, and Frazey

Nay: 0

Absent: 1 - Kershner

12. [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

Buchanan reported for the Committee of the Whole and moved that the Ordinance Requiring a Public Hearing be ADOPTED. The motion was seconded by Browne. The motion carried by the following vote:

Aye: 5 - Browne, Buchanan, Byrd, Donovan, and Frazey

Nay: 1 - Elenbaas

Absent: 1 - Kershner

Enactment No: ORD 2021-034

EXECUTIVE APPOINTMENTS TO BOARDS, COMMISSIONS, AND COMMITTEES

1. [AB2021-308](#) Request confirmation of the County Executive's appointment of Sandy Phillips and Jeannine Heidenreich to the Bicycle Pedestrian Advisory Committee

Donovan moved and Frazey seconded that the Executive Appointment be CONFIRMED. The motion carried by the following vote:

Aye: 6 - Browne, Buchanan, Byrd, Donovan, Elenbaas, and Frazey

Nay: 0

Absent: 1 - Kershner

2. [AB2021-309](#) Request confirmation of the County Executive's reappointment of Mark McDonald to the North Sound Behavioral Health Administrative Services Organization (ASO) Advisory Board

Frazey moved and Byrd seconded that the Executive Appointment be CONFIRMED. The motion carried by the following vote:

Aye: 6 - Browne, Buchanan, Byrd, Donovan, Elenbaas, and Frazey

Nay: 0

Absent: 1 - Kershner

ITEMS ADDED BY REVISION

1. [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

See note on AB2021-185 above. The revised version of this Ordinance was referred to Committee. The item was stricken from this section.

INTRODUCTION ITEMS

Byrd moved to introduce items one through three. The motion was seconded by Donovan (see votes on individual items below).

Dana Brown-Davis, Clerk of the Council stated that AB2021-310 is a substitute version.

1. [AB2021-307](#) Ordinance amending the 2021 Whatcom County Budget, request no. 9, in the amount of \$1,138,322

Byrd moved and Donovan seconded that the Ordinance be INTRODUCED. The motion carried by the following vote:

Aye: 6 - Browne, Buchanan, Byrd, Donovan, Elenbaas, and Frazey

Nay: 0

Absent: 1 - Kershner

2. [AB2021-310](#) Ordinance establishing the American Rescue Plan Act Fund and establishing a budget for the American Rescue Plan Act Fund

Byrd moved and Donovan seconded that the SUBSTITUTE Ordinance be INTRODUCED. The motion carried by the following vote:

Aye: 6 - Browne, Buchanan, Byrd, Donovan, Elenbaas, and Frazey

Nay: 0

Absent: 1 - Kershner

3. [AB2021-296](#) Ordinance adopting amendments to the Purchase of Development Rights Program

Clerk's note: This Item was introduced for Public Hearing but then later referred to committee in two weeks. See motion below in Committee Reports.

Byrd moved and Donovan seconded that the Ordinance Requiring a Public Hearing be INTRODUCED. The motion carried by the following vote:

Aye: 6 - Browne, Buchanan, Byrd, Donovan, Elenbaas, and Frazey

Nay: 0

Absent: 1 - Kershner

COMMITTEE REPORTS, OTHER ITEMS, AND COUNCILMEMBER UPDATES

Councilmembers gave committee reports.

Donovan reported for the Natural Resources Committee and **moved** that AB2021-296 be introduced. He suggested that it be scheduled for a hearing on June 29, 2021 so they have time to discuss it in committee. The motion was seconded by Frazey.

Councilmembers discussed the timing for having more discussion and a hearing.

Dana Brown-Davis, Clerk of the Council, stated the Ordinance was already introduced tonight and Councilmembers just need to talk about the timing of scheduling it, such as scheduling it for Committee of the Whole in two weeks and then a public hearing in four weeks.

Councilmembers discussed the schedule and looking at statistics pertinent to protecting Whatcom County agriculture.

Donovan amended his motion to refer AB2021-296 (introduced tonight) to Committee of the Whole in two weeks and then schedule it for a public hearing for two weeks after that. The motion was seconded by Buchanan.

Councilmembers discussed the motion.

The motion carried by the following vote:

Aye: 5 - Frazey, Browne, Buchanan, Byrd, and Donovan

Nay: 1 - Elenbaas

Absent: 1 - Kershner

Councilmembers continued committee reports.

Satpal Sidhu, County Executive, answered whether there is a plan for moving forward with soliciting a replacement for the Medical Examiner.

ADJOURN

The meeting adjourned at 9:21 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: AB2021-323

File ID:	AB2021-323	Version:	1	Status:	Agenda Ready
File Created:	06/02/2021	Entered by:	CHalka@co.whatcom.wa.us		
Department:	Council Office	File Type:	Special Council Only Item		
Assigned to:	Council Finance and Administrative Services Committee	Final Action:			
Agenda Date:	06/15/2021	Enactment #:			

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

TITLE FOR AGENDA ITEM:

Request approval to send letter of appreciation to child care team members

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

Letter of appreciation to child care team members

HISTORY OF LEGISLATIVE FILE

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

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

June 15, 2021

Dear Child Care Team members:

The Whatcom County Council would like to sincerely thank you for taking the time to share your knowledge and expertise on how Whatcom County could best use the American Rescue Plan Act (ARPA) funds to improve child care affordability. County Council reviewed and discussed your answers to our questions and realized that more information and input is needed before making a final decision on a resolution.

On May 18, 2021, the County Council voted unanimously to hold the resolution in Committee and ask the Whatcom County Child and Family Wellbeing Task Force to develop recommendations for permanent solutions for childcare (see [AB2021-209](#)). The Task Force will provide input on how to use the funds to provide permanent, accessible, affordable child care for Whatcom County families and present its finding to the Council by September 30, 2021.

The feedback submitted by childcare team members was extremely valuable to recent Council discussions and was shared with the Child and Family Well-being Task Force for inclusion in the process to develop recommendations. Again, we want to thank you for your input and for all you do for the children and families in our community.

Sincerely,

Barry Buchanan, Chair
Whatcom County Council

C: Executive Satpal Sidhu
Health Department Director Erika Lautenbach
Councilmembers
AB2021-323



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:	Referred to Committee (public testimony already received)
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 Committee of the Whole			Final Action:	
Agenda Date:	06/15/2021			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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05/04/2021	Council	INTRODUCED FOR PUBLIC HEARING	Council
05/18/2021	Council	HEARD PUBLIC TESTIMONY AND HELD IN COUNCIL	Council Committee of the Whole
06/01/2021	Council Committee of the Whole	DISCUSSED AND MOTION(S) APPROVED	
06/01/2021	Council	REFERRED TO COMMITTEE	Council Committee of the Whole

Attachments: Proposed Ordinance for June 15 Introduction, Letter from Mayor of Blaine 4.14.2021, Drayton NSZ Department Comments, WDFW Drayton Harbor, Link to Drayton Harbor - Dearborn Public Comments

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, our local Native American tribal members have a limited number of sources to hunt wildlife they have used as an integral part of their cultural traditions since time immemorial; and

WHEREAS, previous laws restricting Non-Native Americans from hunting and fishing in areas where Native Americans have retained their rights under the 1855 Treaty of Point Elliot have resulted in tribal members becoming the target of protests, discrimination and in some cases violence; and

WHEREAS, where possible Whatcom County seeks to harmonize County laws with Tribal treaty rights so as to reduce the potential for misunderstandings, conflict and discrimination; and

WHEREAS, the Lummi restrict tribal members from using firearms within 1,000 feet of an occupied house; 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 ordinance):

- 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 the boundaries of which will be the greater of (a) one thousand (1,000) feet from the high tide mark of the shoreline, or (b) the city limits of Blaine, 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

Resolution 1765-19

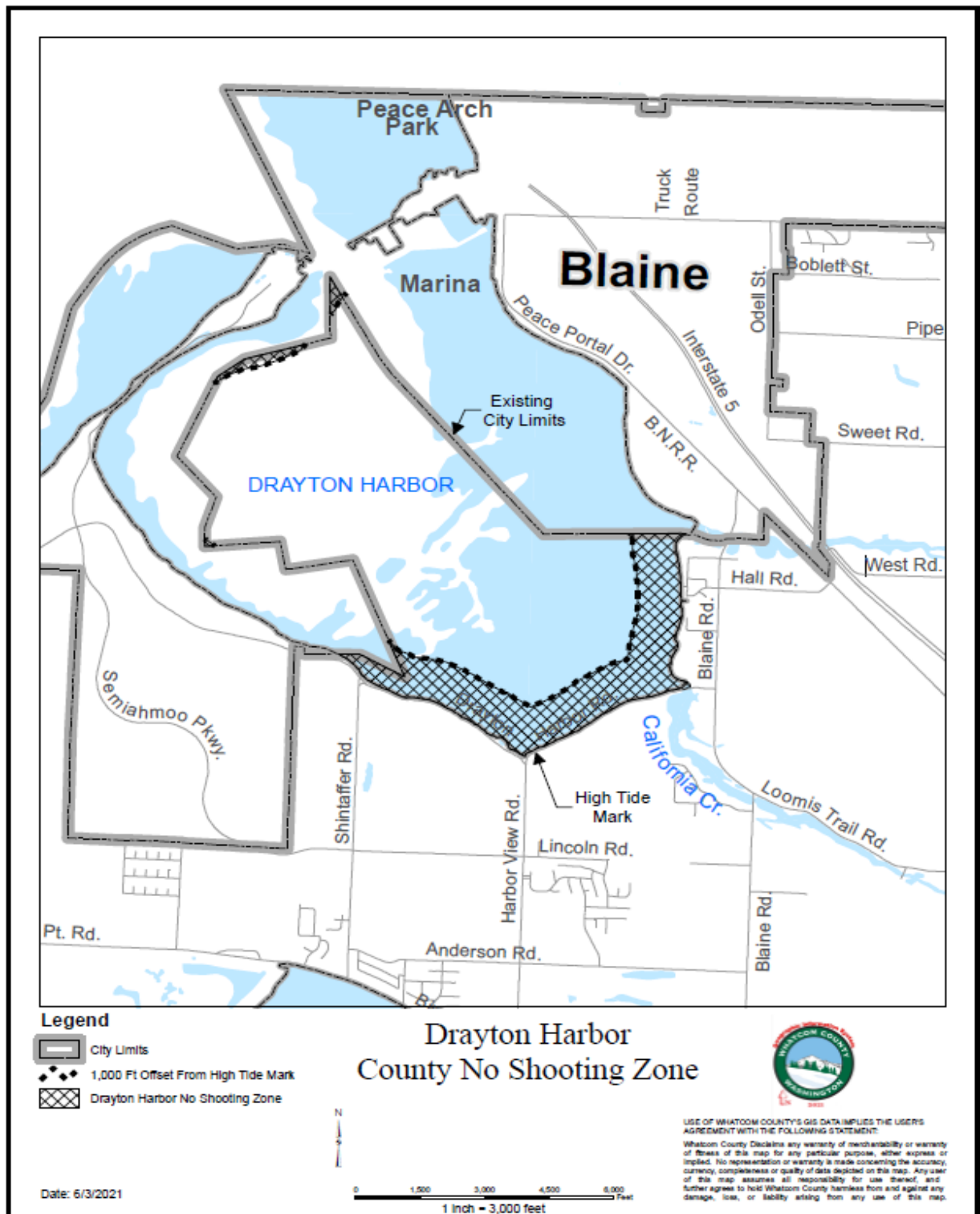
Page 1 of 1

Exhibit B
(Whatcom County Drayton Harbor No Shooting Zone)

9.32.350 No shooting zone number ____ established.

UNINCORPORATED WHATCOM COUNTY ALL WITHIN DRAYTON HARBOR BLAINE WASHINGTON DESCRIBED AS FOLLOWS:

THOSE PORTIONS OF SAID HARBOR WITHIN 1,000 FEET WATERWARD OF THE HIGH TIDE MARK OF THE SHORELINE OF SAID HARBOR OR THE LIMITS OF THE CITY OF BLAINE, WHATCOM COUNTY, WASHINGTON WHICH EVER IS GREATER DISTANCE FROM SAID HIGH TIDE MARK.





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,

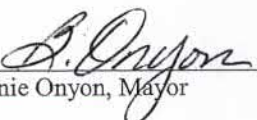
Whereas, the Revised Code of Washington (RCW 36.32.120) provides Whatcom County authority to designate no shooting zones, and

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.

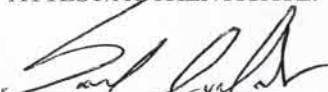
PASSED BY THE CITY COUNCIL OF BLAINE, WASHINGTON, on the 8th day of July, 2019, and approved by the Mayor on the same day.

CITY OF BLAINE, WASHINGTON



Bonnie Onyon, Mayor

ATTEST/AUTHENTICATE:



Samuel Crawford, City Clerk



PROPOSED DRAYTON HARBOR NO SHOOTING ZONE ORDINANCE (CITY OF BLAINE PROPOSAL) - COMMENTS FROM WHATCOM COUNTY DEPARTMENTS

Per Whatcom County Code 9.32.060(B), the proposed ordinance to establish a no shooting zone in Drayton Harbor (City of Blaine proposal) was routed to the following County departments for comment: Prosecuting Attorney, Sheriff, Executive, Planning and Development Services, and Public Work.

As of today, May 10, 2021, the following comments have been received:

Public Works (Administration and Engineering): “We reviewed the ordinance. We have no objections, it is good to proceed from our end.”

Planning and Development Services: “PDS has no comments.”

Sheriff’s Department: “We have received few complaints about hunting/shooting over the years in the Drayton Harbor area.”



State of Washington
DEPARTMENT OF FISH AND WILDLIFE

North Puget Sound • Region 4 • 16018 Mill Creek Blvd., Mill Creek, WA 98012-1296
Telephone: (425) 775-1311 • Fax: (425) 338-1066

May 5, 2021

Dear Whatcom County Council,

The Washington Department of Fish and Wildlife (WDFW) appreciates the opportunity to comment on the proposed Non-Shooting Zone for Drayton and Dearborn Harbor. These areas are important recreational areas to the citizens of Washington and are co-managed by the Point Elliott Treaty Tribes and the WDFW.

WDFW regulates hunting and prioritizes public safety in establishment of hunting regulations throughout the State. The current hunting season in Drayton and Dearborn Harbors is very restricted for firearms and season length. The hunting seasons in these two areas run approximately October towards end of December for big game and towards end of January for waterfowl. WDFW Enforcement officers are the primary responders to hunting and public safety issues in these areas during the hunting seasons. Enforcement reports indicate little to no public safety issues.

According to the Revised Code of Washington 9A.41.030 (2)(a): (2) *Cities, towns, counties, and other municipalities may enact laws and ordinances: (a) Restricting the discharge of firearms in any portion of their respective jurisdictions where there is a reasonable likelihood that humans, domestic animals, or property will be jeopardized*; and according to the Whatcom County Code 9.32 Unlawful Discharge of Firearms: *the Council may initiate the creation of a non shooting zone if it would be in the best interest of public health, safety, and welfare* WDFW has not documented or responded to any incidents that fall into the above categories and would like to respectfully request any documented examples related to above examples collected by the following county departments: prosecutors office, sheriff's office, planning department, public works department and any other applicable departments. This data will allow state, Tribal, and local law enforcement officers to have a more robust discussion and brainstorm solutions.

WDFW is willing to work with local city and county departments to find solutions including education related to legal shooting hours, hunting boundaries, and other concerns from the community. WDFW looks forward to working with Whatcom County and the City of Blaine to continuing to provide recreational opportunities to the citizens of Washington and responding to public safety issues when they arise.

Please let me know if you have any questions or would like to discuss further,

Fenner Yarborough

Fenner Yarborough
Washington Department of Fish and Wildlife
Wildlife Regional Program Manager

[Link to Drayton Harbor – Dearborn No Shooting Zone
Public Comments](#)



Whatcom County

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

Agenda Bill Master Report

File Number: AB2021-327

File ID:	AB2021-327	Version:	1	Status:	Agenda Ready
File Created:	06/04/2021	Entered by:	MCaldwel@co.whatcom.wa.us		
Department:	Finance Division	File Type:	Ordinance		
Assigned to:	Council			Final Action:	
Agenda Date:	06/15/2021			Enactment #:	

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

TITLE FOR AGENDA ITEM:

Ordinance amending the Whatcom County Budget, request no. 10, in the amount of \$744,800

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

Supplemental #10 requests from the General Fund and other county funds:

1. To appropriate \$543,102 to fund a 2% COLA increase for the Master, WSNA, PROTEC 17 bargaining units and unrepresented employee group.

From the General Fund:

2. To appropriate \$36,272 in Sheriff to fund Fraternal Order of Police and Undersheriff longevity premiums inadvertently omitted from the 2021 budget.

From the Whatcom County Jail Fund:

3. To appropriate \$165,426 to fund the Corrections Deputies bargaining unit 2021 wage settlement.

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
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Attachments: Proposed ordinance, Budget summary, Supplemental requests

**ORDINANCE NO.
AMENDMENT NO. 10 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			
Assessor	19,553	-	19,553
Auditor	5,931	-	5,931
Council	5,514	-	5,514
County Clerk	12,787	-	12,787
District Court	10,487	-	10,487
District Court Probation	13,259	-	13,259
Executive	3,635	-	3,635
Health	76,979	(25,660)	51,319
Hearing Examiner	715	-	715
Juvenile	30,262	-	30,262
Parks	20,237	-	20,237
Planning & Development	36,974	-	36,974
Prosecuting Attorney	44,195	-	44,195
Public Defender	30,581	-	30,581
Sheriff	50,291	-	50,291
Superior Court	10,253	-	10,253
Treasurer	7,261	-	7,261
WSU Extension	1,347	-	1,347
Total General Fund	380,261	(25,660)	354,601
Road Fund	95,227	-	95,227
Election Reserve Fund	3,162	-	3,162
Whatcom County Jail Fund	177,108	-	177,108
Stormwater Fund	3,966	-	3,966
Behavioral Health Fund - Superior Court	3,405	-	3,405
Mental Health/Developmental Disabilities Fund	717	-	717
Countywide Emergency Medical Services Fund	2,870	-	2,870
Solid Waste Fund	1,739	-	1,739
Victim Witness Fund	1,223	-	1,223
Whatcom County Emergency Management Fund	3,934	-	3,934
Conservation Futures Fund	554	-	554
Ferry Fund	715	-	715
Equipment Rental & Revolving Fund	10,734	-	10,734
Administrative Services Fund	59,185	-	59,185
Total Supplemental	744,800	(25,660)	719,140

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. 10				
Department/Fund	Description	Increased (Decreased) Expenditure	(Increased) Decreased Revenue	Net Effect to Fund Balance (Increase) Decrease
General Fund				
Assessor	To fund Master and Unrep COLA increase	19,553	-	19,553
Auditor	To fund Master and Unrep COLA increase	5,931	-	5,931
Council	To fund Unrep COLA increase	5,514	-	5,514
County Clerk	To fund Master and Unrep COLA increase	12,787	-	12,787
District Court	To fund Master and Unrep COLA increase	10,487	-	10,487
District Court Probation	To fund Master and Unrep COLA increase	13,259	-	13,259
Executive	To fund Unrep COLA increase	3,635	-	3,635
Health	To fund Master, WSNA, Local 17 and Unrep COLA increase	76,979	(25,660)	51,319
Hearing Examiner	To fund Master COLA increase	715	-	715
Juvenile	To fund Master and Unrep COLA increase	30,262	-	30,262
Parks	To fund Master and Unrep COLA increase	20,237	-	20,237
Planning & Development	To fund Master and Unrep COLA increase	36,974	-	36,974
Prosecuting Attorney	To fund Master and Unrep COLA increase	44,195	-	44,195
Public Defender	To fund Master and Unrep COLA increase	30,581	-	30,581
Sheriff	To fund Master and Unrep COLA increase; Fraternal Order of Police and Undersheriff longevity premiums	50,291	-	50,291
Superior Court	To fund Master and Unrep COLA increase	10,253	-	10,253
Treasurer	To fund Master and Unrep COLA increase	7,261	-	7,261
WSU Extension	To fund Master COLA increase	<u>1,347</u>	<u>-</u>	<u>1,347</u>
Total General Fund		380,261	(25,660)	354,601
Road Fund	To fund Master and Unrep COLA increase	95,227	-	95,227
Election Reserve Fund	To fund Master and Unrep COLA increase	3,162	-	3,162
Whatcom County Jail Fund				
Sheriff-Corrections	To fund Master and Unrep COLA increase	11,682	-	11,682
Sheriff-Corrections	To fund Deputies 2021 wage increase	<u>165,426</u>	<u>-</u>	<u>165,426</u>
Total Whatcom County Jail Fund		177,108	-	177,108
Stormwater Fund	To fund Master and Unrep COLA Increase	3,966	-	3,966
Behavioral Health Fund - Superior Court	To fund Master and Unrep COLA Increase	3,405	-	3,405
Mental Health/Developmental Disabilities Fund	To fund Master COLA increase	717	-	717
Countywide Emergency Medical Services Fund	To fund Master and Unrep COLA Increase	2,870	-	2,870
Solid Waste Fund	To fund Master COLA increase	1,739	-	1,739

WHATCOM COUNTY				
Summary of the 2021 Supplemental Budget Ordinance No. 10				
Department/Fund	Description	Increased (Decreased) Expenditure	(Increased) Decreased Revenue	Net Effect to Fund Balance (Increase) Decrease
Victim Witness Fund	To fund Master COLA increase	1,223	-	1,223
Whatcom County Emergency Management Fund	To fund Master and Unrep COLA Increase	3,934	-	3,934
Conservation Futures Fund	To fund Master COLA increase	554	-	554
Ferry Fund	To fund Master COLA increase	715	-	715
Equipment Rental & Revolving Fund	To fund Master and Unrep COLA Increase	10,734	-	10,734
Administrative Services Fund	To fund Master and Unrep COLA Increase	59,185	-	59,185
Total Supplemental		744,800	(25,660)	719,140

Supplemental Budget Request

Status: Pending

Assessor

Suppl ID # 3221 Fund 1 Cost Center 300 Originator: M Caldwell

Year 1 2021 Add'l FTE ☐ Priority 1

Name of Request: Assessor's Office COLA Increase

X

Department Head Signature (Required on Hard Copy Submission)

Date

Costs:	Object	Object Description	Amount Requested
	6110	Regular Salaries & Wages	\$16,464
	6210	Retirement	\$1,748
	6230	Social Security	\$1,261
	6255	Other H&W Benefits	\$42
	6269	Unemployment-Interfund	\$38
	Request Total		\$19,553

1a. Description of request:

Record 2% COLA increase for Master and Unrep groups

1b. Primary customers:

2. Problem to be solved:

3a. Options / Advantages:

3b. Cost savings:

4a. Outcomes:

4b. Measures:

5a. Other Departments/Agencies:

5b. Name the person in charge of implementation and what they are responsible for:

6. Funding Source:

General Fund

Supplemental Budget Request

Status: Pending

Auditor

Suppl ID # 3222	Fund 1	Cost Center	Originator: M Caldwell
Year 1	2021	Add'l FTE <input type="checkbox"/>	Priority 1

Name of Request: Auditor's Office COLA Increase

X

Department Head Signature (Required on Hard Copy Submission)

Date

Costs:	Object	Object Description	Amount Requested
	6110	Regular Salaries & Wages	\$4,983
	6210	Retirement	\$543
	6230	Social Security	\$380
	6255	Other H&W Benefits	\$14
	6269	Unemployment-Interfund	\$11
	Request Total		\$5,931

1a. Description of request:

Record 2% COLA increase for Master and Unrep groups

1b. Primary customers:

2. Problem to be solved:

3a. Options / Advantages:

3b. Cost savings:

4a. Outcomes:

4b. Measures:

5a. Other Departments/Agencies:

5b. Name the person in charge of implementation and what they are responsible for:

6. Funding Source:

General Fund

Supplemental Budget Request

Status: Pending

Council

Suppl ID # 3223

Fund 1

Cost Center 1100

Originator: M Caldwell

Year 1 2021

Add'l FTE ☐

Priority 1

Name of Request: Council Office COLA Increase

X

Department Head Signature (Required on Hard Copy Submission)

Date

Costs:	Object	Object Description	Amount Requested
	6110	Regular Salaries & Wages	\$4,571
	6210	Retirement	\$558
	6230	Social Security	\$350
	6255	Other H&W Benefits	\$23
	6269	Unemployment-Interfund	\$12
	Request Total		\$5,514

1a. Description of request:

Record 2% COLA increase for Master and Unrep groups

1b. Primary customers:

2. Problem to be solved:

3a. Options / Advantages:

3b. Cost savings:

4a. Outcomes:

4b. Measures:

5a. Other Departments/Agencies:

5b. Name the person in charge of implementation and what they are responsible for:

6. Funding Source:

General Fund

Supplemental Budget Request

Status: Pending

County Clerk

Suppl ID # 3224

Fund 1

Cost Center 3150

Originator: M Caldwell

Year 1 2021

Add'l FTE ☐

Priority 1

Name of Request: Clerk's Office COLA Increase

X

Department Head Signature (Required on Hard Copy Submission)

Date

Costs:	Object	Object Description	Amount Requested
	6110	Regular Salaries & Wages	\$10,786
	6210	Retirement	\$1,126
	6230	Social Security	\$825
	6255	Other H&W Benefits	\$26
	6269	Unemployment-Interfund	\$24
	Request Total		\$12,787

1a. Description of request:

Record 2% COLA increase for Master and Unrep groups

1b. Primary customers:

2. Problem to be solved:

3a. Options / Advantages:

3b. Cost savings:

4a. Outcomes:

4b. Measures:

5a. Other Departments/Agencies:

5b. Name the person in charge of implementation and what they are responsible for:

6. Funding Source:

General Fund

Supplemental Budget Request

Status: Pending

District Court

Suppl ID # 3226 Fund 1 Cost Center 1300 Originator: M Caldwell

Year 1 2021 Add'l FTE ☐ Priority 1

Name of Request: District Court COLA Increase

X

Department Head Signature (Required on Hard Copy Submission)

Date

Costs:	Object	Object Description	Amount Requested
	6110	Regular Salaries & Wages	\$8,828
	6210	Retirement	\$937
	6230	Social Security	\$676
	6255	Other H&W Benefits	\$23
	6269	Unemployment-Interfund	\$23
	Request Total		\$10,487

1a. Description of request:

Record 2% COLA increase for Master and Unrep groups

1b. Primary customers:

2. Problem to be solved:

3a. Options / Advantages:

3b. Cost savings:

4a. Outcomes:

4b. Measures:

5a. Other Departments/Agencies:

5b. Name the person in charge of implementation and what they are responsible for:

6. Funding Source:

General Fund

Supplemental Budget Request

Status: Pending

District Court Probation

Suppl ID # 3225

Fund 1

Cost Center 1310

Originator: M Caldwell

Year 1 2021

Add'l FTE ☐

Priority 1

Name of Request: District Ct Probation COLA Increase

X

Department Head Signature (Required on Hard Copy Submission)

Date

Costs:	Object	Object Description	Amount Requested
	6110	Regular Salaries & Wages	\$11,178
	6210	Retirement	\$1,175
	6230	Social Security	\$857
	6255	Other H&W Benefits	\$22
	6269	Unemployment-Interfund	\$27
	Request Total		\$13,259

1a. Description of request:

Record 2% COLA increase for Master and Unrep groups

1b. Primary customers:

2. Problem to be solved:

3a. Options / Advantages:

3b. Cost savings:

4a. Outcomes:

4b. Measures:

5a. Other Departments/Agencies:

5b. Name the person in charge of implementation and what they are responsible for:

6. Funding Source:

General Fund

Supplemental Budget Request

Status: Pending

Executive

Suppl ID # 3227 Fund 1 Cost Center 1200 Originator: M Caldwell

Year 1 2021 Add'l FTE ☐ Priority 1

Name of Request: Executive Office COLA Increase

X

Department Head Signature (Required on Hard Copy Submission)

Date

Costs:	Object	Object Description	Amount Requested
	6110	Regular Salaries & Wages	\$3,012
	6210	Retirement	\$369
	6230	Social Security	\$230
	6255	Other H&W Benefits	\$16
	6269	Unemployment-Interfund	\$8
	Request Total		\$3,635

1a. Description of request:

Record 2% COLA increase for Unrep group

1b. Primary customers:

2. Problem to be solved:

3a. Options / Advantages:

3b. Cost savings:

4a. Outcomes:

4b. Measures:

5a. Other Departments/Agencies:

5b. Name the person in charge of implementation and what they are responsible for:

6. Funding Source:

General Fund

Supplemental Budget Request

Status: Pending

Health

Administration

Suppl ID # 3228

Fund 1

Cost Center

Originator: M Caldwell

Year 1 2021

Add'l FTE ☐

Priority 1

Name of Request: Health Dept COLA Increase

X

Department Head Signature (Required on Hard Copy Submission)

Date

Costs:	Object	Object Description	Amount Requested
	4333.2110	COVID-19 Local CARES	(\$25,660)
	6110	Regular Salaries & Wages	\$64,795
	6210	Retirement	\$6,910
	6230	Social Security	\$4,958
	6255	Other H&W Benefits	\$145
	6269	Unemployment-Interfund	\$171
	Request Total		\$51,319

1a. Description of request:

Record 2% COLA increase for Master, WSNA, Local 17 and Unrep groups

1b. Primary customers:

2. Problem to be solved:

3a. Options / Advantages:

3b. Cost savings:

4a. Outcomes:

4b. Measures:

5a. Other Departments/Agencies:

5b. Name the person in charge of implementation and what they are responsible for:

6. Funding Source:

General Fund and federal funding from COVID recovery funds

Supplemental Budget Request

Status: Pending

Hearing Examiner

Suppl ID # 3229

Fund 1

Cost Center 1600

Originator: M Caldwell

Year 1 2021

Add'l FTE ☐

Priority 1

Name of Request: Hearing Examiner Office COA Increase

X

Department Head Signature (Required on Hard Copy Submission)

Date

Costs:	Object	Object Description	Amount Requested
	6110	Regular Salaries & Wages	\$604
	6210	Retirement	\$62
	6230	Social Security	\$46
	6255	Other H&W Benefits	\$1
	6269	Unemployment-Interfund	\$2
	Request Total		\$715

1a. Description of request:

Record 2% COLA increase for Master group

1b. Primary customers:

2. Problem to be solved:

3a. Options / Advantages:

3b. Cost savings:

4a. Outcomes:

4b. Measures:

5a. Other Departments/Agencies:

5b. Name the person in charge of implementation and what they are responsible for:

6. Funding Source:

General Fund

Supplemental Budget Request

Status: Pending

Juvenile

Administration

Suppl ID # 3230

Fund 1

Cost Center

Originator: M Caldwell

Year 1 2021

Add'l FTE ☐

Priority 1

Name of Request: Juvenile Division COLA Increase

X

Department Head Signature (Required on Hard Copy Submission)

Date

Costs:	Object	Object Description	Amount Requested
	6110	Regular Salaries & Wages	\$25,525
	6210	Retirement	\$2,668
	6230	Social Security	\$1,954
	6255	Other H&W Benefits	\$48
	6269	Unemployment-Interfund	\$67
	Request Total		\$30,262

1a. Description of request:

Record 2% COLA increase for Master and Unrep groups

1b. Primary customers:

2. Problem to be solved:

3a. Options / Advantages:

3b. Cost savings:

4a. Outcomes:

4b. Measures:

5a. Other Departments/Agencies:

5b. Name the person in charge of implementation and what they are responsible for:

6. Funding Source:

General Fund

Supplemental Budget Request

Status: Pending

Parks & Recreation

Suppl ID # 3231	Fund 1	Cost Center	Originator: M Caldwell
Year 1	2021	Add'l FTE <input type="checkbox"/>	Priority 1

Name of Request: Parks & Rec COLA Increase

X

Department Head Signature (Required on Hard Copy Submission)

Date

Costs:	Object	Object Description	Amount Requested
	6110	Regular Salaries & Wages	\$17,007
	6210	Retirement	\$1,838
	6230	Social Security	\$1,302
	6255	Other H&W Benefits	\$45
	6269	Unemployment-Interfund	\$45
	Request Total		\$20,237

1a. Description of request:

Record 2% COLA increase for Master and Unrep groups

1b. Primary customers:

2. Problem to be solved:

3a. Options / Advantages:

3b. Cost savings:

4a. Outcomes:

4b. Measures:

5a. Other Departments/Agencies:

5b. Name the person in charge of implementation and what they are responsible for:

6. Funding Source:

General Fund

Supplemental Budget Request

Status: Pending

Planning & Development Services

Administration

Suppl ID # 3232

Fund 1

Cost Center

Originator: M Caldwell

Year 1 2021

Add'l FTE ☐

Priority 1

Name of Request: PDS COLA Increase

X

Department Head Signature (Required on Hard Copy Submission)

Date

Costs:	Object	Object Description	Amount Requested
	6110	Regular Salaries & Wages	\$31,178
	6210	Retirement	\$3,271
	6230	Social Security	\$2,388
	6255	Other H&W Benefits	\$58
	6269	Unemployment-Interfund	\$79
	Request Total		\$36,974

1a. Description of request:

Record 2% COLA increase for Master and Unrep groups

1b. Primary customers:

2. Problem to be solved:

3a. Options / Advantages:

3b. Cost savings:

4a. Outcomes:

4b. Measures:

5a. Other Departments/Agencies:

5b. Name the person in charge of implementation and what they are responsible for:

6. Funding Source:

General Fund

Supplemental Budget Request

Status: Pending

Prosecuting Attorney

Suppl ID # 3233 Fund 1 Cost Center Originator: M Caldwell

Year 1 2021 Add'l FTE ☐ Priority 1

Name of Request: Prosecuting Attorney's Office COLA Increase

X

Department Head Signature (Required on Hard Copy Submission)

Date

Costs:	Object	Object Description	Amount Requested
	6110	Regular Salaries & Wages	\$36,814
	6210	Retirement	\$4,312
	6230	Social Security	\$2,819
	6255	Other H&W Benefits	\$153
	6269	Unemployment-Interfund	\$97
	Request Total		\$44,195

1a. Description of request:

Record 2% COLA increase for Master and Unrep groups

1b. Primary customers:

2. Problem to be solved:

3a. Options / Advantages:

3b. Cost savings:

4a. Outcomes:

4b. Measures:

5a. Other Departments/Agencies:

5b. Name the person in charge of implementation and what they are responsible for:

6. Funding Source:

General Fund

Supplemental Budget Request

Status: Pending

Public Defender

Suppl ID # 3234	Fund 1	Cost Center	Originator: M Caldwell
Year 1	2021	Add'l FTE <input type="checkbox"/>	Priority 1

Name of Request: Public Defender's Office COLA Increase

X

Department Head Signature (Required on Hard Copy Submission)

Date

Costs:	Object	Object Description	Amount Requested
	6110	Regular Salaries & Wages	\$25,486
	6210	Retirement	\$2,973
	6230	Social Security	\$1,950
	6255	Other H&W Benefits	\$102
	6269	Unemployment-Interfund	\$70
	Request Total		\$30,581

1a. Description of request:

Record 2% COLA increase for Master and Unrep groups

1b. Primary customers:

2. Problem to be solved:

3a. Options / Advantages:

3b. Cost savings:

4a. Outcomes:

4b. Measures:

5a. Other Departments/Agencies:

5b. Name the person in charge of implementation and what they are responsible for:

6. Funding Source:

General Fund

Supplemental Budget Request

Status: Pending

Sheriff

Administration

Suppl ID # 3235

Fund 1

Cost Center

Originator: M Caldwell

Year 1 2021

Add'l FTE ☐

Priority 1

Name of Request: Sheriff's Office COLA & Longevity

X

Department Head Signature (Required on Hard Copy Submission)

Date

Costs:	Object	Object Description	Amount Requested
	6110	Regular Salaries & Wages	\$43,746
	6210	Retirement	\$2,989
	6230	Social Security	\$3,345
	6255	Other H&W Benefits	\$99
	6269	Unemployment-Interfund	\$112
	Request Total		\$50,291

1a. Description of request:

Record 2% COLA increase for Master and Unrep groups. \$14,019

In addition, the Fraternal Order of Police bargaining unit and Undersheriff longevity premiums were inadvertently left out of the 2021 budget. \$36,272

1b. Primary customers:

2. Problem to be solved:

3a. Options / Advantages:

3b. Cost savings:

4a. Outcomes:

4b. Measures:

5a. Other Departments/Agencies:

5b. Name the person in charge of implementation and what they are responsible for:

6. Funding Source:

General Fund

Supplemental Budget Request

Status: Pending

Superior Court

Suppl ID # 3236 Fund 1 Cost Center Originator: M Caldwell

Year 1 2021 Add'l FTE ☐ Priority 1

Name of Request: Superior Court COLA Increase

X

Department Head Signature (Required on Hard Copy Submission)

Date

Costs:	Object	Object Description	Amount Requested
	6110	Regular Salaries & Wages	\$8,520
	6210	Retirement	\$1,020
	6230	Social Security	\$653
	6255	Other H&W Benefits	\$37
	6269	Unemployment-Interfund	\$23
	Request Total		\$10,253

1a. Description of request:

Record 2% COLA increase for Master and Unrep groups

1b. Primary customers:

2. Problem to be solved:

3a. Options / Advantages:

3b. Cost savings:

4a. Outcomes:

4b. Measures:

5a. Other Departments/Agencies:

5b. Name the person in charge of implementation and what they are responsible for:

6. Funding Source:

General Fund

Supplemental Budget Request

Status: Pending

Treasurer

Suppl ID # 3237 Fund 1 Cost Center 3300 Originator: M Caldwell

Year 1 2021 Add'l FTE ☐ Priority 1

Name of Request: Treasurer's Office COLA Increase

X

Department Head Signature (Required on Hard Copy Submission)

Date

Costs:	Object	Object Description	Amount Requested
	6110	Regular Salaries & Wages	\$6,111
	6210	Retirement	\$651
	6230	Social Security	\$467
	6255	Other H&W Benefits	\$16
	6269	Unemployment-Interfund	\$16
	Request Total		\$7,261

1a. Description of request:

Record 2% COLA increase for Master and Unrep groups

1b. Primary customers:

2. Problem to be solved:

3a. Options / Advantages:

3b. Cost savings:

4a. Outcomes:

4b. Measures:

5a. Other Departments/Agencies:

5b. Name the person in charge of implementation and what they are responsible for:

6. Funding Source:

General Fund

Supplemental Budget Request

Status: Pending

WSU Extension

Suppl ID # 3238

Fund 1

Cost Center 2000

Originator: M Caldwell

Year 1 2021

Add'l FTE ☐

Priority 1

Name of Request: WSU Extension Office COLA Increase

X

Department Head Signature (Required on Hard Copy Submission)

Date

Costs:	Object	Object Description	Amount Requested
	6110	Regular Salaries & Wages	\$1,138
	6210	Retirement	\$117
	6230	Social Security	\$87
	6255	Other H&W Benefits	\$2
	6269	Unemployment-Interfund	\$3
	Request Total		\$1,347

1a. Description of request:

Record 2% COLA increase for Master group

1b. Primary customers:

2. Problem to be solved:

3a. Options / Advantages:

3b. Cost savings:

4a. Outcomes:

4b. Measures:

5a. Other Departments/Agencies:

5b. Name the person in charge of implementation and what they are responsible for:

6. Funding Source:

General Fund

Supplemental Budget Request

Status: Pending

Public Works

Administration

Suppl ID # 3239

Fund 108

Cost Center

Originator: M Caldwell

Year 1 2021

Add'l FTE ☐

Priority 1

Name of Request: Road Fund COLA Increase

X

Department Head Signature (Required on Hard Copy Submission)

Date

Costs:	Object	Object Description	Amount Requested
	6110	Regular Salaries & Wages	\$80,179
	6210	Retirement	\$8,507
	6230	Social Security	\$6,148
	6255	Other H&W Benefits	\$180
	6269	Unemployment-Interfund	\$213
	Request Total		\$95,227

1a. Description of request:

Record 2% COLA increase for Master and Unrep groups

1b. Primary customers:

2. Problem to be solved:

3a. Options / Advantages:

3b. Cost savings:

4a. Outcomes:

4b. Measures:

5a. Other Departments/Agencies:

5b. Name the person in charge of implementation and what they are responsible for:

6. Funding Source:

Road Fund

Supplemental Budget Request

Status: Pending

Auditor

Suppl ID # 3240

Fund 109

Cost Center 10904

Originator: M Caldwell

Year 1 2021

Add'l FTE ☐

Priority 1

Name of Request: Elections Division COLA Increase

X

Department Head Signature (Required on Hard Copy Submission)

Date

Costs:	Object	Object Description	Amount Requested
	6110	Regular Salaries & Wages	\$2,650
	6210	Retirement	\$295
	6230	Social Security	\$203
	6255	Other H&W Benefits	\$8
	6269	Unemployment-Interfund	\$6
	Request Total		\$3,162

1a. Description of request:

Record 2% COLA increase for Master and Unrep groups

1b. Primary customers:

2. Problem to be solved:

3a. Options / Advantages:

3b. Cost savings:

4a. Outcomes:

4b. Measures:

5a. Other Departments/Agencies:

5b. Name the person in charge of implementation and what they are responsible for:

6. Funding Source:

Elections Fund

Supplemental Budget Request

Status: Pending

Jail

Suppl ID # 3241

Fund 118

Cost Center

Originator: M Caldwell

Year 1 2021

Add'l FTE ☐

Priority 1

Name of Request: Corrections Master/Unrep COLA Increase

X

Department Head Signature (Required on Hard Copy Submission)

Date

Costs:	Object	Object Description	Amount Requested
	6110	Regular Salaries & Wages	\$9,809
	6210	Retirement	\$1,067
	6230	Social Security	\$752
	6255	Other H&W Benefits	\$28
	6269	Unemployment-Interfund	\$26
	Request Total		\$11,682

1a. Description of request:

Record 2% COLA increase for Master and Unrep groups

1b. Primary customers:

2. Problem to be solved:

3a. Options / Advantages:

3b. Cost savings:

4a. Outcomes:

4b. Measures:

5a. Other Departments/Agencies:

5b. Name the person in charge of implementation and what they are responsible for:

6. Funding Source:

Whatcom County Jail Fund

Supplemental Budget Request

Status: Pending

Jail

Suppl ID # 3258

Fund 118

Cost Center

Originator: M Caldwell

Year 1 2021

Add'l FTE ☐

Priority 1

Name of Request: Record Correction Deputies Settlement

X

Department Head Signature (Required on Hard Copy Submission)

Date

Costs:	Object	Object Description	Amount Requested
	6110	Regular Salaries & Wages	\$139,662
	6210	Retirement	\$14,510
	6230	Social Security	\$10,685
	6255	Other H&W Benefits	\$206
	6269	Unemployment-Interfund	\$363
	Request Total		\$165,426

1a. Description of request:

Corrections Deputies bargaining unit settlement for 2021 adopted 2/9/21 - 2.5% increase

1b. Primary customers:

2. Problem to be solved:

3a. Options / Advantages:

3b. Cost savings:

4a. Outcomes:

4b. Measures:

5a. Other Departments/Agencies:

5b. Name the person in charge of implementation and what they are responsible for:

6. Funding Source:

Whatcom County Jail Fund

Supplemental Budget Request

Status: Pending

Public Works

Stormwater

Suppl ID # 3242

Fund 123

Cost Center 123101

Originator: M Caldwell

Year 1 2021

Add'l FTE ☐

Priority 1

Name of Request: Stormwater COLA Increase

X

Department Head Signature (Required on Hard Copy Submission)

Date

Costs:	Object	Object Description	Amount Requested
	6110	Regular Salaries & Wages	\$3,332
	6210	Retirement	\$363
	6230	Social Security	\$255
	6255	Other H&W Benefits	\$8
	6269	Unemployment-Interfund	\$8
	Request Total		\$3,966

1a. Description of request:

Record 2% COLA increase for Master and Unrep groups

1b. Primary customers:

2. Problem to be solved:

3a. Options / Advantages:

3b. Cost savings:

4a. Outcomes:

4b. Measures:

5a. Other Departments/Agencies:

5b. Name the person in charge of implementation and what they are responsible for:

6. Funding Source:

Stormwater Fund

Supplemental Budget Request

Status: Pending

Superior Court

Suppl ID # 3243 Fund 124 Cost Center Originator: M Caldwell

Year 1 2021 Add'l FTE ☐ Priority 1

Name of Request: Drug Ct COLA Increase

X

Department Head Signature (Required on Hard Copy Submission)

Date

Costs:	Object	Object Description	Amount Requested
	6110	Regular Salaries & Wages	\$2,862
	6210	Retirement	\$310
	6230	Social Security	\$219
	6255	Other H&W Benefits	\$7
	6269	Unemployment-Interfund	\$7
	Request Total		\$3,405

1a. Description of request:

Record 2% COLA increase for Master and Unrep groups

1b. Primary customers:

2. Problem to be solved:

3a. Options / Advantages:

3b. Cost savings:

4a. Outcomes:

4b. Measures:

5a. Other Departments/Agencies:

5b. Name the person in charge of implementation and what they are responsible for:

6. Funding Source:

Behavioral Health Programs Fund

Supplemental Budget Request

Status: Pending

Health

Administration

Suppl ID # 3244

Fund 127

Cost Center 127200

Originator: M Caldwell

Year 1 2021

Add'l FTE ☐

Priority 1

Name of Request: MH/DD Fund COLA Increase

X

Department Head Signature (Required on Hard Copy Submission)

Date

Costs:	Object	Object Description	Amount Requested
	6110	Regular Salaries & Wages	\$606
	6210	Retirement	\$62
	6230	Social Security	\$46
	6255	Other H&W Benefits	\$1
	6269	Unemployment-Interfund	\$2
	Request Total		\$717

1a. Description of request:

1b. Primary customers:

2. Problem to be solved:

3a. Options / Advantages:

3b. Cost savings:

4a. Outcomes:

4b. Measures:

5a. Other Departments/Agencies:

5b. Name the person in charge of implementation and what they are responsible for:

6. Funding Source:

Supplemental Budget Request

Status: Pending

Non-Departmental

Suppl ID # 3245 Fund 130 Cost Center Originator: M Caldwell

Year 1 2021 Add'l FTE ☐ Priority 1

Name of Request: Countywide EMS Fund COLA Increase

X

Department Head Signature (Required on Hard Copy Submission)

Date

Costs:	Object	Object Description	Amount Requested
	6110	Regular Salaries & Wages	\$2,402
	6210	Retirement	\$269
	6230	Social Security	\$184
	6255	Other H&W Benefits	\$8
	6269	Unemployment-Interfund	\$7
	Request Total		\$2,870

1a. Description of request:

Record 2% COLA increase for Master and Unrep groups

1b. Primary customers:

2. Problem to be solved:

3a. Options / Advantages:

3b. Cost savings:

4a. Outcomes:

4b. Measures:

5a. Other Departments/Agencies:

5b. Name the person in charge of implementation and what they are responsible for:

6. Funding Source:

Countywide EMS fund

Supplemental Budget Request

Status: Pending

Health

Administration

Suppl ID # 3247

Fund 140

Cost Center 140000

Originator: M Caldwell

Year 1 2021

Add'l FTE ☐

Priority 1

Name of Request: Solid Waste COLA Increase

X

Department Head Signature (Required on Hard Copy Submission)

Date

Costs:	Object	Object Description	Amount Requested
	6110	Regular Salaries & Wages	\$1,470
	6210	Retirement	\$151
	6230	Social Security	\$112
	6255	Other H&W Benefits	\$2
	6269	Unemployment-Interfund	\$4
	Request Total		\$1,739

1a. Description of request:

Record 2% COLA increase for Master and Unrep groups

1b. Primary customers:

2. Problem to be solved:

3a. Options / Advantages:

3b. Cost savings:

4a. Outcomes:

4b. Measures:

5a. Other Departments/Agencies:

5b. Name the person in charge of implementation and what they are responsible for:

6. Funding Source:

Solid Waste Fund

Supplemental Budget Request

Status: Pending

Prosecuting Attorney

Suppl ID # 3248

Fund 142

Cost Center 14200

Originator: M Caldwell

Year 1 2021

Add'l FTE ☐

Priority 1

Name of Request: Victim Witness COLA Increase

X

Department Head Signature (Required on Hard Copy Submission)

Date

Costs:	Object	Object Description	Amount Requested
	6110	Regular Salaries & Wages	\$1,034
	6210	Retirement	\$106
	6230	Social Security	\$79
	6255	Other H&W Benefits	\$2
	6269	Unemployment-Interfund	\$2
	Request Total		\$1,223

1a. Description of request:

Record 2% COLA increase for Master and Unrep groups

1b. Primary customers:

2. Problem to be solved:

3a. Options / Advantages:

3b. Cost savings:

4a. Outcomes:

4b. Measures:

5a. Other Departments/Agencies:

5b. Name the person in charge of implementation and what they are responsible for:

6. Funding Source:

Victim Witness Fund

Supplemental Budget Request

Status: Pending

Sheriff

Emergency Management

Suppl ID # 3249

Fund 167

Cost Center

Originator: M Caldwell

Year 1 2021

Add'l FTE ☐

Priority 1

Name of Request: Emergency Management COLA Increase

X

Department Head Signature (Required on Hard Copy Submission)

Date

Costs:	Object	Object Description	Amount Requested
	6110	Regular Salaries & Wages	\$3,276
	6210	Retirement	\$383
	6230	Social Security	\$251
	6255	Other H&W Benefits	\$14
	6269	Unemployment-Interfund	\$10
	Request Total		\$3,934

1a. Description of request:

Record 2% COLA increase for Master and Unrep groups

1b. Primary customers:

2. Problem to be solved:

3a. Options / Advantages:

3b. Cost savings:

4a. Outcomes:

4b. Measures:

5a. Other Departments/Agencies:

5b. Name the person in charge of implementation and what they are responsible for:

6. Funding Source:

Emergency Management Fund

Supplemental Budget Request

Status: Pending

Planning & Development Services

Administration

Suppl ID # 3251

Fund 175

Cost Center 17550

Originator: M Caldwell

Year 1 2021

Add'l FTE ☐

Priority 1

Name of Request: Conservation Future Fund COLA Increase

X

Department Head Signature (Required on Hard Copy Submission)

Date

Costs:	Object	Object Description	Amount Requested
	6110	Regular Salaries & Wages	\$468
	6210	Retirement	\$48
	6230	Social Security	\$36
	6255	Other H&W Benefits	\$1
	6269	Unemployment-Interfund	\$1
	Request Total		\$554

1a. Description of request:

Record 2% COLA increase for Master and Unrep groups

1b. Primary customers:

2. Problem to be solved:

3a. Options / Advantages:

3b. Cost savings:

4a. Outcomes:

4b. Measures:

5a. Other Departments/Agencies:

5b. Name the person in charge of implementation and what they are responsible for:

6. Funding Source:

Conservation Futures Fund

Supplemental Budget Request

Status: Pending

Public Works

Ferry & Docks

Suppl ID # 3253

Fund 444

Cost Center 444100

Originator: M Caldwell

Year 1 2021

Add'l FTE ☐

Priority 1

Name of Request: PW-Ferry Fund Master COLA Increase

X

Department Head Signature (Required on Hard Copy Submission)

Date

Costs:	Object	Object Description	Amount Requested
	6110	Regular Salaries & Wages	\$604
	6210	Retirement	\$62
	6230	Social Security	\$46
	6255	Other H&W Benefits	\$1
	6269	Unemployment-Interfund	\$2
	Request Total		\$715

1a. Description of request:

Record 2% COLA increase for Master group

1b. Primary customers:

2. Problem to be solved:

3a. Options / Advantages:

3b. Cost savings:

4a. Outcomes:

4b. Measures:

5a. Other Departments/Agencies:

5b. Name the person in charge of implementation and what they are responsible for:

6. Funding Source:

Ferry Fund

Supplemental Budget Request

Status: Pending

Public Works

Equipment Services

Suppl ID # 3254

Fund 501

Cost Center

Originator: M Caldwell

Year 1 2021

Add'l FTE ☐

Priority 1

Name of Request: ER&R Fund COLA Increase

X

Department Head Signature (Required on Hard Copy Submission)

Date

Costs:	Object	Object Description	Amount Requested
	6110	Regular Salaries & Wages	\$9,053
	6210	Retirement	\$948
	6230	Social Security	\$691
	6255	Other H&W Benefits	\$18
	6269	Unemployment-Interfund	\$24
	Request Total		\$10,734

1a. Description of request:

Record 2% COLA increase for Master and Unrep groups

1b. Primary customers:

2. Problem to be solved:

3a. Options / Advantages:

3b. Cost savings:

4a. Outcomes:

4b. Measures:

5a. Other Departments/Agencies:

5b. Name the person in charge of implementation and what they are responsible for:

6. Funding Source:

ER&R Fund

Supplemental Budget Request

Status: Pending

Administrative Services

Administration

Suppl ID # 3255 Fund 507 Cost Center Originator: M Caldwell

Year 1 2021

Add'l FTE ☐

Priority 1

Name of Request: Admin Services Fund COLA Increase

X

Department Head Signature (Required on Hard Copy Submission)

Date

Costs:	Object	Object Description	Amount Requested
	6110	Regular Salaries & Wages	\$49,564
	6210	Retirement	\$5,539
	6230	Social Security	\$3,796
	6255	Other H&W Benefits	\$158
	6269	Unemployment-Interfund	\$128
	Request Total		\$59,185

1a. Description of request:

Record 2% COLA increase for Master and Unrep groups

1b. Primary customers:

2. Problem to be solved:

3a. Options / Advantages:

3b. Cost savings:

4a. Outcomes:

4b. Measures:

5a. Other Departments/Agencies:

5b. Name the person in charge of implementation and what they are responsible for:

6. Funding Source:

Admin Services Fund



Whatcom County

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

Agenda Bill Master Report

File Number: AB2021-328

File ID:	AB2021-328	Version:	1	Status:	Agenda Ready
File Created:	06/04/2021	Entered by:	MCaldwel@co.whatcom.wa.us		
Department:	Finance Division	File Type:	Resolution (FCZDBS)		
Assigned to:	Council			Final Action:	
Agenda Date:	06/15/2021			Enactment #:	

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

TITLE FOR AGENDA ITEM:

Resolution amending the Flood Control Zone District and subzones 2021 budgets, request no. 1, in the amount of \$15,415 (Council acting as the Whatcom County Flood Control Zone District Board of Supervisors)

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

Supplemental #1 requests from the Flood Control Zone District Fund:

1. To appropriate \$14,634 in Public Works - Flood to fund Master bargaining unit and unrepresented employee group 2% COLA increase.

From the Birch Bay Watershed and Aquatic Resources Management (BBWARM) District Fund:

2. To appropriate \$781 in Public Works - BBWARM to fund Master bargaining unit 2% COA increase.

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
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Attachments: Proposed Resolution, Budget summary, Supplemental requests

PROPOSED BY: Public Works
INTRODUCTION DATE: 06/15/21

RESOLUTION NO. _____

(A resolution of the Whatcom County Flood Control Zone District Board of Supervisors)

AMENDMENT NO. 1 OF THE 2021 BUDGET

WHEREAS, the 2021 budget for the Whatcom County Flood Control Zone District and Subzones was adopted November 24, 2020; and,

WHEREAS, changing circumstances require modifications to the approved 2021 budget; and,

WHEREAS, the modifications to the budget have been assembled here for deliberation by the Board of Supervisors,

NOW, THEREFORE, BE IT RESOLVED by the Whatcom County Flood Control Zone District Board of Supervisors that the 2021 budget as approved in Resolution 2020-050 is hereby amended by adding the following additional amounts to the budgets included therein:

	Expenditures	Revenues	Net Effect
Flood Control Zone District Fund	14,634	-	14,634
Birch Bay Watershed and Aquatic Resource Management District Fund	781	-	781
Total Supplemental	15,415	-	15,415

ADOPTED this ____ day of _____, 2021

ATTEST:

WHATCOM COUNTY FCZD
BOARD OF SUPERVISORS
WHATCOM COUNTY, WASHINGTON

Dana Brown-Davis, Council Clerk

Barry Buchanan, Chair of Board of Supervisors

APPROVED AS TO FORM:

Approved by email/C Quinn/M Caldwell
Civil Deputy Prosecutor

2021 Flood Control Zone District and Subzones Budgets Amendment #1				
		Expenditures	Revenues	Fund Balance
Flood Control Zone District Fund	To fund Master and Unrep COLA Increase	14,634	-	14,634
Birch Bay Watershed and Aquatic Resource Management District Fund	To fund Master COLA Increase	781	-	781
Total Supplemental		15,415	-	15,415

Supplemental Budget Request

Status: Pending

Public Works

Flood Control Zone District

Suppl ID # 3250

Fund 169

Cost Center

Originator: M Caldwell

Year 1 2021

Add'l FTE ☐

Priority 1

Name of Request: FCZD COLA Increase

X

Department Head Signature (Required on Hard Copy Submission)

Date

Costs:	Object	Object Description	Amount Requested
	6110	Regular Salaries & Wages	\$12,324
	6210	Retirement	\$1,309
	6230	Social Security	\$945
	6255	Other H&W Benefits	\$25
	6269	Unemployment-Interfund	\$31
	Request Total		\$14,634

1a. Description of request:

Record 2% COLA increase for Master and Unrep groups

1b. Primary customers:

2. Problem to be solved:

3a. Options / Advantages:

3b. Cost savings:

4a. Outcomes:

4b. Measures:

5a. Other Departments/Agencies:

5b. Name the person in charge of implementation and what they are responsible for:

6. Funding Source:

Flood Control Zone District

Supplemental Budget Request

Status: Pending

Public Works

Flood Control Zone District

Suppl ID # 3256

Fund 16925

Cost Center 169250

Originator: M Caldwell

Year 1 2021

Add'l FTE ☐

Priority 1

Name of Request: BBWARM Fund COLA Increase

X

Department Head Signature (Required on Hard Copy Submission)

Date

Costs:	Object	Object Description	Amount Requested
	6110	Regular Salaries & Wages	\$660
	6210	Retirement	\$68
	6230	Social Security	\$50
	6255	Other H&W Benefits	\$1
	6269	Unemployment-Interfund	\$2
	Request Total		\$781

1a. Description of request:

Record 2% COLA increase for Master group

1b. Primary customers:

2. Problem to be solved:

3a. Options / Advantages:

3b. Cost savings:

4a. Outcomes:

4b. Measures:

5a. Other Departments/Agencies:

5b. Name the person in charge of implementation and what they are responsible for:

6. Funding Source:

BBWARM



Whatcom County

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

Agenda Bill Master Report

File Number: AB2021-340

File ID:	AB2021-340	Version:	1	Status:	Agenda Ready
File Created:	06/09/2021	Entered by:	LReid@co.whatcom.wa.us		
Department:	Sheriff's Office	File Type:	Ordinance Requiring a Public Hearing		
Assigned to:	Council			Final Action:	
Agenda Date:	06/15/2021			Enactment #:	

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

TITLE FOR AGENDA ITEM:

Ordinance suspending Whatcom County Code 1.28 to update the Correctional Facilities operational standards

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, Ordinance

**WHATCOM COUNTY
SHERIFF'S OFFICE**

BILL ELFO
SHERIFF



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

TO: Whatcom County Council

FROM: Sheriff Bill Elfo

DATE June 8, 2021

RE: Request to Extend the Deadline for Whatcom County Ordinance 2019-047

The accompanying ordinance seeks an additional 18-month extension for the completion of the review and revision of Sheriff's Office policies.

It was anticipated that the original extension would provide an adequate period to complete this project. Unfortunately, several challenges coupled with COVID-19 pandemic, have impacted our ability to meet this timeline. These include:

The COVID Pandemic and its impact on the Criminal Justice system: For the Corrections Bureau, this has included a COVID outbreak at the Work Center, a restructuring of intake procedures and housing schema, mass testing of all offenders and staff, vaccination clinics for staff, the development of a vaccination program for offenders, and retrofitting of some areas of the jail to decrease the chance of viral transmission.

Personnel: Due to retirements, targeted recruitment of the Corrections staff by law enforcement agencies, extended medical leaves and positions that were frozen during the Biannual budget process, we are currently down 13 Corrections Deputies. Deputies are working significant amounts of overtime in order to cover minimum staffing levels for the shifts, making it difficult to break Deputies free to participate in the policy development meetings.

Change in Legislation and Community focus: Over the past year there has been an increasing emphasis on issues such as behavioral health, police reform, and increasing options for jail diversion. This has led to legislative changes in State law that need to be incorporated into policy, training and reporting requirements. Many of these changes will become effective on July 25, 2021 with the remaining legislation going into effect in January 2022. While the changes to law will occur soon, model policies and guidance from the state are not required until next year. These changes impact both current and newly revised policies, or will require new policies.

These mandated legislative changes have become a primary focus for the Sheriff's Office and will require additional reallocation of limited resources. Many of the policy changes we had already made are now having to be reviewed and may need to be rewritten. In addition, it is anticipated that Lexipol will be updating their policies in response to the numerous changes in statutes. While no timeline for updates has been provided, Lexipol has communicated that they are aware of the changes to our state law.

Public Records Requests (PDR's) for the Sheriff's Office: The Sheriff's Office has averaged about 60 PDR's per year for the past several years. Since 2020, the Sheriff's Office has experienced a significant increase in large and often complicated PDR's. The individual who

conducts the research and provides responses to these requests is also the individual responsible for the policy development process.

As of this writing, 80 out of approximately 180 policies have been through the review process within the Sheriff's Office and been sent out to the bargaining units for review and feedback. Once they are returned to the Sheriff's Office, additional changes may need to be made. Due to recent and significant legislation related to police tactics and use of force, many of those policies may have to be reviewed and amended to comply with the new laws and collective bargaining agreements.

In recognition of the disruption caused as a result of the COVID pandemic and the other factors outlined above, we are requesting that the Whatcom County Council further extend the temporary suspension of WCC (Whatcom County Code) 1.28. Based on the experience gained over this past year, we would like to set a new deadline of January 1, 2023.

The Sheriff's Office has transferred some responsibilities from Office of Professional Responsibility to allow the Chief Inspector more time to focus on the updated policy project. This should give the Sheriff's Office the time we will need to complete a thoughtful and in-depth review/revision/creation process for the Corrections policies, work with the Law and Justice Committee, and County Council to address any concerns, questions or suggestion, and give the County IT department the time they will need to facilitate an on-line presence.

PROPOSED BY: Sheriff's Office____
INTRODUCTION DATE: _____

ORDINANCE NO. _____

**SUSPENDING WHATCOM COUNTY CODE 1.28 TO UPDATE THE CORRECTIONAL
FACILITIES OPERATIONAL STANDARDS**

WHEREAS, in 1977, chapter 70.48 RCW, the City and County Jails Act, was initially adopted; and

WHEREAS, in 1979, the Washington State Correctional Facilities Standards were developed by the Corrections Standards Board and codified in Title 289 of the Washington Administrative Code (WAC) as a guide to counties and cities to satisfy the mandates under the Act; and

WHEREAS, in 1987, a new section, RCW 70.48.071, was added to chapter 70.48 RCW that specifically mandated that "units of local government that own or operate adult correctional facilities shall, individually or collectively, adopt standards for the operation of those facilities no later than January 1, 1988..."; and

WHEREAS, to comply with RCW 70.48.071, the Whatcom County Council adopted the standards in Title 289 WAC by enacting Ordinance No. 87-85 in December 1987, later codified as Whatcom County Code (WCC) 1.28 - *Standards for Correctional Facilities*; and

WHEREAS, in 2006, Title 289 WAC was decodified without replacement as it was obsolete and the Corrections Standards Board ceased to exist; and

WHEREAS, the identical standards in WCC 1.28 are likewise obsolete; and

WHEREAS, RCW 70.48.071 authorizes the County to establish operational standards for its own correctional facilities in either its code, through the correctional facilities department policies and standards, or a combination thereof; and

WHEREAS, the Whatcom County Sheriff's Office correctional facility operational standards are collectively established through various documents, including, but not limited to, written general policies, corrections bureau operational policies and procedures, medical policies and procedures, the Sheriff's Office Rules and Regulations Manual, and the Uniform Building Code; and

WHEREAS, the Whatcom County Council temporarily suspended WCC 1.28 for up to twelve months on July 8, 2019; and

1 **WHEREAS**, the COVID-19 pandemic has continued to cause a drastic disruption of
2 Whatcom County Sheriff's Office operations; and
3

4 **WHEREAS**, it is anticipated that an additional eighteen-month suspension of WCC 1.28
5 would allow the Whatcom County Sheriff's Office to complete the review and revision creation
6 process for Corrections policies, and to coordinate with the Law and Justice Committee and
7 Whatcom County Council to address concerns, questions, or suggestions, and to provide
8 Whatcom County Information Technology appropriate time to publish the final standards on the
9 Whatcom County website; and
10

11 **WHEREAS**, the Whatcom County Council deems it necessary to extend the suspension
12 of WCC 1.28 for up to an additional eighteen (18) months to provide adequate time for the Law
13 and Justice Committee and the County Council to review the correctional facilities operational
14 standards and proposals; and
15

16 **NOW, THEREFORE, BE IT ORDAINED** by the Whatcom County Council that WCC
17 1.28 is hereby suspended in its entirety for up to an additional eighteen months, and that the
18 Whatcom County Sheriff's Office correctional facility operational standards, as described above,
19 continue to be temporarily adopted in place of WCC 1.28.
20

21 **BE IT FINALLY ORDAINED** that the following notation shall be included in the
22 County Code in place of WCC 1.28:
23

24 *Whatcom County code Chapter 1.28 is temporarily suspended for up to eighteen months,*
25 *beginning July 8, 2021. The Whatcom County Sheriff's Office correctional facility standards, as*
26 *collectively established through various documents, including, but not limited to, written general*
27 *policies, corrections bureau operational policies and procedures, the Sheriff's Office Rules and*
28 *Regulations Manual, and the Uniform Building Code, are temporarily adopted in its place.*
29

30 **ADOPTED** this ____ day of _____, 20____.

31
32 ATTEST:

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

33
34
35 _____
Dana Brown-Davis, Clerk of the Council

Rud Browne, Council Chair

36
37 WHATCOM COUNTY EXECUTIVE
38 APPROVED AS TO FORM:
39

WHATCOM COUNTY, WASHINGTON

40
41 _____
Civil Deputy Prosecutor

Satpal Sidhu, County Executive

42
43 () Approved () Denied
44

45 Date Signed: _____