

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 AUGUST 10, 2021

INCLUDES INFORMATION FOR THE FOLLOWING MEETINGS:

**9 A.M. – COMMITTEE OF THE WHOLE - EXECUTIVE SESSION
(ENDS BY 9:40 A.M.)**

**9:45 A.M. – FINANCE AND ADMINISTRATIVE SERVICES COMMITTEE
(ENDS BY 11:45 A.M.)**

**12:45 P.M. – PUBLIC WORKS AND HEALTH COMMITTEE
(ENDS BY 1:30 P.M.)**

**1:35 P.M. – CRIMINAL JUSTICE AND PUBLIC SAFETY COMMITTEE
(ENDS BY 2 P.M.)**

**2:05 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 COMMITTEE OF THE WHOLE-EXECUTIVE SESSION
9:00 A.M. TUESDAY, August 10, 2021 (ENDS NO LATER THAN 9:40 A.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. AB2021-462 Discussion regarding potential property acquisition [Discussion of this item may take place in Executive Session (closed to public) pursuant to RCW 42.30.110(1)(b)]
Page 1
2. AB2021-486 Discussion with Chief Civil Deputy Prosecutor Karen Frakes regarding Council's options for responding to YouTubes removal of the June 15th Council meeting [discussion of this item may take place in executive session (closed to the public) per RCW 42.30.110 (1) (i)]
Page 2

Items Added by Revision

Other Business

Adjournment

COUNCIL FINANCE AND ADMINISTRATIVE SERVICES COMMITTEE
9:45 A.M. TUESDAY, August 10, 2021 (ENDS NO LATER THAN 11:45 A.M.)
Virtual Meeting

Call To Order

Roll Call

Announcements

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Committee Discussion and Recommendation to Council

1. AB2021-412 Ordinance amending the 2021 Whatcom County Budget, request no. 12, in the amount of \$1,506,763
Pages 3 - 16
2. AB2021-390 Request authorization for the County Executive to enter into an Interlocal Agreement between Whatcom County and the Bellingham Housing Authority for the purposes of funding an EDI loan for phase 3 of the Samish Commons redevelopment project in the amount of \$750,000
Pages 17 - 39

3. AB2021-410 Request authorization for the County Executive to enter into an interlocal agreement between Whatcom County Flood Control Zone District and the Lummi Nation for the transfer of real property (Council acting as the Flood Control Zone District Board of Supervisors)
Pages 40 - 59
4. AB2021-430 Request authorization for the County Executive to enter into a contract between Whatcom County and Housing Authority of the City of Bellingham to receive American Rescue Plan Act (ARPA) funds in the amount of \$525,000 to construct phase 3 of the Samish Commons Project
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5. AB2021-441 Request authorization for the County Executive to enter into an interlocal agreement between Whatcom County and Washington State Department of Ecology to administer and enforce sealing, tagging, and decommissioning of water wells, in an estimated annual amount of \$13,500
Pages 79 - 90
6. AB2021-454 Request authorization for the County Executive to enter into a contract between Whatcom County and Unity Care Northwest to provide reimbursement of professional and support services provided at Whatcom County's Community Vaccine Clinics, in the amount of \$55,950
Pages 91 - 121
7. AB2021-458 Request authorization for the County Executive to enter into an interlocal agreement amendment between Whatcom County, the City of Bellingham Fire Department and Fire Protection District No. 7 for costs associated with the implementation of the 5th medic unit in the amount of \$1,917,500
Pages 122 - 129
8. AB2021-459 Request authorization for the County Executive to enter into an interlocal agreement between Whatcom County and Snohomish Health District to provide COVID-related isolation and quarantine to Snohomish County residents, in the amount of \$200 per resident, per day
Pages 130 - 207
9. AB2021-476 Resolution to adopt the Whatcom County Employee's Personnel Handbook
Pages 208 - 218
10. AB2021-477 Request authorization for the County Executive to enter into an interlocal agreement between Whatcom County and Washington State Department of Social and Health Services to provide an advance in funding for DSHS-funded Developmental Disabilities Administration Programs, in an amount authorized of up to \$470,230
Pages 219 - 225
11. AB2021-483 Request authorization for the County Executive to enter into a contract amendment between Whatcom County and Lydia Place to provide funding for additional motel rooms for families experiencing unsheltered homelessness in the amount of \$236,470 for a total amended contract amount of \$354,922
Pages 226 - 233

Council "Consent Agenda" Items

1. AB2021-427 Request authorization for the County Executive to enter into a contract amendment between Whatcom County and Cascadia Youth Mental Health to assess and support regional school substance use discipline policies and practice needs, in the amount of \$22,760 for a total amended contract amount of \$40,000
Pages 234 - 249

2. AB2021-428 Request authorization for the County Executive to enter into an interlocal agreement between Whatcom County and Northwest Educational Service District 189 for participation in the Regional Youth Marijuana Prevention and Education Program, in the amount of \$15,000
Pages 250 – 258
3. AB2021-442 Request authorization for the County Executive to enter into an interlocal agreement between Whatcom County and Tacoma Pierce County Health Department for administration of the food handler permit program, in an estimated amount of \$80,732 per year
Pages 259 – 269
4. AB2021-443 Request authorization for the County Executive to enter into an interlocal agreement between Whatcom County and Skagit Valley College for the use of the Plantation Rifle Range to train personnel, in the amount of \$17,486.40
Pages 270 – 279
5. AB2021-444 Request authorization for the County Executive to enter into an interlocal agreement between Whatcom County and the Sedro-Woolley Police Department for the use of the Plantation Rifle Range to train personnel, in the amount of \$6,289.30
Pages 280 – 288
6. AB2021-445 Request authorization for the County Executive to enter into an interlocal agreement between Whatcom County and the Bellingham Police Department for the use of the Plantation Rifle Range to train personnel, in the amount of \$26,381.85
Pages 289 – 297
7. AB2021-446 Request authorization for the County Executive to enter into an interlocal agreement between Whatcom County and the Mount Vernon Police Department for the use of the Plantation Rifle Range to train personnel, in the amount of \$6,764.05
Pages 298 – 306
8. AB2021-448 Request authorization for the County Executive to enter into an interlocal agreement between Whatcom County and the Marysville Police Department for the use of the Plantation Rifle Range to train personnel, in the amount of \$12,868.22
Pages 307 – 315
9. AB2021-449 Request authorization for the County Executive to enter into an interlocal agreement between Whatcom County and the Skagit County Sheriff's Office for the use of the Plantation Rifle Range to train personnel, in the amount of \$15,286.73
Pages 316 – 324
10. AB2021-452 Request authorization for the County Executive to enter into an interlocal agreement between Whatcom County and Washington State Department of Ecology for solid waste management compliance and litter and/or illegal dumping enforcement activities, in the amount of \$236,340
Pages 325 – 348
11. AB2021-468 Request authorization for the County Executive to enter into a contract between Whatcom County and Trantech Engineering, LLC to provide engineering services to implement rehabilitation efforts on the existing Nulle Road/Friday Creek Bridge No. 106
Pages 349 – 389
12. AB2021-472 Request authorization for the County Executive to enter into a contract between Whatcom County and Helmsman Management Services, LLC to provide administration of the County's self-insured Worker's Compensation Program in the amount of \$173,090
Pages 390 – 407

13. AB2021-478 Request approval for the County Executive to enter into a contract for a 3-year subscription to KnowBe4 for cyber security awareness training and simulated phishing software platform with SHI International Corporation, using the Washington State Contract #06016, in an amount not to exceed \$50,409.22
Pages 408 – 414

Items Added by Revision

Other Business

Adjournment

COUNCIL PUBLIC WORKS & HEALTH COMMITTEE

12:45 P.M. TUESDAY, August 10, 2021 (ENDS NO LATER THAN 1:30 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. AB2021-460 Discussion regarding proposed resolution in the matter of the Whatcom County Six-Year Transportation Improvement Program (STIP) for the years of 2022 through 2027
Page 415

Committee Discussion and Recommendation to Council

1. AB2021-464 Resolution in the matter of considering vacating a portion of Wynn Road
Pages 416 – 428
2. AB2021-465 Resolution in the matter of considering vacating a portion of Thomas Road
Pages 429 – 445
3. AB2021-466 Resolution in the matter of considering vacating a portion of Horton Road
Pages 446 – 462
4. AB2021-467 Resolution in the matter of considering vacating a portion of Boxwood Road
Pages 463 – 479

Items Added by Revision

Other Business

Adjournment

COUNCIL CRIMINAL JUSTICE AND PUBLIC SAFETY COMMITTEE
1:35 P.M. TUESDAY, August 10, 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. AB2021-455 Report from the Sheriff's Office
Page 480

Items Added by Revision

Other Business

Adjournment

COUNCIL COMMITTEE OF THE WHOLE
2:05 P.M. TUESDAY, August 10, 2021 (ENDS NO LATER THAN 5:00 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. AB2021-471 Presentation from the Health Department of the Community Health Impact Assessment
Pages 481 – 494
2. AB2021-482 Presentation regarding Whatcom County's proposed American Rescue Plan Act funding priorities
Pages 495 – 505
3. AB2021-484 Presentation from Prosecuting Attorney, Public Defender, Superior Court and District Court on the impacts and staffing needs due to the significant backlog of court cases caused by the COVID-19 pandemic
Page 506

Committee Discussion

1. AB2021-463 Discussion and review of the draft update to the Climate Action Plan
Pages 507 – 701

Items Added by Revision

Other Business

Adjournment

County Council

**REGULAR COUNCIL MEETING
6:00 P.M. TUESDAY, August 10, 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.

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The County is accepting applications from county residents to fill vacancies on several boards, commissions, and committees spanning a wide range of important local issues. For more information, visit the Boards and Commissions 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

SPECIAL ORDER OF BUSINESS

1. AB2021-485 Council appointment of interim District Court Judge
Page 702

MINUTES CONSENT

1. MIN2021-061 Committee of the Whole Executive Session for July 27, 2021
Pages 703 – 707
2. MIN2021-062 Committee of the Whole for July 27, 2021
Pages 708 – 713
3. MIN2021-063 Regular County Council for July 27, 2021
Pages 714 – 729
4. MIN2021-064 Special Council for August 2, 2021
Pages 730 – 733

PUBLIC HEARINGS

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

1. AB2021-413 Request authorization for the County Executive to enter into an interlocal agreement between Whatcom County and City of Bellingham for FY2021 Byrne Justice Assistance Grant (JAG) Program Award, in the amount of \$14,001
Pages 734 – 745
2. AB2021-417 Resolution transferring a Whatcom County Flood Control Zone District property to the Lummi Nation (Council acting as the Flood Control Zone District Board of Supervisors)
Pages 746 – 763
3. AB2021-422 Ordinance for reestablishing a speed limit for a portion of Bay Road
Pages 764 – 767
4. AB2021-424 Ordinance adopting amendments to the Whatcom County Code Title 20, Zoning to allow and regulate Battery Energy Storage Systems
Pages 768 – 800
5. AB2021-433 Resolution declaring Whatcom County real property as surplus
Pages 801 – 804
6. AB2021-420 Ordinance amending the Whatcom County Comprehensive Plan Map and zoning code for the Nooksack Falls Exclave within the Mount Baker-Snoqualmie National Forest
Pages 805 – 831
(Recommended motion: Forward for concurrent review. This ordinance cannot be adopted this evening. The Council must consider initiated comprehensive plan amendments concurrently so the cumulative effect of the various proposals can be evaluated. All proposed amendments will be scheduled together for final adoption at a later date.)

OPEN SESSION (20 MINUTES)

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CONSENT AGENDA

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

(From Council Finance and Administrative Services Committee)

1. AB2021-427 Request authorization for the County Executive to enter into a contract amendment between Whatcom County and Cascadia Youth Mental Health to assess and support regional school substance use discipline policies and practice needs, in the amount of \$22,760 for a total amended contract amount of \$40,000
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Pages 408 – 414

OTHER ITEMS

(From Council Finance and Administrative Services Committee)

1. AB2021-412 Ordinance amending the 2021 Whatcom County Budget, request no. 12, in the amount of \$1,506,763
Pages 3 – 16
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Pages 219 – 225

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Pages 226 – 233

(From Council Public Works and Health Committee)

1. AB2021-464 Resolution in the matter of considering vacating a portion of Wynn Road
Page 416 – 428
2. AB2021-465 Resolution in the matter of considering vacating a portion of Thomas Road
Page 429 – 445
3. AB2021-466 Resolution in the matter of considering vacating a portion of Horton Road
Page 446 – 462
4. AB2021-467 Resolution in the matter of considering vacating a portion of Boxwood Road
Page 463 – 479

(No Committee Assignment)

1. AB2021-469 Request to authorize Karen Frakes, Chief Civil Deputy Prosecuting Attorney, to vote on behalf of Whatcom County in favor of the Joint Plan of Reorganization of Mallinckrodt PLC and its debtor affiliates under Chapter 11 of the Bankruptcy Code in Case No. 20-12522 (JTD) in the US Bankruptcy Court for the District of Delaware
Page 832 – 852

EXECUTIVE APPOINTMENTS TO BOARDS, COMMISSIONS, AND COMMITTEES

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

1. AB2021-461 Request confirmation of the County Executive's appointment of Jagwinder Gill to the Agricultural Advisory Committee
Page 853 – 856

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. AB2021-451 Ordinance amending the 2021 Whatcom County Budget, request no. 13, in the amount of \$1,615,450
Page 857 – 883
2. AB2021-408 Ordinance adopting amendments to Whatcom County Code Title 17 Flood Damage Prevention
Page 884 – 939
3. AB2021-450 Resolution amending the Flood Control Zone District 2021 budget, request no. 2, in the amount of \$1,142,000 (Council acting as the Whatcom County Flood Control Zone District Board of Supervisors)
Page 940 – 943

COMMITTEE REPORTS, OTHER ITEMS, AND 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: AB2021-462

File ID:	AB2021-462	Version:	1	Status:	Agenda Ready
File Created:	07/27/2021	Entered by:	AKell@co.whatcom.wa.us		
Department:	Council Office	File Type:	Discussion		
Assigned to:	Council Committee of the Whole-Executive Session	Final Action:			
Agenda Date:	08/10/2021	Enactment #:			

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

TITLE FOR AGENDA ITEM:

Discussion regarding potential property acquisition [Discussion of this item may take place in Executive Session (closed to public) pursuant to RCW 42.30.110(1)(b)]

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

Discussion with Public Works staff regarding potential property acquisition

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:

Attachments:



Whatcom County

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

Agenda Bill Master Report

File Number: AB2021-486

File ID:	AB2021-486	Version:	1	Status:	Agenda Ready
File Created:	08/03/2021	Entered by:	DBrown@co.whatcom.wa.us		
Department:	Council Office	File Type:	Discussion		
Assigned to:	Council Committee of the Whole-Executive Session	Final Action:			
Agenda Date:	08/10/2021	Enactment #:			

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

TITLE FOR AGENDA ITEM:

Discussion with Chief Civil Deputy Prosecutor Karen Frakes regarding Council's options for responding to YouTube's removal of the June 15th Council meeting [discussion of this item may take place in executive session (closed to the public) per RCW 42.30.110 (1) (i)]

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

Discussion with Chief Civil Deputy Prosecutor Karen Frakes regarding Council's options for responding to YouTube's removal of the June 15th Council meeting [discussion of this item may take place in executive session (closed to the public) per RCW 42.30.110 (1) (i)]

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:

Attachments:



Whatcom County

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

Agenda Bill Master Report

File Number: AB2021-412

File ID:	AB2021-412	Version:	1	Status:	Introduced
File Created:	07/13/2021	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:	08/10/2021	Enactment #:			

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

TITLE FOR AGENDA ITEM:

Ordinance amending the 2021 Whatcom County Budget, request no. 12, in the amount of \$1,506,763

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

Supplemental #12 requests funding from the General Fund:

1. To appropriate \$97,486 in Sheriff to fund less lethal device replacements as a result of recent legislation.
2. To appropriate \$43,277 in Non Departmental to fund What-Comm E911 operations from pass-through grant proceeds.

From the Countywide Emergency Medical Services Fund:

3. To appropriate \$591,000 to partially fund 5th medic unit implementation.

From the Auditor's O&M Fund:

4. To appropriate \$25,000 to fund commissioner proceedings scanning and digitizing project.

From the Public Utilities Improvement Fund:

5. To reappropriate 2019 funding of \$750,000 for Port of Bellingham rural broadband project.

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
07/27/2021	Council	INTRODUCED	Council Finance and Administrative Services Committee

Attachments: Proposed Ordinance, Supplemental #12 Summary, Supplemental #12 Requests, Notice of Action
Proposed on 7.27.2021.pdf

**ORDINANCE NO.
AMENDMENT NO. 12 OF THE 2021 BUDGET**

WHEREAS, the 2021-2022 budget was adopted November 24, 2020; and,
WHEREAS, changing circumstances require modifications to the approved 2021-2022 budget;
and,

WHEREAS, the modifications to the budget have been assembled here for deliberation by the
Whatcom County Council,

NOW, THEREFORE, BE IT ORDAINED by the Whatcom County Council that the 2021-2022
Whatcom County Budget Ordinance #2020-068 is hereby amended by adding the following additional
amounts to the 2021 budget included therein:

Fund	Expenditures	Revenues	Net Effect
General Fund			
Sheriff	97,486	-	97,486
Non Departmental	43,277	(43,277)	-
Total General Fund	140,763	(43,277)	97,486
Countywide Emergency Medical Services Fund	591,000	-	591,000
Auditor's O&M Fund	25,000	-	25,000
Public Utilities Improvement Fund	750,000	-	750,000
Total Supplemental	1,506,763	(43,277)	1,463,486

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. 12				
Department/Fund	Description	Increased (Decreased) Expenditure	(Increased) Decreased Revenue	Net Effect to Fund Balance (Increase) Decrease
General Fund				
Sheriff	To fund less lethal device replacements as a result of recent legislation.	97,486	-	97,486
Non Departmental	To fund What-Comm E911 operations from pass-through grant proceeds.	<u>43,277</u>	<u>(43,277)</u>	<u>-</u>
Total General Fund		140,763	(43,277)	97,486
Countywide Emergency Medical Services Fund	To partially fund 5th medic unit implementation.	591,000	-	591,000
Auditor's O&M Fund	To fund commissioner proceedings scanning and digitizing project.	25,000	-	25,000
Public Utilities Improvement Fund	To reappropriate 2019 funding for Port of Bellingham rural broadband project.	<u>750,000</u>	<u>-</u>	<u>750,000</u>
Total Supplemental		<u>1,506,763</u>	<u>(43,277)</u>	<u>1,463,486</u>

Supplemental Budget Request

Status: Pending

Sheriff

Operations

Suppl ID # 3275

Fund 1

Cost Center 2920

Originator: J. Gum / D. Pierce

Expenditure Type: One-Time

Year 1 2021

Add'l FTE ☐

Add'l Space ☐

Priority 1

Name of Request: Less Lethal Devices

X

Ben Eger

Department Head Signature (Required on Hard Copy Submission)

Date

Costs:	Object	Object Description	Amount Requested
	6320	Office & Op Supplies	\$97,486
	Request Total		\$97,486

1a. Description of request:

The recent changes in Washington State law made less lethal devices utilized by the Whatcom County sheriff's Office (WCSO) illegal to use as of July 25, 2021. This includes our current less lethal bean bag rounds deployed through a 12-gauge shotgun and the 40 mm soft nose sponge rounds deployed through a hand-held launcher.

The WCSO uses less lethal launchers to provide a safer way to gain control over persons involved in potentially lethal encounters. Without the less lethal projectile deputies have to move into close proximity to armed individuals if they want to gain control over the individual. This close proximity is often a causal factor in the use of lethal force.

1b. Primary customers:

All commissioned deputies of the WCSO.

2. Problem to be solved:

The recent changes in Washington State law made less lethal devices utilized by the Whatcom County sheriff's Office (WCSO) illegal to use as of July 25, 2021. This includes our current less lethal bean bag rounds deployed through a 12-gauge shotgun and the 40 mm soft nose sponge rounds deployed through a hand-held launcher.

The WCSO uses less lethal launchers to provide a safer way to gain control over persons involved in potentially lethal encounters. Without the less lethal projectile deputies have to move into close proximity to armed individuals if they want to gain control over the individual. This close proximity is often a causal factor in the use of lethal force.

3a. Options / Advantages:

The requested FN303 utilizes compress air to deploy a plastic impact projectile. The deployment of the FN303 produces very little sound, reduces on-scene stress and noise disruption, and is not confused with a lethal weapon such as a less lethal shotgun round.

3b. Cost savings:

The cost savings are not easily measured. The cost and effect of a lethal police encounter within a community is immense. The ability to disarm or contain an armed person without utilizing lethal force would save hundreds of thousands of dollars as a minimum estimation.

4a. Outcomes:

Upon receiving the FN303 and providing the required training, the WCSO will equip our deputies with a less lethal device designed to save lives.

4b. Measures:

When the first successful deployment of the FN303 occurs, the positive outcome will be measurable.

Tuesday, July 13, 2021

Rpt: Rpt Suppl Regular

Supplemental Budget Request

Status: Pending

Sheriff

Operations

Suppl ID # 3275

Fund 1

Cost Center 2920

Originator: J. Gum / D. Pierce

5a. Other Departments/Agencies:

No

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 # 3273

Fund 1

Cost Center 4297

Originator: Suzanne Mildner

Expenditure Type: One-Time

Year 1 2021

Add'l FTE ☐

Add'l Space ☐

Priority 1

Name of Request: What-Comm E911 Ops 2021-22

X

Department Head Signature (Required on Hard Copy Submission)

7/9/21
Date

Costs:	Object	Object Description	Amount Requested
	4334.0182	State Enhanced 911 Funds	(\$43,277)
	7220	Intergov Subsidies	\$43,277
	Request Total		\$0

1a. Description of request:

This request is for an annual state-funded pass-through grant from the Washington State Military Department to reimburse the What-Comm Communications Center for eligible operating expenditures under WAC 118-66-050 (professional development and other operational expenses)

1b. Primary customers:

City of Bellingham, What-Comm Communications Center

2. Problem to be solved:

What-Comm is able to access this State Military Department grant by way of pass-through from the local county government. A subrecipient agreement will be signed with the City of Bellingham who will be responsible for grant oversight.

3a. Options / Advantages:

The intergovernmental grant agreement is a vehicle for accessing this fund source. The acceptance of these funds ultimately reduces the cost to the community for 911 services.

3b. Cost savings:

N/A

4a. Outcomes:

911 service cost reductions for our community due to state subsidies

4b. Measures:

N/A

5a. Other Departments/Agencies:

City of Bellingham, What-Comm Communications

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

Greg Erickson, E911 Deputy Director of Operations

6. Funding Source:

Washington State Military Department

Supplemental Budget Request

Status: Pending

Non-Departmental

Suppl ID # 3272 Fund 130 Cost Center 130120 Originator: Tawni Helms

Year 1 2021 Add'l FTE ☐ Priority 1

Name of Request: 5th Medic Unit Implementation

X

Department Head Signature (Required on Hard Copy Submission)

7/13/21
Date

Costs:	Object	Object Description	Amount Requested
	7210.006	Intergov Prof Svcs	\$170,000
	7210	Intergov Prof Svcs	\$421,000
	Request Total		\$591,000

1a. Description of request:

Through a very deliberative and data driven process, Whatcom County EMS has established the need, location and urgency of implementing a 5th Medic Unit in Lynden to be staffed by Bellingham paramedics. In addition, the current units will be relocated to facilitate optimum coverage and response times. The impacted station chiefs and EMS Administration developed a staffing and start up cost plan within a phased approach. The costs to be incurred in 2021 include the acquisition of a new ambulance by Bellingham Fire (\$240,000), alterations for Bellingham Fire Stations 3 & 6 (\$50,000), reimbursement to Lynden for Station 75 renovations to house the 5th medic unit personnel (\$150,000), \$20,000 for preliminary design of a Station 12 remodel (Britton Rd station), as well as hiring and outfitting 10 new BFD firefighters to replace the 10 paramedic FTEs currently assigned to the City of Bellingham General Fund. Complete implementation will take place over the next few years and will include items delineated in the attached spreadsheet and proposal adopted by the EMS Oversight Board.

1b. Primary customers:

Whatcom County residents

2. Problem to be solved:

Whatcom County is in dire need of a 5th medic unit. Statistics generated by dispatch software verify that 3 of the 4 units are over the 2500 per year call target capacity and 2 of those 3 are well over 3000 calls per unit. Reserve capacity is also tapped out.

3a. Options / Advantages:

Options employed over the past several years have included shifting BLS responsibilities to the fire districts/departments and refining how calls are dispatched so that ALS units are not being dispatched to BLS calls. The option of adding the 5th medic unit was envisioned in the 2016-2022 levy plan and is the plan agreed to by the citizens, elected officials and EMS community.

Whatcom County EMS has studied the need for a 5th Medic Advance Life Support (ALS) Unit for a number of years. To identify the need for additional Advance Life Support (ALS) units WCEMS contracted with a GIS/ARC company to review a multitude of information that is now available through the electronic records management system; Image Trend. The final analysis provided a data supported recommendation for a fifth ALS Unit.

3b. Cost savings:

There are no specific cost savings other than the current system will no longer be overtaxed.

4a. Outcomes:

An additional ALS unit will be implemented to meet the needs of a growing population. Outcomes will be delivered in a phased approach. The 10 paramedics currently paid out of Bellingham's General Fund will

Monday, July 12, 2021

Rpt: Rpt Suppl Regular

Supplemental Budget Request

Status: Pending

Non-Departmental

Suppl ID # 3272

Fund 130

Cost Center 130120

Originator: Tawni Helms

continue to provide backfill for the Countywide EMS Fund units and BFD fire apparatus, and will also staff an additional medic unit as capacity allows, while being reimbursed by Countywide EMS. Once replacement firefighters are hired and trained, General Fund paramedics and newly graduated paramedics will be phased into the rotation to fully staff the new 24/7 Fifth Unit.

4b. Measures:

Success will be measured when the Fifth Medic Unit is fully up and running 24/7 and all station remodels are completed.

5a. Other Departments/Agencies:

City of Bellingham, Fire Department
Lynden Fire Department

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

Chief Bill Hewett, Bellingham Fire Department

6. Funding Source:

Countywide Emergency Medical Services Fund

To: Emergency Medical Services Oversight Board
From: Mike Hilley
CC: Technical Advisory Board
Date: June 16, 2021
Re: Fifth ALS Unit



A 5th Whatcom County ALS unit is planned to begin activation January 2022 in Lynden and be in service as a full time unit by the end of 2022. \$2,087,500 is requested to initiate this 5th unit:

Station Renovations	220,000
Rig and Equipment	320,500
COB 10 New Hire Startup Costs	131,000
COB 10 Paramedic FTEs	1,416,000
Total Budget Request	\$2,087,500

The EMS Finance Sub-Committee has reviewed the attached budget.

WCEMS will reimburse capital costs (station renovations and equipment) up to \$540,500 as renovations and equipment are acquired.

Bellingham Fire will need to hire 10 new firefighters as paramedics are transferred to the new unit. Onboarding and initial equipment outfitting for these new firefighters will cost \$131,000.

Up to \$1,416,000 is requested to pay 10 FTE paramedics currently paid in the City's General Fund. These paramedics will staff an additional unit as capacity allows. The agreement with COB will be memorialized with an amendment to the current Inter-Local Agreement where monthly cost reimbursement is represented by the reporting of actual costs incurred along with a schedule of actual unit deployments each month.

Costs for a 2022 paramedic school will be presented to the EOB in a few months after school details and expenses are finalized.

Whatcom County EMS				
Summary: 5th ALS Unit and Relocation Costs				
At June 14, 2021				
				2021-2023
	2021	2022	2023	Total
2022 & 2023 Station Remodels				
Lynden Medic Qtrs Buildout <i>(See Note 1 below)</i>	150,000			150,000
BFD Station 3 & 6 remodels <i>(see Note 2. below)</i>	50,000			50,000
FD 7 Station remodels			20,000	20,000
Station 12 Preliminary Design	20,000			20,000
Station 12 Remodel			1,000,000	1,000,000
Total Station Remodels	220,000		1,020,000	1,240,000
New Rig & Equipment				
Rig (includes make ready & tax)	240,000			240,000
IT Equipment		13,000		13,000
Durable Medical Equip		18,000		18,000
PPE		27,000		27,000
Medical Kits		7,500		7,500
Miscellaneous		15,000		15,000
Total Equipment	240,000	80,500		320,500
COB Cost to hire 10 replacement firefighters				
Recruiting/Hiring	30,000			30,000
Physicals	17,000			17,000
PPE - 2 sets bunker gear per firefighter	60,000			60,000
Uniforms & misc personal equip.	24,000			24,000
Total New Hire StartUp Costs	131,000			131,000
Phase in 5th Unit Operations <i>(see Note 3 below)</i>	-	1,416,000		1,416,000
Cost to activate 5th unit	591,000	1,496,500	1,020,000	3,107,500
This Budget Supplement Summary:				
2021 (all 2021 costs shown above)	\$ 591,000			
2022 Phase in 5th Unit	\$ 1,496,500			
Total this Budget Supplement	\$ 2,087,500			
NOTES:				
1. Lynden estimate for 2 1/2 bedrooms added to Station 75 at \$60,000 per bedroom.				
2. \$25,000 per station for upgraded altering system and increased storage.				
3. \$118,000 per month for 10 Paramedic FTEs				
The 2016 EMS Funding Work Group Recommendations included \$1,225,000 for training & equipment to start up				

Supplemental Budget Request

Status: Pending

Auditor

Suppl ID # 3271

Fund 166

Cost Center 16600

Originator: Stacy Henthorn

Expenditure Type: One-Time

Year 1 2021

Add'l FTE ☐

Add'l Space ☐

Priority 1

Name of Request: Commissioner Proceedings

X

Stacy Henthorn

6/18/2021

Department Head Signature (Required on Hard Copy Submission)

Date

Costs:	Object	Object Description	Amount Requested
	6630	Professional Services	\$25,000
	Request Total		\$25,000

1a. Description of request:

Scan and digitize original volumes of 60 Commissioner Proceedings, 7 draft Commissioner minutes, and 6 indexes to Commissioner Proceedings for easy access and historical preservation.

1b. Primary customers:

County Council, staff, and the public.

2. Problem to be solved:

The Commissioner Proceedings volumes hold historical County information and are the only copy. Digitizing the volumes will not only provide access but provides a back-up to this important historical information. Currently, the County Council office has 9 volumes in their office and the rest of the 64 volumes are located at the Northwest Regional Archives in Bellingham. The Commissioner Proceedings are large and heavy varying in size up to 13.25 X 18.5. Some of the pages are fragile having been torn or brittle requiring special processing.

3a. Options / Advantages:

None.

3b. Cost savings:

N/A

4a. Outcomes:

The Commissioner Proceedings will be scanned at the Northwest Regional Archives and at the county courthouse. The images will then be cropped, sized, masked, and despeckled by vendor. After the process is completed, the digital images will be imported into Laserfiche by volume number in sequential page order.

4b. Measures:

The Commissioner Proceedings will be viewable by volume and date in page order. The 9 volumes of Commissioner Proceedings in the Council office will be transferred to the Northwest Regional Archives for preservation freeing up office space.

5a. Other Departments/Agencies:

The IT division will import the Commissioner Proceedings into Laserfiche and maintain the digital images.

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

Perry Rice will be coordinating with Kristi Felbinger the import of the digital images into Laserfiche.

6. Funding Source:

Auditor O&M fund.

Supplemental Budget Request

Status: Pending

Non-Departmental

Suppl ID # 3270

Fund 332

Cost Center 332248

Originator: Tawni Helms

Expenditure Type: One-Time

Year 1 2021

Add'l FTE ☐

Add'l Space ☐

Priority 1

Name of Request: Re-appropriate 2019 EDI grant POB Rural Broadband

X

Department Head Signature (Required on Hard Copy Submission)

Date

Costs:	Object	Object Description	Amount Requested
	7220	Intergov Subsidies	\$750,000
	Request Total		\$750,000

1a. Description of request:

This request is for EDI Program funding to support the Port of Bellingham's Rural Broadband construction project and re-appropriates the funding approved in 2019. With no activity against the Port of Bellingham contract for this grant award the funding was not re-appropriated in 2021.

1b. Primary customers:

Unincorporated Whatcom County, as well as the townships of Kendall, Mt. Baker, Deming and Glacier.

2. Problem to be solved:

In May, 2019 the County Council approved an EDI Board recommendation to provide grant funding in the amount of \$750,000 to the Port of Bellingham in support of the rural broadband construction project. This project consists of engineering and construction of an open access dark fiber network; this will provide broadband to our local businesses and community members who currently are unserved and underserved by the current fiber infrastructure. This grant was not expended in 2019 or 2020 and was not re-appropriated through the budget process. This supplemental re-allocates that original grant award.

Additionally, the grant award was successful in leveraging a state CERB grant.

3a. Options / Advantages:

Funding was previously approved through budget ordinance #2019-070. Contractually obligated to award grant when funds are to be expended.

3b. Cost savings:

n/a

4a. Outcomes:

The introduction of rural broadband will make our rural communities more marketable to new businesses and will encourage growth of more home-based businesses. The project includes four routes throughout the county totaling 113.2 miles.

4b. Measures:

Final project report and budget summary.

5a. Other Departments/Agencies:

Project development and success involves many partners such as PUD#1 of Whatcom County, tribes, small cities

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

Port of Bellingham, Gina Stark

6. Funding Source:

Public Utilities Improvement Fund

Monday, July 12, 2021

Rpt: Rpt Suppl Regular

Jul 27



Beaufort Gazette
Belleville News-Democrat
Bellingham Herald
Bradenton Herald
Centre Daily Times
Charlotte Observer
Columbus Ledger-Enquirer
Fresno Bee

The Herald - Rock Hill
Herald Sun - Durham
Idaho Statesman
Island Packet
Kansas City Star
Lexington Herald-Leader
Merced Sun-Star
Miami Herald

el Nuevo Herald - Miami
Modesto Bee
Raleigh News & Observer
The Olympian
Sacramento Bee
Fort Worth Star-Telegram
The State - Columbia
Sun Herald - Biloxi

Sun News - Myrtle Beach
The News Tribune Tacoma
The Telegraph - Macon
San Luis Obispo Tribune
Tri-City Herald
Wichita Eagle

AFFIDAVIT OF PUBLICATION

Account #	Order Number	Identification	Order PO	Amount	Cols	Depth
25579	110143	Print Legal Ad - IPL0034931	92973	\$480.57	3	82 L

Attention: Krisiti Felbinger

AB2021-412

WHATCOM CO COUNCIL
311 GRAND AVE STE 105
BELLINGHAM, WA 982254038

ACTION TAKEN

The Whatcom County Council adopted the following at its July 27, 2021 meeting: **ORDINANCE (2021-046) ADOPTING AMENDMENTS TO THE WHATCOM COUNTY COMPREHENSIVE PLAN AND WHATCOM COUNTY CODE RELATING TO THE CHERRY POINT UGA FOSSIL FUEL FACILITIES, RENEWABLE FUEL FACILITIES, PIERS, SEPA, GREENHOUSE GAS EMISSIONS, AND OTHER MATTERS (AB2021-403)** This ordinance will amend Whatcom County's development regulations, State Environmental Policy Act (SEPA) provisions, permit review procedures, and Comprehensive Plan relating to fossil fuel facilities, renewable fuel facilities, transshipment fuel facilities and other similar land use activities. The proposal is intended to address the risks to public health, safety, and the environment associated with fossil fuel facilities. The proposal is also intended to address the negative impacts on public safety, transportation, the economy, and environment from crude oil, coal, liquefied petroleum gases, and natural gas transshipments from the Cherry Point Industrial District. Ordinance introduced July 13, 2021. **ORDINANCE (2021-047) ADOPTING AMENDMENTS TO THE WHATCOM COUNTY COMPREHENSIVE PLAN RELATING TO DENSITY CREDITS, PORS, AND TDRS (AB2021-380)** This ordinance would insert the concept of a density credit program into the Whatcom County Comprehensive Plan. A density credit program would allow development incentives, such as increased land use intensity, in exchange for a voluntary contribution towards preserving agricultural lands and open space. The proposal would also amend purchase of development right (PDR) and transfer of development right (TDR) provisions in the Comprehensive Plan. Ordinance introduced June 29, 2021. **ORDINANCE (2021-048) ADOPTING WHATCOM COUNTY COMPREHENSIVE PLAN AMENDMENTS CONCERNING THE LUMMI ISLAND FERRY, MODIFYING POLICY 6A-1 RELATING TO FERRY LEVEL OF SERVICE AND DELETING POLICY 6C-9 RELATING TO A FERRY FEASIBILITY STUDY (AB2021-381)** This ordinance would amend the Whatcom County Comprehensive Plan concerning the Lummi Island Ferry. The proposal would modify Policy 6A-1 relating to ferry level of service and delete Policy 6C-9 relating to a ferry feasibility study. Ordinance introduced June 29, 2021. **ORDINANCE (2021-049) REQUESTING THAT THE WHATCOM COUNTY AUDITOR INCLUDE THE QUESTION OF ESTABLISHING A BIRCH BAY LIBRARY CAPITAL FACILITY AREA TO FINANCE A NEW LIBRARY FACILITY IN BIRCH BAY ON THE BALLOT AT THE NOVEMBER GENERAL ELECTION (AB2021-405)** This ordinance would forward the Birch Bay Library Capital Facility Area proposal to the Whatcom County Auditor for inclusion on the ballot at the next general election. For a complete legal description of the boundaries of the proposed Capital Facility Area, please contact the Council office at 360-778-5010. Ordinance introduced July 13, 2021.

PUBLIC HEARING NOTICE

The Whatcom County Council will hold a public hearing, consider adopting, and may amend the following at its 6 p.m. meeting on August 10, 2021, or at a later date: **ORDINANCE AMENDING THE WHATCOM COUNTY COMPREHENSIVE PLAN MAP AND ZONING CODE FOR THE NOOKSACK FALLS EXCLAVE WITHIN THE MOUNT BAKER-SNOQUALMIE NATIONAL FOREST (AB2021-420)** This ordinance is a Comprehensive Plan Map amendment and zoning code amendment for the Nooksack Falls Exclave within the Mount Baker-Snoqualmie National Forest. The proposed map amendment will amend the Mineral Resource Lands Comprehensive Plan Designation to Rural Forestry, to match the zoning district. The zoning code amendment will include the Nooksack Falls Exclave as an area where a Conditional Use Permit application may be submitted for facilities intended to provide education related to forestry, natural resources and wildlife, and the purpose of the Rural Forestry zone. The proposal affects approximately 66 acres of privately held lands on/near Wells Creek Road, off of State Route 542 - Mt. Baker Hwy, Assessor's Parcel Numbers 400831580150, 400831450200, 390806550550. Ordinance introduced July 27, 2021. **ORDINANCE FOR REESTABLISHING A SPEED LIMIT FOR A PORTION OF BAY ROAD (AB2021-422)** This ordinance reestablishes a speed limit of 35 miles per hour on Bay Road from 500 feet east of Jackson Road to Halibut Drive. Ordinance introduced July 27, 2021. **ORDINANCE ADOPTING AMENDMENTS TO THE WHATCOM COUNTY CODE TITLE 20, ZONING TO ALLOW AND REGULATE BATTERY ENERGY STORAGE SYSTEMS (AB2021-424)** This ordinance makes amendments to WCC Title 20 (Zoning) amendments to the Whatcom County Code Title 20 (Zoning) to allow and regulate Battery Energy Storage Systems in Whatcom County. Ordinance introduced July 27, 2021. **RESOLUTION DECLARING WHATCOM COUNTY REAL PROPERTY AS SURPLUS (AB2021-433)** This resolution declares 1661 Baker Creek Place, tax parcel number 3803171904530000, and further described by its abbreviated legal description as: Parcel P-13 Iron Gate Park specific binding site Plan No 3 as Rec book 1 binding site plans PG 63-EXC PTN to City of Bellingham for Street Desc AF 1980600800, for purposes of sale to Lake Whatcom Treatment Center pursuant to Whatcom County Code 1.10.340(B). Resolution introduced July 27, 2021. **REQUEST AUTHORIZATION FOR THE COUNTY EXECUTIVE TO ENTER INTO AN INTERLOCAL AGREEMENT BETWEEN WHATCOM COUNTY AND CITY OF BELLINGHAM FOR FY2021 BYRNE JUSTICE ASSISTANCE GRANT (JAG) PROGRAM AWARD, IN THE AMOUNT OF \$14,001 (RESOLUTION (AB2021-413)** This interlocal agreement includes a total Whatcom County Jurisdiction allocation of \$38,736 (with \$24,735 for the City of Bellingham and \$14,001 for Whatcom County). The City of Bellingham will administer the grant and provide \$14,001 to the Whatcom County Sheriff's Office to purchase ballistic resistant vests. Introduced July 27, 2021. **TRANSFERRING A WHATCOM COUNTY FLOOD CONTROL ZONE DISTRICT PROPERTY TO THE LUMMI NATION (COUNCIL ACTING AS THE FLOOD CONTROL ZONE DISTRICT BOARD OF SUPERVISORS) (AB2021-417)** This resolution is for the transfer of Whatcom County Flood Control Zone District real property to the Lummi Nation in exchange for wetland mitigation credits in the amount of \$17,000 pursuant to WCC 1.10.340 (A) and WCC 1.10.370. Resolution introduced July 27, 2021.

ACTION PROPOSED (INTRODUCED)

The Whatcom County Council will consider adopting and may amend the following at its 6 p.m. meeting on August 10, 2021, or at a later date: **ORDINANCE AMENDING THE 2021 WHATCOM COUNTY BUDGET, REQUEST NO. 12, IN THE AMOUNT OF \$1,506,763 (AB2021-412)** This ordinance amends the 2021 Whatcom County Budget as follows: From the General Fund - appropriate \$97,486 in Sheriff to fund less lethal device replacements as a result of recent legislation; appropriate \$43,277 in Non-Departmental to fund What-Comm E911 operations from pass-through grant proceeds. From the Countywide Emergency Medical Services Fund - appropriate \$591,000 to partially fund 5th medic unit implementation. From the Auditor's O&M Fund - appropriate \$25,000 to fund commissioner proceedings scanning and digitizing project. From the Public Utilities Improvement Fund - appropriate 2019 funding of \$750,000 for Port of Bellingham rural broadband project. Ordinance introduced July 27, 2021.

Public documents are available for review weekdays from 8:30 a.m. to 4:30 p.m. in the Council Office, 311 Grand Avenue, Suite 105, Bellingham, and at whatcom.wa.us/council. View meeting schedules, agendas, minutes, videos, documents, and archives at whatcom.legistar.com. The Council is currently holding all meetings remotely. For instructions on how to watch or participate in meetings, please visit whatcomcounty.us/joinvirtualcouncil or contact the Council Office at 360-778-5010.

Publish August 1, 2021
W00000000
Publication Dates

Islamae Brown, being duly sworn, deposes and says: That he/she is the Principal Clerk of The Bellingham Herald, a daily newspaper printed and published in Bellingham, Whatcom County, State of Washington, and having a general circulation therein, and which said newspaper has been continuously and uninterruptedly published in said County during a period of six months prior to the first publication of the notice, a copy of which is attached hereto: that said notice was published in The Bellingham Herald, as amended, for:

No. of Insertions: 1

Beginning Issue of: 08/01/2021

Ending Issue of: 08/01/2021

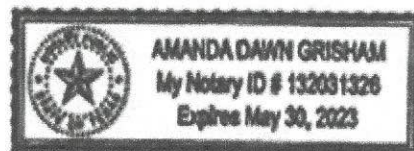
Islamae Brown

(Principal Clerk)

Subscribed and sworn on this 3rd day of August in the year of 2021 before me, a Notary Public, personally appeared before me Islamae Brown known or identified to me to be the person whose name subscribed to the within instrument, and being by first duly sworn, declared that the statements therein are true, and acknowledged to me that he/she executed the same.

Amanda Grisham

Notary Public in and for the state of Texas, residing in Dallas County



Extra charge for lost or duplicate affidavits.
Legal document please do not destroy!



Whatcom County

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

Agenda Bill Master Report

File Number: AB2021-390

File ID:	AB2021-390	Version:	1	Status:	Agenda Ready
File Created:	06/29/2021	Entered by:	THelms@co.whatcom.wa.us		
Department:	County Executive's Office	File Type:	Interlocal		
Assigned to:	Council Finance and Administrative Services Committee				Final Action:
Agenda Date:	08/10/2021	Enactment #:			

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

TITLE FOR AGENDA ITEM:

Request authorization for the County Executive to enter into an Interlocal Agreement between Whatcom County and the Bellingham Housing Authority for the purposes of funding an EDI loan for phase 3 of the Samish Commons redevelopment project in the amount of \$750,000

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

See attached

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
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Attachments: Routing Form, Intelocal 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: _____	
<p>Is this a New Contract? If not, is this an Amendment or Renewal to an Existing Contract? Yes No</p> <p>Yes No If Amendment or Renewal, (per WCC 3.08.100 (a)) Original Contract #: _____</p> <p>Does contract require Council Approval? Yes No If No, include WCC: _____</p> <p>Already approved? Council Approved Date: _____ (Exclusions see: Whatcom County Codes 3.06.010, 3.08.090 and 3.08.100)</p> <p>Is this a grant agreement?</p> <p>Yes No If yes, grantor agency contract number(s): _____ CFDA#: _____</p> <p>Is this contract grant funded?</p> <p>Yes No If yes, Whatcom County grant contract number(s): _____</p> <p>Is this contract the result of a RFP or Bid process? Contract</p> <p>Yes No If yes, RFP and Bid number(s): _____ Cost Center: _____</p> <p>Is this agreement excluded from E-Verify? No Yes If no, include Attachment D Contractor Declaration form.</p> <p>If YES, indicate exclusion(s) below:</p> <div style="display: flex; justify-content: space-between;"> <div> <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 work is for less than 120 days. <input type="checkbox"/> Interlocal Agreement (between Governments). </div> <div> <input type="checkbox"/> Goods and services provided due to an emergency <input type="checkbox"/> Contract for Commercial off the shelf items (COTS). <input type="checkbox"/> Work related subcontract less than \$25,000. <input type="checkbox"/> Public Works - Local Agency/Federally Funded FHWA. </div> </div>	
<p>Contract Amount:(sum of original contract amount and any prior amendments): \$ _____</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.
Summary of Scope: _____	
Term of Contract: _____	Expiration Date: _____

Contract Routing:	1. Prepared by: _____ 2. Attorney signoff: _____ 3. AS Finance reviewed: _____ 4. IT reviewed (if IT related): _____ 5. Contractor signed: _____ 6. Submitted to Exec.: _____ 7. Council approved (if necessary): _____ 8. Executive signed: _____ 9. Original to Council: _____	Date: _____ Date: _____ Date: _____ Date: _____ Date: _____ Date: _____ Date: _____ Date: _____
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Economic Development Investment Program Interlocal Loan Agreement

I PARTIES

This Agreement is made by and between **Whatcom County** (hereinafter referred to as **the County**), and **the Housing Authority of the City of Bellingham** (hereinafter referred to as **the BHA**).

II TERM

This Agreement takes effect upon execution hereof by the authorized representatives of both parties and continues in effect until all payments required under Section V, MUTUAL CONSIDERATION, Subsection C, REPAYMENT OF COUNTY LOAN, have been made or until terminated as provided for in Section VIII, TERMINATION.

III PURPOSE

The purpose of this Agreement is to provide funding support for the Samish Way Redevelopment Project, Phase 3 (hereinafter referred to as **the Project**) using certain County funds designated for such infrastructure development. These funds will be used to complete the Project as outlined in the Economic Development Investment (EDI) Program Application as attached (Attachment C).

IV RECITALS

The Parties make this Agreement based on and in recognition of certain relevant facts and circumstances including:

A. Sales and use taxes are collected in and for the County under authority of RCW 82.14.370 and Whatcom County Code 2.130 for the purpose of financing public facilities in the County, and the proceeds are deposited in the Whatcom County Public Utilities Improvement Fund.

B. The BHA will construct the Project. The Project will be partially funded by a **\$725,000 loan from the Whatcom County Public Utilities Improvement Fund**, and the balance of the Project will be funded by the City of Bellingham, private equity and other sources as outlined in Attachment C. The Project improvements, when complete, will be owned and

maintained by the City of Bellingham, the BHA and Puget Sound Energy.

C. RCW 82.14.370 was adopted to serve the goals of promoting the ongoing operation of business in rural distressed areas, promoting the expansion of existing businesses in rural distressed areas, attracting and developing new businesses, and providing family wage jobs and the development of communities of excellence in such areas. The parties expect the Project to further these goals.

D. RCW 82.14.370 defines public facilities to include bridges, roads, domestic and industrial water facilities, sanitary sewer facilities, earth stabilization, storm sewer facilities, railroad, electricity, natural gas, buildings, structures, telecommunications infrastructure, transportation infrastructure, or commercial infrastructure, and Port facilities in the state of Washington.

E. The County has created the EDI Board to review applications for loans and grants from the Public Utilities Improvement Fund and to make recommendations for Public Utilities Improvement Fund investments based on commitment of other funds, potential for resulting job creation, and other factors.

F. The EDI Board has reviewed the application for Public Utilities Improvement Funds and has recommended approval to the Whatcom County Council.

G. The County EDI Board has reviewed and recommended this project application be approved with a recommendation of a loan in the amount of \$725,000.00. A copy of the EDI application for this project is attached by reference to this Agreement.

H. The Whatcom County Council reviewed the recommendation and approved a loan to the BHA from the Public Utilities Improvement Fund in the amount of \$725,000.00.

I. The Public Utilities Improvement Fund balance is sufficient to make the requested loan to the Project.

J. RCW 39.34 authorizes interlocal agreements whereby municipal governments may jointly exercise the powers granted to each.

V MUTUAL CONSIDERATION

The parties do not intend to create any new or separate legal or administrative entity by this Agreement but intend for this mutual Agreement to govern the County's financial support for the Project. The terms and conditions contained herein reflect the voluntary participation of the parties.

A. BHA RESPONSIBILITIES: The BHA hereby agrees as follows:

- (i) If after the award of the construction contract, the scope of the Project or the Project budget has changed, the BHA shall provide the County the following updated documents: 1) a detailed description of the project; 2) a project budget itemizing major improvements together with the estimated cost of the improvements; and 3) a schedule showing sources and uses of funding for the project, if any of the aforementioned documents varies from those that were submitted with the BHA's application for EDI funding.
- (ii) The BHA shall be responsible for all aspects of the design and construction of the project.
- (iii) The BHA shall be responsible for all aspects of the public works construction contract administration, which shall include, but not be limited to, advertising, bidding, and awarding the contract. The BHA will comply with all applicable laws, rules and regulations relating to bidding the project. The County shall have no responsibility for the Project other than the funding set forth herein.
- (iv) The BHA shall provide the County with a final report showing the actual cost of the project and the actual sources and uses of funding for the project.
- (v) The BHA shall repay the loan in full in accordance with the terms of Section V.C below and the amortization schedule set forth in Attachment A, attached hereto.

B. WHATCOM COUNTY'S RESPONSIBILITIES: The County hereby agrees as follows:

- (i) COUNTY LOAN—The County shall *loan* Seven Hundred Twenty-Five Thousand Dollars and Zero Cents (\$725,000.00) for the Project described herein (the "Loan"). This Loan shall be by County warrant drawn on the Public Utilities Improvement Fund and payable to the BHA, available upon written request after approval and execution of this agreement by the Whatcom County Council and the BHA, and pursuant to the terms contained in (iii) Payout of Loan Funding.
- (ii) PAYOUT OF LOAN FUNDING—The County shall pay out the loan funding to the BHA up to a maximum of Seven Hundred Twenty-Five Thousand Dollars and Zero Cents (\$725,000.00) of the total project costs. This amount shall be paid in accordance with Attachment B, attached hereto. Disbursements of loan funding shall be made contingent upon and subject to the continued commitment of the other project funding sources.
- (iii) Unless the parties to this agreement mutually agree in writing to modify the consideration, the funding identified herein is all the County is obligated to pay towards this project, with the exception of an additional EDI loan which is secured under a separate agreement. The BHA agrees to protect the County from, hold it harmless from, and indemnify it for, any charges that may be levied in excess of the agreed amount.

C. REPAYMENT OF COUNTY LOAN—The BHA shall repay the Loan as follows:

- (i) The term of the Loan shall be twenty years, commencing from the date that the County disburses the Loan proceeds to the BHA. Interest shall accrue on the unpaid principal at

a rate of 1% per annum. Interest shall begin accruing from the date of disbursement of loan funds.

- (ii) The BHA will make loan payments to the County annually on or before the anniversary date of receiving loan proceeds in accordance with the attached amortization schedule (Attachment A). Loan payments must be delivered to the Whatcom County Executive Dept., Suite 108, 311 Grand Avenue, Bellingham, WA 98225.
- (iii) Failure to make the payment in the required amount by the date it is due according to the amortization schedule hereto attached shall constitute an event of default by the BHA. In the event that the BHA fails timely to make a Loan payment hereunder, the County shall notify the BHA of the failure and the BHA shall have fourteen (14) days to cure its failure. At the option of the County, such an event of default and the BHA's failure to cure within the stated time period is a sufficient basis upon which the County may take action to collect the amount that is delinquent, and if the County takes action to collect pursuant to this provision, the BHA shall pay to the County not only the amount owing, but also any collection of reasonable costs incurred by the County. Furthermore, if the BHA fails to make a payment on the Loan within thirty (30) days of the date it is due, and if the County has provided the BHA with the notice provided for in this section, then the County may choose to declare the remaining balance of the loan due and owing.
- (iv) There is no prepayment penalty should the BHA desire to retire this debt early, either in whole or in part.

VI RECORDS, REPORTS AND AUDITS

The BHA agrees to maintain such records, make such reports and follow such procedures pertaining to this Agreement as may be reasonably required by the County and as are typically maintained and made by the BHA in the undertaking of a project of this nature. All BHA records pertaining to this Agreement and the Project work shall be retained by the BHA for a period of three (3) years after final audit unless a longer period is required to resolve audit findings or litigation. The County and other authorized representatives of the State government shall have access to any books, documents, papers, and records of the BHA which pertain to this Agreement or the Project work for the purpose of making audit, examination, excerpts, and transcriptions.

VII RELATIONSHIP OF PARTIES AND AGENTS

Neither the BHA nor the County shall have authority to execute contracts or to make commitments on behalf of the other, and nothing contained herein shall be deemed to create the relationship of employer and employee or principal and agent between the County and the BHA. This agreement does not create, either implicitly or explicitly, any right, duty or obligation that is not expressly provided for herein.

The BHA represents that it has or will secure at its own expense all personnel, contractors, and/or subcontractors required in order to perform the Project work. Such personnel shall not be employees of, or contractors with the County for purposes of the project described herein. All such personnel, contractors, and/or subcontractors shall be fully qualified (as determined by the BHA in its sole discretion) and authorized/permitted under State and/or local law to perform such services.

VIII TERMINATION

If the BHA fails to comply with the terms and conditions of this Agreement, the County may pursue such remedies as are legally available, including, but not limited to, the termination or closeout of this Agreement in the manner specified herein:

A. **TERMINATION FOR CAUSE**— If the BHA fails to comply with the terms and conditions of this Agreement, the County will give notice to the BHA in writing of its failure to comply. The BHA will be given thirty (30) days from date of notice to comply with the terms of the Agreement or submit a plan acceptable to the County to bring the BHA into compliance with the Agreement within a time period reasonably acceptable to the County. Failure to comply with the terms and conditions of this Agreement by either party shall constitute an event of default. In the event of default by the BHA and a failure by the BHA to cure as provided for herein, the County may take such remedial actions under the law as are available to cure the default, including the imposition of the reasonable costs of collection. In the event of default by the County, the BHA may take such remedial actions under the law as are available to cure the default, including specific performance.

B. **TERMINATION FOR OTHER GROUNDS**—This Agreement may be terminated in whole or in part by mutual consent and written agreement between the parties, duly authorized and executed, setting forth the conditions of termination, including effective date and, in case of termination in part, that Portion to be terminated.

IX COMPLIANCE WITH LAWS

The County and the BHA shall comply with all applicable laws, ordinances, and codes of the Federal, State and local governments with regard to the performance of this Agreement.

X INTEREST OF MEMBERS OF THE COUNTY AND THE BHA

No member of the governing body of either party and no other officer, employee, or agent of either party who exercises any functions or responsibilities in connection with the planning or

carrying out of the Project shall have any personal financial interest, direct or indirect, in this Agreement.

XI HOLD HARMLESS AND INDEMNITY

To the extent permitted by law, the BHA shall indemnify and hold harmless the County, its officers, agents, and employees, from all liability, loss or damage, including costs of defense they may suffer as a result of claims, demands, actions, costs, or judgments which result from the activities to be performed by the BHA, its agents, employees, or subcontractors pursuant to this Agreement.

XII ASSIGNABILITY

The BHA shall not assign any interest in this Agreement and shall not transfer any interest in this Agreement (whether by assignment or novation) without prior written consent of the County thereto, provided, however, that claims for money by the BHA from the County under this Agreement may be assigned to a bank, trust company, or other financial institution without such approval. Written notice of any such assignment or transfer shall be furnished promptly to the County by the BHA.

XIII NON-WAIVER

The failure of either party to insist upon strict performance of any provision of this Agreement or to exercise any right based upon a breach thereof or the acceptance of any performance during such breach shall not constitute a waiver of any right under this Agreement.

XIV CONTRACT MODIFICATIONS

No modification or waiver of any clause or condition of this Agreement shall be binding upon either party unless such modification or waiver is in writing and duly authorized and executed by the County and the BHA.

XV SEVERABILITY

If any Portion of this Agreement is changed per mutual agreement or any Portion is held invalid, the remainder of this Agreement shall remain in full force and effect.

XVI NOTICES

Unless stated otherwise herein, all notices and demands shall be in writing and sent or hand-delivered to the parties to their addresses as follows:

TO THE BHA: Housing Authority of the City of Bellingham
Attn. Executive Director
208 Unity Street
Bellingham, WA 98225

TO COUNTY: Brad Bennett, Finance Manager
c/o Whatcom County Executive's Office
311 Grand Avenue, Suite 108
Bellingham, WA 98225

or to such other addresses as the parties may hereafter designate in writing. Notices and/or demands shall be sent by registered or certified mail, postage prepaid, or hand-delivered. Such notices shall be deemed effective when mailed or hand-delivered at the addresses specified above.

XVII INTEGRATION

This Agreement contains all terms and conditions to which the County and the BHA agreed, and this Agreement supersedes all of their previous understandings and agreements, written and oral, with respect to this loan and grant transaction. There are no other oral or written agreements between the BHA and County as to the loan and grant terms contained herein. No changes or additions to this Agreement shall be valid or binding upon either party unless such change or addition be in writing, duly authorized and executed by both parties.

XVIII GOVERNING LAW AND VENUE

All questions of the validity, construction, and application of this Agreement shall be governed by the laws of the State of Washington. Venue for any suit between the parties arising out of this Agreement shall be the Superior Court of the State of Washington in and for Skagit County, Washington.

XIX RECORDING

Upon execution of this agreement by the parties hereto, the County shall cause it to be recorded with the Whatcom County Auditor, or otherwise published pursuant to the requirement contained within RCW 39.34.040.

* * * * *

IN WITNESS WHEREOF, the County and the BHA have executed this Agreement as of the date and year last written below.

EXECUTED, this _____ day of _____, 2021, for the **HOUSING AUTHORITY OF THE CITY OF BELLINGHAM:**

Brien Thane, Executive Director

STATE OF WASHINGTON)
) ss.
COUNTY OF Whatcom)

On this _____ day of _____, 2021, before me personally appeared **Brien Thane**, to me known to be the **Executive Director** of the Housing Authority of the City of Bellingham and who executed the above instrument and who acknowledged to me the act of signing thereof.

NOTARY PUBLIC in and for the State of Washington,
residing at _____.
My commission expires _____.

EXECUTED, this _____ day of _____, 2021, for **WHATCOM COUNTY:**

Approved: Accepted for Whatcom County:

Satpal Sidhu, Whatcom County Executive

STATE OF WASHINGTON)
) ss
COUNTY OF WHATCOM)

On this _____ day of _____, 2021, before me personally appeared **SATPAL SIDHU**, to me known to be the **COUNTY EXECUTIVE** of Whatcom County, who executed the above instrument and who acknowledged to me the act of signing and sealing thereof.

NOTARY PUBLIC in and for the State of Washington,
residing at _____.
My commission expires _____.

Approved as to form:

Christopher Quinn per email 06.29.2021
Chief Civil Deputy Prosecutor Date

WHATCOM COUNTY

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		Principal			\$725,000	
		Interest Rate			1.00%	
		Term			20	
		Amortizations			19	
		Beginning				Ending
#	Year	Balance	Payment	Interest	Principal	Balance
*1	2021	\$725,000	\$0	-	\$0	\$725,000
2	2022	\$725,000	(\$42,505)	14,500	(\$28,005)	\$696,995
3	2023	\$696,995	(\$42,505)	6,970	(\$35,535)	\$661,461
4	2024	\$661,461	(\$42,505)	6,615	(\$35,890)	\$625,571
5	2025	\$625,571	(\$42,505)	6,256	(\$36,249)	\$589,323
6	2026	\$589,323	(\$42,505)	5,893	(\$36,612)	\$552,711
7	2027	\$552,711	(\$42,505)	5,527	(\$36,978)	\$515,734
8	2028	\$515,734	(\$42,505)	5,157	(\$37,348)	\$478,386
9	2029	\$478,386	(\$42,505)	4,784	(\$37,721)	\$440,666
10	2030	\$440,666	(\$42,505)	4,407	(\$38,098)	\$402,568
11	2031	\$402,568	(\$42,505)	4,026	(\$38,479)	\$364,090
12	2032	\$364,090	(\$42,505)	3,641	(\$38,864)	\$325,226
13	2033	\$325,226	(\$42,505)	3,252	(\$39,253)	\$285,974
14	2034	\$285,974	(\$42,505)	2,860	(\$39,645)	\$246,329
15	2035	\$246,329	(\$42,505)	2,463	(\$40,042)	\$206,288
16	2036	\$206,288	(\$42,505)	2,063	(\$40,442)	\$165,846
17	2037	\$165,846	(\$42,505)	1,658	(\$40,847)	\$125,000
18	2038	\$125,000	(\$42,505)	1,250	(\$41,255)	\$83,745
19	2039	\$83,745	(\$42,505)	837	(\$41,668)	\$42,078
20	2040	\$42,078	(\$42,499)	421	(\$42,078)	\$0
			(\$807,580)	82,580	(\$725,000)	
	First payment in year 2.					

Attachment B

Bellingham Housing Authority – Samish Way Development Phase 3 Loan Draw Down Requirements

Following commencement of project construction, the loan may be disbursed in full (\$725,000) upon written request for the funds from Ken Van Winkle, Director of Asset Development for Bellingham Housing Authority. The request for funds is to be addressed to the Whatcom County Executive's office, 311 Grand Avenue, Suite 108, Bellingham, WA 98225 and should reference the Whatcom County assigned interlocal agreement number. The loan will be disbursed by warrant within 30 days of receipt of request.

Attachment C

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

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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	_____	<u>10/24/2019</u>
Construction Permits	<u>5/31/21</u>	_____
Environmental Permits	<u>5/31/21</u>	_____

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

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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.

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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

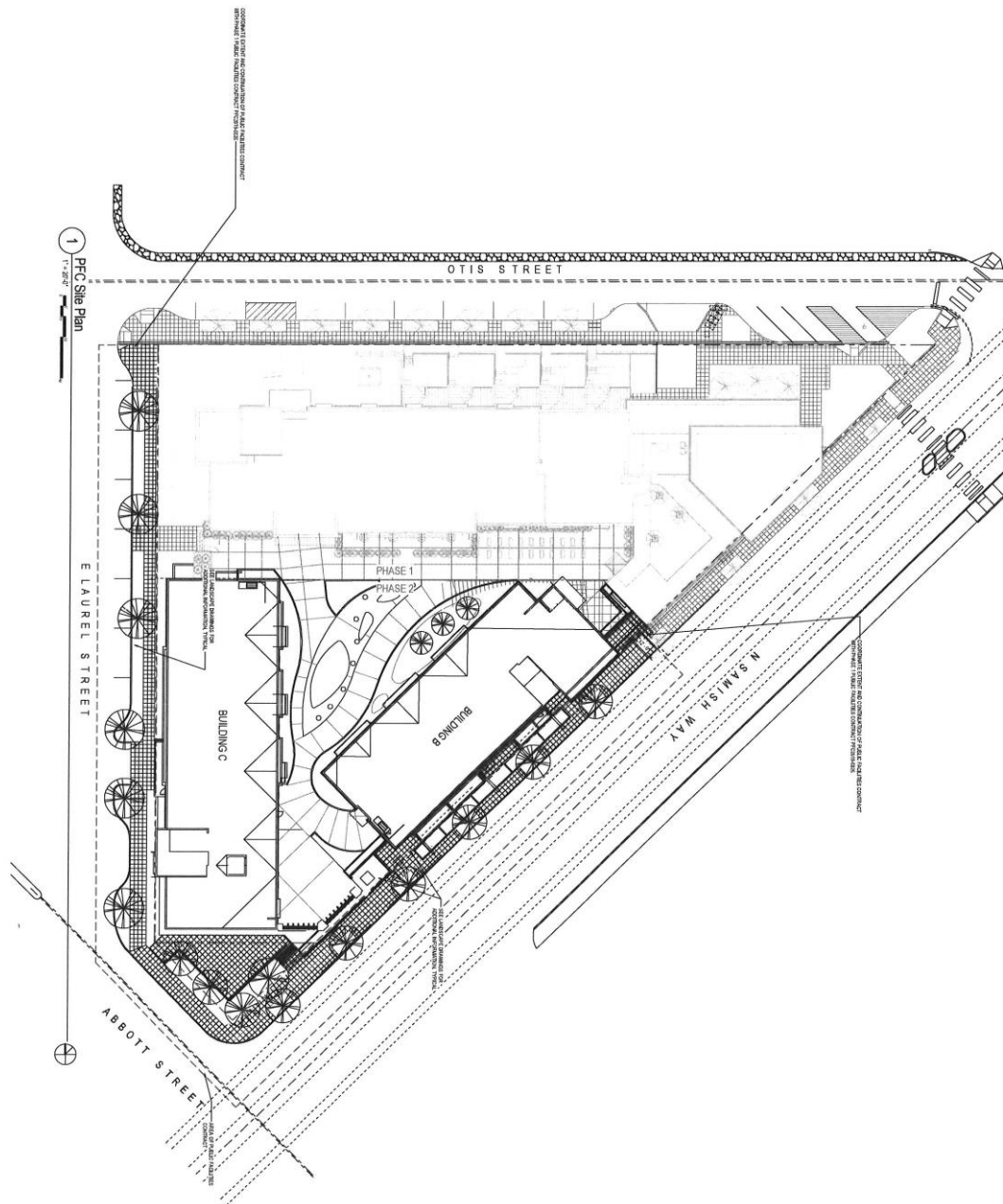
I HEREBY CERTIFY THAT THE INFORMATION GIVEN IN THIS APPLICATION TO WHATCOM COUNTY FOR INVESTMENTS IN ECONOMIC DEVELOPMENT IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF.

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		

Public Facilities Contract Work						ALLW
Bid Item	Phase	Description	Quantity	U/M	Line Subtotal	B/O NIC
		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	



A101	PFC & SITE	PFC SITE PLAN	DATE: 10/10/2018
			BY: J. B. BROWN
A101	PFC & SITE	PFC SITE PLAN	DATE: 10/10/2018
			BY: J. B. BROWN
A101	PFC & SITE	PFC SITE PLAN	DATE: 10/10/2018
			BY: J. B. BROWN
A101	PFC & SITE	PFC SITE PLAN	DATE: 10/10/2018
			BY: J. B. BROWN

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 - 1025 Harbor Avenue - Bellingham, WA 98201
 P: 360.676.7771 - F: 360.736.0448 - 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: AB2021-410

File ID:	AB2021-410	Version:	1	Status:	Agenda Ready
File Created:	07/13/2021	Entered by:	AHester@co.whatcom.wa.us		
Department:	Public Works Department	File Type:	Contract (FCZDBS)		
Assigned to:	Council Finance and Administrative Services Committee	Final Action:			
Agenda Date:	08/10/2021	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 an interlocal agreement between Whatcom County Flood Control Zone District and the Lummi Nation for the transfer of real property (Council acting as the Flood Control Zone District Board of Supervisors)

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

This interlocal is for the transfer of Whatcom County Flood Control Zone District real property to the Lummi Nation in exchange for wetland mitigation credits in the amount of \$17,000 pursuant to WCC 1.10.340 (A) and WCC 1.10.370

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:

Attachments: Memo, Interlocal Agreement, Bargain and Sale Deed, Conservation Easement, Aerial Map



MEMORANDUM

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

Through: Jon Hutchings, Director *JH*

From: Andrew Hester, Real Estate Coordinator *AH*

Date: July 14, 2021

Re: Interlocal Agreement and Resolution Transferring Whatcom County Flood
Control Zone District Property to the Lummi Nation

Enclosed is an interlocal agreement and resolution requesting the approval of a transfer of Whatcom County Flood Control Zone District property to the Lummi Nation.

Requested Action

Public Works respectfully requests that the Whatcom County Council hold a public hearing and take action on the proposed property transfer.

Background and Purpose

The Whatcom County Flood Control Zone District purchased a property located on Ferndale Road in 2008. A portion of the property was used for mitigation purposes for a Public Works road project. The property has been subject to trespassing and dumping. The Lummi Nation would like to acquire the property and has offered wetland mitigation credits in the amount of \$17,000 in exchange for the property. Whatcom County Public Works recommends the transfer of this property subject to a conservation easement protecting the mitigation area and deed restrictions preventing the future development of the property.

Funding Amount and Source

No County funds are being expended on this agreement.

Please contact me at extension 6216 if you have any questions or concerns regarding this resolution.

Encl.

**INTERLOCAL AGREEMENT
BY AND BETWEEN
WHATCOM COUNTY FLOOD CONTROL DISTRICT AND LUMMI NATION
FOR FERNDAL ROAD PROPERTY TRANSFER**

THIS AGREEMENT is made this _____ day of _____, 2021 by and between Whatcom County Flood Control Zone District, a taxing district within a municipal corporation of the State of Washington, hereinafter referred to as “County,” and Lummi Nation, a federally recognized Native American tribe, hereafter referred to as “Nation.”

WHEREAS, the people of the Lummi Nation have lived in and around the area that is now Whatcom County, Washington, since time immemorial; the County was formed in 1854; and the State of Washington was established in 1889; and

WHEREAS, the Lummi Indian Business Council is the duly constituted governing body of the Lummi Indian Reservation by the authority of the Constitution and By-laws of the Lummi Tribe of the Lummi Reservation, Washington; and

WHEREAS, County currently owns property on Ferndale Road APN 3802080421560000; and

WHEREAS, the Lummi Natural Resources Mission Statement is: “To enhance, manage and protect the Natural Resources into perpetuity for the benefit of the Lummi People in accordance with the policy and procedures of Lummi Nation”; and

WHEREAS, the Parties recognize the need for Nation fishers to access the Nooksack River; and

WHEREAS, the Parties seek a long-term cooperative relationship aimed at improving the condition of the land; and

WHEREAS, the Parties seek to eliminate the County’s oversight and responsibility of the parcel; and

WHEREAS, the Parties have negotiated a value of \$17,000 for the parcel subject to the reservation of a conservation easement over the existing mitigation area; and

WHEREAS, the County requires wetland mitigation credits for various construction and maintenance projects; and

WHEREAS, the Nation has a wetland mitigation bank; and

WHEREAS, the Nation has an approval process to distribute wetland mitigation credits; and

WHEREAS, County and Nation find that this Agreement is in the public interest.

NOW, THEREFORE, IN CONSIDERATION OF THE MUTUAL COVENANTS CONTAINED HEREIN, IT IS MUTUALLY AGREED AND UNDERSTOOD THAT THE PARTIES, in accordance with federal, state, and local laws, will utilize their best efforts to accomplish the transfer of the Ferndale Road Property (APN: 3802080421560000) from the County to the Nation in exchange for a \$17,000 account balance to be applied toward a future wetland mitigation credit purchase by the County.

SECTION I. PURPOSE OF AGREEMENT

The purpose of the Agreement is to provide the legal framework wherein the two Parties to this Agreement support improvements to public safety, Nation fisher's access, water quality, wetlands habitat and riparian habitat, by transferring the ownership of the Ferndale Road Property from the County to the Nation.

SECTION II. NATION RESPONSIBILITIES

Nation is responsible for the following items:

1. Provide County with an account balance of \$17,000 to be put toward a future wetland mitigation credit transaction;
2. Review and process County request(s) for wetland mitigation credits per the standard credit transaction approval process.

SECTION III. COUNTY RESPONSIBILITIES

County is responsible for the following items:

1. Issuing a Bargain and Sale Deed subject to deed restrictions and a conservation easement to the Nation for the Ferndale Road Property (APN: 3802080421560000) upon execution of this agreement for the amount of \$17,000 in account balance to be applied toward a future wetland mitigation credit transaction.
2. Adhere to the standard wetland mitigation credit application process for the use of the available account balance.

SECTION IV. RELATIONSHIP OF THE PARTIES

The Parties agree that each is an independent entity operating pursuant to the terms and conditions of this agreement. No agent, employee, or representative of either Party shall be deemed to be an agent, employee, or representative of the other Party for any purpose unless requested otherwise in writing per the scope of this agreement. Each Party shall be solely and entirely responsible for the acts of its agents, employees and representatives during the term of this agreement.

SECTION V. MODIFICATION

No changes or additions to this Agreement shall be valid or binding on any Party unless such changes or additions shall be in writing executed by both Parties.

SECTION VI. NON-WAIVER OF BREACH

The failure of the County, or the Nation to insist upon strict performance of any of the covenants and conditions of this Agreement, or to exercise any options 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.

SECTION VII. ARBITRATION AND MUTUAL WAIVER OF SOVEREIGN IMMUNITY

This Interlocal Agreement shall be governed by the laws of the State of Washington. The Nation, the governing body of a federally recognized Native American tribe, hereby unequivocally and irrevocably agrees to a limited waiver of its sovereign immunity with respect to enforcement of the obligations arising under this Agreement by County. This limited waiver of sovereign immunity includes a waiver of immunity as to the jurisdiction and immunity from execution of any judgment to compel or enforce any order issued by a court of the United States of America regarding this Agreement, provided that the judgment does not exceed the obligations of the Nation under this Agreement; and provided further that enforcement of such judgment may not be made against trust property or trust resources, or grants and loans restricted to governmental or economic development purposes. In the event of a lawsuit involving this Agreement, venue shall be proper only in the U.S. Federal District Court for the Western District of Washington. The Nation, by execution of this Agreement, acknowledges the jurisdiction of the courts of the United States of America in this matter.

SECTION VIII. ARBITRATION OF LEGAL DISPUTES

1. The Parties to this agreement mutually covenant to work cooperatively to timely resolve any dispute that may arise between the Parties concerning this agreement. However, if the Parties cannot mutually settle a dispute, the dispute or claim shall be submitted to binding arbitration. The Parties agree that the arbitration shall be governed by the rules and procedures of the American Arbitration Association. The arbitration shall be brought for resolution at a neutral site in Whatcom County. Judgment on an award of arbitration may be brought only in the U.S. Federal District Court for the Western District of Washington. No award of arbitration shall exceed the obligations of either Party arising from this Agreement, but may include reasonable costs and fees.
2. Nation hereby agrees to a limited waiver of its sovereign immunity only for the purposes of arbitration, the enforcement of an award of or judgment on an award of arbitration, and the enforcement consistent with this arbitration clause of Nation's Responsibilities. Such waiver shall be effective only in the federal courts for the Western District of Washington. Enforcement of any award or judgment shall not be made against trust property or trust resources, or funds restricted to governmental or economic development purposes.
3. County represents that its sovereign immunity has been abrogated as between the County and Nation with respect to the subject of this Agreement. Nor does the public duty doctrine apply to the benefit of Whatcom County against Lummi Nation with respect to the subject of this Agreement. Nothing in this Agreement shall be construed as affecting the County's sovereign immunity with respect to others who are not party to this agreement, or as to Lummi Nation apart from the subject of this Agreement.
4. The laws of the United States and of the State of Washington shall govern this Agreement.

SECTION IX. NOTICE

Notices pursuant to this Agreement shall be delivered via USPO certified mail, or by private carrier via a method with similar assurances of delivery as USPO certified mail, to the following persons at the corresponding addresses below:

Nation:

Merle Jefferson, Executive Director
Lummi Natural Resources Department
2665 Kwina Road
Bellingham, WA 98226

County:

Jon Hutchings, Director
Public Works Department
322 N Commercial Suite 110
Bellingham, WA 98225

SECTION X. RECORDS

Each Party shall maintain books, records, documents and other evidence which accurately evidences all direct and indirect costs incurred by either Party in the performance of this Agreement. These records shall be subject to inspection, review, or audit by the other Party as required by applicable law. All records will be maintained for a minimum of six years after expiration.

46

Executed by WHATCOM COUNTY

Date: _____

Satpal Singh Sidhu, Whatcom County Executive
on behalf of the Whatcom County Flood Control Zone District

Approved as to form:

Prosecuting Attorney's Office

Christopher Quinn
Civil Deputy Prosecutor
(approved electronically 7/7/2021)

Date: _____

STATE OF WASHINGTON)
)
) :ss
COUNTY OF WHATCOM)

On this _____ day of _____, 2021, before me personally appeared Satpal Singh Sidhu, to me known to be the Executive of Whatcom County, a municipal corporation that executed the within and foregoing instrument, and acknowledged said instrument to be the free and voluntary act and deed of Whatcom County, for the uses and purposes herein mentioned, and on oath stated that he was authorized to execute said instrument on behalf of Whatcom County.

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

Notary Public in and for the State of Washington

Residing at _____

My commission expires _____

After recording return document to:

Lummi Nation
2665 Kwina Road
Bellingham, WA 98226

Document Title: Bargain and Sale Deed
Reference Number of Related Documents: NA
Grantor: Whatcom County Flood Control Zone District
Grantee: Lummi Nation
Legal Description: A Ptn of the NW ¼ SW ¼, S8, T38N. R2E, W.M.
Assessor's Tax Parcel Number: 380208 042156 0000

BARGAIN AND SALE DEED

The Grantor, **WHATCOM COUNTY FLOOD CONTROL ZONE DISTRICT, A QUASI-MUNICIPAL CORPORATION OF THE STATE OF WASHINGTON**, for and in consideration of TEN AND NO/100 Dollars and other valuable consideration, in hand paid, bargains, sells, and conveys to **LUMMI NATION**, the following described real estate, situated in Whatcom County, in the State of Washington:

The North 100 feet of the South 300 feet of that portion of the Northwest Quarter of the Northwest Quarter of the Southwest Quarter of Section 8, Township 38 North, Range 2 East of W.M., lying westerly of the present channel of the Nooksack River, and south of the slough, except right-of-way commonly referred to as Ferndale Road, lying along the Westerly line of said premises, and less River Wash.

Situate in Whatcom County, Washington.

Subject to deed restrictions described in Exhibit A.

BARGAIN AND SALE DEED

Executed this _____ day of _____, 2021 for Grantor, WHATCOM
COUNTY FLOOD CONTROL ZONE DISTRICT (FCZD), by:

Satpal Singh Sidhu, County Executive
Acting on behalf of the FCZD Board of Supervisors

Approved as to form:
Prosecuting Attorney's Office

Christopher Quinn

Civil Deputy Prosecutor
(approved electronically 7/7/2021)

Accepted this _____ day of _____, 2021 for Grantee, LUMMI
NATION, by:

Lawrence Solomon, Chairman
Lummi Indian Business Council

Approved as to form:

Office of the Reservation Attorney

BARGAIN AND SALE DEED

STATE OF WASHINGTON)
 : ss
COUNTY OF WHATCOM)

On this _____ day of _____, 2021, before me personally appeared Satpal Singh Sidhu, to me known to be acting on behalf of the Board of Supervisors of the FCZD, a Quasi-Municipal Corporation in the State of Washington, that executed the within and foregoing instrument, and acknowledged said instrument to be the free and voluntary act and deed of FCZD, for the uses and purposes herein mentioned, and on oath stated that he was authorized to execute said instrument on behalf of the FCZD Board of Supervisors.

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

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

BARGAIN AND SALE DEED

STATE OF WASHINGTON)
)
) : ss
)
COUNTY OF WHATCOM)

On this _____ day of _____, 2021, before me personally appeared _____, to me known to be the Lawrence Solomon of the Lummi Nation, that executed the within and foregoing instrument, and acknowledged said instrument to be the free and voluntary act and deed of the Lummi Nation, for the uses and purposes herein mentioned, and on oath stated that Lawrence Solomon was authorized to execute said instrument on behalf of the Lummi Nation.

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

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

BARGAIN AND SALE DEED

Exhibit A

Deed Restrictions

- A. Compatible uses. The property shall be dedicated and maintained in perpetuity as open space for the conservation of natural floodplain functions. Such uses may include: outdoor recreational activities, restoration; nature reserves; cultivation; grazing; camping (except where adequate warning time is not available to allow evacuation); unimproved, unpaved parking lots; unpaved access roads; and buffer zones.
- B. No permanent structures or improvements shall be erected on the property. Temporary structures associated with outdoor recreational activities shall be allowed subject to the approval of Grantor. Any improvements on the property shall be in accordance with proper floodplain management policies and practices.
- C. Any grading activities required to construct approved improvements or access roads on the property shall restore the grades to pre-project conditions so as to not affect the conveyance of floodwaters. Proposed grading activities must be approved by the Grantor prior to ground disturbance.
- D. The Grantee is responsible for obtaining all applicable permits for any proposed improvements or grading on the property.

After recording return to:
Whatcom County Planning
and Development Services
5280 Northwest Drive
Bellingham, WA 98226

GRANTOR:
GRANTEE: WHATCOM COUNTY
GRANTEE (Trustee): N/A
LEGAL DESCRIPTION:
TAX PARCEL I.D. #:
REFERENCE #'s:

CONSERVATION EASEMENT

This grant of a conservation easement is made by and between _____, referred to hereafter as "Grantors," and Whatcom County, referred to hereafter as "Grantee." The Grantors own real property in Whatcom County, the legal description of which is attached hereto as Exhibit A (hereinafter the "Property"). The intent of Grantors and Grantee, through this conservation easement, is to preserve, protect, maintain and limit use of a portion of Grantors' undeveloped Property containing an identified critical area(s) and/or its associated buffer area(s), defined pursuant to WCC 16.16 – Whatcom County Critical Areas Ordinance, for the purpose of protecting the ecological functions and values provided by said critical area(s).

Grantors hereby convey to Grantee, its successors, heirs, and assigns, an easement for conservation purposes in reference to wetlands and/or Habitat Conservation Areas and/or associated buffers as defined pursuant to WCC 16.16. The conservation easement is depicted as "Conservation Easement" on Exhibit B attached hereto (hereinafter the "Conservation Easement").

It is the intent of this easement that the grant of protection not exceed the purpose, boundaries, or duration of critical area protection required by law under the Whatcom County Critical Areas Ordinance. Should the size, shape, or character of the identified critical area be altered by natural processes and/or operation of law in favor of the grantor, this easement shall be subject to amendment to conform to those changes, as determined by the administrator or a court of competent jurisdiction.

This conservation easement consists of mutual rights and obligations and is subject to the reservation of rights set forth below.

1. **Rights, Obligations and Reservations.** All rights, obligations and reservations shall operate as covenants running with the land.

2. Permitted Uses and Rights Reserved by Grantors. Grantor reserves the following rights:

- a. To use the property as allowed by applicable Whatcom County Ordinances after disclosing the proposed use to Whatcom County.
- b. To include the acreage of the conservation easement within any development permit application or any project proposal that may be located on the Property for the purposes of calculating residential density or designating required open space.
- c. To maintain fish and wildlife habitat.
- d. Only upon written consent of Grantee, or by an approved farm plan or an approved addendum by the Technical Administrator:
 - (1) to enhance or restore degraded fish or wildlife habitat, wetlands, or wildland forest characteristics, on an ecologically managed basis; or
 - (2) to allow construction of unpaved foot trails; or
 - (3) to allow for ongoing agriculture activities outside of approved mitigation areas; or
 - (4) install utilities as approved by the Technical Administrator.

3. Restrictions on Use. Except as provided above, and as may be necessary to carry out those rights reserved, and after review by Technical Administrator, the Grantors shall not conduct the following activities within the Conservation Easement area:

- a. Remove trees or native vegetation.
- b. Permit grazing of domestic animals.
- c. Excavate, dredge, fill, dike or otherwise alter the landscape or topography.
- d. Store derelict vehicles, hazardous substances, or waste of any kind.
- e. Explore for or extract minerals, hydrocarbons, soils, gravel or other materials.
- f. Construct, erect or place any buildings, structures, or improvements, either of a temporary or permanent nature.
- g. Grant or allow road or utility construction and easements.

- h. Alter the surface or subsurface hydrology entering or exiting the conservation easement area.

Otherwise use the conservation easement area in a manner that is inconsistent with the reservation of rights and the purposes of this Conservation Easement.

4. Rights and Responsibilities of Grantee.

- a. Any forbearance by Grantee to exercise any rights under this agreement, in the event of a breach, shall not be deemed to be a waiver of Grantee's rights under this Conservation Easement.
- b. To access, with permission from Grantor, or with an administrative search warrant, to grantee, agents, successor and assigns for the limited purpose of monitoring this easement.

5. General Conditions.

- a. This conservation easement does not grant or permit public access to any portion of the conservation easement.
- b. Grantee may assign its interest in this conservation easement upon written consent of grantor.
- c. This conservation easement shall run with the property and shall be binding on successors, assigns, heirs of Grantor and Grantee.
- d. In the event that any of the provisions contained in this conservation easement are declared invalid or unenforceable in the future, all remaining provisions shall remain in affect.

Dated this _____ day of _____, _____.

Grantor

Grantor

Grantor/Print Name

Grantor/Print Name

STATE OF WASHINGTON)
)ss.
COUNTY OF WHATCOM)

I certify that I know or have satisfactory evidence that _____
is/are the person(s) who appeared before me, and said person acknowledge that he signed
this instrument, on oath stated that he was authorized to execute the instrument and
acknowledged it to be the free and voluntary act of such party for the uses and purposes
mentioned in the instrument.

Dated: _____

NOTARY PUBLIC, in and for the State of Washington,
residing at: _____
Printed Name: _____
My Commission expires: _____

STATE OF WASHINGTON)
)ss.
COUNTY OF WHATCOM)

I certify that I know or have satisfactory evidence that _____
is/are the person(s) who appeared before me, and said person acknowledge that he signed
this instrument, on oath stated that he was authorized to execute the instrument and
acknowledged it to be the free and voluntary act of such party for the uses and purposes
mentioned in the instrument.

Dated: _____

NOTARY PUBLIC, in and for the State of Washington,
residing at: _____
Printed Name: _____
My Commission expires: _____

Reviewed and approved by:

Whatcom County Natural Resources Division

Date

Conservation Easement
PL4-86-002 K

- 4 -
September 2012

**WHATCOM COUNTY
PUBLIC WORKS DEPARTMENT**

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

EXHIBIT "A"

A CONSERVATION EASEMENT LYING OVER, UNDER AND ACROSS A PORTION OF THE FOLLOWING DESCRIBED PARCEL:

(PER STATUTORY WARRANTY DEED AF. NO. 2080903242)

THE NORTH 100 FEET OF THE SOUTH 300 FEET OF THAT PORTION OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 8, TOWNSHIP 38 NORTH, RANGE 2 EAST W.M., LYING WESTERLY OF THE PRESENT CHANNEL OF THE NOOKSACK RIVER, AND SOUTH OF THE SLOUGH, EXCEPT RIGHT-OF-WAY COMMONLY REFERRED TO AS FERNDAL ROAD, LYING ALONG THE WESTERLY LINE OF SAID PREMISES, AND LESS RIVER WASH.

SITUATE IN WHATCOM COUNTY, WASHINGTON.

CONSERVATION EASEMENT DESCRIPTION

THAT PORTION OF THE ABOVE DESCRIBED PARCEL LYING EAST OF THE FOLLOWING DESCRIBED LINE:

COMMENCING AT A REBAR AND CAP MARKING THE NORTHWEST CORNER OF SAID PARCEL AS SHOWN ON THAT CERTAIN RECORD OF SURVEY RECORDED UNDER WHATCOM COUNTY AUDITOR'S FILE NO. 2141000660, SAID POINT ALSO BEING ON THE EASTERLY RIGHT OF WAY MARGIN OF FERNDAL ROAD (CO. RD. NO. 558); THENCE ALONG THE NORTH LINE OF SAID PARCEL SOUTH 88°52'24" EAST 324.58 FEET TO THE **POINT OF BEGINNING**; THENCE DEPARTING SAID NORTH LINE SOUTH 03°30'17" EAST 100.32 FEET MORE OR LESS TO THE SOUTH LINE OF SAID PARCEL AND THE **TERMINUS** OF SAID LINE.

SITUATE IN WHATCOM COUNTY, WASHINGTON.

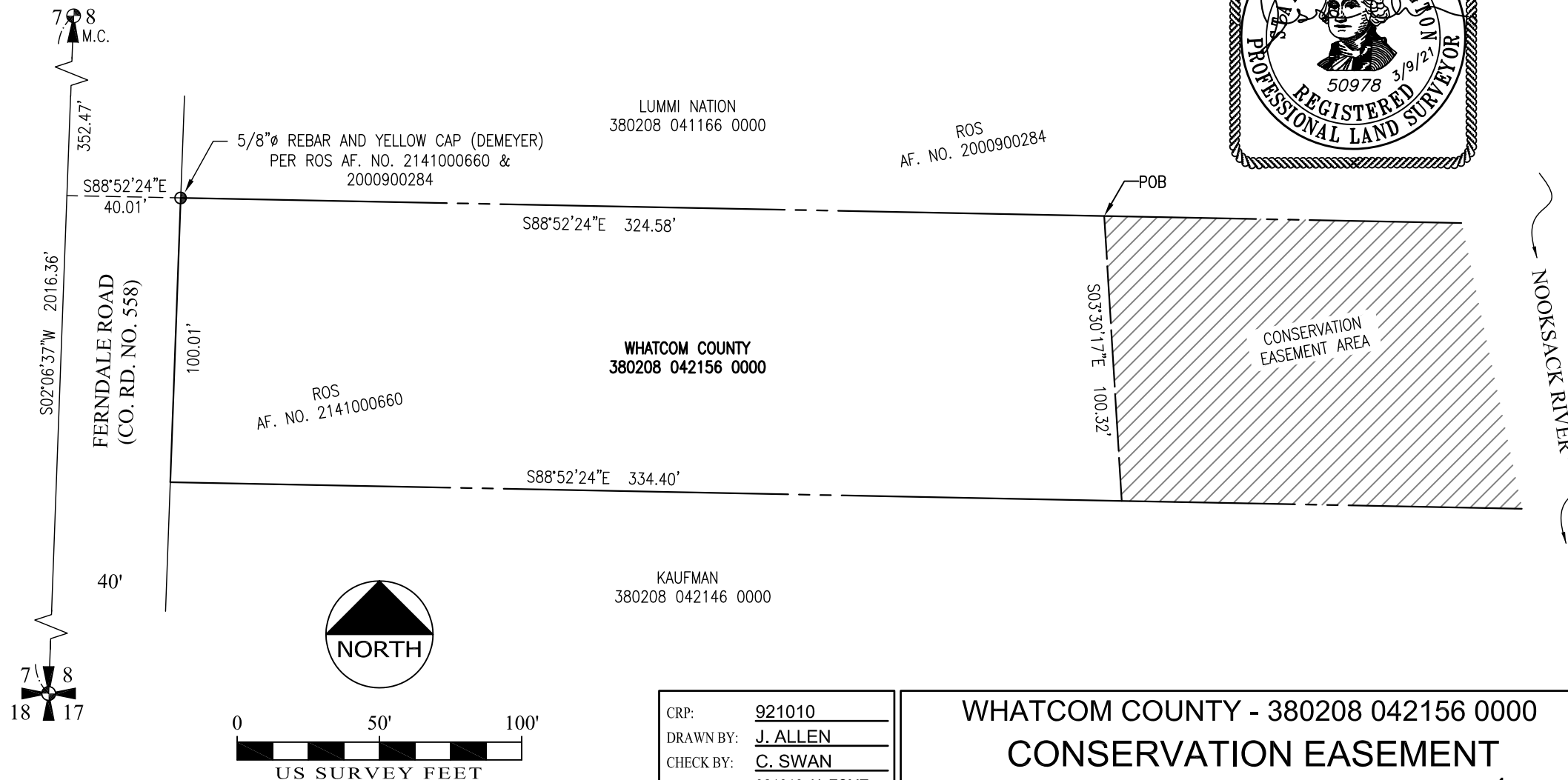
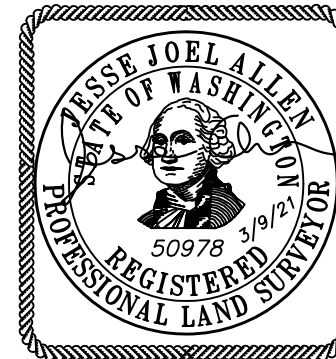




EXHIBIT

DEPARTMENT OF PUBLIC WORKS
322 N. COMMERCIAL ST., SUITE 301
BELLINGHAM, WA 98225 (360) 778-6210

SITUATE IN A PORTION OF SECTION 8, TOWNSHIP 38 NORTH,
RANGE 2 EAST, W.M., WHATCOM COUNTY, WASHINGTON



CRP:	921010
DRAWN BY:	J. ALLEN
CHECK BY:	C. SWAN
DRAWING:	921010 X ESMT

WHATCOM COUNTY - 380208 042156 0000 CONSERVATION EASEMENT

DATE: 3/9/2021

SHEET: 1 OF 1



MOON

SWAMP

Femdale

Marine



Whatcom County

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

Agenda Bill Master Report

File Number: AB2021-430

File ID:	AB2021-430	Version:	1	Status:	Agenda Ready
File Created:	07/19/2021	Entered by:	THelms@co.whatcom.wa.us		
Department:	County Executive's Office	File Type:	Interlocal		
Assigned to:	Council Finance and Administrative Services Committee				Final Action:
Agenda Date:	08/10/2021	Enactment #:			

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

TITLE FOR AGENDA ITEM:

Request authorization for the County Executive to enter into a contract between Whatcom County and Housing Authority of the City of Bellingham to receive American Rescue Plan Act (ARPA) funds in the amount of \$525,000 to construct phase 3 of the Samish Commons Project

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

Request authorization for the County Executive to enter into a contract between Whatcom County and Housing Authority of the City of Bellingham to receive American Rescue Plan Act (ARPA) funds in the amount of \$525,000 to construct phase 3 of the Samish Commons Project

HISTORY OF LEGISLATIVE FILE

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



OFFICE
311 Grand Avenue, Suite 108
Bellingham, WA 98225
The

County Executive

MEMORANDUM

TO: Satpal Sidhu, County Executive

FROM: Tyler Schroeder, Deputy Executive

RE: Housing Authority of the City of Bellingham –
Samish Way Redevelopment Project, Phase 3 Interlocal Agreement

DATE: July 19, 2021

Attached is an interlocal agreement between Whatcom County and Housing Authority of the City of Bellingham for your review and signature.

- **Background and Purpose**

The insufficient supply of affordable housing in Whatcom County has created housing instability for low-income households. The Housing Authority of the City of Bellingham is the developer of Samish Commons, which provides apartments to low-income households in Whatcom County. Phase 3 of the development of Samish Commons includes the construction of 49 new apartments which will be offered to low-income households and create an opportunity for households to secure stable housing. These low-income housing units are located in a Qualified Census Tract in accordance with the American Rescue Plan Act. This Agreement provides funding for the completion of the project.

- **Funding Amount and Source**

Funding for this Agreement may not exceed \$525,000 and is provided by the American Rescue Plan Act. With the adoption of Ordinance 2021-043, these funds are now included in the 2021 budget. Council approval is required per RCW 39.34.030(2) for agreements between public agencies.

WHATCOM COUNTY CONTRACT INFORMATION SHEET		Whatcom County Contract No. <u>202107010</u>		
Originating Department:		Executive		
Division/Program: (i.e. Dept. Division and Program)		Non Departmental		
Contract or Grant Administrator:		T. Schroeder/T.Helms		
Contractor's / Agency Name:		Housing Authority of the City of Bellingham		
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#:	
Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>				
Is this contract grant funded?	If yes, Whatcom County grant contract number(s):		ARPA Funding	
Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>				
Is this contract the result of a RFP or Bid process?		Contract Cost Center:	138100	
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 : 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.		
\$ 525,000				
This Amendment Amount:				
\$				
Total Amended Amount:				
\$				
Summary of Scope: This agreement provides funding for the development of affordable housing for low-income households in Whatcom County.				
Term of Contract:	23 Months	Expiration Date:	06/30/2023	
Contract Routing:	1. Prepared by:	M Caldwell	Date:	7/14/21
	2. Attorney signoff:		Date:	
	3. AS Finance reviewed:	Christopher Quinn	Date:	07/29/21
	4. IT reviewed (if IT related):		Date:	
	5. Contractor approved:		Date:	
	6. Submitted to Exec.:		Date:	
	7. Council approved (if necessary):		Date:	
	8. Executive signed:		Date:	
	9. Original to Council:		Date:	

Qualified Census Tract Low-Income Housing Interlocal Agreement

I PARTIES

This Agreement is made by and between **Whatcom County** (hereinafter referred to as **the County**), and **the Housing Authority of the City of Bellingham** (hereinafter referred to as **the BHA**).

II TERM

This Agreement takes effect on July 28, 2021. and shall continue in full force and effect until June 30, 2023, unless extended by mutual written agreement of both Parties or terminated in accordance with Section VIII of this Agreement.

III PURPOSE

The purpose of this Agreement is to provide funding support for the Samish Way Redevelopment Project, Phase 3 (hereinafter referred to as **the Project**) using American Rescue Plan Act funds designated for such infrastructure development in Qualified Census Tracts. These funds will be used to complete the Project which will provide newly-constructed apartments for low-income households in Whatcom County.

IV RECITALS

The Parties make this Agreement based on and in recognition of certain relevant facts and circumstances including:

A. The County has received American Rescue Plan Act (ARPA) funding. One of the goals of the ARPA is to serve the hardest-hit communities and families. One of the vehicles to do so is to invest in housing and neighborhoods through affordable housing development in Qualified Census Tracts (low-income areas as designated by the Department of Housing and Urban Development).

B. **BHA's Samish Commons Project** is located in a Qualified Census Tract (QCT) within the city limits of Bellingham and will provide 49 units of low-income housing upon completion.

C. Samish Way Family Housing LLLP, a Washington limited liability limited partnership will construct the Project (the Partnership). BHA is the general partner of the Partnership and the developer of the Project. The Project will be partially funded by a **\$525,000 grant from the County's ARPA Fund**, and the balance of the Project will be funded by the City of Bellingham, private equity and other sources. The Project improvements, when complete, will be owned and maintained by the Partnership.

D. RCW 82.14.540 defines affordable housing to include units that cost no more than 30% of gross household income for households earning no more than

60% of the area median income.

E. The County has designated the Whatcom County Housing Advisory Committee to be the committee that makes recommendations regarding use of County housing funds as part of the local response to challenges relating to homelessness and affordable housing.

F. The Whatcom County Housing Advisory Committee reviewed the project as presented at the June 10, 2021 meeting and voted unanimously to recommend supporting the project.

G. The Whatcom County Housing Advisory Committee has reviewed and recommended this project be supported with a grant in the amount of \$525,000.

H. The Whatcom County Council reviewed the recommendation and approved a grant to the **BHA** from the ARPA Fund in the amount of \$525,000.

V MUTUAL CONSIDERATION

The parties do not intend to create any new or separate legal or administrative entity by this Agreement but intend for this mutual Agreement to govern the County's financial support for the Project. The terms and conditions contained herein reflect the voluntary participation of the parties.

A. **BHA RESPONSIBILITIES:** The BHA hereby agrees as follows:

- (i) If after the award of the construction contract, the scope of the Project or the Project budget has materially changed, the **BHA** shall provide the County the following updated documents: 1) a detailed description of the Project ; 2) a Project budget itemizing major improvements together with the estimated cost of the improvements; and 3) a schedule showing sources and uses of funding for the Project, if any of the aforementioned documents materially varies from those that were submitted with the **BHA's** application for funding.
- (ii) The **BHA** shall be responsible for all aspects of the design and construction of the Project.
- (iii) The **BHA** shall be responsible for all aspects of construction contract administration, which shall include, but not be limited to, advertising, bidding, and awarding the contract. The **BHA** will comply with all applicable laws, rules and regulations relating to bidding the Project. The County shall have no responsibility for the Project other than the funding set forth herein.
- (iv) The **BHA** shall provide the County with a final report showing the actual cost of the Project and the actual sources and uses of funding for the Project.
- (v) **BHA** shall comply with all terms and conditions of the American Rescue Plan Act as presented in Exhibit A.

- B. WHATCOM COUNTY'S RESPONSIBILITIES: The County hereby agrees as follows:
- (i) COUNTY GRANT—The County shall issue a grant to BHA for up to Five Hundred Twenty-Five Thousand Dollars and Zero Cents (\$525,000) for the Project described herein. This grant shall be reimbursed by County warrant drawn on the American Rescue Plan Act Fund and payable to the **BHA** upon approval of this agreement by the Whatcom County Council and the **BHA**, and pursuant to the terms contained in (ii), Payout of Grant Funding, below.
 - (ii) PAYOUT OF GRANT FUNDING—The County shall pay out the grant funding to the **BHA** up to a maximum of Five Hundred Twenty-Five Thousand Dollars and Zero Cents (\$525,000) of the total Project costs. This amount shall be paid in accordance with Exhibit B. Disbursements of grant funding shall be made contingent upon and subject to the continued commitment of the other Project funding sources.
 - (iii) Unless the parties to this agreement mutually agree in writing to modify the consideration, the funding identified herein is all the County is obligated to pay towards this Project from this funding source.

VI RECORDS, REPORTS AND AUDITS

The **BHA** agrees to maintain such records, make such reports and follow such procedures pertaining to this Agreement as may be reasonably required by the County and as are typically maintained and made by the **BHA** in the undertaking of a project of this nature. All **BHA** records pertaining to this Agreement and the Project work shall be retained by the **BHA** for a period of five (5) years after final audit unless a longer period is required to resolve audit findings or litigation. The County and other authorized representatives of the State government shall have access to any books, documents, papers, and records of the **BHA** which pertain to this Agreement or the Project work for the purpose of making audit, examination, excerpts, and transcriptions.

VII RELATIONSHIP OF PARTIES AND AGENTS

Neither the **BHA** nor the County shall have authority to execute contracts or to make commitments on behalf of the other, and nothing contained herein shall be deemed to create the relationship of employer and employee or principal and agent between the County and the **BHA**. This agreement does not create, either implicitly or explicitly, any right, duty or obligation that is not expressly provided for herein.

The **BHA** represents that it has or will secure at its own expense all personnel, contractors, and/or subcontractors required in order to perform the Project work. Such personnel shall not be employees of, or contractors with the County for

purposes of the project described herein. All such personnel, contractors, and/or subcontractors shall be fully qualified (as determined by the **BHA** in its sole discretion) and authorized/permitted under State and/or local law to perform such services.

VIII TERMINATION

If the **BHA** fails to comply with the terms and conditions of this Agreement, the County may pursue such remedies as are legally available, including, but not limited to, the termination or closeout of this Agreement in the manner specified herein:

- A. **TERMINATION FOR CAUSE**— If the **BHA** fails to comply with the terms and conditions of this Agreement, the County will give notice to the **BHA** in writing of its failure to comply. The **BHA** will be given thirty (30) days from date of notice to comply with the terms of the Agreement or submit a plan acceptable to the County to bring the **BHA** into compliance with the Agreement within a time period reasonably acceptable to the County. Failure to comply with the terms and conditions of this Agreement by either party shall constitute an event of default. In the event of default by the **BHA** and a failure by the **BHA** to cure as provided for herein, the County may take such remedial actions under the law as are available to cure the default, including the imposition of the reasonable costs of collection. In the event of default by the County, the **BHA** may take such remedial actions under the law as are available to cure the default, including specific performance.
- B. **TERMINATION FOR OTHER GROUNDS**—This Agreement may be terminated in whole or in part by mutual consent and written agreement between the parties, duly authorized and executed, setting forth the conditions of termination, including effective date and, in case of termination in part, that portion to be terminated.

IX COMPLIANCE WITH LAWS

The County and the **BHA** shall comply with all applicable laws, ordinances, and codes of the Federal, State and local governments with regard to the performance of this Agreement.

X INTEREST OF MEMBERS OF THE COUNTY AND THE BHA

No member of the governing body of either party and no other officer, employee, or agent of either party who exercises any functions or responsibilities in connection

with the planning or carrying out of the Project shall have any personal financial interest, direct or indirect, in this Agreement.

XI HOLD HARMLESS AND INDEMNITY

To the extent permitted by law, the **BHA** shall indemnify and hold harmless the County, its officers, agents, and employees, from all liability, loss or damage, including costs of defense they may suffer as a result of third-party claims, demands, actions or judgments which result from the activities to be performed by the **BHA**, its agents, employees, or subcontractors pursuant to this Agreement.

XII ASSIGNABILITY

The BHA shall not assign any interest in this Agreement and shall not transfer any interest in this Agreement (whether by assignment or novation) without prior written consent of the County thereto, provided, however, that claims for money by the BHA from the County under this Agreement may be assigned to a bank, trust company, or other financial institution without such approval. Written notice of any such assignment or transfer shall be furnished promptly to the County by the BHA.

XIII NON-WAIVER

The failure of either party to insist upon strict performance of any provision of this Agreement or to exercise any right based upon a breach thereof or the acceptance of any performance during such breach shall not constitute a waiver of any right under this Agreement.

XIV CONTRACT MODIFICATIONS

No modification or waiver of any clause or condition of this Agreement shall be binding upon either party unless such modification or waiver is in writing and duly authorized and executed by the County and the **BHA**.

XV SEVERABILITY

If any Portion of this Agreement is changed per mutual agreement or any Portion is held invalid, the remainder of this Agreement shall remain in full force and effect.

XVI NOTICES

Unless stated otherwise herein, all notices and demands shall be in writing and sent or hand-delivered to the parties to their addresses as follows:

TO BHA: Housing Authority of the City of Bellingham
Attn. Executive Director

208 Unity Street
Bellingham, WA 98225

TO COUNTY: Tyler Schroeder, Deputy Executive
c/o Whatcom County Executive's Office
311 Grand Avenue, Suite 108
Bellingham, WA 98225

or to such other addresses as the parties may hereafter designate in writing. Notices and/or demands shall be sent by registered or certified mail, postage prepaid, or hand-delivered. Such notices shall be deemed effective when mailed or hand-delivered at the addresses specified above.

XVII INTEGRATION

This Agreement contains all terms and conditions to which the County and the **BHA** agreed, and this Agreement supersedes all of their previous understandings and agreements, written and oral, with respect to this grant transaction. There are no other oral or written agreements between the **BHA** and County as to the grant terms contained herein. No changes or additions to this Agreement shall be valid or binding upon either party unless such change or addition be in writing, duly authorized and executed by both parties.

XVIII GOVERNING LAW AND VENUE

All questions of the validity, construction, and application of this Agreement shall be governed by the laws of the State of Washington. Venue for any suit between the parties arising out of this Agreement shall be the Superior Court of the State of Washington in and for Whatcom County, Washington.

XIX RECORDING

Upon execution of this agreement by the parties hereto, the County shall cause it to be posted on the county web site, or otherwise published pursuant to the requirement contained within RCW 39.34.040.

IN WITNESS WHEREOF, the County and the **BHA** have executed this Agreement as of the date and year last written below.

EXECUTED, this _____ day of _____, 2021, for the **BHA OF BELLINGHAM**:

Brien Thane, Executive Director

STATE OF WASHINGTON)
) ss.
COUNTY OF Whatcom)

On this _____ day of _____, 2021, before me personally appeared **Brien Thane**, to me known to be the **Executive Director** of the Housing Authority of Bellingham and who executed the above instrument and who acknowledged to me the act of signing and sealing thereof.

NOTARY PUBLIC in and for the State of Washington,
residing at_____.
My commission expires _____.

EXECUTED, this _____ day of _____, 2021, for **WHATCOM**
COUNTY:

WHATCOM COUNTY

SATPAL SIDHU
County Executive

STATE OF WASHINGTON)
)
COUNTY OF WHATCOM)

On this _____ day of _____, 2021, before me personally appeared Satpal Sidhu, to me known to be the Executive of Whatcom County and who executed the above instrument and who acknowledged to me the act of signing and sealing thereof.

NOTARY PUBLIC in and for the State of Washington,
residing at Bellingham.

My Commission expires: _____

APPROVED AS TO FORM

<u>Christopher Quinn per email</u>	<u>07/19/21</u>
Christopher Quinn, Prosecuting Attorney	Date

Exhibit A SUBRECIPIENT AWARD

Funding provided by U.S. Department of the Treasury grant CFDA Number 21.027 Coronavirus State and Local Fiscal Recovery Funds as authorized by Sections 602 and 603 of the Social Security Act as added by section 9901 of the American Rescue Plan Act of 2021, Public Law No. 117-2 (March 11, 2021)

BHA will comply with all applicable terms and conditions for Coronavirus State and Local Fiscal Recovery Funds as issued by the U.S. Department of the Treasury.

BHA will cooperate with the County concerning any requests for information related to this Project that may be needed for the County to fulfill its reporting obligations to U.S. Treasury.

General information about this program can be found at:

<https://home.treasury.gov/policy-issues/coronavirus/assistance-for-state-local-and-tribal-governments/state-and-local-fiscal-recovery-funds>

Specific compliance requirements can be found in:

Compliance and Reporting Guidance

<https://home.treasury.gov/system/files/136/SLFRF-Compliance-and-Reporting-Guidance.pdf>

Interim Final Rule (31 CFR 35), specifically housing investment in QCTs

<https://www.govinfo.gov/content/pkg/FR-2021-05-17/pdf/2021-10283.pdf>

FAQs (and all subsequent updates)

<https://home.treasury.gov/system/files/136/SLFRPFAQ.pdf>

These funds are subject to:

Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, 2 CFR Part 200 (the “Uniform Guidance”)

Single Audit Requirements. Recipients and subrecipients that expend more than \$750,000 in Federal awards during their fiscal year will be subject to an audit under the Single Audit Act and its implementing regulation at 2 CFR Part 200, Subpart F regarding audit requirements.⁸ Recipients and subrecipients may also refer to the Office of Management and Budget (OMB) Compliance Supplements for audits of federal funds and related guidance and the Federal Audit Clearinghouse to see examples and single audit submissions.

Civil Rights Compliance. Recipients of Federal financial assistance from the Treasury are required to meet legal requirements relating to nondiscrimination and nondiscriminatory use of Federal funds. Those requirements include ensuring that

entities receiving Federal financial assistance from the Treasury do not deny benefits or services, or otherwise discriminate on the basis of race, color, national origin (including limited English proficiency), disability, age, or sex (including sexual orientation and gender identity), in accordance with the following authorities: Title VI of the Civil Rights Act of 1964 (Title VI) Public Law 88-352, 42 U.S.C. 2000d-1 et seq., and the Department's implementing regulations, 31 CFR part 22; Section 504 of the Rehabilitation Act of 1973 (Section 504), Public Law 93-112, as amended by Public Law 93-516, 29 U.S.C. 794; Title IX of the Education Amendments of 1972 (Title IX), 20 U.S.C. 1681 et seq., and the Department's implementing regulations, 31 CFR part 28; Age Discrimination Act of 1975, Public Law 94-135, 42 U.S.C. 6101 et seq., and the Department implementing regulations at 31 CFR part 23.

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

- The lower tier contractor certifies, by signing this contract that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.
- Where the lower tier contractor is unable to certify to any of the statements in this contract, such contractor will attach an explanation to this contract.
- The contractor further agrees by signing this contract that it will not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction.

Clean Air Act

- The contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq.
- The contractor agrees to report each violation to the County and understands and agrees that the County will, in turn, report each violation as required to assure notification to U.S. Treasury, and the appropriate Environmental Protection Agency Regional Office.
- The contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by ARPA funding.

Federal Water Pollution Control Act

- The contractor agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq.
- The contractor agrees to report each violation to the County and understands and agrees that the County will, in turn, report each violation

as required to assure notification to U.S. Treasury, and the appropriate Environmental Protection Agency Regional Office.

- The contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by ARPA funding.

Anti-Lobbying (certifications required for all awards and subawards of \$100,000 or more)

“Byrd Anti-Lobbying Amendment, 31 U.S.C. § 1352 (as amended)

Contractors who apply or bid for an award of more than \$100,000 shall file the required certification. Each tier certifies to the tier above that it will not and has not used federally appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, officer or employee of Congress, or an employee of a Member of Congress in connection with obtaining any federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-federal funds that takes place in connection with obtaining any federal award. Such disclosures are forwarded from tier to tier up to the recipient who in turn will forward the certification(s) to the federal awarding agency.”

Contractors must sign and submit the following certification to the NFE with each bid or offer exceeding \$100,000:

APPENDIX A, 44 C.F.R. PART 18 – CERTIFICATION REGARDING LOBBYING
Certification for Contracts, Grants, Loans, and Cooperative Agreements The undersigned certifies, to the best of his or her knowledge and belief, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, “Disclosure Form to Report Lobbying,” in accordance with its instructions.

3. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts,

subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

BHA certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. Chap. 38, Administrative Remedies for False Claims and Statements, apply to this certification and disclosure, if any.

Signature of Contractor's Authorized Official

Name and Title of Contractor's Authorized Official

Date

Prohibition on Contracting for Covered Telecommunications Equipment or Services

(a) Definitions. As used in this clause, the terms backhaul; covered foreign country; covered telecommunications equipment or services; interconnection arrangements; roaming; substantial or essential component; and telecommunications equipment or services have the meaning as defined in FEMA Policy 405-143-1, Prohibitions on Expending FEMA Award Funds for Covered Telecommunications Equipment or Services (Interim), as used in this clause—

(b) Prohibitions.

- (1) Section 889(b) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019, Pub. L. No. 115-232, and 2 C.F.R. § 200.216 prohibit the head of an executive agency on or after Aug. 13, 2020, from obligating or expending grant, cooperative agreement, loan, or loan guarantee funds on certain telecommunications products or from certain entities for national security reasons.
- (2) Unless an exception in paragraph (c) of this clause applies, the contractor and its subcontractors may not use grant, cooperative agreement, loan, or loan

guarantee funds from the Federal Emergency Management Agency to:

- (i) Procure or obtain any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology of any system;
- (ii) Enter into, extend, or renew a contract to procure or obtain any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology of any system;
- (iii) Enter into, extend, or renew contracts with entities that use covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system; or
- (iv) Provide, as part of its performance of this contract, subcontract, or other contractual instrument, any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system.

(c) Exceptions.

(1) This clause does not prohibit contractors from providing—

- (i) A service that connects to the facilities of a third-party, such as backhaul, roaming, or interconnection arrangements; or Contract Provisions Guide 28
- (ii) Telecommunications equipment that cannot route or redirect user data traffic or permit visibility into any user data or packets that such equipment transmits or otherwise handles.

(2) By necessary implication and regulation, the prohibitions also do not apply to: (i) Covered telecommunications equipment or services that:

- (i) Are not used as a substantial or essential component of any system; and ii. Are not used as critical technology of any system.
- (ii) Other telecommunications equipment or services that are not considered covered telecommunications equipment or services.

(d) Reporting requirement.

- (1) In the event the contractor identifies covered telecommunications equipment or services used as a substantial or essential component of any system, or as critical technology as part of any system, during contract performance, or the contractor is notified of such by a subcontractor at any tier or by any other source, the contractor shall report the information in paragraph (d)(2) of this clause to the recipient or subrecipient, unless elsewhere in this contract are established procedures for reporting the information.
- (2) The Contractor shall report the following information pursuant to paragraph (d)(1) of this clause:
 - (i) Within one business day from the date of such identification or notification: The contract number; the order number(s), if applicable; supplier name; supplier unique entity identifier (if known); supplier Commercial and Government Entity (CAGE) code (if known); brand; model number (original equipment manufacturer number, manufacturer part number, or wholesaler number); item description; and any readily available information about mitigation actions undertaken or recommended.
 - (ii) Within 10 business days of submitting the information in paragraph (d)(2)(i) of this clause: Any further available information about mitigation actions undertaken or recommended. In addition, the contractor shall describe the efforts it undertook to prevent use or submission of covered telecommunications equipment or services, and any additional efforts that will be incorporated to prevent future use or submission of covered telecommunications equipment or services.

(e) Subcontracts. The Contractor shall insert the substance of this clause, including this paragraph (e), in all subcontracts and other contractual instruments.

Domestic Preference for Procurements

As appropriate, and to the extent consistent with law, the contractor should, to the greatest extent practicable, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States. This includes, but is not limited to iron, aluminum, steel, cement, and other manufactured products. For purposes of this clause: Produced in the United States means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States. Manufactured products mean

items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.”

Exhibit B
(Financial Commitment)

Funding, in the amount of \$525,000 will be disbursed to the Housing Authority of the City of Bellingham (BHA). Funding will be provided by the American Rescue Plan Act Fund.

BHA will send invoices for Project expenses to:

Whatcom County Executive Office
311 Grand Ave, Suite 108
Bellingham, WA 98225

Invoices will include copies of receipts or paid invoices and reference the Whatcom County assigned interlocal agreement number.

Funds will be made available by warrant within 30 days following receipt of invoice and for reimbursement of Project expenses only.

* * * * *



Whatcom County

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

Agenda Bill Master Report

File Number: AB2021-441

File ID:	AB2021-441	Version:	1	Status:	Agenda Ready
File Created:	07/21/2021	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:	08/10/2021	Enactment #:			

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

TITLE FOR AGENDA ITEM:

Request authorization for the County Executive to enter into an interlocal agreement between Whatcom County and Washington State Department of Ecology to administer and enforce sealing, tagging, and decommissioning of water wells, in an estimated annual amount of \$13,500

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 Agreement



MEMORANDUM

TO: Satpal Sidhu, Executive
FROM: Erika Lautenbach, Director
RE: Washington State Department of Ecology (DOE) – Well Delegation Agreement
DATE: July 21, 2021

Attached is an agreement between Whatcom County and Washington State Department of Ecology for your review and signature.

- **Background and Purpose**

In accordance with WAC 173-160, this Agreement delegates authority to Whatcom County to administer and enforce well sealing, tagging, and decommissioning of water wells. This Agreement requires the County to inspect a minimum of 40% of newly constructed water wells to verify that licensed Well Drillers are adequately sealing and tagging new wells. Additionally, the County inspects a minimum of 40% of wells that are decommissioned, in order to ensure that proper decommissioning procedures are being followed.

- **Funding Amount and Source**

DOE pays the County 50% of water well drilling and decommissioning notifications collected. The County receives approximately \$13,500 per year for this work, which covers the County's cost for providing the inspections and required reporting. These funds will be included in the 2021 budget. Council approval is required per RCW 39.34.030(2) for agreements between public agencies.

- **Differences from Previous Contracts**

Similar agreements have been in place with DOE since 2008. This Agreement includes no significant changes to the scope of work from the agreement that ends on 6/30/2021 (WC Contract #201506016).

Please contact Darin Klein, Environmental Health Supervisor at 360-778-6032 (DKlein@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)		8540 Environmental Health / 854020 Drinking Water	
Contract or Grant Administrator:		Darin Klein	
Contractor's / Agency Name:		Washington Department of Ecology	
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 checked="" type="checkbox"/> No <input type="checkbox"/>		If yes, grantor agency contract number(s): C2200022 CFDA#: _____	
Is this contract grant funded? Yes <input type="checkbox"/> No <input type="checkbox"/>		If yes, Whatcom County grant contract number(s): _____	
Is this contract the result of a RFP or Bid process? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>		Contract Cost Center: 651310	
If yes, RFP and Bid number(s): _____			
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 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): Varies depending on number of well drilling and decommissioning notifications collected.		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: In accordance with WAC 173-160, this Agreement delegates authority to the Health Department to administer and enforce the well sealing, tagging, and decommissioning of water wells.			
Term of Contract:		5 Years Expiration Date: 06/30/2026	
Contract Routing:		1. Prepared by: JT Date: 07/15/2021 2. Attorney signoff: RB Date: 07/21/2021 3. AS Finance reviewed: M Caldwell Date: 7/19/21 4. IT reviewed (if IT related): _____ Date: _____ 5. Contractor signed: _____ Date: _____ 6. Submitted to Exec.: _____ Date: _____ 7. Council approved (if necessary): AB2021-441 Date: _____ 8. Executive signed: _____ Date: _____ 9. Original to Council: _____ Date: _____	



IAA No. C2200022

INTERAGENCY AGREEMENT (IAA)

BETWEEN

THE STATE OF WASHINGTON, DEPARTMENT OF ECOLOGY

AND

WHATCOM COUNTY HEALTH DEPARTMENT

THIS INTERAGENCY AGREEMENT (“Agreement” or “IAA”) is made and entered into by and between the state of Washington, Department of Ecology, hereinafter referred to as “ECOLOGY,” and the WHATCOM COUNTY HEALTH DEPARTMENT hereinafter referred to as the “WCHD” or “CONTRACTOR,” pursuant to the authority granted by Chapter 39.34 RCW.

THE PURPOSE OF THIS AGREEMENT is to provide delegation and funds to WCHD to administer and enforce the well sealing, tagging, and decommissioning portions of the water well construction regulations.

WHEREAS, ECOLOGY has legal authority WAC Chapter 173-160 entitled Minimum Standards for Construction and Maintenance of Wells and WCHD has legal authority RCW18.104 entitled the Washington Well Construction Act, that allows each party to undertake the actions in this agreement.

WHEREAS, WCHD shall implement the provisions of the well tagging, sealing, and decommissioning components of Chapter 173-160 WAC. Authority for this action of delegation and funding is provided through the provisions of RCW 18.104.043 and 18.104.150. Delegation of authority to inspect wells applies only to water supply wells.

THEREFORE, IT IS MUTUALLY AGREED THAT:

1) SCOPE OF WORK

WCHD shall furnish the necessary personnel, equipment, material and/or service(s) and otherwise do all things necessary for or incidental to the performance of the work set forth in Appendix A, *Statement of Work*, attached hereto and incorporated herein.

2) PERIOD OF PERFORMANCE

The period of performance of this IAA will commence on **July 1, 2021**, and be completed by **June 30, 2026**, unless the Agreement is terminated sooner as provided herein. Amendments extending the period of performance, if any, shall be at the sole discretion of ECOLOGY.

3) PAYMENT

Funding provided to WCHD by ECOLOGY is authorized under the provisions of RCW 18.104.150. ECOLOGY shall pay WCHD for services described as follows:

Amount: Fifty percent (50%) of the notification fees collected for water wells constructed and decommissioned within Whatcom County during the time period covered by this Agreement.

ECOLOGY may, at its sole discretion, terminate or suspend this Contract, or withhold payments claimed by the CONTRACTOR for services rendered, if the CONTRACTOR fails to satisfactorily comply with any term or condition of this Agreement.

4) BILLING PROCEDURE

ECOLOGY will pay WCHD fifty percent (50%) of the well construction and decommissioning fees collected by ECOLOGY for water wells constructed and decommissioned in Whatcom County during the Agreement's period of performance, all payments shall be made to WCHD after quarterly reports are received by ECOLOGY.

Payment will be issued through Washington State's Office of Financial Management's Statewide Payee Desk. To receive payment, CONTRACTOR must register as a statewide vendor by submitting a statewide vendor registration form and an IRS W-9 form at website, <https://ofm.wa.gov/it-systems/statewide-vendorpayee-services>. For questions about the vendor registration process, contact Statewide Payee Help Desk at (360) 407-8180 or email PayeeRegistration@ofm.wa.gov.

5) ALTERATIONS AND AMENDMENTS

This Agreement may be amended by mutual agreement of the parties. Such amendments shall not be binding unless they are in writing and signed by personnel authorized to bind each of the parties.

6) ASSIGNMENT

The work to be provided under this Agreement, and any claim arising thereunder, is not assignable or delegable by either party in whole or in part, without the express prior written consent of the other party, which consent shall not be unreasonably withheld.

7) ASSURANCES

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

8) CONFORMANCE

If any provision of this Agreement violates any statute or rule of law of the state of Washington, it is considered modified to conform to that statute or rule of law.

9) DISPUTES

Parties to this Agreement shall employ every effort to resolve a dispute themselves without resorting to litigation. In the event that a dispute arises under this Agreement that cannot be resolved among the parties, it shall be determined by a Dispute Board in the following manner. Each party to this Agreement shall appoint one member to the Dispute Board. The members so appointed shall jointly appoint an additional member to the Dispute Board. The Dispute Board shall review the facts, agreement terms, and applicable statutes and rules, and then make a determination of the dispute. The determination of the Dispute Board shall be final and binding on the parties hereto, unless restricted by law. The cost of resolution will be

borne by each party paying its own cost. As an alternative to this process, if state agencies, either of the parties may request intervention by the Governor, as provided by RCW 43.17.330, in which event the Governor's process will control. The parties may mutually agree to a different dispute resolution process.

10) FUNDING AVAILABILITY

ECOLOGY's ability to make payments is contingent on availability of funding. In the event funding from state, federal, or other sources is withdrawn, reduced, or limited in any way after the effective date and prior to completion or expiration date of this Agreement, ECOLOGY, at its sole discretion, may elect to terminate the Agreement, in whole or part, for convenience or to renegotiate the Agreement subject to new funding limitations and conditions. ECOLOGY may also elect to suspend performance of the Agreement until ECOLOGY determines the funding insufficiency is resolved. ECOLOGY may exercise any of these options with no notification restrictions, although ECOLOGY will make a reasonable attempt to provide notice.

In the event of termination or suspension, ECOLOGY will reimburse eligible costs incurred by the CONTRACTOR through the effective date of termination or suspension. Reimbursed costs must be agreed to by ECOLOGY and the CONTRACTOR. In no event shall ECOLOGY's reimbursement exceed ECOLOGY's total responsibility under the agreement and any amendments.

11) GOVERNING LAW AND VENUE

This Agreement is entered into pursuant to and under the authority granted by the laws of the state of Washington and any applicable federal laws. The provisions of this Agreement shall be construed to conform to those laws. This Agreement shall be construed and interpreted in accordance with the laws of the state of Washington, and the venue of any action brought hereunder shall be the Superior Court for Thurston County.

12) INDEPENDENT CAPACITY

The employees or agents of each party who are engaged in the performance of this Agreement shall continue to be employees or agents of that party and shall not be considered for any purpose to be employees or agents of the other party.

13) ORDER OF PRECEDENCE

In the event of an inconsistency in the terms of this Agreement, or between its terms and any applicable statute or rule, the inconsistency shall be resolved by giving precedence in the following order:

- a. Applicable federal and state of Washington statutes, regulations, and rules.
- b. Mutually agreed upon written amendments to this Agreement.
- c. This Agreement, number C2200022.
- d. Appendix A, *Statement of Work*.
- e. Appendix B, *Special Terms and Conditions*.
- f. Any other provisions or term of this Agreement, including materials incorporated by reference or otherwise incorporated.

14) RECORDS MAINTENANCE

The parties to this Agreement shall each maintain books, records, documents, and other evidence that sufficiently and properly reflect all direct and indirect costs expended by either party in the performance of the service(s) described herein. These materials shall be subject to inspection, review, or audit by personnel of both parties, other personnel duly authorized by either party, the Office of the State Auditor, and federal

officials so authorized by law. All books, records, documents, and other materials relevant to this Agreement must be retained for six years after expiration of this Agreement. The Office of the State Auditor, federal auditors, and any persons duly authorized by the parties shall have full access and the right to examine any of these materials during this period. Each party will utilize reasonable security procedures and protections for all materials related to this Agreement. All materials are subject to state public disclosure laws.

15) RESPONSIBILITIES OF THE PARTIES

Each party of this Agreement hereby assumes responsibility for claims and/or damages to persons and/or property resulting from any act or omissions on the part of itself, its employees, its officers, and its agents. Neither party will be considered the agent of the other party to this Agreement.

16) RIGHTS IN DATA

Unless otherwise provided, data which originates from this Agreement shall be "work made for hire" as defined by the United States Copyright Act, Title 17 U.S.C. section 101 and shall be owned by state of Washington, ECOLOGY. Data shall include, but not be limited to, reports, documents, pamphlets, advertisements, books magazines, surveys, studies, computer programs, films, tapes, and/or sound reproductions. Ownership includes the right to copyright, patent, and register these items, and the ability to transfer these rights.

17) SEVERABILITY

If any provision of this Agreement or any provision of any document incorporated by reference shall be held invalid, such invalidity shall not affect the other provisions of this Agreement which can be given effect without the invalid provision, if such remainder conforms to the requirements of applicable law and the fundamental purpose of this Agreement, and to this end the provisions of this Agreement are declared to be severable.

18) SUBCONTRACTORS

CONTRACTOR agrees to take complete responsibility for all actions of any Subcontractor used under this Agreement for the performance. When federal funding is involved there will be additional contractor and subcontractor requirements and reporting.

Prior to performance, all subcontractors who will be performing services under this Agreement must be identified, including their name, the nature of services to be performed, address, telephone, WA State Department of Revenue Registration Tax number (UBI), federal tax identification number (TIN), and anticipated dollar value of each subcontract. Provide such information to ECOLOGY's Agreement manager.

19) SUSPENSION FOR CONVENIENCE

ECOLOGY may suspend this Agreement or any portion thereof for a temporary period by providing written notice to the CONTRACTOR a minimum of seven (7) calendar days before the suspension date. CONTRACTOR shall resume performance on the first business day following the suspension period unless another day is specified in writing by ECOLOGY prior to the expiration of the suspension period.

20) TERMINATION FOR CAUSE

If for any cause, either party does not fulfill in a timely and proper manner its obligations under this Agreement, or if either party violates any of these terms and conditions, the aggrieved party will give the other party written notice of such failure or violation. The responsible party will be given the opportunity to correct the violation or failure within fifteen (15) business days. If failure or violation is not corrected, this Agreement may be terminated immediately by written notice of the aggrieved party to the other.

21) TERMINATION FOR CONVENIENCE

Either party may terminate this Agreement without cause upon thirty (30) calendar day prior written notification to the other party. If this Agreement is so terminated, the parties shall be liable only for performance rendered or costs incurred in accordance with the terms of this Agreement prior to the effective date of termination.

22) WAIVER

A failure by either party to exercise its rights under this Agreement shall not preclude that party from subsequent exercise of such rights and shall not constitute a waiver of any other rights under this Agreement unless stated to be such in a written amendment to this Agreement signed by an authorized representative of the parties.

23) AGREEMENT MANAGEMENT

The representative for each of the parties shall be responsible for and shall be the contact person for all communications, notifications, and billings questions regarding the performance of this Agreement. The parties agree that if there is a change in representatives, they will promptly notify the other party in writing of such change, such changes do not need an amendment.

The ECOLOGY Representative is:	The WCHD Representative is:
Name: Scott Malone Address: PO Box 47600 Olympia, WA 98504-7600 Phone: (360) 407-6648 Fax: (360) 407-6574 Email: scott.malone@ecy.wa.gov	Name: Darin Klein Address: 509 Girard St Bellingham, WA 98225 Phone: (360) 778-6032 Email: dklein@co.whatcom.wa.us

24) ALL WRITINGS CONTAINED HEREIN

This Agreement contains all the terms and conditions agreed upon by the parties. No other understandings, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or to bind any of the parties hereto.

The signatories to this Agreement represent that they have the authority to bind their respective organizations to this Agreement.

IN WITNESS WHEREOF, the parties below, having read this Agreement in its entirety, including all attachments, do agree in each and every particular as indicated by their signatures below.

**State of Washington
Department of Ecology**

Whatcom County Health Department

By: _____
Mary Verner Date
Water Resources Program Manager

By: Erika Lautenbach 7/15/2021
Erika Lautenbach Date
Health Director

PROGRAM APPROVAL

Approved by email DK/JT
Darin Klein, Environmental Health Supervisor

07/15/2021
Date

WHATCOM COUNTY

SATPAL SIDHU
County Executive

STATE OF WASHINGTON)
)
COUNTY OF WHATCOM)

On this _____ day of _____, 2021, before me personally appeared Satpal Sidhu, to me known to be the Executive of Whatcom County and who executed the above instrument and who acknowledged to me the act of signing and sealing thereof.

NOTARY PUBLIC in and for the State of Washington,
residing at Bellingham.

My Commission expires: _____

APPROVED AS TO FORM:

Approved by email RB/JT
Royce Buckingham, Prosecuting Attorney

07/21/2021
Date

APPENDIX A STATEMENT OF WORK

WCHD shall implement the provisions of the well tagging, sealing and decommissioning components of Chapter 173-160 WAC. Authority for this action of delegation and funding is provided through the provisions of RCW 18.104.043 and 18.104.150. Delegation of authority to inspect wells applies only to water supply wells.

A. WCHD shall inspect:

- A minimum of forty percent (40%) of water wells being drilled annually in Whatcom County for proper sealing and tagging; and
- A minimum of forty percent (40%) of wells being decommissioned annually in Whatcom County.

B. WCHD, shall at a minimum, conduct twenty-five percent (25%) of all their inspections while the driller is on-site. This percentage may be adjusted by Ecology's contract manager for driller "no shows".

C. WCHD shall administer and enforce the provisions of Chapter 173-160 WAC, Sections: 173-160-101, 173-160-181, 173-160-221, 173-160-231, 173-160-241, 173-160-251, 173-160-261, 173-160-271, 173-160-311, 173-160-381 and any subsequent revisions.

D. This Agreement does not preclude Ecology from enforcing these aforementioned regulations in Whatcom County.

E. This Agreement does not preclude WCHD from adopting their own well construction rules or charging additional fees for well inspections.

Deliverables: WCHD shall submit a quarterly report to ECOLOGY which summarizes the well drilling activities for that reporting period. See Appendix B Special Terms and Conditions for additional deliverables.

The quarterly report shall be submitted on the form provided by ECOLOGY and shall include the number of well construction and decommissioning notices received by WCHD as well as the number of inspections made. The report shall indicate if the driller was present during the inspection and if the driller was a "no show" at the scheduled time of inspection.

Upon request, an additional detailed report shall itemize (at a minimum) the dates of inspection, notice of intent number, well tag number, well owner, drilling company, and driller. The report will also identify any enforcement activities and any variances issued.

Due Date: Quarterly reports are due on January 20th, April 20th, July 20th and October 20th for inspections done in the prior three-month period.

APPENDIX B SPECIAL TERMS AND CONDITIONS

EDUCATIONAL REQUIREMENT FOR WCHD INSPECTORS

WCHD will ensure that inspectors will have the following minimum qualifications.

1. A Bachelor's degree from an accredited college or university involving major study in environmental health, sanitary science, bacteriology or public health, or other closely related science field. On the job experience with a health jurisdiction involving environmental health related work may be substituted year for year for the college education, including substituting for the requirement of a Bachelor's degree. Experience obtained through military service may be substituted year-for-year for up to two (2) years of college education.
2. Demonstrated written and oral communication skills.
3. Ability to establish and maintain professional and cooperative relationships with the public, state and federal agency personnel, and county personnel.
4. Physical capability to work outdoors under inclement weather conditions and climbing over rough terrain.
5. Valid Washington State driver's license and a vehicle adequate for daily use on the job.

DESIRED QUALIFICATIONS FOR WCHD INSPECTORS

1. Registration as a Sanitarian with the Washington State Board of Registered Sanitarians or National Environmental Health Association, or eligibility for registration in either.
2. Registration as a Professional Engineer, Geologist, Hydrogeologist, or Engineering Geologist.
3. Experience in operation and maintenance of groundwater monitoring equipment.

TRAINING FOR WCHD INSPECTORS

ECOLOGY shall provide training for WCHD inspectors in well sealing, tagging and decommissioning techniques. Training will focus on enforcement, data collection techniques, field investigations, well construction, and an overview of all applicable laws and regulations pertaining to this Agreement. New inspectors will be trained by ECOLOGY and WCHD. Each new

inspector shall be required to complete a minimum of eight hours of classroom instruction provided by ECOLOGY. Twenty-eight hours of field instruction shall be provided by the combined resources of ECOLOGY and WCHD. WCHD shall provide adequate time and funding for inspectors to attend this training.

All WCHD inspectors will be required to obtain two (2) one-hour Continuing Education Units (CEUs) per year in Washington State well construction rules and regulations. These CEUs will be available in public meetings or at the request of the WCHD via web conference or in-person meetings. If WCHD inspectors cannot travel outside local areas, ECOLOGY staff may travel to the WCHD or to a nearby location where several counties can be trained at one time. CEUS will be tracked by the ECOLOGY project manager.

TECHNICAL AND ENFORCEMENT SUPPORT

ECOLOGY shall provide technical and enforcement support throughout the term of this Agreement. The primary point of contact for technical and enforcement assistance will be the Well Construction and Licensing Program Coordinator (360) 407-6648.

VIOLATIONS PROCEDURES

WCHD shall supply ECOLOGY with a copy of their enforcement procedures relating to the delegated items of this Agreement within ninety (90) days from signing.

Violations identified by WCHD which are not covered by this Agreement shall be reported to ECOLOGY's Northwest Regional Office (425) 649-7044 . Verbal notification of these types of violations shall be given within 24 hours. To facilitate ECOLOGY's role in future enforcement actions, written documentation of suspected violations may be required and will be evaluated by ECOLOGY on a case by case basis. Specific enforcement procedures will be included in the basic training instructions.

ANNUAL REVIEW

WCHD and ECOLOGY shall review and evaluate the terms of this Agreement annually upon a mutually agreed month. At a minimum, the evaluation must include an audit of construction inspections, decommissioning inspections, enforcement activities, variances, and other driller interactions that occurred during the year. The evaluation will also address the need to update or otherwise change portions of this Agreement, changes will be handled via amendment. ECOLOGY shall prepare a report of the findings. The report shall be made available via the internet or upon request.



Whatcom County

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

Agenda Bill Master Report

File Number: AB2021-454

File ID:	AB2021-454	Version:	1	Status:	Agenda Ready
File Created:	07/26/2021	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:	08/10/2021	Enactment #:			

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

TITLE FOR AGENDA ITEM:

Request authorization for the County Executive to enter into a contract between Whatcom County and Unity Care Northwest to provide reimbursement of professional and support services provided at Whatcom County's Community Vaccine Clinics, in the amount of \$55,950

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: Unity Care Northwest – COVID Community Vaccine Clinic Support Contract
DATE: July 26, 2021

Attached is a contract between Whatcom County and Unity Care Northwest for your review and signature.

- **Background and Purpose**

This contract is in response to a notification from Whatcom County Health Department to locally enrolled COVID-19 vaccine providers of Federal Emergency Management Agency (FEMA) funding available to reimburse eligible expenses for support provided at mass vaccination clinics. This contract provides reimbursement of professional and support services provided by Unity Care Northwest personnel who supported clinic planning, implementation, administration, technical assistance, and administration of vaccine at Whatcom County's Community Vaccine Clinic (CVC) at Bellingham Technical College.

- **Funding Amount and Source**

Funding for this contract may not exceed \$55,950. Funds under the contract are made available by a grant awarded by FEMA, passed through the Washington State Department of Health Mass Vaccination FEMA Grant (CFDA 97.036). These funds are included in the 2021 budget. Council approval is required as funding exceeds \$40,000.

Please contact Cindy Hollinsworth, Communicable Disease & Epidemiology Manager at 360-778-6160 (CHollins@co.whatcom.wa.us) or Kathleen Roy 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)			8510 Administration / 851000 Administration		
Contract or Grant Administrator:			Cindy Hollinsworth		
Contractor's / Agency Name:			Unity Care Northwest		
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#:	97.036
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>				
Is this contract grant funded?		If yes, Whatcom County grant contract number(s):		201801023	
Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>				
Is this contract the result of a RFP or Bid process?		Contract Cost Center:		660470	
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 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 : 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.			
\$	55,950				
This Amended Amount:					
\$					
Total Amended Amount:					
\$					
Summary of Scope: This contract provides funding for support services provided at the Whatcom County Community COVID-19 Vaccine Clinics.					
Term of Contract:		9 Months		Expiration Date: 09/30/2021	
Contract Routing:	1. Prepared by:		JT		Date: 06/29/2021
	2. Health Budget Approval:		KR/JG		Date: 07/23/2021
	3. Attorney signoff:		RB		Date: 07/23/2021
	4. AS Finance reviewed:		M Caldwell		Date: 7/23/21
	5. IT reviewed (if IT related):				Date:
	6. Contractor approved:				Date:
	7. Submitted to Exec.:				Date:
	8. Council approved (if necessary):		AB2021-454		Date:
	9. Executive signed:				Date:
	10. Original to Council:				Date:

CONTRACT FOR SERVICES
Between Whatcom County and Unity Care Northwest

Unity Care Northwest, 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 11,
 Exhibit A (Scope of Work), p. 12,
 Exhibit B (Compensation), p. 13,
 Exhibit C (FEMA Medical CARE Policy).

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 21st day of January, 2021, and shall, unless terminated or renewed as elsewhere provided in the Agreement, terminate on the 30th day of September, 2021.

The general purpose or objective of this Agreement is to **provide reimbursement of personnel support provided at COVID-19 Community Vaccine Clinics**, 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 \$55,950. 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:

Unity Care Northwest
 1616 Cornwall Avenue, Suite 205
 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.

 Jodi Joyce, CEO

Recommended for Approval:

Date _____

Approved as to form:

Date _____

Accepted for Whatcom County:

By: _____
Satpal Singh Sidhu, Whatcom County Executive

CONTRACTOR INFORMATION:

Unity Care Northwest
Jodi Joyce, CEO
1616 Cornwall Avenue
Bellingham, WA 98225
(360) 296-7125
Jodi.joyce@ucnw.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.

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: Not Applicable

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:

Cindy Hollinsworth, Communicable Disease & Epidemiology Manager
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:

To [Party 1]: Whatcom County Health Department

1500 N State Street
Bellingham, WA 98225
Attn: Cindy Hollinsworth, Communicable Disease & Epidemiology Manager
(360) 778-6160
CHollins@co.whatcom.wa.us

To [Party 2]: Unity Care Northwest

1661 Cornwall Avenue, Suite 205
Bellingham, WA 98225
Attn: Bonnie Ross, CFO
(360) 296-7125
Bonnie.ross@ucnw.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

Unity Care Northwest supported Whatcom County's COVID-19 Community Vaccine Clinics in the following ways:

Personnel	Support Provided
COO and Clinic Operations Manager	Coordinated the set-up of the clinic and implemented the plan. Created processes, workflows and determined staffing and scheduling to meet community needs.
CIO	Supported technical set-up for reporting and tracking individuals receiving the vaccinations, the manufacturers, and lot numbers.
Providers – MDs, ARNPs, Pharmacists, Dentists	Vaccine management, administration of vaccines, observation of vaccinated individuals for adverse reactions; emergency response.
RNs, LPNs, Medical Assistants	Vaccine management, administration of vaccine, completion of CDC vaccination record cards.
Support staff – greeters, registration, screening, flow facilitators	Greeting patients, registration including verbal instructions and review of forms, scheduling 2 nd vaccine appointments, monitoring patient flow, moving individuals to observation, confirming 2 nd vaccine appointments were scheduled, re-checking all documentation, answered questions.

II. Statement of Work

The Contractor will be reimbursed for personnel expenses incurred during Whatcom County COVID-19 Community Vaccine Clinics in support of vaccine administration activities.

EXHIBIT "B" COMPENSATION

- I. **Budget and Source of Funding:** Funding for this contract may not exceed \$55,950 and is made available by a grant awarded by FEMA, passed through the Washington State Department of Health Mass Vaccination FEMA Grant (CFDA 97.036). The budget for this contract is as follows:

Cost	Documents Required Each Invoice	Total
Personnel	1. GL Detail and timesheets for the period. 2. Brief description of activities performed in support of mass vaccination efforts. 3. Completion of the Cost Summary Workbook provided by the County.	\$55,950

II. Attestation:

Upon full execution of this contract, the Contractor attests that Medicare, Medicaid, HRSA, or any other third-party payor shall not be billed for services provided at the same time as those provided to Whatcom County's COVID-19 Community Vaccine Clinics. The Contractor attests that if these costs are submitted to any third-party payor for reimbursement, the Contractor will be responsible for repaying the full amount that FEMA has reimbursed. This also includes any Cost Report Reimbursement from Medicare or Medicaid at the end of the fiscal year reporting cycle.

The Contractor may only be reimbursed for FEMA eligible costs, as outlined in the Cost Summary Workbook, to be provided by the County. The Contractor attests that reimbursement of costs for personnel who provided services to Whatcom County's COVID-19 Community Vaccine Clinics may occur by following the guidance given in the FEMA Medical Care Policy (incorporated herein as Exhibit C), completing an LHJ Summary Spreadsheet, retaining supporting documentation, and agreeing to fully reimburse costs to Whatcom County if they are reimbursed by any other payor or funding source for the provision of services at Whatcom County's COVID-19 Community Vaccine Clinics.

III. Invoicing

1. The Contractor shall submit invoices in a format approved by the County. **Final invoices must be received by October 31, 2021.** Invoices submitted for payment must include the items identified in the table above.
2. The Contractor shall submit invoices to (include contract #) 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: **Duplication of billing is prohibited.** 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



Coronavirus (COVID-19) Pandemic: Medical Care Eligible for Public Assistance (Interim) (Version 2)

FEMA Policy #104-21-0004

BACKGROUND

Under the President's March 13, 2020 COVID-19 nationwide emergency declaration¹ and subsequent major disaster declarations for COVID-19, state, local, tribal, and territorial (SLTT) government entities and certain private non-profit (PNP) organizations are eligible to apply for assistance under the FEMA Public Assistance (PA) Program. This interim policy is applicable to eligible PA Applicants only and is exclusive to emergency and major disaster declarations for COVID-19. This revision supersedes the version of this policy issued on May 9, 2020.

PURPOSE

This interim policy defines the framework, policy details, and requirements for determining the eligibility of medical care work and costs under the PA Program to ensure consistent and appropriate implementation across all COVID-19 emergency and major disaster declarations. Except where specifically stated otherwise in this policy, assistance is subject to PA Program requirements as defined in Version 3.1 of the Public Assistance Program and Policy Guide (PAPPG) published on April 1, 2018.²

PRINCIPLES

- A. FEMA will provide assistance for medical care provided under COVID-19 declarations to improve the abilities of communities to effectively respond to the COVID-19 Public Health Emergency.
- B. FEMA will implement this policy and any assistance provided in a consistent manner through informed decision making and review of an Applicant's supporting documentation.

¹ www.fema.gov/news-release/2020/03/13/covid-19-emergency-declaration.

² Version 3.1 of the PAPPG is applicable to all COVID-19 declarations and is available on the FEMA website at www.fema.gov/sites/default/files/2020-03/public-assistance-program-and-policy-guide_v3.1_4-26-2018.pdf.

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- C. FEMA will engage with interagency partners, including the U.S. Department of Health and Human Services' (HHS) Office of the Assistant Secretary for Preparedness and Response (ASPR), the Administration for Children and Families (ACF), the Centers for Disease Control and Prevention (CDC), the Health Resources and Services Administration (HRSA), the Centers for Medicare and Medicaid Services (CMS), and the U.S. Department of Treasury to ensure this assistance is provided in a coordinated manner without duplicating assistance.

REQUIREMENTS

A. APPLICABILITY

Outcome: To establish the parameters of this policy and ensure it is implemented in a manner consistent with program authorities and appropriate to the needs of the COVID-19 Public Health Emergency.

1. This policy applies to:
 - a. All Presidential emergency and major disaster declarations under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act), as amended, issued for the COVID-19 Public Health Emergency and is applicable to work performed on or after January 20, 2020.
 - b. Eligible PA Applicants under the COVID-19 emergency declaration or any subsequent COVID-19 major disaster declaration, including:
 - i. SLTT government entities; and
 - ii. PNP organizations that own or operate medical facilities, as defined in Title 44 of the Code of Federal Regulations (44 C.F.R.) § 206.221(e)(5).
 - c. This policy does not apply to any other emergency or major disaster declaration.

B. GENERAL ELIGIBILITY CONSIDERATIONS FOR COVID-19 MEDICAL CARE

Outcome: To define the overarching framework for all eligible medical care work related to COVID-19 declarations.

1. All work must be required as a direct result of the COVID-19 pandemic incident in accordance with 44 C.F.R. § 206.223(a)(1).
2. Medical care and associated costs refer to assistance to support the provision of medical care, including eligible facility, equipment, supplies, staffing, and wraparound services (as defined in the **Definitions** section at the end of this document), as well as assistance for clinical care of patients not covered by another funding source as described throughout this policy.



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3. Equitable Pandemic Response and Recovery

- a. As stated in “[Executive Order on Ensuring an Equitable Pandemic Response and Recovery](#),” dated January 21, 2021, COVID-19 has a disproportionate impact on communities of color and other underserved populations, including members of the LGBTQI+ community, persons with disabilities, those with limited English proficiency, and those living at the margins of our economy.
- b. Through September 30, 2021, FEMA is funding the entire cost of the emergency protective measures made eligible by this policy.
- c. As a condition of receiving this financial assistance, Recipients and Subrecipients must focus the use of FEMA funding on the highest-risk communities and underserved populations as determined by established measures of social and economic disadvantage (e.g., the CDC Social Vulnerability Index). Recipients and Subrecipients must prioritize limited resources to ensure an equitable pandemic response. Failure to adhere to this policy could result in funding reductions and/or delays.
- d. FEMA will monitor compliance with this grant condition in concert with the obligations set forth in 44 C.F.R. part 7 and Title VI of the Civil Rights Act of 1964 that no person on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity receiving financial assistance from FEMA; and the requirement of Stafford Act Section 308 (42 U.S.C. 5151) that distribution of disaster relief be accomplished in an equitable and impartial manner, without discrimination on the grounds of race, color, religion, nationality, sex, age, disability, English proficiency, or economic status.

C. ELIGIBLE MEDICAL CARE WORK AND COSTS

Outcome: To establish parameters for eligible medical care work and costs for COVID-19 declarations.

1. Primary Medical Care Facility.

For medical care provided in a primary medical care facility (as defined in the **Definitions** section at the end of this document), work must be directly related to the treatment of COVID-19 patients. Work may include both emergency and inpatient treatment of COVID-19 patients; this includes both confirmed and suspected cases of COVID-19. Medical care related to treatment of a non-COVID-19 illness or injury in a primary medical care facility is not eligible. The following medical care activities and associated costs are eligible in primary medical care facilities.

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- a. Emergency and inpatient clinical care for COVID-19 patients, including, but not limited to:
 - i. Emergency medical transport related to COVID-19;
 - ii. Triage and medically necessary tests and diagnosis related to COVID-19;
 - iii. Necessary medical treatment of COVID-19 patients; and
 - iv. Prescription costs related to COVID-19 treatment.
- b. Purchase, lease, and delivery of specialized medical equipment necessary to respond to COVID-19 (equipment purchases are subject to disposition requirements³);
- c. Purchase and delivery of Personal Protective Equipment (PPE),⁴ durable medical equipment, and consumable medical supplies necessary to respond to COVID-19 (supply purchases are subject to disposition requirements⁵);
 - i. This includes the costs of eligible SLTT government Applicants providing PPE to any public or private medical care facility that treats COVID-19 patients.
- d. Medical waste disposal related to COVID-19; and
- e. Certain labor costs associated with medical staff providing treatment to COVID-19 patients may be eligible as outlined below. Any labor costs for medical staff that are included in patient billing and/or otherwise covered by another funding source (as described in **Section D.4 Duplication of Benefits** of this policy) are not eligible for PA. Otherwise, the following labor costs may be eligible:
 - i. Overtime for budgeted medical staff providing treatment to COVID-19 patients;
 - ii. Straight time and overtime for temporary medical staff providing treatment to COVID-19 patients; and
 - iii. Straight time, overtime, and other necessary costs for contract medical staff providing treatment to COVID-19 patients. Work and associated costs must be consistent with the scope of the contract and may include costs for travel, lodging, and per diem for contract medical staff from outside the local commuting area.
- f. For primary medical care facilities, increased operating costs for administrative activities (such as medical billing) are not eligible.⁶

³ As described in Chapter 2:V.E. Disposition of Purchased Equipment and Supplies of the PAPPG (V3.1).

⁴ PPE includes items such as N95 and other filtering respirators, surgical masks, gloves, protective eyewear, face shields, and protective clothing (e.g., gowns).

⁵ As described in Chapter 2:V.E. Disposition of Purchased Equipment and Supplies of the PAPPG (V3.1).

⁶ See Chapter 2:VI.B.2. Expenses Related to Operating a Facility or Providing a Service of the PAPPG (V3.1).



2. Temporary and Expanded Medical Facilities.⁷

FEMA may approve work and costs associated with temporary medical facilities or expanded medical facilities when necessary in response to the COVID-19 Public Health Emergency. These facilities may be used to treat COVID-19 patients, non-COVID-19 patients, or both, as necessary. Medical care activities and associated costs related to treating both COVID-19 and non-COVID-19 patients in a temporary or expanded medical facility may be eligible.

- a. Costs must be reasonable and necessary based on the actual or projected need.
- b. Eligible costs for temporary and expanded medical facilities include:
 - i. All eligible items and stipulations included in **Section C.1 Primary Medical Care Facility**, but applicable to both COVID-19 and non-COVID-19 patients;
 - ii. Lease, purchase, or construction costs, as reasonable and necessary, of a temporary facility as well as reasonable alterations to a facility necessary to provide medical care services;⁸
 - iii. Mobilization and demobilization costs associated with setting up and closing the temporary or expanded medical facility;
 - iv. Operating costs including equipment, supplies, staffing, wraparound services (as defined in the **Definitions** section at the end of this document), and clinical care not covered by another funding source; ; and
 - v. Maintenance of a temporary or expanded medical facility in an operationally ready but unused status available for surge capacity for COVID-19 readiness and response when necessary to eliminate or lessen an immediate threat to public health and safety, based on public health guidance, location of areas expected to be impacted, and local/state hospital bed/ICU capacity.
- c. For contract costs related to establishing and/or operating a temporary or expanded medical facility, contracts must include a termination for convenience clause that will be implemented if the site is ultimately not needed, or the needs are less than projected, as determined by the legally responsible entity.
 - i. Ongoing and projected needs regarding continuing operations at a temporary or expanded medical facility should be based on regular assessments and the Applicant must document the review process to support its decision making.
 - ii. The assessments should include adjustments to projected needs based on guidance from public health officials, caseload trends, and/or other predictive modeling or methodologies; lead times and associated costs for

⁷ Temporary medical facilities may include Alternate Care Sites or Community Based Testing Sites if eligible work and costs related to these facilities are incurred by eligible PA Applicants.

⁸ As described in Chapter 2:VI.B.17(e) and (g) of the PAPPG (V3.1).



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scaling up or down based on projected needs; and any other supporting information.

- iii. The assessments and supporting information are necessary to determine eligibility of claimed costs and should align with PA reasonable cost guidance provided in the PAPPG⁹ and the *Public Assistance Reasonable Cost Evaluation Job Aid*.¹⁰
- d. Costs related to expanding a primary medical care facility to effectively respond to COVID-19 must be feasible and cost effective. In most cases, permanent renovations are not eligible unless the Applicant can demonstrate that the work can be completed in time to address COVID-19 capacity needs and is the most cost-effective option. Permanent renovations and other improvements to real property with PA funds are subject to real property disposition requirements.¹¹
- e. For temporary and expanded medical facilities, and the specific type of temporary medical facilities known as Alternate Care Sites, administrative activities and associated costs necessary for the provision of essential medical services are eligible.

3. Vaccinations

Work and associated costs to support the distribution and administration of COVID-19 vaccines may be eligible for PA. The federal government will provide the vaccine itself at no cost. There may be additional costs incurred to support the distribution and administration of the vaccine. Such costs may be eligible for PA funding when they are necessary to effectively distribute and administer COVID-19 vaccines consistent with established vaccine protocols, CDC and/or other applicable public health guidance, and PA program requirements. Eligible work and costs under PA include:

- a. Community vaccination centers.¹²
- b. PPE, other equipment, and supplies required for storing, handling, distributing/transporting, and administering COVID-19 vaccinations.
 - i. PPE includes items necessary for proper handling and administration of vaccinations as well as handling dry ice for storage and transportation needs;
 - ii. Equipment includes coolers, freezers, temperature monitoring devices, and portable vaccine storage units for transportation;
 - iii. Supplies include emergency medical supplies (for emergency medical care needs that may arise in the administration of the vaccine), sharps

⁹ As described in Chapter 2:V. Cost Eligibility of the PAPPG (V3.1).

¹⁰ The Public Assistance Reasonable Cost Evaluation Job Aid is available on the FEMA website at www.fema.gov/media-library/assets/documents/90743.

¹¹ As described in Chapter 2:V.F. Disposition of Real Property of the PAPPG (V3.1).

¹² For PA eligibility, community vaccination sites are considered temporary medical facilities consistent with Section C.2. Temporary and Expanded Medical Facilities of this policy.

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- containers (for medical waste), and supplies necessary for proper storage like dry ice; and,
- iv. Transportation support such as refrigerated trucks and transport security when reasonable and necessary.
- c. Facility support costs, including leasing space for storage and/or administration of vaccines, utilities, maintenance, and security.
- d. Additional staff, if necessary, including medical and support staff not paid for by another funding source and consistent with FEMA PA labor policies.¹³
- e. Onsite infection control measures and emergency medical care for COVID-19 vaccination administration sites.
- i. Masks/cloth facial coverings for patients;¹⁴
 - ii. Disinfection of facility and equipment in accordance with CDC guidance;¹⁵
 - iii. Temperature scanning, including purchase and distribution of handheld temperature measuring devices and associated supplies;
 - iv. Acquisition and installation of portable temporary physical barriers, such as plexiglass barriers and medical screens/dividers;
 - v. Medical waste disposal related to vaccinations; and
 - vi. Onsite emergency medical care to address adverse reactions to vaccinations or other emergency medical care needs that may arise while administering COVID-19 vaccinations.
- f. Resources to support mobile COVID-19 vaccination in remote areas and/or transportation support for individuals with limited mobility or lack of access to transportation, when reasonable and necessary.
- i. Equipment and supplies necessary for proper storage, handling, and transport in accordance with CDC guidance to support mobile vaccination units;
 - ii. Medical and support staff for mobile vaccination units in accordance with PA labor policies and this policy; and
 - iii. Transportation to and from vaccination sites for individuals with limited mobility. "Limited mobility" includes individuals with disabilities that require transportation assistance and individuals that are otherwise unable to get to and from vaccination sites without transportation assistance.

¹³ See Chapter 2:A. Applicant (Force Account) Labor of the PAPPG (V3.1).

¹⁴ For this policy, face masks, such as cloth face coverings, are not considered PPE. See <https://www.fda.gov/food/food-safety-during-emergencies/use-respirators-facemasks-and-cloth-face-coverings-food-and-agriculture-sector-during-coronavirus>. Note that FDA has issued an emergency use authorization (EUA) for face masks/cloth face coverings for use by members of the general public and for healthcare personnel in healthcare settings. See www.fda.gov/media/137121/download.

¹⁵ www.cdc.gov/coronavirus/2019-ncov/community/cleandisinfect/index.html.

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- g. Federally Qualified Health Centers– Vaccine-related costs incurred by a Federally Qualified Health Center (FQHC),¹⁶ Rural Health Clinics and Critical Access Hospitals that are not covered by HHS or another funding source. FQHCs fall under the authority of HHS. PA funding can be provided for eligible costs that are not covered under this authority or another source of funding.
- h. Communications to disseminate public information regarding vaccinations including translation and interpretation services as necessary.¹⁷ This may also include work and costs associated with setting up and operating a call center or website, when reasonable and necessary, for the purpose of sharing vaccination information with the public and/or to support the implementation and management of COVID-19 vaccination plans.
- i. Information Technology (IT) equipment and systems, when reasonable and necessary, for patient registration and tracking, vaccine-related inventory management, and/or analytics and reporting needs.
 - i. To the extent possible, vaccination providers should utilize existing IT systems and processes for managing the distribution and administration of COVID-19 vaccines.
 - ii. The CDC also developed the Vaccine Administration Management System (VAMS)¹⁸ for jurisdictions and healthcare providers that do not have existing IT systems for vaccination management. VAMS is an optional, web-based application that supports planning and execution for temporary, mobile, or satellite COVID-19 vaccination clinics.
 - iii. In the event existing IT systems and VAMS are both inadequate to meet the needs of vaccination providers, IT equipment and systems necessary for the distribution and administration of COVID-19 vaccines are eligible for PA.
 - iv. The systems should collect demographic data required under the Stafford Act and consistent with guidance from FEMA, and the system must be able to report data to FEMA when requested.
- j. Training and technical assistance specific to the proper storage, handling, distribution,¹⁹ and administration of COVID-19 vaccinations in accordance with CDC guidance.
- k. Vaccination administration consistent with equitable pandemic response and recovery.

¹⁶ For more information on FQHCs, visit www.hhs.gov/guidance/sites/default/files/hhs-guidance-documents/FQHC-Text-Only-Factsheet.pdf.

¹⁷ Stafford Act, Section 403(a)(3)(F) and (G); and as described at Chapter 2:VI.B. Emergency Protective Measures (Category B) at page 58 of the PAPPG (V3.1).

¹⁸ See www.cdc.gov/vaccines/covid-19/reporting/vams/index.html for more information on VAMS.

¹⁹ CDC Vaccine Storage and Handling Toolkit

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- i. Recipients and Subrecipients of FEMA assistance shall collect data on race, ethnicity and disability status.²⁰ Recipients must also make best efforts to collect additional anonymized equity-focused person-level data, including information on primary language, and sexual orientation or gender identity (SO/GI). Recipients and Subrecipients must incorporate these data in their development of short-term targets for the equitable deployment of FEMA financial assistance and identify data sources, proxies, or indices, including demographic data disaggregated to reveal socioeconomic, racial, linguistic, age, gender, disability, and other indices that will enable recipients to develop short-term targets for equitable delivery of FEMA-funded assistance and to reach communities of color and other underserved populations.
- ii. Recipients and Subrecipients must submit to FEMA information documenting the following for sites selected for vaccination administration every 30 days:
 - a) For each site, provide a score on the CDC's Social Vulnerability Index or a similar social deprivation, disadvantage, or vulnerability composite index.
 - b) A description of how the location of the site(s)—relative to other candidate locations—best advances FEMA's focus on supporting the highest-risk communities. This justification may also include a comparison of vaccination rates for demographic groups by geographic area.
 - c) A site strategy to operationalize equitable access including, but not limited to:
 - 1) A plan for community outreach and engagement, both before and during implementation;
 - 2) A registration process that advances equity with a focus on prioritizing minoritized, marginalized, and otherwise disadvantaged groups;
 - 3) Equitable physical design of the site, including transportation and accessibility considerations; and
 - 4) A plan for ongoing evaluation and continuous improvement to ensure equitable access.

D. GENERAL ELIGIBILITY CONSIDERATIONS FOR COVID-19 COSTS

Outcome: To provide additional information about eligible costs and cost-related considerations.

1. **Allowability of Costs.** To be eligible, claimed costs must be allowable under 2 C.F.R.

²⁰ Consistent with the Office of Management and Budget (OMB) minimum standard collection categories as per OMB Statistical Policy Directive No. 15.
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part 200.²¹ In considering allowability, FEMA will evaluate, among other factors:

- a. Whether the cost was necessary and reasonable in order to respond to the COVID-19 pandemic. A cost is considered reasonable if, in its nature and amount, it does not exceed that which would be incurred by a prudent person under the circumstances prevailing at the time the decision was made to incur the cost.²² For COVID-19 declarations, FEMA will use Medicare rates²³ as the basis to determine reasonable costs for eligible clinical care not covered by another funding source. Both patient payments and insurance payments are considered another funding source; clinical care for which providers have received or will receive payments from patients or insurance is not eligible.
- b. Whether the cost conforms to standard PA program eligibility and other federal requirements.²⁴
- c. Whether the applicant followed its established practices and policies and procedures that apply when federal funding is not available, including standard billing and fee collection.²⁵
 - i. FEMA will not require Applicants to create a new billing process at temporary medical facilities described in C.2 and C.3.
 - ii. All work conducted and costs incurred in Primary Medical Care Facilities described in C.1 should follow the facility's standard billing practice.
 - iii. If the Primary Medical Care Facility described in C.1 did not follow its standard billing practice, the Applicant must demonstrate why following such practices would have increased an immediate threat to life and demonstrate that all costs not reimbursed by FEMA followed the same procedures.
- d. Whether the cost is documented with sufficient detail for FEMA to evaluate its compliance with federal laws, rules and other PA program requirements.²⁶

2. **Cost Share for COVID-19 Declarations.** PA funding authorized under COVID-19 declarations is subject to the following cost share provisions:

- a. In accordance with the February 17, 2021 memorandum from the FEMA Recovery Assistant Administrator titled "100% Federal Cost Share for COVID-19 Public Assistance Funding," FEMA will increase the federal cost share for all

²¹ 2 CFR 200.403.

²² 2 CFR 200.403(a) and 404.

²³ FEMA will use standard Medicare rates that do not include the 20 percent increase in COVID-19 Medicare DRG rates implemented by the CARES Act.

²⁴ See 2 CFR 200.403(b),(d),(e),(f) and (h) and PAPPV V3.1 (2018), and www.fema.gov/grants/procurement for additional guidance.

²⁵ 2 CFR 200.403(c).

²⁶ 2 CFR 200.302(a).

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COVID-19 declarations from 75 percent to 100 percent for eligible work performed or to be performed from January 20, 2020 through September 30, 2021.

- b. For previously awarded projects, FEMA will obligate additional funding to increase the federal funding from 75 percent to 100 percent. To minimize the administrative burden and expedite assistance, FEMA will obligate the additional 25 percent on each project via automatic amendments. Subsequently, any previously awarded donated resource project must be de-obligated. Donated resources are only eligible to offset the non-federal cost share which is no longer applicable to COVID-19 declarations.

3. Procurement Requirements for COVID-19 Declarations.²⁷

- a. States and territorial governments are required to follow their own procurement procedures as well as the federal requirements for procurement of recovered materials and inclusion of required contract provisions per 2 C.F.R. §§ 200.317, 200.322, and 200.326.²⁸
- b. Tribal governments, local governments, and PNPs must comply with the requirements of 2 C.F.R. §§ 200.318-200.326.
- c. In accordance with the March 17, 2020 memorandum from the FEMA Acting Associate Administrator for the Office of Response and Recovery, and the FEMA Assistant Administrator for the Grant Programs Directorate, for the duration of the Public Health Emergency, as determined by HHS, local governments, tribal governments, nonprofits, and other non-state entities may proceed with new and existing non-competitively procured contracts using the exigent/emergency circumstances exception in 2 C.F.R. § 200.320(c)(3). Additional resources on COVID-19 specific to grants are also available at www.fema.gov/grants under “News and Announcements” and www.fema.gov/coronavirus.
- d. SLTT governments may contract with medical providers, including private entities, to carry out any eligible activity described in **Section C. Eligible Medical Care by Facility** of this policy.
- e. Contracts must include an actionable termination for convenience clause that will be implemented if any part of the contract scope of work is ultimately not needed, or the needs are less than projected, as determined by the legally responsible entity. Ongoing and projected needs should be based on regular reviews and the

²⁷ Additional guidance regarding procurement standards is available at www.fema.gov/grants/procurement.

²⁸ For additional guidance regarding required contract clauses, see the Procurement Disaster Assistance Team’s “FEMA Contract Provisions Template” (2019 ed.) available online at www.fema.gov/media-library-data/1569959119092-92358d63e00d17639d5db4de015184c9/PDAT_ContractProvisionsTemplate_9-30-19.pdf.

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Applicant must document the review process to support its decision making. All claimed contract costs must be necessary and reasonable pursuant to applicable federal regulations and federal cost principles.

4. Duplication of Benefits.

Pursuant to Section 312 of the Stafford Act, FEMA is prohibited from providing financial assistance where such assistance would duplicate funding available from another program, insurance, or any other source for the same purpose.

- a. FEMA cannot duplicate assistance provided by HHS or other federal departments and agencies. This includes, but is not limited to, funding provided by the programs listed below. FEMA is providing this list as a helpful reference, but SLTT government entities and PNP's should consult with the appropriate federal agency and the terms and conditions of each program or source of funding to determine what funding may be considered duplicative.
 - i. The Public Health Emergency Preparedness Cooperative Agreement Program;
 - ii. The Public Health Crisis Response Cooperative Agreement;
 - iii. The Epidemiology and Laboratory Capacity for Prevention and Control of Emerging Infectious Diseases;
 - iv. The Hospital Preparedness Program Cooperative Agreement;
 - v. The Regional Ebola and Other Special Pathogen Treatment Centers Cooperative Agreement;
 - vi. The National Emerging Special Pathogens Training and Education Center Cooperative Agreement;
 - vii. The Hospital Association COVID-19 Preparedness and Response Activities Cooperative Agreement;
 - viii. The Partnership for Disaster Health Response Cooperative Agreement;
 - ix. The Coronavirus Relief Fund and the Provider Relief Fund;
 - x. The COVID-19 Uninsured Program
 - xi. The Paycheck Protection Program; and
 - xii. The Immunizations and Vaccines for Children Cooperative Agreement.
- b. FEMA cannot provide PA funding for clinical care and other costs funded by another source, including private insurance, Medicare, Medicaid/CHIP, other public insurance, a pre-existing private payment agreement, or the COVID-19 Uninsured Program for uninsured patients.²⁹ The Applicant must certify that it has not received and does not anticipate receiving assistance from these sources or any other source for the same work or costs. FEMA will deobligate any PA funding that has been provided in the event that another source provides funds to the Applicant for the same clinical care or other costs.

²⁹ The COVID-19 Uninsured Program reimburses for testing and clinical care costs for the uninsured which is being provided at Medicare rates.



FEMA

- c. At no time will FEMA request or accept any Personally Identifiable Information related to the medical care of individual COVID-19 patients or for any other individual.
- d. FEMA will reconcile final funding based on any funding provided by another agency or covered by insurance or any other source for the same purpose. FEMA will coordinate with HHS to share information about funding from each agency to assist in preventing duplication of benefits.

5. Time Limitations for the Completion of Work.

- a. For all COVID-19 declarations, FEMA has extended the deadline in accordance with regulatory timeframes for emergency work at 44 C.F.R. §206.204(d) beyond six months of the date of the declaration and will notify applicants no less than 30 days prior to establishment of the deadline.

Keith Turi
Assistant Administrator, Recovery Directorate

March 15, 2021
Date

FEMA Policy #104-21-0004



FEMA

ADDITIONAL INFORMATION

REVIEW CYCLE

This interim policy will be reviewed periodically during the COVID-19 Public Health Emergency period. The Assistant Administrator for the Recovery Directorate is responsible for authorizing any changes or updates. This interim policy will sunset with the closure of the national emergency declaration for COVID-19 and any subsequent major disaster declarations for COVID-19.

AUTHORITIES and REFERENCES

Authorities

- Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. § 5121-5207, as amended
- Title 44 of the Code of Federal Regulations, Part 206, Subpart H
- Title 2 of the Code of Federal Regulations, Part 200

References

- Public Assistance Program and Policy Guide, Version 3.1

DEFINITIONS

To establish consistent terminology for purposes of implementing this policy, the following definitions are provided below. These definitions are specific to this policy and may differ from definitions prescribed for the same or similar terms in other policies.

1. **Medical Care:** Medical Care refers both to assistance provided to support the provision of medical care and assistance for clinical care. Examples of medical care support include eligible facility, equipment, supplies, and staffing costs.
2. **Clinical Care:** Clinical Care refers to medical treatment of individual patients including testing, diagnosis, treatment, hospitalization, prescriptions, and other costs associated with individual patient treatment typically billed to individual patients, their insurance carriers, Medicare, Medicaid, or other pre-existing payment agreements.
3. **Primary Medical Care Facility:** A primary medical care facility is the facility owned and/or operated by an eligible PA Applicant that provides medical care services. This includes any licensed hospital, outpatient facility, rehabilitation facility, or facility for long-term care.
4. **Temporary Medical Facility:** A temporary medical facility is a facility separate from the primary medical care facility that is used to provide medical care services when the primary medical care facility is overwhelmed by the declared event.

FEMA Policy #104-21-0004

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FEMA

5. **Expanded Medical Facility:** An expanded medical facility is part of the primary medical care facility and refers to an expansion of the primary medical care facility to increase its capacity when the primary medical care facility is overwhelmed by the declared event.
6. **Alternate Care Sites:** Alternate Care Site is a type of Temporary Medical Facility and broadly describes any building or structure of opportunity converted for healthcare use. It provides additional healthcare capacity and capability for an affected community separate from a traditional, established healthcare institution, though healthcare institutions may partner with eligible Applicants operating an Alternate Care Site.
7. **Community-Based Testing Sites:** Community-Based Testing Sites are strategically located sites within a community operated by a SLTT government for the purpose of providing COVID-19 testing to members of the community.
8. **Wraparound Services:** Wraparound services in the context of this policy are the same as those defined in the Alternate Care Site Toolkit. The services will differ at each temporary medical facility. Such services include, but are not limited to, the following: linen and laundry services; food preparation and delivery; biomedical waste removal, including contaminated items such as personal protective equipment; perimeter fencing; contracted security guards; professional cleaning; and other related services. The toolkit and other Alternate Care Site resources are available on the HHS website at <https://asprtracie.hhs.gov/technical-resources/111/covid-19-alternate-care-site-resources>.

MONITORING AND EVALUATION

FEMA will closely monitor the implementation of this policy through close coordination with regional and field staff, as appropriate, as well as interagency partners and SLTT stakeholders.

QUESTIONS

Applicants should direct questions to their respective FEMA regional office.



Whatcom County

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

Agenda Bill Master Report

File Number: AB2021-458

File ID:	AB2021-458	Version:	1	Status:	Agenda Ready
File Created:	07/26/2021	Entered by:	THelms@co.whatcom.wa.us		
Department:	County Executive's Office	File Type:	Interlocal		
Assigned to:	Council Finance and Administrative Services Committee				Final Action:
Agenda Date:	08/10/2021	Enactment #:			

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

TITLE FOR AGENDA ITEM:

Request authorization for the County Executive to enter into an interlocal agreement amendment between Whatcom County, the City of Bellingham Fire Department and Fire Protection District No. 7 for costs associated with the implementation of the 5th medic unit in the amount of \$1,917,500

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

Request authorization for the County Executive to enter into an amendment to an interlocal agreement between Whatcom County, the City of Bellingham Fire Department and Fire Protection District No. 7 for costs associated with the implementation of the 5th medic unit in the amount of \$1,917,500

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
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Attachments: Memo, Interlocal Agreement, Routing Form

MEMORANDUM

TO: Whatcom County Council
FROM: Mike Hilley, EMS Manager
RE: Interagency Amendment for 5th Medic Unit
DATE: July 27, 2021

Enclosed is an amendment to the interagency agreement for advance life support (ALS) services between Whatcom County, City of Bellingham Fire Department and Fire Protection District 7.

▪ **Background and Purpose**

This amendment allows for reimbursement of expenses incurred by the City of Bellingham for the implementation of a 5th Medic Unit. The County will reimburse the City for expenses related to the purchase of a rig and related equipment, facility upgrades to accommodate station relocations of existing units and upstaffing firefighter/paramedics to staff the new unit. With the unanimous approval of the EMS Oversight Board, this amendment will allow for the implementation of the 5th medic unit to better serve all residents of the county.

▪ **Funding Amount and Source**

In 2021, the County will reimburse the City for the acquisition cost of a new ALS rig including make ready costs and sales tax. Additionally, alterations to the Stations 3 and 6 due to the relocation of the current ALS units and up to \$131,000 for costs to hire and outfit 10 new firefighters.

In 2022, the County will reimburse the City up to \$80,500 for equipment to outfit the new rig and up to \$1,416 for personnel costs for 10 Paramedics.

Funding source is the EMS Levy Fund.

▪ **Differences from Previous Contract**

This amendment allows for the costs associated with implementing the 5th Medic Unit.

Please contact Mike Hilley, EMS Managers at 360-927-1155 if you have any questions or concerns regarding the terms of this agreement.

Amendment No. 2
Whatcom County Contract No. 201711026
INTERLOCAL AGREEMENT FOR ADVANCED LIFE SUPPORT SERVICES

THIS is the second amendment to the Contract between Whatcom County (County), the City of Bellingham (City) and Fire Protection District #7 (District), dated December 2017 and designated "Whatcom County Contract No.201711026". In consideration of the mutual benefits to be derived, the parties agree to the following:

This Amendment adds additional Exhibit A-1, Scope of Work between the County and the City

This Amendment adds additional Exhibit E-1, Budget between the County and the City

This Amendment increases total compensation by \$1,917,500 and modifies Contract Section 5. Compensation and Method of Payment to add language as follows:

g. Fifth Medic Unit Phase-In (budget as presented in Exhibit E-1).

For 2021, the County will reimburse the City:

- up to \$240,000 for the acquisition cost of a new ALS rig to include make ready and sales tax
- up to \$50,000 for costs to alter Stations 3 and 6 due to the relocation of the current ALS units
- up to \$131,000 for costs to hire and outfit 10 new Firefighters

For 2022, The County will reimburse the City:

- up to \$80,500 for equipment needed to outfit the new ALS rig
- up to \$1,416,000 for personnel costs for 10 Paramedics currently being paid out of the City's General Fund

Invoices for the above items can be submitted monthly, but no less often than quarterly, to receive reimbursement for costs incurred. Invoices must be supported by invoices for all equipment and GL detail for all personnel-related costs.

Unless specifically amended by this agreement, all other terms and conditions of the original contract shall remain in full force and effect.

This Amendment takes effect upon adoption of the related 2021 budget amendment by Whatcom County Council, regardless of the date of signature.

Executed this _____ day of _____, 2021, for Whatcom County.

WHATCOM COUNTY:

Approved as to form:

Christopher Quinn per email 07/01/21
Prosecuting Attorney Date

Approved:

By: _____
Satpal Singh Sidhu, Whatcom County Executive

Executed this ____ day of _____, 2021 for CITY OF BELLINGHAM.

Seth Fleetwood, Mayor

Attest:

Andy Asbjornsen, Finance Director

Departmental Approval:

Department Head

Approved as to form:

City Attorney

**Executed this ____ day of _____, 2021, for Whatcom County Fire
Protection District No. 7**

Board Chair

Attest:

Board Secretary

EXHIBIT A-1
Scope of Work
5th Unit Phase In – City

BACKGROUND:

In preparation for the implementation of the 5th Advanced Life Support Unit to be located in North Whatcom County (Lynden, WA, Fire Station 75) the EMS system will be relocating current ALS units to better serve all residents of the county. The system will also need to acquire a new ALS rig and equipment for the 5th Unit. In addition, 10 FTE paramedics will be needed to staff the new unit. The unit will be staffed with Bellingham Fire Department employees. There are currently 10 firefighter/paramedics home-costed in the City's General Fund. They rotate between the fire apparatus and the ALS units as needed to provide backfill for firefighter/paramedics home-costed in the Medic One Fund and covered by the Countywide EMS Fund's contract. The City needs to hire an additional 10 firefighters to replace the 10 FTEs moving to the 5th Unit.

CITY WILL:

- Upgrade Stations 3 and 6 for the relocation of current ALS units located in the City. Upgrades to include alerting systems, storage capacity and other items needed to house the ALS units in those locations.
- Acquire a new rig for the 5th Unit and will provide make ready and all equipment necessary to put the unit in service as detailed in the 5th Unit proposal to the EMS Oversight Board.
- Backfill existing ALS units with home-costed City General Fund paramedics and stand-up an additional unit as capacity allows (2022).

Performance Reporting:

With each invoice, City will provide a report of the what dates and hours the additional unit was in service during the invoice period.

COUNTY WILL:

Reimburse the City for expenses related to the purchase of rig and related equipment, facility upgrades and costs associated with the upstaffing of 10 Firefighter/Paramedics as presented in Exhibit E-1 and section 5.g. of the Contract.

Exhibit E-1			
Budget			
5th Unit Phase In - City			
	2021	2022	Total
Station Remodels			
BFD Station 3 & 6 remodels	50,000	-	50,000
New Rig & Equipment			
Rig (includes make ready & tax)	240,000		
IT Equipment		13,000	
Durable Medical Equip		18,000	
PPE		27,000	
Medical Kits		7,500	
Miscellaneous		15,000	
Total Equipment	240,000	80,500	320,500
COB Cost to hire 10 replacement firefighters			
Recruiting/Hiring	30,000		
Physicals	17,000		
PPE - 2 sets bunker gear per firefighter	60,000		
Uniforms & misc personal equip.	24,000		
Total New Hire StartUp Costs	131,000	-	131,000
Phase In Operations - 10 Paramedics	-	1,416,000	1,416,000
5th Unit Phase In Costs	421,000	1,496,500	1,917,500

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: _____	
<p>Is this a New Contract? If not, is this an Amendment or Renewal to an Existing Contract? Yes No</p> <p>Yes No If Amendment or Renewal, (per WCC 3.08.100 (a)) Original Contract #: _____</p> <p>Does contract require Council Approval? Yes No If No, include WCC: _____</p> <p>Already approved? Council Approved Date: _____ (Exclusions see: Whatcom County Codes 3.06.010, 3.08.090 and 3.08.100)</p> <p>Is this a grant agreement?</p> <p>Yes No If yes, grantor agency contract number(s): _____ CFDA#: _____</p> <p>Is this contract grant funded?</p> <p>Yes No If yes, Whatcom County grant contract number(s): _____</p> <p>Is this contract the result of a RFP or Bid process? Contract</p> <p>Yes No If yes, RFP and Bid number(s): _____ Cost Center: _____</p> <p>Is this agreement excluded from E-Verify? No Yes If no, include Attachment D Contractor Declaration form.</p> <p>If YES, indicate exclusion(s) below:</p> <div style="display: flex; justify-content: space-between;"> <div> <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 work is for less than 120 days. <input type="checkbox"/> Interlocal Agreement (between Governments). </div> <div> <input type="checkbox"/> Goods and services provided due to an emergency <input type="checkbox"/> Contract for Commercial off the shelf items (COTS). <input type="checkbox"/> Work related subcontract less than \$25,000. <input type="checkbox"/> Public Works - Local Agency/Federally Funded FHWA. </div> </div>	
<p>Contract Amount:(sum of original contract amount and any prior amendments): \$ _____</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.
Summary of Scope: _____	
Term of Contract: _____	Expiration Date: _____

Contract Routing:	1. Prepared by: _____ 2. Attorney signoff: _____ 3. AS Finance reviewed: _____ 4. IT reviewed (if IT related): _____ 5. Contractor signed: _____ 6. Submitted to Exec.: _____ 7. Council approved (if necessary): _____ 8. Executive signed: _____ 9. Original to Council: _____	Date: _____ Date: _____ Date: _____ Date: _____ Date: _____ Date: _____ Date: _____ Date: _____
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Whatcom County

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

Agenda Bill Master Report

File Number: AB2021-459

File ID:	AB2021-459	Version:	1	Status:	Agenda Ready
File Created:	07/26/2021	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:	08/10/2021	Enactment #:			

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

TITLE FOR AGENDA ITEM:

Request authorization for the County Executive to enter into an interlocal agreement between Whatcom County and Snohomish Health District to provide COVID-related isolation and quarantine to Snohomish County residents, in the amount of \$200 per resident, per day

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 Agreement



MEMORANDUM

TO: Satpal Sidhu, County Executive
FROM: Erika Lautenbach, Director
RE: Snohomish Health District – COVID Isolation and Quarantine Facility Interlocal Agreement
DATE: July 26, 2021

Enclosed is an interlocal agreement between Whatcom County and Snohomish Health District for your review and signature.

- **Background and Purpose**

This Agreement is in response to a request from Snohomish Health District to utilize Whatcom County's COVID Isolation and Quarantine Facility, as their facility closed on 06/30/2021 due to their inability to renegotiate a lease for their facility. This Agreement outlines mutually agreeable terms that include the daily bed rate and responsibilities for Snohomish Health District's residents, including maximum stay length and transportation to and from the Facility. While the census at our facility has been lower in the last two months, there continues to be a demand for this facility. This Agreement will allow us to recoup some of the cost for the facility while maintaining availability to serve those in need through the summer season.

- **Funding Amount and Source**

Snohomish County will reimburse Whatcom County for their residents temporarily housed at the COVID Isolation and Quarantine Facility at a rate of \$200 per person, per day, which is inclusive of the total cost of the room and wrap-around services at the Facility. Council approval is required per RCW 39.34.030(2) for agreements between public agencies.

Please contact Erika Lautenbach, Director at 360-778-6005 (ELautenb@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)			8510 Health / 851000 Administration		
Contract or Grant Administrator:			Erika Lautenbach		
Contractor's / Agency Name:			Snohomish Health District		
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#:	
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>				
Is this contract grant funded?		If yes, Whatcom County grant contract number(s):			
Yes <input type="checkbox"/>	No <input type="checkbox"/>				
Is this contract the result of a RFP or Bid process?		Contract Cost Center:		138100	
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 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 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: <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. 			
Varies depending on number of Snohomish residents utilizing Whatcom's Facility.					
Summary of Scope: The purpose of this agreement is to provide COVID-related isolation and quarantine to Snohomish Health District residents.					
Term of Contract:		1 Year		Expiration Date: 09/30/2021	
Contract Routing:		1. Prepared by:		JT	Date: 07/02/2021
		2. Health Budget Approval:		KR/JG	Date: 07/09/2021
		3. Attorney signoff:		RB	Date: 07/23/2021
		4. AS Finance reviewed:		M Caldwell	Date: 7/23/21
		5. IT reviewed (if IT related):			Date:
		6. Contractor approved:			Date:
		7. Submitted to Exec.:			Date:
		8. Council approved (if necessary):		AB2021-459	Date:
		9. Executive signed:			Date:
		10. Original to Council:			Date:

INTERLOCAL COOPERATIVE AGREEMENT BETWEEN
WHATCOM COUNTY
AND
SNOHOMISH HEALTH DISTRICT

THIS AGREEMENT is made and entered into by and between Whatcom County ("Whatcom") and Snohomish Health District, a public entity organized pursuant to the provisions of chapters 70.05 and 70.45 RCW ("Snohomish"); both local health jurisdictions in the State of Washington pursuant to the authority granted by Chapter 39.34 RCW, INTERLOCAL COOPERATION ACT.

1. PURPOSE: This Agreement outlines terms and conditions for Whatcom to provide COVID-related isolation and quarantine to Snohomish Health District residents at Whatcom's COVID Isolation and Quarantine Facility.
2. RESPONSIBILITIES:

Whatcom will:

- A. Provide COVID-related isolation and quarantine temporary housing to Snohomish residents at Whatcom's COVID Isolation and Quarantine Facility (Facility) for up to 14 days, unless a positive COVID test results necessitates a stay of longer duration, to be jointly agreed upon by Whatcom and Snohomish staff.
- B. Whatcom will notify Snohomish of any issues related to non-compliance of the Facility Code of Conduct (See Exhibit A) by Snohomish residents receiving temporary housing at Whatcom's Facility.
- C. Provide onsite COVID testing to Snohomish County residents at the Facility at the same time that testing is provided to Whatcom County residents at the Facility, when capacity exists to do so.
- D. Include Snohomish Health District staff in its daily Isolation and Quarantine staff meetings when Snohomish residents are at the facility.
- E. Invoice Snohomish Health District on a monthly basis for the previous month's bed rate by the 15th of the month following service. Monthly invoices will include a roster of Snohomish residents by day to substantiate the invoice total.

Snohomish will:

- A. Vet all Snohomish residents prior to transport to the Facility utilizing the Byron Referral Form (See Exhibit A) to ensure that guests referred are able to safely stay at the facility and that appropriate agreements are signed by Snohomish residents including the Voluntary Agreement (See Exhibit A) and the Release of Information Agreement (See Exhibit A). Snohomish will not refer any residents who are in a state of detox from chemical dependency or residents who are not able to care for themselves independently in the Facility.
- B. Confirm bed availability and request approval of the referral from the Facility's Onsite Supervisor, prior to transport.
- C. Transport residents to and from Snohomish County and Whatcom's Facility.

- D. Reimburse Whatcom at a rate of \$200 per person, per day for Snohomish residents temporarily housed at Whatcom's Facility, per Exhibit B. Payment by Snohomish will be timely if it is made within 30 days of the receipt and acceptance of an invoice and billing information from Whatcom.
 - E. In the event that Whatcom does not have capacity to provide onsite COVID testing for Snohomish residents, Snohomish will send a testing team to the Facility to test their residents as needed.
 - F. Check in with Snohomish County residents at the Facility daily via telephone for symptom monitoring and other pertinent issues related to their stay at the Facility.
 - G. Return Snohomish residents to Snohomish County for release by Snohomish personnel along with documentation that they were returned to Snohomish County.
 - H. In the event Snohomish is notified of non-compliance to the Facility Code of Conduct by a Snohomish resident staying at Whatcom's Facility, Snohomish will pick up and document the return of the resident to Snohomish County within 12 hours of notification of non-compliance.
 - I. Provide contact information for Snohomish Health District that will be available 24 hours per day, 7 days per week should Whatcom need to notify Snohomish of any issues related to Snohomish residents at the Facility.
 - J. Participate in the daily Isolation and Quarantine staff meetings with Whatcom.
3. TERM OF AGREEMENT: The start date of this Agreement is August 11, 2021, and shall be in effect through September 30, 2021.
4. EXTENSION: This Agreement may not be extended due to the expiration of the lease for Whatcom's facility on September 30, 2021.
5. ADMINISTRATION: The following individuals are designated as representatives of the respective parties. The representatives shall be responsible for the administration of this Agreement and for coordinating and monitoring performance under this Agreement. In the event such representatives are changed, the party making the change shall notify the other party:

Whatcom's representative shall be:

Erika Lautenbach, Director
Whatcom County Health Department
509 Girard Street
Bellingham WA 98225
(360) 778-6005
ELautenb@co.whatcom.wa.us

Snohomish's representative shall be:

Shawn Frederick, Administrative Officer
Snohomish Health District
3020 Rucker Avenue, Suite #203
Everett, WA 98201
(425) 339-5200
sfrederick@snohd.org

6. TREATMENT OF ASSETS AND PROPERTY: No fixed assets or personal or real property will be jointly or cooperatively acquired, held, used, or disposed of pursuant to this Agreement.
7. DEFENSE & INDEMNIFICATION: To the fullest extent permitted by law, Snohomish agrees to indemnify, defend and hold Whatcom 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 Snohomish, its employees, agents or volunteers or Snohomish's subcontractors and their employees, agents or volunteers; or 2) directly or indirectly arise out of or occur in connection with Snohomish's performance of this Contract or 3) are based upon Snohomish or its subcontractors' use of, presence upon, or proximity to the property of Whatcom. This indemnification obligation of Snohomish shall not apply in circumstances where the claim, damage, loss, or expense is caused by the sole negligence of Whatcom.

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 Snohomish, its subcontractors, employees or agents, and Whatcom, its subcontractors, employees or agents, this indemnification obligation of Snohomish shall be valid and enforceable only to the extent of the negligence of Snohomish, its subcontractors, employees, and agents. This indemnification obligation of Snohomish 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 Snohomish hereby expressly waives any immunity afforded by such acts.

It is further provided that no liability shall attach to Whatcom 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. Whatcom 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 Snohomish's indemnity obligations under this Agreement.

In the event Snohomish enters into subcontracts to the extent allowed under this Contract, Snohomish's subcontractors shall indemnify the County on a basis equal to or exceeding Contractor's indemnity obligations to the County.

The parties hereto agree that the indemnity obligations shall survive the completion, expiration or termination of this Agreement. The foregoing indemnification obligations of Snohomish are a material inducement to Whatcom to enter into this Agreement and are reflected in the rate set forth in Exhibit B.

By signing this Agreement Snohomish acknowledges that it has freely negotiated and agreed to the indemnification requirements to defend, indemnify and hold harmless Whatcom from all claims and suits to the extent it is required to do so under Section 7 herein.

8. TERMINATION: Any party hereto may terminate this Agreement upon fifteen (15) days notice in writing either personally delivered or mailed to the party's last known address for the purposes of giving notice under this paragraph. If this Agreement is so terminated, the parties shall be liable only for performance rendered or costs incurred in accordance with the terms of this agreement prior to the effective date of termination.

9. CHANGES, MODIFICATIONS, AMENDMENTS, OR WAIVERS: This Agreement may be changed, modified, amended, or waived only by written agreement executed by the parties hereto. Waiver or breach of any term or condition of this Agreement shall not be considered a waiver of any prior or subsequent breach.
10. SEVERABILITY: In the event of any term or condition of this Agreement or application thereof to any person or circumstances is held invalid, such invalidity shall not affect other terms, conditions, or applications of this Agreement which can be given effect without the invalid term, condition or application. To this end, the terms and conditions of this Agreement are declared severable.
11. ENTIRE AGREEMENT: This Agreement contains all the terms and conditions agreed upon by the parties. All items incorporated herein by reference are attached. No other understandings, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or to bind any of the parties hereto.
12. OTHER PROVISIONS: Snohomish and Whatcom will comply with all applicable Federal and State requirements that govern this Agreement.
13. This Agreement has been approved and authorized by the governing bodies of Snohomish and Whatcom and each party represents that the persons executing this Agreement have been authorized to do so on or behalf of the public entity referenced below.
14. This Agreement shall be posted or recorded by Whatcom required by RCW 39.34.040.

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

SNOHOMISH HEALTH DISTRICT:

Shawn Frederick, Administrative Officer

Approved as To Form:

Grant K. Weed, Attorney for Snohomish Health District

**WHATCOM COUNTY:
Recommended for Approval:**

Erika Lautenbach, Director Date

Approved as to form:

Royce Buckingham, Prosecuting Attorney Date

Approved:
Accepted for Whatcom County:

By: _____
Satpal Singh Sidhu, Whatcom County Executive

CONTRACTOR INFORMATION:

Snohomish Health District
3020 Rucker Avenue, Suite #306
Everett, WA 98201
sfrederick@snohd.org

EXHIBIT "A"
(BYRON FACILITY POLICY MANUAL)

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Introduction and Purpose of the Covid19 Isolation and Quarantine Facility

1. To implement current public health recommendations by offering a quarantine and isolation facility to the identified population consistent with the CDC's definition of a Tier 1 isolation site;
2. To offer a physical location in which the identified population may follow comply with voluntary quarantine or isolation. This location will provide basic services such as food, laundry, assist with access to appropriate medical telehealth services, and some limited and basic support with independently accessing appropriate behavioral health services via telehealth. It is not a medical facility and does not provide medical care.

Population to Be Served

1. Individuals over the age of 18* present in Whatcom County who are determined by a licensed medical provider or public health representative to have minor COVID19 symptoms not requiring medical care or supervision and isolation is recommended; **or**
2. Individuals over the age of 18* who are determined by a licensed medical provider or public health representative to have been exposed to COVID19 and are in need of quarantine in order to protect the general public during the current health care emergency; **and**
3. Any member of the above groups who is also living unsheltered without an option for isolation/quarantine or cannot isolate/congregate at a previous home or group/congregate living setting; **and**
4. Anyone meeting the previous criteria must also be able to manage ADLs without assistance. This includes ambulation, eating, bathing, dressing, taking prescribed medication, and other necessary activities of daily living; **and**
5. Anyone meeting all of the above criteria must also be able to manage their own behavior in a way that is safe to those around them and abide by the Code of Conduct of the Facility; **and**
6. Anyone meeting all of the above criteria who has also signed releases of information allowing communication between all parties specified on the Screening Form for Isolation and Quarantine Facility and has reviewed and signed the guest Code of Conduct form and the Voluntary Quarantine and Isolation form.

*Exceptions may be made in the future with a waiver and discussion with the Manager of the Human Services Division of the Whatcom County Health Department.

Who will have access?

Given this is an isolation and quarantine site, access to the grounds, buildings, and units inside the fenced area will be strictly limited. Facility staff and security will be on-grounds following infection control practices including using PPE as specified in the Infection Control document. They will not enter guest units. Security movements and presence are specified in the Security document within the Logistics section. They will not enter guest units.

Other:

Individuals dropping off items for guests will be met at the gate and will not enter the grounds.

Laundry, pharmacy, food, and other similar deliveries will take place just inside the gate adjacent to the Security structure.

Cleaning personnel will be the only contracted staff to enter rooms and will do so using PPE and other procedures specified in the cleaning contract.

Syringe Services Program staff of the Whatcom County Health Department will come on-site to offer services to guests at guest request. They will follow the Infection Control recommendations of the WCHD including PPE use and disposal.

Emergency medical personnel or law enforcement responding to a 911 call. They have well developed infection control practices specified by their respective agencies.

Last Updated: 11-17-2020

COVID19 Isolation and Quarantine Center No 1 Referral Process and Forms

Referrals will originate from six sources within Whatcom County:

- PeaceHealth St. Joseph Medical Center
- Primary Care Providers
- The GRACE team (including Sea Mar nurse practitioner and Community Paramedics)
- Whatcom County Health Department
- Lighthouse Mission/Base Camp
- Other entities such as Jail in consultation with Whatcom County Health Department

All referrals are required to meet the criteria for isolation or quarantine. PeaceHealth St. Joseph Medical Center will complete the screening via their Bed Control Program staffed by the Social Work Department. The final admission decision will be made by contracted Facility operational staff.

After hour referrals can be made on a case by case basis by:

- PeaceHealth St. Joseph Medical Center
- The GRACE team (including Sea Mar nurse practitioner and Community Paramedics)
- Whatcom County Health Department
- Lighthouse Mission/Base Camp

In the event of an after-hour referral, the referring entity must coordinate with facility staff to see if an admission is possible and if transportation can be arranged. If needed, the facility on-call manager can be contacted for final approval. All paperwork must still be submitted to Bed Control and the Health Department as soon as possible.

- Weekend referrals for patients can be initiated by the community paramedics and depending on other demands, may be able to facilitate this process on Saturdays or Sundays, 8 am to 5 pm. 360-739-9811.

Primary Care Provider Referral Process

Before referrals are started, please ask your client if they have a safe place to isolation/quarantine. If they do not and they are willing to go to the IQF and abide by code of conduct, please start the referral. If they are not, referrals should NOT be completed. IQF is an option if they agree to it, but it is voluntary.

- If referrals meet IQF criteria, referral will be forwarded to IQF
- IQF staff will be available for referrals and admissions between 9 am and 4 pm.
- All guests should arrive at IQF no later than 4pm, unless pre-arranged with IQF
- Referrals received later than 1pm may be deferred until the following day
- Guests can and will be asked to leave if they have code of conduct violations or if they leave the premises without permission

- Guest are able to check out of IQF on their own as this is voluntary
- If guests do leave or asked to leave, IQF will not notify the referring provider

1. Complete the following referral forms (both must be completed)

- Screening Referral form (do not move forward if they don't meet IQF admission criteria)
- Isolation and Quarantine referral form

*If you are completing these forms in person with the potential guest, please complete these forms as well. If you are not, the IQF will complete them when they arrive.

- Code of Conduct
- ROI
- Voluntary agreement

2. Contact Bed control at Peace Health St. Joseph Medical Center. This line is staffed from 8am to 4:30pm daily.

- a. Fax completed forms to bed control at **360-715-4118**
- b. Call Bed control at **360-788-8163** and confirm they have received referral.

3. Bed Control Staff will confirm the following documents have been completed and email to IQF staff: Voluntary Quarantine/Isolation Agreement, Screening form, Referral form, Code of Conduct and a Release of Information.

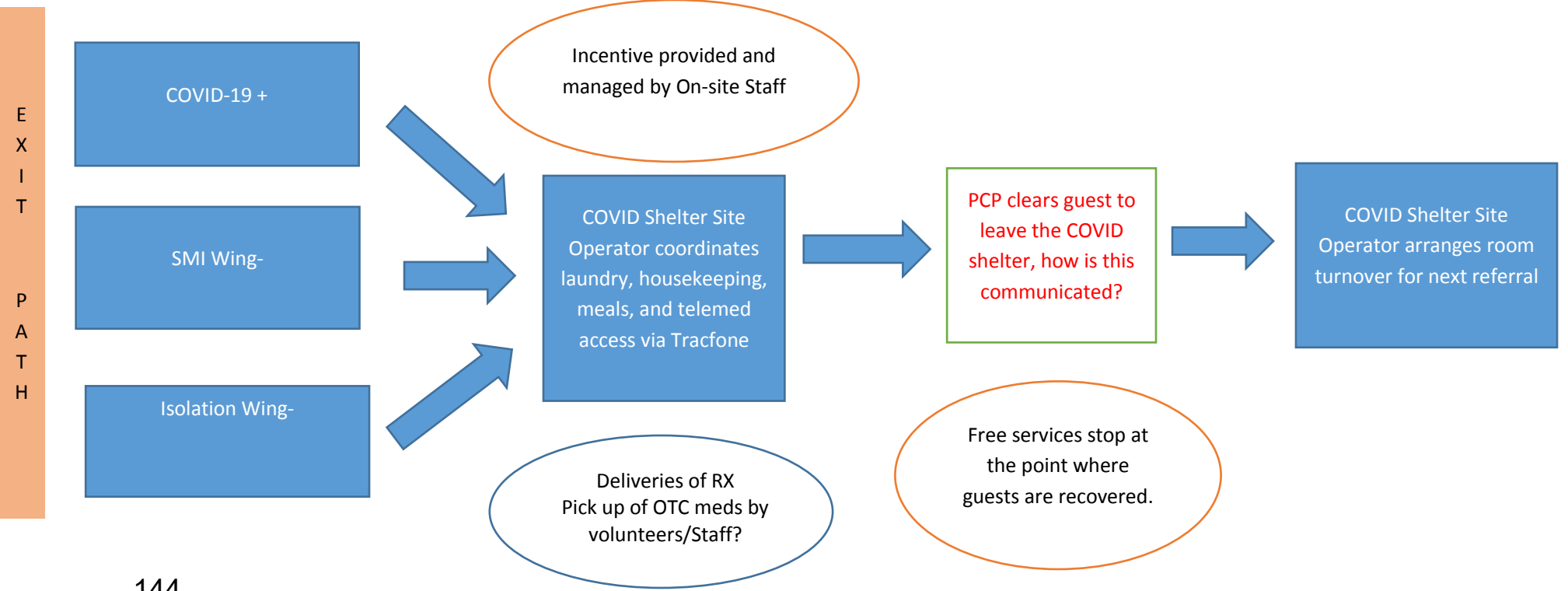
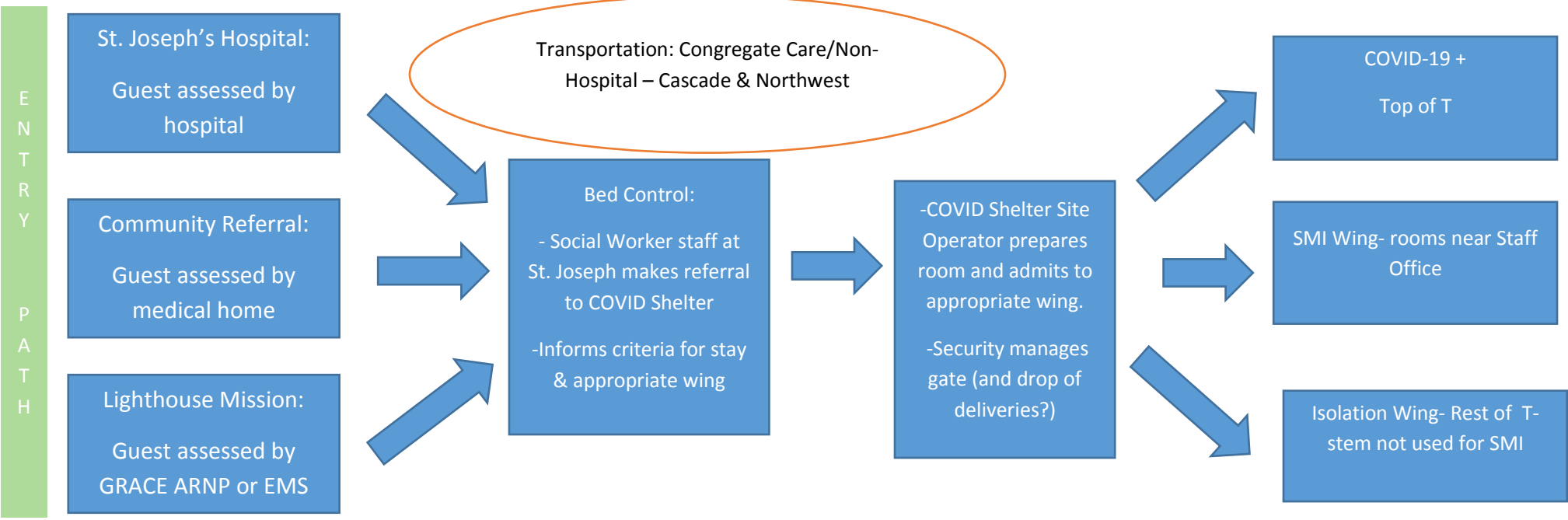
- Transportation to be arranged by the referring facility with Peace Health bed control staff available to assist if the referring agency does not know how. Transport is to be by Cabulance unless another suitable option is available, as they are prepared to use appropriate infection control practices.

4. IQF reviews documents received by bed control and calls the potential guest to confirm admission time between hours of 9am and 4pm.

5. IQF forwards any documents received by Bed Control to Health Department's Quarantine Isolation Response Team (QIRT) email at Health_QIRT@co.whatcom.wa.us

- Whatcom County Health Department will manage isolation and quarantine times for individuals referred to the facility. IQF staff will coordinate with the Whatcom County Health Department to determine if referred clients meet criteria for admission. If it is determined that clients do not meet criteria for admission they will be asked to leave the facility.

Last updated: 2-8-21



**Referral Form for COVID19 Isolation and Quarantine Facility No 1 (Byron Street,
Bellingham)**

Applicant Information

Name: _____

Date of Birth: _____

Cell Phone Number *(indicate if text only)*: _____

Emergency Contact *(if any)*: _____

Contact Info: _____

This form completed by:

Contact Info: _____

Primary Care Provider (Indicate GRACE if not assigned to a provider)

PCP Name: _____

PCP Agency: _____

Contact Info: _____

PCP has been notified?

- ☐ Yes
☐ No

Community Agency Information (e.g., Shelter, other Housing, CORS, HOTeam, Compass, Cascade Medical, GRACE, other. *Star (*) individuals identified as primary information and support*). **Include contact information. PCP's offices may call these agencies to assist in completing behavioral health or housing sections of this form once the ROI is signed. Facility staff are available for consult at 360-594-1396. Complex referrals are likely to be a team effort.**

Health Insurance Information *(indicate none if uninsured)*

Insurance Carrier: _____

ID #: _____

Provider One verification attached.

- ☐ Yes
- ☐ No

Applicant Health History

Name: _____

Date of Birth: _____

COVID Status:

- 1) Individual was exposed to a confirmed case of COVID-19 and is:
 - ☐ Currently asymptomatic
 - ☐ Currently symptomatic
 - 2) Individual developed symptoms consistent with COVID on (Date) _____
 - 3) Symptoms included (check those that apply):
 - ☐ Fever of 100.4 or greater
 - ☐ Cough
 - ☐ Shortness of breath
 - ☐ Headache
 - ☐ Muscle aches
 - ☐ Nausea/vomiting/diarrhea
 - ☐ Other _____
 - 4) COVID test status is:
 - ☐ Not yet tested
 - ☐ Tested on (Date) _____ by (Testing Agency) _____
 - 5) Test results are:
 - ☐ Pending
 - ☐ Negative
 - ☐ Positive
 - 6) Recommendation is:
 - ☐ Quarantine
 - ☐ Isolation
-

Home Health Needs:

Applicant is a candidate for Home Health referral to support COVID symptom monitoring?

- ☐ Yes
☐ No
☐ Other _____

If Yes, has PCP been notified to arrange Home Health?

- ☐ Yes
☐ No

Independent ADLs

Is the Applicant able to:

- ☐ Ambulate indendently
☐ Dress, bath, eat independently
☐ Take own medications independently

Other Health Issues: (Must be self-managed)

Current Medications:

Medication Allergies: (indicate none if no known allergies)

Behavioral Health Status (Information to be used to support applicant needs at the housing facility)

- 1) Does Applicant have a known history of Substance Use Disorder and/or Mental Health Disorder?

 - 2) Is Applicant an Active Drug User? _____
 - 3) Is Applicant interested in or receiving Medication Assisted Treatment?

 - 4) Sharps container or syringe exchange? _____
-

Transportation Needs:

Applicant will need transportation to the facility?

- ☐ Yes (Cabulance)
- ☐ No
- ☐ Other _____

Medication Pick-up Needs

Applicant will need medication pick-up en route to Facility?

- ☐ Yes (Name of Pharmacy/Location) _____
- ☐ No

COVID Testing Needs

Applicant needs to have COVID test arranged through Whatcom County Health Department drive-through testing (360-778-6100)?

- ☐ Yes
- ☐ No

Have the following forms been completed with the applicant to be sent to Bed Control at SJMC with this completed form?

- ☐ Release of Information
- ☐ Code of Conduct
- ☐ Voluntary Quarantine Isolation Agreement

Special Needs:

- Dietary Needs
 - ☐ Diabetes _____
 - ☐ Celiac Disease/Gluten _____
 - ☐ Food Allergies _____
 - ☐ Other _____
- Cell Phone/Electronic Device Access Needs
 - ☐ _____
- Recreational/Leisure Needs
 - ☐ _____
- Other Needs
 - ☐ _____
 - ☐ _____
 - ☐ _____

Additional Notes:

WHEN THIS FORM IS COMPLETED, CALL BED CONTROL AT PEACEHEALTH ST. JOSEPH MEDICAL CENTER. THEY WILL MOVE THE REFERRAL FORWARD AND CONTACT THE FACILITY DIRECTLY. Phone: 360-788-8163. Fax: 360-715-4118.

Screening Form for COVID19 Isolation and Quarantine Facility No 1

Applicant Information

Name: _____

Date of Birth: _____

Referring Agency

Agency Name: _____

Contact Person: _____

Phone: _____

Date: _____

Qualifiers for Admission (as determined by referring agency)

1) Medical/Health Status (at least one of the following conditions must apply):

- ☐ Applicant has been diagnosed with COVID-19
- ☐ Applicant has symptoms suggestive of COVID-19 and is awaiting testing or test results
- ☐ Applicant has a known exposure to a confirmed case of COVID-19 (i.e., identified as a contact of a confirmed case)

2) Medical Provider Consultation (the following condition must apply):

- ☐ Applicant's condition was discussed with a medical provider and a recommendation was given for isolation or quarantine.

- Medical provider's agency, name, and contact information:

- Medical provider's recommendation for isolation/quarantine:

3) Housing Status (at least one of the following conditions must apply):

- ☐ Applicant has own housing, but cannot isolate/quarantine there
- ☐ Applicant lives in a group/congregate setting and cannot isolate/quarantine there
- ☐ Applicant lives unsheltered or in a vehicle and does not have an option for isolation/quarantine

4) Functional Status (both of the following conditions must apply)

- ☐ Applicant is able to independently perform activities of daily living
 - Mobile
 - Bathing, dressing, personal care
 - Independent toileting
 - Taking meds as prescribed and asking for help with filling prescriptions as needed
 - Eating and basic clean-up
- ☐ Applicant is able to manage own behavior in a way that is safe to those around them

5) Age (one of the following conditions must apply):

- ☐ Applicant is 18 years old or older
- ☐ Applicant is under 18 years old and has a waiver for placement in this facility

Checklist of forms to be sent to the Facility

- ☐ Screening form (completed by Bed Control staff)
- ☐ Referral form (completed by the community provider initiating the referral)
- ☐ Voluntary Quarantine Isolation Agreement (community provider completes with applicant)
- ☐ Code of Conduct (community provider completes with applicant)
- ☐ Release of Information (community provider completes with applicant)



VOLUNTARY QUARANTINE/ISOLATION AGREEMENT

I _____ agree to voluntarily QUARANTINE and/or ISOLATE myself, because I may have been exposed to the COVID-19 virus, have symptoms of COVID-19, or have been diagnosed with COVID-19.

Quarantine and isolation both mean that I shall not come into contact with other people. I understand it is very important that I comply with this agreement. My health and the health of others depend on it. I agree to voluntarily go to and remain at the following quarantine and isolation facility:

_____ by _____
(Address) (Date and Time)

I understand that this is necessary based on what is known about COVID-19 and how it is spread. I will need to stay in quarantine for 14 days after my last exposure to COVID-19, and if I develop symptoms while I am in quarantine or I am diagnosed with COVID-19, I will need to be isolated until I can discontinue isolation, a minimum of 7 days after my symptoms started, at least 72 hours without fever, and with improvement in my symptoms. The Whatcom County Health Department will determine when I can discontinue isolation and it is safe for me to leave the facility. I understand that the facility is not a residence. I agree to only remain there for the express purpose of quarantine and isolation. I agree to leave the facility when I am told.

Quarantine and isolation are authorized under the authority of **WAC 246-100**.

I have reviewed the attached information, including the RULES of the facility, and I agree to abide by all of these rules. If, in the opinion of facility staff, I do not abide by the rules, I understand that I may be required to leave.

I have been offered enrollment in Sea Mar, and choose to (Initial one) _____ Accept _____ Decline.

Signature: _____ Date: _____

Acknowledged by: _____ Print Name: _____

Title: _____





ACUERDO VOLUNTARIO DE CUARENTENA / AISLAMIENTO

Yo _____ Acepto voluntariamente CUARENTENA y/o AISLARME, porque puedo haber estado expuesto al virus COVID-19, tener síntomas de COVID-19 o haber sido diagnosticado con COVID-19.

Cuarentena y aislamiento significan que no entraré en contacto con otras personas. Entiendo que es muy importante que cumpla con este acuerdo. Mi salud y la salud de los demás dependen de ello.

Acepto ir y permanecer voluntariamente en las siguientes instalaciones de cuarentena y aislamiento:

_____ by _____
(Domicilio) (Fecha y Hora)

Entiendo que esto es necesario en base a lo que se sabe sobre COVID-19 y cómo se propaga. Tendré que permanecer en cuarentena durante 14 días después de mi última exposición al COVID-19, y si desarrollo síntomas mientras estoy en cuarentena o me diagnostican con COVID-19, tendré que aislarme hasta que pueda interrumpir el aislamiento, un mínimo de 10 días después de que comenzaron mis síntomas, al menos 72 horas sin fiebre y con una mejoría en mis síntomas. El Departamento de Salud del Condado de Whatcom determinará cuándo puedo suspender el aislamiento y es seguro que dejar el centro. Entiendo que la instalación no es una residencia. Estoy de acuerdo en permanecer allí solo con el propósito expreso de cuarentena y aislamiento. Acepto irme del centro cuando me lo indiquen.

La cuarentena y el aislamiento están autorizados bajo la autoridad de **WAC 246-100**.

He revisado la información adjunta, incluidas las REGLAS de la instalación, y estoy de acuerdo en cumplir con todas estas reglas. Si, en opinión del personal del establecimiento, no cumplo con las reglas, entiendo que se me puede pedir que me vaya.

Firma: _____ Fecha: _____

Reconocido por: _____ Nombre: _____

Título: _____



Isolation and Quarantine Facility

Code of Conduct

Let's All Be Safe!

I will keep myself and those around me safe while in quarantine/isolation by:

- Remaining in my room as much as possible and maintaining 6 feet of social distance when outdoors
- Only taking smoke breaks in designated areas
- Maintaining social distance (6 feet) and wearing a mask when outside
- Staying on the property (please don't put others at risk! Or yourself at risk of being asked to leave!)
- Not having any visitors on the property
- Telling friends and family how to drop off items they wish to leave for me
- Asking staff how to get help with any medical or behavioral health needs

I will behave in a respectful manner by:

- Honoring my own dignity as a person
- Treating other guests in a way that honors their dignity as persons
- Following directions from staff/security
- Washing hands, cleaning my personal area as asked, bagging and putting out garbage and laundry as asked
- Respecting the privacy, safety, and need to sleep of those around me

I will avoid behavior that is hurtful or disrespectful by:

- Not putting myself or others at risk
- Not hindering the services that the facility provides
- Not violating the law inside the facility
- Honoring quiet time between 10:00 pm and 7:00 am and being sensitive to others who are in isolation or recovery

Specific behaviors that will not be tolerated at the Quarantine Isolation Facility:

Disrespect for staff, volunteers, or facility

- Arguing with or verbally abusing other guests/staff
- Interfering with the facility's functions or staff's management of those functions
- When my discharge date arrives I will leave as asked by staff and as planned and leave my room in good condition for the next human being who needs it

Violence

- Provoking a fight or making threats
- Physical fights with other people
- Using or threatening to use a weapon

Drugs

- Drug dealing

Harassment

- Teasing or harassing another person -- to include racial, gender, sexual orientation, or disability slurs
- Sexual harassment of staff/volunteers or guests

Other unacceptable behavior

- Smoking inside the facility or places other than the designated smoking areas
- Severe intoxication, impaired judgement, or other behavior that causes disruption to the facility or its function.

Other agreements

- Guests must be fully dressed when using the smoking areas
- Guests are not permitted in any part of the facility other than their own room, the smoking area, or on walks about the property. On walks, please respect boundaries between isolation and quarantine wings, wear a mask, and practice social distance (6 feet)
- Take your personal property with you when you leave at discharge. If you leave the isolation/quarantine facility property before you are discharged, your room may not be available when you return
- No weapons allowed on the property, any pocket knives or other weapons are to be turned in to staff upon admission

Isolation and Quarantine Facility Code of Conduct

Guest Acknowledgment

As a guest of the Isolation and Quarantine Facility, I understand I am expected to honor the previously listed Code of Conduct and guidelines. I also understand that there will be negative consequences if I do not abide by this Code of Conduct and set of guidelines, which may include discharge.

I acknowledge that my participation in programs and use of the facility is voluntary, and that the staff have the right to refuse services to me and ask me to leave the property.

My signature below indicates that I have read and understood the Code of Conduct for any individual utilizing the Quarantine and Isolation Facility. (I also understand I can ask that this document be read to me.)

Name (Please Print)

Signature

Date

Staff Witness

Date

Initials _____

Centro de aislamiento y cuarentena

Código de Conducta

Cómo Mantener la Seguridad de Todos

Me mantendré a mí mismo y a quienes me rodean seguros mientras esté en cuarentena / aislamiento al:

- Permanecer en mi habitación tanto como sea posible y mantener 6 pies de distancia social cuando esté al aire libre
- Solo fumar en áreas designadas
- Mantener la distancia social (6 pies) y usar una máscara cuando está afuera
- Quedarse en la propiedad (¡por favor, no ponga a otros en riesgo! ¡O usted mismo corre el riesgo de que se le pida que se vaya!)
- No tener visitantes en la propiedad
- Decirles a amigos y familiares cómo dejar los artículos que desean dejarme
- Preguntarle al personal cómo obtener ayuda con cualquier necesidad médica o de salud del comportamiento.

Me comportaré de manera respetuosa al:

- Honrar mi propia dignidad como persona
- Tratar a otros huéspedes de una manera que honre su dignidad como personas.
- Seguir instrucciones del personal / seguridad
- Lavarme las manos, limpiar mi área personal según lo solicitado, embolsar y sacar la basura y la ropa según lo solicitado
- Respetar la privacidad, la seguridad y la necesidad de dormir de quienes me rodean.

Evitaré conductas que sean hirientes o irrespetuosas al:

- No ponerme a mí ni a otros en riesgo
- No interferir con los servicios que brinda el centro
- No violar la ley dentro de las instalaciones del centro.
- Honrar el tiempo de silencio entre las 10:00 p. M. Y las 7:00 a. M.
- Y ser sensible con los demás que están en aislamiento o recuperación

Comportamientos específicos que no serán tolerados en el Centro de aislamiento de cuarentena:

Falta de respeto por el personal, los voluntarios o las instalaciones.

- Discutir o abusar verbalmente de otros huéspedes / personal
- Interferir con las funciones del centro o la gestión del personal de esas funciones.
- Cuando llegue mi fecha de alta, me iré según lo solicitado por el personal y según lo planeado, y dejaré mi habitación en buenas condiciones para el próximo ser humano que lo necesite

Violencia

- Provocar una pelea o hacer amenazas
- Peleas físicas con otras personas
- Usar o amenazar con usar un arma

Drogas

- El tráfico de drogas

Acoso

- Burlarse o acosar a otra persona, para incluir insultos raciales, de género, de orientación sexual o de discapacidad
- Acoso sexual del personal / voluntarios o invitados

Otro comportamiento inaceptable

- Fumar dentro de las instalaciones o lugares que no sean las áreas designadas para fumar.
- Intoxicación severa, juicio deteriorado u otro comportamiento que cause interrupción a la instalación o su función.

Otros acuerdos

- Los huéspedes deben estar completamente vestidos cuando usen las áreas para fumadores
- No se permiten invitados en ninguna parte de las instalaciones que no sean su propia habitación, el área para fumadores o los paseos por la propiedad. En las caminatas, respete los límites entre el aislamiento y las alas de cuarentena, use una máscara y practique la distancia social (6 pies)
- Lleve su propiedad personal con usted cuando salga al alta. Si abandona la propiedad del centro de aislamiento / cuarentena antes de ser dado de alta, es posible que su habitación no esté disponible cuando regrese
- No se permiten armas en la propiedad, las navajas de bolsillo u otras armas deben entregarse al personal al ingresar

Código de conducta del centro de aislamiento y cuarentena

Reconocimiento de invitado

Como invitado del Centro de aislamiento y cuarentena, entiendo que se espera que cumpla con el Código de conducta y las reglas mencionadas anteriormente. También entiendo que habrá consecuencias negativas si no cumplo con este Código de Conducta y este conjunto de reglas, que pueden incluir el alta.

Reconozco que mi participación en los programas y el uso de las instalaciones es voluntaria, y que el personal tiene derecho a rechazarme los servicios y pedirme que abandone la propiedad.

Mi firma a continuación indica que he leído y entendido el Código de conducta para cualquier persona que utilice la Instalación de cuarentena y aislamiento. (También entiendo que puedo pedir que me lean este documento).

Nombre (en letra de imprenta)

Firma

Fecha

Testigo del personal

Fecha

Iniciales _____

COVID19 Isolation and Quarantine Facility No 1
Authorization to Release/Disclose
Protected Health Information

Guest Name _____ Date of Birth _____

I, _____, authorize Grace/SeaMar and staff of the Isolation and Quarantine Facility and its partner agencies, which includes staff from the following entities:

- Bellingham Police Department
- Cascade Medical Advantage
- Catholic Community Services
- City of Bellingham Assigned Counsel
- Compass Health
- Department of Social and Health Services (Home & Community Services, ALTSA)
- District Court Probation
- DVSAS
- Ideal Option
- Lake Whatcom Treatment Center
- Lighthouse Mission & Drop-In Center
- Lifeline Connections
- Lummi Health and Human Services
- (Tribal Health Clinic, Behavioral Health, Counseling Services)
- Lydia Place
- Northwest Regional Council
- Northwest Youth Services
- Opportunity Council
(Whatcom Homeless Service Center, Homeless Outreach Team)
- PeaceHealth St. Joseph Medical Center
- Pioneer Human Services
- SeaMar Community Health Clinic
- Sunrise Services
- Sun Community Services
- Unity Care NW
- Whatcom County Emergency Medical Services & Community Health Programs
- Whatcom County Jail
- Whatcom County Municipal Police Departments
- _____
- Whatcom County Public Defenders
- Whatcom County Sheriff
- Whatcom County Specialty Courts
- Yakima County Jail
- YWCA
- Whatcom County Health Department
- Whatcom Unified Command
- Community Health Provider (specify) _____
- OTHER: _____

To communicate with and disclose to one another the following information:

- Initial and subsequent evaluations of my service needs by partner agencies
- Current and past relevant medical and mental health providers
- Past or present mental health problems or diagnoses and current medications
- Current status Covid-19
- Past or present History & Physicals
- Laboratory Reports
- Immunization Record(s)
- Medication Records
- WCHD information and recommendations
- Community medical provider evaluation and recommendations
- Housing Related Information
- OTHER: _____

Please initial next to the following information if you are willing to disclose it:

- Current and past Chemical Dependency Treatment Programs, with dates
- Past or present Chemical Dependency Problems or Diagnoses
- HIV/AIDS Diagnoses and Test Reports
- Sexually Transmitted Disease Information

The purpose of the release/disclosure is to coordinate the following activities: assessment, referral, medical, chemical dependency, mental health, case management, vocational, public health, shelter or housing services.

- My records are protected under Federal 42 and 45 CFR and State confidentiality regulations including 70.02.030, 71.05 and 70.96A RCWs and cannot be disclosed without my written consent unless otherwise provided for in these regulations.
- I may revoke this authorization at any time by submitting a revocation request in writing to: GRACE Program Manager- 800 E. Chestnut St., Bellingham, WA 98225. If I do not, unless I designate a sooner date or unless this authorization is for criminal justice system treatment monitoring, this authorization expires in one year. If I am under the supervision of DOC then this authorization expires at the end of the term of supervision. Any revocation will not take effect if action has already been taken based on the original authorization. Revocation request forms are available on request.
- The recipient of this information, as specified above, may not be required by Federal law to keep the information confidential.
- I understand I have the following rights: 1) to receive a copy of this signed authorization and 2) To refuse to sign this authorization. This authorization allows my various care providers to discuss my needs and develop plans pertaining to my further care. If I refuse to sign this release it will not deny treatment by my individual care providers but will prevent them from coordinating my care. Release of my confidential information to a specific treatment entity not already listed above will require that I sign a separate authorization specific to that program.
- GRACE does not and shall not discriminate on the basis of race, color, religion (creed), gender, gender expression, age, national origin (ancestry), disability, marital status, sexual orientation, or military status, in any of its activities or operations. We are committed to providing an inclusive and welcoming environment for all clients.
- This consent is valid for:

☐ One year or ☐ until _____ (date or event).

- I may revoke or withdraw this consent at any time in writing, but that will not affect any information already shared.
- I understand that records shared under this consent may no longer be protected under the laws that apply to Sea Mar.

A copy of this form is valid to give my permission to share records.

Signature (Patient or Person Authorized to give authorization)

Date

If signed by person other than patient, please print your name, provide reason, relationship to patient, & description of authority

Admission, Room Assignments, Move-in

Policy: At admission each guest will be given a room assignment by Facility staff. Before move-in, facility staff will follow and complete relevant parts of the Move In/Move Out checklist found in the Staffing section of this manual. They will confirm that the room has been cleaned since the last guest left. Staff will place all items specified in procedures in the room before the guest arrives to minimize contact. Staff will escort new guests from the gate to their assigned rooms using Personal Protection Equipment as specified in the Infection Control document. Sea Mar/Grace staff will coordinate the admission decision and time of transport with Bed Control at PeaceHealth SJMC. Sea Mar/Grace staff will also manage the flow and volume of admits based on room and staff availability. They may establish windows of time in which admits can be scheduled (at admit between 8 am and 4 pm).

Procedures:

1. Prior to assigning a room to a new resident, Facility staff will confirm the following are in the room:
 - A welcome packet with instructions, code of conduct, and other information
 - A pre-assembled package with hygiene products
 - Items specified in the Infection Control policy so residents can clean surfaces, wash hands, etc.
 - Telephone for those without (staff will record the phone number in their documentation before placing the phone in the room)
 - Microwave and refrigerator (part of basic equipment at the physical facility)
 - Thermometer
 - Blank log for symptoms
 - Clean linens and a bag for dirty laundry provided by NW Linen per contract with WUC
 - A laminated card with virus information on the wall

Last updated: 4-13-20

Pets

Policy: Guests are allowed to bring existing house trained pets, service animals, and emotional support animals excluding chickens/poultry or poisonous animals. Pets are subject to the same behavioral expectations as human beings in terms of lack aggression, social interaction, and social distancing. Pets must be under the control of their owner by leash or voice command at any time they are outside the resident's room.

Procedures:

1. Owners are responsible for bringing or having delivered/dropped off all food and supplies their animal needs during their stay at the facility including leash, food, litter, etc.
2. Owners will only allow their pet to urinate or defecate in designated areas and will pick up and dispose of feces as directed by staff
3. Owners will follow staff direction, any established schedules, and social distancing while outside with their pets
4. Owners will take care of all of the needs of their pet independently
5. Owner are responsible for any damage done by their pet

Last updated: 4-10-20

Welcome and Be Safe! Please help by doing the following:

How to Be Safe:

- Remain in your room as much as possible
- No one except you is allowed in your room
- Cover coughs and sneezes
- Wash hands frequently
- Avoid sharing personal and household items with other
- When outside, sit at the individual table/chair assigned to your room number
- Exercise is encouraged, in your room or outdoors in designated areas. If you walk:
 - Stay 6 feet from all others
 - Wear one of the masks given to you
- Stay in your room when staff drop things off. They will “drop and knock.” Give them a count of 10 before you open your door
- No visitors allowed, but friends and family may drop bags at the gate for you. Staff will drop off unopened bags at your door.

Check Texts and Answer Calls:

- Staff will have your phone number and call or text about food, laundry and garbage pick-up and drop-off
- The Health Department will contact you to check on any symptoms and track the number of days before you can leave
- Your own health and behavioral health providers may text or call to schedule and have telehealth appointments
- Talking to friends and family is a great way to manage the difficult days in isolation or quarantine

Ask for Help:

Staff can help you find help as you need it. This is a difficult time for you and everyone around you. Let them help so you can stay all of your isolation or quarantine days. Call them at 360-594-1396

Cleaning to be Well:

Public health officials recommend everyone in isolation or quarantine do daily general cleaning of high touch surfaces. You will be given supplies including cloths and a spray bottle. Use gloves when cleaning.

Follow the Code of Conduct: Read and follow the Code of Conduct

Earn Incentives: If you stay until you complete isolation or quarantine you will earn incentives.

¡Bienvenido! Por favor ayude a mantener la salud de todos haciendo lo siguiente:

Cómo mantenerse seguro/a:

- Permanecer en su habitación tanto como sea posible.
- Nadie excepto usted está permitido en su habitación
- Cubra la tos y estornudos
- Lavarse las manos con frecuencia
- Evite compartir artículos personales y del hogar con otros
- Cuando esté afuera, siéntese en la mesa / silla individual asignada a su número de habitación
- Se recomienda hacer ejercicio, en su habitación o al aire libre en áreas designadas. Si caminas
 - Manténgase a 6 pies de todos los demás
 - Use una de las máscaras que le dieron
- Quédese en su habitación cuando los trabajadores dejen las cosas. Ellos "dejan las cosas y tocan". Espere 10 segundos antes de abrir su puerta
- No se permiten visitantes, pero amigos y familiares pueden dejar las maletas en la puerta. Los trabajadores dejarán bolsas sin abrir en su puerta.

Consultar textos y responder llamadas:

- Los trabajadores tendrán su número de teléfono y llamarán o mandarán mensajes de texto sobre la recogida y devolución de alimentos, ropa y basura.
- El Departamento de Salud se comunicará con usted para verificar cualquier síntoma y contabilizar los días antes de que pueda irse
- Sus propios proveedores de salud y salud del comportamiento pueden enviar mensajes de texto o llamar para programar y tener citas de telesalud
- Hablar con amigos y familiares es una excelente manera de manejar los días difíciles de aislamiento o cuarentena.

Pedir ayuda:

Los trabajadores pueden ayudarle a encontrar ayuda cuando la necesite. Este es un momento difícil para usted y para todos los que le rodean. Permíteles que le ayuden para que pueda cumplir todos sus días de aislamiento o cuarentena. Llámelos al 360-594-1396

Limpieza para la salud:

Los funcionarios de salud pública recomiendan que todos los que estén aislados o en cuarentena hagan una limpieza general diaria de las superficies de alto contacto. Se le darán suministros, incluidos paños y una botella con atomizador. Use guantes cuando limpie.

Siga el Código de conducta: lea y siga el Código de conducta

Gane incentivos: si se queda hasta completar el aislamiento o la cuarentena, ganará incentivos.

Bienvenido a la instalación de aislamiento y cuarentena

Esta nueva instalación contará con personal las 24 horas del día, los 7 días de la semana con personal de seguridad, apoyo, consultas médicas y proveedores de salud mental. A medida que pasa el tiempo asignado en cuarentena o aislamiento, queremos hacer todo lo posible para mantenerlo cómodo, saludable y evitar la propagación de COVID 19. Su estadía aquí es voluntaria, y vamos a tratar de hacerlo lo más cómodo posible, como sea posible para garantizar que tanto usted como nuestra comunidad estén seguros.

El personal de este centro desea que su estadía sea cómoda y segura, y realizaremos controles regulares para asegurarnos de que esté bien. Sin embargo, no somos personal médico y no podemos diagnosticar o evaluar adecuadamente su salud. **Si tiene inquietudes sobre su salud, llame a su proveedor de atención primaria o informe al personal que necesita ayuda para comunicarse con su médico y nosotros podemos ayudarlo.**

Llame al 360.594.1396 para comunicarse con el personal si tiene preguntas o necesita necesidades adicionales.

Asistencia de apoyo

Usted ha aceptado permanecer en este centro durante la totalidad de su aislamiento o cuarentena. Como parte de eso, hemos establecido un programa de Asistencia de Soporte que le **brinda \$ 5 por cada 24 horas que permanezca aquí con \$ 10 adicionales el último día de su estadía.** Este dinero será contabilizado por el personal y ellos conocerán el saldo de su "cuenta" en un día determinado.

Este dinero se puede usar de dos maneras:

1. Con el dinero que gana, puede usarlo para comprar artículos de la "despensa" de la instalación
2. Puede ahorrar ese dinero y cuando salga de la instalación con éxito, ese dinero irá en una tarjeta de regalo para que lo lleve consigo
3. Puede gastar algo de dinero en artículos de despensa y salir con su saldo en una tarjeta de regalo al final de su estadía.

Echa un vistazo a la lista de despensa para ver si hay algo que te gustaría comprar con su dinero de "cuenta".

Recibirá lo que quede en su "cuenta" en forma de una tarjeta de crédito Visa al momento del alta y la finalización exitosa de su cuarentena / aislamiento.

Este es un programa de todo o nada. **Si elige irse antes de que se complete su cuarentena o aislamiento, no obtendrá el saldo de su pestaña.** Y si tiene sugerencias sobre lo que debería estar en la lista de la despensa, avísele al personal.

Comidas

Los lunes, miércoles y viernes, recibirá cuatro comidas congeladas, dos para el almuerzo y dos para la cena. Estas comidas serán entregadas en su puerta antes de las 12 pm los lunes, miércoles y viernes. Se proporcionarán todos los utensilios y platos.

Los artículos de desayuno también se proporcionarán y se entregarán a su puerta.

Artículos de despensa

Además de las comidas regulares que proporcionaremos, tiene la opción de gastar dinero de su fondo de incentivos en refrigerios adicionales de la despensa. El personal hará un seguimiento de cuánto dinero ha ganado y cuánto le queda después de haberlo gastado en artículos de despensa.

Llame al 360.594.1396 para pedirle al personal que le traiga artículos de la despensa.

Los artículos de la despensa solo se pueden comprar con el dinero ganado en el programa de incentivos. El personal no aceptará efectivo ni ningún otro método de pago.

Entregas adicionales

Si elige pedir alimentos adicionales u otros artículos para ser entregados a la instalación, llame al 360.594.1396 para informar al personal cuándo llegará la entrega y quién entregará los artículos (es decir, Uber Eats, Instacart, un amigo).

Fundas de cama

Reemplazará sus fundas de cama todas las semanas. **Para las 11 am del martes, le pediremos que se haya quitado las sábanas, las fundas de las almohadas, las mantas y las toallas, y que ponga la bolsa de lavandería morada y salga de la puerta de su casa. Necesitarás usar doble bolsa.** El personal vendrá y recogerá ropa de cama sucia y dejará ropa fresca frente a su puerta. El personal no pondrá las sábanas frescas en la cama, tendrá que hacerlo usted mismo.

La ropa de cama no se lavará en el sitio. **No coloque artículos personales en la bolsa de ropa sucia porque no los recuperará.**

Lavandería personal

Una vez a la semana, podrá enviar su ropa personal para que la laven y la devuelvan. El personal le proporcionará una bolsa para guardar su ropa personal..

Afuera

Puede pasar tiempo fuera de su habitación siempre que **mantenga una distancia de 6 pies de otras personas. Cuando salgas de su habitación, siempre debes llevar una máscara. Si no usa una máscara fuera de su habitación, el personal le pedirá que vuelva a entrar y se la ponga. ¡Gracias por estar a salvo!**

Tenemos mesas etiquetadas con su número de habitación fuera de su habitación que puede usar. Utilice solo la mesa con el número de su habitación. También tenemos toldos adicionales instalados en el estacionamiento como áreas designadas para fumar.

Si desea hacer ejercicio, puede caminar por el perímetro de la propiedad pero no salga de la propiedad y siempre mantenga 6 pies entre usted y otras personas.

Basura

Usted será responsable de sacar su propia basura. Lleve su basura en bolsas directamente a la basura verde a lo largo del lado derecho del estacionamiento, cerca de la puerta. Siempre use guantes y una máscara cuando saque la basura. Deje que el personal si necesita más bolsas de basura.

WiFi

WiFi gratuito está incluido en su estancia. Una vez que se establezca, el personal le dará la contraseña.

Teléfonos de habitación

Para comunicarse con una línea externa, **marque 9** y despues el número de teléfono deseado.

Marque 360.594.1396 para comunicarse con el personal si tiene preguntas o necesidades adicionales.

También puede **marcar 101** en el teléfono del motel para comunicarse con la oficina.

Infection Control and Medical Referral at Isolation and Quarantine Facility

The Facility is for persons without shelter who do not require on-site medical or nursing supervision to safely stay during a quarantine (for exposure to a case or presumed exposure in an outbreak setting) or for isolation (while infectious from confirmed COVID-19 or from presumed infection). Support services are provided, with a harm reduction model of care. The level of COVID-19 isolation and quarantine is based on the guidelines for self-isolation or quarantine at home.

Infection Prevention Measures – In General

Guests

The intention is for the guest to be in isolation/quarantine and follow the DOH guidance for persons with confirmed COVID-19

<https://www.doh.wa.gov/Portals/1/Documents/1600/coronavirus/COVIDcasepositive.pdf>

Guest should be oriented to quarantine/isolation guidelines to include:

1. Remain in room as much as possible.
2. Wash hands frequently with soap and water.
3. Avoid sharing personal and household items with others.
4. Wear a mask whenever leaving the room.
5. When outside, sit at the individual table/chair assigned to your room number.
6. Stay at least 6 feet away from others, including staff and other guests.
7. Guests are responsible to double bag trash and bring to a central disposal area to minimize potential contact with COVID-19 virus for staff.
8. Guests are responsible to double bag linen/laundry and place it outside their door at designated time.
9. Exercise is encouraged either in the room or in an outdoor designated area at designated times to avoid close proximity to others.
10. No one except the guest(s) assigned to the room are allowed inside.

Staff

The goal is to protect staff from infection while working at the isolation facility, and to prevent cross-transmission of virus from one facility to another.

Staff should be oriented to the nature of COVID-19 and review infection prevention guidance carefully. Staff shall:

1. Wear a mask at all times while on site, except while working alone in the office area.

2. Wear gloves while handling items (such as guest laundry bags or trash) that may be contaminated and when cleaning surfaces in common areas.
3. Wash hands frequently with soap and water, including after removing gloves. Use hand sanitizer if wash station is not immediately available.
4. Stay at least 6 feet away from others, including other staff and guests, unless responding to an emergency.
5. Disinfect surfaces regularly in common areas as per Cleaning guidance below.
6. Not enter a guest room unless responding to an emergency.

Staff should be screened on a daily basis prior to coming to work for any signs of illness including:

- Fever (temperature of 100.4 or higher) or
- New onset cough, sore throat, muscle aches, loss of taste or smell

If staff develop symptoms, they should contact their supervisor and primary health care provider for guidance and arrangements for testing.

Staff assigned to work at the isolation facility should not be assigned to work at other congregate facilities during the same shift- it is ok go from the “red Zone” COVID-19 facility to the “Green Zone” clean facility. It is ok to go from the clean zone to the I&Q facility. Staff should wear clean clothes daily.

Personal Protective Equipment (PPE)

PPE measures are taken to block respiratory droplets from staff or guest that can either land on mucus membranes or contaminate surfaces or objects. Current guidance from the Centers for Disease Control and Prevention indicate that surgical or cloth masks are adequate to reduce transmission of COVID-19, when used in conjunction with social distancing. Additional PPE (such as N95 mask, gown, eye protection, and face shield) are only needed for individuals providing direct care or having close contact with guest.

- Masks:
 - Guests will be provided with a supply of surgical masks (approximately 10 per guest, to be replenished if needed) and should be required to wear these masks any time they step out or need to be transported. Guests do not need to wear masks when isolated in their rooms. Used masks shall be put into a lined trash can in the guest’s room.
 - Staff will be provided with surgical masks (at least one per day) and should wear them at all times while on site, but may remove masks while working alone in the office area. A cloth mask is also acceptable. Masks may be hung up on wall in the office while not being worn as long as there is a designated space provided for each staff. Disposable masks can be placed directly into lined trash, followed by hand washing. Cloth masks should be laundered after use in regular wash load.

- Gloves
 - A supply of gloves will be provided for staff.
 - Staff shall wear gloves any time they are handling items (such as laundry bags or trash) that may be contaminated and when cleaning high touch surfaces in common areas
 - Staff shall dispose of gloves in a lined trash bag, followed by hand washing.

Social distancing

Social distancing measures are taken to reduce the likelihood of coming in contact with respiratory droplets from an infected person.

- Minimum 6-foot distance between individuals
 - Guests (both suspect and confirmed COVID -19 positive) and staff will maintain a minimum of 6 feet distance, with exceptions for contact only when required to respond to an emergency.
 - Regardless of the test status of guests and staff, everyone should be considered to be infectious (either through generating respiratory droplets or by spreading infectious material by contact to surfaces) or susceptible to infection (if in quarantine or if not confirmed to have COVID-19 infection).
- Distancing and environmental barriers for guest interviews or meetings
 - Guest interviews or meetings with staff may occur in an outdoor area with both guest and staff wearing masks and maintaining a minimum of 6 feet distance.
 - Interviews may also occur inside a well ventilated room that is large enough to maintain a minimum of 6 feet distance. Room occupancy should be limited to 2 persons unless extenuating circumstances needed for safety; and guest and staff shall wear masks. Barriers such as glass or plastic windows can be an effective solution for reducing exposures and are recommended for inside interview areas.

Cleaning

Environmental cleaning measures are taken to reduce the presence of viral droplets on surfaces.

- Disinfection supplies
 - Common EPA-registered household disinfectants Source or a bleach solution of 4 teaspoons bleach per quart of water can be used to disinfect surfaces.
 - Supplies including cloths and a spray bottle with solution should be made available in each guest room and in staff areas for general cleaning of high touch surfaces
- Guest room cleaning
 - Guests are responsible to do daily cleaning of their rooms
- Common area cleaning
 - Staff shall clean surfaces in common areas including office and shared staff bathroom daily. High-touch surfaces (door handles to public spaces (like hallways and lobbies),

countertops in public spaces, carts, elevator panels, computer keyboard/phones, etc. should be disinfected more frequently (at least 3-4 times daily).

- Contact precautions (gloves) should be used when cleaning potentially contaminated surfaces.

Hand washing and other preventive measures

Handwashing and other hygiene measures are taken to reduce transmission of virus from surfaces to people.

- Staff and guests are encouraged to wash their hands often, including immediately after removing gloves
 - Use soap and water for 20 seconds. If soap and water are not available and hands are not visibly dirty, an alcohol-based hand sanitizer that contains at least 60% alcohol may be used. However, if hands are visibly dirty, always wash hands with soap and water.
 - Key times to wash hands include:
 - After handling any guest items (laundry, trash)
 - After blowing one's nose, coughing, or sneezing
 - After using the restroom
 - Before eating or preparing food
- Staff shall be encouraged not to touch eyes, nose, or mouth with unwashed hands.

Staff

Purpose: The staffing plan and the roles and responsibilities are designed to ensure the safety and well-being of all guests, staff, and the community of Whatcom County during the COVID19 public health emergency. There will be three categories of staff: security, operational management and behavioral health staff, and Lighthouse Mission Ministries (LMM) staff. Each will be addressed separately. All will follow the Infection Control policy and procedures at all times while on site. Operational staff will be available for referrals and admissions between 9 am and 4 pm. They will schedule admissions at specific times.

Roles and Responsibilities:

Security. Security staff will be hired under contract. They will be on-site 24/7. See separate Security document and the applicable contract for specifics. If a guest approaches the gate to leave, security staff will radio onsite staff who will talk to the resident.

LMM staff: LMM staff will be provided per contract by the Lighthouse Mission. They will be on-site 24/7 with specific shift hours to be determined in coordination with Sea Mar/GRACE employees who will serve as operational management. No less than one staff person will be on-site during daytime operations and up to two staff during nighttime operations. Staff will receive direct supervision on-site from Sea Mar/GRACE staff; however, formal supervision and human resources support will be provided by the Lighthouse Mission, their employer.

The following duties are representative of expectations:

- Assist with ordering, picking up, receiving delivery and storage of meals and food supplies
- Drop and dash delivery of food, linen, or other supplies at resident doors as requested
- Will not enter guest rooms (see Infection policies for details) and use PPE as specified
- Guests will be asked to take bagged garbage to a central area per Infection Control standards
- Assist with ensuring regular waste disposal of bagged dirty linens left outside the door of individual units per Infection Control standards
- Assist guests with accessing basic supplies such as toilet paper, band aids, and hygiene supplies
- Assist with facilitating communication between guests and their healthcare providers if a guest is unable to accomplish this independently as requested by Sea Mar/GRACE staff

- Guide and direct guests on appropriate behaviors that promote sufficient social distancing, isolation, quarantine, hygiene and sanitation as consistent with Infection Control practices
- Coordinate with Sea Mar/GRACE staff on the use of motivational incentives with guests in an effort to encourage compliance with all infection control practices
- Coordinate with on-site services that may include cleaning of housing units upon discharge of a guest, security practices and concerns, onsite or telehealthcare provision, access/egress of the property/facility, set-up of rooms in preparation for a new guest
- Assist guests as needed with housing unit issues that may include WiFi access, repairs and maintenance, food or laundry services, or communication
- Assist with completing the MoveIn/MoveOut Checklist as requested by operational staff after the unit is cleaned
- Respond to calls from Security staff if a guest is at the gate and wishes to leave. Sea Mar/GRACE staff will provide guidance in how to approach the situation and will be available on-call for consult in emergent or unusual situations when not on site

Operational Management and Behavioral Health Staff: Staff will be provided per contract with Sea Mar and will be GRACE program staff with education and licensure as determined by Sea Mar/GRACE in their hiring process. Bachelor's degree is preferred.

Operational/behavioral health staff will be present on-site between 7 am and 10 pm (long-term goal, this may vary based on census and staff availability and may start between 8 am and 8 pm). On-call back-up roster will be provided to all Sea Mar/GRACE and LMM staff by Malora Christianson. Sea Mar/GRACE staff will provide direct on-site supervision for LMM staff. They will assess and plan behavioral health support as needed as well as a program of incentives designed to support residents in complying with isolation and quarantine requirements. They will use their knowledge of community resources to assist residents with accessing medical and behavioral health intervention as needed and possible. In addition Sea Mar/GRACE staff have the following responsibilities:

- Receive referrals from Bed Control personnel at PeaceHealth St. Joseph Medical Center
- Confirm that the individual being referred meets admission criteria and that an ROI, a Voluntary Isolation/Quarantine form, and a Code of Conduct Agreement Form are signed by each guest before or at admission. Staff will also confirm that there is a primary healthcare provider available to the resident and that WCHD staff have been notified of the admission.

- Work with WCHD on daily check-ins by WCHD staff to track the individual's progress through isolation or quarantine and to provide and update the projected discharge date
- Coordinate transportation and admission to the Facility with bed control, primary care providers, housing services and shelter staff
- If the screening information indicates that an individual is an active drug user, consult with the WCHD's Syringe Services Program (SSP) as a sharps container and needle exchange services are available. MAT may also be available through Cascade Advantage (Monday-Friday call-in).
- Direct LMM staff in confirming the Move In/Move Out Checklist has been completed for each room prior to and after each resident stay (but only after the room has been cleaned)
- Track status of rooms, i.e. empty and cleaned, needing cleaning, set up and ready for resident, or occupied. Direct staff in setting up clean rooms for the next resident
- Coordinate delivery and storage of meals and food supplies as well as delivery of meals to the outside doorways of guest rooms via drop and dash method
- Call meal counts to food suppliers per Whatcom Unified Command (WUC) direction and consistent with the current census as well as potential admissions between delivery days
- Coordinate reminders to guests of the date/time/process for putting bagged dirty linens outside their doors for pick-up per procedures in the Laundry Policy and Procedure document and Infection Control policies and procedures
- Coordinate daily contact by call or text with all guests to check that basic needs are being met and allow an opportunity for the guest to request behavioral health or medical assistance
- Coordinate access to community health and behavioral health services as requested by guests
- Coordinate pick up of purchases made by guests of personal items ordered and paid for by the guest per WUC parameters. Staff will not purchase OTC on behalf of guests but the guest's own purchases will not be searched or monitored during pickup or delivery.
- Coordinate drop and dash delivery of items left at the gate for guests. Drop offs will not be searched
- Be available to go to the entry gate when Security notifies staff that a guest wishes to leave. Provide telephone support to LMM staff if this occurs when Sea Mar/GRACE staff are not on site

Last update: 4-15-20

Employee Pre-Shift Wellness Check-in

Policy: All employees of Sea Mar or the Lighthouse Mission who will work a shift at the Isolation and Quarantine Facility will receive the daily health screening checklist prior to their first shift. They will self-report 30-60 minutes before their shift as described below. This policy does not replace reasonable expectations that an employee give as much notice as possible if they are not able to work their shift.

Procedures:

1. Prior to their first scheduled shift, all employees will receive the following instructions and checklist. They will be instructed to review it and text or email prior to each shift they are scheduled to work.
2. "If you will be reporting to work at the Isolation and Quarantine Facility today, please review this daily health screening checklist for the period since your last day of work:
 - A new fever (100.4 degrees or higher), or a sense of having a fever?
 - Chills?
 - Repeated shaking with chills?
 - A new cough that you cannot attribute to any other health condition?
 - A new sore throat that you cannot attribute to another condition?
 - New muscle aches (myalgias) that you cannot attribute to another health condition or that may have been caused by a specific activity (such as physical exercise)?
 - A new headache that you cannot attribute to any other condition?
 - A new onset loss of sense of taste/smell?

If you have not experienced any of the above symptoms, text or email "No symptoms"
If you have experienced any of the above symptoms, text or email "Yes, I have one or more symptoms. I will stay home from and call immediately call (or have called) my supervisor."

3. Use phone number: 206-825-0902
Or email: MaloraChristensen@seamarchc.org
4. At this time temperatures will not be taken when employees arrive on site. However, they are encouraged to talk to their supervisor if they begin to experience any of these symptoms during their shift and will have access to an infra-red thermometer at the site. The Facility is trying to reduce the number of items with touch shared between individuals.

Documentation

Policy: Facility staff will track necessary information as directed by Sea Mar/Grace staff. This will include information shared with PeaceHealth SJMC Bed control staff, projected discharge date as provided by public health, room status and availability, and coordination of information which needs to be carried over from shift to shift. Facility staff will also provide documentation as described in the Support Assistance document.

Procedures:

Last updated: 4-14-20

Support Assistance

Policy: It will advance public safety and health if individuals who need to voluntarily quarantine or isolate themselves complete the full number of days of stay recommended by their healthcare providers. Therefore guests of the COVID19 Isolation and Quarantine Facility No 1 on Byron Street are eligible to receive recognition for their successful compliance with health directives for isolation and/or quarantine. Guests who demonstrate compliance will receive \$5 per day credit on their “account.” Upon successful completion of the isolation or quarantine episode and formal discharge, the guest is eligible to receive their remaining credit in the form of a gift card to a local grocery store. The amount of the gift card will be the amount of their remaining credit dollars, rounded up to the nearest ten, as well as an additional \$10 for transition support.

In lieu of the usual policy and procedure format, this document will reflect the written agreement between Whatcom County and Sea Mar.

- The County will work with Sea Mar to monitor the support assistance program and will modify earned credit limits if necessary, in order to optimize guests’ compliance with infection control behavior guidelines.
- During the guest’s stay at the Facility, s/he can use earned credit to “purchase” items from the commissary. These will include food snack, drinks or possibly other items for use and consumption during the guest’s stay
- Sea Mar will manage the support assistance program. The County will work with Sea Mar to price commissary items at a rate that will serve as effective encouragement for the guest to remain compliant with infection control behaviors
- Accounting for the program will include an up-to-date ledger maintained by Sea Mar staff with de-identified Client ID showing:
 1. Each guest’s earned credit per day
 2. Each guest’s “purchase” against his/her credit
 3. Each guest’s total credit balance
 4. Documentation of gift card issuance(s) and dollar amount of each
 5. Close out of each guest’s “account”
- Additional support assistance may also be provided to guests who have immediate unmet needs, and/or who have successfully completed their stay and are ready for transport back to the community. Transition assistance must be reasonable and necessary to meet a guest’s immediate needs for continued health stabilization and welfare. Allowable items for assistance include but are not limited to:
 1. Clothing
 2. Transportation to include bus passes, taxi fares
 3. Rental Assistance

4. Driver's licenses or government issued ID
 5. Medications
 6. Other as pre-approved by the County
- Upon final closure of Facility operations, financial reconciliation will be completed by Sea Mar, and a final invoice for reimbursement will be issued to the County. The attached form will be completed for these expenditures of Support Assistance.

Procedures:

Structure:

- Daily support assistance amounts of \$5 (amount can be adjusted with agreement between Facility staff, Sea Mar, and Whatcom county) will be credited when approved by Facility staff into a commissary –style account.
- During the guest's stay at the Facility s/he can use earned credit to "purchase" items from the commissary. These will include food snacks, drinks or possibly other items for use and consumption during the guest's stay.
- Sea Mar/Grace staff will manage the program.
- Whatcom County will work with Sea Mar to obtain and price commissary items at a rate that will serve as effective encouragement for the guest
- As possible given donations and staff time, guests may receive random surprise gifts going to all guests who have completed another 24 hour period in isolation and quarantine such as donated cupcakes.

Documentation: Sea Mar staff will maintain an up-to-date ledger with de-identified client ID, showing:

- Each guest's earned credit per day
- Each guest's "purchase" against her/her credit
- Each guest's total credit balance
- Documentation of gift card issuance(s) and dollar amount of each
- Close out of each guest's "account"

At Discharge:

- Upon successful completion of the program, the guest is eligible to receive their remaining credit in the form of a gift card to a local grocery store
- The amount of the gift card will be the amount of their remaining credit dollars, rounded up to the nearest ten.

At final closure of Facility operations: Upon final closure of facility operations, financial reconciliation will be completed by Sea Mar and a final invoice for reimbursement will be issued to the County per contract.

COVID19 I&Q Facility No 1 MOVE-IN / MOVE-OUT CHECKLIST

Room No.:

Pre-rental Assessment Date:

Post-rental Assessment Date:

[illegible]

OTHER COMMENTS:

Health Care

Policy: The COVID19 Isolation and Quarantine Facility No 1 does not provide health care of any kind and is not a medical facility. The Facility provides housing and residents are expected to care for themselves as would any individual who is in voluntary isolation or quarantine in their own homes. Staff may, at the request of guests, assist them in contacting their health care providers or other community health resources as listed below. If guest behavior is observed that any reasonable person might consider an urgent or emergent event, then staff might act as any Good Samaritan might act by contacting urgent or emergent medical assistance if the resident is unable to make a request themselves.

Staff will facilitate acquisition of telephones for guests so that they independently may initiate and receive telephonic communication with their health care providers.

Resources:

- Resident's own community health provider
- Resources available to GRACE members such as limited ARNP consult or community paramedics
- Whatcom County Health Department as follows:
 - M-F 8:30 am – 4:30 pm
 - Call 360-778-6100 and ask to speak with a nurse
 - After hours and on weekends for unplanned discharge notification, etc.
 - Call 360-778-6150 and leave a message on the Communicable Disease Line
 - WCHD emergency on-call 24/7
 - Call 360-715-2588 (would be authorized by Facility Operational Manager)
- Publicly available emergency medical services
- Home Health – home health availability and parameters if being worked on by a sub-group including Bed Control staff at SJMC. Contact them for current information
- Pharmacy – see chart of local pharmacy hours and delivery options for guest use

Behavioral Health

Policy: The COVID19 Isolation and Quarantine Facility No 1 is not a behavioral health treatment program. Guests may continue to receive existing services or initiate new services via call, text, or telehealth as they would if in isolation or quarantine in their own home. However, information coming from comparable facilities elsewhere indicates the primary reasons people leave isolation or quarantine are depression, anxiety, or an urge to seek drugs. Therefore, staff with behavioral health backgrounds will be on premises from 7 am to 10 pm daily with on-call availability 24/7. These staff will support guests in requesting access to behavioral health services as necessary for their well-being and to promote compliance with isolation and quarantine recommendations. Given this is not a treatment facility, community resources will be listed in lieu of procedures.

Community Resources:

- The guest's pre-existing behavioral health providers
- On-line or telephone self-help groups
- Referral to new behavioral health providers
- Referral to Cascade Advantage (MAT) *
- Mobile Crisis Outreach Team (MCOT) is available through VOA and has a team that includes Mental Health Professionals (MHPs), Chemical Dependency Professionals (CDPs), and Peer Counselors
- VOA crisis/support line

*Cascade Advantage services are available to guests at their request. The agency has committed to offering telehealth services and specializes in MAT. In addition the agency will provide Narcan for the site (Narcan training by WCHD). Cascade Advantage schedule and contact information is as below.

CMA main line	360 927 1502 (M-F 8-4:30)
Eric Harry	360 410 4939 (M-F 8-4:30)
Steve Bass	360 739 2200 (M-F 8-4:30)
Scott Elzea	360 410 4014 (M-F 8-4:30)
Natalie Andrews	360 393 2217 (M-T * Peri-Natal Public Health RN, High Risk pregnancy only).

Call to set enrollment appt. (typically same day).

Last updated 4-15-20

GUEST PHARMACY INFORMATION

<p><u>HAGGEN —</u> (All Haggen's with pharmacies) Meridian - 360-671-3305 Barkley - 360-715-5321 https://pharmacy.haggen.com/hgweb/#/home</p> <p>Services:</p> <ul style="list-style-type: none"> • Delivery (free) • Pick up, curbside • Mail Delivery- (receipt in 2 days to 1 week) (non-controlled meds., possible OTC) <p>Hours: M-F 8AM-8PM, Sat 9AM-6PM, Sun 10AM-5PM or 6PM</p>	<p><u>HOAGLAND's – 360-734-5413</u> https://www.hoaglandpharmacy.com/</p> <p>Services:</p> <ul style="list-style-type: none"> • Free Delivery of prescriptions • Free delivery of Over the Counter (OTC) medications if accompanied by prescription • \$8.00 delivery fee OTC, not with script <p>Hours: M-F 9AM-6PM, Sat 9AM-5PM. Sun closed</p>
<p><u>FRED MEYER – 360-738-4243</u> https://www.fredmeyer.com/ (Lakeway Dr.)</p> <p>Services:</p> <ul style="list-style-type: none"> • Delivery (free) • Drive-up • Walk-up • Delivery for OTC=\$9.95, like grocery • (No inhalers, refrigerated items or controlled substances) <p>Hours: M-Sat 9AM-7PM, Sun 11AM-6PM</p>	<p><u>RX MART – 360-933-1401</u> https://www.rxmartpharmacy.com/</p> <p>Services:</p> <ul style="list-style-type: none"> • No delivery • Curbside pickup at store <p>Hours: M-F 8AM-7PM, Sat 10AM-5PM, Sun 10AM-3PM</p>
<p><u>RITE AIDE – 360-657-4410</u> https://www.riteaid.com/shop/ (All pharmacies)</p> <p>Services:</p> <ul style="list-style-type: none"> • Free Delivery by Mail • Delivery time is unknown • No OTC, but can ordered online <p>Hours: M-F 9AM-9PM, Sat 9AM-6PM, Sun 9AM - 9PM</p>	<p><u>WALGREENS – 360-303-3679</u> https://www.walgreens.com/store/catalog/shopLanding (Samish Way)</p> <p>Services:</p> <ul style="list-style-type: none"> • No delivery • Will gather & box items, both OTC and scripts • Pick up Only <p>Hours: M-F only 9AM-7PM</p>

Scripts= Prescriptions

OTC= Over the Counter Medications

Physical Plant

Policy: In response to the COVID-19 public health emergency, Bellingham Motel 6 is being converted into a facility intended to offer a location for individuals for whom voluntary isolation or quarantine has been recommended who do not have another option. This is not a secure facility and is not intended to be used as any type of detention or containment facility that restricts any constitutionally guaranteed freedom of movement. It is also not a medical facility. In order to improve the odds that guests will complete their recommended periods of isolation and quarantine, Wi-Fi and Internet will be provided. Contact: Pacific Security. Richard Dent. DENT_Richard@g6hospitality.com

Procedures:

1. Up to 60 rooms on two separate floors and 2 wings will be available per contract with Motel 6
2. Cyclone fencing will be installed around the perimeter of the property with primary access point being the established driveway to the South
3. A portable guard shack will be established adjacent to the entry gate for on-site security
4. CCTV cameras will be installed as needed; with a recommendation of 11 minimum which would provide as much coverage as possible, deferring to the company
5. Basic amenities available in each room and to each resident include bed with clean linens, a bathroom used only by the resident(s) of that room, a microwave, and a refrigerator
6. Pets are allowed
7. WCHD personnel will complete a walk-through of the site with the Sea Mar/GRACE operational manager before the site is open to guests. WCHD will help identify areas to be used and how to use them for staff, storage, garbage, clean and dirty linens, etc. in order to follow sound infection control practices

Last updated: 4-15-20

Security

Policy: Security personnel will be on-site 24/7 under contract with Pacific Security. They will follow infection control practices as specified in the Infection Control document. Contact information: Bud Tweten, Vice President. 425-330-1341. bud@parkercorporation.com

Policies:

1. Security personnel will be responsible for access control with each resident of the facility being provided ID to verify access into the facility
2. Security personnel will provide a visible deterrent to criminal behavior with routine security patrols around the exterior of the grounds
3. Security personnel will observe and report suspected criminal activity to Whatcom dispatch
4. It will be at the discretion of the responding police agency whether to send officers to the facility based on the nature of the report.
5. If law enforcement is called and responds to calls to this address or surrounding areas it is expected that they will follow CDC Interim Guidance for Emergency Medical Services. Care should be used with all interactions related to this address. Recommended PPE includes:
 - Facemasks (e.g. surgical masks), or respirators (e.g. N95 or greater)
 - Gloves
 - Eye protection
 - All personnel should avoid touching their face while working

Security Detail Guidelines-Isolation and Quarantine Facility

This facility was created to provide housing for people in our community that have come in contact with COVID 19 and don't have the ability to isolate or quarantine themselves. This new facility will be staffed 24/7 with security, support staff, medical consultation and Mental Health Providers. As folks spend their allotted time in quarantine, we want to do everything we can to help them stay put, get healthy and prevent the spread of COVID 19.

As the IQF's security you will be supporting the staff, the guests and the community. Having your presence here protects the property and the health of everyone at the facility.

During your shift here, we ask that you follow these guidelines.

1. Your main task is to watch the front gate. We are trying to regulate who is allowed on the property. If someone pulls up to the gate, identify who they are before letting them in.
 - **If a person comes up to the front gate and they are not staff, service deliveries (NW Linen, Maple Alley Inn, Service Masters, etc.), additional support from the City of Bellingham or Whatcom County, radio the staff and ask if they should be allowed in the facility.**
 - IQF staff should have badges with a red lanyard that identifies them as staff members.
 - Family members or friends of guests shouldn't be let into the facility unless staff tells you otherwise. If they are dropping something off for a guest, radio staff and we can come pick it up at the gate.
 - Guests might also be receiving deliveries from local businesses. Please radio staff and they will come out and get the items for the guest.
 - If you are unsure if a person should be allowed in the facility, radio the IQF staff.
2. **You will always wear a mask when you are outside of the security building.** Please follow social distancing guidelines and maintain a six-foot separation. You do not have to wear a mask when sitting inside the Security area but you will need to put one on when you are opening the gate, doing rounds or around another person.
 - If you see guests not following social distancing guidelines, gently remind them if you feel comfortable doing so or radio staff and let them know.
 - Guests are asked to wear a mask when they are outside of their room. If you see someone outside without a mask, gently remind them that we ask that they wear one outside or radio staff and let them know.
3. It is your responsibility to periodically complete rounds of the facility. Ensuring the property is safe and secure.
4. Information of who is staying at the facility and how the facility is being run, is confidential.
 - If someone comes to the gate asking if someone is staying there, please let them know you cannot confirm or deny who is staying at the facility. And that you'd be happy to take a message and pass it along if possible.
 - If there is a media request, please don't speak on behalf of the facility. Get the person's name and number and pass that information along to onsite staff.
 - If you have any questions about the confidentiality requirements of this position, please let staff know.

5. If a guest asks you for something, feel free to help them or contact staff to help them. If you are uncomfortable or unsure about any request, ask staff and they will help. Always maintain a minimum of 6 ft. between you and other individuals (guests and staff).
6. If you have any concerns about guests or the facility, let staff know.
7. The bathroom in Room 100, has been identified as the restroom for security. If you need more supplies for that bathroom, please just let staff know. Please take out the trash from that area if it becomes full during your shift.

Staff are onsite 24/7. If you have any questions, ask us over the radio, or come find us at the facility. Our office is in rooms 101 and 102.

Thank you for your support!

Laundry

Policy: To provide clean linens consistent with infection control practices. Linens will be provided to each room at check-in and once per week including 1 pillowcase, 2 bath towels, 2 hand towels, 2 wash cloths, and 1 bath mat. In addition 1 sheet set and 2 blankets from Motel 6 will be laundered one time per week. Linens will be laundered under an agreement with Northwest Healthcare Linen. Contact person: Driver, Steve Pitzer, cell 360-739-8809. Or 360-739-6505, Kelsey

Linens Procedures:

Northwest Healthcare Linen will:

1. Come to the Facility once per week on Wednesday to pick up the soiled linens
2. Provide specific soil linen bags, to be used double bagged
3. Provide a cart to use to pick up the soiled linen bags
4. Transport, wash, dry, fold, and package linens
5. Deliver clean linens on Friday

Onsite staff will:

1. Staff will track linen supply and initiate problem-solving at least 2 days before NW Linen timelines if they believe there will be a shortage
2. Facility staff will leave a set of clean linen in each clean room prior to admit.
3. Send out text reminders to all guests of the day/time when they need to double bag their soiled linens and leave the double bagged linens outside their door for pickup
4. Collect double bagged soiled linens from the outside of each room on the morning of pickup.
5. Drop off packages of clean linens outside resident doors on the same day as pickup of soiled linen
6. Bags of soiled linen are to be placed directly into the carts provided and the carts are to be left at the location agreed upon by facility staff and Northwest Healthcare Linens for pickup.

Last updated: 4-29-20

Personal Laundry

Policy: In order to support and encourage guests to remain until they have completed their quarantine or isolation time period, weekly personal laundry services will be available to guests under agreement with Brio Cleaners per written agreement with that company and infection control practices.

Brio Contact information: Primary telephone number: 360-733-9301

Address: 2317 James St, Bellingham, 98225

Owner Contact: Colleen Unema 360-929-3539

Procedures:

1. Staff of the Isolation and Quarantine Facility (IQF) will provide guests with laundry bags on each Thursday afternoon
2. IQF Staff will prompt guests to put personal laundry in a bag, then double bag it and put it outside their door
3. Staff will pick up the bags of personal laundry, following infection control recommendations, write the room number on the bag, then place the bag in the lobby breezeway hallway
4. Brio staff will pick up the bagged laundry at 9am on Friday
5. Brio staff will call IQF staff to notify when laundry is ready for pickup (usually by 9am on Saturday)
6. IQF staff will pick the packaged laundry up at the Brio Cleaners building
7. IQF staff will deliver the packaged laundry to each guests' door

Cleaning

Policy: Cleaning consistent with Infection Control parameters will be provided under contract by Service Master Cleaning. The contract is for cleaning services, on a per unit basis, in a COVID19 positive environment to protect the health and safety of the temporary residents and staff. Scope of work includes the information that all units have laminate flooring, no upholstered furniture and have polyester blinds (one side vinyl).

Contact: Sam Roth, owner 360-733-7788, sam@smcbr.com

Procedures:

Contractor will provide:

- Initial cleaning of 10 units of 10 recently occupied rooms
- Weekly cleaning of all occupied rooms on an as-needed basis up to the maximum of 60 rooms
- Final cleaning of individual rooms as they are vacated to ready for the next guest
- Weekly cleaning of common areas
- Cleaning in accordance with CDC standards
- And use EPA-registered disinfectants from List N according to label instructions (<http://www.epa.gov/pesticides-registration/list-n-disinfectants-use-against-sars-cov-2>)
- Staff and ensure they have necessary training and wear appropriate PPE for exposure to disinfectants and patients with COVID-19

Services will include but not be limited to:

- Weekly work scope
 1. Air out rooms for as long as possible
 2. Mop hard floors
 3. Vacuum permanent rug mat at front door
 4. Wipe down all surfaces with approved cleaners
 5. Clean bathroom with approved cleaners
 6. Mist entire room and wet wipe all touch points using List N disinfectant
- Turnover and initial cleaning of 10 units work scope
 1. Full weekly work scope
 2. Shampoo rug mat at front doors
 3. Wipe walls
 4. Clean blinds
- Weekly Common Areas (Guard Shack, Lobby, Outdoor Chairs, Tables and Railings)
 1. Mop hard floors
 2. Wipe surfaces with approved cleaners
 3. Mist and wet wipe touch points using List N disinfectants
 4. Wipe tables, chairs and railings with approved cleaners

Food

Policy: The COVID19 Isolation and Quarantine Facility will provide the equivalent of two meals per day 6 days per week prepared by Maple Valley Inn and delivered to the facility frozen on Monday, Wednesday, and Friday by volunteers from the Volunteer Center. Facility staff will provide census counts, receive, store, and distribute meals. All meals would be intended for use with the mini fridge and microwaves currently in the Facility rooms. Breakfast supplies will be provided. Sunday meals will be by donation.

Procedures:

1. Facility staff will receive delivery of the frozen meals and shelf stable milk for breakfast cereal as delivered by Maple Alley Inn on Monday, Wednesday, and Friday as scheduled. Delivery will be made by volunteers from the Volunteer Center and coordinated by Maple Alley Inn. The Maple Alley Inn coordinator, Anne Poulson (360-739-7335 or anne_poulson@oppco.org), will be that agency's primary contact for coordination with facility staff.
2. Facility staff will be asked to call in a projected count every Friday for the next week. They will call to update as the week goes on, keeping in mind that 2 days notice before a delivery day is optimal.
3. Staff will store extra frozen meals in anticipation of admissions in a fridge in an empty room (if this becomes an issue, they may discuss options with WUC).
4. Breakfast cereal and fruit will be supplied by WUC and staff may distribute a box of cereal per week to guests.
5. Facility staff will distribute frozen meals, breakfast supplies and other food to guests along with food items as specified in the Support Assistance Policy and Procedure document
6. All meals will be packaged in disposable materials and guests will be instructed to put packaging in the garbage container in their rooms.
7. All deliveries will be made in a manner consistent with Infection Control Policies and Procedures, the drop and dash method.
8. Sunday lunch procedure is as follows: McDonald's will provide lunch on Sundays. Call Jason Cory (360-389-0800) on Sunday morning by 9:00 with guest count. Identify yourself as the COVID19 Isolation and Quarantine Facility and ask for meals to be ready for pick up by noon (this is flexible if earlier or later is better, see how it goes) from the Samish Way McDonalds. Remind them that the meals must be individually packaged so they can be delivered to each guest separately. (McDonald's has asked that staff try to get a photo of the bags of food for a Facebook post. No photo should include guests.)
9. Sunday dinner will be individually wrapped 2 slice packages of Pizza from Little Caesar's on Lakeway. Facility Staff are to call Pam at the Lakeway store on Sunday morning with the orders (360-647-7749). Facility Staff are to pick up the pizza at the Lakeway Store. For any questions, call the owner Ray (360-303-2293).

Garbage

Policy: Regular garbage pick-up from the site will be done by SSC as contracted. Guests will be responsible for taking their own bagged garbage from their room to the totes. Staff may send out text reminders prior to garbage pick-up day.

Procedures:

1. SSC will provide:
 - 6 60 gal totes for the site
 - 4 yd cardboard box
2. Guests are to bag and put their own garbage into cans
3. Staff is to:
 - Supply garbage bags for rooms/guests
 - Space totes 5-6 feet apart on pick-up day for ease of pick-up, see additional notes and image from SSC below*
 - May text reminders to guests prior to pick-up day
4. Contact person at SSC if there are questions:

Rodd Pemble, *Recycling/Safety Manager*

Sanitary Service Company Inc.

21 Bellwether Way Suite 404 • Bellingham, WA 98225

Cell 360-815-1098 • Fax 360-671-0239 • Direct 360-527-9785

Rodd@ssc-inc.com

*** Notes**

1. Please have the 6 garbage totes along the right side of the parking aisle as shown on the next page, 6' apart so the driver can back the sideload in and grab each in order. **Please stage by 6:30 am every Thursday morning.**
2. Please ask your staff not to move the cardboard container. The driver will roll out, dump, and put back. No styrofoam or plastic, ONLY flattened boxes.
3. If a temp fence is not being placed, leave one empty parking stall next to our containers in case wind blows a toter, it won't immediately hit a parked car. A few concrete parking stop between the stalls would help cordon them off.



Last updated: 4-15-20

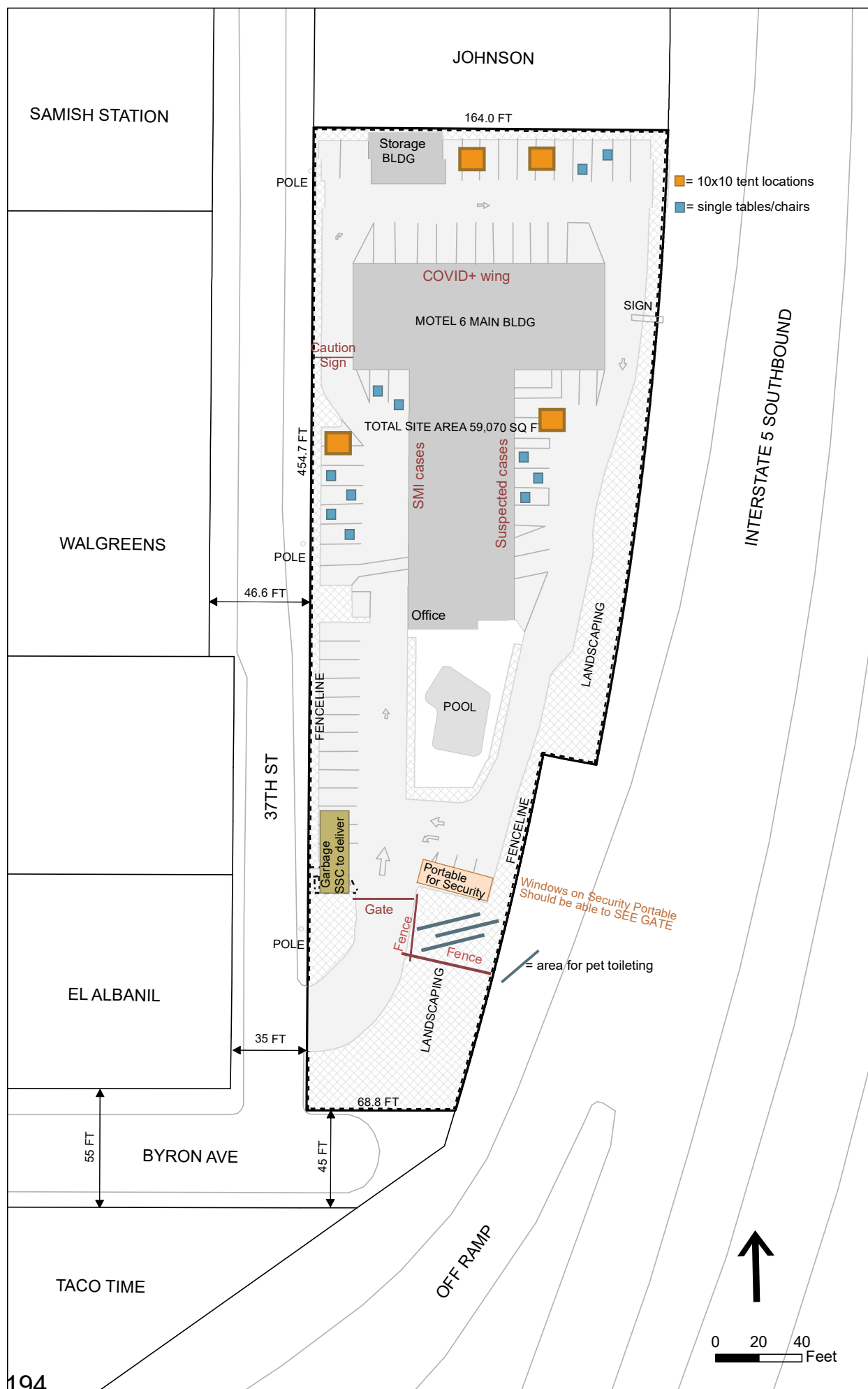
Transportation

Policy: Transportation to the facility will be provided if needed.

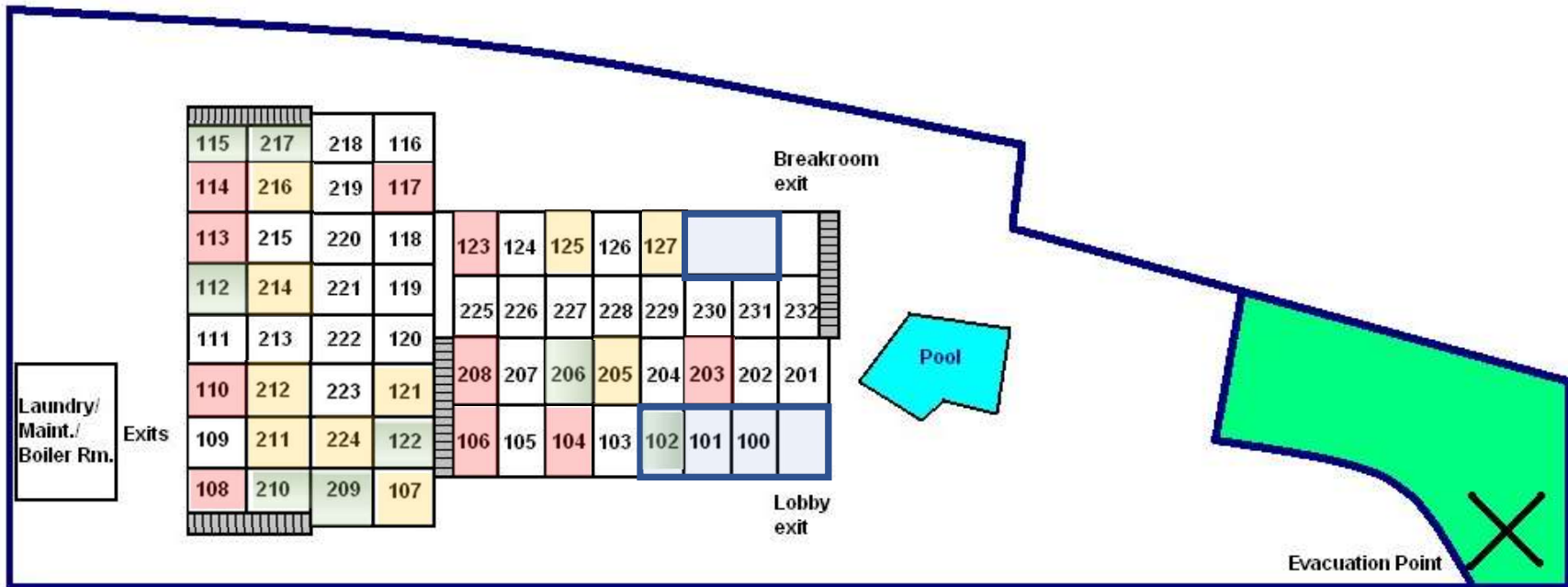
Procedures:

1. Bed Control staff from PeaceHealth SJMC will screen and refer. They will also coordinate admission with Facility staff.
2. Bed Control staff will coordinate and schedule transportation via Cabulance form SJMC to the facility. Cabulance services have their own established infection control practices.
3. Bed control staff will assist other community agencies referring an individual to the facility with setting up transportation via Cabulance. They may advise as to available payment mechanisms.

Last updated: 4-15-20

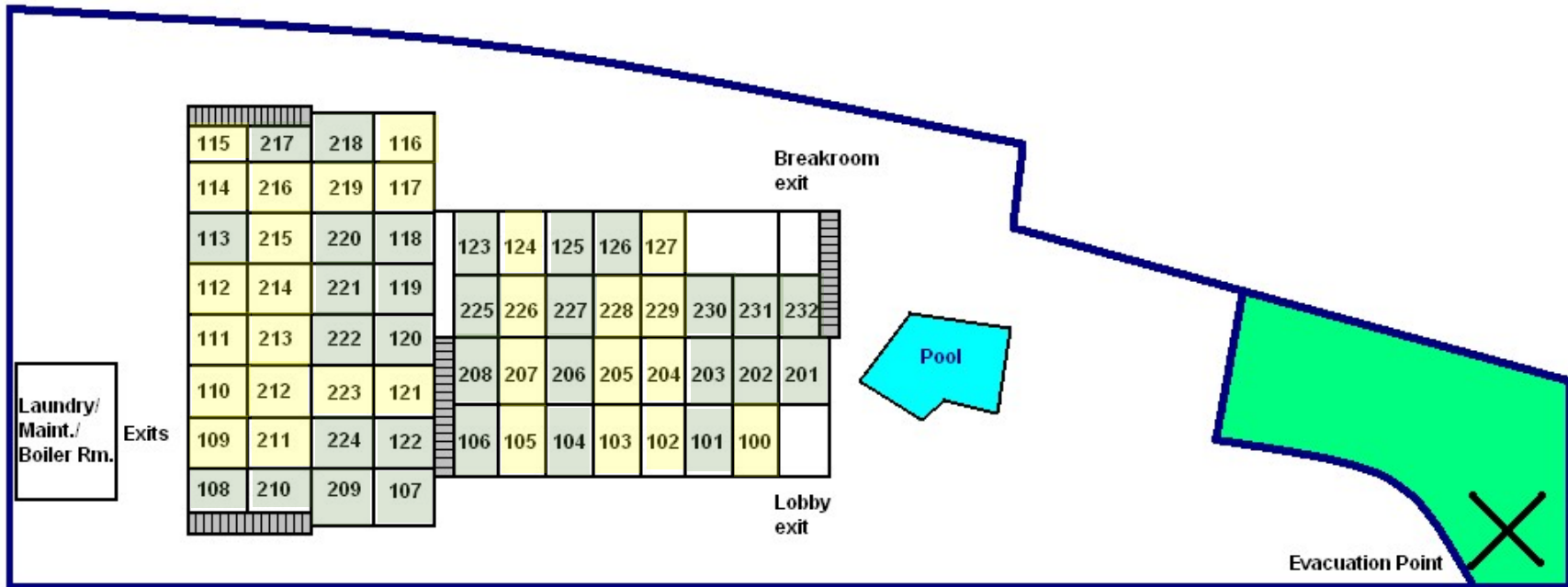


M6 Room Configuration



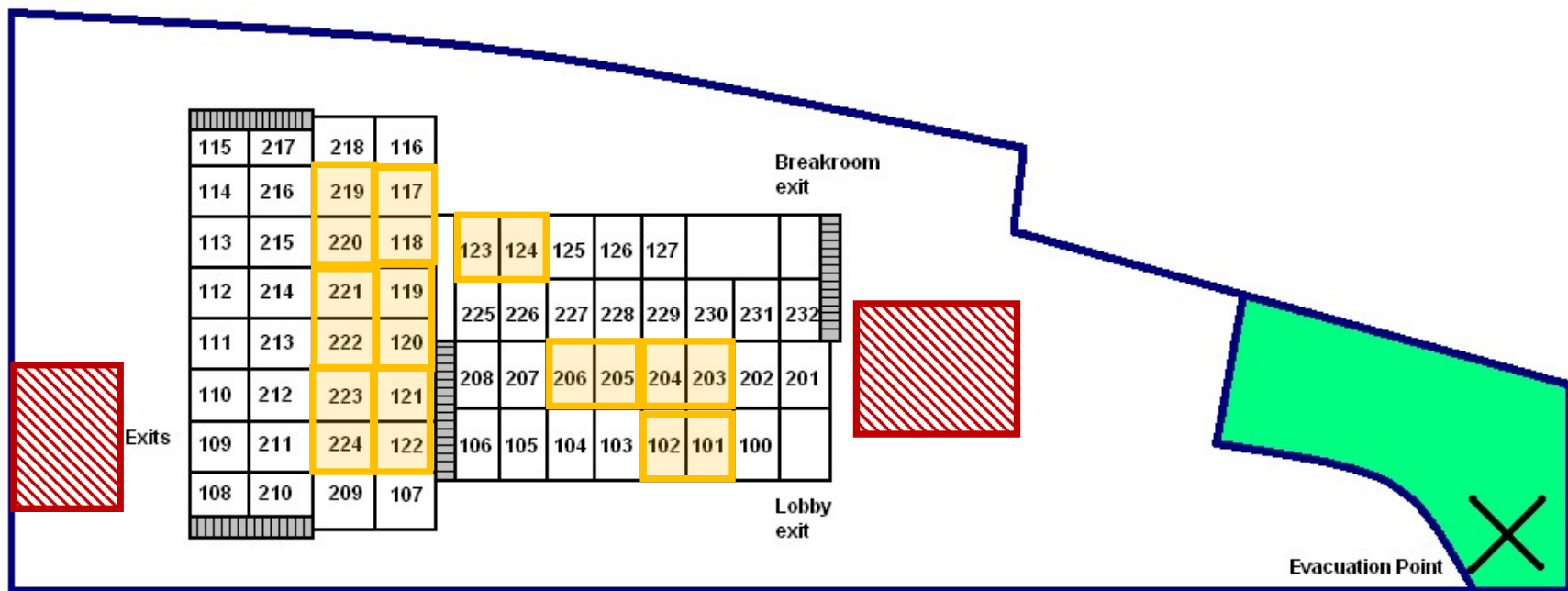
- Initial rooms for Isolation & Quarantine
- Secondary rooms for Isolation & Quarantine
- Staff designated use areas
- Occupied (as of 4/10)

M6 Room Configuration



- Single room, most have queen sized beds, 4 are ADA and have full sized beds
- Double room (note, these have had the second bed removed), all with full XL sized beds

M6 Room Configuration

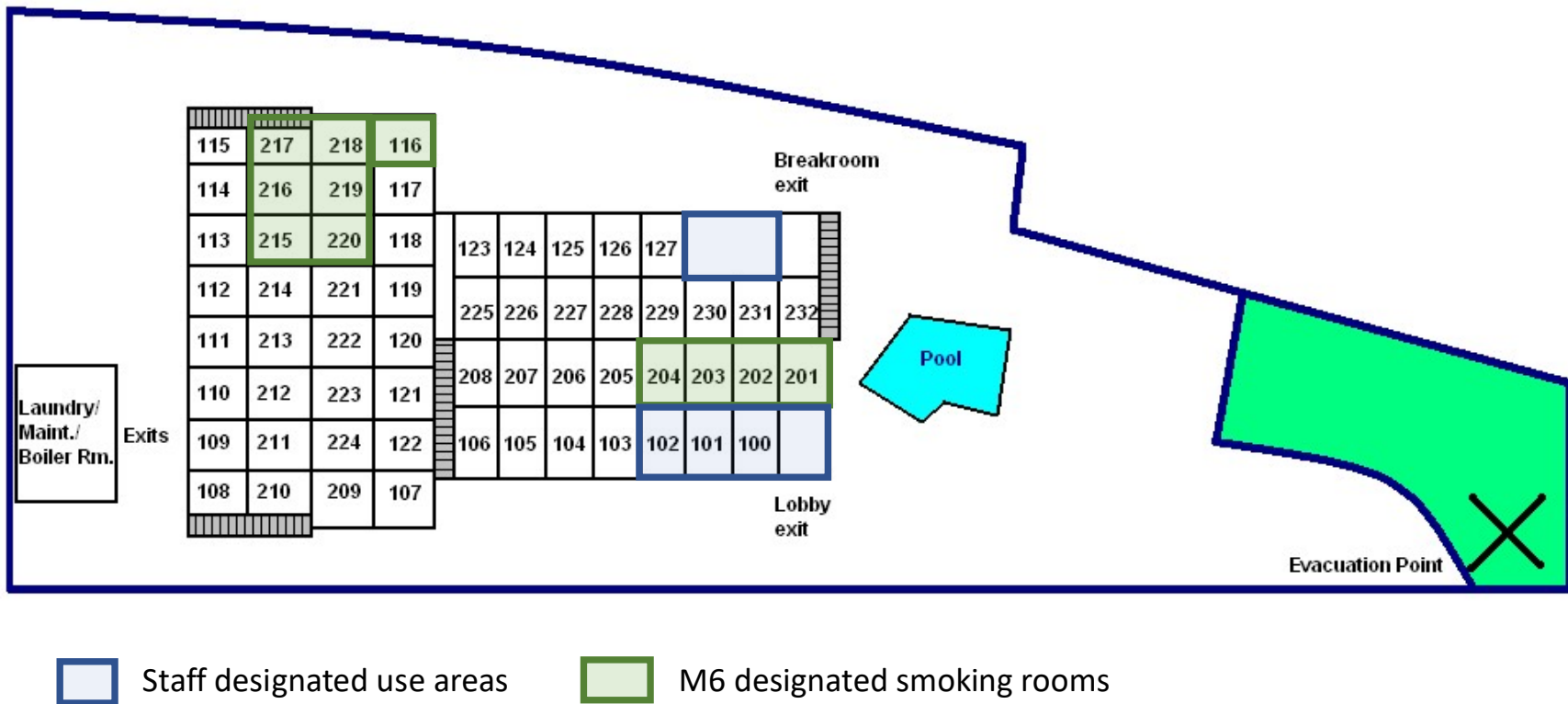


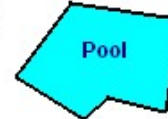
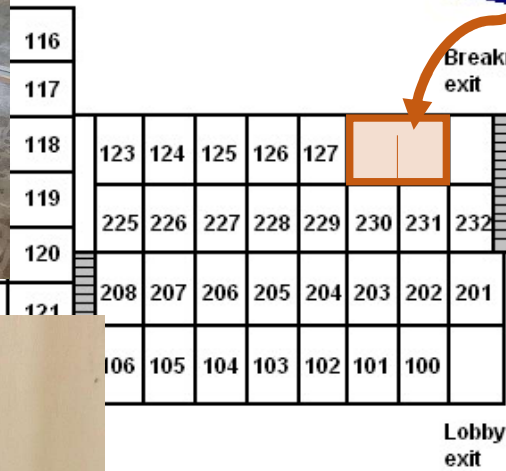
Off limits areas



Potential adjoining rooms

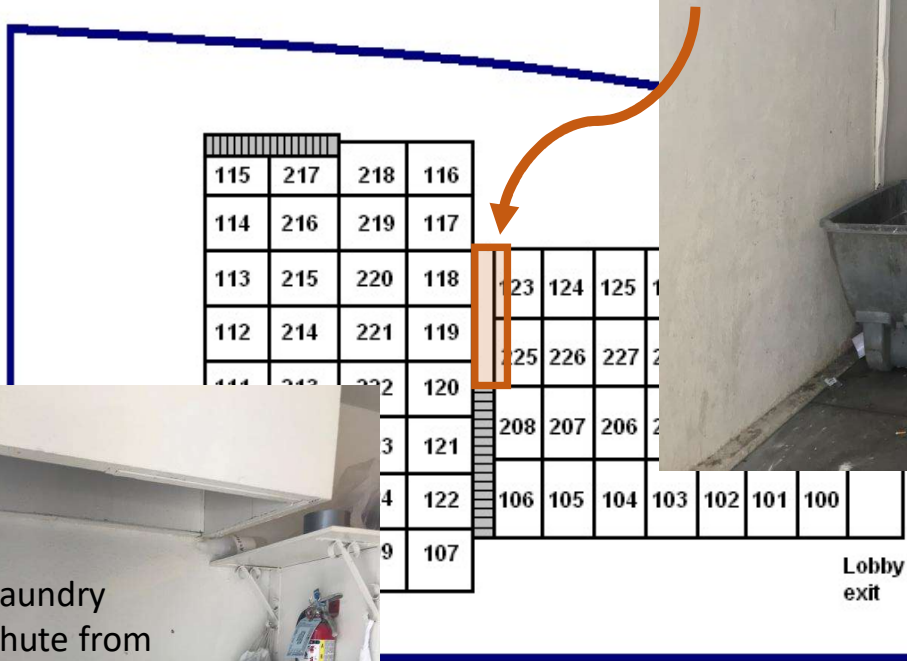
M6 Room Configuration






 Rooms for staff use / storage (caution: strong smoke odor)

Site Details



 Breezeway & linen closet area

Breezeway – garbage from 2nd floor rooms dropped from balcony into Rubbermaid cart

Linen storage room



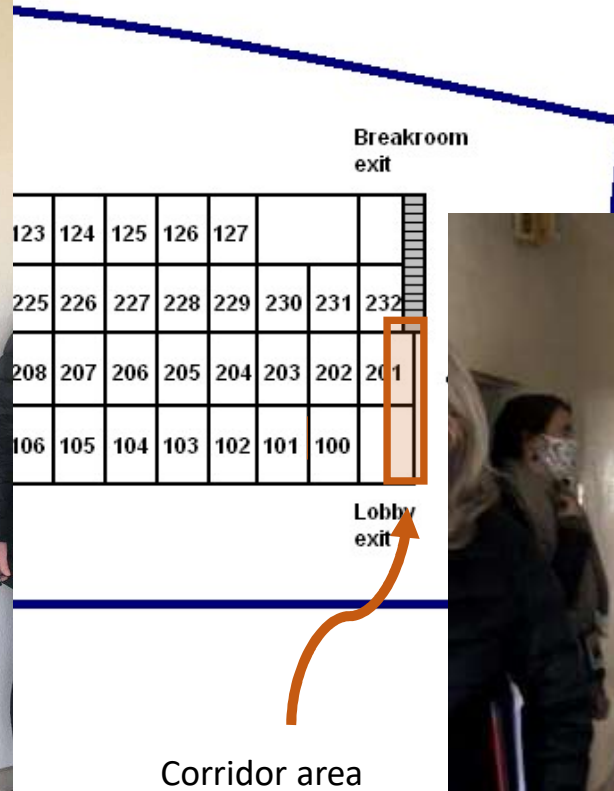
Site Details



Site Details



Office off left side of breezeway
(will be closed)



About the Coronavirus / COVID-19 Outbreak:

- **COVID-19 is a respiratory illness that may lead to pneumonia or death**
 - People over the age of 60 are at higher risk
 - People with heart or lung conditions or weak immune systems are at higher risk
 - Pregnant women are at higher risk
 - People experiencing homelessness are at higher risk
- **COVID-19 is spread through coughing, sneezing, or touching contaminated surfaces**
 - Wash your hands when you can with soap and warm water. Use hand sanitizer if you can't wash your hands.
 - Cover your cough with your elbow – not your hands!
 - Try not to touch your nose, eyes, or mouth
 - Spread out your camp and try to stay six feet away from other people
- **Stay up to date about this rapidly changing situation**
 - Visit www.whatcomcounty.us/COVID for daily news
 - Call the WA Dept. of Health at 1-800-525-0127 and press # for more info
- **Read both sides of this card**



Cover your
Cough with
Elbow!



Wash your
Hands with
Soap!



Whatcom County
HEALTH
Department

About the Coronavirus / COVID-19 Outbreak:

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 - Spread out your camp and try to stay six feet away from other people
- **Stay up to date about this rapidly changing situation**
 - Visit www.whatcomcounty.us/COVID for daily news
 - Call the Dept. of Health at 1-800-525-0127 and press # for more info
- **Read both sides of this card**



Cover your
Cough with
Elbow!



Wash your
Hands with
Soap!



Whatcom County
HEALTH
Department

How to take care of a sick person:

- **There is no specific medicine, cure, or vaccine for COVID-19**
 - Please follow the advice on the other side of this card to avoid getting or spreading the virus; we need to slow this down!
 - Do NOT share drinks, cigarettes, forks, spoons, or anything that touches your face
- **Mild symptoms are the most common result of this illness**
 - Symptoms may look like cough, sneezing, sore throat, fever, and aches
 - Try to get rest, drink fluids, and use Tylenol/ibuprofen/Advil
- **If someone gets very sick, go for medical help right away!**
 - This includes difficulty breathing, pain or pressure in the chest or abdomen, or if they're unable to keep liquids down
 - Call a medical provider if you are able to
 - An ambulance will come if you call 9-1-1
- **Stay up to date about this rapidly changing situation**
 - Visit www.whatcomcounty.us/COVID for daily news
 - Call the Dept. of Health at 1-800-525-0127 and press # for more info
- **Read both sides of this card**



How to take care of a sick person:

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 - Symptoms may look like cough, sneezing, sore throat, fever, and aches
 - Try to get rest, drink fluids, and use Tylenol/ibuprofen/Advil
- **If someone gets very sick, go for medical help right away!**
 - This includes difficulty breathing, pain or pressure in the chest or abdomen, or if they're unable to keep liquids down
 - Call a medical provider if you are able to
 - Wash your hands again
 - An ambulance will come if you call 9-1-1
- **Stay up to date about this rapidly changing situation**
 - Visit www.whatcomcounty.us/COVID for daily news
 - Call the Dept. of Health at 1-800-525-0127 and press # for more info
- **Read the other side of this card**



Discharge

Policy: Guests will be discharged for three different reasons. The first is based on a public health and medical decision that they have successfully completed voluntary isolation or quarantine. The second is behavioral and would be based on behaviors that create a threat to others at the Facility, non-compliance with safety or isolation/quarantine rules in a way that puts others at the Facility at risk, or due to a pattern of frequent or extended absences from the facility during quarantine/isolation. The third is self-discharge in spite of voluntary agreement to isolate or quarantine.

Public Health/Medical:

- It is expected that public health and medical providers will provide regular updates to Facility staff on projected completion dates for each resident.
- Facility staff will ask residents as appropriate via call, email, or text whether they need information/assistance with plans to return to the community.
- Facility staff may coordinate a time of discharge with the resident after public health officials have decided on the date.
- If the resident does not leave when asked, staff will respond as described below under Behavioral.

Behavioral:

- Lighthouse Mission Ministries, Security, and Sea Mar/GRACE staff will work together to educate, remind, problem-solve, and de-escalate any threat/risk situation or behaviors inconsistent with public health recommendations that might put others at risk.
- Staff may call 911 as appropriate. Often the presence of law enforcement de-escalates a situation and individuals may disengage calmly and return to their rooms.
- If 911 removes an individual from the Facility, the Operational Manager (Malora Christianson) will be informed the next working day so she can follow up and determine whether the individual is discharged.
- The Operational Manager is available for crisis consultation on-call, but notifications are to be made during working hours.
- If a guest continually leaves the Facility, whether for multiple short periods or for extended periods, the Operational Manager will note the patterns, consult with public health officials, and make a decision regarding discharge.

- Once a guest is discharged, if the guest chooses not to physically leave the grounds, all services such as food, linens, etc., will stop. The swipe card for the room door will be de-activated and Security will be notified that the former guest may not re-enter the grounds. Consultation is available through Whatcom Unified Command, the Whatcom County Health Department, and the Homeless Outreach Team if the situation continues.

Self-discharge:

- Facility staff will respond to Security notification if a guest is at the gate wanting to leave prior to planned discharge. They will engage as appropriate in motivational interviewing, support, and problem-solving. However, guests are at the Facility on a voluntary basis and will be allowed to leave.
- If a guest self-discharges, they will not be re-admitted unless they go through the Bed Control screening process again.
- If a guest self-discharges, public health officials will be notified M-F 8:30 am – 4:30 pm by calling 360-778-6100 and asking for a nurse or by leaving a message after hours on the non-emergency Communicable Disease Line 360-778-6150.
- If the guest had previously been living at a congregate living or shelter situation, Facility staff will notify the agency that the individual has self-discharged prior to completing recommended isolation and quarantine.

Last updated: 4-16-20

EXHIBIT "B"
(COMPENSATION)

Snohomish Health District will reimburse Whatcom County at a rate of \$200/resident, per day for COVID-related isolation and quarantine at Whatcom County's COVID Temporary Isolation and Quarantine Facility.

Whatcom shall submit invoices on a monthly basis in a format approved by Snohomish Health District. Monthly invoices must be submitted by the 15th day of the month, following the month of service. Invoices shall include the number of residents receiving isolation and quarantine. Invoices shall be submitted to:

accountspayable@snohd.org

or

Attn: Accounts Payable
Snohomish Health District
3020 Rucker Ave., Ste. 308
Everett, WA 98201

Payment by Snohomish will be timely if it is made within 30 days of the receipt and acceptance of billing information from Snohomish. Snohomish may withhold payment of an invoice if Whatcom submits it more than 30 days after the expiration of this Agreement.



Whatcom County

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

Agenda Bill Master Report

File Number: AB2021-476

File ID:	AB2021-476	Version:	1	Status:	Agenda Ready
File Created:	07/29/2021	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:	08/10/2021	Enactment #:			

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

TITLE FOR AGENDA ITEM:

Resolution to adopt the Whatcom County Employee's Personnel Handbook

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

Please refer to Staff memo for background and more information

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:

Attachments: Staff Memo, Resolution, Employee Handbook



MEMORANDUM

TO: Satpal Singh Sidhu, County Executive
THROUGH: Tyler Schroeder, Director of Administrative Services/Deputy Executive *TKS*
FROM: Karen Goens, HR Manager *Karen*
RE: **POLICY APPROVAL/UPDATE REQUEST**
Whatcom County Employee's Personnel Handbook
DATE: July 28, 2021

I completed the multi-year project of modernizing and updating "Whatcom County's Employee's Personnel Handbook."

In the past, the Handbook was a single document, fixed in time, last amended by the County Council in 1993. Over time, evolving collective bargaining agreements and significant changes to state and federal employment law have rendered many sections of the Handbook out-of-date or obsolete.

The County Council approves collective bargaining agreements to cover personnel policies for represented employees and resolutions to adopt personnel policies for unrepresented employees. Under the County Executive, Administrative Services Managers have been re-working administrative policies since 2000, including those related to the Personnel System, pursuant to County Code 2.76 (Administrative Services Department). Under County Code 3.04 (Personnel System), the "Whatcom County's Employee's Personnel Handbook" is approved by the County Executive and adopted by resolution of the County Council.

The purpose of the new Handbook is to serve as a friendly, welcoming, informational guide for new and current employees. It contains links to the underlying policies and to useful online references. Rather than being a fixed document, the new Handbook can serve as a framework which will not require frequent amending because when underlying policies change through County Council or County Executive authority, they will be automatically updated in the Handbook as links.

I recommend the attached "Whatcom County's Employee's Personnel Handbook" for your approval effective August 2, 2021 and your endorsement for approval to the County Council on August 10, 2021.

☒ Approved ☐ Denied

Satpal Sidhu
Satpal Singh Sidhu, County Executive

8/2/21
Date

Action	Doer	Date
1 Executive Approval	Satpal Sidhu	<i>8/2/2021</i>
2 Published to APPOL <i>after Council Approval</i>	Karen Goens	

PROPOSED BY: Satpal Singh Sidhu

INTRODUCED: August 10, 2021

RESOLUTION NO. _____

A RESOLUTION ADOPTING WHATCOM COUNTY EMPLOYEE'S PERSONNEL HANDBOOK

WHEREAS, County Code 3.04, Personnel System, calls for standardized personnel policies and procedures referred to as the "Whatcom County Employee's Personnel Handbook;" and

WHEREAS, salaries, benefits, and employment policies for represented employees have been bargained, updated, and adopted over time by the County Council as Collective Bargaining Agreements; and

WHEREAS, the Council adopts salaries, benefits, and employment policies for employees not represented by a union or guild in the Unrepresented Salary & Policy Resolution; and

WHEREAS, the County Executive adopts and publishes Administrative Policies & Procedures Online (APPOL) pursuant to County Code 2.76 related to County administration and administrative services (human resources, finance, information technology, and facilities); and

WHEREAS, new laws, programs, and protections related to employment and human resources have been added to collective bargaining agreements, unrepresented resolutions, and APPOL over time; and

WHEREAS, the County Executive approved the updated "Whatcom County Employee's Personnel Handbook" on August 2, 2021;

NOW, THEREFORE, BE IT RESOLVED by the Whatcom County Council that the "Whatcom County Employee's Personnel Handbook" is adopted by resolution and previous resolutions amending personnel policies are superseded. The Handbook may be amended only by resolution except for informational and non-substantive changes as necessary to keep the Handbook current.

APPROVED this 10th day of August, 2021.

ATTEST:

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

Dana Brown-Davis, Clerk of the Council

Barry Buchanan, Council Chair

APPROVED AS TO FORM:



Karen Frakes, Chief Civil Deputy Prosecutor

WHATCOM COUNTY EMPLOYEE'S PERSONNEL HANDBOOK



Approved by the County Executive
August 2, 2021 and adopted by
Resolution 2021- ____ of the County Council

August 10, 2021



Whatcom County Employee's Personnel Handbook

INTRODUCTION

Welcome to new and current Whatcom County employees!

This Handbook provides a road map to standardized personnel policies and procedures which affect County employees. The Handbook links to source policy documents. It is not to be construed as a contract or covenant of employment. Nothing in this Handbook supersedes county code, collective bargaining agreements, employment resolutions, or administrative policies.

ABOUT THE COUNTY

Whatcom County is a Home Rule County with the Legislative and Executive functions as separate branches of government. Whatcom County voters elect a non-partisan seven-member, part-time County Council and a full-time County Executive. The [County Charter](#) also establishes elected offices of the County Auditor, Assessor, Treasurer, Sheriff, and Prosecuting Attorney.

The County Council performs the **legislative** functions of the County through ordinances and resolutions and establishes compensation for all employees except elected officials. The County Executive serves as Chief Executive Officer, supervising all **administrative and executive** departments, presenting the annual budget, and signing all contracts. A third branch of government, the **judicial** branch, is steered by elected judges in Superior Court and District Court.

The County's organizational charts with detailed information about departments, finances, and operations are published in the [County Budget](#).

PERSONNEL SYSTEM & POLICIES

County Code [Chapter 3.04](#) describes the Personnel System administered by the [Human Resources \(HR\) Division](#) of the [Administrative Services Department](#) under the direction of the County Executive.

1. Collective Bargaining Agreements

Unless you are an elected official or exempt from union membership, your position is covered by a collective bargaining agreement, and you are eligible to be part of a collective bargaining unit. Each unit, through its union or guild representative, negotiates agreements with the County consistent with [RCW 41.56](#).

The Human Resources Manager and staff promote positive labor-management relations, resolve grievances and personnel problems, coordinate negotiations, and assure compliance by all departments with provisions of the collective bargaining agreements.

A contracted [Professional Negotiator](#) provides expertise and serves as spokesperson for the County at the bargaining table, working collaboratively with labor representatives and following the direction of the County Council and County Administration.

[Collective Bargaining Agreements](#) establish policies related to wages, benefits, hours, and working conditions for represented employees. Agreements are posted online and are easy to search using key words. The duration of agreements may be one or more years. Once expired, terms of the agreement remain in place until the County and the bargaining representative complete negotiations for a new agreement.

- **Teamster's Master** (professional, technical, clerical, and certain supervisory positions; general government employees in departments except Council, Executive, HR)
- **Deputy Sheriff's Guild** (patrol deputies and sergeants)
- **Teamster's Corrections** (deputies and sergeants)
- **WA State Nurses Association** (nurses and supervisors)
- **PROTEC17** (environmental health specialists and supervisors)
- **Inland Boatmen & Masters, Mates & Pilots** (ferry operators and crew)
- **Fraternal Order of Police** (sheriff & corrections management)
- **AFSCME Council 2** (public defender attorneys)

2. Unrepresented Resolution

The County Council adopts salaries, benefits, and employment policies for employees who are not represented by a union or guild in the [Unrepresented Salary & Policy Resolution](#).

This resolution applies to the following groups of employees:

- Department Heads
- Managers
- Professional and Supervisory
- Support
- Undersheriff
- Court Reporters
- Public Health Officer
- Court Commissioners

3. Elected Officials Salaries

Every two years, the [Salary Commission](#) sets [salaries for elected officials](#), **County Executive, Treasurer, Assessor, Auditor, Prosecuting Attorney, County Council, Sheriff**. The [Washington Citizen's Commission on Salaries for Elected Officials](#) sets the District Court and Superior Court Judges' salaries. Elected Officials and District Court judges are eligible for benefits under the [Unrepresented Resolution](#).

4. Administrative Policies and Procedures Online (APPOL)

The Administrative Services (A.S.) Director oversees the development, adoption, and publication of administrative policies and procedures per County Code [2.76.030](#).

Administrative Policies and Procedures Online (APPOL) provides the official record. Using a log-in to access [Inside Whatcom](#), employees may view and print any APPOL document.

Use the Printer Friendly feature in the drop-down menu under the gear symbol.

Use the Search tool to locate policies by topic.



This button at the bottom of the home page serves as a quick link:



The [Human Resources](#) section of [APPOL](#) covers topics related to Personnel System goals.

[Attendance & Time Off](#)

[Classification & Compensation](#)

[Performance Management](#)

[Discipline & Rules](#)

[Employee Benefits](#)

[Employee Safety & Health](#)

[Employment & Separation](#)

[Personnel Administration](#)

[Miscellaneous Personnel](#)

[Risk Management](#)

5. Executive Orders

The County Executive also adopts administrative policies and procedures by [executive order](#). These are usually shorter-term policies with Countywide impact.

6. Departmental Policies and Procedures

Department Heads may set standards for operations within their departments so long as those policies do not conflict with County Code, collective bargaining agreements, employment resolutions, or administrative policies. See [Controlling Departmental Operations](#).

HIGHLIGHTING KEY POLICIES

Whatcom County is an **equal opportunity employer**. Participation of individuals of diverse ages, races, religions, cultures, abilities, and personalities contributes to our organization's success. Whatcom County recruits, selects, trains, promotes, and compensates employees and applicants without regard to race, color, national origin, sex, creed or religion, disability, age, marital status, sexual orientation (including gender identity), veteran status, or any other characteristic prohibited by law. See [Promoting Equal Employment Opportunity \(EEO\)](#).

Whatcom County will not discriminate against qualified employees or applicants with a sensory, physical, or mental disability, unless the disability cannot be reasonably accommodated and prevents proper performance of an essential element of the job. The County provides reasonable accommodation to qualified individuals with disabilities as defined by the American with Disabilities Act (ADA). See [Providing Reasonable Accommodation](#).

Whatcom County promotes a **respectful work environment**. Supervisors will review the [Prohibiting Harassment](#) policy with all new employees. Employees are encouraged to report harassment or observation of harassment to a supervisor, department head, or to Human Resources. The County promptly investigates harassment complaints. Whatcom County requires all new employees to take Preventing Harassment training. See also [Preventing Violence in the Workplace](#).

Whatcom County places a high value on employee safety and is committed to providing a **safe workplace**. Your supervisor will provide a general safety orientation and on-going job-specific safety training. All employees should periodically review the [Accident Prevention Program](#). See also [Reporting Accidents & Incidents](#).

Whatcom County is a **drug-free workplace** to provide a safe work environment, to discourage alcohol and drug abuse, and to encourage treatment, recovery and return to work of employees with substance abuse problems. The County's [Employee Assistance Program](#) offers confidential support and resources at no cost to employees and their household members 24 hours a day/7 days a week.

Whatcom County prohibits **smoking** and **vaping** indoors or within 25 feet of building entrances, windows, and air intakes. The Health Department enforces the Washington State Clean Indoor Air Act. For [more information](#), call (360) 778-6000 or [email](#) the Health Department.

EMPLOYEE'S REFERENCE INFORMATION

Legal Notices

The County posts information about certain laws and employee rights [online](#), for example:

- Paid Family & Medical Leave (PFML)
- Family & Medical Leave Act (FMLA)
- Consolidated Omnibus Budget Reconciliation Act (COBRA)
- Health Insurance Portability & Accountability Act (HIPAA)
- Uniformed Services Employment & Reemployment Act (USERRA)
- Affordable Care Act (ACA)

Benefits

Whatcom County offers a comprehensive benefits package with medical, dental, and vision coverage for employees, spouses and eligible dependents, life insurance for the employee, and employee assistance services for everyone in the employee's household. County employees participate in retirement plans administered by the Washington State Department of Retirement Systems (DRS). The County offers optional tax-deferred retirement savings plans. Other benefits are described in the applicable collective bargaining agreement or unrepresented resolution. Links to benefit providers are organized by [employee group](#) on the County's web site.

Personal Data and Status Changes

If you have a change in marital status, name, address, dependents, [submit the applicable form to Human Resources](#) within 30 days so that we can update your records, send you important tax and payroll information, and make any necessary changes to your benefits.

Time Off

County employees have many options for paid and unpaid time off by County policy and state and federal law. See [collective bargaining agreements](#), [unrepresented resolution](#), and [Attendance & Time Off policies](#).

Meal and Rest Periods

Whatcom County complies with federal and state regulations and collective bargaining agreements regarding meal and rest periods. Unless your position is exempt from overtime, you will not be required to work more than five consecutive hours without a 30-minute meal break. A 15-minute rest period will be provided for every four hours of working time. If you know in advance you may not be able to take your scheduled break or meal period, let your Supervisor know. Also, notify your Supervisor if you were unable to take a meal or rest period.

Paychecks

Employees submit timesheets weekly. Whatcom County issues paychecks every other Friday. Whatcom County requires new employees to authorize payment deposit by electronic funds transfer (EFT). Each employee will inspect weekly paychecks for accuracy and will immediately [report possible errors](#).

Internal Job Opportunities

Whatcom County offers many promotional opportunities to qualified internal applicants before advertising externally. Employees can use the “[Notify Me](#)” tool on Inside Whatcom to receive notices of open positions.

Personnel Files

Whatcom County Human Resources (HR) maintains the official personnel files for all employees except the Sheriff’s Office. Personnel files are in a safe, locked room in the HR Suite (Courthouse 107). Supervisors and others in management may access official personnel files for employment-related decisions. You may review your personnel file with reasonable notice to HR during normal office hours in the presence of a County representative.

Job Descriptions & Work Expectations

You can search County [job descriptions online](#) by title, department, group, and text. See also [Monitoring Work Expectations](#) and [Establishing Standards of Conduct](#).

Travel

Before traveling on county business, make sure you have a clear understanding with your supervisor about what portion of your travel time may be paid and which expenses are eligible for reimbursement. See [Reimbursing Travel Expenses](#).

Public Records

Nearly every record you create as an employee (letters, electronic data, emails, texts) may be produced if there is a public records request. The purpose of the Public Records Act or “Sunshine Law,” [RCW 42.56](#), is to shed light on government. While some information may be redacted (SS#, home address, references to medical conditions), employees may be surprised by the extent of the County’s obligation to share records. Requests for Public Records are tracked by the Public Records Officer and requestors must get at least a preliminary response within five days or the County may face penalties. Be sure and ask your supervisor how this law may impact your job.

Cybersecurity

Cybersecurity is a growing concern and presents risks for our organization which are increasingly hard to manage. Employees should shut down their work computer daily for security updates, use strong passwords, not attach non-County printers/devices to the County's computer system, and carefully evaluate every email. It's easy to make a mistake and click on a link in an email that looks legitimate but is really from a cybercriminal. If you receive an email that looks out of the ordinary, forward it **as an attachment** to the [IT Service Desk](#) for evaluation.

Political Activity

Whatcom County recognizes the right of employees to express their views as citizens, to pursue legitimate involvement in the political system, and to vote as they please, provided that no County employee will expend public funds, or supplies, or work towards the campaign of any candidate or issue while on county time unless the activity is permitted by law. See [County Code 3.04.060](#).

Complaints

Depending on the kind of concern, Whatcom County provides multiple avenues for reporting and resolving problems:

- [Reporting Accidents & Incidents](#)
- [Reporting Unsafe Working Conditions](#)
- [Preventing Harassment](#)
- [Reporting Discrimination](#)
- [Reporting Improper Governmental Action](#) (Whistleblower Complaint)
- Filing Grievances (see relevant [Collective Bargaining Agreement](#))
- Other ([Complaint Form](#))

See [Reporting & Resolving Complaints](#)

Other Links

[Using Computer Systems](#)

[Issuing Employee Identification & Access Badges](#)

[Permitting & Using Employee Parking Downtown](#)

[Emergency Policies & Procedures](#)

[Payroll](#)

Please direct questions to Human Resources hr@co.whatcom.wa.us or (360) 778-5300.



Whatcom County

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

Agenda Bill Master Report

File Number: AB2021-477

File ID:	AB2021-477	Version:	1	Status:	Agenda Ready
File Created:	07/30/2021	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:	08/10/2021	Enactment #:			

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

TITLE FOR AGENDA ITEM:

Request authorization for the County Executive to enter into an interlocal agreement between Whatcom County and Washington State Department of Social and Health Services to provide an advance in funding for DSHS-funded Developmental Disabilities Administration Programs, in an amount authorized of up to \$470,230

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

See attachments

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:

Attachments: Staff Memo, Proposed Agreement



MEMORANDUM

TO: Satpal Sidhu, County Executive

FROM: Erika Lautenbach, Director

RE: Washington State Department of Social & Health Services (DSHS) – Working Advance Long-Term Payable Agreement

DATE: July 30, 2021

Attached is an Interlocal Agreement between Whatcom County and Washington State DSHS for your review and signature.

▪ **Background and Purpose**

DSHS provides Whatcom County with an advance in funding to help manage cash-flow for DSHS-funded Developmental Disabilities Administration Programs.

▪ **Funding Amount and Source**

The current balance of the long-term working advance is \$451,401 and Whatcom County is authorized to draw up to \$470,230. Council approval is required per RCW 39.34.030(2) for agreements between public agencies.

▪ **Differences from Previous Contracts**

Similar agreements have been in place for many years and this agreement continues the agreement for an additional year without any significant changes.

Please contact 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 Health / 851000 Administration	
Contract or Grant Administrator:		Kathleen Roy	
Contractor's / Agency Name:		WA State DSHS	
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 checked="" type="checkbox"/> No <input type="checkbox"/>	If yes, grantor agency contract number(s): 2163-26537		CFDA#: _____
Is this contract grant funded? Yes <input type="checkbox"/> No <input type="checkbox"/>	If yes, Whatcom County grant contract number(s): _____		
Is this contract the result of a RFP or Bid process? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	If yes, RFP and Bid number(s): _____		Contract Cost Center: _____
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): Varies; not to exceed \$470,230		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: This Agreement provides for a working capital advance from the Washington State Department of Social & Health Services to help manage county cash flow due to delays in payment by DSHS for DSHS programs funded on a reimbursement basis.			
Term of Contract:	1 Year		Expiration Date: 06/30/2022
Contract Routing:	1. Prepared by:	JT	Date: 07/23/2021
	2. Health Budget Approval:	KR/JG	Date: 07/30/2021
	3. Attorney signoff:	RB	Date: 07/30/2021
	4. AS Finance reviewed:	bbennett	Date: 07/30/2021
	5. IT reviewed (if IT related):		Date: _____
	6. Contractor approved:		Date: _____
	7. Submitted to Exec.:		Date: _____
	8. Council approved (if necessary):	AB2021-477	Date: _____
	9. Executive signed:		Date: _____
	10. Original to Council:		Date: _____



COUNTY
PROGRAM AGREEMENT
Working Advance Long-Term Payable

DSHS Agreement Number
2163-26537

This Program Agreement is by and between the State of Washington Department of Social and Health Services (DSHS) and the County identified below, and is issued in conjunction with a County and DSHS Agreement On General Terms and Conditions, which is incorporated by reference.

Administration or Division
Agreement Number

County Agreement Number

DSHS ADMINISTRATION

DSHS DIVISION

DSHS INDEX NUMBER

DSHS CONTRACT CODE

Facilities, Finance and
Analytics Administration

Financial Services

1241

8030CS-63

DSHS CONTACT NAME AND TITLE

Rebecca Doane
Office Chief

DSHS CONTACT ADDRESS

PO Box 45842

Olympia WA 98504-5842

DSHS CONTACT TELEPHONE
(360)763-2977

DSHS CONTACT FAX
[Click here to enter text.](#)

DSHS CONTACT E-MAIL
rebecca.doane@dshs.wa.gov

COUNTY NAME

Whatcom County

COUNTY ADDRESS

509 Girard Street
Bellingham WA 98225-4005

COUNTY CONTACT NAME

Kathleen Roy

COUNTY CONTACT TELEPHONE
(360) 778-6007

COUNTY CONTACT FAX
(360) 778-6001

COUNTY CONTACT E-MAIL
KRoy@co.whatcom.wa.us

IS THE COUNTY A SUBRECIPIENT FOR PURPOSES OF THIS PROGRAM
AGREEMENT?

No

CFDA NUMBERS

PROGRAM AGREEMENT START DATE
07/01/2021

PROGRAM AGREEMENT END DATE
06/30/2022

MAXIMUM PROGRAM AGREEMENT AMOUNT
Based on Annual Review

The terms and conditions of this Contract are an integration and representation of the final, entire and exclusive understanding between the parties superseding and merging all previous agreements, writings, and communications, oral or otherwise, regarding the subject matter of this Contract. The parties signing below represent that they have read and understand this Contract, and have the authority to execute this Contract. This Contract shall be binding on DSHS only upon signature by DSHS.

COUNTY SIGNATURE(S)

PRINTED NAME(S) AND TITLE(S)

DATE(S) SIGNED

DSHS SIGNATURE

PRINTED NAME AND TITLE

Angie Williams, Contract Manager
DSHS Central Contracts and Legal Services

DATE SIGNED

WHATCOM COUNTY

SATPAL SIDHU
County Executive

STATE OF WASHINGTON)
)
COUNTY OF WHATCOM)

On this _____ day of _____, 2021, before me personally appeared Satpal Sidhu, to me known to be the Executive of Whatcom County and who executed the above instrument and who acknowledged to me the act of signing and sealing thereof.

NOTARY PUBLIC in and for the State of Washington,
residing at Bellingham.

My Commission expires: _____

APPROVED AS TO FORM:

Approved by email RB/JT _____
Royce Buckingham, Prosecuting Attorney

07/30/2021 _____
Date

SPECIAL TERMS AND CONDITIONS

1. Definitions

- a. "Commingle" is the act of mixing the funds and/or Long-Term Payables for one program with the funds of another program.
- b. "Documentation of Funds form" (DOF) is a form provided to the County each year by DSHS on which the County records qualifying previous year expenditures from which DSHS can appraise and evaluate the amount of the existing Long-Term Payable or appropriate adjustments.
- c. "Long-Term Payable" means funds provided by DSHS to the County in anticipation of specific client services provided by the County. The County shall not be allowed to retain any overage of the Long-Term Payable funds if the County does not actually provide the anticipated services during the given timeframe. Long-Term Payable funds are to be reconciled by April 30 of each year and any funds not fully utilized shall be refunded to DSHS by **May 31** of each year.

2. Purpose

- a. It is the purpose of this Agreement to specify the procedure by which DSHS will assess and, if necessary, adjust the Long-Term Payable it provides to the County.
- b. Funds to support contracts for the following DSHS programs may be included in a Long-Term Payable: Developmental Disabilities Administration (DDA) and/or Aging and Long-Term Support Administration (AL TSA).

3. Statement of Work

a. County Responsibilities

- (1) The County shall submit to DSHS, on forms provided by DSHS and by a date determined by DSHS, a completed Documentation of Funds form (DOF) from which DSHS shall assess whether or not an adjustment to the amount of the Long-Term Payable provided to the County is warranted.
- (2) The County shall exclude all amounts related to its Prepaid Inpatient Health Plan expenditures from its DOF.
- (3) The County shall repay to DSHS all of the Long-Term Payable funds received from DSHS that exceed the amount that DSHS determines is warranted. Repayment requirements shall be based upon DSHS assessment of the most recent annual DOF submitted by the County to DSHS. Any Long-Term Payable funds not fully utilized by the County, as determined by DSHS through the DOF process, shall be refunded to DSHS by **May 31** of each year.
- (4) The County shall only utilize Long-Term Payable funds for the DSHS program or service for which the funds were originally designated. Long-Term Payable funds may not be commingled between or among programs or services.
- (5) Any interest the County earns on the Long-Term Payable funds shall only be utilized for the DSHS programs or services for which the funds were originally designated. Long-Term Payable interest shall not be used for programs or services unrelated to the client services anticipated by this Agreement.
- (6) The County shall record the Long-Term Payables in its financial records.

SPECIAL TERMS AND CONDITIONS

b. DSHS Responsibilities

- (1) DSHS shall assess the DOF submitted by the County to determine if, during the term of this Agreement, any adjustment to the original two month Long-Term Payable provided to the County is warranted.
- (2) Adjustment may include DSHS request for repayment by County of any Long-Term Payable amounts previously paid to County that are in excess of the amount currently warranted.

4. Termination

In the event that this Agreement, or a program contract listed in 2.b. above, is terminated prior to completion, DSHS shall take all available steps to recover any Long-Term Payable determined to be an overpayment and the County shall fully cooperate during the recovery process.



Whatcom County

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

Agenda Bill Master Report

File Number: AB2021-483

File ID:	AB2021-483	Version:	1	Status:	Agenda Ready
File Created:	08/02/2021	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:	08/10/2021	Enactment #:			

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

TITLE FOR AGENDA ITEM:

Request authorization for the County Executive to enter into a contract amendment between Whatcom County and Lydia Place to provide funding for additional motel rooms for families experiencing unsheltered homelessness in the amount of \$236,470 for a total amended contract amount of \$354,922

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: Lydia Place – Shelter Grant Contract Amendment #3

DATE: August 2, 2021

Attached is a contract amendment between Whatcom County and Lydia Place for your review and signature.

- **Background and Purpose**

This contract provides year-round funding for four motel rooms to be used as emergency housing for families experiencing unsheltered homelessness and also funds supportive services to help those families exit their motel rooms into permanent housing. The purpose of this amendment is to increase funding by \$236,470 for motel rooms (to be used on an as-needed basis) and subsequent indirect costs to support additional families. Indirect costs for motel rooms were not included in the original contract due to limited available funding, however there is now sufficient funding to cover these costs, which are increased by the rent of each motel room, both in seeking vacant motel rooms and resolving issues with motel management.

- **Funding Amount and Source**

Funding for this contract, in an amount not to exceed \$354,922, is provided by the Washington State Department of Commerce Shelter Program and Emergency Solutions COVID-19 (CFDA 14.231) Grants. These funds are included in the 2021 budget. Council approval is required, as additional funding provided by this amendment, exceeds 10% of the approved budget.

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



**WHATCOM COUNTY
CONTRACT INFORMATION SHEET**

Whatcom County Contract Number:
202012021 – 3

Originating Department:		85 Health	
Division/Program: (i.e. Dept. Division and Program)		8550 Human Services / 855040 Housing	
Contract or Grant Administrator:		Chris D'Onofrio	
Contractor's / Agency Name:		Lydia Place	
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 #:		202012021
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#: 14.231
Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>			
Is this contract grant funded?	If yes, Whatcom County grant contract number(s):		202009003 / 202008014
Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>			
Is this contract the result of a RFP or Bid process?	If yes, RFP and Bid number(s):		Contract Cost Center: 122900 / 122800
Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	20-53		
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):		Council approval required for: all property leases, contracts or bid awards exceeding \$40,000 , and professional service contract amendments that have an increase greater than \$10,000 or 10% of contract amount, whichever is greater, except when: <ol style="list-style-type: none"> 1. Exercising an option contained in a contract previously approved by the council. 2. Contract is for design, construction, r-o-w acquisition, prof. services, or other capital costs approved by council in a capital budget appropriation ordinance. 3. Bid or award is for supplies. 4. Equipment is included in Exhibit "B" of the Budget Ordinance 5. Contract is for manufacturer's technical support and hardware maintenance of electronic systems and/or technical support and software maintenance from the developer of proprietary software currently used by Whatcom County. 	
\$ 118,452			
This Amendment Amount:			
\$ 236,470			
Total Amended Amount:			
\$ 354,922			
Summary of Scope: This contract provides funding for four motel rooms to be used as emergency housing for families experiencing unsheltered homelessness.			
Term of Contract:	15 Months	Expiration Date:	12/31/2021
Contract Routing:	1. Prepared by:	JT	Date: 07/28/2021
	2. Health Budget Approval	KR/JG	Date: 07/30/2021
	3. Attorney signoff:	RB	Date: 07/30/2021
	4. AS Finance reviewed:	Bbennett	Date: 08/02/2021
	5. IT reviewed (if IT related):		Date:
	6. Contractor signed:		Date:
	7. Submitted to Exec.:		Date:
	8. Council approved (if necessary):	AB2021-483	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:

Lydia Place
PO Box 28487
Bellingham, WA 98228

CONTRACT PERIODS:

Original: 10/01/2020 – 12/30/2021
Amendment #1: 10/01/2020 – 12/31/2021
Amendment #2: 01/01/2021 – 12/31/2021
Amendment #3: 08/11/2021 – 12/31/2021

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

DESCRIPTION OF AMENDMENT:

1. Amend Exhibit A – Scope of Work, to increase the number of families served from 16 – 24 to 40 – 60; revised Exhibit A is attached.
2. Replace Exhibit B – Compensation, to increase funding by \$236,470 to provide funding for additional, as-needed, motel rooms (and subsequent indirect costs) to support additional families.
3. Funding for the total contract period (10/01/2020 – 12/31/2021) is not to exceed \$354,922.
4. All other terms and conditions remain unchanged.
5. The effective start date of the amendment is 08/11/2021.

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:

Emily O'Connor, Executive Director		
Contractor Signature	Print Name and Title	Date

FOR WHATCOM COUNTY:

Satpal Singh Sidhu, County Executive	Date
--------------------------------------	------

CONTRACTOR INFORMATION:

Lydia Place
PO Box 28487
Bellingham, WA 98228
eoconnor@lydiaplace.org

EXHIBIT "A" – Amendment #3
(SCOPE OF WORK)

I. Background

The 2020 Whatcom County Point In Time Count confirmed that unsheltered homelessness continues to be detrimental to the wellbeing of families with children in Whatcom County. The Whatcom Homeless Service Center's monthly housing pool reports have shown that the number of families waiting for permanent housing placements, including families living in cars and other places not meant for human habitation, has grown in recent years. Homelessness is a traumatic experience that is associated with a wide range of negative health outcomes; however there are very few resources in our community dedicated to families who are experiencing homelessness together. This contract provides year-round funding for four motel rooms and additional funding for as-needed motel rooms to be used as emergency housing for families experiencing unsheltered homelessness and also funds supportive services to help those families exit their motel rooms into permanent housing. The shelter provided to these families, as well as the case management services, will allow them to avoid the dangerous conditions of unsheltered homelessness and give them opportunities to connect with services that improve their odds of achieving long term housing stability.

II. Statement of Work

Lydia Place will utilize funding in this contract to make four motel rooms available throughout the year, and more rooms on an as-needed basis to local families with children who are experiencing unsheltered homelessness. The anticipated number of families to be served is between 40 and 60 households. While the families are staying in the motel rooms, they will benefit from supportive services from Lydia Place staff who will help the families identify and overcome their barriers to stable housing.

Lydia Place staff will connect clients to case managers within 48 hours of their referral from Whatcom County's coordinated entry homelessness response system. Weekly meetings between families and Lydia Place staff will outline goals and objectives that are important to the client. The program will strive to find permanent housing within 30 days, although some families will require more time to locate appropriate housing and resolve challenges to housing placement.

III. Program Requirements

Client referrals will be issued by the Whatcom Homeless Service Center's coordinated entry homelessness response system. All services will be provided in compliance with the Washington State Department of Commerce guidelines for the shelter program grant, as found here: <https://www.commerce.wa.gov/serving-communities/homelessness/office-of-family-and-adult-homelessness/shelter-program-grant/>, and the Washington State Department of Commerce ESG-CV Emergency Solutions Grant Guidelines, including periodic updates to the guidelines which can be accessed at: [https://www.commerce.wa.gov/wp-content/uploads/2020/06/Commerce-ESG-CV - Overview.pdf](https://www.commerce.wa.gov/wp-content/uploads/2020/06/Commerce-ESG-CV-Overview.pdf) and <https://www.commerce.wa.gov/wp-content/uploads/2016/10/hau-esg-guidelines-2017-2019.pdf>.

IV. Reporting Requirements

The contractor shall submit quarterly reports* utilizing the Interim Housing Facility Report template accessed on the Whatcom County Health Department Housing Program website at the following link: <https://www.whatcomcounty.us/DocumentCenter/View/51905/WCHDQuarterlyESreportLPmotelshelter>

Quarterly reports are due April 15th, July 15th, October 15th, and January 15th.

*Contractors will be notified via email of updates to this quarterly reporting template, which will be posted on the website.

Reports will include the following information:

- A. Unique households sheltered over the quarter.
- B. Number of nights that the four rooms were in use.
- C. Length of stay for each household at their time of exit (mean and median).
- D. Percent of exiting guests that are enrolled or participated in new activities/programs that have been shown to increase housing retention.
- E. Number of exits over the quarter and the destination type for each exiting household.
- F. Number of new households that became sheltered over the quarter and the type of housing condition they were in prior to entry to motel room.

EXHIBIT “B” – Amendment #3
(COMPENSATION)

- I. **Budget and Source of Funding:** The source of funding for this contract, in an amount not to exceed \$354,922, is the Washington State Department of Commerce Shelter Program and Emergency Solutions COVID-19 (CFDA 14.231) Grants. COMMERCE and the State of Washington are not liable for claims or damages arising from Subcontractor's performance of this contract. The budget for this contract is as follows:

*Cost Description	Documents Required Each Invoice	Budget
ESG Funding - Personnel	GL Detail	\$22,719
ESG Funding - Operating resources (including office/program supplies, phone service, internet, utilities, etc.)		\$1,083
ESG Funding – As Needed Motel Rooms		\$225,000
Subtotal		\$248,802
**Indirect (personnel, ESG-funded motel rooms, and resources) @ 7%		\$17,416
ESG Subtotal		\$266,218
Shelter Grant Funding – Four Motel Rooms (does not include indirect costs)	GL Detail	\$88,704
Shelter Grant Subtotal		\$88,704
TOTAL		\$354,922

*The Contractor may transfer funds among budget line items in an amount up to 10% of the total budget. Changes to the line item budget that exceed 10% of the contract amount must be approved in writing by the County.

**In no instance shall indirect costs exceed the amount indicated above.

II. **Invoicing**

- 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.
- Contractor shall submit invoices to (include contract/PO#) to HL-BusinessOffice@co.whatcom.wa.us.
- 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.
- 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.
- Duplication of Billed Costs or Payments for Service:** The Contractor shall not bill the County for services performed or provided under this contract, and the County shall not pay the Contractor, if the Contractor has been or will be paid by any other source, including grants, for those costs used to perform or provide the services in this contract. The Contractor is responsible for any audit exceptions or disallowed amounts paid as a result of this contract.



Whatcom County

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

Agenda Bill Master Report

File Number: AB2021-427

File ID:	AB2021-427	Version:	1	Status:	Agenda Ready
File Created:	07/16/2021	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:	08/10/2021	Enactment #:			

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

TITLE FOR AGENDA ITEM:

Request authorization for the County Executive to enter into a contract amendment between Whatcom County and Cascadia Youth Mental Health to assess and support regional school substance use discipline policies and practice needs, in the amount of \$22,760 for a total amended contract amount of \$40,000

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: Cascadia Youth Mental Health PLLC – Regional School Discipline Policy Assessment, Technical Assistance and Training Contract Amendment #1

DATE: July 30, 2021

Attached is a contract amendment between Whatcom County and Cascadia Youth Mental Health for your review and signature.

▪ **Background and Purpose**

Whatcom County is the lead agency for the North Sound Regional Youth Marijuana Prevention and Education Program (YMPEP) which includes Whatcom, Skagit, Island, San Juan, Skagit, and Snohomish Counties. One of the strategies outlined in the YMPEP Strategic Plan is support of school substance use policies and practices that align with effective prevention strategies in the North Sound Region. CYMH will assess regional school's substance use school discipline policies and practice needs, support designated schools with individual technical assistance, and provide regional training opportunities. The purpose of this amendment is to extend the contract for an additional eight months and update the scope of work and budget to reflect the expectations of the work performed during the extended contract period.

▪ **Funding Amount and Source**

Funding for this contract, in an amount not to exceed \$22,760, is provided by the Washington State Department of Health Consolidated Contract's YMPEP. These funds are included in the 2021 budget. Council approval is not required as funding does not exceed \$40,000; however, the Finance Department has recommended that County Council review the contract amendment since it reflects ongoing work.

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:
202102026 – 1

Originating Department:		85 Health	
Division/Program: (i.e. Dept. Division and Program)		8550 Human Services / 855060 Substance Abuse Program	
Contract or Grant Administrator:		Alyssa Pavitt	
Contractor's / Agency Name:		Cascadia Youth Mental Health PLLC	
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 #:		202102026
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):		201801023
Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>			
Is this contract the result of a RFP or Bid process?	Sole Source		Contract Cost Center:
Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	If yes, RFP and Bid number(s):		677350
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 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:	
\$	17,240	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.	
\$	22,760	3. Bid or award is for supplies.	
Total Amended Amount:		4. Equipment is included in Exhibit "B" of the Budget Ordinance	
\$	40,000	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 provides funding for regional youth substance use assessment, technical assistance and training.			
Term of Contract:	1 Year	Expiration Date:	02/28/2022
Contract Routing:	1. Prepared by:	JT	Date: 05/19/2021
	2. Health Budget Approval	KR/JG	Date: 06/29/2021
	3. Attorney signoff:	RB	Date: 07/01/2021
	4. AS Finance reviewed:	bbennett	Date: 07/30/2021
	5. IT reviewed (if IT related):		Date:
	6. Contractor signed:		Date:
	7. Submitted to Exec.:		Date:
	8. Council approved (if necessary):	AB2021-427	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:
Cascadia Youth Mental Health PLLC
2600 St. Clair Street
Bellingham, WA 98226

CONTRACT PERIODS:

Original: 03/01/2021 – 06/30/2021
Amendment #1: 07/01/2021 – 02/28/2022

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 term of the contract through 02/28/2022.
2. Replace Sections 35.1 and 35.2 in the General Terms and Conditions (pages 7-8 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. Replace Exhibit A – Scope of Work, to reflect the workplan for the extended contract period.
4. Replace Exhibit B – Compensation, to reflect the budget for the extended contract period.
5. Incorporate Exhibit C – School Discipline System Check-UpSM
6. Incorporate Exhibit D – School Discipline System Check-Up UpSM Project MOU Template
7. Funding for the extended contract period (07/01/2021 – 02/28/2022) is not to exceed \$22,760.
8. Funding for the total contract period (03/01/2021 – 02/28/2022) is not to exceed \$40,000.
9. All other terms and conditions remain unchanged.
10. 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:

Tamara Dee, MSW, LICSW		
Contractor Signature	Print Name and Title	Date

FOR WHATCOM COUNTY:

Satpal Singh Sidhu, County Executive	Date
--------------------------------------	------

CONTRACTOR INFORMATION:

Cascadia Youth Mental Health PLLC
2600 St. Clair Street
Bellingham, WA 98226
tammy@cascadiayouthmentalhealth.com

EXHIBIT "A" – Amendment #1
(SCOPE OF WORK)

I. Background

Whatcom County is the lead agency for the North Sound Region Youth Marijuana Prevention and Education Program (YMPEP) serving Whatcom, Skagit, Island, San Juan, and Snohomish Counties. Whatcom County receives funding from the Washington State Department of Health (DOH) to coordinate implementation of strategies aimed at reducing initiation and use of marijuana by youth (ages 12 – 20) in the North Sound Region. As the lead agency, the County contracts with regional partners to carry out strategies outlined in the YMPEP Strategic Plan. One strategy identified in the plan is to support school substance use policies and practices that align with effective prevention strategies in the North Sound Region.

The Contractor is experienced in working with school partners in the region around school policy, training and technical assistance related to substance use. This contract provides funding for assessing regional substance use school discipline policy and practice needs, supporting designated schools with individual technical assistance, and providing regional training opportunities.

II. Statement of Work

The Contractor will provide assessment, training and technical assistance to support effective school discipline policies and practices related to substance use, in the North Sound Region. The contractor will complete the following activities:

A. Participation in Regional Youth Marijuana Prevention Program and Network

- a. Attend bi-monthly Regional Network meetings;
- b. Participate in bi-monthly YMPEP Subcontractor meetings;
- c. Participate in regional YMPEP planning efforts
- d. Participate in statewide YMPEP discussions/planning around School Substance Use Discipline Policy work, as relevant;
- e. Submit the required reporting form, provided by the County, to the YMPEP Regional Coordinator by the 10th of each month.

B. Provide technical assistance, training, outreach, and assessment support

- a. Continue to assess regional needs and capacity related to substance use school discipline procedures and policies;
- b. Provide technical assistance on school substance use discipline policies and procedures to schools and coalitions in the North Sound Region;
- c. Conduct outreach and recruitment with schools and community coalitions to participate in the School Substance Use Discipline Project;
- d. Host at least two Prevention Intervention Discipline Support Meetings during the 2021 – 2022 school year;
- e. Partner with the County and Northwest Educational Services District 189 to assess related training needs. Provide training, as relevant or partner to support related training provided by outside facilitator.

C. School Substance Use Discipline Building and District Level Programs

- a. Complete School Discipline System Check-up Program with individual schools/districts. The School Discipline System Check-up Project includes up to four phases (see Attachment “A” for full description):
 1. Phase 1 – Assessment of school discipline specific risk and protective factors for substance use via surveys, interviews, Healthy Youth Survey Data, policy and procedure review, and discipline data review.
 2. Phase 2 – Develop School Discipline Feedback Report with school discipline strengths and opportunities and provide school with a Menu of Recommendations with suggested action items related to school discipline procedure and practice.
 3. Phases 3 and 4 – Action planning and technical assistance to prioritize recommendations, develop action plan, and support implantation of substance use discipline procedure and practice change.

- b. Costs per program are set based on size of school and number of phases of the program the school wishes to complete. An MOU will be established between all partners (school, contractor, and funding partners) that outlines funding allocations provided by each partner to complete the program. The Contractor will submit a copy of each fully-executed MOU with the corresponding invoices. See Attachment “B” for the MOU template that will be utilized for this purpose.

The county intends to pay for school projects in full, but understands other partners may wish to contribute funding to a specific school project. The established MOUs will outline any partner funding contributions for each school, and outline the remaining cost that will be the county’s responsibility.

- D. Other efforts as approved that align with the North Sound Region Youth Marijuana Prevention Strategic Plan.

EXHIBIT “B” – Amendment #1
(COMPENSATION)

I. Budget and Source of Funding: The source of funding for this contract, in an amount not to exceed \$22,760 is the Washington State Department of Health Youth Marijuana Prevention and Education Program. The budget for this contract period (07/01/2021 – 02/28/2022) is as follows:

*Item	Rate	Documents Required Each Invoice	Budget
Participation in Regional Youth Marijuana Prevention Program & Network and Technical Assistance, Training, Outreach, Assessment, and Other Support	\$88.25/hour	Summary report of activities completed and/or meetings attended including date and hours spent.	\$6,001
Training	\$300/hour	Agenda, dates, and attendance log	
School Discipline System Check-Up SM Programs	See table below	Summary report of school program phase completed including school and district name. Copy of MOU for corresponding school programs and documentation of funding provided to each Program, itemized by all funding sources.	\$16,759
TOTAL			\$22,760

School Discipline System Check-UpSM – Refer to Exhibit C				
School Size	Phase 1	Phase 2	Phase 3	Phase 4
Small – 500 students or less	Up to \$2,180	Up to \$3,230	Up to \$1,030	Up to \$960
Medium – 501 to 1,000 students	Up to \$2,540	Up to \$3,420	Up to \$1,120	Up to \$1,020
Large – 1,001 to 1,500 students	Up to \$2,800	Up to \$3,700	Up to \$1,200	Up to \$1,100
Extra Large – 1,501 students or more	Up to \$3,050	Up to \$3,950	Up to \$1,380	Up to \$1,260

*Changes to the line item budget that exceed 10% of the line item 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 20th of the month following the month of service. Invoices submitted for payment must include the items identified in the table above. Invoices for the School Discipline System Check-UpSM will show total charges for services rendered and show a deduction for amounts billed directly to other funding partners by the contractor, pursuant to approved MOU.
2. The Contractor shall submit invoices to 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.

CONSULTING

School Discipline System Check-Up

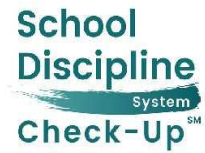
\$7,400-\$9,500* DEPENDING ON SIZE OF SCHOOL

Tags:

School Discipline Reform

Policy & Systems

Substance Use PSE



The **School Discipline System Check-Up** is a strategic consulting program created and offered by Cascadia Youth Mental Health PLLC (DBA Transform Discipline). The program is research-informed, and based on the consultant's clinical and research expertise in child and adolescent behavioral health, substance use prevention and intervention, prevention science, positive youth development, Restorative Practices, school-wide social-emotional and behavioral interventions, equity in discipline, trauma, and school discipline procedure and practice change.

The School Discipline System Check-Up is a "policy, systems, and environments" substance use prevention and behavioral health promotion strategy aimed at helping schools take stock of, and make improvements to, their current school discipline procedures and practices. The focus is primarily on school procedures and practices that are risk factors for youth substance use. The program focuses on helping schools and/or districts refine and develop procedures related to how to equitably and effectively respond to any kind of substance use, and to explicitly promote campus environments that reduce risk for substance use and promote resilience and social and emotional development. This strategic consulting program is heavily research-informed and contextually adapted to meet the needs of each individual school or district.

School Discipline System Check-Up Program Pricing (Brief Version/Full Version)

Small Schools – 500 students or less: \$5,410/\$7,400
 Medium Schools – 501 to 1,000 students: \$5,960/\$8,100
 Large Schools – 1,001 to 1,500 students: \$6,500/\$8,800
 Extra Large School – 1,501 students or more: TBD

Potential funding sources: Communities have funded this projects through a combination of substance use prevention funding sources, including:

- Drug Free Communities grants (Federal)
- Community Prevention and Wellness Initiatives (WA State)
- Youth Marijuana Prevention and Education Program funding (WA State)



**Request more information about services by emailing Tammy:
Tammy@CascadiaYouthMentalHealth.com**

School Discipline System Check-Up



School Discipline Reform

Policy & Systems

Substance Use Prevention

Equity in Discipline

School-Wide Practices

The project typically takes between 5 and 10 months, and includes either two (Brief Version) or four (Full Version) phases.

Phase 1: Domains of Discipline Assessment

- Assessment and analysis of current discipline behavior policies and procedures for responding to substance use and related risk behaviors;
- Review of existing data sources (policy, discipline data, MTSS processes, etc.);
- Interviews and surveys with key stakeholders, including staff and parents;
- Data analysis;
- School Discipline Feedback Report.

Phase 2: Personalized Feedback and Reflection

- Meetings with stakeholders to reflect on findings and identify areas for improvement;
- Development of a Menu of Recommendations.
 - Brief Version: Some schools may elect to stop project at this point.
 - Brief Version of project budget is less than Full Version.

Phase 3: Action Planning

- Facilitated meetings with an identified small group of key stakeholders to review and refine Menu of Recommendations and develop Action Plan that addresses domains of discipline related to risk/protective factors for student substance use and other related risky behaviors.

Phase 4: Implementation

- Consultant will provide a limited amount of technical assistance, resource development, and coaching. This time is used to support the implementation of the Action Plan.



**School
Discipline**
System
Check-UpSM

SCHOOL DISCIPLINE SYSTEM CHECK-UP TIMELINE

MONTHS 1-3 MONTHS 4-6 MONTHS 7-9 MONTHS 10+

PHASE 1

Domains of Discipline Assessment



- Discipline context, systems, policies, practices
 - Surveys & 1-1 Interviews, policy/practice review, & data analysis
 - School Discipline Feedback Report

MONTHS 1-3 MONTHS 4-6 MONTHS 7-9 MONTHS 10+

PHASE 2

Feedback & Reflection



- Facilitated Reflection/Education Sessions with discipline style, strengths, and vulnerabilities
- Readiness Assessment and Menu of Recommendations

MONTHS 1-3 MONTHS 4-6 MONTHS 7-9 MONTHS 10+

PHASE 3

Action Planning



- Facilitated meetings to prioritize recommendations, delegate tasks, & determine use of Technical Assistance time.

MONTHS 1-3 MONTHS 4-6 MONTHS 7-9 MONTHS 10+

PHASE 4

Implementation Support



- Additional strategic consulting time to help implement Action Plan, including training, coaching, and resource development.

SPRING 2021

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School Discipline System Check-Up Project MOU Template
Memorandum of Understanding (MOU) between

School, **School District,** Whatcom County Health Department (YMPEP), **Coalition,** & Cascadia Youth Mental Health PLLC ("consultant", CYMH).
 for Cascadia Youth Mental Health PLLC's *School Discipline System Check-UpSM*

Project Background: The *School Discipline System Check-UpSM* is a strategic consulting program created and offered by Cascadia Youth Mental Health PLLC. It is an innovative and research-informed policy, systems, and environment youth substance use and behavioral health promotion strategy that targets risk and protective factors for substance use in school discipline procedure, practice, and alternative to suspension interventions.

Project Overview: This project will help **School** assess and develop their capacity to implement best practices in school discipline, with a focus on research-based alternatives to suspension **for substance use** and may include a focus on other related major behaviors that traditionally resulted in mandatory suspensions. This project complements, but does not duplicate or replace, efforts to build whole school multi-tiered systems of support focused on behavioral interventions. This project will provide targeted technical assistance to **School**, and will help the school:

- Assess and develop research-based practices and procedures for responding to substance use policy violations at a building-level;
- Take stock of the school's overall discipline strengths and gaps to identify risk and protective factors for youth substance use and behavioral health challenges;
- Assess readiness, capacity, and next steps for Restorative Practices & other discipline interventions that promote student behavioral health.

The project is divided into four phases, including: Domains of discipline assessment, feedback, action planning, and implementation. Throughout this project's duration, the school and coalition will work with the consultant (CYMH), who will complete an assessment of discipline practices, provide recommendations, facilitate meetings, and offer scope-appropriate technical assistance and strategic consulting services focused on school-based substance use prevention/intervention, discipline interventions, and alternatives to suspension, behavioral health promotion in schools, restorative practices, effective school discipline reform, and alternatives to suspension.

All elements of this project are completed virtually.

1.0 Scope of Work: Scope of work outlined below.

1.1 Phase 1: Domains of Discipline Assessment.

Task/deliverable	Who	Time range
Identify one building-level point of contact or lead for consultant to communicate with throughout project.	School	Aug-Sept
Send School Discipline Surveys to school staff and parents.	School	Sept-Oct
Identify up to six staff or stakeholders for interviews with consultant. Provide time for select staff to attend a virtual 30-minute interview with consultant and send introduction emails.	School	Aug-Oct

07/26/21

2021 Cascadia Youth Mental Health PLLC

**School
Discipline
System
Check-UpSM**

School Discipline System Check-Up Project MOU Template

Share Student Handbook and discipline procedures and policies with consultant.	School	Aug-Sept
Share HYS data and de-identified school-level skyward/Tableau Dashboard discipline data report on suspension and expulsions (Z-code offenses) for 19-20 and 20-21 school year.	School	Aug-Sept
Consultant will complete interviews, organize and analyze data, and complete school procedure and practice review.	CYMH	Aug-Oct
Coalition Coordinator will attend virtual 1-hour meeting with consultant to share community needs and relevant coalition survey data.	Coalit.	Aug-Oct

1.2 Phase 2: Feedback and Reflection.

Consultant will develop Personalized School Discipline Feedback Report.	CYMH	Sept-Nov
Consultant and school leadership will meet virtually one time to review feedback report and identify focus areas for the small group presentations.	All	Nov-Jan
Consultant will prepare for and facilitate <u>one-hour staff presentation(s)</u> to reflect on findings from Personalized School Discipline Feedback Report, or <u>small group meetings</u> .	CYMH	Dec-Feb
Provide time and resources for staff to attend presentations virtually. Share information about scheduled meetings with staff and stakeholders.	School	Dec-Feb
Consultant will develop a Menu of Recommendations for school discipline practices and share with school leadership and coalition coordinator via one-hour virtual meeting.	CYMH	Dec-Feb

1.3 Phase 3: Action Planning.

Select and invite staff to a short-term virtual Discipline Workgroup or identify existing team to partner with for Action Planning (e.g, Leadership Team/Department Leaders).	School	Dec- March
Consultant will prepare for and facilitate <u>up to _____</u> virtual meetings with group to review and refine Menu of Recommendations and develop an Action Plan.	CYMH	Jan-Mar
Consultant will create an Action Plan summary document and share with leadership.	CYMH	Jan-Mar

1.4 Phase 4: Implementation.

Consultant will provide <u>up to _____ hours</u> of virtual technical assistance support with the implementation of the Action Plan. *Note: Implementation hours cannot be used for whole-staff or group training or professional development. Implementation hours include up to <u>_____ hours</u> of additional meeting facilitation or individual and small-group coaching, and up to <u>_____ hours</u> of resource development, meeting preparation, email support, and /or document review.	CYMH	Feb-April
Consultant will create a brief summary report outlining completed tasks.	CYMH	April-June

07/26/21

2021 Cascadia Youth Mental Health PLLC

**School
Discipline
System
Check-Up™**

School Discipline System Check-Up Project MOU Template

2. Budget & Invoices: This project is no cost to the school or school district, and will be funded through the funding sources below:

- **2.1. Whatcom County Health Department Youth Marijuana Prevention and Education Program Funding (YMPEP)**
 - School Discipline System Check-Up Projects are funded through the *Youth Marijuana Prevention and Education Program*, per **Contract # _____**, between Cascadia Youth Mental Health PLLC and Whatcom County Health Department..
 - Total budget not to exceed: **\$_____**.
- **Coalition (Only included if a CPWI or DFC Coalition is splitting the cost of the project)**
 - _____ will be funded through the *Coalition*. CYMH will invoice Coalition monthly by the 10th of each month as tasks are completed between January, 1st, 2022 and June 30th, 2022. Payment from Coalition is due to Cascadia Youth Mental Health PLLC within 30 days of receipt of invoice.
 - Total budget not to exceed: **\$_____**.

3. Timeline: The term of this MOU is for a period of August 12th, 2021-June 30th, 2022. Project deliverables may be completed prior to June 30th, 2022. This agreement may be extended, canceled, or paused for any reason upon written or emailed mutual agreement of all parties.

4. Client and Professional Services Scope: The primary clients for this project are organizations: the **Coalition and School**. This project's professional services scope is limited to consulting and education, and the consultant does not provide any direct services to individuals, students, or families; and does not provide consultation focused on updating School Board Policies.

5. Copyright notice: The materials used throughout the School Discipline System Check-UpSM project are owned by Cascadia Youth Mental Health PLLC and protected under the following copyright: Copyright 2019 Cascadia Youth Mental Health PLLC All Rights Reserved. Partners agree to refrain from recording, duplicating, adapting, and/or distributing copyrighted materials.

6. Data Sharing:

The partners will comply with the provisions of state law and FERPA. Nothing in this agreement may be construed to allow the coalition or consultant (CYMH) to maintain, use, disclose, or share student data in a manner not allowed under federal or state law or regulation or this Agreement. Additional Data Sharing Agreements may be requested or developed by the school district to meet FERPA regulations. The partners agree to the following conditions regarding the sharing of data for the purpose of completing the Domains of Discipline Assessment (Phase 1) of this project.

6.1. School will provide the partners with access to summary (de-identified, school-level) discipline data for the 2019-2020 and 2020-21 school years including:

- Number of students suspended for each Z-code Offense each year;
- Total number of offenses for each Z-code each year and average days of exclusion for each;
- Data should be able to be disaggregated (by student ethnicity, F/R lunch, IEP, MVent, etc...) when disaggregated data numbers do not potentially violate student confidentiality (*i.e., no reports for student groups with less than 10 students*).
- District and/or building-level Healthy Youth Survey data

07/26/21

2021 Cascadia Youth Mental Health PLLC

School
Discipline
System
Check-UpSM

School Discipline System Check-Up Project MOU Template

6.2. Cascadia Youth Mental Health PLLC agrees to provide partners with access to:

- Summary data (de-identified summary charts and graphs) from staff and parent surveys on school discipline practice;
- Themes that emerged from key stakeholder interviews.
 - *In order to protect the confidentiality of interview participants, notes from the interviews will be kept confidential.*

6.3. Coalition Coordinator agrees to share:

- Summary results of the coalition's annual community survey and/or community health needs assessment;

Authorization:

The signing of this MOU implies that the signatories understand and agree with the terms of this MOU, and they will strive to reach, to the best of their ability, the objectives stated in the MOU.

Cascadia Youth Mental Health PLLC
Tamara Dee, Principal Consultant

Date

Organization: Coalition

Date

Printed name : _____

Organization: School District

Date

Printed name : _____

Project MOU developed per Whatcom County Health Department Contract # _____

Organization: Whatcom County

Date

Printed name : _____

07/26/21

2021 Cascadia Youth Mental Health PLLC

School
Discipline
System
Check-Up™



Whatcom County

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

Agenda Bill Master Report

File Number: AB2021-428

File ID:	AB2021-428	Version:	1	Status:	Agenda Ready
File Created:	07/16/2021	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:	08/10/2021	Enactment #:			

Primary Contact Email: ADeacon@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 Service District 189 for participation in the Regional Youth Marijuana Prevention and Education Program, in the amount of \$15,000

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 Agreement



MEMORANDUM

TO: Satpal Sidhu, County Executive

FROM: Erika Lautenbach, Director

RE: Northwest Educational Service District (ESD) 189 – Youth Marijuana Prevention and Education Program Interlocal Agreement

DATE: July 30, 2021

Enclosed is an interlocal agreement between Whatcom County and Northwest ESD for your review and signature.

- **Background and Purpose**

Whatcom County Health Department is the lead agency for the North Sound Regional Youth Marijuana Prevention and Education Program (YMPEP) serving Whatcom, Island, San Juan, Skagit, and Snohomish Counties. Whatcom County receives funding from Washington State Department of Health (DOH) to coordinate implementation of strategies aimed at reducing initiation and use of marijuana by youth (ages 12-20) in the North Sound Region. This agreement provides funding to ESD 189 to support their participation in planning and implementing regional youth marijuana prevention strategies and activities.

- **Funding Amount and Source**

Funding for this contract, in an amount not to exceed \$15,000, is provided by the Washington State Department of Health YMPEP. These funds are included in the 2021 budget. Council approval is required per RCW 39.34.030(2) for agreements between public agencies.

- **Differences from Previous Contracts**

This is a new Interlocal Agreement, however, funding for this work has been allocated to ESD 189 through previous Agreements since 2017. This Agreement includes no significant changes from the Agreement ending on 06/30/2021 (WC Contract #201711011).

Please contact Anne Deacon, Human Services Manager at 360-778-6054 (ADeacon@co.whatcom.wa.us) or Kathleen Roy, Assistant Director at extension #6007 (KRoy@co.whatcom.wa.us), if you have any questions 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 / 855060 Substance Abuse		
Contract or Grant Administrator:			Alyssa Pavitt		
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#:	
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>				
Is this contract grant funded?		If yes, Whatcom County grant contract number(s):		201801023	
Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>				
Is this contract the result of a RFP or Bid process?		Contract Cost Center:		677350	
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 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 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 : 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.			
\$	15,000				
This Amendment Amount:					
\$					
Total Amended Amount:					
\$					
Summary of Scope: The purpose of this agreement is to fund implementation of and participation in youth marijuana prevention activities.					
Term of Contract:		1 Year		Expiration Date: 06/30/2022	
Contract Routing:	1. Prepared by:		JT		Date: 03/17/2021
	2. Health Budget Approval:		KR/JG		Date: 07/09/2021
	3. Attorney signoff:		RB		Date: 07/09/2021
	4. AS Finance reviewed:		BBennett		Date: 07/30/2021
	5. IT reviewed (if IT related):				Date: _____
	6. Contractor approved:				Date: _____
	7. Submitted to Exec.:				Date: _____
	8. Council approved (if necessary):		AB2021-428		Date: _____
	9. Executive signed:				Date: _____
	10. Original to Council:				Date: _____

INTERLOCAL COOPERATIVE AGREEMENT BETWEEN
WHATCOM COUNTY
AND
NORTHWEST EDUCATIONAL SERVICE DISTRICT 189

THIS AGREEMENT is made and entered into by and between Whatcom County ("Whatcom") and Northwest Educational Service District 189 ("ESD 189"); both governmental agencies in the State of Washington pursuant to the authority granted by Chapter 39.34 RCW, INTERLOCAL COOPERATION ACT.

1. PURPOSE: The purpose of this agreement is to implement youth marijuana prevention activities outlined in the ESD 189 Workplan.
2. RESPONSIBILITIES:

Whatcom will:

- A. Lead and facilitate the North Sound Region Youth Marijuana Prevention Network and implementation of our 5-Year Youth Marijuana Prevention and Education Program (YMPEP) Strategic Plan.
- B. Provide technical assistance and support to ESD 189 in carrying out their YMPEP work.
- C. Include ESD 189 staff in regional YMPEP communication, trainings, and meetings.
- D. Share State and regional YMPEP resources with designated ESD 189 staff.
- E. Provide ESD 189 with templates for submitting work plan, budget, and reporting.

ESD 189 will:

1. Implement the following activities as part of the Regional Marijuana Prevention Program:
 - A. Actively engage in regional YMPEP network:
 1. Attend bi-monthly Regional Network meetings;
 2. Participate in bi-monthly YMPEP subcontractor meetings;
 3. Participate in regional YMPEP planning efforts;
 4. Promote school partners to join the Regional Network.
 5. Participate in statewide Practice Collaborative Workgroups and other statewide YMPEP workgroups, as relevant.
 6. Promote YMPEP professional development and youth empowerment opportunities to regional school partners.
 7. Staff participation in relevant YMPEP trainings.

- B. Provide meeting space for the Youth Marijuana Prevention Regional Network, including: quarterly meetings, sub-committee meetings, and regional trainings. (Pending in-person meetings and events.)
 - C. Support marijuana and vaping education and substance use discipline policy efforts with school partners.
 - 1. Support promotion and outreach for Cascadia Youth Mental Health's School Substance Use Discipline Policy YMPEP Program with school partners.
 - 2. Support addressing school discipline policies through Student Assistance Professionals, and education with school administrators.
 - 3. Explore student COVID survey results in relation to vaping and marijuana, and to inform potential additional projects.
 - 4. Share educational resources on marijuana and vaping with schools, regional contractors, and the regional network through continued updating of ESD 189's Marijuana and Vaping Presentation Toolkit for Schools.
 - 5. Partner with the County and Cascadia Youth Mental Health to develop training plans related to school substance use discipline policies. Provide training if relevant, or partner to support related training provided by another facilitator.
 - D. Other efforts, as approved, that relate to the North Sound Region Youth Marijuana Prevention Strategic Plan.
- 2. Maintain accurate records of staff time dedicated to YMPEP activities.
 - 3. Provide monthly reports of program activities and staff effort to lead regional coordinator for inclusion in DOH reporting. ESD 189 will use reporting form provided by Whatcom. Due dates will be no later than the 10th day of the month, following the month activities occurred.
 - 4. Perform all work necessary within the limits of the available resources for this agreement to implement all strategies, action steps, and deliverables agreed to with regional partners and approved by DOH.
 - 5. Request approval for Budget adjustments that total 10% or more – approval required at least 15 days prior to expending adjusted budget items.
 - 6. Use no more than 11% of YMPEP allocation for indirect/overhead costs.
 - 7. Comply with all applicable Federal and State requirements that govern this agreement and will cooperate with Whatcom County on at least one annual site visit at a mutually agreeable time to discuss ESD 189 program progress and contract oversight.
- 3. TERM OF AGREEMENT: The start date of this grant funded project is July 1, 2021 therefore the start date of this agreement has been established as of that date, and shall be in effect through June 30, 2022.
 - 4. ADMINISTRATION: The following individuals are designated as representatives of the respective parties. The representatives shall be responsible for the administration of this agreement and for coordinating and monitoring performance under this agreement. In the event such representatives are changed, the party making the change shall notify the other party:

Whatcom's representative shall be:

Alyssa Pavitt, Program Specialist – apavitt@co.whatcom.wa.us
Whatcom County Health Department
509 Girard Street
Bellingham WA 98225
(360) 778-6061

ESD 189's representative shall be:

Jodie DesBiens – jdesbiens@nwesd.org
Behavioral Health & Prevention Center Director
Northwest Educational Services District 189
(425) 879-8810

5. TREATMENT OF ASSETS AND PROPERTY: No fixed assets or personal or real property will be jointly or cooperatively acquired, held, used, or disposed of pursuant to this agreement.
6. INDEMNIFICATION: Each party agrees to be responsible and assume liability for its wrongful and/or negligent acts or omissions or those of their officials, officers, agents, or employees to the fullest extent required by law and further agree to save, indemnify, defend, and hold the other party harmless from any such liability. It is further provided that no liability shall attach to Whatcom County by reason of entering into this agreement as expressly provided herein.
7. TERMINATION: Any party hereto may terminate this agreement upon (30) days notice in writing either personally delivered or mailed to the party's last known address for the purposes of giving notice under this paragraph. If this agreement is so terminated, the parties shall be liable only for performance rendered or costs incurred in accordance with the terms of this agreement prior to the effective date of termination.
8. CHANGES, MODIFICATIONS, AMENDMENTS, OR WAIVERS: The agreement may be changed, modified, amended, or waived only by written agreement executed by the parties hereto. Waiver or breach of any term or condition of this agreement shall not be considered a waiver of any prior or subsequent breach.
9. SEVERABILITY: In the event of any term or condition of this agreement or application thereof to any person or circumstances is held invalid, such invalidity shall not affect other terms, conditions, or applications of this agreement which can be given effect without the invalid term, condition or application. To this end, the terms and conditions of this agreement are declared severable.
10. ENTIRE AGREEMENT: This agreement contains all the terms and conditions agreed upon by the parties. All items incorporated herein by reference are attached. No other understandings, oral or otherwise, regarding the subject matter of this agreement shall be deemed to exist or to bind any of the parties hereto.
11. OTHER PROVISIONS: ESD 189 will comply with all applicable Federal and State requirements that govern this agreement.
12. This agreement has been approved and authorized by the governing bodies of ESD 189 and Whatcom and each party represents that the persons executing this Agreement have been authorized to do so on or behalf of the public entity referenced below.
13. This Agreement shall be posted or recorded by Whatcom required by RCW 39.34.040.

EXHIBIT "B"
(COMPENSATION)

The source of funding for this contract, in an amount not to exceed \$15,000, is the Youth Marijuana Prevention and Education Contract with the Washington State Department of Health.

Contract Budget 07/01/2021 – 06/30/2022		
Item	Documentation required with invoice	Budget
Personnel	Expanded GL Report	\$11,844
Program Supplies including technology, space and room fees		\$1,520
Travel & Training	For travel, training and conference expenditures, mileage will be reimbursed at the current Federal rate. Ground transportation, coach airfare and ferries will be reimbursed at cost when accompanied by receipts. Lodging and meal costs are not to exceed the U.S. General Services Administration Domestic Per Diem Rates (www.gsa.gov), specific to location. Reimbursement requests for allowable travel, training and membership expenses (including conference/training registration fees) must be accompanied by receipts or vendor invoices. Receipts for meals are not required. Mileage records, including the name of the staff member, date of travel, starting point and destination of travel, the number of miles traveled, the per mile reimbursement rate, and a brief description of the purpose of travel, are required for mileage reimbursement.	\$150
Subtotal		\$13,514
Administration	Copy of approved indirect cost plan required for 11%; if not received, 10% will be the maximum allowed.	\$1,486
TOTAL		\$15,000

1. Contractor may transfer funds between budget line items with prior County approval but under no circumstances will the Administration rate exceed 11%.
2. Budget adjustments that total 10% or more require approval at least 15 days prior to expending adjusted budget items.
3. Contractor may be required to submit a spend-down plan to the County if the following budget spending guidelines are not met: 50% by January 1, 2022, 75% by April 1, 2022 and 90% by June 1, 2022. If a spend-down plan is submitted and not carried through, it will be considered in future funding decisions.

I. 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 20th day of the month following the month of service. Invoices submitted for payment must include sufficient documentation to prove the validity of all costs

claimed. A general ledger report of costs claimed toward this project will be sufficient for invoicing this agreement. Whatcom County reserves the right to request further back-up documentation for any costs claimed for reimbursement. Equipment purchases are not an allowable expense. Food and incentive purchases must follow DOH YMPEP guidelines.

2. The Contractor shall submit invoices to *(include contract/PO #)* HL-BusinessOffice@co.whatcom.wa.us.
3. Payment by the County will be considered timely if it is made within 30 days of the receipt and acceptance of billing information from Contractor. The County may withhold payment of an invoice if the Contractor submits it more than 30 days after the expiration of this contract.
4. Invoices must include the following statement, with an authorized signature and date:

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

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



Whatcom County

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

Agenda Bill Master Report

File Number: AB2021-442

File ID:	AB2021-442	Version:	1	Status:	Agenda Ready
File Created:	07/21/2021	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:	08/10/2021	Enactment #:			

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

TITLE FOR AGENDA ITEM:

Request authorization for the County Executive to enter into an interlocal agreement between Whatcom County and Tacoma Pierce County Health Department for administration of the food handler permit program, in an estimated amount of \$80,732 per year

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 Agreement



MEMORANDUM

TO: Satpal Sidhu, County Executive
FROM: Erika Lautenbach, Director
RE: Tacoma-Pierce County Health Department (TPCHD)
Food Worker Permit Program Interlocal Agreement
DATE: July 21, 2021

Attached is an Interlocal Agreement between Whatcom County and Tacoma-Pierce County for your review and signature.

- **Background and Purpose**

In 2012, Whatcom County joined at least 18 other local health jurisdictions (LHJ) in utilizing an online system for training, testing and issuing required food handler permits to food industry workers. This online program provides food industry workers a convenient way to obtain their food handler permits while increasing administrative efficiencies in the Health Department. TPCHD administers food handler testing on behalf of all participating LHJs and retains a \$3.00 per card fee (total card fee is \$10) as payment for the services.

- **Funding Amount and Source**

In 2020, Whatcom County received \$80,732 in revenue from this program. Council approval is required per RCW 39.34.030(2) for agreements between public agencies.

- **Differences from Previous Contracts**

This is a new 5-year Agreement, however, this program has been in place through previous Agreements since 2012. This Agreement includes no changes from the Agreement that is in place through 12/31/2021 (WC Contract #201610012).

Please contact Erika Lautenbach at 360-778-6005 (ELautenb@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)			8540 Environmental Health / 854030 Food Safety		
Contract or Grant Administrator:			Erika Lautenbach		
Contractor's / Agency Name:			Tacoma Pierce County Health Department		
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#:	
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>				
Is this contract grant funded?		If yes, Whatcom County grant contract number(s):			
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>				
Is this contract the result of a RFP or Bid process?		Contract Cost Center:		652200	
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.		
Varies depending on number of permits issued.		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: This Agreement outlines terms and responsibilities for administering an online food worker permit training, testing and card issuance program on behalf of Whatcom County.					
Term of Contract:		5 Years		Expiration Date: 12/31/2026	
Contract Routing:	1. Prepared by: JT		Date:		07/06/2021
	2. Health Budget Approval: KR/JG		Date:		07/09/2021
	3. Attorney signoff: RB		Date:		07/21/2021
	4. AS Finance reviewed: M Caldwell		Date:		7/9/21
	5. IT reviewed (if IT related):		Date:		
	6. Contractor approved:		Date:		
	7. Submitted to Exec.:		Date:		
	8. Council approved (if necessary): AB2021-442		Date:		
	9. Executive signed:		Date:		
	10. Original to Council:		Date:		

**INTERLOCAL AGREEMENT
BETWEEN
TACOMA-PIERCE COUNTY HEALTH DEPARTMENT
And
WHATCOM COUNTY HEALTH DEPARTMENT**

This Interlocal Agreement is made and entered into by and between the **Tacoma-Pierce County Health Department**, hereinafter referred to as **DEPARTMENT**, and **WHATCOM COUNTY HEALTH DEPARTMENT** hereinafter referred to as the **Local Health Jurisdiction**. The **DEPARTMENT** and the **Local Health Jurisdiction** are collectively referred to as the "parties."

I. RECITALS

WHEREAS, the **DEPARTMENT** and the **Local Health Jurisdiction** are local health departments as provided for under Chapters 70.05, 70.08, or 70.46 RCW, with authority under Chapter 246-217 WAC to issue food worker cards; and

WHEREAS, it is the purpose of this Interlocal Agreement to provide for the funding and execution of services as described in Addenda A and B, attached hereto and incorporated herein; and

WHEREAS, the parties have the authority to enter into this Agreement pursuant to RCW 39.34.080.

II. DEFINITIONS

As used herein, the following terms shall have the meanings set forth below:

- A. **Agreement** means this Interlocal Agreement together with the attached Addenda, and any other documents incorporated therein. Any oral representations or understandings not incorporated herein are excluded. Attached hereto and made a part hereof for all purposes are the following:

Addendum	Number of Pages	Description
A	2	Scope of Work
B	1	Allocation of Fees

- B. **Department Representative** means the individual or individuals designated and authorized by the **DEPARTMENT** to receive notices and to act for it in all matters relating to this Agreement, or the designee of such individual.
- C. **Local Health Jurisdiction's Representative** means the individual designated and authorized by the **Local Health Jurisdiction** to receive notices and to act for it in all matters relating to this Agreement, or the designee of such individual.
- D. **Services** means all work performed by the **DEPARTMENT or the Local Health Jurisdiction** pursuant to and governed by this Agreement, including Addenda A and B.

III. TERM

The term of this Agreement shall be: January 1, 2022 through December 31, 2026, unless amended or terminated earlier pursuant to the terms and conditions herein. Should this Agreement be signed after the term beginning date stated herein, then it shall be retroactive and binding to that date.

IV. PAYMENT

Payment for the services described in Addendum A shall be provided as set forth in Addendum B, attached hereto and incorporated by reference.

V. HOLD HARMLESS

Except as otherwise provided herein, each party shall defend, protect, and hold harmless the other party, and its appointed and elected officials, employees, and agents from and against all liability, loss, cost, damage and expense, including but not limited to costs and attorney's fees, because of claims, suits and/or actions arising from any negligent or intentional act or omission asserted or arising or alleged to have arisen directly or indirectly out of or in consequence of the performance of this Agreement by that party's appointed or elected officials, employees, and agents.

VI. RECORDS MAINTENANCE

The **DEPARTMENT** and the **Local Health Jurisdiction** shall each maintain books, records, documents, and other materials, including but not limited to online data, that sufficiently and properly reflect all direct and indirect costs expended by either party in the performance of the services described herein. These records shall be subject to copying, inspection, review, or audit by personnel of either party, and other personnel duly authorized by law. The **DEPARTMENT** shall retain all books, records, documents, online data, and other material relevant to the services described in Addendum A, which materials shall be made available to the **Local Health Jurisdiction** upon request.

VII. TERMINATION

Except as otherwise provided for herein, either party may terminate this Agreement by giving the other party at least one hundred eighty (180) days written notice. If this Agreement is so terminated, each party shall be liable only for performance in accordance with the terms stated herein for services rendered prior to the effective date of termination.

VIII. CHANGE IN FUNDING

If the funding authorities of the **DEPARTMENT** (*Federal, State, and local agencies*) fail to appropriate funds to enable the **DEPARTMENT** to continue payment as specified in this Agreement or if the Board of Health reduces the budget of the **DEPARTMENT** or any program(s) and, as a result of the Board of Health's action, the **DEPARTMENT's** Director of Health determines there are insufficient funds to continue payment as specified in this Agreement, then the **DEPARTMENT** may modify or cancel this Agreement without penalty provided that the **Local Health Jurisdiction** receives at least ninety (90) days prior written notice of lack of appropriated funds as the reason for the modification or termination. Any modification of this Agreement shall be effective only upon incorporation into a written amendment as set forth in Section XI.

IX. INTERPRETATION

In the event of an inconsistency found in the terms and conditions contained within this Agreement, unless otherwise provided herein, the inconsistency shall be resolved by giving precedence in the following order:

- Applicable Federal and State Statutes and Regulations;
- Addenda A and B; and
- The provisions of this Agreement.

X. PERFORMANCE

The **DEPARTMENT** shall perform all services in accordance with all applicable professional standards and agrees that it will use only qualified, competent personnel in the execution of these services.

XI. AMENDMENTS

Either party may request changes to this Agreement. Proposed changes, which are mutually agreed upon, shall be incorporated by written amendments to this Agreement. No changes to this Agreement are valid or binding on either party unless first reduced to writing and signed by the Representatives of both parties.

XII. NON-DISCRIMINATION

Each party covenants that in providing the services described in Addendum A, no person shall be excluded from participation therein, denied the benefits thereof, or otherwise be subjected to discrimination with respect thereto on the grounds of marital status, presence of any sensory, mental, or physical handicap, unless based upon a bona fide occupational qualification, race, creed, color, national origin, age, religion, gender, sexual orientation, disabled veteran status or Vietnam Era Veteran status.

XIII. DISPUTES

This Agreement shall be administered and interpreted under the laws of the State of Washington. In the event that a dispute arises in the interpretation or application of this Agreement, both parties are to proceed to good faith negotiation to resolve said disputes. The parties may also agree in writing to mediation if negotiation is not successful in resolving the dispute. However, in the event such disputes cannot be resolved, the dispute may be appealed to the parties' Local Health Officer or his /her designee for resolution. In the event the Local Health Officers are unable to resolve the dispute, either party may pursue relief in Superior Court. Jurisdiction of litigation arising from this Agreement shall be in the State of Washington. Venue for all actions arising pursuant to this Agreement shall lie within Pierce County, Washington.

XIV. SERVICES MANAGEMENT

The work described in Addendum A shall be performed under the coordination and cooperation of both party representatives. Each party shall provide assistance and guidance to the other party as necessary for the successful performance and goals of this Agreement.

XV. ALL WRITINGS CONTAINED HEREIN

This Interlocal Agreement contains all the terms and conditions acknowledged by both parties. No other understandings, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or bind the parties hereto. This Agreement supersedes any prior written agreements between the parties relating to the work described in Addendum A.

IN WITNESS THEREOF the parties hereto have executed this Agreement as of the date(s) set forth below.

Local Health Jurisdiction Authorized Signature

DEPARTMENT Authorized Signature

Erika Lautenbach
Director

Date

Nigel Turner
Division Director

Date

Whatcom County Health Department
509 Girard Street
Bellingham, WA 98225
(360) 778-6000

Christopher Schuler
Business Manager

Date

Tacoma-Pierce County Health Department
3629 South D Street, MS 001
Tacoma, WA 98418
(253) 649-1500

PROGRAM APPROVAL

Approved by email JW/JT
John Wolpers, Environmental Health Manager

07/06/2021
Date

WHATCOM COUNTY

SATPAL SIDHU
County Executive

STATE OF WASHINGTON)
)
COUNTY OF WHATCOM)

On this _____ day of _____, 2021, before me personally appeared Satpal Sidhu, to me known to be the Executive of Whatcom County and who executed the above instrument and who acknowledged to me the act of signing and sealing thereof.

NOTARY PUBLIC in and for the State of Washington,
residing at Bellingham.

My Commission expires: _____

APPROVED AS TO FORM:

Approved by email RB/JT
Royce Buckingham, Prosecuting Attorney

07/21/2021
Date

ADDENDUM A: SCOPE OF WORK AND SPECIFIC CONDITIONS

This Addendum A applies to Agreement #1061-34-2026 between The TACOMA-PIERCE COUNTY HEALTH DEPARTMENT (**DEPARTMENT**) and **WHATCOM COUNTY HEALTH DEPARTMENT (Local Health Jurisdiction)**. In addition to the terms and conditions set forth in the Agreement, the parties agree as follows.

1. Local Health Jurisdiction's Responsibilities:

- 1.1. Authorize the **DEPARTMENT** by means of this Agreement to act as the **Local Health Jurisdiction's** "Designated Agent" and provide online food worker training, testing and card issuance to residents of Whatcom County and any out-of-state residents who state they work in Whatcom County, as permitted under Chapter 246-217 WAC.
- 1.2. Hold the **DEPARTMENT** harmless from any actual or purported loss of online food worker training, testing and card issuance income during times of unavoidable lack of access to the **DEPARTMENT's** training, testing and card issuance web site.
- 1.3. Maintain the security of the data originating from and contained in the online food worker card database. This includes but is not limited to adhering to the standard practices for strong password generation and user account management. The **Local Health Jurisdiction** shall not grant unauthorized parties access to the confidential data originating from or contained in the online food worker card database.

2. The DEPARTMENT's Responsibilities:

- 2.1. Provide online food worker training, testing and card issuance services as a designated agent of the **Local Health Jurisdiction** in accordance with the State of Washington's requirements under Chapter 246-217 WAC.
- 2.2. Ensure a good-faith effort to maintain a training, testing and card issuance web site that functions and is accessible to residents of Whatcom County and any out-of-state residents who state they work in Whatcom County.
- 2.3. Provide **Local Health Jurisdiction** with the location of a website to which residents of Whatcom County and any out-of-state residents who state they work in Whatcom County may be directed for online training, testing and card issuance. The **DEPARTMENT** may change the location of the website, but must provide re-direction to a new site with a minimum of thirty (30) days advance notice to **Local Health Jurisdiction**.
- 2.4. Provide access to the software to print a food worker card with the **Local Health Jurisdiction** logo which shall be valid throughout the State of Washington for a minimum period of two years from the date of issuance.
- 2.5. Establish a secure online payment gateway and service that will permit online payment services via, credit cards, including but not limited to Visa and MasterCard, as well as debit cards.
- 2.6. Provide and pay for an online maintenance agreement with an outside contractor to provide technical support of the website and online programming of the online food worker card software.
- 2.7. Provide **Local Health Jurisdiction** with a written statement of income on a quarterly basis, or as frequently as the parties may otherwise agree, or a link to an online report providing the same information.
- 2.8. Provide support and service to **Local Health Jurisdiction** during regular **DEPARTMENT** hours of operation to ensure **Local Health Jurisdiction** has the ability to respond to queries from residents of Whatcom County and any out-of-state residents who state they work in Whatcom County.

3. Public Records Requests.

3.1 The **DEPARTMENT** holds the records and data generated by the Food Workers Card software as the **Local Health Jurisdiction's** designee. The **DEPARTMENT** will provide all such materials to the **Local Health Jurisdiction** in response to any public record request the **Local Health Jurisdiction** may receive relating to the Food Workers Card database. The **Local Health Jurisdiction** will be responsible for releasing the records to the requester in accordance with Chapter 42.56 RCW and Chapter 44-14 WAC. When the **Local Health Jurisdiction** requests records, the **Local Health Jurisdiction** must clearly describe the records that are being requested. The **DEPARTMENT** will notify the **Local Health Jurisdiction** as to the number of days it will take to gather the responsive records. Any public records requests received by the **DEPARTMENT** will be fulfilled by the **DEPARTMENT**. In the event the **DEPARTMENT** receives a request for public records regarding the **Local Health Jurisdiction's** records, the **DEPARTMENT** will notify the **Local Health Jurisdiction** of the request prior to releasing the records.

4. Liaisons for the Agreement:

On behalf of the **DEPARTMENT**:

Donald Foreman
Project Manager
Tacoma-Pierce County Health Department
3629 S D Street
Tacoma, WA 98418
Phone: (253) 649-1707
Fax: (253) 649-1360
Email: dforeman@tpchd.org

On behalf of the **Local Health Jurisdiction**:

John Wolpers
Environmental Health Manager
Whatcom County Health Department
509 Girard Street
Bellingham, WA 98225
Phone: (360) 778-6000
Fax (360) 778-6001
Email: jwolpers@co.whatcom.wa.us

ADDENDUM B: ALLOCATION OF FOOD WORKER CARD FEES

This Addendum B applies to Agreement #1061-31-2026 between The TACOMA-PIERCE COUNTY HEALTH DEPARTMENT (**DEPARTMENT**) and **WHATCOM COUNTY HEALTH DEPARTMENT (Local Health Jurisdiction)**. In addition to the terms and conditions set forth in the Agreement and Addendum A, the parties agree as follows:

1. **Fee Allocation and Method of Payment:**

- 1.1. During the period January 1, 2022 through December 31, 2026, the **DEPARTMENT** will collect on behalf of the **Local Health Jurisdiction** the maximum fee established under Chapter 246-217 WAC, as now or hereafter amended.
- 1.2. The **DEPARTMENT** will retain a \$3.00 per card fee as payment for the services described in this Agreement from each online food worker card issued online to a resident of Whatcom County and any out-of-state resident who states he or she works in Whatcom County and who enters the www.foodworkercard.wa.gov testing website (or a successor site) by means of the **Local Health Jurisdiction's** web link, the **DEPARTMENT's** web link, or any other approved link. The balance of the monies collected under Chapter 246-217 WAC shall be remitted to the **Local Health Jurisdiction** in accordance with the terms set forth below.
- 1.3. The **DEPARTMENT** may impose and retain a surcharge or equivalent assessment intended to recoup any credit card processing fees. Such a surcharge or equivalent assessment will be paid directly by the food worker (not by the **Local Health Jurisdiction**), and shall not be included in the fee allocations and methods of payment described elsewhere in this section.
- 1.4. If the actual and indirect costs incurred by the **DEPARTMENT** to provide the services described in this Agreement exceed \$3.00 per card, the **DEPARTMENT** may, in its sole discretion, increase the amount it retains as payment for services to offset the difference and the amount remitted to the **Local Health Jurisdiction** will be reduced. Written notice of rate increases, if any, will be provided in writing ninety (90) days in advance to the **Local Health Jurisdiction**. The **Local Health Jurisdiction** may terminate this Agreement by giving (90) days written notice in the event of a rate increase.
- 1.5. The **DEPARTMENT** will retain a \$1.00 per card fee for the services described in this Agreement from each replacement food worker card issued online to a resident of Whatcom County and any Whatcom out-of-state resident who has lost his or her original food worker card; provided, he or she works in Whatcom County, purchases a replacement— food worker card without taking the online test, and enters the www.foodworkercard.wa.gov testing website (or a successor site) by means of the **Local Health Jurisdiction's** web link, the **DEPARTMENT's** web link, or any other approved link. The balance of the monies collected under Chapter 246-217 WAC shall be remitted to the **Local Health Jurisdiction** in accordance with the terms set forth below.
- 1.6. If a food worker from a **Local Health Jurisdiction** challenges the validity of a payment for an online food worker card and the credit card company charges back or reverses the payment, the **Local Health Jurisdiction** agrees to pay any fees and costs associated with the cost of the reversal. Currently these fees are \$25.00 per transaction in addition to the actual amount reversed.
- 1.7. The **DEPARTMENT** shall remit monies owed to the **Local Health Jurisdiction** on a quarterly basis, together with a written statement of income received, or as frequently as the parties may otherwise agree, or a link to an online report providing the same information. Said funds and the quarterly statement shall be mailed to the **Local Health Jurisdiction** at the address stated below within 20 business days of the end of the quarter.
- 1.8. At the written request of the **Local Health Jurisdiction Representative** the **DEPARTMENT** may enter into agreements with institutions such as Department of Corrections to provide food worker cards for residents of Whatcom County that are not permitted internet access. The **DEPARTMENT** will retain \$10.00 per card fee for this service.

2. **Remittance Address:** **DEPARTMENT** will remit payment to the address stated below:

Whatcom County Health Department
Attention: Business Office
509 Girard Street
Bellingham, WA 98225
Phone: (360) 778-6000

3. **Accounting Information:**

3.1. Source of Funding: N/A

3.2. **DEPARTMENT** Program Number: 1061-Food Safety



Whatcom County

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

Agenda Bill Master Report

File Number: AB2021-443

File ID:	AB2021-443	Version:	1	Status:	Agenda Ready
File Created:	07/21/2021	Entered by:	SBatdorf@co.whatcom.wa.us		
Department:	Parks and Recreation Department	File Type:	Interlocal		
Assigned to:	Council Finance and Administrative Services Committee			Final Action:	
Agenda Date:	08/10/2021	Enactment #:			

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

TITLE FOR AGENDA ITEM:

Request authorization for the County Executive to enter into an interlocal agreement between Whatcom County and Skagit Valley College for the use of the Plantation Rifle Range to train personnel, in the amount of \$17,486.40

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

This interlocal agreement allows Skagit Valley College to use the Plantation Rifle Range for the purpose of providing firearms qualifications for personnel, generating \$17,486.41 in use fees and taxes for Whatcom County.

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
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Attachments: Memorandum, Interlocal Agreement

**WHATCOM COUNTY
Parks & Recreation**

3373 Mount Baker Highway
Bellingham, WA 98226-7500



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

MEMORANDUM

TO: Satpal Sidhu, County Executive
FROM: Michael McFarlane, Director 
DATE: July 16, 2021
RE: Plantation Rifle Range Use Agreement – Skagit Valley College

Enclosed is the Interlocal Cooperative Agreement between Whatcom County Parks & Recreation and Skagit Valley College for use of the Plantation Rifle Range to provide firearms qualifications for commissioned and non-commissioned personnel.

Whatcom County Parks & Recreation has had a collaborative agreement with Skagit Valley College for use of the Range to train their personnel for several years. This Interlocal Cooperative Agreement generates \$17,486.40 in budgeted revenue for Whatcom County and outlines the terms and conditions for use of the Range.

Please feel free to contact Christ Thomsen, Parks Operation Manager at extension 5865 if you have any additional questions or concerns.

Thank you.

WHATCOM COUNTY CONTRACT INFORMATION SHEET

Whatcom County Contract No. _____

Originating Department:	Parks & Recreation
Division/Program: <i>(i.e. Dept. Division and Program)</i>	Parks / M&O / Plantation Rifle Range
Contract or Grant Administrator:	Christ Thomsen
Contractor's / Agency Name:	Skagit Valley College

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: 6335

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).	

Contract Amount:(sum of original contract amount and any prior amendments): \$ 17,486.40 This Amendment Amount: \$ _____ Total Amended Amount: \$ 17,486.40	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: Interlocal Cooperative Agreement between Whatcom County Parks & Recreation and Skagit Valley College for use of the Plantation Rifle Range for the purpose of providing firearms qualifications for commissioned and non-commissioned personnel. Generates \$17,486.40 in use fees and taxes for the County.

Term of Contract: 1 year	Expiration Date: December 31, 2021
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Contract Routing:	1. Prepared by: Shannon Batdorf	Date: 7/15/2021
	2. Attorney signoff: Brandon Waldron by email	Date: 7/19/21
	3. AS Finance reviewed: Marianne Caldwell by email	Date: 7/20/21
	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: _____

INTERLOCAL COOPERATIVE AGREEMENT
BETWEEN
WHATCOM COUNTY (PARKS & RECREATION)
AND SKAGIT VALLEY COLLEGE

THIS AGREEMENT is made and entered into by and between Whatcom County (Parks & Recreation Department) ("County") and Skagit Valley College (Contracting Entity), collectively referred hereinafter as the "Parties." This Agreement is entered into pursuant to the authority granted by Chapter 39.34 RCW, Interlocal Cooperation Act. The Department or Party contracting with Whatcom County shall hereinafter be identified by name or as the "Contracting Entity."

1. PURPOSE:

For the use by the Contracting Entity of the County's Plantation Rifle Range (Range) located at 5102 Samish Highway, Whatcom County, Washington. The Plantation Rifle Range has two separate shooting ranges identified and named as Pistol & Smallbore Rifle Range (Smallbore) and High Power Rifle & Trap Range (High Power). These facilities are to be used by the Contracting Entity in accordance with the use terms as set forth in this Agreement for Law Enforcement training purposes.

The Contracting Entity is contracting with the County for use of the Range for the purpose of the Contracting Entity to provide firearms qualifications, practice or training for commissioned and non-commissioned personnel of the Contracting Entity.

It is understood and agreed by the Parties that the County shall provide no training or supervision at the Facility during the Contracting Entity's exclusive or individual use periods. The County shall provide, upon request by the Contracting Entity's Supervisor or Coordinator, assistance to the individual Supervisor or Coordinator, in familiarizing them with the operations of facilities, equipment, and other infrastructure necessary to facilitate the Contracting Entity's use under the terms of this Agreement.

It is understood and agreed by the Parties that the Contracting Entity is a qualified law enforcement agency, or equivalent entity, such that their supervisor and/or participants are experienced with and trained in the use of firearms and firearm safety. The County shall have no duty to train or assist the Contracting Entity with firearm safety or rifle range safety.

It is understood and agreed by the Parties that during the exclusive use of the Range by the Contracting Entity, there will be no County staff or agents present or provided at the Range, unless a County staff member is present doing other tasks or duties unrelated to the Contracting Entity's use of the Range. The County is not providing any County employees, staff or assistance, oversight or supervision to the Contracting Entity during their use at the Range.

2. RESPONSIBILITIES

WHATCOM COUNTY PARKS & RECREATION DEPARTMENT RESPONSIBILITIES:

The Parks and Recreation Department shall make available to the Contracting Entity the Plantation Rifle Range at such time and under such conditions as are hereinafter set forth.

CONTRACTING ENTITY RESPONSIBILITIES:

- A. The Contracting Entity shall provide all targets, target standards, ammunition and other materials necessary for the use of the Range. All ammunition used on the Indoor Range will be restricted to a round utilizing a Total Metal Jacket (TMJ) or Jacketed Hollow Point (JHP) bullet having muzzle energy not greater than 400 foot pounds.

- B. Schedule, in advance, with Whatcom County's representative exclusive use days for the Smallbore and High Power ranges.
- C. Assume full responsibility for safety of the entire Range during any period of exclusive use by the Contracting Entity.
- D. Be responsible for the conduct of members of the Contracting Entity while on the Range during exclusive use periods. Should any member violate the rules of the Range or safety rules, such member shall be immediately prohibited from further use of the Range that day and may not be allowed further use until such time the member is appropriately trained and the Contracting Entity feels assured that no further Range or safety rules will be violated by that member.
- E. Designate, and report to the County's Representative the name of an individual who shall act as a qualified supervisor and coordinator of all Contracting Entity's activities at the Range. This individual shall be the person with whom the County's Representative will work in connection with day-to-day matters of Range use, and who will be in direct charge during actual Range use.
- F. There shall be a Contracting Entity supervisor or coordinator and a Contracting Entity Range Safety Officer present at the Range at all times during exclusive use. The supervisor or coordinator shall terminate use of the range if any danger or safety risk is present at the facility and provide immediate electronic or verbal notice to the County, followed by a written notice to the County within 24 hours detailing the danger or safety risk. The Range Safety Officer shall be responsible for supervising safe shooting activities, monitor and enforce safety and range rules, and range operations during times of exclusive use. (The Range Safety Officer may also function as the supervisor or coordinator.)
- G. A written report of all accidents, damage or injury that occurs shall be provided immediately or no later than 24 hours to the County. The written report shall provide sufficient details of the incident, including the date, time, circumstances and nature of injury or damage, and the name of the injured party, witnesses and Contracting Entity's Supervisor present at the time of the incident. The written report shall be submitted to Whatcom County Parks and Recreation Department Office or to the Range County personnel.
- H. Check out the Range key from the County's Representative. The Range key provides limited access to Range facilities. Access shall include: entry gate access, access to approved facilities, and public spaces. The Contracting Entity shall maintain control of the issued key at all times, including keeping the key secured when not in use and maintaining a log of any employees provided use of the key. The Contracting Entity shall not provide access to the key for vendors or contractors for any purpose. Any keys provided to the Contracting Entity may not be copied or duplicated.
- I. The Contracting Entity shall maintain a sign-in log for each exclusive use day. The log shall include, at a minimum, the signature of the Contracting Entity supervisor or coordinator, the Range Safety Officer, their phone numbers and all employees participating in Contracting Entity activities. The sign-in logs shall be provided to the County's Representative at least quarterly.
- J. The Contracting Entity and its participants must comply with all Federal, State and local laws.
- K. All litter, trash, or debris left by the Contracting Entity shall be picked up and disposed of in appropriate receptacles provided at the Range.
- L. No minors are allowed to be present at the Range during exclusive use.
- M. The Contracting Entity shall pay all costs associated with damage, destruction, or loss to the County at the Facilities as a result of the Contracting Entity's use and/or presence at the Range.

USE OF THE RANGE

- A. The Contracting Entity shall have exclusive use of the Range in the year 2021 for twenty-eight (28) eight (8) hour days. The Contracting Entity will have the option of splitting an 8-hour day into two 4-hour days. All dates and times shall be determined by mutual agreement by the Contracting Entity and Whatcom County Parks and Recreation Department representatives. This exclusive use shall be by mutual agreement of both the Contracting Entity and the Whatcom County Parks and Recreation Department. Use dates scheduled, that are not canceled 48 hours in advance will be charged against the Contracting Entity's contract.
- B. Individual members of the Contracting Entity, who are counted as officers upon presentation of their Contracting Entity Law Enforcement identification card, shall be entitled to use of Range facilities without payment of regular fees. Provided, such use shall:
- Be during periods when the Range is normally scheduled to be opened to the general public;
 - Be subject to all rules and conditions of use by the general public except for payment of fees;
 - Not interfere with normal, customary use of the Range;
 - The use is for practice and training as an officer.
 - Does not include supplies or Trap Range use.
 - Rights or use under this Agreement is not extended to Contracting Entity's family or friends.

3. TERM OF AGREEMENT:

The term of this Agreement shall be from January 1, 2021 through December 31, 2021.

4. MANNER OF FINANCING:

- A. Contracting Entity shall pay a fee of **seventeen thousand four hundred eighty-six dollars and forty cents** (\$17,486.40).

28 Days	@ \$590.95 per day	= \$	16,546.60	(includes tax)
20 Officers	@ \$18.99 per officer	= \$	379.80	(includes tax)
	Storage Unit	= \$	560.00	
	Total	= \$	17,486.40	

- B. The total fees due shall be invoiced once on June 30th, 2021 and once on December 1st, 2021. The first invoice shall be for all days used between January 1, 2021 and June 30, 2021. The second invoice shall be for all remaining days on the contract, the officer fees, and the storage unit fees. Any additional days may be scheduled by mutual agreement of both parties. Payment for any use beyond the annual **twenty-eight (28)** day period shall be due within 30 days from approved contract.

5. ADMINISTRATION:

The following individuals are designated as representatives of the respective parties. The representatives shall be responsible for administration of this Agreement and for coordinating and monitoring performance under this Agreement. In the event such representatives are changed, the party making the change shall notify the other party.

5.1 The Contracting Entity's representative shall be:

Rick Mossman
(605) 890-1985
rickmossman@skagit.edu

5.2 Whatcom County's representative shall be:

Christ Thomsen, Operations Manager

6. TREATMENT OF ASSETS AND PROPERTY:

No fixed assets or personal or real property will be jointly or cooperatively, acquired, held, used, or disposed of pursuant to this Agreement.

7. INDEMNIFICATION:

To the fullest extent permitted by law, the Contracting Entity agrees to indemnify, 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 negligent act or omission of the Contracting Entity, its employees, agency, or volunteers; or 2) are directly or indirectly arising out of, resulting from, or in connection with Contracting Entity's negligent activity and use under this Agreement; or 3) are based upon the Contracting Entity employees, agents, or volunteers, or its negligent use of the property of the County. This indemnification obligation of the Contracting Entity shall not apply in the limited circumstance where the claim, damage, loss or expense is caused by the negligence of the County.

This indemnification obligation of the Contracting Entity 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 Contracting Entity hereby expressly waives any immunity afforded by such acts. The foregoing indemnification obligations of the Contracting Entity are a material inducement to County to enter into this Agreement, and have been mutually negotiated by the parties.

It is further provided that no liability shall attach to the County be reason of entering into this Agreement, except as expressly provided herein. The parties specifically agree that this Agreement is for the benefit of the parties only and this Agreement 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 Contracting Entity's indemnity obligations under this Agreement.

The Contracting Entity agrees all Contracting Entity's indemnity obligations shall survive the completion, expiration or termination of this Agreement.

In the event the Contracting Entity enters into subcontracts to the extent allowed under this Agreement, the Contracting Entity's subcontractors shall indemnify the County on a basis equal to or exceeding Contracting Entity's indemnity obligations to the County. All insurance shall be per occurrence.

8. INSURANCE:

Each Party shall maintain its own insurance and/or self-insurance for its liabilities from damage to property and/or injuries to persons arising out of its activities associated with this Agreement as it deems reasonably appropriate and prudent. The maintenance of, or lack thereof of insurance and/or self-insurance shall not limit the liability of the indemnifying party to the indemnified party.

9. TERMINATION:

Any party hereto may terminate this Agreement upon thirty (30) days' notice in writing either personally delivered or mailed postage-prepaid by certified mail, return receipt requested, to the party's last known address for the purposes of giving notice under this paragraph. If this Agreement is so terminated, the parties shall be liable only for performance rendered or costs incurred in accordance with the terms of this Agreement prior to the effective date of termination.

10. CHANGES, MODIFICATIONS, AMENDMENTS AND WAIVERS:

The Agreement may be changed, modified, amended or waived only by written agreement executed by the Parties hereto. Waiver or breach of any term or condition of this Agreement shall not be considered a waiver of any prior or subsequent breach.

11. EXTENSION:

This Agreement be extended by mutual written consent of the parties, for a period of up to one year at a time, and for a total of no longer than three (3) years.

12. SEVERABILITY:

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

13. ENTIRE AGREEMENT:

This Agreement contains all the terms and conditions agreed upon by the parties. All items incorporated herein by reference are attached. No other understandings, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or to bind any of the parties hereto.

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

APPROVED:

SKAGIT VALLEY COLLEGE

Dated this 16 day of April, 2021.

Eduardo Jaramillo

Eduardo Jaramillo (Apr 16, 2021 09:27 PDT)

Ed Jaramillo, Vice President of Administrative Services

APPROVED AS TO FORM:

Contracting Entity, Attorney

Satpal Sidhu, County Executive

Given under my hand and official seal this ____ day of _____, 20__.

WHATCOM COUNTY PARKS & RECREATION
DEPARTMENT

Michael McFarlane, Director

Approved by email /BW
County Deputy Prosecuting Attorney






ILA-2021-172 Contract Whatcom County Plantation Range

Final Audit Report

2021-04-16

Created:	2021-04-15
By:	Julie Edwards (julie.edwards@skagit.edu)
Status:	Signed
Transaction ID:	CBJCHBCAABAySa_pHMTlqLrQ0IPkj8nunGuGHn83wif

"ILA-2021-172 Contract Whatcom County Plantation Range" History

-  Document created by Julie Edwards (julie.edwards@skagit.edu)
2021-04-15 - 11:15:41 PM GMT- IP address: 134.39.99.144
-  Document emailed to Eduardo Jaramillo (ed.jaramillo@skagit.edu) for signature
2021-04-15 - 11:17:41 PM GMT
-  Email viewed by Eduardo Jaramillo (ed.jaramillo@skagit.edu)
2021-04-16 - 5:40:33 AM GMT- IP address: 24.56.205.80
-  Document e-signed by Eduardo Jaramillo (ed.jaramillo@skagit.edu)
Signature Date: 2021-04-16 - 4:27:02 PM GMT - Time Source: server- IP address: 24.56.205.80
-  Agreement completed.
2021-04-16 - 4:27:02 PM GMT



Whatcom County

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

Agenda Bill Master Report

File Number: AB2021-444

File ID:	AB2021-444	Version:	1	Status:	Agenda Ready
File Created:	07/21/2021	Entered by:	SBatdorf@co.whatcom.wa.us		
Department:	Parks and Recreation Department	File Type:	Interlocal		
Assigned to:	Council Finance and Administrative Services Committee				Final Action:
Agenda Date:	08/10/2021	Enactment #:			

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

TITLE FOR AGENDA ITEM:

Request authorization for the County Executive to enter into an interlocal agreement between Whatcom County and the Sedro-Woolley Police Department for the use of the Plantation Rifle Range to train personnel, in the amount of \$6,289.30

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

This interlocal agreement allows Sedro-Woolley Police Department to use the Plantation Rifle Range for the purpose of providing firearms qualifications for personnel, generating \$6,289.30 in use fees and taxes for Whatcom County.

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
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Attachments: Memorandum, Interlocal Agreement



MEMORANDUM

TO: Satpal Sidhu, County Executive

FROM: Michael McFarlane, Director 

DATE: July 16, 2021

RE: Plantation Rifle Range Use Agreement – Sedro-Woolley Police Department

Enclosed is the Interlocal Cooperative Agreement between Whatcom County Parks & Recreation and Sedro-Woolley Police Department for use of the Plantation Rifle Range to provide firearms qualifications for commissioned and non-commissioned personnel.

Whatcom County Parks & Recreation has had a collaborative agreement with Sedro-Woolley Police Department for use of the Range to train their personnel for several years. This Interlocal Cooperative Agreement generates \$6,289.30 in budgeted revenue for Whatcom County and outlines the terms and conditions for use of the Range.

Please feel free to contact Christ Thomsen, Parks Operation Manager at extension 5865 if you have any additional questions or concerns.

Thank you.

WHATCOM COUNTY CONTRACT INFORMATION SHEET

Whatcom County Contract No. _____

Originating Department:	Parks & Recreation
Division/Program: (i.e. Dept. Division and Program)	Parks / M&O / Plantation Rifle Range
Contract or Grant Administrator:	Christ Thomsen
Contractor's / Agency Name:	Sedro-Woolley Police Department
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? Yes <input 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? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> If yes, grantor agency contract number(s): _____ CFDA#: _____	
Is this contract grant funded? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> If yes, Whatcom County grant contract number(s): _____	
Is this contract the result of a RFP or Bid process? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> If yes, RFP and Bid number(s): _____ Contract Cost Center: 6335	
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 type="checkbox"/> Contract work is for less than \$100,000. <input type="checkbox"/> Contract work is for less than 120 days. <input checked="" type="checkbox"/> Interlocal Agreement (between Governments). <input type="checkbox"/> Contract for Commercial off the shelf items (COTS). <input type="checkbox"/> Work related subcontract less than \$25,000. <input type="checkbox"/> Public Works - Local Agency/Federally Funded FHWA.	
Contract Amount:(sum of original contract amount and any prior amendments): \$ 6,289.30 This Amendment Amount: \$ _____ Total Amended Amount: \$ 6,289.30	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: Interlocal Cooperative Agreement between Whatcom County Parks & Recreation and the Sedro-Woolley Police Department for use of the Plantation Rifle Range for the purpose of providing firearms qualifications for commissioned and non-commissioned personnel. Generates \$6,289.30 in use fees and taxes for the County.	
Term of Contract: 1 year	Expiration Date: December 31, 2021

Contract Routing:	1. Prepared by: Shannon Batdorf	Date: 07/15/2021
	2. Attorney signoff: Brandon Waldron by email	Date: 7/19/21
	3. AS Finance reviewed: Marianne Caldwell by email	Date: 7/20/21
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	5. Contractor signed:	Date:
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	8. Executive signed:	Date:
	9. Original to Council:	Date:

INTERLOCAL COOPERATIVE AGREEMENT
BETWEEN
WHATCOM COUNTY (PARKS & RECREATION)
AND THE SEDRO-WOOLLEY POLICE DEPARTMENT

THIS AGREEMENT is made and entered into by and between Whatcom County (Parks & Recreation Department) ("County") and The Sedro-Woolley Police Department (Contracting Entity), collectively referred hereinafter as the "Parties." This Agreement is entered into pursuant to the authority granted by Chapter 39.34 RCW, Interlocal Cooperation Act. The Department or Party contracting with Whatcom County shall hereinafter be identified by name or as the "Contracting Entity."

1. PURPOSE:

For the use by the Contracting Entity of the County's Plantation Rifle Range (Range) located at 5102 Samish Highway, Whatcom County, Washington. The Plantation Rifle Range has two separate shooting ranges identified and named as Pistol & Smallbore Rifle Range (Smallbore) and High Power Rifle & Trap Range (High Power). These facilities are to be used by the Contracting Entity in accordance with the use terms as set forth in this Agreement for Law Enforcement training purposes.

The Contracting Entity is contracting with the County for use of the Range for the purpose of the Contracting Entity to provide firearms qualifications, practice or training for commissioned and non-commissioned personnel of the Contracting Entity.

It is understood and agreed by the Parties that the County shall provide no training or supervision at the Facility during the Contracting Entity's exclusive or individual use periods. The County shall provide, upon request by the Contracting Entity's Supervisor or Coordinator, assistance to the individual Supervisor or Coordinator, in familiarizing them with the operations of facilities, equipment, and other infrastructure necessary to facilitate the Contracting Entity's use under the terms of this Agreement.

It is understood and agreed by the Parties that the Contracting Entity is a qualified law enforcement agency, or equivalent entity, such that their supervisor and/or participants are experienced with and trained in the use of firearms and firearm safety. The County shall have no duty to train or assist the Contracting Entity with firearm safety or rifle range safety.

It is understood and agreed by the Parties that during the exclusive use of the Range by the Contracting Entity, there will be no County staff or agents present or provided at the Range, unless a County staff member is present doing other tasks or duties unrelated to the Contracting Entity's use of the Range. The County is not providing any County employees, staff or assistance, oversight or supervision to the Contracting Entity during their use at the Range.

2. RESPONSIBILITIES

WHATCOM COUNTY PARKS & RECREATION DEPARTMENT RESPONSIBILITIES:

The Parks and Recreation Department shall make available to the Contracting Entity the Plantation Rifle Range at such time and under such conditions as are hereinafter set forth.

CONTRACTING ENTITY RESPONSIBILITIES:

- A. The Contracting Entity shall provide all targets, target standards, ammunition and other materials necessary for the use of the Range. All ammunition used on the Indoor Range will be restricted to a round utilizing a Total Metal Jacket (TMJ) or Jacketed Hollow Point (JHP) bullet having muzzle energy not greater than 400 foot pounds.

- B. Schedule, in advance, with Whatcom County's representative exclusive use days for the Smallbore and High Power ranges.
- C. Assume full responsibility for safety of the entire Range during any period of exclusive use by the Contracting Entity.
- D. Be responsible for the conduct of members of the Contracting Entity while on the Range during exclusive use periods. Should any member violate the rules of the Range or safety rules, such member shall be immediately prohibited from further use of the Range that day and may not be allowed further use until such time the member is appropriately trained and the Contracting Entity feels assured that no further Range or safety rules will be violated by that member.
- E. Designate, and report to the County's Representative the name of an individual who shall act as a qualified supervisor and coordinator of all Contracting Entity's activities at the Range. This individual shall be the person with whom the County's Representative will work in connection with day-to-day matters of Range use, and who will be in direct charge during actual Range use.
- F. There shall be a Contracting Entity supervisor or coordinator and a Contracting Entity Range Safety Officer present at the Range at all times during exclusive use. The supervisor or coordinator shall terminate use of the range if any danger or safety risk is present at the facility and provide immediate electronic or verbal notice to the County, followed by a written notice to the County within 24 hours detailing the danger or safety risk. The Range Safety Officer shall be responsible for supervising safe shooting activities, monitor and enforce safety and range rules, and range operations during times of exclusive use. (The Range Safety Officer may also function as the supervisor or coordinator.)
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- J. The Contracting Entity and its participants must comply with all Federal, State and local laws.
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- L. No minors are allowed to be present at the Range during exclusive use.
- M. The Contracting Entity shall pay all costs associated with damage, destruction, or loss to the County at the Facilities as a result of the Contracting Entity's use and/or presence at the Range.

USE OF THE RANGE

- A. The Contracting Entity shall have exclusive use of the Range in the year 2021 for ten (10) eight (8) hour days. The Contracting Entity will have the option of splitting an 8-hour day into two 4-hour days. All dates and times shall be determined by mutual agreement by the Contracting Entity and Whatcom County Parks and Recreation Department representatives. This exclusive use shall be by mutual agreement of both the Contracting Entity and the Whatcom County Parks and Recreation Department. Use dates scheduled, that are not canceled 48 hours in advance will be charged against the Contracting Entity's contract.
- B. Individual members of the Contracting Entity, who are counted as officers upon presentation of their Contracting Entity Law Enforcement Identification card, shall be entitled to use of Range facilities without payment of regular fees. Provided, such use shall:
- Be during periods when the Range is normally scheduled to be opened to the general public;
 - Be subject to all rules and conditions of use by the general public except for payment of fees;
 - Not interfere with normal, customary use of the Range;
 - The use is for practice and training as an officer.
 - Does not include supplies or Trap Range use.
 - Rights or use under this Agreement is not extended to Contracting Entity's family or friends.

3. TERM OF AGREEMENT:

The term of this Agreement shall be from January 1, 2021 through December 31, 2021.

4. MANNER OF FINANCING:

- A. Contracting Entity shall pay a fee of **six thousand two hundred eighty-nine dollars and thirty cents (\$6,289.30)**.

10 Days	@ \$590.95 per day	= \$	5,909.50	(includes tax)
20 Officers	@ \$18.99 per officer	= \$	379.80	(includes tax)
Total		= \$	6,289.30	

- B. The payment shall be due on or before sixty days of signed contract. Any additional days may be scheduled by mutual agreement of both parties. Payment for any use beyond the annual **ten (10)** day period shall be due within 30 days from approved contract.

5. ADMINISTRATION:

The following individuals are designated as representatives of the respective parties. The representatives shall be responsible for administration of this Agreement and for coordinating and monitoring performance under this Agreement. In the event such representatives are changed, the party making the change shall notify the other party.

5.1 The Contracting Entity's representative shall be:

Officer Derick Lowe
(360) 661-6241
dlowe@ci.sedro-woolley.wa.us

5.2 Whatcom County's representative shall be:

Reid Parker, Regional Park Supervisor
(360) 296-6083
RParker@co.whatcom.wa.us

6. TREATMENT OF ASSETS AND PROPERTY:

No fixed assets or personal or real property will be jointly or cooperatively, acquired, held, used, or disposed of pursuant to this Agreement.

7. INDEMNIFICATION:

To the fullest extent permitted by law, the Contracting Entity 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 act or omission, negligent or otherwise, of the Contracting Entity, its employees, agents, participants or volunteers or Contracting Entity's subcontractors and their employees, agents or volunteers; or 2) are directly or indirectly arising out of, resulting from, or in connection with Contracting Entity's activity and use under this Agreement; or 3) are based upon the Contracting Entity or their participants, employees, agents, or volunteers, or its subcontractors' use of, presence upon or proximity to the property of the County. This indemnification obligation of the Contracting Entity shall not apply in the limited circumstance where the claim, damage, loss or expense is caused by the sole negligence of the County.

This indemnification obligation of the Contracting Entity 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 Contracting Entity hereby expressly waives any immunity afforded by such acts. The foregoing indemnification obligations of the Contracting Entity are a material inducement to County to enter into this Agreement, and have been mutually negotiated by the parties.

It is further provided that no liability shall attach to the County be reason of entering into this Agreement, except as expressly provided herein. The parties specifically agree that this Agreement is for the benefit of the parties only and this Agreement 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 Contracting Entity's indemnity obligations under this Agreement.

The Contracting Entity agrees all Contracting Entity's indemnity obligations shall survive the completion, expiration or termination of this Agreement.

In the event the Contracting Entity enters into subcontracts to the extent allowed under this Agreement, the Contracting Entity's subcontractors shall indemnify the County on a basis equal to or exceeding Contracting Entity's indemnity obligations to the County. All insurance shall be per occurrence.

8. INSURANCE:

Each Party shall maintain its own insurance and/or self-insurance for its liabilities from damage to property and/or injuries to persons arising out of its activities associated with this Agreement as it deems reasonably appropriate and prudent. The maintenance of, or lack thereof of insurance and/or self-insurance shall not limit the liability of the indemnifying party to the indemnified party.

9. TERMINATION:

Any party hereto may terminate this Agreement upon thirty (30) days' notice in writing either personally delivered or mailed postage-prepaid by certified mail, return receipt requested, to the party's last known address for the purposes of giving notice under this paragraph. If this Agreement is so terminated, the parties shall be liable only for performance rendered or costs incurred in accordance with the terms of this Agreement prior to the effective date of termination.

9. CHANGES, MODIFICATIONS, AMENDMENTS AND WAIVERS:

The Agreement may be changed, modified, amended or waived only by written agreement executed by the Parties hereto. Waiver or breach of any term or condition of this Agreement shall not be considered a waiver of any prior or subsequent breach.

10. EXTENSION:

This Agreement be extended by mutual written consent of the parties, for a period of up to one year at a time, and for a total of no longer than three (3) years.

11. SEVERABILITY:

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

12. ENTIRE AGREEMENT:

This Agreement contains all the terms and conditions agreed upon by the parties. All items incorporated herein by reference are attached. No other understandings, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or to bind any of the parties hereto.

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

APPROVED:

SEDRO-WOOLLEY POLICE DEPARTMENT

Dated this 26th day of May, 2021.


Julia Johnson, Mayor

APPROVED AS TO FORM:


Nikki Thompson, City Attorney

Satpal Sidhu, County Executive

Given under my hand and official seal this ____ day of _____, 20__.

WHATCOM COUNTY PARKS & RECREATION
DEPARTMENT

Michael McFarlane, Director

Approved by email / BW
County 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: AB2021-445

File ID:	AB2021-445	Version:	1	Status:	Agenda Ready
File Created:	07/21/2021	Entered by:	SBatdorf@co.whatcom.wa.us		
Department:	Parks and Recreation Department	File Type:	Interlocal		
Assigned to:	Council Finance and Administrative Services Committee				Final Action:
Agenda Date:	08/10/2021	Enactment #:			

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

TITLE FOR AGENDA ITEM:

Request authorization for the County Executive to enter into an interlocal agreement between Whatcom County and the Bellingham Police Department for the use of the Plantation Rifle Range to train personnel, in the amount of \$26,381.85

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

This interlocal agreement allows Bellingham Police Department to use the Plantation Rifle Range for the purpose of providing firearms qualifications for personnel, generating \$26,381.85 in use fees and taxes for Whatcom County.

HISTORY OF LEGISLATIVE FILE


Date:	Acting Body:	Action:	Sent To:
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Attachments: Memorandum, Interlocal Agreement



MEMORANDUM

TO: Satpal Sidhu, County Executive

FROM: Michael McFarlane, Director 

DATE: July 16, 2021

RE: Plantation Rifle Range Use Agreement – Bellingham Police Department

Enclosed is the Interlocal Cooperative Agreement between Whatcom County Parks & Recreation and Bellingham Police Department for use of the Plantation Rifle Range to provide firearms qualifications for commissioned and non-commissioned personnel.

Whatcom County Parks & Recreation has had a collaborative agreement with the Bellingham Police Department for use of the Range to train their personnel for several years. This Interlocal Cooperative Agreement generates \$26,381.85 in budgeted revenue for Whatcom County and outlines the terms and conditions for use of the Range.

Please feel free to contact Christ Thomsen, Parks Operation Manager at extension 5865 if you have any additional questions or concerns.

Thank you.

WHATCOM COUNTY CONTRACT INFORMATION SHEET

Whatcom County Contract No. _____

Originating Department:	Parks & Recreation
Division/Program: (i.e. Dept. Division and Program)	Parks / M&O / Plantation Rifle Range
Contract or Grant Administrator:	Christ Thomsen
Contractor's / Agency Name:	Bellingham Police Department
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? Yes <input 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? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> If yes, grantor agency contract number(s): _____ CFDA#: _____	
Is this contract grant funded? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> If yes, Whatcom County grant contract number(s): _____	
Is this contract the result of a RFP or Bid process? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> If yes, RFP and Bid number(s): _____ Contract Cost Center: 6335	
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 type="checkbox"/> Contract work is for less than \$100,000. <input type="checkbox"/> Contract work is for less than 120 days. <input checked="" type="checkbox"/> Interlocal Agreement (between Governments). <input type="checkbox"/> Contract for Commercial off the shelf items (COTS). <input type="checkbox"/> Work related subcontract less than \$25,000. <input type="checkbox"/> Public Works - Local Agency/Federally Funded FHWA.	
Contract Amount:(sum of original contract amount and any prior amendments): \$ 26,381.85 This Amendment Amount: \$ _____ Total Amended Amount: \$ 26,381.85	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: Interlocal Cooperative Agreement between Whatcom County Parks & Recreation and the Bellingham Police Department for use of the Plantation Rifle Range for the purpose of providing firearms qualifications for commissioned and non-commissioned personnel. Generates \$26,381.85 in use fees and taxes for the County.	
Term of Contract: 1 year	Expiration Date: December 31, 2021

Contract Routing:	1. Prepared by: Shannon Batdorf	Date: 7/15/2021
	2. Attorney signoff: <u>Brandon Walden via email</u>	Date: <u>7/19/21</u>
	3. AS Finance reviewed: <u>Marianne Caldwell via email</u>	Date: <u>7/20/21</u>
	4. IT reviewed (if IT related): _____	Date: _____
	5. Contractor signed: _____	Date: _____
	6. Submitted to Exec.: _____	Date: _____
	7. Council approved (if necessary): _____	Date: _____
	8. Executive signed: _____	Date: _____
	9. Original to Council: _____	Date: _____

INTERLOCAL COOPERATIVE AGREEMENT

BETWEEN

WHATCOM COUNTY (PARKS & RECREATION)

AND CITY OF BELLINGHAM POLICE DEPARTMENT

THIS AGREEMENT is made and entered into by and between Whatcom County (Parks & Recreation Department) ("County") and City of Bellingham Police Department (Contracting Entity), collectively referred hereinafter as the "Parties." This Agreement is entered into pursuant to the authority granted by Chapter 39.34 RCW, Interlocal Cooperation Act. The Department or Party contracting with Whatcom County shall hereinafter be identified by name or as the "Contracting Entity."

1. PURPOSE:

For the use by the Contracting Entity of the County's Plantation Rifle Range (Range) located at 5102 Samish Highway, Whatcom County, Washington. The Plantation Rifle Range has two separate shooting ranges identified and named as Pistol & Smallbore Rifle Range (Smallbore) and High Power Rifle & Trap Range (High Power). These facilities are to be used by the Contracting Entity in accordance with the use terms as set forth in this Agreement for Law Enforcement training purposes.

The Contracting Entity is contracting with the County for use of the Range for the purpose of the Contracting Entity to provide firearms qualifications, practice or training for commissioned and non-commissioned personnel of the Contracting Entity.

It is understood and agreed by the Parties that the County shall provide no training or supervision at the Facility during the Contracting Entity's exclusive or individual use periods. The County shall provide, upon request by the Contracting Entity's Supervisor or Coordinator, assistance to the individual Supervisor or Coordinator, in familiarizing them with the operations of facilities, equipment, and other infrastructure necessary to facilitate the Contracting Entity's use under the terms of this Agreement.

It is understood and agreed by the Parties that the Contracting Entity is a qualified law enforcement agency, or equivalent entity, such that their supervisor and/or participants are experienced with and trained in the use of firearms and firearm safety. The County shall have no duty to train or assist the Contracting Entity with firearm safety or rifle range safety.

It is understood and agreed by the Parties that during the exclusive use of the Range by the Contracting Entity, there will be no County staff or agents present or provided at the Range, unless a County staff member is present doing other tasks or duties unrelated to the Contracting Entity's use of the Range. The County is not providing any County employees, staff or assistance, oversight or supervision to the Contracting Entity during their use at the Range.

2. RESPONSIBILITIES

WHATCOM COUNTY PARKS & RECREATION DEPARTMENT RESPONSIBILITIES:

The Parks and Recreation Department shall make available to the Contracting Entity the Plantation Rifle Range at such time and under such conditions as are hereinafter set forth.

CONTRACTING ENTITY RESPONSIBILITIES:

- A. The Contracting Entity shall provide all targets, target standards, ammunition and other materials necessary for the use of the Range. All ammunition used on the Indoor Range will be restricted to a round utilizing a Total Metal Jacket (TMJ) or Jacketed Hollow Point (JHP) bullet having muzzle energy not greater than 400 foot pounds.

- B. Schedule, in advance, with Whatcom County's representative exclusive use days for the Smallbore and High Power ranges.
- C. Assume full responsibility for safety of the entire Range during any period of exclusive use by the Contracting Entity.
- D. Be responsible for the conduct of members of the Contracting Entity while on the Range during exclusive use periods. Should any member violate the rules of the Range or safety rules, such member shall be immediately prohibited from further use of the Range that day and may not be allowed further use until such time the member is appropriately trained and the Contracting Entity feels assured that no further Range or safety rules will be violated by that member.
- E. Designate, and report to the County's Representative the name of an individual who shall act as a qualified supervisor and coordinator of all Contracting Entity's activities at the Range. This individual shall be the person with whom the County's Representative will work in connection with day-to-day matters of Range use, and who will be in direct charge during actual Range use.
- F. There shall be a Contracting Entity supervisor or coordinator and a Contracting Entity Range Safety Officer present at the Range at all times during exclusive use. The supervisor or coordinator shall terminate use of the range if any danger or safety risk is present at the facility and provide immediate electronic or verbal notice to the County, followed by a written notice to the County within 24 hours detailing the danger or safety risk. The Range Safety Officer shall be responsible for supervising safe shooting activities, monitor and enforce safety and range rules, and range operations during times of exclusive use. (The Range Safety Officer may also function as the supervisor or coordinator.)
- G. A written report of all accidents, damage or injury that occurs shall be provided immediately or no later than 24 hours to the County. The written report shall provide sufficient details of the incident, including the date, time, circumstances and nature of injury or damage, and the name of the injured party, witnesses and Contracting Entity's Supervisor present at the time of the incident. The written report shall be submitted to Whatcom County Parks and Recreation Department Office or to the Range County personnel.
- H. Check out the Range key from the County's Representative. The Range key provides limited access to Range facilities. Access shall include: entry gate access, access to approved facilities, and public spaces. The Contracting Entity shall maintain control of the issued key at all times, including keeping the key secured when not in use and maintaining a log of any employees provided use of the key. The Contracting Entity shall not provide access to the key for vendors or contractors for any purpose. Any keys provided to the Contracting Entity may not be copied or duplicated.
- I. The Contracting Entity shall maintain a sign-in log for each exclusive use day. The log shall include, at a minimum, the signature of the Contracting Entity supervisor or coordinator, the Range Safety Officer, their phone numbers and all employees participating in Contracting Entity activities. The sign-in logs shall be provided to the County's Representative at least quarterly.
- J. The Contracting Entity and its participants must comply with all Federal, State and local laws.
- K. All litter, trash, or debris left by the Contracting Entity shall be picked up and disposed of in appropriate receptacles provided at the Range.
- L. No minors are allowed to be present at the Range during exclusive use.
- M. The Contracting Entity shall pay all costs associated with damage, destruction, or loss to the County at the Facilities as a result of the Contracting Entity's use and/or presence at the Range.

USE OF THE RANGE

A. The Contracting Entity shall have exclusive use of the Range in the year 2021 for forty (40) eight (8) hour days. The Contracting Entity will have the option of splitting an 8-hour day into two 4-hour days. All dates and times shall be determined by mutual agreement by the Contracting Entity and Whatcom County Parks and Recreation Department representatives. This exclusive use shall be by mutual agreement of both the Contracting Entity and the Whatcom County Parks and Recreation Department. Use dates scheduled, that are not canceled 48 hours in advance will be charged against the Contracting Entity's contract.

B. Individual members of the Contracting Entity, who are counted as officers upon presentation of their Contracting Entity Law Enforcement identification card, shall be entitled to use of Range facilities without payment of regular fees. Provided, such use shall:

- Be during periods when the Range is normally scheduled to be opened to the general public;
- Be subject to all rules and conditions of use by the general public except for payment of fees;
- Not interfere with normal, customary use of the Range;
- The use is for practice and training as an officer.
- Does not include supplies or Trap Range use.
- Rights or use under this Agreement is not extended to Contracting Entity's family or friends.

3. TERM OF AGREEMENT:

The term of this Agreement shall be from January 1, 2021 through December 31, 2021.

4. MANNER OF FINANCING:

A. Contracting Entity shall pay a fee of **twenty-six thousand three hundred eighty-one dollars and eighty-five cents (\$26,381.85)**.

40 Days	@ \$590.95 per day	= \$	23,638.00	(includes tax)
115 Officers	@ \$18.99 per officer	= \$	2,183.85	(includes tax)
	Storage Unit	= \$	560.00	
	Total	= \$	26,381.85	

B. The payment shall be due on or before sixty days of signed contract. Any additional days may be scheduled by mutual agreement of both parties. Payment for any use beyond the annual **forty (40)** day period shall be due within 30 days from approved contract.

5. ADMINISTRATION:

The following individuals are designated as representatives of the respective parties. The representatives shall be responsible for administration of this Agreement and for coordinating and monitoring performance under this Agreement. In the event such representatives are changed, the party making the change shall notify the other party.

5.1 The Contracting Entity's representative shall be:

Officer Dion Terry
(360) 778-8792
dterry@cob.org

5.2 Whatcom County's representative shall be:

Reid Parker, Regional Park Supervisor
(360) 296-6083
RParker@co.whatcom.wa.us

6. TREATMENT OF ASSETS AND PROPERTY:

No fixed assets or personal or real property will be jointly or cooperatively, acquired, held, used, or disposed of pursuant to this Agreement.

7. INDEMNIFICATION:

To the fullest extent permitted by law, the Contracting Entity 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 act or omission, negligent or otherwise, of the Contracting Entity, its employees, agents, participants or volunteers or Contracting Entity's subcontractors and their employees, agents or volunteers; or 2) are directly or indirectly arising out of, resulting from, or in connection with Contracting Entity's activity and use under this Agreement; or 3) are based upon the Contracting Entity or their participants, employees, agents, or volunteers, or its subcontractors' use of, presence upon or proximity to the property of the County. This indemnification obligation of the Contracting Entity shall not apply in the limited circumstance where the claim, damage, loss or expense is caused by the sole negligence of the County.

This indemnification obligation of the Contracting Entity 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 Contracting Entity hereby expressly waives any immunity afforded by such acts. The foregoing indemnification obligations of the Contracting Entity are a material inducement to County to enter into this Agreement, and have been mutually negotiated by the parties.

It is further provided that no liability shall attach to the County be reason of entering into this Agreement, except as expressly provided herein. The parties specifically agree that this Agreement is for the benefit of the parties only and this Agreement 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 Contracting Entity's indemnity obligations under this Agreement.

The Contracting Entity agrees all Contracting Entity's indemnity obligations shall survive the completion, expiration or termination of this Agreement.

In the event the Contracting Entity enters into subcontracts to the extent allowed under this Agreement, the Contracting Entity's subcontractors shall indemnify the County on a basis equal to or exceeding Contracting Entity's indemnity obligations to the County. All insurance shall be per occurrence.

8. INSURANCE:

Each Party shall maintain its own insurance and/or self-insurance for its liabilities from damage to property and/or injuries to persons arising out of its activities associated with this Agreement as it deems reasonably appropriate and prudent. The maintenance of, or lack thereof of insurance and/or self-insurance shall not limit the liability of the indemnifying party to the indemnified party.

9. TERMINATION:

Any party hereto may terminate this Agreement upon thirty (30) days' notice in writing either personally delivered or mailed postage-prepaid by certified mail, return receipt requested, to the party's last known address for the purposes of giving notice under this paragraph. If this Agreement is so terminated, the parties shall be liable only for performance rendered or costs incurred in accordance with the terms of this Agreement prior to the effective date of termination.

9. CHANGES, MODIFICATIONS, AMENDMENTS AND WAIVERS:

The Agreement may be changed, modified, amended or waived only by written agreement executed by the Parties hereto. Waiver or breach of any term or condition of this Agreement shall not be considered a waiver of any prior or subsequent breach.

10. EXTENSION:

This Agreement be extended by mutual written consent of the parties, for a period of up to one year at a time, and for a total of no longer than three (3) years.

11. SEVERABILITY:

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

12. ENTIRE AGREEMENT:


This Agreement contains all the terms and conditions agreed upon by the parties. All items incorporated herein by reference are attached. No other understandings, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or to bind any of the parties hereto.

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

APPROVED:

CITY OF BELLINGHAM

Dated this 12 day of January, 2021


Seth Fleetwood, Mayor

Attest:


Finance Department

APPROVED AS TO FORM:


Contracting Entity, Attorney

Contracting Entity Chief and Representative: APPROVAL:



Satpal Sidhu, County Executive

Given under my hand and official seal this _____ day of _____, 20__.

Michael McFarlane, Director

297



Whatcom County

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

Agenda Bill Master Report

File Number: AB2021-446

File ID:	AB2021-446	Version:	1	Status:	Agenda Ready
File Created:	07/21/2021	Entered by:	SBatdorf@co.whatcom.wa.us		
Department:	Parks and Recreation Department	File Type:	Interlocal		
Assigned to:	Council Finance and Administrative Services Committee			Final Action:	
Agenda Date:	08/10/2021	Enactment #:			

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

TITLE FOR AGENDA ITEM:

Request authorization for the County Executive to enter into an interlocal agreement between Whatcom County and the Mount Vernon Police Department for the use of the Plantation Rifle Range to train personnel, in the amount of \$6,764.05

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

This interlocal agreement allows Mount Vernon Police Department to use the Plantation Rifle Range for the purpose of providing firearms qualifications for personnel, generating \$6,764.05 in use fees and taxes for Whatcom County.

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
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Attachments: Memorandum, Interlocal Agreement

**WHATCOM COUNTY
Parks & Recreation**

3373 Mount Baker Highway
Bellingham, WA 98226-7500



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

MEMORANDUM

TO: Satpal Sidhu, County Executive
FROM: Michael McFarlane, Director 
DATE: July 16, 2021
RE: Plantation Rifle Range Use Agreement – Mount Vernon Police Department

Enclosed is the Interlocal Cooperative Agreement between Whatcom County Parks & Recreation and Mount Vernon Police Department for use of the Plantation Rifle Range to provide firearms qualifications for commissioned and non-commissioned personnel.

Whatcom County Parks & Recreation has had a collaborative agreement with Mount Vernon Police Department for use of the Range to train their personnel for several years. This Interlocal Cooperative Agreement generates \$6,764.05 in budgeted revenue for Whatcom County and outlines the terms and conditions for use of the Range.

Please feel free to contact Christ Thomsen, Parks Operation Manager at extension 5865 if you have any additional questions or concerns.

Thank you.

WHATCOM COUNTY CONTRACT INFORMATION SHEET

Whatcom County Contract No. _____

Originating Department:	Parks & Recreation
Division/Program: <i>(i.e. Dept. Division and Program)</i>	Parks / M&O / Plantation Rifle Range
Contract or Grant Administrator:	Christ Thomsen
Contractor's / Agency Name:	Mount Vernon Police Department

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?
 Yes ☐ No ☒ If yes, RFP and Bid number(s): _____ Contract Cost Center: 6335

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).	

Contract Amount:(sum of original contract amount and any prior amendments): \$ 6,764.05 This Amendment Amount: \$ _____ Total Amended Amount: \$ 6,764.05	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: Interlocal Cooperative Agreement between Whatcom County Parks & Recreation and Mount Vernon Police Department for use of the Plantation Rifle Range for the purpose of providing firearms qualifications for commissioned and non-commissioned personnel. Generates \$6,764.05 in use fees and taxes for the County.

Term of Contract: 1 year	Expiration Date: December 31, 2021
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Contract Routing:	1. Prepared by: Shannon Batdorf	Date: 07/15/2021
	2. Attorney signoff: Brandon Waldron via email	Date: 7/19/21
	3. AS Finance reviewed: Marianne Caldwell via email	Date: 7/20/21
	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: _____

INTERLOCAL COOPERATIVE AGREEMENT
BETWEEN
WHATCOM COUNTY (PARKS & RECREATION)
AND MOUNT VERNON POLICE DEPARTMENT

THIS AGREEMENT is made and entered into by and between Whatcom County (Parks & Recreation Department) ("County") and Mount Vernon Police Department (Contracting Entity), collectively referred hereinafter as the "Parties." This Agreement is entered into pursuant to the authority granted by Chapter 39.34 RCW, Interlocal Cooperation Act. The Department or Party contracting with Whatcom County shall hereinafter be identified by name or as the "Contracting Entity."

1. PURPOSE:

For the use by the Contracting Entity of the County's Plantation Rifle Range (Range) located at 5102 Samish Highway, Whatcom County, Washington. The Plantation Rifle Range has two separate shooting ranges identified and named as Pistol & Smallbore Rifle Range (Smallbore) and High Power Rifle & Trap Range (High Power). These facilities are to be used by the Contracting Entity in accordance with the use terms as set forth in this Agreement for Law Enforcement training purposes.

The Contracting Entity is contracting with the County for use of the Range for the purpose of the Contracting Entity to provide firearms qualifications, practice or training for commissioned and non-commissioned personnel of the Contracting Entity.

It is understood and agreed by the Parties that the County shall provide no training or supervision at the Facility during the Contracting Entity's exclusive or individual use periods. The County shall provide, upon request by the Contracting Entity's Supervisor or Coordinator, assistance to the individual Supervisor or Coordinator, in familiarizing them with the operations of facilities, equipment, and other infrastructure necessary to facilitate the Contracting Entity's use under the terms of this Agreement.

It is understood and agreed by the Parties that the Contracting Entity is a qualified law enforcement agency, or equivalent entity, such that their supervisor and/or participants are experienced with and trained in the use of firearms and firearm safety. The County shall have no duty to train or assist the Contracting Entity with firearm safety or rifle range safety.

It is understood and agreed by the Parties that during the exclusive use of the Range by the Contracting Entity, there will be no County staff or agents present or provided at the Range, unless a County staff member is present doing other tasks or duties unrelated to the Contracting Entity's use of the Range. The County is not providing any County employees, staff or assistance, oversight or supervision to the Contracting Entity during their use at the Range.

2. RESPONSIBILITIES

WHATCOM COUNTY PARKS & RECREATION DEPARTMENT RESPONSIBILITIES:

The Parks and Recreation Department shall make available to the Contracting Entity the Plantation Rifle Range at such time and under such conditions as are hereinafter set forth.

CONTRACTING ENTITY RESPONSIBILITIES:

- A. The Contracting Entity shall provide all targets, target standards, ammunition and other materials necessary for the use of the Range. All ammunition used on the Indoor Range will be restricted to a round utilizing a Total Metal Jacket (TMJ) or Jacketed Hollow Point (JHP) bullet having muzzle energy not greater than 400 foot pounds.

- B. Schedule, in advance, with Whatcom County's representative exclusive use days for the Smallbore and High Power ranges.
- C. Assume full responsibility for safety of the entire Range during any period of exclusive use by the Contracting Entity.
- D. Be responsible for the conduct of members of the Contracting Entity while on the Range during exclusive use periods. Should any member violate the rules of the Range or safety rules, such member shall be immediately prohibited from further use of the Range that day and may not be allowed further use until such time the member is appropriately trained and the Contracting Entity feels assured that no further Range or safety rules will be violated by that member.
- E. Designate, and report to the County's Representative the name of an individual who shall act as a qualified supervisor and coordinator of all Contracting Entity's activities at the Range. This individual shall be the person with whom the County's Representative will work in connection with day-to-day matters of Range use, and who will be in direct charge during actual Range use.
- F. There shall be a Contracting Entity supervisor or coordinator and a Contracting Entity Range Safety Officer present at the Range at all times during exclusive use. The supervisor or coordinator shall terminate use of the range if any danger or safety risk is present at the facility and provide immediate electronic or verbal notice to the County, followed by a written notice to the County within 24 hours detailing the danger or safety risk. The Range Safety Officer shall be responsible for supervising safe shooting activities, monitor and enforce safety and range rules, and range operations during times of exclusive use. (The Range Safety Officer may also function as the supervisor or coordinator.)
- G. A written report of all accidents, damage or injury that occurs shall be provided immediately or no later than 24 hours to the County. The written report shall provide sufficient details of the incident, including the date, time, circumstances and nature of injury or damage, and the name of the injured party, witnesses and Contracting Entity's Supervisor present at the time of the incident. The written report shall be submitted to Whatcom County Parks and Recreation Department Office or to the Range County personnel.
- H. Check out the Range key from the County's Representative. The Range key provides limited access to Range facilities. Access shall include: entry gate access, access to approved facilities, and public spaces. The Contracting Entity shall maintain control of the issued key at all times, including keeping the key secured when not in use and maintaining a log of any employees provided use of the key. The Contracting Entity shall not provide access to the key for vendors or contractors for any purpose. Any keys provided to the Contracting Entity may not be copied or duplicated.
- I. The Contracting Entity shall maintain a sign-in log for each exclusive use day. The log shall include, at a minimum, the signature of the Contracting Entity supervisor or coordinator, the Range Safety Officer, their phone numbers and all employees participating in Contracting Entity activities. The sign-in logs shall be provided to the County's Representative at least quarterly.
- J. The Contracting Entity and its participants must comply with all Federal, State and local laws.
- K. All litter, trash, or debris left by the Contracting Entity shall be picked up and disposed of in appropriate receptacles provided at the Range.
- L. No minors are allowed to be present at the Range during exclusive use.
- M. The Contracting Entity shall pay all costs associated with damage, destruction, or loss to the County at the Facilities as a result of the Contracting Entity's use and/or presence at the Range.

USE OF THE RANGE

A. The Contracting Entity shall have exclusive use of the Range in the year 2021 for ten (10) eight (8) hour days. The Contracting Entity will have the option of splitting an 8-hour day into two 4-hour days. All dates and times shall be determined by mutual agreement by the Contracting Entity and Whatcom County Parks and Recreation Department representatives.

This exclusive use shall be by mutual agreement of both the Contracting Entity and the Whatcom County Parks and Recreation Department. Use dates scheduled, that are not canceled 48 hours in advance will be charged against the Contracting Entity's contract.

B. Individual members of the Contracting Entity, who are counted as officers upon presentation of their Contracting Entity Law Enforcement identification card, shall be entitled to use of Range facilities without payment of regular fees. Provided, such use shall:

- Be during periods when the Range is normally scheduled to be opened to the general public;
- Be subject to all rules and conditions of use by the general public except for payment of fees;
- Not interfere with normal, customary use of the Range;
- The use is for practice and training as an officer.
- Does not include supplies or Trap Range use.
- Rights or use under this Agreement is not extended to Contracting Entity's family or friends.

3. TERM OF AGREEMENT:

The term of this Agreement shall be from January 1, 2021 through December 31, 2021.

4. MANNER OF FINANCING:

A. Contracting Entity shall pay a fee of **six thousand seven hundred sixty-four dollars and five cents** (\$6,764.05).

10 Days	@ \$590.95 per day	= \$	5,909.50	(includes tax)
45 Officers	@ \$18.99 per officer	= \$	<u>854.55</u>	(includes tax)
Total		= \$	6,764.05	

B. The payment shall be due on or before sixty days of signed contract. Any additional days may be scheduled by mutual agreement of both parties. Payment for any use beyond the annual **ten (10)** day period shall be due within 30 days from approved contract.

5. ADMINISTRATION:

The following individuals are designated as representatives of the respective parties. The representatives shall be responsible for administration of this Agreement and for coordinating and monitoring performance under this Agreement. In the event such representatives are changed, the party making the change shall notify the other party.

5.1 The Contracting Entity's representative shall be:

Detective Wayne Jones
(360) 336-6269
waynej@mountvernonwa.gov

5.2 Whatcom County's representative shall be:

Reid Parker, Regional Park Supervisor
360-296-6083
RParker@co.whatcom.wa.us

6. TREATMENT OF ASSETS AND PROPERTY:

No fixed assets or personal or real property will be jointly or cooperatively, acquired, held, used, or disposed of pursuant to this Agreement.

7. INDEMNIFICATION:

To the fullest extent permitted by law, the Contracting Entity 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 act or omission, negligent or otherwise, of the Contracting Entity, its employees, agents, participants or volunteers or Contracting Entity's subcontractors and their employees, agents or volunteers; or 2) are directly or indirectly arising out of, resulting from, or in connection with Contracting Entity's activity and use under this Agreement; or 3) are based upon the Contracting Entity or their participants, employees, agents, or volunteers, or its subcontractors' use of, presence upon or proximity to the property of the County. This indemnification obligation of the Contracting Entity shall not apply in the limited circumstance where the claim, damage, loss or expense is caused by the sole negligence of the County.

This indemnification obligation of the Contracting Entity 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 Contracting Entity hereby expressly waives any immunity afforded by such acts. The foregoing indemnification obligations of the Contracting Entity are a material inducement to County to enter into this Agreement, and have been mutually negotiated by the parties.

It is further provided that no liability shall attach to the County be reason of entering into this Agreement, except as expressly provided herein. The parties specifically agree that this Agreement is for the benefit of the parties only and this Agreement 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 Contracting Entity's indemnity obligations under this Agreement.

The Contracting Entity agrees all Contracting Entity's indemnity obligations shall survive the completion, expiration or termination of this Agreement.

In the event the Contracting Entity enters into subcontracts to the extent allowed under this Agreement, the Contracting Entity's subcontractors shall indemnify the County on a basis equal to or exceeding Contracting Entity's indemnity obligations to the County. All insurance shall be per occurrence.

8. INSURANCE:

Each Party shall maintain its own insurance and/or self-insurance for its liabilities from damage to property and/or injuries to persons arising out of its activities associated with this Agreement as it deems reasonably appropriate and prudent. The maintenance of, or lack thereof of insurance and/or self-insurance shall not limit the liability of the indemnifying party to the indemnified party.

9. TERMINATION:

Any party hereto may terminate this Agreement upon thirty (30) days' notice in writing either personally delivered or mailed postage-prepaid by certified mail, return receipt requested, to the party's last known address for the purposes of giving notice under this paragraph. If this Agreement is so terminated, the parties shall be liable only for performance rendered or costs incurred in accordance with the terms of this Agreement prior to the effective date of termination.

9. CHANGES, MODIFICATIONS, AMENDMENTS AND WAIVERS:

The Agreement may be changed, modified, amended or waived only by written agreement executed by the Parties hereto. Waiver or breach of any term or condition of this Agreement shall not be considered a waiver of any prior or subsequent breach.

10. EXTENSION:

This Agreement be extended by mutual written consent of the parties, for a period of up to one year at a time, and for a total of no longer than three (3) years.

11. SEVERABILITY:

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

12. ENTIRE AGREEMENT:

This Agreement contains all the terms and conditions agreed upon by the parties. All items incorporated herein by reference are attached. No other understandings, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or to bind any of the parties hereto.

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

APPROVED:

MOUNT VERNON POLICE:

Dated this 4 day of May, 2021


Lieutenant Mikel Moore

APPROVED AS TO FORM:

Contracting Entity, Attorney

Satpal Sidhu, County Executive

Given under my hand and official seal this ____ day of _____, 20__.

WHATCOM COUNTY PARKS & RECREATION
DEPARTMENT

Michael McFarlane, Director

Approved by email/BW
County 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: AB2021-448

File ID:	AB2021-448	Version:	1	Status:	Agenda Ready
File Created:	07/21/2021	Entered by:	SBatdorf@co.whatcom.wa.us		
Department:	Parks and Recreation Department	File Type:	Interlocal		
Assigned to:	Council Finance and Administrative Services Committee			Final Action:	
Agenda Date:	08/10/2021	Enactment #:			

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

TITLE FOR AGENDA ITEM:

Request authorization for the County Executive to enter into an interlocal agreement between Whatcom County and the Marysville Police Department for the use of the Plantation Rifle Range to train personnel, in the amount of \$12,868.22

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

This interlocal agreement allows Marysville Police Department to use the Plantation Rifle Range for the purpose of providing firearms qualifications for personnel, generating \$12,868.22 in use fees and taxes for Whatcom County.

HISTORY OF LEGISLATIVE FILE


Date:	Acting Body:	Action:	Sent To:
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Attachments: Memorandum, Interlocal Agreement



MEMORANDUM

TO: Satpal Sidhu, County Executive

FROM: Michael McFarlane, Director 

DATE: July 16, 2021

RE: Plantation Rifle Range Use Agreement – Marysville Police Department

Enclosed is the Interlocal Cooperative Agreement between Whatcom County Parks & Recreation and Marysville Police Department for use of the Plantation Rifle Range to provide firearms qualifications for commissioned and non-commissioned personnel.

Whatcom County Parks & Recreation has had a collaborative agreement with the Marysville Police Department for use of the Range to train their personnel for several years. This Interlocal Cooperative Agreement generates \$12,868.22 in budgeted revenue for Whatcom County and outlines the terms and conditions for use of the Range.

Please feel free to contact Christ Thomsen, Parks Operation Manager at extension 5865 if you have any additional questions or concerns.

Thank you.

WHATCOM COUNTY CONTRACT INFORMATION SHEET

Whatcom County Contract No. _____

Originating Department:	Parks & Recreation		
Division/Program: (i.e. Dept. Division and Program)	Parks / M&O / Plantation Rifle Range		
Contract or Grant Administrator:	Christ Thomsen		
Contractor's / Agency Name:	Marysville Police Department		
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? Yes <input 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? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> If yes, grantor agency contract number(s): _____ CFDA#: _____			
Is this contract grant funded? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> If yes, Whatcom County grant contract number(s): _____			
Is this contract the result of a RFP or Bid process? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> If yes, RFP and Bid number(s): _____ Contract Cost Center: 6335			
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 type="checkbox"/> Contract work is for less than \$100,000. <input type="checkbox"/> Contract work is for less than 120 days. <input checked="" type="checkbox"/> Interlocal Agreement (between Governments). <input type="checkbox"/> Contract for Commercial off the shelf items (COTS). <input type="checkbox"/> Work related subcontract less than \$25,000. <input type="checkbox"/> Public Works - Local Agency/Federally Funded FHWA.			
Contract Amount:(sum of original contract amount and any prior amendments): \$ 12,868.22 This Amendment Amount: \$ _____ Total Amended Amount: \$ 12,868.22	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: Interlocal Cooperative Agreement between Whatcom County Parks & Recreation and Marysville Police Department for use of the Plantation Rifle Range for the purpose of providing firearms qualifications for commissioned and non-commissioned personnel. Generates \$12,868.22 in use fees and taxes for the County.			
Term of Contract:	1 year	Expiration Date:	December 31, 2021
Contract Routing:	1. Prepared by: Shannon Batdorf Date: 7/15/2021 2. Attorney signoff: Brandon Waldron by email Date: 7/19/21 3. AS Finance reviewed: Marianne Caldwell by email Date: 7/20/21 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: _____		

INTERLOCAL COOPERATIVE AGREEMENT
BETWEEN
WHATCOM COUNTY (PARKS & RECREATION)
AND CITY OF MARYSVILLE POLICE DEPARTMENT

THIS AGREEMENT is made and entered into by and between Whatcom County (Parks & Recreation Department) ("County") and City of Marysville Police Department (Contracting Entity), collectively referred hereinafter as the "Parties." This Agreement is entered into pursuant to the authority granted by Chapter 39.34 RCW, Interlocal Cooperation Act. The Department or Party contracting with Whatcom County shall hereinafter be identified by name or as the "Contracting Entity."

1. PURPOSE:

For the use by the Contracting Entity of the County's Plantation Rifle Range (Range) located at 5102 Samish Highway, Whatcom County, Washington. The Plantation Rifle Range has two separate shooting ranges identified and named as Pistol & Smallbore Rifle Range (Smallbore) and High Power Rifle & Trap Range (High Power). These facilities are to be used by the Contracting Entity in accordance with the use terms as set forth in this Agreement for Law Enforcement training purposes.

The Contracting Entity is contracting with the County for use of the Range for the purpose of the Contracting Entity to provide firearms qualifications, practice or training for commissioned and non-commissioned personnel of the Contracting Entity.

It is understood and agreed by the Parties that the County shall provide no training or supervision at the Facility during the Contracting Entity's exclusive or individual use periods. The County shall provide, upon request by the Contracting Entity's Supervisor or Coordinator, assistance to the individual Supervisor or Coordinator, in familiarizing them with the operations of facilities, equipment, and other infrastructure necessary to facilitate the Contracting Entity's use under the terms of this Agreement.

It is understood and agreed by the Parties that the Contracting Entity is a qualified law enforcement agency, or equivalent entity, such that their supervisor and/or participants are experienced with and trained in the use of firearms and firearm safety. The County shall have no duty to train or assist the Contracting Entity with firearm safety or rifle range safety.

It is understood and agreed by the Parties that during the exclusive use of the Range by the Contracting Entity, there will be no County staff or agents present or provided at the Range, unless a County staff member is present doing other tasks or duties unrelated to the Contracting Entity's use of the Range. The County is not providing any County employees, staff or assistance, oversight or supervision to the Contracting Entity during their use at the Range.

2. RESPONSIBILITIES

WHATCOM COUNTY PARKS & RECREATION DEPARTMENT RESPONSIBILITIES:

The Parks and Recreation Department shall make available to the Contracting Entity the Plantation Rifle Range at such time and under such conditions as are hereinafter set forth.

CONTRACTING ENTITY RESPONSIBILITIES:

- A. The Contracting Entity shall provide all targets, target standards, ammunition and other materials necessary for the use of the Range. All ammunition used on the Indoor Range will be restricted to a round utilizing a Total Metal Jacket (TMJ) or Jacketed Hollow Point (JHP) bullet having muzzle energy not greater than 400 foot pounds.

- B. Schedule, in advance, with Whatcom County's representative exclusive use days for the Smallbore and High Power ranges.
- C. Assume full responsibility for safety of the entire Range during any period of exclusive use by the Contracting Entity.
- D. Be responsible for the conduct of members of the Contracting Entity while on the Range during exclusive use periods. Should any member violate the rules of the Range or safety rules, such member shall be immediately prohibited from further use of the Range that day and may not be allowed further use until such time the member is appropriately trained and the Contracting Entity feels assured that no further Range or safety rules will be violated by that member.
- E. Designate, and report to the County's Representative the name of an individual who shall act as a qualified supervisor and coordinator of all Contracting Entity's activities at the Range. This individual shall be the person with whom the County's Representative will work in connection with day-to-day matters of Range use, and who will be in direct charge during actual Range use.
- F. There shall be a Contracting Entity supervisor or coordinator and a Contracting Entity Range Safety Officer present at the Range at all times during exclusive use. The supervisor or coordinator shall terminate use of the range if any danger or safety risk is present at the facility and provide immediate electronic or verbal notice to the County, followed by a written notice to the County within 24 hours detailing the danger or safety risk. The Range Safety Officer shall be responsible for supervising safe shooting activities, monitor and enforce safety and range rules, and range operations during times of exclusive use. (The Range Safety Officer may also function as the supervisor or coordinator.)
- G. A written report of all accidents, damage or injury that occurs shall be provided immediately or no later than 24 hours to the County. The written report shall provide sufficient details of the incident, including the date, time, circumstances and nature of injury or damage, and the name of the injured party, witnesses and Contracting Entity's Supervisor present at the time of the incident. The written report shall be submitted to Whatcom County Parks and Recreation Department Office or to the Range County personnel.
- H. Check out the Range key from the County's Representative. The Range key provides limited access to Range facilities. Access shall include: entry gate access, access to approved facilities, and public spaces. The Contracting Entity shall maintain control of the issued key at all times, including keeping the key secured when not in use and maintaining a log of any employees provided use of the key. The Contracting Entity shall not provide access to the key for vendors or contractors for any purpose. Any keys provided to the Contracting Entity may not be copied or duplicated.
- I. The Contracting Entity shall maintain a sign-in log for each exclusive use day. The log shall include, at a minimum, the signature of the Contracting Entity supervisor or coordinator, the Range Safety Officer, their phone numbers and all employees participating in Contracting Entity activities. The sign-in logs shall be provided to the County's Representative at least quarterly.
- J. The Contracting Entity and its participants must comply with all Federal, State and local laws.
- K. All litter, trash, or debris left by the Contracting Entity shall be picked up and disposed of in appropriate receptacles provided at the Range.
- L. No minors are allowed to be present at the Range during exclusive use.
- M. The Contracting Entity shall pay all costs associated with damage, destruction, or loss to the County at the Facilities as a result of the Contracting Entity's use and/or presence at the Range.

USE OF THE RANGE

- A. The Contracting Entity shall have exclusive use of the Range in the year 2021 for Eighteen (18) eight (8) hour days. The Contracting Entity will have the option of splitting an 8-hour day into two 4-hour days. All dates and times shall be determined by mutual agreement by the Contracting Entity and Whatcom County Parks and Recreation Department representatives.
This exclusive use shall be by mutual agreement of both the Contracting Entity and the Whatcom County Parks and Recreation Department. Use dates scheduled, that are not canceled 48 hours in advance will be charged against the Contracting Entity's contract.
- B. Individual members of the Contracting Entity, who are counted as officers upon presentation of their Contracting Entity Law Enforcement identification card, shall be entitled to use of Range facilities without payment of regular fees. Provided, such use shall:
- Be during periods when the Range is normally scheduled to be opened to the general public;
 - Be subject to all rules and conditions of use by the general public except for payment of fees;
 - Not interfere with normal, customary use of the Range;
 - The use is for practice and training as an officer.
 - Does not include supplies or Trap Range use.
 - Rights or use under this Agreement is not extended to Contracting Entity's family or friends.

3. TERM OF AGREEMENT:

The term of this Agreement shall be from January 1, 2021 through December 31, 2021.

4. MANNER OF FINANCING:

- A. Contracting Entity shall pay a fee of **Twelve thousand eight hundred sixty-eight dollars and twenty-two cents (\$12,868.22).**

18 Days	@ \$590.95 per day	= \$	10,637.10	(includes tax)
88 Officers	@ \$18.99 per officer	= \$	1,671.12	(includes tax)
	Storage Unit	= \$	560.00	
	Total	= \$	12,868.22	

- B. The payment shall be due on or before sixty days of signed contract. Any additional days may be scheduled by mutual agreement of both parties. Payment for any use beyond the annual **eighteen (18)** day period shall be due within 30 days from approved contract.

5. ADMINISTRATION:

The following individuals are designated as representatives of the respective parties. The representatives shall be responsible for administration of this Agreement and for coordinating and monitoring performance under this Agreement. In the event such representatives are changed, the party making the change shall notify the other party.

5.1 The Contracting Entity's representative shall be:

Officer Dan Vinson
(425) 754-8338
dvinson@marysvillewa.gov

5.2 Whatcom County's representative shall be:

Reid Parker, Regional Park Supervisor
(360) 296-6083
RParker@co.whatcom.wa.us

6. TREATMENT OF ASSETS AND PROPERTY:

No fixed assets or personal or real property will be jointly or cooperatively, acquired, held, used, or disposed of pursuant to this Agreement.

7. INDEMNIFICATION:

To the fullest extent permitted by law, the Contracting Entity 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 act or omission, negligent or otherwise, of the Contracting Entity, its employees, agents, participants or volunteers or Contracting Entity's subcontractors and their employees, agents or volunteers; or 2) are directly or indirectly arising out of, resulting from, or in connection with Contracting Entity's activity and use under this Agreement; or 3) are based upon the Contracting Entity or their participants, employees, agents, or volunteers, or its subcontractors' use of, presence upon or proximity to the property of the County. This indemnification obligation of the Contracting Entity shall not apply in the limited circumstance where the claim, damage, loss or expense is caused by the sole negligence of the County.

This indemnification obligation of the Contracting Entity 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 Contracting Entity hereby expressly waives any immunity afforded by such acts. The foregoing indemnification obligations of the Contracting Entity are a material inducement to County to enter into this Agreement, and have been mutually negotiated by the parties.

It is further provided that no liability shall attach to the County be reason of entering into this Agreement, except as expressly provided herein. The parties specifically agree that this Agreement is for the benefit of the parties only and this Agreement 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 Contracting Entity's indemnity obligations under this Agreement.

The Contracting Entity agrees all Contracting Entity's indemnity obligations shall survive the completion, expiration or termination of this Agreement.

In the event the Contracting Entity enters into subcontracts to the extent allowed under this Agreement, the Contracting Entity's subcontractors shall indemnify the County on a basis equal to or exceeding Contracting Entity's indemnity obligations to the County. All insurance shall be per occurrence.

8. INSURANCE:

Each Party shall maintain its own insurance and/or self-insurance for its liabilities from damage to property and/or injuries to persons arising out of its activities associated with this Agreement as it deems reasonably appropriate and prudent. The maintenance of, or lack thereof of insurance and/or self-insurance shall not limit the liability of the indemnifying party to the indemnified party.

9. TERMINATION:

Any party hereto may terminate this Agreement upon thirty (30) days' notice in writing either personally delivered or mailed postage-prepaid by certified mail, return receipt requested, to the party's last known address for the purposes of giving notice under this paragraph. If this Agreement is so terminated, the parties shall be liable only for performance rendered or costs incurred in accordance with the terms of this Agreement prior to the effective date of termination.

9. CHANGES, MODIFICATIONS, AMENDMENTS AND WAIVERS:

The Agreement may be changed, modified, amended or waived only by written agreement executed by the Parties hereto. Waiver or breach of any term or condition of this Agreement shall not be considered a waiver of any prior or subsequent breach.

10. EXTENSION:

This Agreement be extended by mutual written consent of the parties, for a period of up to one year at a time, and for a total of no longer than three (3) years.

11. SEVERABILITY:

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

12. ENTIRE AGREEMENT:

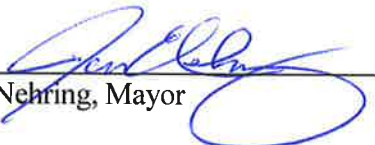
This Agreement contains all the terms and conditions agreed upon by the parties. All items incorporated herein by reference are attached. No other understandings, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or to bind any of the parties hereto.

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

APPROVED:

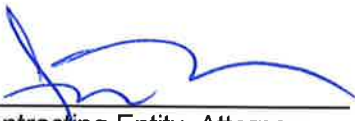
Marysville Police Department

Dated this 11th day of January, 2021.



Jon Nehring, Mayor

APPROVED AS TO FORM:



Contracting Entity, Attorney

Satpal Sidhu, County Executive

Given under my hand and official seal this ____ day of _____, 20__.

WHATCOM COUNTY PARKS & RECREATION
DEPARTMENT

Michael McFarlane, Director

Approved by email / BW
County 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: AB2021-449

File ID:	AB2021-449	Version:	1	Status:	Agenda Ready
File Created:	07/21/2021	Entered by:	SBatdorf@co.whatcom.wa.us		
Department:	Parks and Recreation Department	File Type:	Interlocal		
Assigned to:	Council Finance and Administrative Services Committee			Final Action:	
Agenda Date:	08/10/2021	Enactment #:			

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

TITLE FOR AGENDA ITEM:

Request authorization for the County Executive to enter into an interlocal agreement between Whatcom County and the Skagit County Sheriff's Office for the use of the Plantation Rifle Range to train personnel, in the amount of \$15,286.73

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

This interlocal agreement allows Skagit County Sheriff's Office to use the Plantation Rifle Range for the purpose of providing firearms qualifications for personnel, generating \$15,286.73 in use fees and taxes for Whatcom County.

HISTORY OF LEGISLATIVE FILE

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

Attachments: Memorandum, Interlocal Agreement



MEMORANDUM

TO: Satpal Sidhu, County Executive

FROM: Michael McFarlane, Director 

DATE: August 3, 2020

RE: Plantation Rifle Range Use Agreement – Skagit County Sheriff's Department

Enclosed is the Interlocal Cooperative Agreement between Whatcom County Parks & Recreation and the Skagit County Sheriff's Department for use of the Plantation Rifle Range to provide firearms qualifications for commissioned and non-commissioned personnel.

Whatcom County Parks & Recreation has had a collaborative agreement with the Skagit County Sheriff's Department for use of the Range to train their personnel for several years. This Interlocal Cooperative Agreement generates \$15,286.73 in budgeted revenue for Whatcom County and outlines the terms and conditions for use of the Range.

Please feel free to contact Christ Thomsen, Parks Operation Manager at extension 5865 if you have any additional questions or concerns.

Thank you.

WHATCOM COUNTY CONTRACT INFORMATION SHEET

Whatcom County Contract No. _____

Originating Department:	Parks & Recreation
Division/Program: (i.e. Dept. Division and Program)	Parks / M&O / Plantation Rifle Range
Contract or Grant Administrator:	Christ Thomsen
Contractor's / Agency Name:	Skagit County Sheriff Department
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? Yes <input 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: _____ (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 type="checkbox"/> No <input checked="" type="checkbox"/> If yes, Whatcom County grant contract number(s): _____	
Is this contract the result of a RFP or Bid process? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> If yes, RFP and Bid number(s): _____ Contract Cost Center: 6335	
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 type="checkbox"/> Contract work is for less than \$100,000. <input type="checkbox"/> Contract work is for less than 120 days. <input checked="" type="checkbox"/> Interlocal Agreement (between Governments). <input type="checkbox"/> Contract for Commercial off the shelf items (COTS). <input type="checkbox"/> Work related subcontract less than \$25,000. <input type="checkbox"/> Public Works - Local Agency/Federally Funded FHWA.	
Contract Amount:(sum of original contract amount and any prior amendments): \$ 15,286.73 This Amendment Amount: \$ _____ Total Amended Amount: \$ 15,286.73	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: Interlocal Cooperative Agreement between Whatcom County Parks & Recreation and Skagit County Sheriff Department for use of the Plantation Rifle Range for the purpose of providing firearms qualifications for commissioned and non-commissioned personnel. Generates \$15,286.73 in use fees and taxes for the County.	
Term of Contract: 1 year	Expiration Date: December 31, 2021

Contract Routing:	1. Prepared by: Shannon Batdorf	Date: 07/15/2021
	2. Attorney signoff: Brandon Waldron via email	Date: 7/19/21
	3. AS Finance reviewed: Marianne Caldwell by email	Date: 7/20/21
	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:

INTERLOCAL COOPERATIVE AGREEMENT

BETWEEN

WHATCOM COUNTY (PARKS & RECREATION)

AND THE SKAGIT COUNTY SHERIFF'S OFFICE

THIS AGREEMENT is made and entered into by and between Whatcom County (Parks & Recreation Department) ("County") and the Skagit County Sheriff's Office (Contracting Entity), collectively referred hereinafter as the "Parties." This Agreement is entered into pursuant to the authority granted by Chapter 39.34 RCW, Interlocal Cooperation Act. The Department or Party contracting with Whatcom County shall hereinafter be identified by name or as the "Contracting Entity."

1. PURPOSE:

For the use by the Contracting Entity of the County's Plantation Rifle Range (Range) located at 5102 Samish Highway, Whatcom County, Washington. The Plantation Rifle Range has two separate shooting ranges identified and named as Pistol & Smallbore Rifle Range (Smallbore) and High Power Rifle & Trap Range (High Power). These facilities are to be used by the Contracting Entity in accordance with the use terms as set forth in this Agreement for Law Enforcement training purposes.

The Contracting Entity is contracting with the County for use of the Range for the purpose of the Contracting Entity to provide firearms qualifications, practice or training for commissioned and non-commissioned personnel of the Contracting Entity.

It is understood and agreed by the Parties that the County shall provide no training or supervision at the Facility during the Contracting Entity's exclusive or individual use periods. The County shall provide, upon request by the Contracting Entity's Supervisor or Coordinator, assistance to the individual Supervisor or Coordinator, in familiarizing them with the operations of facilities, equipment, and other infrastructure necessary to facilitate the Contracting Entity's use under the terms of this Agreement.

It is understood and agreed by the Parties that the Contracting Entity is a qualified law enforcement agency, or equivalent entity, such that their supervisor and/or participants are experienced with and trained in the use of firearms and firearm safety. The County shall have no duty to train or assist the Contracting Entity with firearm safety or rifle range safety.

It is understood and agreed by the Parties that during the exclusive use of the Range by the Contracting Entity, there will be no County staff or agents present or provided at the Range, unless a County staff member is present doing other tasks or duties unrelated to the Contracting Entity's use of the Range. The County is not providing any County employees, staff or assistance, oversight or supervision to the Contracting Entity during their use at the Range.

2. RESPONSIBILITIES

WHATCOM COUNTY PARKS & RECREATION DEPARTMENT RESPONSIBILITIES:

The Parks and Recreation Department shall make available to the Contracting Entity the Plantation Rifle Range at such time and under such conditions as are hereinafter set forth.

CONTRACTING ENTITY RESPONSIBILITIES:

- A. The Contracting Entity shall provide all targets, target standards, ammunition and other materials necessary for the use of the Range. All ammunition used on the Indoor Range will be restricted to a round utilizing a Total Metal Jacket (TMJ) or Jacketed Hollow Point (JHP) bullet having muzzle energy not greater than 400 foot pounds.

- B. Schedule, in advance, with Whatcom County's representative exclusive use days for the Smallbore and High Power ranges.
- C. Assume full responsibility for safety of the entire Range during any period of exclusive use by the Contracting Entity.
- D. Be responsible for the conduct of members of the Contracting Entity while on the Range during exclusive use periods. Should any member violate the rules of the Range or safety rules, such member shall be immediately prohibited from further use of the Range that day and may not be allowed further use until such time the member is appropriately trained and the Contracting Entity feels assured that no further Range or safety rules will be violated by that member.
- E. Designate, and report to the County's Representative the name of an individual who shall act as a qualified supervisor and coordinator of all Contracting Entity's activities at the Range. This individual shall be the person with whom the County's Representative will work in connection with day-to-day matters of Range use, and who will be in direct charge during actual Range use.
- F. There shall be a Contracting Entity supervisor or coordinator and a Contracting Entity Range Safety Officer present at the Range at all times during exclusive use. The supervisor or coordinator shall terminate use of the range if any danger or safety risk is present at the facility and provide immediate electronic or verbal notice to the County, followed by a written notice to the County within 24 hours detailing the danger or safety risk. The Range Safety Officer shall be responsible for supervising safe shooting activities, monitor and enforce safety and range rules, and range operations during times of exclusive use. (The Range Safety Officer may also function as the supervisor or coordinator.)
- G. A written report of all accidents, damage or injury that occurs shall be provided immediately or no later than 24 hours to the County. The written report shall provide sufficient details of the incident, including the date, time, circumstances and nature of injury or damage, and the name of the injured party, witnesses and Contracting Entity's Supervisor present at the time of the incident. The written report shall be submitted to Whatcom County Parks and Recreation Department Office or to the Range County personnel.
- H. Check out the Range key from the County's Representative. The Range key provides limited access to Range facilities. Access shall include: entry gate access, access to approved facilities, and public spaces. The Contracting Entity shall maintain control of the issued key at all times, including keeping the key secured when not in use and maintaining a log of any employees provided use of the key. The Contracting Entity shall not provide access to the key for vendors or contractors for any purpose. Any keys provided to the Contracting Entity may not be copied or duplicated.
- I. The Contracting Entity shall maintain a sign-in log for each exclusive use day. The log shall include, at a minimum, the signature of the Contracting Entity supervisor or coordinator, the Range Safety Officer, their phone numbers and all employees participating in Contracting Entity activities. The sign-in logs shall be provided to the County's Representative at least quarterly.
- J. The Contracting Entity and its participants must comply with all Federal, State and local laws.
- K. All litter, trash, or debris left by the Contracting Entity shall be picked up and disposed of in appropriate receptacles provided at the Range.
- L. No minors are allowed to be present at the Range during exclusive use.
- M. The Contracting Entity shall pay all costs associated with damage, destruction, or loss to the County at the Facilities as a result of the Contracting Entity's use and/or presence at the Range.

USE OF THE RANGE

- A. The Contracting Entity shall have exclusive use of the Range in the year 2021 for twenty-one (21) eight (8) hour days. The Contracting Entity will have the option of splitting an 8-hour day into two 4-hour days. All dates and times shall be determined by mutual agreement by the Contracting Entity and Whatcom County Parks and Recreation Department representatives. This exclusive use shall be by mutual agreement of both the Contracting Entity and the Whatcom County Parks and Recreation Department. Use dates scheduled, that are not canceled 48 hours in advance will be charged against the Contracting Entity's contract.
- B. Individual members of the Contracting Entity, who are counted as officers upon presentation of their Contracting Entity Law Enforcement identification card, shall be entitled to use of Range facilities without payment of regular fees. Provided, such use shall:
- Be during periods when the Range is normally scheduled to be opened to the general public;
 - Be subject to all rules and conditions of use by the general public except for payment of fees;
 - Not interfere with normal, customary use of the Range;
 - The use is for practice and training as an officer.
 - Does not include supplies or Trap Range use.
 - Rights or use under this Agreement is not extended to Contracting Entity's family or friends.

3. TERM OF AGREEMENT:

The term of this Agreement shall be from January 1, 2021 through December 31, 2021.

4. MANNER OF FINANCING:

- A. Contracting Entity shall pay a fee of **fifteen thousand two hundred eighty-six dollars and seventy-three cents (\$15,286.73)**.

21 Days	@ \$590.95 per day	= \$	12,409.95	(includes tax)
122 Officers	@ \$18.99 per officer	= \$	2,316.78	(includes tax)
	Storage Unit	= \$	560.00	
	Total	= \$	15,286.73	

- B. The payment shall be due on or before sixty days of signed contract. Any additional days may be scheduled by mutual agreement of both parties. Payment for any use beyond the annual **twenty-one (21)** day period shall be due within 30 days from approved contract.

5. ADMINISTRATION:

The following individuals are designated as representatives of the respective parties. The representatives shall be responsible for administration of this Agreement and for coordinating and monitoring performance under this Agreement. In the event such representatives are changed, the party making the change shall notify the other party.

5.1 The Contracting Entity's representative shall be:

Officer Ben Hagglund, Patrol
(360) 661-4446
benh@co.skagit.wa.us

Officer Brian Schrader, Jail
(360) 630-4593
brians@co.skagit.wa.us

5.2 Whatcom County's representative shall be:

Reid Parker, Regional Park Supervisor
(360) 296-6083
RParker@co.whatcom.wa.us

6. TREATMENT OF ASSETS AND PROPERTY:

No fixed assets or personal or real property will be jointly or cooperatively, acquired, held, used, or disposed of pursuant to this Agreement.

7. INDEMNIFICATION:

To the fullest extent permitted by law, the Contracting Entity 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 act or omission, negligent or otherwise, of the Contracting Entity, its employees, agents, participants or volunteers or Contracting Entity's subcontractors and their employees, agents or volunteers; or 2) are directly or indirectly arising out of, resulting from, or in connection with Contracting Entity's activity and use under this Agreement; or 3) are based upon the Contracting Entity or their participants, employees, agents, or volunteers, or its subcontractors' use of, presence upon or proximity to the property of the County. This indemnification obligation of the Contracting Entity shall not apply in the limited circumstance where the claim, damage, loss or expense is caused by the sole negligence of the County.

This indemnification obligation of the Contracting Entity 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 Contracting Entity hereby expressly waives any immunity afforded by such acts. The foregoing indemnification obligations of the Contracting Entity are a material inducement to County to enter into this Agreement, and have been mutually negotiated by the parties.

It is further provided that no liability shall attach to the County be reason of entering into this Agreement, except as expressly provided herein. The parties specifically agree that this Agreement is for the benefit of the parties only and this Agreement 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 Contracting Entity's indemnity obligations under this Agreement.

The Contracting Entity agrees all Contracting Entity's indemnity obligations shall survive the completion, expiration or termination of this Agreement.

In the event the Contracting Entity enters into subcontracts to the extent allowed under this Agreement, the Contracting Entity's subcontractors shall indemnify the County on a basis equal to or exceeding Contracting Entity's indemnity obligations to the County. All insurance shall be per occurrence.

8. INSURANCE:

Each Party shall maintain its own insurance and/or self-insurance for its liabilities from damage to property and/or injuries to persons arising out of its activities associated with this Agreement as it deems reasonably appropriate and prudent. The maintenance of, or lack thereof of insurance and/or self-insurance shall not limit the liability of the indemnifying party to the indemnified party.

9. TERMINATION:

Any party hereto may terminate this Agreement upon thirty (30) days' notice in writing either personally delivered or mailed postage-prepaid by certified mail, return receipt requested, to the party's last known address for the purposes of giving notice under this paragraph. If this Agreement is so terminated, the parties shall be liable only for performance rendered or costs incurred in accordance with the terms of this Agreement prior to the effective date of termination.

9. CHANGES, MODIFICATIONS, AMENDMENTS AND WAIVERS:

The Agreement may be changed, modified, amended or waived only by written agreement executed by the parties hereto. Waiver or breach of any term or condition of this Agreement shall not be considered a waiver of any prior or subsequent breach.

10. EXTENSION:

This agreement may be extended by mutual written consent of the parties, for a period of up to one year at a time, for a total of no longer than three (3) years.

11. SEVERABILITY:

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

12. ENTIRE AGREEMENT:

This Agreement contains all the terms and conditions agreed upon by the parties. All items incorporated herein by reference are attached. No other understandings, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or to bind any of the parties hereto.

IN WITNESS WHEREOF, the parties have executed this Agreement this 11 day of January, 2021.

BOARD OF COUNTY COMMISSIONERS
SKAGIT COUNTY, WASHINGTON

Recommended:

By: Don McDevitt
Department Head

Lisa Janicki
Lisa Janicki, Chair

By: Lisha Gagne
Budget & Finance Director

Peter Browning
Peter Browning, Commissioner

Approved as to Indemnification:

By: Art 1/5/2021
Risk Manager

Ron Wesen
Ron Wesen, Commissioner
For Contracts under \$5000

Approved as to Form:

Erik Pedersen
Deputy Prosecuting Attorney
Erik Pedersen, Reviewed 1/5/2021

County Administrator
(Authorization per Resolution #R20030146)

Attest:

Kate Williams
Clerk of the Board

Satpal Sidhu, County Executive

Given under my hand and official seal this _____ day of _____, 20__.

NOTARY PUBLIC in and for the State of Washington,
residing at _____
My Commission expires: _____

**WHATCOM COUNTY PARKS & RECREATION
DEPARTMENT**

Michael McFarlane, Director

APPROVED AS TO FORM:

Approved by email/BW
County 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: AB2021-452

File ID:	AB2021-452	Version:	1	Status:	Agenda Ready
File Created:	07/23/2021	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:	08/10/2021	Enactment #:			

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

TITLE FOR AGENDA ITEM:

Request authorization for the County Executive to enter into an interlocal agreement between Whatcom County and Washington State Department of Ecology for solid waste management compliance and litter and/or illegal dumping enforcement activities, in the amount of \$236,340

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 Agreement



MEMORANDUM

TO: Satpal Sidhu, County Executive
FROM: Erika Lautenbach, Director
RE: Washington State Department of Ecology – 2021-2023 Local Solid Waste Financial Assistance Agreement for Enforcement
DATE: July 23, 2021

Attached is an Interlocal Agreement between Whatcom County and Washington State Department of Ecology (DOE) for your review and signature.

▪ **Background and Purpose**

The Local Solid Waste Financial Assistance Agreement (LSWFA) Enforcement Program (formerly known as the Coordinated Prevention Grant) has been a continuous source of solid waste program funding since 1996. This Agreement funds solid waste management compliance and litter and/or illegal dumping enforcement activities.

▪ **Funding Amount and Source**

The 2021-2023 Agreement provides \$236,340 in DOE funds to be matched with \$78,780 in local funds from the Solid Waste Disposal Tax. These funds are included in the 2021 budget. Council approval is required per RCW 39.34.030(2) for agreements between public agencies.

▪ **Differences between Previous Contracts**

Over the previous 2-year Agreement that ended on 6/30/2021 (201907033), this 2-year Agreement:

1. Increases DOE's contribution by \$127,130.50 and the County's match by \$42,376.83;
2. Requires annual site inspections at 22 conditionally exempt solid waste handling facilities and 23 permitted facilities compared to only 18 conditionally exempt solid waste handling facilities;
3. Requires inspections at approximately 45 facilities (compared to 36), completion of 2 solid waste facility or site permits, and 7,700 employee hours to implement these tasks.

Please contact Jennifer Hayden, Environmental Health Supervisor at 360-778-6036 (JHayden@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)		8540 Environmental Health / 85400 Solid Waste Enforcement	
Contract or Grant Administrator:		Jennifer Hayden	
Contractor's / Agency Name:		Washington State Department of Ecology	
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 checked="" type="checkbox"/> No <input type="checkbox"/>	If yes, grantor agency contract number(s):	SWMLSWFA-2021-WhCoHD-00034	CFDA#: _____
Is this contract grant funded? Yes <input type="checkbox"/> No <input type="checkbox"/>	If yes, Whatcom County grant contract number(s): _____		
Is this contract the result of a RFP or Bid process? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	If yes, RFP and Bid number(s): _____	Contract Cost Center:	140304
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): \$ 236,340		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: The Local Solid Waste Financial Assistance Agreement (LSWFA) for enforcement provides funding for solid waste management compliance and litter and/or illegal dumping enforcement activities.			
Term of Contract:	2 Years	Expiration Date:	06/30/2023
Contract Routing:	1. Prepared by:	JT	Date: 07/22/2021
	2. Attorney signoff:	RB	Date: 07/22/2021
	3. AS Finance reviewed:	M Caldwell	Date: 07/22/2021
	4. IT reviewed (if IT related):	_____	Date: _____
	5. Contractor approved:	_____	Date: _____
	6. Submitted to Exec.:	_____	Date: _____
	7. Council approved (if necessary):	AB2021-452	Date: _____
	8. Executive signed:	_____	Date: _____
	9. Original to Council:	_____	Date: _____



Agreement No. SWMLSWFA-2021-WhCoHD-00034

SOLID WASTE MANAGEMENT LOCAL SOLID WASTE FINANCIAL ASSISTANCE AGREEMENT

BETWEEN

THE STATE OF WASHINGTON DEPARTMENT OF ECOLOGY

AND

WHATCOM COUNTY HEALTH DEPARTMENT

This is a binding Agreement entered into by and between the state of Washington, Department of Ecology, hereinafter referred to as “ECOLOGY,” and WHATCOM COUNTY HEALTH DEPARTMENT, hereinafter referred to as the “RECIPIENT,” to carry out with the provided funds activities described herein.

GENERAL INFORMATION

Project Title:	SWE Whatcom Co HD
Total Cost:	\$400,000.00
Total Eligible Cost:	\$315,120.00
Ecology Share:	\$236,340.00
Recipient Share:	\$78,780.00
The Effective Date of this Agreement is:	07/01/2021
The Expiration Date of this Agreement is no later than:	06/30/2023
Project Type:	Solid Waste Enforcement

Project Short Description:

Whatcom County will spend \$315,120.00 to enforce solid waste handling standards.

Project Long Description:

See the Scope of Work section for more detailed information related to individual Tasks.

Overall Goal:

Provide regional solutions and intergovernmental cooperation; prevent or minimize environmental contamination through planning and project implementation; and comply with state and local solid and hazardous waste management plans and laws.

Agreement No: SWMLSWFA-2021-WhCoHD-00034
Project Title: SWE Whatcom Co HD
Recipient Name: WHATCOM COUNTY HEALTH DEPARTMENT

RECIPIENT INFORMATION

Organization Name: WHATCOM COUNTY HEALTH DEPARTMENT

Federal Tax ID: 91-6001383

DUNS Number: 600446410

Mailing Address: 509 Girard St.
Bellingham, WA 98225

Physical Address: 509 Girard St.
Bellingham, Washington 98225

Organization Email: jhayden@co.whatcom.wa.us

Organization Fax: (360) 778-6001

Contacts

Agreement No: SWMLSWFA-2021-WhCoHD-00034
Project Title: SWE Whatcom Co HD
Recipient Name: WHATCOM COUNTY HEALTH DEPARTMENT

Project Manager	Jennifer Hayden Environmental Health Specialist 509 Girard St. Bellingham, Washington 98225 Email: jhayden@whatcomcounty.us Phone: (360) 778-6036
Billing Contact	Jennifer Hawes Accounting Technician 509 Girard St. Bellingham, Washington 98225 Email: jhawes@whatcomcounty.us Phone: (360) 778-6027
Authorized Signatory	Erika Lee Lautenbach Director 509 Girard St. Bellingham, Washington 98225 Email: elautenb@co.whatcom.wa.us Phone: (360) 778-6000

Agreement No: SWMLSWFA-2021-WhCoHD-00034
Project Title: SWE Whatcom Co HD
Recipient Name: WHATCOM COUNTY HEALTH DEPARTMENT

ECOLOGY INFORMATION

Mailing Address: Department of Ecology
Solid Waste Management
PO BOX 47600
Olympia, WA 98504-7600

Physical Address: Solid Waste Management
300 Desmond Drive SE
Lacey, WA 98503

Contacts

Project Manager	Carolyn Bowie PO Box 330316 Shoreline, Washington 98133-9716 Email: CARB461@ecy.wa.gov Phone: (425) 698-3722
Financial Manager	Carolyn Bowie PO Box 330316 Shoreline, Washington 98133-9716 Email: CARB461@ecy.wa.gov Phone: (425) 698-3722

Agreement No: SWMLSWFA-2021-WhCoHD-00034
Project Title: SWE Whatcom Co HD
Recipient Name: WHATCOM COUNTY HEALTH DEPARTMENT

AUTHORIZING SIGNATURES

RECIPIENT agrees to furnish the necessary personnel, equipment, materials, services, and otherwise do all things necessary for or incidental to the performance of work as set forth in this Agreement.

RECIPIENT acknowledges that they had the opportunity to review the entire Agreement, including all the terms and conditions of this Agreement, Scope of Work, attachments, and incorporated or referenced documents, as well as all applicable laws, statutes, rules, regulations, and guidelines mentioned in this Agreement. Furthermore, the RECIPIENT has read, understood, and accepts all requirements contained within this Agreement.

This Agreement contains the entire understanding between the parties, and there are no other understandings or representations other than as set forth, or incorporated by reference, herein.

No subsequent modifications or amendments to this agreement will be of any force or effect unless in writing, signed by authorized representatives of the RECIPIENT and ECOLOGY and made a part of this agreement. ECOLOGY and RECIPIENT may change their respective staff contacts without the concurrence of either party.

This Agreement shall be subject to the written approval of Ecology's authorized representative and shall not be binding until so approved.

The signatories to this Agreement represent that they have the authority to execute this Agreement and bind their respective organizations to this Agreement.

Washington State
Department of Ecology

WHATCOM COUNTY HEALTH DEPARTMENT

By: _____

By: _____

Laurie Davies
Solid Waste Management
Program Manager

Date

Erika Lee Lautenbach
Director

Date

Template Approved to Form by
Attorney General's Office

PROGRAM APPROVAL

Approved by email JH/JT
Jennifer Hayden, Environmental Health Supervisor

07/22/2021
Date

WHATCOM COUNTY

SATPAL SIDHU
County Executive

STATE OF WASHINGTON)
)
COUNTY OF WHATCOM)

On this _____ day of _____, 2021, before me personally appeared Satpal Sidhu, to me known to be the Executive of Whatcom County and who executed the above instrument and who acknowledged to me the act of signing and sealing thereof.

NOTARY PUBLIC in and for the State of Washington,
residing at Bellingham.

My Commission expires: _____

APPROVED AS TO FORM:

Approved by email RB/JT
Royce Buckingham, Prosecuting Attorney

07/22/2021
Date

Agreement No: SWMLSWFA-2021-WhCoHD-00034
Project Title: SWE Whatcom Co HD
Recipient Name: WHATCOM COUNTY HEALTH DEPARTMENT

SCOPE OF WORK

Task Number: 1 **Task Cost: \$315,120.00**

Task Title: Solid Waste Enforcement

Task Description:

Activity - Solid Waste Handling Facility/Site Compliance

RECIPIENT shall conduct annual site inspections at approximately 22 conditionally exempt solid waste handling facilities and 23 permitted facilities for compliance with applicable state solid waste regulations including but not limited to Chapter 173-350 WAC (Solid Waste Handling Standards), Chapter 173-351 WAC (Criteria for Municipal Solid Waste Landfills), Chapter 173-304 WAC (Minimum Functional Standards for Solid Waste Handling), and any related local solid waste regulations, or codes. RECIPIENT will accomplish monitoring of solid waste handling facilities and sites as prescribed by the applicable solid waste regulation(s), including but not limited to permitting inspections and oversight, review of groundwater data, and annual review of financial assurance.

New solid waste permit applications and notices of exemption considered during the Agreement period for facilities not identified under this task may be managed under this Agreement.

Activity - Solid Waste Investigation, Assistance and Enforcement

RECIPIENT will investigate solid waste related complaints and concerns, including (at RECIPIENT's discretion) assisting in the proper handling of abandoned or illegally stored junk or nuisance vehicles.

RECIPIENT will offer technical assistance about solid waste regulations and how to prevent or correct violations, and will enforce as necessary.

RECIPIENT will provide public education about proper handling and disposal methods, and how to prevent violations.

Ordinance development necessary to comply with chapter 173-350 WAC, including travel to attend Ecology sponsored trainings, are eligible costs for reimbursement under this Agreement.

Task Goal Statement:

The goal of this task is to protect human health and the environment by preventing and correcting violations of solid waste rules and regulations. RECIPIENT expects to accomplish this goal by providing technical assistance, education, compliance monitoring and enforcement when necessary.

Task Expected Outcome:

Over the two-year grant period, with the support of this grant, the RECIPIENT expects to conduct approximately 45 facility inspections, resolve about 450 complaints of illegal dumping or illegal disposal, complete 2 solid waste facility or site permits, and charge 7,700 recipient employee hours to implement Task work.

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Recipient Task Coordinator: Jennifer Hayden

Solid Waste Enforcement

Deliverables

Number	Description	Due Date
1.1	Task Expected Outcomes are the deliverables and achieved incrementally throughout the biennium.	

BUDGET

Agreement No: SWMLSWFA-2021-WhCoHD-00034
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Funding Distribution Summary

Recipient / Ecology Share

Funding Distribution Name	Recipient Match %	Recipient Share	Ecology Share	Total
SWE Whatcom Co HD	25.00 %	\$ 78,780.00	\$ 236,340.00	\$ 315,120.00
Total		\$ 78,780.00	\$ 236,340.00	\$ 315,120.00

AGREEMENT SPECIFIC TERMS AND CONDITIONS

N/A

SPECIAL TERMS AND CONDITIONS

If the scope of this Agreement includes recycling activity managed or performed by the RECIPIENT at a recycling center (such as a transfer station or drop box location) or other locations, Ecology will not reimburse disposal costs for materials collected or advertised as collected for recycling/reuse or marketed for recycling/reuse under this Agreement, unless approved in writing by Ecology. RECIPIENT must immediately notify ECOLOGY when the RECIPIENT becomes aware that disposal of materials occurred or may occur due to the market conditions for recycled/reused materials. ECOLOGY may deny new costs or require repayment of costs already reimbursed or remove the task from the Agreement or terminate the Agreement.

Ecology will conduct a risk assessment of all Local Solid Waste Financial Assistance recipients. The level of risk determines the level of oversight required by Ecology throughout the biennium. If the RECIPIENT's performance or project circumstances change, Ecology may reassess risk and notify the RECIPIENT of any changes to administrative requirements.

RECIPIENT shall update the Spending Plan and Outcomes Data Collection form at least quarterly. The Spending Plan and Outcomes Data Collection form must be completed concurrent with the submittal of each payment Request/Progress Report. RECIPIENT shall report outcomes in a manner consistent with instructions in the Local Solid Waste Financial Assistance guidelines.

RECIPIENT must submit within thirty (30) days after the expiration date of this Agreement, all financial (including payment requests), performance, and other reports required by this Agreement. Ecology shall have the right to deny reimbursement of payment requests received after this date.

GENERAL FEDERAL CONDITIONS

If a portion or all of the funds for this agreement are provided through federal funding sources or this agreement is used to match a federal grant award, the following terms and conditions apply to you.

A. CERTIFICATION REGARDING SUSPENSION, DEBARMENT, INELIGIBILITY OR VOLUNTARY

EXCLUSION:

1. The RECIPIENT/CONTRACTOR, by signing this agreement, certifies that it is not suspended, debarred, proposed for debarment, declared ineligible or otherwise excluded from contracting with the federal government, or from receiving contracts paid for with federal funds. If the RECIPIENT/CONTRACTOR is unable to certify to the statements

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contained in the certification, they must provide an explanation as to why they cannot.

2. The RECIPIENT/CONTRACTOR shall provide immediate written notice to ECOLOGY if at any time the RECIPIENT/CONTRACTOR learns that its certification was erroneous when submitted or had become erroneous by reason of changed circumstances.
3. The terms covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded, as used in this clause, have the meaning set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact ECOLOGY for assistance in obtaining a copy of those regulations.
4. The RECIPIENT/CONTRACTOR agrees it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under the applicable Code of Federal Regulations, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction.
5. The RECIPIENT/CONTRACTOR further agrees by signing this agreement, that it will include this clause titled "CERTIFICATION REGARDING SUSPENSION, DEBARMENT, INELIGIBILITY OR VOLUNTARY EXCLUSION" without modification in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
6. Pursuant to 2CFR180.330, the RECIPIENT/CONTRACTOR is responsible for ensuring that any lower tier covered transaction complies with certification of suspension and debarment requirements.
7. RECIPIENT/CONTRACTOR acknowledges that failing to disclose the information required in the Code of Federal Regulations may result in the delay or negation of this funding agreement, or pursuance of legal remedies, including suspension and debarment.
8. RECIPIENT/CONTRACTOR agrees to keep proof in its agreement file, that it, and all lower tier recipients or contractors, are not suspended or debarred, and will make this proof available to ECOLOGY before requests for reimbursements will be approved for payment. RECIPIENT/CONTRACTOR must run a search in <http://www.sam.gov> and print a copy of completed searches to document proof of compliance.

B. FEDERAL FUNDING ACCOUNTABILITY AND TRANSPARENCY ACT (FFATA) REPORTING REQUIREMENTS:

CONTRACTOR/RECIPIENT must complete the FFATA Data Collection Form (ECY 070-395) and return it with the signed agreement to ECOLOGY.

Any CONTRACTOR/RECIPIENT that meets each of the criteria below must report compensation for its five top executives using the FFATA Data Collection Form.

- Receives more than \$25,000 in federal funds under this award.
- Receives more than 80 percent of its annual gross revenues from federal funds.
- Receives more than \$25,000,000 in annual federal funds.

Ecology will not pay any invoices until it has received a completed and signed FFATA Data Collection Form. Ecology is required to report the FFATA information for federally funded agreements, including the required DUNS number, at www.fsrc.gov <http://www.fsrc.gov> within 30 days of agreement signature. The FFATA information will be available to the public at www.usaspending.gov <http://www.usaspending.gov>.

For more details on FFATA requirements, see www.fsrc.gov <http://www.fsrc.gov>.

C. FEDERAL FUNDING PROHIBITION ON CERTAIN TELECOMMUNICATIONS OR VIDEO SURVEILLANCE

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SERVICES OR EQUIPMENT:

As required by 2 CFR 200.216, federal grant or loan recipients and subrecipients are prohibited from obligating or expending loan or grant funds to:

1. Procure or obtain;
2. Extend or renew a contract to procure or obtain; or
3. Enter into a contract (or extend or renew a contract) to procure or obtain equipment, services, or systems that use covered telecommunications equipment, video surveillance services or services as a substantial or essential component of any system, or as critical technology as part of any system. As described in [Public Law 115-232](#) <https://www.govinfo.gov/content/pkg/PLAW-115publ232/pdf/PLAW-115publ232.pdf>, section 889, covered telecommunications equipment is telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities).

Recipients, subrecipients, and borrowers also may not use federal funds to purchase certain prohibited equipment, systems, or services, including equipment, systems, or services produced or provided by entities identified in section 889, are recorded in the [System for Award Management \(SAM\)](#) <https://sam.gov/SAM/> exclusion list.

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GENERAL TERMS AND CONDITIONS

Pertaining to Grant and Loan Agreements With the state of Washington, Department of Ecology

GENERAL TERMS AND CONDITIONS

For DEPARTMENT OF ECOLOGY GRANTS and LOANS

06/24/2021 Version

1. ADMINISTRATIVE REQUIREMENTS

- a) RECIPIENT shall follow the "Administrative Requirements for Recipients of Ecology Grants and Loans – EAGL Edition." (<https://fortress.wa.gov/ecy/publications/SummaryPages/1701004.html>)
- b) RECIPIENT shall complete all activities funded by this Agreement and be fully responsible for the proper management of all funds and resources made available under this Agreement.
- c) RECIPIENT agrees to take complete responsibility for all actions taken under this Agreement, including ensuring all subgrantees and contractors comply with the terms and conditions of this Agreement. ECOLOGY reserves the right to request proof of compliance by subgrantees and contractors.
- d) RECIPIENT's activities under this Agreement shall be subject to the review and approval by ECOLOGY for the extent and character of all work and services.

2. AMENDMENTS AND MODIFICATIONS

This Agreement may be altered, amended, or waived only by a written amendment executed by both parties. No subsequent modification(s) or amendment(s) of this Agreement will be of any force or effect unless in writing and signed by authorized representatives of both parties. ECOLOGY and the RECIPIENT may change their respective staff contacts and administrative information without the concurrence of either party.

3. ACCESSIBILITY REQUIREMENTS FOR COVERED TECHNOLOGY

The RECIPIENT must comply with the Washington State Office of the Chief Information Officer, OCIO Policy no. 188, Accessibility (<https://ocio.wa.gov/policy/accessibility>) as it relates to "covered technology." This requirement applies to all products supplied under the Agreement, providing equal access to information technology by individuals with disabilities, including and not limited to web sites/pages, web-based applications, software systems, video and audio content, and electronic documents intended for publishing on Ecology's public web site.

4. ARCHAEOLOGICAL AND CULTURAL RESOURCES

RECIPIENT shall take all reasonable action to avoid, minimize, or mitigate adverse effects to archaeological and historic archaeological sites, historic buildings/structures, traditional cultural places, sacred sites, or other cultural resources, hereby referred to as Cultural Resources.

The RECIPIENT must agree to hold harmless ECOLOGY in relation to any claim related to Cultural Resources discovered, disturbed, or damaged due to the RECIPIENT's project funded under this Agreement.

RECIPIENT shall:

- a) Contact the ECOLOGY Program issuing the grant or loan to discuss any Cultural Resources requirements for their project:
 - Cultural Resource Consultation and Review should be initiated early in the project planning process and must be completed prior to expenditure of Agreement funds as required by applicable State and Federal requirements.

* For state funded construction, demolition, or land acquisitions, comply with Governor Executive Order 21-02, Archaeological and Cultural Resources.

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- For projects with any federal involvement, comply with the National Historic Preservation Act of 1966 (Section 106).
- b) If required by the ECOLOGY Program, submit an Inadvertent Discovery Plan (IDP) to ECOLOGY prior to implementing any project that involves field activities. ECOLOGY will provide the IDP form.

RECIPIENT shall:

- Keep the IDP at the project site.
 - Make the IDP readily available to anyone working at the project site.
 - Discuss the IDP with staff, volunteers, and contractors working at the project site.
 - Implement the IDP when Cultural Resources or human remains are found at the project site.
- c) If any Cultural Resources are found while conducting work under this Agreement, follow the protocol outlined in the project IDP.
- Immediately stop work and notify the ECOLOGY Program, who will notify the Department of Archaeology and Historic Preservation at (360) 586-3065, any affected Tribe, and the local government.
- d) If any human remains are found while conducting work under this Agreement, follow the protocol outlined in the project IDP.
- Immediately stop work and notify the local Law Enforcement Agency or Medical Examiner/Coroner's Office, the Department of Archaeology and Historic Preservation at (360) 790-1633, and then the ECOLOGY Program.
- e) Comply with RCW 27.53, RCW 27.44, and RCW 68.50.645, and all other applicable local, state, and federal laws protecting Cultural Resources and human remains.

5. ASSIGNMENT

No right or claim of the RECIPIENT arising under this Agreement shall be transferred or assigned by the RECIPIENT.

6. COMMUNICATION

RECIPIENT shall make every effort to maintain effective communications with the RECIPIENT's designees, ECOLOGY, all affected local, state, or federal jurisdictions, and any interested individuals or groups.

7. COMPENSATION

- a) Any work performed prior to effective date of this Agreement will be at the sole expense and risk of the RECIPIENT. ECOLOGY must sign the Agreement before any payment requests can be submitted.
- b) Payments will be made on a reimbursable basis for approved and completed work as specified in this Agreement.
- c) RECIPIENT is responsible to determine if costs are eligible. Any questions regarding eligibility should be clarified with ECOLOGY prior to incurring costs. Costs that are conditionally eligible require approval by ECOLOGY prior to expenditure.
- d) RECIPIENT shall not invoice more than once per month unless agreed on by ECOLOGY.
- e) ECOLOGY will not process payment requests without the proper reimbursement forms, Progress Report and supporting documentation. ECOLOGY will provide instructions for submitting payment requests.
- f) ECOLOGY will pay the RECIPIENT thirty (30) days after receipt of a properly completed request for payment.
- g) RECIPIENT will receive payment through Washington State's Office of Financial Management's Statewide Payee Desk. To receive payment you must register as a statewide vendor by submitting a statewide vendor registration form and an IRS W-9 form at website, <https://ofm.wa.gov/it-systems/statewide-vendorpayee-services>. If you have questions about the vendor registration process, you can contact Statewide Payee Help Desk at (360) 407-8180 or email PayeeRegistration@ofm.wa.gov.
- h) ECOLOGY may, at its sole discretion, withhold payments claimed by the RECIPIENT if the RECIPIENT fails to satisfactorily comply with any term or condition of this Agreement.
- i) Monies withheld by ECOLOGY may be paid to the RECIPIENT when the work described herein, or a portion thereof, has been completed if, at ECOLOGY's sole discretion, such payment is reasonable and approved according to this Agreement, as appropriate, or upon completion of an audit as specified herein.

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j) RECIPIENT must submit within thirty (30) days after the expiration date of this Agreement, all financial, performance, and other reports required by this Agreement. Failure to comply may result in delayed reimbursement.

8. COMPLIANCE WITH ALL LAWS

RECIPIENT agrees to comply fully with all applicable federal, state and local laws, orders, regulations, and permits related to this Agreement, including but not limited to:

- a) RECIPIENT agrees to comply with all applicable laws, regulations, and policies of the United States and the State of Washington which affect wages and job safety.
- b) RECIPIENT agrees to be bound by all applicable federal and state laws, regulations, and policies against discrimination.
- c) RECIPIENT certifies full compliance with all applicable state industrial insurance requirements.
- d) RECIPIENT agrees to secure and provide assurance to ECOLOGY that all the necessary approvals and permits required by authorities having jurisdiction over the project are obtained. RECIPIENT must include time in their project timeline for the permit and approval processes.

ECOLOGY shall have the right to immediately terminate for cause this Agreement as provided herein if the RECIPIENT fails to comply with above requirements.

If any provision of this Agreement violates any statute or rule of law of the state of Washington, it is considered modified to conform to that statute or rule of law.

9. CONFLICT OF INTEREST

RECIPIENT and ECOLOGY agree that any officer, member, agent, or employee, who exercises any function or responsibility in the review, approval, or carrying out of this Agreement, shall not have any personal or financial interest, direct or indirect, nor affect the interest of any corporation, partnership, or association in which he/she is a part, in this Agreement or the proceeds thereof.

10. CONTRACTING FOR GOODS AND SERVICES

RECIPIENT may contract to buy goods or services related to its performance under this Agreement. RECIPIENT shall award all contracts for construction, purchase of goods, equipment, services, and professional architectural and engineering services through a competitive process, if required by State law. RECIPIENT is required to follow procurement procedures that ensure legal, fair, and open competition.

RECIPIENT must have a standard procurement process or follow current state procurement procedures. RECIPIENT may be required to provide written certification that they have followed their standard procurement procedures and applicable state law in awarding contracts under this Agreement.

ECOLOGY reserves the right to inspect and request copies of all procurement documentation, and review procurement practices related to this Agreement. Any costs incurred as a result of procurement practices not in compliance with state procurement law or the RECIPIENT's normal procedures may be disallowed at ECOLOGY's sole discretion.

11. DISPUTES

When there is a dispute with regard to the extent and character of the work, or any other matter related to this Agreement the determination of ECOLOGY will govern, although the RECIPIENT shall have the right to appeal decisions as provided for below:

- a) RECIPIENT notifies the funding program of an appeal request.
- b) Appeal request must be in writing and state the disputed issue(s).
- c) RECIPIENT has the opportunity to be heard and offer evidence in support of its appeal.
- d) ECOLOGY reviews the RECIPIENT's appeal.
- e) ECOLOGY sends a written answer within ten (10) business days, unless more time is needed, after concluding the review.

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The decision of ECOLOGY from an appeal will be final and conclusive, unless within thirty (30) days from the date of such decision, the RECIPIENT furnishes to the Director of ECOLOGY a written appeal. The decision of the Director or duly authorized representative will be final and conclusive.

The parties agree that this dispute process will precede any action in a judicial or quasi-judicial tribunal.

Appeals of the Director's decision will be brought in the Superior Court of Thurston County. Review of the Director's decision will not be taken to Environmental and Land Use Hearings Office.

Pending final decision of a dispute, the RECIPIENT agrees to proceed diligently with the performance of this Agreement and in accordance with the decision rendered.

Nothing in this Agreement will be construed to limit the parties' choice of another mutually acceptable method, in addition to the dispute resolution procedure outlined above.

12. ENVIRONMENTAL DATA STANDARDS

a) RECIPIENT shall prepare a Quality Assurance Project Plan (QAPP) for a project that collects or uses environmental measurement data. RECIPIENTS unsure about whether a QAPP is required for their project shall contact the ECOLOGY Program issuing the grant or loan. If a QAPP is required, the RECIPIENT shall:

- Use ECOLOGY's QAPP Template/Checklist provided by the ECOLOGY, unless ECOLOGY Quality Assurance (QA) officer or the Program QA coordinator instructs otherwise.
- Follow ECOLOGY's Guidelines for Preparing Quality Assurance Project Plans for Environmental Studies, July 2004 (Ecology Publication No. 04-03-030).
- Submit the QAPP to ECOLOGY for review and approval before the start of the work.

b) RECIPIENT shall submit environmental data that was collected on a project to ECOLOGY using the Environmental Information Management system (EIM), unless the ECOLOGY Program instructs otherwise. The RECIPIENT must confirm with ECOLOGY that complete and correct data was successfully loaded into EIM, find instructions at:

<http://www.ecy.wa.gov/eim>.

c) RECIPIENT shall follow ECOLOGY's data standards when Geographic Information System (GIS) data is collected and processed. Guidelines for Creating and Accessing GIS Data are available at:

<https://ecology.wa.gov/Research-Data/Data-resources/Geographic-Information-Systems-GIS/Standards>. RECIPIENT, when requested by ECOLOGY, shall provide copies to ECOLOGY of all final GIS data layers, imagery, related tables, raw data collection files, map products, and all metadata and project documentation.

13. GOVERNING LAW

This Agreement will be governed by the laws of the State of Washington, and the venue of any action brought hereunder will be in the Superior Court of Thurston County.

14. INDEMNIFICATION

ECOLOGY will in no way be held responsible for payment of salaries, consultant's fees, and other costs related to the project described herein, except as provided in the Scope of Work.

To the extent that the Constitution and laws of the State of Washington permit, each party will indemnify and hold the other harmless from and against any liability for any or all injuries to persons or property arising from the negligent act or omission of that party or that party's agents or employees arising out of this Agreement.

15. INDEPENDENT STATUS

The employees, volunteers, or agents of each party who are engaged in the performance of this Agreement will continue to be employees, volunteers, or agents of that party and will not for any purpose be employees, volunteers, or agents of the other party.

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16. KICKBACKS

RECIPIENT is prohibited from inducing by any means any person employed or otherwise involved in this Agreement to give up any part of the compensation to which he/she is otherwise entitled to or receive any fee, commission, or gift in return for award of a subcontract hereunder.

17. MINORITY AND WOMEN'S BUSINESS ENTERPRISES (MWBE)

RECIPIENT is encouraged to solicit and recruit, to the extent possible, certified minority-owned (MBE) and women-owned (WBE) businesses in purchases and contracts initiated under this Agreement.

Contract awards or rejections cannot be made based on MWBE participation; however, the RECIPIENT is encouraged to take the following actions, when possible, in any procurement under this Agreement:

- a) Include qualified minority and women's businesses on solicitation lists whenever they are potential sources of goods or services.
- b) Divide the total requirements, when economically feasible, into smaller tasks or quantities, to permit maximum participation by qualified minority and women's businesses.
- c) Establish delivery schedules, where work requirements permit, which will encourage participation of qualified minority and women's businesses.
- d) Use the services and assistance of the Washington State Office of Minority and Women's Business Enterprises (OMWBE) (866-208-1064) and the Office of Minority Business Enterprises of the U.S. Department of Commerce, as appropriate.

18. ORDER OF PRECEDENCE

In the event of inconsistency in this Agreement, unless otherwise provided herein, the inconsistency shall be resolved by giving precedence in the following order: (a) applicable federal and state statutes and regulations; (b) The Agreement; (c) Scope of Work; (d) Special Terms and Conditions; (e) Any provisions or terms incorporated herein by reference, including the "Administrative Requirements for Recipients of Ecology Grants and Loans"; (f) Ecology Funding Program Guidelines; and (g) General Terms and Conditions.

19. PRESENTATION AND PROMOTIONAL MATERIALS

ECOLOGY reserves the right to approve RECIPIENT's communication documents and materials related to the fulfillment of this Agreement:

- a) If requested, RECIPIENT shall provide a draft copy to ECOLOGY for review and approval ten (10) business days prior to production and distribution.
- b) RECIPIENT shall include time for ECOLOGY's review and approval process in their project timeline.
- c) If requested, RECIPIENT shall provide ECOLOGY two (2) final copies and an electronic copy of any tangible products developed.

Copies include any printed materials, and all tangible products developed such as brochures, manuals, pamphlets, videos, audio tapes, CDs, curriculum, posters, media announcements, or gadgets with a message, such as a refrigerator magnet, and any online communications, such as web pages, blogs, and twitter campaigns. If it is not practical to provide a copy, then the RECIPIENT shall provide a description (photographs, drawings, printouts, etc.) that best represents the item.

Any communications intended for public distribution that uses ECOLOGY's logo shall comply with ECOLOGY's graphic requirements and any additional requirements specified in this Agreement. Before the use of ECOLOGY's logo contact ECOLOGY for guidelines.

RECIPIENT shall acknowledge in the communications that funding was provided by ECOLOGY.

20. PROGRESS REPORTING

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- a) RECIPIENT must satisfactorily demonstrate the timely use of funds by submitting payment requests and progress reports to ECOLOGY. ECOLOGY reserves the right to amend or terminate this Agreement if the RECIPIENT does not document timely use of funds.
- b) RECIPIENT must submit a progress report with each payment request. Payment requests will not be processed without a progress report. ECOLOGY will define the elements and frequency of progress reports.
- c) RECIPIENT shall use ECOLOGY's provided progress report format.
- d) Quarterly progress reports will cover the periods from January 1 through March 31, April 1 through June 30, July 1 through September 30, and October 1 through December 31. Reports shall be submitted within thirty (30) days after the end of the quarter being reported.
- e) RECIPIENT must submit within thirty (30) days of the expiration date of the project, unless an extension has been approved by ECOLOGY, all financial, performance, and other reports required by the Agreement and funding program guidelines. RECIPIENT shall use the ECOLOGY provided closeout report format.

21. PROPERTY RIGHTS

- a) Copyrights and Patents. When the RECIPIENT creates any copyrightable materials or invents any patentable property under this Agreement, the RECIPIENT may copyright or patent the same but ECOLOGY retains a royalty free, nonexclusive, and irrevocable license to reproduce, publish, recover, or otherwise use the material(s) or property, and to authorize others to use the same for federal, state, or local government purposes.
- b) Publications. When the RECIPIENT or persons employed by the RECIPIENT use or publish ECOLOGY information; present papers, lectures, or seminars involving information supplied by ECOLOGY; or use logos, reports, maps, or other data in printed reports, signs, brochures, pamphlets, etc., appropriate credit shall be given to ECOLOGY.
- c) Presentation and Promotional Materials. ECOLOGY shall have the right to use or reproduce any printed or graphic materials produced in fulfillment of this Agreement, in any manner ECOLOGY deems appropriate. ECOLOGY shall acknowledge the RECIPIENT as the sole copyright owner in every use or reproduction of the materials.
- d) Tangible Property Rights. ECOLOGY's current edition of "Administrative Requirements for Recipients of Ecology Grants and Loans," shall control the use and disposition of all real and personal property purchased wholly or in part with funds furnished by ECOLOGY in the absence of state and federal statutes, regulations, or policies to the contrary, or upon specific instructions with respect thereto in this Agreement.
- e) Personal Property Furnished by ECOLOGY. When ECOLOGY provides personal property directly to the RECIPIENT for use in performance of the project, it shall be returned to ECOLOGY prior to final payment by ECOLOGY. If said property is lost, stolen, or damaged while in the RECIPIENT's possession, then ECOLOGY shall be reimbursed in cash or by setoff by the RECIPIENT for the fair market value of such property.
- f) Acquisition Projects. The following provisions shall apply if the project covered by this Agreement includes funds for the acquisition of land or facilities:
 - 1. RECIPIENT shall establish that the cost is fair value and reasonable prior to disbursement of funds provided for in this Agreement.
 - 2. RECIPIENT shall provide satisfactory evidence of title or ability to acquire title for each parcel prior to disbursement of funds provided by this Agreement. Such evidence may include title insurance policies, Torrens certificates, or abstracts, and attorney's opinions establishing that the land is free from any impediment, lien, or claim which would impair the uses intended by this Agreement.
- g) Conversions. Regardless of the Agreement expiration date, the RECIPIENT shall not at any time convert any equipment, property, or facility acquired or developed under this Agreement to uses other than those for which assistance was originally approved without prior written approval of ECOLOGY. Such approval may be conditioned upon payment to ECOLOGY of that portion of the proceeds of the sale, lease, or other conversion or encumbrance which monies granted pursuant to this Agreement bear to the total acquisition, purchase, or construction costs of such property.

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22. RECORDS, AUDITS, AND INSPECTIONS

RECIPIENT shall maintain complete program and financial records relating to this Agreement, including any engineering documentation and field inspection reports of all construction work accomplished.

All records shall:

- a) Be kept in a manner which provides an audit trail for all expenditures.
 - b) Be kept in a common file to facilitate audits and inspections.
 - c) Clearly indicate total receipts and expenditures related to this Agreement.
 - d) Be open for audit or inspection by ECOLOGY, or by any duly authorized audit representative of the State of Washington, for a period of at least three (3) years after the final grant payment or loan repayment, or any dispute resolution hereunder.
- RECIPIENT shall provide clarification and make necessary adjustments if any audits or inspections identify discrepancies in the records.

ECOLOGY reserves the right to audit, or have a designated third party audit, applicable records to ensure that the state has been properly invoiced. Any remedies and penalties allowed by law to recover monies determined owed will be enforced. Repetitive instances of incorrect invoicing or inadequate records may be considered cause for termination.

All work performed under this Agreement and any property and equipment purchased shall be made available to ECOLOGY and to any authorized state, federal or local representative for inspection at any time during the course of this Agreement and for at least three (3) years following grant or loan termination or dispute resolution hereunder.

RECIPIENT shall provide right of access to ECOLOGY, or any other authorized representative, at all reasonable times, in order to monitor and evaluate performance, compliance, and any other conditions under this Agreement.

23. RECOVERY OF FUNDS

The right of the RECIPIENT to retain monies received as reimbursement payments is contingent upon satisfactory performance of this Agreement and completion of the work described in the Scope of Work.

All payments to the RECIPIENT are subject to approval and audit by ECOLOGY, and any unauthorized expenditure(s) or unallowable cost charged to this Agreement shall be refunded to ECOLOGY by the RECIPIENT.

RECIPIENT shall refund to ECOLOGY the full amount of any erroneous payment or overpayment under this Agreement.

RECIPIENT shall refund by check payable to ECOLOGY the amount of any such reduction of payments or repayments within thirty (30) days of a written notice. Interest will accrue at the rate of twelve percent (12%) per year from the time ECOLOGY demands repayment of funds.

Any property acquired under this Agreement, at the option of ECOLOGY, may become ECOLOGY's property and the RECIPIENT's liability to repay monies will be reduced by an amount reflecting the fair value of such property.

24. SEVERABILITY

If any provision of this Agreement or any provision of any document incorporated by reference shall be held invalid, such invalidity shall not affect the other provisions of this Agreement which can be given effect without the invalid provision, and to this end the provisions of this Agreement are declared to be severable.

25. STATE ENVIRONMENTAL POLICY ACT (SEPA)

RECIPIENT must demonstrate to ECOLOGY's satisfaction that compliance with the requirements of the State Environmental Policy Act (Chapter 43.21C RCW and Chapter 197-11 WAC) have been or will be met. Any reimbursements are subject to this provision.

26. SUSPENSION

When in the best interest of ECOLOGY, ECOLOGY may at any time, and without cause, suspend this Agreement or any portion thereof for a temporary period by written notice from ECOLOGY to the RECIPIENT. RECIPIENT shall resume performance on the next business day following the suspension period unless another day is specified by ECOLOGY.

Agreement No: SWMLSWFA-2021-WhCoHD-00034
Project Title: SWE Whatcom Co HD
Recipient Name: WHATCOM COUNTY HEALTH DEPARTMENT

27. SUSTAINABLE PRACTICES

In order to sustain Washington's natural resources and ecosystems, the RECIPIENT is fully encouraged to implement sustainable practices and to purchase environmentally preferable products under this Agreement.

- a) Sustainable practices may include such activities as: use of clean energy, use of double-sided printing, hosting low impact meetings, and setting up recycling and composting programs.
- b) Purchasing may include such items as: sustainably produced products and services, EPEAT registered computers and imaging equipment, independently certified green cleaning products, remanufactured toner cartridges, products with reduced packaging, office products that are refillable, rechargeable, and recyclable, 100% post-consumer recycled paper, and toxic free products.

For more suggestions visit ECOLOGY's web page, Green Purchasing,

<https://ecology.wa.gov/Regulations-Permits/Guidance-technical-assistance/Sustainable-purchasing>.

28. TERMINATION

a) For Cause

ECOLOGY may terminate for cause this Agreement with a seven (7) calendar days prior written notification to the RECIPIENT, at the sole discretion of ECOLOGY, for failing to perform an Agreement requirement or for a material breach of any term or condition. If this Agreement is so terminated, the parties shall be liable only for performance rendered or costs incurred in accordance with the terms of this Agreement prior to the effective date of termination.

Failure to Commence Work. ECOLOGY reserves the right to terminate this Agreement if RECIPIENT fails to commence work on the project funded within four (4) months after the effective date of this Agreement, or by any date mutually agreed upon in writing for commencement of work, or the time period defined within the Scope of Work.

Non-Performance. The obligation of ECOLOGY to the RECIPIENT is contingent upon satisfactory performance by the RECIPIENT of all of its obligations under this Agreement. In the event the RECIPIENT unjustifiably fails, in the opinion of ECOLOGY, to perform any obligation required of it by this Agreement, ECOLOGY may refuse to pay any further funds, terminate in whole or in part this Agreement, and exercise any other rights under this Agreement.

Despite the above, the RECIPIENT shall not be relieved of any liability to ECOLOGY for damages sustained by ECOLOGY and the State of Washington because of any breach of this Agreement by the RECIPIENT. ECOLOGY may withhold payments for the purpose of setoff until such time as the exact amount of damages due ECOLOGY from the RECIPIENT is determined.

b) For Convenience

ECOLOGY may terminate for convenience this Agreement, in whole or in part, for any reason when it is the best interest of ECOLOGY, with a thirty (30) calendar days prior written notification to the RECIPIENT, except as noted below. If this Agreement is so terminated, the parties shall be liable only for performance rendered or costs incurred in accordance with the terms of this Agreement prior to the effective date of termination.

Non-Allocation of Funds. ECOLOGY's ability to make payments is contingent on availability of funding. In the event funding from state, federal or other sources is withdrawn, reduced, or limited in any way after the effective date and prior to the completion or expiration date of this Agreement, ECOLOGY, at its sole discretion, may elect to terminate the Agreement, in whole or part, or renegotiate the Agreement, subject to new funding limitations or conditions. ECOLOGY may also elect to suspend performance of the Agreement until ECOLOGY determines the funding insufficiency is resolved. ECOLOGY may exercise any of these options with no notification or restrictions, although ECOLOGY will make a reasonable attempt to provide notice.

In the event of termination or suspension, ECOLOGY will reimburse eligible costs incurred by the RECIPIENT through the effective date of termination or suspension. Reimbursed costs must be agreed to by ECOLOGY and the RECIPIENT. In no

Agreement No: SWMLSWFA-2021-WhCoHD-00034
Project Title: SWE Whatcom Co HD
Recipient Name: WHATCOM COUNTY HEALTH DEPARTMENT

event shall ECOLOGY's reimbursement exceed ECOLOGY's total responsibility under the Agreement and any amendments. If payments have been discontinued by ECOLOGY due to unavailable funds, the RECIPIENT shall not be obligated to repay monies which had been paid to the RECIPIENT prior to such termination.

RECIPIENT's obligation to continue or complete the work described in this Agreement shall be contingent upon availability of funds by the RECIPIENT's governing body.

c) By Mutual Agreement

ECOLOGY and the RECIPIENT may terminate this Agreement, in whole or in part, at any time, by mutual written agreement.

d) In Event of Termination

All finished or unfinished documents, data studies, surveys, drawings, maps, models, photographs, reports or other materials prepared by the RECIPIENT under this Agreement, at the option of ECOLOGY, will become property of ECOLOGY and the RECIPIENT shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents and other materials.

Nothing contained herein shall preclude ECOLOGY from demanding repayment of all funds paid to the RECIPIENT in accordance with Recovery of Funds, identified herein.

29. THIRD PARTY BENEFICIARY

RECIPIENT shall ensure that in all subcontracts entered into by the RECIPIENT pursuant to this Agreement, the state of Washington is named as an express third party beneficiary of such subcontracts with full rights as such.

30. WAIVER

Waiver of a default or breach of any provision of this Agreement is not a waiver of any subsequent default or breach, and will not be construed as a modification of the terms of this Agreement unless stated as such in writing by the authorized representative of ECOLOGY.

End of General Terms and Conditions



Whatcom County

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

Agenda Bill Master Report

File Number: AB2021-468

File ID:	AB2021-468	Version:	1	Status:	Agenda Ready
File Created:	07/28/2021	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:	08/10/2021	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 a contract between Whatcom County and Trantech Engineering, LLC to provide engineering services to implement rehabilitation efforts on the existing Nulle Road/Friday Creek Bridge No. 106

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

Phase 1 of this agreement will assess options for accomplishing the rehabilitation work with delivery of a final report and recommendations. This agreement may be supplemented to complete Phase 2 work which will include completing the detailed design and preparation of the plans, specifications and engineer's estimate package for the selected rehabilitation elements. This Phase 1 contract amount is \$16,769

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 The Honorable Members of the Whatcom County Council

Through: Jon Hutchings, Public Works Director *JH*

From: James P. Karcher, P.E., County Engineer *gpk*
James E. Lee, P.E., Engineering Manager *JEL*

Date: July 27, 2021

Re: Nulle Road/Friday Creek Bridge No. 106 Rehabilitation, CRP No. 921021
Professional Services Agreement with Trantech Engineering, LLC

Enclosed for your review and signature are two (2) originals of a Local Agency Standard Consultant Agreement between Whatcom County and Trantech Engineering, LLC.

Requested Action

Public Works respectfully requests that the County Council authorize the County Executive to enter into this Local Agency Standard Consultant Agreement with Trantech Engineering, LLC (Trantech) for professional engineering services to implement rehabilitation efforts on the existing Nulle Road/Friday Creek Bridge No. 106 (Bridge No. 106).

Background and Purpose

The existing Bridge No. 106 is 76-ft long and consists of four (4) 19-foot precast channel beam girders on timber caps and piles. The load rating for this bridge was recently updated which resulted in the bridge being restricted for single unit vehicles and emergency vehicles. The North Lake Samish Bridge No. 107 Replacement Project, which is scheduled for construction in either 2022 or 2023, will utilize Bridge 106 as part of the signed detour route during construction. To better prepare Bridge No. 106 for the increased traffic it will see during construction we intend to rehabilitate the bridge so that a revised load rating can be completed and the existing restrictions for the bridge removed.

Phase 1 of this agreement will assess options for accomplishing the rehabilitation work with delivery of a final report and recommendations. This agreement may be supplemented to complete Phase 2 work which will include completing the detailed design and preparation of the plans, specifications and engineer's estimate package for the selected rehabilitation elements.

Funding Amount and Source

This Phase 1 contract amount is \$16,769.00. This project is locally funded via the road fund and the budget authority for this expenditure is located in CRP No. 921009, Various Bridge Rehabilitation/Replacement Project, which is Item No. 37 in the approved 2021 Annual Construction Program.

Please contact James Lee at extension 6264 if you have any questions regarding this agreement.

WHATCOM COUNTY CONTRACT INFORMATION SHEET

Whatcom County Contract No.

Originating Department:	Public Works - Bridge & Hydraulic
Division/Program: (i.e. Dept. Division and Program)	905900 / Construction
Contract or Grant Administrator:	James E. Lee P.E., Engineering Manager
Contractor's / Agency Name:	Trantech Engineering, LLC
Is this a New Contract? If not, is this an Amendment or Renewal to an Existing Contract? Yes <input checked="" type="radio"/> No <input type="radio"/> If Amendment or Renewal, (per WCC 3.08.100 (a)) Original Contract #: _____	
Does contract require Council Approval? Yes <input checked="" type="radio"/> No <input type="radio"/> If No, include WCC: _____ Already approved? Council Approved Date: _____ (Exclusions see: Whatcom County Codes 3.06.010, 3.08.090 and 3.08.100)	
Is this a grant agreement? Yes <input type="radio"/> No <input checked="" type="radio"/> If yes, grantor agency contract number(s): _____ CFDA#: N/A	
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 checked="" type="radio"/> No <input type="radio"/> If yes, RFP and Bid number(s): RFQ No. 21-38 Contract Cost Center: 921021	
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): \$ 16,769.00 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:	
This professional services agreement with Trantech Engineering, LLC provides for assessing rehabilitation options for Nulle Road/Friday Creek Bridge No. 106.	
Term of Contract: Not to Exceed	
Expiration Date: 3-31-2022	

Contract Routing:	1. Prepared by: James Lee	Date: 7-26-2021
	2. Attorney signoff: Christopher Quinn	Date: 7/27/2021
	3. AS Finance reviewed: bbennett	Date: 7/27/2021
	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:

Local Agency A&E Professional Services Negotiated Hourly Rate Consultant Agreement

Agreement Number:

Firm/Organization Legal Name (do not use dba's): TranTech Engineering, LLC	
Address 365 118th Ave SE Suite 100, Bellevue, WA 98005	Federal Aid Number
UBI Number 602-507-862	Federal TIN 68-0607809
Execution Date	Completion Date 3/31/2022
1099 Form Required <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Federal Participation <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Project Title Nulle Rd/Friday Creek Bridge No. 106 Rehabilitation Project - CRP No. 921021	
Description of Work This agreement includes Phase 1 work by TranTech Engineering which includes assessing options for accomplishing rehabilitation work on the Nulle Rd/Friday Creek Bridge No. 106 and delivery of final report and recommendations. This agreement may be supplemented in the future to include Phase 2 work which will include completing the detailed design and preparation of PSE package for selected project elements.	
<input type="checkbox"/> Yes <input type="checkbox"/> Yes <input type="checkbox"/> Yes <input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No DBE Participation <input checked="" type="checkbox"/> No MBE Participation <input checked="" type="checkbox"/> No WBE Participation <input checked="" type="checkbox"/> No SBE Participation
Total Amount Authorized: \$16,769.00 Management Reserve Fund: Maximum Amount Payable: \$16,769.00	

Index of Exhibits

Exhibit A	Scope of Work
Exhibit B	DBE Participation
Exhibit C	Preparation and Delivery of Electronic Engineering and Other Data
Exhibit D	Prime Consultant Cost Computations
Exhibit E	Sub-consultant Cost Computations
Exhibit F	Title VI Assurances
Exhibit G	Certification Documents
Exhibit H	Liability Insurance Increase
Exhibit I	Alleged Consultant Design Error Procedures
Exhibit J	Consultant Claim Procedures

THIS AGREEMENT, made and entered into as shown in the "Execution Date" box on page one (1) of this AGREEMENT, between the Whatcom County Public Works, hereinafter called the "AGENCY," and the "Firm / Organization Name" referenced on page one (1) of this AGREEMENT, hereinafter called the "CONSULTANT."

WHEREAS, the AGENCY desires to accomplish the work referenced in "Description of Work" on page one (1) of this AGREEMENT and hereafter called the "SERVICES;" and does not have sufficient staff to meet the required commitment and therefore deems it advisable and desirable to engage the assistance of a CONSULTANT to provide the necessary SERVICES; and

WHEREAS, the CONSULTANT represents that they comply with the Washington State Statutes relating to professional registration, if applicable, and has signified a willingness to furnish consulting services to the AGENCY.

NOW, THEREFORE, in consideration of the terms, conditions, covenants, and performance contained herein, or attached and incorporated and made a part hereof, the parties hereto agree as follows:

I. General Description of Work

The work under this AGREEMENT shall consist of the above-described SERVICES as herein defined, and necessary to accomplish the completed work for this project. The CONSULTANT shall furnish all services, labor, and related equipment and, if applicable, sub-consultants and subcontractors necessary to conduct and complete the SERVICES as designated elsewhere in this AGREEMENT.

II. General Scope of Work

The Scope of Work and projected level of effort required for these SERVICES is described in Exhibit "A" attached hereto and by this reference made a part of this AGREEMENT. The General Scope of Work was developed utilizing performance based contracting methodologies.

III. General Requirements

All aspects of coordination of the work of this AGREEMENT with outside agencies, groups, or individuals shall receive advance approval by the AGENCY. Necessary contacts and meetings with agencies, groups, and/or individuals shall be coordinated through the AGENCY. The CONSULTANT shall attend coordination, progress, and presentation meetings with the AGENCY and/or such State, Federal, Community, City, or County officials, groups or individuals as may be requested by the AGENCY. The AGENCY will provide the CONSULTANT sufficient notice prior to meetings requiring CONSULTANT participation. The minimum required hours or days' notice shall be agreed to between the AGENCY and the CONSULTANT and shown in Exhibit "A."

The CONSULTANT shall prepare a monthly progress report, in a form approved by the AGENCY, which will outline in written and graphical form the various phases and the order of performance of the SERVICES in sufficient detail so that the progress of the SERVICES can easily be evaluated.

The CONSULTANT, any sub-consultants, and the AGENCY shall comply with all Federal, State, and local laws, rules, codes, regulations, and all AGENCY policies and directives, applicable to the work to be performed under this AGREEMENT. This AGREEMENT shall be interpreted and construed in accordance with the laws of the State of Washington.

Participation for Disadvantaged Business Enterprises (DBE) or Small Business Enterprises (SBE), if required, per 49 CFR Part 26, shall be shown on the heading of this AGREEMENT. If DBE firms are utilized at the commencement of this AGREEMENT, the amounts authorized to each firm and their certification number will be shown on Exhibit "B" attached hereto and by this reference made part of this AGREEMENT. If the Prime CONSULTANT is, a DBE certified firm they must comply with the Commercial Useful Function (CUF) regulation outlined in the AGENCY's "DBE Program Participation Plan" and perform a minimum of 30% of the total amount of this AGREEMENT. It is recommended, but not required, that non-DBE Prime CONSULTANTS perform a minimum of 30% of the total amount of this AGREEMENT.

In the absence of a mandatory UDBE, the Consultant shall continue their outreach efforts to provide SBE firms maximum practicable opportunities.

The CONSULTANT, on a monthly basis, shall enter the amounts paid to all firms (including Prime) involved with this AGREEMENT into the wsdot.diversitycompliance.com program. Payment information shall identify any DBE Participation. Non-minority, woman owned DBEs does not count towards UDBE goal attainment.

All Reports, PS&E materials, and other data furnished to the CONSULTANT by the AGENCY shall be returned. All electronic files, prepared by the CONSULTANT, must meet the requirements as outlined in Exhibit "C – Preparation and Delivery of Electronic Engineering and other Data."

All designs, drawings, specifications, documents, and other work products, including all electronic files, prepared by the CONSULTANT prior to completion or termination of this AGREEMENT are instruments of service for these SERVICES, and are the property of the AGENCY. Reuse by the AGENCY or by others, acting through or on behalf of the AGENCY of any such instruments of service, not occurring, as a part of this SERVICE, shall be without liability or legal exposure to the CONSULTANT.

Any and all notices or requests required under this AGREEMENT shall be made in writing and sent to the other party by (i) certified mail, return receipt requested, or (ii) by email or facsimile, to the address set forth below:

If to AGENCY:

Name: James Lee
Agency: Whatcom County Public Works
Address: 322 N. Commercial St., Suite 301
Bellingham State: WA Zip: 98225
Email: jlee@co.whatcom.wa.us
Phone: 360-778-6264
Facsimile: 360-778-6211

If to CONSULTANT:

Name: Kash Nikzhad TranTech
Agency: Engineering Bellevue
Address: State: WA
City: Zip: 98005
Email: knikzad@trantecheng.com
Phone: 425-894-8937
Facsimile:

IV. Time for Beginning and Completion

The CONSULTANT shall not begin any work under the terms of this AGREEMENT until authorized in writing by the AGENCY. All work under this AGREEMENT shall conform to the criteria agreed upon detailed in the AGREEMENT documents. These SERVICES must be completed by the date shown in the heading of this AGREEMENT titled "Completion Date."

The established completion time shall not be extended because of any delays attributable to the CONSULTANT, but may be extended by the AGENCY in the event of a delay attributable to the AGENCY, or because of unavoidable delays caused by an act of GOD, governmental actions, or other conditions beyond the control of the CONSULTANT. A prior supplemental AGREEMENT issued by the AGENCY is required to extend the established completion time.

V. Payment Provisions

The CONSULTANT shall be paid by the AGENCY for completed SERVICES rendered under this AGREEMENT as provided hereinafter. Such payment shall be full compensation for SERVICES performed or SERVICES rendered and for all labor, materials, supplies, equipment, and incidentals necessary to complete SERVICES. The CONSULTANT shall conform to all applicable portions of 48 CFR Part 31 (www.ecfr.gov).

- A. Hourly Rates: Hourly rates are comprised of the following elements - Direct (Raw) Labor, Indirect Cost Rate, and Fee (Profit). The CONSULTANT shall be paid by the AGENCY for work done, based upon the negotiated hourly rates shown in Exhibits "D" and "E" attached hereto and by reference made part of this AGREEMENT. These negotiated hourly rates will be accepted based on a review of the CONSULTANT's direct labor rates and indirect cost rate computations and agreed upon fee. The accepted negotiated rates shall be memorialized in a final written acknowledgment between the parties. Such final written acknowledgment shall be incorporated into, and become a part of, this AGREEMENT. The initially accepted negotiated rates shall be applicable from the approval date, as memorialized in a final written acknowledgment, to 180 days following the CONSULTANT's fiscal year end (FYE) date.

The direct (raw) labor rates and classifications, as shown on Exhibits "D" and "E" shall be subject to renegotiations for each subsequent twelve (12) month period (180 days following FYE date to 180 days following FYE date) upon written request of the CONSULTANT or the AGENCY. The written request must be made to the other party within ninety (90) days following the CONSULTANT's FYE date. If no such written request is made, the current direct (raw) labor rates and classifications as shown on Exhibits "D" and "E" will remain in effect for the twelve (12) month period.

Conversely, if a timely request is made in the manner set forth above, the parties will commence negotiations to determine the new direct (raw) labor rates and classifications that will be applicable for the twelve (12) month period. Any agreed to renegotiated rates shall be memorialized in a final written acknowledgment between the parties. Such final written acknowledgment shall be incorporated into, and become a part of, this AGREEMENT. If requested, the CONSULTANT shall provide current payroll register and classifications to aid in negotiations. If the parties cannot reach an agreement on the direct (raw) labor rates and classifications, the AGENCY shall perform an audit of the CONSULTANT's books and records to determine the CONSULTANT's actual costs. The audit findings will establish the direct (raw) labor rates and classifications that will be applicable for the twelve (12) month period.

The fee as identified in Exhibits "D" and "E" shall represent a value to be applied throughout the life of the AGREEMENT.

The CONSULTANT shall submit annually to the AGENCY an updated indirect cost rate within 180 days of the close of its fiscal year. An approved updated indirect cost rate shall be included in the current fiscal year rate under this AGREEMENT, even if/when other components of the hourly rate are not renegotiated. These rates will be applicable for the twelve (12) month period. At the AGENCY's option, a provisional and/or conditional indirect cost rate may be negotiated. This provisional or conditional indirect rate shall remain in effect until the updated indirect cost rate is completed and approved. Indirect cost rate costs incurred during the provisional or conditional period will not be adjusted. The CONSULTANT may request an extension of the last approved indirect cost rate for the twelve (12) month period. These requests for provisional indirect cost rate and/or extension will be considered on a case-by-case basis, and if granted, will be memorialized in a final written acknowledgment.

The CONSULTANT shall maintain and have accessible support data for verification of the components of the hourly rates, i.e., direct (raw) labor, indirect cost rate, and fee (profit) percentage. The CONSULTANT shall bill each employee's actual classification, and actual salary plus indirect cost rate plus fee.

- A. **Direct Non-Salary Costs:** Direct Non-Salary Costs will be reimbursed at the actual cost to the CONSULTANT. These charges may include, but are not limited to, the following items: travel, printing, long distance telephone, supplies, computer charges, and fees of sub-consultants. Air or train travel will be reimbursed only to lowest price available, unless otherwise approved by the AGENCY. The CONSULTANT shall comply with the rules and regulations regarding travel costs (excluding air, train, and rental car costs) in accordance with the WSDOT's Accounting Manual M 13-82, Chapter 10 – Travel Rules and Procedures, and all revisions thereto. Air, train, and rental card costs shall be reimbursed in accordance with 48 Code of Federal Regulations (CFR) Part 31.205-46 "Travel Costs." The billing for Direct Non-salary Costs shall include an itemized listing of the charges directly identifiable with these SERVICES. The CONSULTANT shall maintain the original supporting documents in their office. Copies of the original supporting documents shall be supplied to the STATE upon request. All above charges must be necessary for the SERVICES provided under this AGREEMENT.
- B. **Maximum Amount Payable:** The Maximum Amount Payable by the AGENCY to the CONSULTANT under this AGREEMENT shall not exceed the amount shown in the heading of this AGREEMENT on page one (1.) The Maximum Amount Payable does not include payment for extra work as stipulated in section XIII, "Extra Work." No minimum amount payable is guaranteed under this AGREEMENT.
- C. **Monthly Progress Payments:** Progress payments may be claimed on a monthly basis for all costs authorized in A and B above. Detailed statements shall support the monthly billings for hours expended at the rates established in Exhibit "D," including names and classifications of all employees, and billings for all direct non-salary expenses. To provide a means of verifying the billed salary costs for the CONSULTANT's employees, the AGENCY may conduct employee interviews. These interviews may consist of recording the names, titles, salary rates, and present duties of those employees performing work on the SERVICES at the time of the interview.
- D. **Final Payment:** Final Payment of any balance due the CONSULTANT of the gross amount earned will be made promptly upon its verification by the AGENCY after the completion of the SERVICES under this AGREEMENT, contingent upon receipt of all PS&E, plans, maps, notes, reports, electronic data, and other related documents, which are required to be furnished under this AGREEMENT. Acceptance of such Final Payment by the CONSULTANT shall constitute a release of all claims for payment, which the CONSULTANT may have against the AGENCY unless such claims are specifically reserved in writing and transmitted to the AGENCY by the CONSULTANT prior to its acceptance. Said Final Payment shall not, however, be a bar to any claims that the AGENCY may have against the CONSULTANT or to any remedies the AGENCY may pursue with respect to such claims.

The payment of any billing will not constitute agreement as to the appropriateness of any item and at the time of final audit all required adjustments will be made and reflected in a final payment. In the event that such final audit reveals an overpayment to the CONSULTANT, the CONSULTANT will refund such overpayment to the AGENCY within thirty (30) calendar days of notice of the overpayment. Such refund shall not constitute a waiver by the CONSULTANT for any claims relating to the validity of a finding by the AGENCY of overpayment. Per WSDOT's "Audit Guide for Consultants," Chapter 23 "Resolution Procedures," the CONSULTANT has twenty (20) working days after receipt of the final Post Audit to begin the appeal process to the AGENCY for audit findings

E. **Inspection of Cost Records:** The CONSULTANT and their sub-consultants shall keep available for inspection by representatives of the AGENCY and the United States, for a period of six (6) years after receipt of final payment, the cost records and accounts pertaining to this AGREEMENT and all items related to or bearing upon these records with the following exception: if any litigation, claim or audit arising out of, in connection with, or related to this AGREEMENT is initiated before the expiration of the six (6) year period, the cost records and accounts shall be retained until such litigation, claim, or audit involving the records is completed. An interim or post audit may be performed on this AGREEMENT. The audit, if any, will be performed by the State Auditor, WSDOT's Internal Audit Office and /or at the request of the AGENCY's Project Manager.

VI. Sub-Contracting

The AGENCY permits subcontracts for those items of SERVICES as shown in Exhibit "A" attached hereto and by this reference made part of this AGREEMENT.

The CONSULTANT shall not subcontract for the performance of any SERVICE under this AGREEMENT without prior written permission of the AGENCY. No permission for subcontracting shall create, between the AGENCY and sub-consultant, any contract or any other relationship.

Compensation for this sub-consultant SERVICES shall be based on the cost factors shown on Exhibit "E" attached hereto and by this reference made part of this AGREEMENT.

The SERVICES of the sub-consultant shall not exceed its maximum amount payable identified in each sub consultant cost estimate unless a prior written approval has been issued by the AGENCY.

All reimbursable direct labor, indirect cost rate, direct non-salary costs and fee costs for the sub-consultant shall be negotiated and substantiated in accordance with section V "Payment Provisions" herein and shall be memorialized in a final written acknowledgment between the parties

All subcontracts shall contain all applicable provisions of this AGREEMENT, and the CONSULTANT shall require each sub-consultant or subcontractor, of any tier, to abide by the terms and conditions of this AGREEMENT. With respect to sub-consultant payment, the CONSULTANT shall comply with all applicable sections of the STATE's Prompt Payment laws as set forth in RCW 39.04.250 and RCW 39.76.011.

The CONSULTANT, sub-recipient, or sub-consultant shall not discriminate on the basis of race, color, national origin, or sex in the performance of this AGREEMENT. The CONSULTANT shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by the CONSULTANT to carry out these requirements is a material breach of this AGREEMENT, which may result in the termination of this AGREEMENT or such other remedy as the recipient deems appropriate.

VII. Employment and Organizational Conflict of Interest

The CONSULTANT warrants that they have not employed or retained any company or person, other than a bona fide employee working solely for the CONSULTANT, to solicit or secure this contract, and that it has not paid or agreed to pay any company or person, other than a bona fide employee working solely for the CONSULTANT, any fee, commission, percentage, brokerage fee, gift, or any other consideration, contingent upon or resulting from the award or making of this contract. For breach or violation of this warrant, the AGENCY shall have the right to annul this AGREEMENT without liability or, in its discretion, to deduct from this AGREEMENT price or consideration or otherwise recover the full amount of such fee, commission, percentage, brokerage fee, gift, or contingent fee.

Any and all employees of the CONSULTANT or other persons while engaged in the performance of any work or services required of the CONSULTANT under this AGREEMENT, shall be considered employees of the CONSULTANT only and not of the AGENCY, and any and all claims that may arise under any Workmen's Compensation Act on behalf of said employees or other persons while so engaged, and any and all claims made by a third party as a consequence of any act or omission on the part of the CONSULTANT's employees or other persons while so engaged on any of the work or services provided to be rendered herein, shall be the sole obligation and responsibility of the CONSULTANT.

The CONSULTANT shall not engage, on a full- or part-time basis, or other basis, during the period of this AGREEMENT, any professional or technical personnel who are, or have been, at any time during the period of this AGREEMENT, in the employ of the United States Department of Transportation or the AGENCY, except regularly retired employees, without written consent of the public employer of such person if he/she will be working on this AGREEMENT for the CONSULTANT.

Agreement Number:

VIII. Nondiscrimination

During the performance of this AGREEMENT, the CONSULTANT, for itself, its assignees, sub-consultants, subcontractors and successors in interest, agrees to comply with the following laws and regulations:

- Title VI of the Civil Rights Act of 1964
(42 U.S.C. Chapter 21 Subchapter V § 2000d through 2000d-4a)
- Federal-aid Highway Act of 1973 (23 U.S.C. Chapter 3 § 324)
- Rehabilitation Act of 1973
(29 U.S.C. Chapter 16 Subchapter V § 794)
- Age Discrimination Act of 1975 (42 U.S.C. Chapter 76 § 6101 *et. seq.*)
- Civil Rights Restoration Act of 1987 (Public Law 100-259)
- American with Disabilities Act of 1990 (42 U.S.C. Chapter 126 § 12101 *et. seq.*)
- 23 CFR Part 200
- 49 CFR Part 21
- 49 CFR Part 26
- RCW 49.60.180

In relation to Title VI of the Civil Rights Act of 1964, the CONSULTANT is bound by the provisions of Exhibit "F" attached hereto and by this reference made part of this AGREEMENT, and shall include the attached Exhibit "F" in every sub-contract, including procurement of materials and leases of equipment, unless exempt by the Regulations or directives issued pursuant thereto.

IX. Termination of Agreement

The right is reserved by the AGENCY to terminate this AGREEMENT at any time with or without cause upon ten (10) days written notice to the CONSULTANT.

In the event this AGREEMENT is terminated by the AGENCY, other than for default on the part of the CONSULTANT, a final payment shall be made to the CONSULTANT for actual hours charged at the time of termination of this AGREEMENT, plus any direct non-salary costs incurred up to the time of termination of this AGREEMENT.

No payment shall be made for any SERVICES completed after ten (10) days following receipt by the CONSULTANT of the notice to terminate. If the accumulated payment made to the CONSULTANT prior to Notice of Termination exceeds the total amount that would be due when computed as set forth in paragraph two (2) of this section, then no final payment shall be due and the CONSULTANT shall immediately reimburse the AGENCY for any excess paid.

If the services of the CONSULTANT are terminated by the AGENCY for default on the part of the CONSULTANT, the above formula for payment shall not apply.

In the event of a termination for default, the amount to be paid to the CONSULTANT shall be determined by the AGENCY with consideration given to the actual costs incurred by the CONSULTANT in performing SERVICES to the date of termination, the amount of SERVICES originally required which was satisfactorily completed to date of termination, whether that SERVICE is in a form or a type which is usable to the AGENCY at the time of termination, the cost to the AGENCY of employing another firm to complete the SERVICES required and the time which may be required to do so, and other factors which affect the value to the AGENCY of the SERVICES performed at the time of termination. Under no circumstances shall payment made under this subsection exceed the amount, which would have been made using the formula set forth in paragraph two (2) of this section.

If it is determined for any reason, that the CONSULTANT was not in default or that the CONSULTANT's failure to perform is without the CONSULTANT's or its employee's fault or negligence, the termination shall be deemed to be a termination for the convenience of the AGENCY. In such an event, the CONSULTANT would be reimbursed for actual costs in accordance with the termination for other than default clauses listed previously.

The CONSULTANT shall, within 15 days, notify the AGENCY in writing, in the event of the death of any member, partner, or officer of the CONSULTANT or the death or change of any of the CONSULTANT's supervisory and/or other key personnel assigned to the project or disaffiliation of any principally involved CONSULTANT employee.

The CONSULTANT shall also notify the AGENCY, in writing, in the event of the sale or transfer of 50% or more of the beneficial ownership of the CONSULTANT within 15 days of such sale or transfer occurring. The CONSULTANT shall continue to be obligated to complete the SERVICES under the terms of this AGREEMENT unless the AGENCY chooses to terminate this AGREEMENT for convenience or chooses to renegotiate any term(s) of this AGREEMENT. If termination for convenience occurs, final payment will be made to the CONSULTANT as set forth in the second and third paragraphs of this section.

Payment for any part of the SERVICES by the AGENCY shall not constitute a waiver by the AGENCY of any remedies of any type it may have against the CONSULTANT for any breach of this AGREEMENT by the CONSULTANT, or for failure of the CONSULTANT to perform SERVICES required of it by the AGENCY.

Forbearance of any rights under the AGREEMENT will not constitute waiver of entitlement to exercise those rights with respect to any future act or omission by the CONSULTANT.

X. Changes of Work

The CONSULTANT shall make such changes and revisions in the completed work of this AGREEMENT as necessary to correct errors appearing therein, without additional compensation thereof. Should the AGENCY find it desirable for its own purposes to have previously satisfactorily completed SERVICES or parts thereof changed or revised, the CONSULTANT shall make such revisions as directed by the AGENCY. This work shall be considered as Extra Work and will be paid for as herein provided under section XIII "Extra Work."

XI. Disputes

Any disputed issue not resolved pursuant to the terms of this AGREEMENT shall be submitted in writing within 10 days to the Director of Public Works or AGENCY Engineer, whose decision in the matter shall be final and binding on the parties of this AGREEMENT; provided however, that if an action is brought challenging the Director of Public Works or AGENCY Engineer's decision, that decision shall be subject to judicial review. If the parties to this AGREEMENT mutually agree, disputes concerning alleged design errors will be conducted under the procedures found in Exhibit "J". In the event that either party deem it necessary to institute legal action or proceeding to enforce any right or obligation under this AGREEMENT, this action shall be initiated in the Superior Court of the State of Washington, situated in the county in which the AGENCY is located. The parties hereto agree that all questions shall be resolved by application of Washington law and that the parties have the right of appeal from such decisions of the Superior Court in accordance with the laws of the State of Washington. The CONSULTANT hereby consents to the personal jurisdiction of the Superior Court of the State of Washington, situated in the county in which the AGENCY is located.

XII. Legal Relations

The CONSULTANT, any sub-consultants, and the AGENCY shall comply with all Federal, State, and local laws, rules, codes, regulations and all AGENCY policies and directives, applicable to the work to be performed under this AGREEMENT. This AGREEMENT shall be interpreted and construed in accordance with the laws of the State of Washington.

The CONSULTANT shall defend, indemnify, and hold the State of Washington (STATE) and the AGENCY and their officers and employees harmless from all claims, demands, or suits at law or equity arising in whole or in part from the negligence of, or the breach of any obligation under this AGREEMENT by, the CONSULTANT or the CONSULTANT's agents, employees, sub consultants, subcontractors or vendors, of any tier, or any other persons for whom the CONSULTANT may be legally liable; provided that nothing herein shall require a CONSULTANT

to defend or indemnify the STATE and the AGENCY and their officers and employees against and hold harmless the STATE and the AGENCY and their officers and employees from claims, demands or suits based solely upon the negligence of, or breach of any obligation under this AGREEMENT by the STATE and the AGENCY, their agents, officers, employees, sub-consultants, subcontractors or vendors, of any tier, or any other persons for whom the STATE and /or the AGENCY may be legally liable; and provided further that if the claims or suits are caused by or result from the concurrent negligence of (a) the CONSULTANT or the CONSULTANT's agents, employees, sub-consultants, subcontractors or vendors, of any tier, or any other persons for whom the CONSULTANT is legally liable, and (b) the STATE and/or AGENCY, their agents, officers, employees, sub-consultants, subcontractors and or vendors, of any tier, or any other persons for whom the STATE and/or AGENCY may be legally liable, the defense and indemnity obligation shall be valid and enforceable only to the extent of the CONSULTANT's negligence or the negligence of the CONSULTANT's agents, employees, sub-consultants, subcontractors or vendors, of any tier, or any other persons for whom the CONSULTANT may be legally liable. This provision shall be included in any AGREEMENT between CONSULTANT and any sub-consultant, subcontractor and vendor, of any tier.

The CONSULTANT shall also defend, indemnify, and hold the STATE and the AGENCY and their officers and employees harmless from all claims, demands, or suits at law or equity arising in whole or in part from the alleged patent or copyright infringement or other allegedly improper appropriation or use of trade secrets, patents, proprietary information, know-how, copyright rights or inventions by the CONSULTANT or the CONSULTANT's agents, employees, sub-consultants, subcontractors or vendors, of any tier, or any other persons for whom the CONSULTANT may be legally liable, in performance of the Work under this AGREEMENT or arising out of any use in connection with the AGREEMENT of methods, processes, designs, information or other items furnished or communicated to STATE and/or the AGENCY, their agents, officers and employees pursuant to the AGREEMENT; provided that this indemnity shall not apply to any alleged patent or copyright infringement or other allegedly improper appropriation or use of trade secrets, patents, proprietary information, know-how, copyright rights or inventions resulting from STATE and/or AGENCY's, their agents', officers and employees' failure to comply with specific written instructions regarding use provided to STATE and/or AGENCY, their agents, officers and employees by the CONSULTANT, its agents, employees, sub-consultants, subcontractors or vendors, of any tier, or any other persons for whom the CONSULTANT may be legally liable.

The CONSULTANT's relation to the AGENCY shall be at all times as an independent contractor.

Notwithstanding any determination by the Executive Ethics Board or other tribunal, the AGENCY may, in its sole discretion, by written notice to the CONSULTANT terminate this AGREEMENT if it is found after due notice and examination by the AGENCY that there is a violation of the Ethics in Public Service Act, Chapter 42.52 RCW; or any similar statute involving the CONSULTANT in the procurement of, or performance under, this AGREEMENT.

The CONSULTANT specifically assumes potential liability for actions brought by the CONSULTANT's own employees or its agents against the STATE and/or the AGENCY and, solely for the purpose of this indemnification and defense, the CONSULTANT specifically waives any immunity under the state industrial insurance law, Title 51 RCW. The Parties have mutually negotiated this waiver.

Unless otherwise specified in this AGREEMENT, the AGENCY shall be responsible for administration of construction contracts, if any, on the project. Subject to the processing of a new sole source, or an acceptable supplemental AGREEMENT, the CONSULTANT shall provide On-Call assistance to the AGENCY during contract administration. By providing such assistance, the CONSULTANT shall assume no responsibility for proper construction techniques, job site safety, or any construction contractor's failure to perform its work in accordance with the contract documents.

The CONSULTANT shall obtain and keep in force during the terms of this AGREEMENT, or as otherwise required, the following insurance with companies or through sources approved by the State Insurance Commissioner pursuant to Title 48 RCW.

Insurance Coverage

- A. Worker's compensation and employer's liability insurance as required by the STATE.
- B. Commercial general liability insurance written under ISO Form CG 00 01 12 04 or its equivalent with minimum limits of one million dollars (\$1,000,000.00) per occurrence and two million dollars (\$2,000,000.00) in the aggregate for each policy period.
- C. Business auto liability insurance written under ISO Form CG 00 01 10 01 or equivalent providing coverage for any "Auto" (Symbol 1) used in an amount not less than a one million dollar (\$1,000,000.00) combined single limit for each occurrence.

Excepting the Worker's Compensation Insurance and any Professional Liability Insurance, the STATE and AGENCY, their officers, employees, and agents will be named on all policies of CONSULTANT and any sub-consultant and/or subcontractor as an additional insured (the "AIs"), with no restrictions or limitations concerning products and completed operations coverage. This coverage shall be primary coverage and non-contributory and any coverage maintained by the AIs shall be excess over, and shall not contribute with, the additional insured coverage required hereunder. The CONSULTANT's and the sub-consultant's and/or subcontractor's insurer shall waive any and all rights of subrogation against the AIs. The CONSULTANT shall furnish the AGENCY with verification of insurance and endorsements required by this AGREEMENT. The AGENCY reserves the right to require complete, certified copies of all required insurance policies at any time.

All insurance shall be obtained from an insurance company authorized to do business in the State of Washington. The CONSULTANT shall submit a verification of insurance as outlined above within fourteen (14) days of the execution of this AGREEMENT to:

Name: James Lee
Agency: Whatcom County Public Works
Address: 322 N. Commercial St., Suite 301
City: Bellingham State: WA Zip: 98225
Email: jlee@co.whatcom.wa.us
Phone: 360-778-6264
Facsimile: 360-778-6211

No cancellation of the foregoing policies shall be effective without thirty (30) days prior notice to the AGENCY.

The CONSULTANT's professional liability to the AGENCY, including that which may arise in reference to section IX "Termination of Agreement" of this AGREEMENT, shall be limited to the accumulative amount of the authorized AGREEMENT or one million dollars (\$1,000,000.00), whichever is greater, unless the limit of liability is increased by the AGENCY pursuant to Exhibit H. In no case shall the CONSULTANT's professional liability to third parties be limited in any way.

The parties enter into this AGREEMENT for the sole benefit of the parties, and to the exclusion of any third part, and no third party beneficiary is intended or created by the execution of this AGREEMENT.

The AGENCY will pay no progress payments under section V "Payment Provisions" until the CONSULTANT has fully complied with this section. This remedy is not exclusive; and the AGENCY may take such other action as is available to it under other provisions of this AGREEMENT, or otherwise in law.

XIII. Extra Work

- A. The AGENCY may at any time, by written order, make changes within the general scope of this AGREEMENT in the SERVICES to be performed.
- B. If any such change causes an increase or decrease in the estimated cost of, or the time required for, performance of any part of the SERVICES under this AGREEMENT, whether or not changed by the order, or otherwise affects any other terms and conditions of this AGREEMENT, the AGENCY shall make an equitable adjustment in the: (1) maximum amount payable; (2) delivery or completion schedule, or both; and (3) other affected terms and shall modify this AGREEMENT accordingly.
- C. The CONSULTANT must submit any "request for equitable adjustment," hereafter referred to as "CLAIM," under this clause within thirty (30) days from the date of receipt of the written order. However, if the AGENCY decides that the facts justify it, the AGENCY may receive and act upon a CLAIM submitted before final payment of this AGREEMENT.
- D. Failure to agree to any adjustment shall be a dispute under the section XI "Disputes" clause. However, nothing in this clause shall excuse the CONSULTANT from proceeding with the AGREEMENT as changed.
- E. Notwithstanding the terms and conditions of paragraphs (A.) and (B.) above, the maximum amount payable for this AGREEMENT, shall not be increased or considered to be increased except by specific written supplement to this AGREEMENT.

XIV. Endorsement of Plans

If applicable, the CONSULTANT shall place their endorsement on all plans, estimates, or any other engineering data furnished by them.

XV. Federal Review

The Federal Highway Administration shall have the right to participate in the review or examination of the SERVICES in progress.

XVI. Certification of the Consultant and the Agency

Attached hereto as Exhibit "G-1(a and b)" are the Certifications of the CONSULTANT and the AGENCY, Exhibit "G-2" Certification Regarding Debarment, Suspension and Other Responsibility Matters - Primary Covered Transactions, Exhibit "G-3" Certification Regarding the Restrictions of the Use of Federal Funds for Lobbying and Exhibit "G-4" Certificate of Current Cost or Pricing Data. Exhibit "G-3" is required only in AGREEMENT's over one hundred thousand dollars (\$100,000.00) and Exhibit "G-4" is required only in AGREEMENT's over five hundred thousand dollars (\$500,000.00.) These Exhibits must be executed by the CONSULTANT, and submitted with the master AGREEMENT, and returned to the AGENCY at the address listed in section III "General Requirements" prior to its performance of any SERVICES under this AGREEMENT.

XVII. Complete Agreement

This document and referenced attachments contain all covenants, stipulations, and provisions agreed upon by the parties. No agent, or representative of either party has authority to make, and the parties shall not be bound by or be liable for, any statement, representation, promise or agreement not set forth herein. No changes, amendments, or modifications of the terms hereof shall be valid unless reduced to writing and signed by the parties as a supplement to this AGREEMENT.

XVIII. Execution and Acceptance

This AGREEMENT may be simultaneously executed in several counterparts, each of which shall be deemed to be an original having identical legal effect. The CONSULTANT does hereby ratify and adopt all statements, representations, warranties, covenants, and AGREEMENT's contained in the proposal, and the supporting material submitted by the CONSULTANT, and does hereby accept this AGREEMENT and agrees to all of the terms and conditions thereof.

XIX. Protection of Confidential Information

The CONSULTANT acknowledges that some of the material and information that may come into its possession or knowledge in connection with this AGREEMENT or its performance may consist of information that is exempt from disclosure to the public or other unauthorized persons under either chapter 42.56 RCW or other local, state, or federal statutes ("State's Confidential Information"). The "State's Confidential Information" includes, but is not limited to, names, addresses, Social Security numbers, e-mail addresses, telephone numbers, financial profiles credit card information, driver's license numbers, medical data, law enforcement records (or any other information identifiable to an individual), STATE and AGENCY source code or object code, STATE and AGENCY security data, non-public Specifications, STATE and AGENCY non-publicly available data, proprietary software, STATE and AGENCY security data, or information which may jeopardize any part of the project that relates to any of these types of information. The CONSULTANT agrees to hold the State's Confidential Information in strictest confidence and not to make use of the State's Confidential Information for any purpose other than the performance of this AGREEMENT, to release it only to authorized employees, sub-consultants or subcontractors requiring such information for the purposes of carrying out this AGREEMENT, and not to release, divulge, publish, transfer, sell, disclose, or otherwise make it known to any other party without the AGENCY's express written consent or as provided by law. The CONSULTANT agrees to release such information or material only to employees, sub-consultants or subcontractors who have signed a nondisclosure AGREEMENT, the terms of which have been previously approved by the AGENCY. The CONSULTANT agrees to implement physical, electronic, and managerial safeguards to prevent unauthorized access to the State's Confidential Information.

Immediately upon expiration or termination of this AGREEMENT, the CONSULTANT shall, at the AGENCY's option: (i) certify to the AGENCY that the CONSULTANT has destroyed all of the State's Confidential Information; or (ii) returned all of the State's Confidential Information to the AGENCY; or (iii) take whatever other steps the AGENCY requires of the CONSULTANT to protect the State's Confidential Information.

As required under Executive Order 00-03, the CONSULTANT shall maintain a log documenting the following: the State's Confidential Information received in the performance of this AGREEMENT; the purpose(s) for which the State's Confidential Information was received; who received, maintained, and used the State's Confidential Information; and the final disposition of the State's Confidential Information. The CONSULTANT's records shall be subject to inspection, review, or audit upon reasonable notice from the AGENCY.

The AGENCY reserves the right to monitor, audit, or investigate the use of the State's Confidential Information collected, used, or acquired by the CONSULTANT through this AGREEMENT. The monitoring, auditing, or investigating may include, but is not limited to, salting databases.

Violation of this section by the CONSULTANT or its sub-consultants or subcontractors may result in termination of this AGREEMENT and demand for return of all State's Confidential Information, monetary damages, or penalties

It is understood and acknowledged that the CONSULTANT may provide the AGENCY with information, which is proprietary and/or confidential during the term of this AGREEMENT. The parties agree to maintain the confidentiality of such information during the term of this AGREEMENT and afterwards. All materials containing such proprietary and/or confidential information shall be clearly identified and marked as "Confidential" and shall be returned to the disclosing party at the conclusion of the SERVICES under this AGREEMENT.

The CONSULTANT shall provide the AGENCY with a list of all information and materials it considers confidential and/or proprietary in nature: (a) at the commencement of the term of this AGREEMENT, or (b) as soon as such confidential or proprietary material is developed. "Proprietary and/or confidential information" is not meant to include any information which, at the time of its disclosure: (i) is already known to the other party; (ii) is rightfully disclosed to one of the parties by a third party that is not acting as an agent or representative for the other party; (iii) is independently developed by or for the other party; (iv) is publicly known; or (v) is generally utilized by unaffiliated third parties engaged in the same business or businesses as the CONSULTANT.

The parties also acknowledge that the AGENCY is subject to Washington State and federal public disclosure laws. As such, the AGENCY shall maintain the confidentiality of all such information marked proprietary and or confidential or otherwise exempt, unless such disclosure is required under applicable state or federal law. If a public disclosure request is made to view materials identified as "Proprietary and/or confidential information" or otherwise exempt information, the AGENCY will notify the CONSULTANT of the request and of the date that such records will be released to the requester unless the CONSULTANT obtains a court order from a court of competent jurisdiction enjoining that disclosure. If the CONSULTANT fails to obtain the court order enjoining disclosure, the AGENCY will release the requested information on the date specified.

The CONSULTANT agrees to notify the sub-consultant of any AGENCY communication regarding disclosure that may include a sub-consultant's proprietary and/or confidential information. The CONSULTANT notification to the sub-consultant will include the date that such records will be released by the AGENCY to the requester and state that unless the sub-consultant obtains a court order from a court of competent jurisdiction enjoining that disclosure the AGENCY will release the requested information. If the CONSULTANT and/or sub-consultant fail to obtain a court order or other judicial relief enjoining the AGENCY by the release date, the CONSULTANT shall waive and release and shall hold harmless and indemnify the AGENCY from all claims of actual or alleged damages, liabilities, or costs associated with the AGENCY's said disclosure of sub-consultants' information.

XX. Records Maintenance

During the progress of the Work and SERVICES provided hereunder and for a period of not less than six (6) years from the date of final payment to the CONSULTANT, the CONSULTANT shall keep, retain, and maintain all "documents" pertaining to the SERVICES provided pursuant to this AGREEMENT. Copies of all "documents" pertaining to the SERVICES provided hereunder shall be made available for review at the CONSULTANT's place of business during normal working hours. If any litigation, claim, or audit is commenced, the CONSULTANT shall cooperate with AGENCY and assist in the production of all such documents. "Documents" shall be retained until all litigation, claims or audit findings have been resolved even though such litigation, claim, or audit continues past the six (6) year retention period.

For purposes of this AGREEMENT, "documents" means every writing or record of every type and description, including electronically stored information ("ESI"), that is in the possession, control, or custody of the CONSULTANT, including, without limitation, any and all correspondences, contracts, AGREEMENTs, appraisals, plans, designs, data, surveys, maps, spreadsheets, memoranda, stenographic or handwritten notes, reports, records, telegrams, schedules, diaries, notebooks, logbooks, invoices, accounting records, work sheets, charts, notes, drafts, scribbings, recordings, visual displays, photographs, minutes of meetings, tabulations, computations, summaries, inventories, and writings regarding conferences, conversations or telephone conversations, and any and all other taped, recorded, written, printed or typed matters of any kind or description; every copy of the foregoing whether or not the original is in the possession, custody, or control of the CONSULTANT, and every copy of any of the foregoing, whether or not such copy is a copy identical to an original, or whether or not such copy contains any commentary or notation whatsoever that does not appear on the original.

For purposes of this AGREEMENT, "ESI" means any and all computer data or electronic recorded media of any kind, including "Native Files", that are stored in any medium from which it can be retrieved and examined, either directly or after translation into a reasonably useable form. ESI may include information and/or documentation stored in various software programs such as Email, Outlook, Word, Excel, Access, Publisher, PowerPoint, Adobe Acrobat, SQL databases, or any other software or electronic communication programs or databases that the CONSULTANT may use in the performance of its operations. ESI may be located on network servers, backup tapes, smart phones, thumb drives, CDs, DVDs, floppy disks, work computers, cell phones, laptops, or any other electronic device that CONSULTANT uses in the performance of its Work or SERVICES hereunder, including any personal devices used by the CONSULTANT or any sub-consultant at home.

"Native files" are a subset of ESI and refer to the electronic format of the application in which such ESI is normally created, viewed, and /or modified

The CONSULTANT shall include this section XX "Records Maintenance" in every subcontract it enters into in relation to this AGREEMENT and bind the sub-consultant to its terms, unless expressly agreed to otherwise in writing by the AGENCY prior to the execution of such subcontract.

In witness whereof, the parties hereto have executed this AGREEMENT as of the day and year shown in the "Execution Date" box on page one (1) of this AGREEMENT.

Whatcom County - See attached Signature sheet

Signature

Date



7/27/21

Signature

Date

Any modification, change, or reformation of this AGREEMENT shall require approval as to form by the Office of the Attorney General.

WHATCOM COUNTY:

Recommended for Approval:

Jon Hutchings
Department Director

Date

Approved as to form:

approved via email by CQ on 7/27/2021

Christopher Quinn
Senior Civil Deputy Prosecuting Attorney

Date

Approved:

Accepted for Whatcom County:

Satpal Singh Sidhu
Whatcom County Executive

STATE OF WASHINGTON)
) ss
COUNTY OF WHATCOM)

On this _____ day of _____, 20____, before me personally appeared Satpal Singh Sidhu,
to me known to be the Executive of Whatcom County, who executed the above instrument and
who acknowledged to me the act of signing and sealing thereof.

NOTARY PUBLIC in and for the State of
Washington, residing at _____
My commission expires _____

Exhibit "A"
SCOPE OF WORK

Background:

Whatcom County is seeking a design for structural repairs to the Nulle Road Bridge No. 106 overcrossing Friday Creek. This bridge is located at the south end of Lake Samish, which provides access to the south end of the Lake. Nulle Road and is classified as a Minor Collector.

The bridge was initially built in 1934 and was re-built in 1956. The bridge is approximately 76 feet long (19':19':19':19') and 27-feet wide (out-to-out). Its superstructure comprises precast tub-girders that are 19-inches deep which are used on many of the County's bridge structures. Its substructure is composed of timber cap beams supported by driven timber piles. The existing structure has several defects in the girders and timber portion of the structure.

A recent load rating was performed in 2019, which required the bridge to be posted for AASHTO Single Unit Vehicles (SUV) Trucks and Emergency Vehicles (EV). Whatcom County is planning to replace North Lake Samish Bridge No. 107 to the north of the Nulle Road Bridge No. 106 and utilize Bridge No. 106 as part of the signed detour route during the reconstruction of the North Lake Samish Bridge No. 107 Replacement Project.

The Project will be performed in two phases:

- Phase 1 – prepare Rehabilitation Study Report for proposing cost-effective repairs to eliminate load posting of the bridge
- Phase 2 – preparing construction Plans, Specifications, and Estimate (PS&E) for the selected project approach.

The Project timeline calls for the 60% design to be completed by the end of November 2021 to meet the environmental permitting schedule. It is anticipated that the PS&E will be completed by the end of December of 2021. Environmental permitting and right-of-way acquisition (if required) will be completed by the County before February of 2022, with construction scheduled for the spring of 2022.

To achieve the goal as mentioned above, The County has selected TranTech's Team to provide a concept study report as part of the Phase 1 design activities associated with this Project. After submittal of the Phase 1 report, and at County's discretion, TranTech's contract may be amended so that; the design team can advance the County's approved concept to the 100% design level, provide support during the construction phase of the Project, and provide an updated load rating upon completion of the improvements.

All plans and calculations developed by the Consultant will be stamped by a Professional Engineer (PE) licensed in the State of Washington.

In the following, different Work Elements (WE) associated with Phase 1 of this project are described in further detail.

Work Element 1

Project Management:

This work element includes administering the contract between the Consultant and the Agency, preparing monthly progress reports, and quality control necessary for the Project. The task includes all administrative services needed to coordinate with the sub-consultant/s and complete the Project on time and within budget. The following are the categorized activities associated with this work element:

1. Project Management
2. Monthly Progress Reports, Meetings, Meeting Minutes and Invoicing. The bi-weekly Progress report will contain a narrative that identifies and describes significant activities performed in the previous week and the significant planned activities for the upcoming week;
3. Design Team Management:
 - a. Schedule and coordinate with the design team.
 - b. Prepare sub-consultant agreements, coordinate budget, and review the project progress and submittals.
 - c. Coordinate and attend design team meetings with County's Team.
 - d. Prepare, monitor, and update project schedule. Monitor project budget.
 - e. Prepare monthly billings, progress reports, and updated monthly project schedule.
 - f. Maintain regular informal contact of telephone discussions and electronic mail.
 - g. Obtain, with assistance from the County, rights-of-entry necessary for geotechnical studies, site visits, etc.

Deliverables:

- Progress Reports
- Meeting Minutes
- Monthly Invoicing
- Project Schedule

Work Element 2

Rehabilitation Concept Study Report:

The engineering investigations associated with this Work Element (WE) will be focused on developing and recommending an optimized, cost-effective rehabilitation concept to eliminate the current load postings on this bridge.

Scoping-level engineering designs and cost estimates for this concept will be developed as part of the Phase 1 work.

All designs will meet Whatcom County design requirements, and all activities will be closely coordinated with the County. The design team will work as an extension of the County staff for recommending a preferred rehabilitation concept.

Preliminary Project Design and Engineer's Opinion of Probable Cost for the concept will be prepared and provided in the Phase 1 report.

The following describes the WE's subtasks:

2.1 – Civil/ Roadway

At the SW corner of the bridge lie the sewage treatment lagoons for the Samish Water District. In addition, gravity and pressure sewage mains lie within the project site, with a pressure main hung from the south side of Bridge #106. Any future approach improvements, including guardrails, should be carefully studied to avoid the perforation of any sewage pipes near the creek.

Furthermore, in reviewing the Inventory Report, it is noted that the asphalt apron does not extend to the entire width of the bridge deck at both approaches and that the asphalt surfacing on the bridge deck itself is rutted and failing. One approach improvement concept is over-excavating a short distance behind either abutment, placing compacted gravel fill to prevent future pavement settlement, and then providing a newly paved surfacing extending the width of the bridge deck. Transition tapers would extend on both ends of the bridge deck to taper into the existing roadway section.

This concept, and other approach improvement concepts, will be studied and provided in the Phase 1 study report. In collaboration with the County, these ideas will be evaluated, resulting in an optimized solution that the County desires and provided in the Phase 1 report.

2.2 – Structural

This aging structure has a sufficiency rating of 47.88 and requires routine maintenance. Per our understanding, the County desires strengthening of the bridge so that load posting of the bridge is eliminated for the upcoming Bridge No. 107 Replacement Project.

TranTech's Team has studied the County's provided information and has walked the site to observe the intricate details of the Project.

The purpose of the Phase 1 study is to develop a cost-effective rehabilitation scheme. We will emphasize the critical elements of the existing structure with load rating factors of less than 1.0. New rehabilitation items will be added as desired by the County.

Throughout the Phase 1 design activities, special care will be given toward low impact design approach for many reasons, including noise reduction and protection of the sensitive habitat.

Our rehabilitation design will follow the most current WSDOT, AASHTO, and County requirements. Furthermore, our Team will prepare a post-rehabilitation load rating report per the most current WSDOT Bridge Design Manual (BDM) and AASHTO Manual of Bridge Evaluation (MBE) guidelines.

Per the most recent bridge inspection report, the following structural elements have been identified as having poor condition states of 3 or less:

- One timber pile
- Asphaltic overlay (existing conditions: 2" on bridge deck)
- Tub-girders – critical load rating element
- Timber pier cap beams
- Bridge railing
- Cracks and spalls

Furthermore, by studying the most recent load rating report, it is evident that the tub girders are the controlling structural elements, and by strengthening these elements for the targeted stress regions, we can eliminate their strength deficiency and load posting of the bridge.

One cost-effective rehabilitation concept is the utilization of Fiber Reinforced Wraps (FRP) for this purpose.

Our Team will address the bridge roadway approaches with respect to the County's concerns and guidance.

Construction staging at the site is limited given the existing 60-foot right-of-way and steep embankments. However, options exist to negotiate with the adjacent property owner at the NW quadrant of the bridge as the topography is generally flat. Also, 400-feet west of the project site lies the office complex for the Samish Water District, with whom negotiations could be pursued for Contractor parking of vehicles and additional construction staging areas.

We will communicate effectively and transparently with the County throughout our rehabilitation design, and we will ensure that we follow County's guidance every step of the way in this Project.

Assumptions:

- County to provide all the available relevant data on Bridge No. 106 to TranTech

Deliverables:

- Draft Rehabilitation Study Report, due September 15, 2021
- Final Rehabilitation Study Report, due October 15, 2021

Exhibit C

Preparation and Delivery of Electronic Engineering and Other Data

In this Exhibit the agency, as applicable, is to provide a description of the format and standards the consultant is to use in preparing electronic files for transmission to the agency. The format and standards to be provided may include, but are not limited to, the following:

I. Surveying, Roadway Design & Plans Preparation Section

A. Survey Data

N/A, provided by Agency

B. Roadway Design Files

N/A

C. Computer Aided Drafting Files

N/A

D. Specify the Agency's Right to Review Product with the Consultant
As described in Exhibit A

E. Specify the Electronic Deliverables to Be Provided to the Agency
As described in Exhibit A

F. Specify What Agency Furnished Services and Information Is to Be Provided
As described in Exhibit A

II. Any Other Electronic Files to Be Provided

As described in Exhibit A

III. Methods to Electronically Exchange Data

Email, thumbdrive, Google Drive, Dropbox, or Box

A. Agency Software Suite

N/A

B. Electronic Messaging System

Outlook email services

C. File Transfers Format

Microsoft Word, Microsoft Excel and Adobe PDF

Exhibit D

Consultant Fee Determination

Whatcom County Nulle Road Bridge No. 106 Rehabilitation - PHASE 1[illegible]

Notes: The sum of the above Overhead Rate and Fee Percentage is equal to a combined Multiplier of 2.7887

Actuals Not To Exceed Table (ANTE)

[illegible]



**Washington State
Department of Transportation**

Development Division
Contract Services Office
PO Box 47408
Olympia, WA 98504-7408
7345 Linderson Way SW
Tumwater, WA 98501-6504

TTY: 1-800-833-6388
www.wsdot.wa.gov

May 18, 2020

TranTech Engineering, LLC
12011 NE 1st Street, Suite 305
Bellevue, WA 98005

Subject: Acceptance FYE 2019 ICR – Risk Assessment Review

Dear Khashayer Nikzad:

Based on Washington State Department of Transportation's (WSDOT) Risk Assessment review of your Indirect Cost Rate (ICR), we have accepted your proposed FYE 2019 ICR of 148.87% of direct labor. This rate will be applicable for WSDOT Agreements and Local Agency Contracts in Washington only. This rate may be subject to additional review if considered necessary by WSDOT. Your ICR must be updated on an annual basis.

Costs billed to agreements/contracts will still be subject to audit of actual costs, based on the terms and conditions of the respective agreement/contract.

This was not a cognizant review. Any other entity contracting with your firm is responsible for determining the acceptability of the ICR.

If you have any questions, feel free to contact our office at **(360) 705-7019** or via email consultantrates@wsdot.wa.gov.

Regards;

ERIK K. JONSON
Contract Services Manager

EKJ:ah

Exhibit F

Title VI Assurances

During the performance of this AGREEMENT, the CONSULTANT, for itself, its assignees, and successors in interest agrees as follows:

1. **Compliance with Regulations:** The CONSULTANT shall comply with the Regulations relative to non-discrimination in federally assisted programs of the AGENCY, Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time (hereinafter referred to as the "REGULATIONS"), which are herein incorporated by reference and made a part of this AGREEMENT.
2. **Non-discrimination:** The CONSULTANT, with regard to the work performed during this AGREEMENT, shall not discriminate on the grounds of race, color, sex, or national origin in the selection and retention of sub-consultants, including procurement of materials and leases of equipment. The CONSULTANT shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the REGULATIONS, including employment practices when this AGREEMENT covers a program set forth in Appendix B of the REGULATIONS.
3. **Solicitations for Sub-consultants, Including Procurement of Materials and Equipment:** In all solicitations either by competitive bidding or negotiations made by the CONSULTANT for work to be performed under a sub-contract, including procurement of materials or leases of equipment, each potential sub-consultant or supplier shall be notified by the CONSULTANT of the CONSULTANT's obligations under this AGREEMENT and the REGULATIONS relative to non-discrimination on the grounds of race, color, sex, or national origin.
4. **Information and Reports:** The CONSULTANT shall provide all information and reports required by the REGULATIONS or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the AGENCY, the STATE, or the Federal Highway Administration (FHWA) to be pertinent to ascertain compliance with such REGULATIONS, orders and instructions. Where any information required of a CONSULTANT is in the exclusive possession of another who fails or refuses to furnish this information, the CONSULTANT shall so certify to the AGENCY, the STATE, or the FHWA as appropriate, and shall set forth what efforts it has made to obtain the information.
5. **Sanctions for Non-compliance:** In the event of the CONSULTANT's non-compliance with the non-discrimination provisions of this AGREEMENT, the AGENCY shall impose such AGREEMENT sanctions as it, the STATE, or the FHWA may determine to be appropriate, including, but not limited to:
 - Withholding of payments to the CONSULTANT under this AGREEMENT until the CONSULTANT complies, and/or;
 - Cancellation, termination, or suspension of this AGREEMENT, in whole or in part.
6. **Incorporation of Provisions:** The CONSULTANT shall include the provisions of paragraphs (1) through (5) in every subcontract, including procurement of materials and leases of equipment, unless exempt by the REGULATIONS, or directives issued pursuant thereto. The CONSULTANT shall take such action with respect to any sub-consultant or procurement as the STATE, the AGENCY, or FHWA may direct as a means of enforcing such provisions including sanctions for non-compliance.

Provided, however, that in the event a CONSULTANT becomes involved in, or is threatened with, litigation with a sub-consultant or supplier as a result of such direction, the CONSULTANT may request the AGENCY enter into such litigation to protect the interests of the STATE and/or the AGENCY and, in addition, the CONSULTANT may request the United States enter into such litigation to protect the interests of the United States.

Exhibit G ***Certification Document***

- Exhibit G-1(a) Certification of Consultant
- Exhibit G-1(b) Certification of Agency
- Exhibit G-2 Certification Regarding Debarment, Suspension and Other Responsibility Matters - Primary Covered Transactions
- Exhibit G-3 Certification Regarding the Restrictions of the Use of Federal Funds for Lobbying
- Exhibit G-4 Certificate of Current Cost or Pricing Data

Exhibit G-1(a) Certification of Consultant

I hereby certify that I am the and duly authorized representative of the firm of
TranTech Engineering, LLC

whose address is

12011 NE 1st Street Suite 306 Bellevue, WA 98005

and that neither the above firm nor I have

- a) Employed or retained for a commission, percentage, brokerage, contingent fee, or other consideration, any firm or person (other than a bona fide employee working solely for me or the above CONSULTANT) to solicit or secure this AGREEMENT;
- b) Agreed, as an express or implied condition for obtaining this contract, to employ or retain the services of any firm or person in connection with carrying out this AGREEMENT; or
- c) Paid, or agreed to pay, to any firm, organization or person (other than a bona fide employee working solely for me or the above CONSULTANT) any fee, contribution, donation, or consideration of any kind for, or in connection with, procuring or carrying out this AGREEMENT; except as hereby expressly stated (if any);

I acknowledge that this certificate is to be furnished to the _____

and the Federal Highway Administration, U.S. Department of Transportation in connection with this AGREEMENT involving participation of Federal-aid highway funds, and is subject to applicable State and Federal laws, both criminal and civil.

TranTech Engineering, LLC

Consultant (Firm Name)



Signature (Authorized Official of Consultant)

7/27/21

Date

Exhibit G-1(b) Certification of Agency

I hereby certify that I am the:



Other

of the Whatcom County Public Works, and Consultant

or its representative has not been required, directly or indirectly as an express or implied condition in connection with obtaining or carrying out this AGREEMENT to:

- a) Employ or retain, or agree to employ to retain, any firm or person; o
- b) Pay, or agree to pay, to any firm, person, or organization, any fee, contribution, donation, or consideration of any kind; except as hereby expressly stated (if any):

I acknowledge that this certificate is to be furnished to the _____

and the Federal Highway Administration, U.S. Department of Transportation, in connection with this AGREEMENT involving participation of Federal-aid highway funds, and is subject to applicable State and Federal laws, both criminal and civil.

Signature

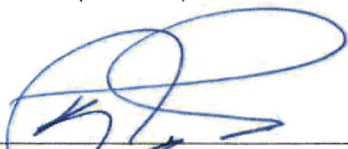
Date

Exhibit G-2 Certification Regarding Debarment Suspension and Other Responsibility Matters - Primary Covered Transactions

- I. The prospective primary participant certifies to the best of its knowledge and belief, that it and its principals:
 - A. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
 - B. Have not within a three (3) year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State anti-trust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
 - C. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; an
 - D. Have not within a three (3) year period preceding this application / proposal had one or more public transactions (Federal, State and local) terminated for cause or default.
- II. Where the prospective primary participant is unable to certify to any of the statements in this certification such prospective participant shall attach an explanation to this proposal.

TranTech Engineering, LLC

Consultant (Firm Name)



Signature (Authorized Official of Consultant)

7/27/21

Date

Exhibit G-3 Certification Regarding the Restrictions of the Use of Federal Funds for Lobbying

The prospective participant certifies, by signing and submitting this bid or proposal, to the best of his or her knowledge and belief, that:

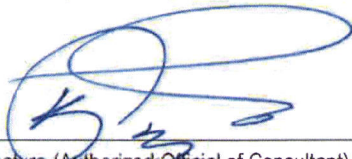
1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or any employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative AGREEMENT, and the extension, continuation, renewal, amendment, or modification of Federal contract, grant, loan or cooperative AGREEMENT.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan or cooperative AGREEMENT, the undersigned shall complete and submit Standard Form - LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000.00, and not more than \$100,000.00 for each such failure.

The prospective participant also agrees by submitting his or her bid or proposal that he or she shall require that the language of this certification be included in all lower tier sub-contracts, which exceed \$100,000 and that all such sub-recipients shall certify and disclose accordingly.

TranTech Engineering, LLC

Consultant (Firm Name)



Signature (Authorized Official of Consultant)

7/27/21

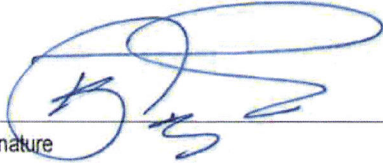
Date

Exhibit G-4 Certification of Current Cost or Pricing Data

This is to certify that, to the best of my knowledge and belief, the cost or pricing data (as defined in section of the Federal Acquisition Regulation (FAR) and required under FAR subsection 15.403-4) submitted, either actually or by specific identification in writing, to the Contracting Officer or to the Contracting Officer's representative in support of Nulle Road Bridge Structural Improvements * are accurate, complete, and current as of 7/27/21 **.

This certification includes the cost or pricing data supporting any advance AGREEMENT's and forward pricing rate AGREEMENT's between the offer or and the Government that are part of the proposal.

Firm: TranTech Engineering, LLC


Signature

Principal

Title

Date of Execution 7/27/21

***.

*Identify the proposal, quotation, request for pricing adjustment, or other submission involved, giving the appropriate identifying number (e.g. project title.)

**Insert the day, month, and year, when price negotiations were concluded and price AGREEMENT was reached.

***Insert the day, month, and year, of signing, which should be as close as practicable to the date when the price negotiations were concluded and the contract price was agreed to.

Exhibit I

Alleged Consultant Design Error Procedures

The purpose of this exhibit is to establish a procedure to determine if a consultant has alleged design error is of a nature that exceeds the accepted standard of care. In addition, it will establish a uniform method for the resolution and/or cost recovery procedures in those instances where the agency believes it has suffered some material damage due to the alleged error by the consultant.

Step 1 Potential Consultant Design Error(s) is Identified by Agency's Project Manager

At the first indication of potential consultant design error(s), the first step in the process is for the Agency's project manager to notify the Director of Public Works or Agency Engineer regarding the potential design error(s). For federally funded projects, the Region Local Programs Engineer should be informed and involved in these procedures. (Note: The Director of Public Works or Agency Engineer may appoint an agency staff person other than the project manager, who has not been as directly involved in the project, to be responsible for the remaining steps in these procedures.)

Step 2 Project Manager Documents the Alleged Consultant Design Error(s)

After discussion of the alleged design error(s) and the magnitude of the alleged error(s), and with the Director of Public Works or Agency Engineer's concurrence, the project manager obtains more detailed documentation than is normally required on the project. Examples include all decisions and descriptions of work, photographs, records of labor, materials, and equipment.

Step 3 Contact the Consultant Regarding the Alleged Design Error(s)

If it is determined that there is a need to proceed further, the next step in the process is for the project manager to contact the consultant regarding the alleged design error(s) and the magnitude of the alleged error(s). The project manager and other appropriate agency staff should represent the agency and the consultant should be represented by their project manager and any personnel (including sub-consultants) deemed appropriate for the alleged design error(s) issue.

Step 4 Attempt to Resolve Alleged Design Error with Consultant

After the meeting(s) with the consultant have been completed regarding the consultant's alleged design error(s), there are three possible scenarios:

- It is determined via mutual agreement that there is not a consultant design error(s). If this is the case, then the process will not proceed beyond this point.
- It is determined via mutual agreement that a consultant design error(s) occurred. If this is the case, then the Director of Public Works or Agency Engineer, or their representatives, negotiate a settlement with the consultant. The settlement would be paid to the agency or the amount would be reduced from the consultant's agreement with the agency for the services on the project in which the design error took place. The agency is to provide LP, through the Region Local Programs Engineer, a summary of the settlement for review and to make adjustments, if any, as to how the settlement affects federal reimbursements. No further action is required.
- There is not a mutual agreement regarding the alleged consultant design error(s). The consultant may request that the alleged design error(s) issue be forwarded to the Director of Public Works or Agency Engineer for review. If the Director of Public Works or Agency Engineer, after review with their legal counsel, is not able to reach mutual agreement with the consultant, proceed to Step 5.

Step 5 Forward Documents to Local Programs

For federally funded projects, all available information, including costs, should be forwarded through the Region Local Programs Engineer to LP for their review and consultation with the FHWA. LP will meet with representatives of the agency and the consultant to review the alleged design error(s), and attempt to find a resolution to the issue. If necessary, LP will request assistance from the Attorney General's Office for legal interpretation. LP will also identify how the alleged error(s) affects eligibility of project costs for federal reimbursement.

- If mutual agreement is reached, the agency and consultant adjust the scope of work and costs to reflect the agreed upon resolution. LP, in consultation with FHWA, will identify the amount of federal participation in the agreed upon resolution of the issue.
- If mutual agreement is not reached, the agency and consultant may seek settlement by arbitration or by litigation.

Exhibit J

Consultant Claim Procedures

The purpose of this exhibit is to describe a procedure regarding claim(s) on a consultant agreement. The following procedures should only be utilized on consultant claims greater than \$1,000. If the consultant's claim(s) total a \$1,000 or less, it would not be cost effective to proceed through the outlined steps. It is suggested that the Director of Public Works or Agency Engineer negotiate a fair and reasonable price for the consultant's claim(s) that total \$1,000 or less.

This exhibit will outline the procedures to be followed by the consultant and the agency to consider a potential claim by the consultant.

Step 1 Consultant Files a Claim with the Agency Project Manager

If the consultant determines that they were requested to perform additional services that were outside of the agreement's scope of work, they may be entitled to a claim. The first step that must be completed is the request for consideration of the claim to the Agency's project manager.

The consultant's claim must outline the following:

- Summation of hours by classification for each firm that is included in the claim
- Any correspondence that directed the consultant to perform the additional work;
- Timeframe of the additional work that was outside of the project scope;
- Summary of direct labor dollars, overhead costs, profit and reimbursable costs associated with the additional work; and
- Explanation as to why the consultant believes the additional work was outside of the agreement scope of work.

Step 2 Review by Agency Personnel Regarding the Consultant's Claim for Additional Compensation

After the consultant has completed step 1, the next step in the process is to forward the request to the Agency's project manager. The project manager will review the consultant's claim and will met with the Director of Public Works or Agency Engineer to determine if the Agency agrees with the claim. If the FHWA is participating in the project's funding, forward a copy of the consultant's claim and the Agency's recommendation for federal participation in the claim to the WSDOT Local Programs through the Region Local Programs Engineer. If the claim is not eligible for federal participation, payment will need to be from agency funds.

If the Agency project manager, Director of Public Works or Agency Engineer, WSDOT Local Programs (if applicable), and FHWA (if applicable) agree with the consultant's claim, send a request memo, including backup documentation to the consultant to either supplement the agreement, or create a new agreement for the claim. After the request has been approved, the Agency shall write the supplement and/or new agreement and pay the consultant the amount of the claim. Inform the consultant that the final payment for the agreement is subject to audit. No further action is needed regarding the claim procedures.

If the Agency does not agree with the consultant's claim, proceed to step 3 of the procedures.

Step 3 Preparation of Support Documentation Regarding Consultant's Claim(s)

If the Agency does not agree with the consultant's claim, the project manager shall prepare a summary for the Director of Public Works or Agency Engineer that included the following:

- Copy of information supplied by the consultant regarding the claim;
- Agency's summation of hours by classification for each firm that should be included in the claim
- Any correspondence that directed the consultant to perform the additional work;
- Agency's summary of direct labor dollars, overhead costs, profit and reimbursable costs associate with the additional work;
- Explanation regarding those areas in which the Agency does/does not agree with the consultant's claim(s);
- Explanation to describe what has been instituted to preclude future consultant claim(s); and
- Recommendations to resolve the claim.

Step 4 Director of Public Works or Agency Engineer Reviews Consultant Claim and Agency Documentation

The Director of Public Works or Agency Engineer shall review and administratively approve or disapprove the claim, or portions thereof, which may include getting Agency Council or Commission approval (as appropriate to agency dispute resolution procedures). If the project involves federal participation, obtain concurrence from WSDOT Local Programs and FHWA regarding final settlement of the claim. If the claim is not eligible for federal participation, payment will need to be from agency funds.

Step 5 Informing Consultant of Decision Regarding the Claim

The Director of Public Works or Agency Engineer shall notify (in writing) the consultant of their final decision regarding the consultant's claim(s). Include the final dollar amount of the accepted claim(s) and rationale utilized for the decision.

Step 6 Preparation of Supplement or New Agreement for the Consultant's Claim(s)

The agency shall write the supplement and/or new agreement and pay the consultant the amount of the claim. Inform the consultant that the final payment for the agreement is subject to audit



Whatcom County

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

Agenda Bill Master Report

File Number: AB2021-472

File ID:	AB2021-472	Version:	1	Status:	Agenda Ready
File Created:	07/28/2021	Entered by:	DLaplant@co.whatcom.wa.us		
Department:	Council Office	File Type:	Contract		
Assigned to:	Council Finance and Administrative Services Committee	Final Action:			
Agenda Date:	08/10/2021	Enactment #:			

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

TITLE FOR AGENDA ITEM:

Request authorization for the County Executive to enter into a contract between Whatcom County and Helmsman Management Services, LLC to provide administration of the County's self-insured Worker's Compensation Program in the amount of \$173,090

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

Please refer to Staff memo for background and more information

HISTORY OF LEGISLATIVE FILE

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

Attachments: Staff memo, Contract

Karen Sterling Goens
Manager

MEMORANDUM

TO: Satpal Sidhu, County Executive

FROM: Donnie LaPlante, HR Associate Manager

RE: **CONTRACT FOR SERVICES
SELF-INSURED WORKERS' COMPENSATION ADMINISTRATION**

DATE: July 28, 2021

Enclosed are two (2) originals of a Contract for Services between Whatcom County and Helmsman Management Services, LLC (formerly Eberle Vivian) for administration and claims processing services for the self-insured workers' compensation program for your review and signature.

Background and Purpose

The County has self-insured its workers' compensation program since 1984. Since 2005, Helmsman has been the claims administrator. The recent Request for Proposal process yielded bids from three firms of which Helmsman was clearly the top choice due to the following strengths:

- One, clearly identified and knowledgeable point of contact for claims
- Business focus on self-insurance and workers' compensation in Washington State
- Small, regional company, purchased several years ago by Helmsman, but allowed to retain culture and way of doing business.
- Interactive, claims data-base customized to Washington law
- Imaging/on-line claims data eliminates paper and provides real-time communication
- Downloadable, flexible reporting – data available in Excel
- Knowledge of Bellingham providers (also serve Intalco and City of Bellingham)
- Competitive, bundled pricing
- Positive reviews from injured workers

Funding Amount and Source

Helmsman's administration costs in 2022 will be \$56,000 (a slight decrease from the \$59,000 charged in 2021) with a 3% annual increase for 2023 and 2024. This is a bundled fee without added costs for account management, subrogation pursuit, excess recovery, bill review, or on-line access to claims information.

Program costs are funded through revenue generated from County departments based on rates tied to job classification which vary by on-the-job injury loss experience and risk.

Differences from Previous Contract

The only change is an initial decrease in administrative rates, and updated contract language.

Please feel free to call me at extension 5306, if you have any questions or concerns regarding my recommendation or the terms of this agreement.

WHATCOM COUNTY CONTRACT INFORMATION SHEET

Whatcom County Contract No. _____

Originating Department:	Administrative Services																			
Division/Program: <i>(i.e. Dept. Division and Program)</i>	Human Resources (HR) / Risk Management																			
Contract or Grant Administrator:	Donnie LaPlante, HR Associate Manager																			
Contractor's / Agency Name:	Helmsman Management Services, LLC																			
<p>Is this a New Contract? If not, is this an Amendment or Renewal to an Existing Contract? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/></p> <p>Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> If Amendment or Renewal, (per WCC 3.08.100 (a)) Original Contract #: _____</p>																				
<p>Does contract require Council Approval? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> If No, include WCC: _____</p> <p>Already approved? Council Approved Date: _____ <i>(Exclusions see: Whatcom County Codes 3.06.010, 3.08.090 and 3.08.100)</i></p>																				
<p>Is this a grant agreement?</p> <p>Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> If yes, grantor agency contract number(s): _____ CFDA#: _____</p>																				
<p>Is this contract grant funded?</p> <p>Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> If yes, Whatcom County grant contract number(s): _____</p>																				
<p>Is this contract the result of a RFP or Bid process?</p> <p>Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> If yes, RFP and Bid number(s): <u>21-45</u> Contract Cost Center: <u>507300</u></p>																				
<p>Is this agreement excluded from E-Verify? No <input type="checkbox"/> Yes <input checked="" type="checkbox"/> If no, include Attachment D Contractor Declaration form.</p>																				
<p>If YES, indicate exclusion(s) below:</p> <p><input checked="" type="checkbox"/> Professional services agreement for certified/licensed professional.</p> <p><input type="checkbox"/> Contract work is for less than \$100,000. <input type="checkbox"/> Contract for Commercial off the shelf items (COTS).</p> <p><input type="checkbox"/> Contract work is for less than 120 days. <input type="checkbox"/> Work related subcontract less than \$25,000.</p> <p><input type="checkbox"/> Interlocal Agreement (between Governments). <input type="checkbox"/> Public Works - Local Agency/Federally Funded FHWA.</p>																				
<p>Contract Amount:(sum of original contract amount and any prior amendments):</p> <p style="padding-left: 20px;">56,000 in '22, 57,680 in '23, 59,410 in '24</p> <p>This Amendment Amount:</p> <p style="padding-left: 20px;">\$ _____</p> <p>Total Amended Amount:</p> <p style="padding-left: 20px;">\$ _____</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. 																			
<p>Summary of Scope: Administration of the County's self-insured Workers' Compensation Program</p>																				
Term of Contract:	Three years total (2022-2024)	Expiration Date: 12/31/2024																		
Contract Routing:	<table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 60%;">1. Prepared by: <u>Donnie LaPlante</u></td> <td style="width: 40%;">Date: <u>7/28/21</u></td> </tr> <tr> <td>2. Attorney signoff: <u>Approved by email - KNF</u></td> <td>Date: <u>7/29/21</u></td> </tr> <tr> <td>3. AS Finance reviewed: <u>bennett</u></td> <td>Date: <u>07/29/21</u></td> </tr> <tr> <td>4. IT reviewed (if IT related): _____</td> <td>Date: _____</td> </tr> <tr> <td>5. Contractor signed: _____</td> <td>Date: _____</td> </tr> <tr> <td>6. Submitted to Exec.: _____</td> <td>Date: _____</td> </tr> <tr> <td>7. Council approved (if necessary): _____</td> <td>Date: _____</td> </tr> <tr> <td>8. Executive signed: _____</td> <td>Date: _____</td> </tr> <tr> <td>9. Original to Council: _____</td> <td>Date: _____</td> </tr> </table>		1. Prepared by: <u>Donnie LaPlante</u>	Date: <u>7/28/21</u>	2. Attorney signoff: <u>Approved by email - KNF</u>	Date: <u>7/29/21</u>	3. AS Finance reviewed: <u>bennett</u>	Date: <u>07/29/21</u>	4. IT reviewed (if IT related): _____	Date: _____	5. Contractor signed: _____	Date: _____	6. Submitted to Exec.: _____	Date: _____	7. Council approved (if necessary): _____	Date: _____	8. Executive signed: _____	Date: _____	9. Original to Council: _____	Date: _____
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8. Executive signed: _____	Date: _____																			
9. Original to Council: _____	Date: _____																			

CONTRACT FOR SERVICES
Between Whatcom County and Helmsman Management Services, LLC

Helmsman Management Services LLC, 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 11,
Exhibit A (Scope of Work), pp. 12 to 12,
Exhibit B (Compensation), pp. 13 to 13,
Exhibit C (Certificate of Insurance).

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 January, 2022, and shall, unless terminated or renewed as elsewhere provided in the Agreement, terminate on the 31st day of December, 2024.

The general purpose or objective of this Agreement is to: provide administration for Whatcom County's self-insured workers' compensation program, 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 the amounts set forth in Exhibit B. 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 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.

IN WITNESS WHEREOF, the parties have executed this Agreement this 10th day of August, 2021.

CONTRACTOR:

Helmsman Management Services, LLC

Lisa Vivian, Managing Director

Address:

206 Railroad Avenue N
Kent WA 98032

Mailing Address:

same

WHATCOM COUNTY:
Recommended for Approval:

Human Resources Manager Date

Approved as to form:

Prosecuting Attorney Date

Approved:
Accepted for Whatcom County:

By: _____
Satpal Singh Sidhu, Whatcom County Executive

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 three years, and for a total of no longer than six 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. Contractor further agrees to make research, notes, and other work products produced in the performance of this Agreement available to the County upon request.

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

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. Professional Liability

Professional Liability - \$2,000,000 per occurrence

- a. Obtain professional liability insurance covering the negligent acts, errors, or omissions of the professional in connection with the performance of services to the County. If any insurance policy or the professional liability insurance is written on a claims made form, its retroactive date, and that of all subsequent renewals, shall be no later than the effective date of this Contract. The policy shall state that coverage is claims made, and state the retroactive date. Claims-made form coverage shall be maintained by the Contractor for a minimum of 36 months following the Completion Date or earlier termination of this Contract, and the Contractor shall annually provide the Contracting Agency with proof of renewal. If renewal of the claims made form of coverage becomes unavailable, or economically prohibitive, the Contractor shall purchase an extended reporting period ("tail") or execute another form of guarantee acceptable to the Contracting Agency to assure financial responsibility for liability for services performed.

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:

Donnie LaPlante, Associate Manager, Human Resources
Administrative Services Department
311 Grand Ave, Suite 107
Bellingham, WA 98225
(360) 778-5306
dlaplant@co.whatcom.wa.us

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 the Administrative Officer under this agreement.

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:

Not applicable.

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)

Contractor shall provide Claims Administration for Whatcom County on Workers' Compensation matters as follows:

- Provide toll-free telephone service
- Provide single point of claims contact for Whatcom County's injured workers
- Make prompt personal contact with all injured workers
- Review all incident reports
- Determine employees' eligibility for benefits
- Verify correct wages and compute benefit amounts
- Mail benefits to injured workers within legally specified timeframes
- Set claims reserves and promptly report major reserve changes
- Keep records of specific retention levels and requirements for excess reporting
- Coordinate medical treatment and monitor disability payments with objective of returning injured workers to work as soon as possible
- Make referral to certified rehabilitation specialist where indicated
- Print checks for claim and expense payments
- Supply and replenish required report forms
- Create claim file on each reported incident which may result in a claim
- Code file material and enter data into statistical system
- Verify accident, compensability, disability, and liability. Perform investigations, where necessary.
- File workers' compensation payments and documentation form pursuant to state law
- Audit and control medical bills
- Assure medical management and rehabilitation
- Process requests for sub-rosa or activity checks as needed.
- Retain appropriate independent experts in fields of medicine, law, etc.
- Apportion liability and/or use of administrative funds (Second Injury Fund, etc.) in handling claims
- Provide representation at informal Workers' Compensation hearings where legal counsel is not required
- Provide prompt referral to attorneys and specific control of claims in litigation
- Investigate for subrogation purposes.
- Pursue appropriate third parties for subrogation and contribution.
- Continually review reserves and revise as additional facts develop.
- Confer with Whatcom County staff on all claims involving serious and/or questionable exposure, including appeals.
- Report to excess insurer.
- Maintain and store all claim files and/or incident reports.
- Provide central storage of closed files.
- Maintain claim status report forms on all claims reserved over \$50,000
- Provide i.COMP claims management database for 24/7 access
- Provide program reports on daily, monthly, quarterly, or annual basis based on Whatcom County's needs
- Analyze loss trends and support loss control service recommendations

Account Management

The Contractor established a trust account for the purpose of paying all liabilities incurred by Whatcom County's self-insured workers' compensation program. The County agrees to prefund this account with the balance available from the Wells Fargo revolving checking account (limit of \$50,000). This account will be reimbursed by the County following review of claim payments made using an Automated Clearing House (ACH) process. Contractor agrees to transmit a check register electronically with details about each payment every Friday morning. Contractor will alert the County of anticipated check dispersals of \$5,000 or more. Checks in excess of \$5,000 will require two signatures. For amounts in excess of \$50,000, special authorization must be obtained before reimbursement can occur. The County will receive and reconcile the monthly bank statement and will be responsible for paying any fees charged by the bank for services such as stop payments, overdrafts, and check processing. All checks issued will have supporting bill documentation available to the County at all times. Contractor agrees to take prudent steps and actions to prevent fraud.

EXHIBIT "B"
(COMPENSATION)

In 2022, all claims management service and standard loss analysis reports will be provided for an annual fee of \$56,000 payable in monthly installments.

In 2023, the annual fee shall be \$57,680.

In 2024, the annual fee shall be \$59,410.

In addition, allocated expenses will be charged against the file upon which they are included:

- Private Investigators I Sub Rosa
- Attorneys
- Nurse Case Managers
- Vocational Counselors
- Loss Control
- ISO searches

EXHIBIT "C"
(CERTIFICATE OF INSURANCE)



CERTIFICATE OF LIABILITY INSURANCE

DATE(MM/DD/YYYY)
07/29/2021

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Aon Risk Services Northeast, Inc. Boston MA Office 53 State Street Suite 2201 Boston MA 02110 USA		CONTACT NAME: PHONE (A/C. No. Ext): (866) 283-7122 FAX (A/C. No.): (800) 363-0105 E-MAIL ADDRESS:																						
INSURED Liberty Mutual Group Inc. 175 Berkeley St Boston MA 02116 USA		<table border="1"> <thead> <tr> <th align="center" colspan="2">INSURER(S) AFFORDING COVERAGE</th> <th align="center">NAIC #</th> </tr> </thead> <tbody> <tr> <td>INSURER A:</td> <td>National Union Fire Ins Co of Pittsburgh</td> <td align="center">19445</td> </tr> <tr> <td>INSURER B:</td> <td>AIU Insurance Company</td> <td align="center">19399</td> </tr> <tr> <td>INSURER C:</td> <td>New Hampshire Insurance Company</td> <td align="center">23841</td> </tr> <tr> <td>INSURER D:</td> <td>Ironshore Specialty Insurance Company</td> <td align="center">25445</td> </tr> <tr> <td>INSURER E:</td> <td>ACE Property & Casualty Insurance Co.</td> <td align="center">20699</td> </tr> <tr> <td>INSURER F:</td> <td></td> <td></td> </tr> </tbody> </table>		INSURER(S) AFFORDING COVERAGE		NAIC #	INSURER A:	National Union Fire Ins Co of Pittsburgh	19445	INSURER B:	AIU Insurance Company	19399	INSURER C:	New Hampshire Insurance Company	23841	INSURER D:	Ironshore Specialty Insurance Company	25445	INSURER E:	ACE Property & Casualty Insurance Co.	20699	INSURER F:		
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INSURER F:																								

Holder Identifier :

COVERAGES **CERTIFICATE NUMBER:** 570088630209 **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR		TYPE OF INSURANCE		ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	Limits shown as requested	
A	X	COMMERCIAL GENERAL LIABILITY				GL6862544	01/01/2021	01/01/2022	LIMITS	
		CLAIMS-MADE	X OCCUR						EACH OCCURRENCE	\$2,000,000
									DAMAGE TO RENTED PREMISES (Ea occurrence)	\$2,000,000
									MED EXP (Any one person)	\$10,000
		GEN'L AGGREGATE LIMIT APPLIES PER:							PERSONAL & ADV INJURY	\$2,000,000
		POLICY	X PRO-JECT						GENERAL AGGREGATE	\$4,000,000
		OTHER:							PRODUCTS - COM/OP AGG	\$4,000,000
A	X	AUTOMOBILE LIABILITY				CA 6631168 (AOS) CA 6631169 (MA) CA 6631170 (VA) SIR applies per policy terms & conditions	01/01/2021	01/01/2022	LIMITS	
		ANY AUTO							COMBINED SINGLE LIMIT (Ea accident)	\$5,000,000
		OWNED AUTOS ONLY		SCHEDULED AUTOS					BODILY INJURY (Per person)	
		HIRED AUTOS ONLY		NON-OWNED AUTOS ONLY					BODILY INJURY (Per accident)	
E	X	UMBRELLA LIAB				XEUG71769793002	01/01/2021	01/01/2022	LIMITS	
		EXCESS LIAB	X OCCUR						EACH OCCURRENCE	\$10,000,000
			CLAIMS-MADE						AGGREGATE	\$10,000,000
		DED	X RETENTION \$100,000							
B		WORKERS COMPENSATION AND EMPLOYERS' LIABILITY				WC023095918 (AOS) SIR applies per policy terms & conditions	01/01/2021	01/01/2022	LIMITS	
		ANY PROPRIETOR / PARTNER / EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH)		Y/N	N/A				X PER STATUTE	OTHER
		If yes, describe under DESCRIPTION OF OPERATIONS below							E.L. EACH ACCIDENT	\$5,000,000
									E.L. DISEASE-EA EMPLOYEE	\$5,000,000
D		Ins Company E&O				DO7NABW885002	01/01/2021	01/01/2022	LIMITS	
									Per Claim Aggregate	\$10,000,000

Certificate No : 570088630209

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
 Whatcom County, its departments, elected and appointed officials, employees, agents and volunteers are included as additional insured with respects to the General Liability policy.

CERTIFICATE HOLDER Whatcom County 311 Grand Ave Bellingham WA 98225 USA		CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE <i>Aon Risk Services Northeast, Inc.</i>	
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ADDITIONAL REMARKS SCHEDULE

Page _ of _

AGENCY Aon Risk Services Northeast, Inc.		NAMED INSURED Liberty Mutual Group Inc.	
POLICY NUMBER See Certificate Number: 570088630209			
CARRIER See Certificate Number: 570088630209	NAIC CODE	EFFECTIVE DATE:	

ADDITIONAL REMARKS

THIS ADDITIONAL REMARKS FORM IS A SCHEDULE TO ACORD FORM,
FORM NUMBER: ACORD 25 **FORM TITLE:** Certificate of Liability Insurance

INSURER(S) AFFORDING COVERAGE	NAIC #
INSURER	
INSURER	
INSURER	
INSURER	

ADDITIONAL POLICIES If a policy below does not include limit information, refer to the corresponding policy on the ACORD certificate form for policy limits.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YYYY)	POLICY EXPIRATION DATE (MM/DD/YYYY)	LIMITS	
	WORKERS COMPENSATION							
C		N/A		WC023095925 (MA,ND,WI,WY) SIR applies per policy terms & conditions	01/01/2021	01/01/2022		
B		N/A		WC023095920 (CA) SIR applies per policy terms & conditions	01/01/2021	01/01/2022		
B		N/A		WC023095921 (FL) SIR applies per policy terms & conditions	01/01/2021	01/01/2022		
B		N/A		WC023095919 (NV)) SIR applies per policy terms & conditions	01/01/2021	01/01/2022		



Whatcom County

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

Agenda Bill Master Report

File Number: AB2021-478

File ID:	AB2021-478	Version:	1	Status:	Agenda Ready
File Created:	07/30/2021	Entered by:	SWinger@co.whatcom.wa.us		
Department:	Finance Division	File Type:	Bid Award		
Assigned to:	Council Finance and Administrative Services Committee	Final Action:			
Agenda Date:	08/10/2021	Enactment #:			

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

TITLE FOR AGENDA ITEM:

Request approval for the County Executive to enter into a contract for a 3-year subscription to KnowBe4 for cyber security awareness training and simulated phishing software platform with SHI International Corporation, using the Washington State Contract #06016, in an amount not to exceed \$50,409.22

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

Per WCC 3.08.100(A), Information Technology requests approval to use the Washington State Contract #06016 (expires 01/07/2022) to purchase a 3-year subscription for the KnowBe4 cyber security awareness training and simulated phishing software platform, as recommended by the Washington Counties Risk Pool (WCRP), in an amount not to exceed \$50,409.22 (paid in annual installments of \$16,803.07). The WCRP has a Cyber Security Awareness Reimbursement Program that will reimburse members for such subscriptions. Adequate budget authority exists in the current Information Technology base budget for this reimbursable expenditure

HISTORY OF LEGISLATIVE FILE

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

**WHATCOM COUNTY
ADMINISTRATIVE SERVICES**



FINANCE/ACCOUNTING
Whatcom County Courthouse
311 Grand Avenue, Suite #503
Bellingham WA 98225-4082
Brad Bennett, Finance Manager

DATE: July 30, 2021
TO: Tyler Schroeder, Director of Administrative Services
FROM: Brad Bennett, AS Finance Manager
SUBJECT: Approval to Purchase Cyber Security Awareness Training Subscription

BACKGROUND

Information Technology requests approval to use the Washington State Contract #06016 (expires 01/07/2022) to purchase a 3-year subscription for the KnowBe4 cyber security awareness training and simulated phishing software platform, as recommended by the Washington Counties Risk Pool (WCRP), of which Whatcom County is a member.

The vendor is SHI International Corporation, a value-added reseller for KnowBe4. The total cost for this 3-year subscription is \$50,409.22 (paid in annual installments of \$16,803.07), including sales tax.

FUNDING

Although this is not a planned purchase, with the increase in cyber threats, the WCRP is recommending acting as soon as possible. The WCRP has a Cyber Security Awareness Reimbursement Program that will reimburse members for such subscriptions, beginning October 1, 2021. Adequate budget exists in the current approved Information Technology budget for this reimbursable expenditure. I recommend approval.


AS Finance Manager

Approved as recommended:

Director of Administrative Services

Date of Council Action _____



PERRY L. RICE
IT Manager

MEMORANDUM

TO: Satpal Singh Sidhu, County Executive
Whatcom County Council

Through: Tyler Schroeder, Deputy Executive \ Director of Administrative Services

FROM: Perry Rice, IT Manager *PR*

RE: Agreement for Cyber Security Awareness Training

DATE: July 30th, 2021

Enclosed is a proposed agreement between Whatcom County and SHI International Corporation (SHI) for the KnowBe4 cyber security awareness training and simulated phishing platform.

▪ Background and Purpose

Whatcom County and other organizations are subjected to malicious e-mails on a daily basis. These e-mails entice employees to reveal their account credentials, click on bad links or open destructive e-mail attachments. Security awareness training will help employees recognize malicious e-mails and reduce our risk of data loss, data breach and system interruptions from cyber events.

Whatcom County is a member of the Washington Counties Risk Pool (WCRP). WCRP has a Cyber Security Awareness Reimbursement Program to help reduce risks, associated claims costs and the premiums that members pay. WCRP will reimburse members for their subscriptions on an annual basis for the KnowBe4 cyber security awareness training platform starting October 1, 2021. Attached is the Cyber Security Awareness Reimbursement Program FAQ from WCRP with additional information.

This proposed agreement provides discounted pricing for the KnowBe4 platform pursuant to State of Washington Master Contract No. 06016 which expires 1/7/2022. SHI is a Software Value Added Reseller under this agreement. The purposed agreement is for 3-years with annual payments.

▪ Funding Amount and Source

This agreement is for a total of \$50,409.22 for a 3-year subscription for the KnowBe4 cyber security platform. The source of funding would be the IT base budget to be reimbursed by WCRP.

Please contact Perry Rice at x5235 if you have any questions or concerns regarding the terms of this agreement.

WASHINGTON COUNTIES RISK POOL

2558 R.W. Johnson Road SW, Suite 106
Olympia, WA 98512-6103

Created by Counties for Counties



Cyber Security Awareness Reimbursement Program FAQ

Question: What is this program and why was it created?

Answer: The insurance industry and the WCRP have seen a significant increase in cyber claims, and this is expected to continue, and even increase. The WCRP is always seeking programs that give members the resources, financial or educational, that helps reduce risks, which reduces claims costs, which reduces the premiums we pay to insurers.

Question: How does it work?

Answer: The WCRP will be including the cost of reimbursing all members in our upcoming budget, which begins on October 1, 2021. We will start reimbursing members for their subscriptions to KnowBe4 at the [Diamond Level Package](#) pricing or a similar cyber security training and awareness program after October 1, 2021.

Question: What is KnowBe4 and what products and services do they offer?

Answer: Knowbe4 is a cyber security awareness training and simulated phishing platform providing user training on how to make smarter security decisions. Click [here](#) for more information.

Question: What is the Diamond Level Package and what does that include?

Answer: Please check out the package comparisons on [KnowBe4's website](#) to see what is included in the Diamond Level Package. The special pricing offered to WCRP members can be found on the [KnowBe4 Pricing Sheet](#), which provides a per-employee cost with the three-year discount applied. The WCRP will reimburse for the total number of users at the per-employee price that your county falls into.

Question: Will you reimburse for the PhishER or other add-ons?

Answer: At this time, we are only approving reimbursement for the total number of users at the per-user cost at the Diamond Level pricing and any add-on services, including PhishER, will not be reimbursed.

Question: Can we start now, or must we wait until October 1, 2021, to enter into a contract agreement?

Answer: You can start immediately. While we will not actually be reimbursing until after October 1, 2021, it will be for contracts that were entered into after October 1, but also for those that were entered into prior to October 1 but will continue beyond October 1. We encourage all members to start their cyber security training and awareness programs ASAP!

Question: Can we enter into a multi-year contract?

Answer: The WCRP Cyber Security Awareness Reimbursement Program was approved for the next three fiscal years (2021-2022; 2022-23; 2023-24). Because the pricing is discounted when selecting a three-year contract, the WCRP strongly recommends your county enter into a three-year contract.

Question: If we enter into a 3-year agreement and pay for the entire three years all at one time, will we be reimbursed?

Answer: We will only reimburse for one year at a time and we will issue the reimbursement after October 1 of each year. Depending on your contract, you may be able to make annual payments on a three-year agreement. You should contact KnowBe4 or your chosen vendor to discuss this further.

Question: What documents do we need to submit for reimbursement?

Answer: Your county's Risk Manager should submit the invoice and proof of payment with the [WCRP Cyber Security Awareness Reimbursement Program Form](#) to WCRP's Risk Management Department at risk-claims@wcrp.wa.gov.

Question: Can we submit our invoice and WCRP reimbursement form now?

Answer: Sure. You can submit anytime and we will review it for approval. However, if it is prior to October 1, 2021, we will hold onto your submission until we start reimbursements on October 1, 2021.

Question: Can we go directly through KnowBe4 or should we use a re-seller?

Answer: While going through a re-seller is not prohibited, we strongly encourage you to go directly through Knowbe4 to receive the best pricing and applicable discounts.

Question: Who is the contact at KnowBe4 for questions, demonstrations, pricing, and payment options?

Answer: Please contact Michael Hauch, KnowBe4 Account Executive, at 727-304-3598 or e-mail him Mhauch@knowbe4.com.

Question: Must we use KnowBe4?

Answer: No. While KnowBe4 is an excellent service and is recommended, the WCRP will reimburse for other similar and approved cyber security awareness services. As we learn more about other providers of this service, we will include them in our list of optional providers of this service that are approved for the reimbursement program.



Pricing Proposal
Quotation #: 20774379
Created On: 7/22/2021
Valid Until: 8/31/2021

Whatcom County WA

Perry Rice

311 Grand Avenue
Bellingham, WA 98225
United States
Phone: 360-778-5230
Fax:
Email: IT_Purchases@co.whatcom.wa.us

Inside Account Executive

Ty Pellot

290 Davidson ave,
Somerset, NJ 08879
Phone: 732-652-3080
Fax: 732-652-3099
Email: Ty_Pellot@shi.com

All Prices are in US Dollar (USD)

Product	Qty	Your Price	Total
1 KnowBe4 Security Awareness Training Subscription Platinum KnowBe4 - Part#: KMSATPN-E36-G Contract Name: NASPO Software VAR Contract #: ADSPO16-130651 Subcontract #: 06016	1430	\$24.30	\$34,749.00
2 KnowBe4 Security Awareness Training Subscription Diamond KnowBe4 - Part#: KMSATPKMSATDX-E36-G Contract Name: NASPO Software VAR Contract #: ADSPO16-130651 Subcontract #: 06016	1430	\$8.10	\$11,583.00
Subtotal			\$46,332.00
*Tax			\$4,077.22
Total			\$50,409.22

*Tax is estimated. Invoice will include the full and final tax due.

Additional Comments

3-Year Subscription to Start Upon Service Provision

Knowbe4 has a no returns policy.

3 annual payment
1/3 Net 30 Days
1/3 Net 12 Months
1/3 Net 24

Please note, if Emergency Connectivity Funds (ECF) will be used to pay for all or part of this quote, please let us know as we will need to ensure compliance with the funding program.

Hardware items on this quote may be updated to reflect changes due to industry wide constraints and fluctuations.

Thank you for choosing SHI International Corp! The pricing offered on this quote proposal is valid through the expiration date listed above. To ensure the best level of service, please provide End User Name, Phone Number, Email Address and applicable Contract Number when submitting a Purchase Order. For any additional information including Hardware, Software and Services Contracts, please contact an SHI Inside Sales Representative at (888) 744-4084. SHI International Corp. is 100% Minority Owned, Woman Owned Business. TAX ID# 22-3009648; DUNS# 61-1429481; CCR# 61-243957G; CAGE 1HTF0

The products offered under this proposal are resold in accordance with the terms and conditions of the Contract referenced under that applicable line item.



Whatcom County

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

Agenda Bill Master Report

File Number: AB2021-460

File ID:	AB2021-460	Version:	1	Status:	Agenda Ready
File Created:	07/27/2021	Entered by:	SMock@co.whatcom.wa.us		
Department:	Public Works Department	File Type:	Discussion		
Assigned to:	Council Public Works & Health Committee				Final Action:
Agenda Date:	08/10/2021	Enactment #:			

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

TITLE FOR AGENDA ITEM:

Discussion regarding proposed resolution in the matter of the Whatcom County Six-Year Transportation Improvement Program (STIP) for the years of 2022 through 2027

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

Each year the County is required to update its Six-Year Transportation Improvement Program (STIP), per RCW 35.77.010 and RCW 36.81.121. The STIP includes the capital elements of the first six years of the Fourteen-Year Ferry Program. The STIP is intended as a planning tool for local, state, and federally funded projects and is designed to identify projects for preliminary engineering, right-of-way purchase and/or construction

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: AB2021-464

File ID:	AB2021-464	Version:	1	Status:	Agenda Ready
File Created:	07/28/2021	Entered by:	AHester@co.whatcom.wa.us		
Department:	Public Works Department	File Type:	Resolution		
Assigned to:	Council Public Works & Health Committee	Final Action:			
Agenda Date:	08/10/2021	Enactment #:			

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

TITLE FOR AGENDA ITEM:

Resolution in the matter of considering vacating a portion of Wynn Road

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

The attached resolution in the matter of considering vacating a portion of Wynn Road is submitted per RCW 36.87 and WCC 12-20. Adoption of this resolution will trigger the County Engineer to report on the proposed vacation at a future Council meeting. Once the County Engineer's report is submitted the road vacation will be considered by Council under a separate resolution and a public hearing will need to be scheduled

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
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Attachments: Staff Memo, Resolution, Petition, Aerial Map

JON HUTCHINGS
DIRECTOR



CIVIC CENTER
322 N. Commercial Street, Suite 210
Bellingham, WA 98225-4042
Telephone: (360) 778-6200
FAX: (360) 778-6201
www.whatcomcounty.us

MEMORANDUM

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

Through: Jon Hutchings, Director *JH*

From: Andrew Hester, Real Estate Coordinator *AH*

Date: July 27, 2021

Re: In the Matter of Considering Vacating a Portion of Wynn Road

The attached petition asks for the vacation of a portion of Wynn Road.

Recommended Action

The attached petition for vacation meets all statutory requirements. It is recommended that the County Council direct the County Engineer to investigate and report his findings to the County Council.

Please contact me at extension 6216 if you have any questions regarding this action.

Encl.

SPONSORED BY: _____

PROPOSED BY: Public Works

INTRODUCTION DATE: _____

RESOLUTION NO. _____

IN THE MATTER OF CONSIDERING VACATING A PORTION OF WYNN ROAD

WHEREAS, on April 6, 2021; Jody and Alan Kennedy, et. al. submitted a petition for the vacation of a portion of Wynn Road lying within the unincorporated area of Whatcom County, accompanied by the penal sum of \$790.00, and,

WHEREAS, as described in RCW 36.87.010, when a county road or any part thereof is considered useless the Whatcom County Council may declare its intention to formally consider vacation, by resolution.

WHEREAS, without pre-judging the result of its future consideration of this matter, the Whatcom County Council has received sufficient information to warrant consideration of vacation of the right-of-way identified in the above-referenced petition and described more fully below;

NOW, THEREFORE, BE IT RESOLVED that it is the intention of the Whatcom County Council to consider vacation of the following described right of way:

That portion of Wynn Road adjacent to Lot 23, and Lot 24, Plat of Alder Grove, recorded in Volume 2 of Plats, Page 91, Section 4, Township 38 North, Range 2 East, W.M. Situate in Whatcom County, Washington.

Subject to and/or together with all easements, covenants, restrictions and/or agreements of record or otherwise, and further subject to Whatcom County retaining an easement in respect to the portion of right-of-way proposed for vacation, for the construction, repair, and maintenance of any and all public utilities and services now located on or in the portion that may be vacated.

AND BE IT FURTHER RESOLVED that the County Engineer investigate and report to the County Council on the matter of the proposed vacation so that the Council may set a public hearing on the matter.

APPROVED this _____ day of _____, 2021

ATTEST:

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

Dana Brown-Davis, County Clerk

Barry Buchanan, Council Chair

APPROVED AS TO FORM:

Christopher Quinn
Civil Deputy Prosecutor
(approved electronically 7/27/2021)

BEFORE THE WHATCOM COUNTY COUNCIL

IN THE MATTER OF VACATION OF
THE COUNTY ROAD KNOWN AS

South End of Wynn Rd. at Marietta Ave.

Petitioned for by:

Jody and Alan Kennedy
et.al.

PETITION FOR VACATION
OF PLATTED ROAD

(RCW 58.17 AND 36.87)

Pursuant to Whatcom County Ordinance No. 1-72, dated February 14, 1972, the undersigned and those signing attached petition, which bears signatures and property descriptions of five land owners residing in the vicinity of said road, request vacation of the county road hereinafter described, and agree with the statements below:

1. Petitioners are residents of Whatcom County and owners of real property in the vicinity of the road sought to be vacated.
2. The road sought to be vacated is legally described as follows:
"That portion of Wynn Road adjacent to Lot 23, and Lot 24, Plat of Alder Grove, recorded in Volume 2 of Plats, Page 91, Section 4, Township 38 North, Range 2 East, W.M. Situate in Whatcom County, Washington."
3. The pertinent facts in support of this petition are: See attached, Exhibit (A)
4. The road to be vacated is useless as a part of the County road system and the public will benefit by its vacation and abandonment.
5. Petitioners will pay all costs and expenses incurred by the Count in examination, report, notice and proceedings pertaining to this petition.
6. A bond in the penal sum of \$790.00, payable to Whatcom County Treasurer, accompanies this petition.
7. The application fee accompanies this petition.

WHEREFORE, petitioners request the County Road Engineer to report upon this petition, that a hearing take place on this report, and that an order be entered vacating and abandoning said road.

CONTACT PERSON:

Alan J Kennedy 360-303-8209

alan@dentalparts.com

Signed this 6th day of April, 20 21.

Page 1 of 2

EXHIBIT (A)

Petition for Vacation of Platted Road

Whatcom County

Contact - Alan Kennedy

- 1) This section of road terminates in wetlands and has no prospect of future use.
- 2) This section of road has served as a late night rendezvous for nefarious individuals who congregate there in vehicles because it is a quiet corner away from the eyes of the law. Vacation would allow us to better light and maintain it as well as fence it off to vehicles.
- 3) This section of road has a history of vehicles missing the corner and driving into it. Vacation would remove the county from any future liability.
- 4) This section of road has been used as a dumping ground with no local enforcement (Reference photo below). Vacating it would allow us to maintain a visible presence and better discourage roadside dumping.



WHEREFORE, petitioners request the County Road Engineer to report upon this petition, that a hearing take place on this report, and an order be entered vacating and abandoning said road. (NOTE: A minimum of five signatures is required by law; see statement near the beginning of page 1).

PETITIONERS' NAMES: Property owned by petitioner (part of sec. or name of plat, see (lot), TWP, (Blk) Range):

Alan Kennedy 3802044700320000

Steve Guyer 3802044340480000

PERSONS OWNING PROPERTY WITHIN A ONE MILE RADIUS

Bob Gallagher 3802044180900000

Gordon Lavigueure 3802044251700000

Clarke Lavigueure 3802043761690000

360-325-3763

Mike Kanda 3802044631240000

Edmund Bereal Jr 3802043020350000

Rick Akers 3802044320150000

The Evans/Kenney Partnership 3802045030320000

A map of the road proposed to be vacated and surrounding properties, with each of the above signed petitioners properties indicated thereon, shall be attached to this petition in order for it to be accepted in the County Council Office.

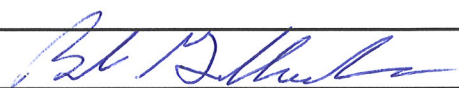
WHEREFORE, petitioners request the County Road Engineer to report upon this petition, that a hearing take place on this report, and an order be entered vacating and abandoning said road. (NOTE: A minimum of five signatures is required by law; see statement near the beginning of page 1).

PETITIONERS' NAMES: Property owned by petitioner (part of sec. or name of plat, see (lot), TWP, (Blk) Range):

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WHEREFORE, petitioners request the County Road Engineer to report upon this petition, that a hearing take place on this report, and an order be entered vacating and abandoning said road. (NOTE: A minimum of five signatures is required by law; see statement near the beginning of page 1).

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WHEREFORE, petitioners request the County Road Engineer to report upon this petition, that a hearing take place on this report, and an order be entered vacating and abandoning said road. (NOTE: A minimum of five signatures is required by law; see statement near the beginning of page 1).

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PERSONS OWNING PROPERTY WITHIN A ONE MILE RADIUS

Bob Gallagher 3802044180900000

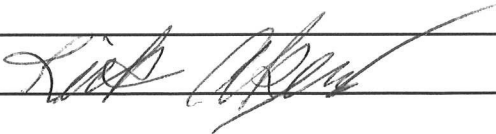
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Mike Kanda 3802044631240000

Edmund Bereal Jr 3802043020350000

Rick Akers 3802044320150000



The Evans/Kenney Partnership 3802045030320000

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WHEREFORE, petitioners request the County Road Engineer to report upon this petition, that a hearing take place on this report, and an order be entered vacating and abandoning said road. (NOTE: A minimum of five signatures is required by law; see statement near the beginning of page 1).

PETITIONERS' NAMES: Property owned by petitioner (part of sec. or name of plat, see (lot), TWP, (Blk) Range):

Alan Kennedy 3802044700320000

Steve Guyer 3802044340480000

PERSONS OWNING PROPERTY WITHIN A ONE MILE RADIUS

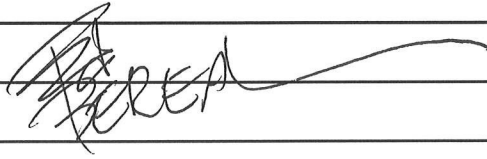
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Rick Akers 3802044320150000

The Evans/Kenney Partnership 3802045030320000

A map of the road proposed to be vacated and surrounding properties, with each of the above signed petitioners properties indicated thereon, shall be attached to this petition in order for it to be accepted in the County Council Office.

Page 2 of 2

WHEREFORE, petitioners request the County Road Engineer to report upon this petition, that a hearing take place on this report, and an order be entered vacating and abandoning said road. (NOTE: A minimum of five signatures is required by law; see statement near the beginning of page 1).

PETITIONERS' NAMES: Property owned by petitioner (part of sec. or name of plat, see (lot), TWP, (Blk) Range):

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Steve Guyer 3802044340480000

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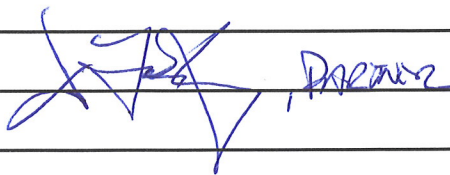
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Mike Kanda 3802044631240000

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Rick Akers 3802044320150000

The Evans/Kenney Partnership 3802045030320000



A map of the road proposed to be vacated and surrounding properties, with each of the above signed petitioners properties indicated thereon, shall be attached to this petition in order for it to be accepted in the County Council Office.



WYCOO

Kareita

Curtis



Whatcom County

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

Agenda Bill Master Report

File Number: AB2021-465

File ID:	AB2021-465	Version:	1	Status:	Agenda Ready
File Created:	07/28/2021	Entered by:	AHester@co.whatcom.wa.us		
Department:	Public Works Department	File Type:	Resolution		
Assigned to:	Council Public Works & Health Committee	Final Action:			
Agenda Date:	08/10/2021	Enactment #:			

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

TITLE FOR AGENDA ITEM:

Resolution in the matter of considering vacating a portion of Thomas Road

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

The attached resolution in the matter of considering vacating a portion of Thomas Road is submitted per RCW 36.87 and WCC 12-20. Adoption of this resolution will trigger the County Engineer to report on the proposed vacation at a future Council meeting. Once the County Engineer's report is submitted the road vacation will be considered by Council under a separate resolution and a public hearing will need to be scheduled

HISTORY OF LEGISLATIVE FILE

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

JON HUTCHINGS
DIRECTOR



CIVIC CENTER
322 N. Commercial Street, Suite 210
Bellingham, WA 98225-4042
Telephone: (360) 778-6200
FAX: (360) 778-6201
www.whatcomcounty.us

MEMORANDUM

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

Through: Jon Hutchings, Director *JH*

From: Andrew Hester, Real Estate Coordinator *AH*

Date: July 27, 2021

Re: In the Matter of Considering Vacating a Portion of Thomas Road

The attached petition asks for the vacation of a portion of Thomas Road.

Recommended Action

The attached petition for vacation meets all statutory requirements. It is recommended that the County Council direct the County Engineer to investigate and report his findings to the County Council.

Please contact me at extension 6216 if you have any questions regarding this action.

Encl.

SPONSORED BY: _____

PROPOSED BY: _____ Public Works _____

INTRODUCTION DATE: _____

RESOLUTION NO. _____

IN THE MATTER OF CONSIDERING VACATING A PORTION OF THOMAS ROAD

WHEREAS, on May 5, 2021; the City of Bellingham, et. al. submitted a petition for the vacation of a portion of Thomas Road lying within the unincorporated area of Whatcom County, accompanied by the penal sum of \$790.00, and,

WHEREAS, as described in RCW 36.87.010, when a county road or any part thereof is considered useless the Whatcom County Council may declare its intention to formally consider vacation, by resolution.

WHEREAS, without pre-judging the result of its future consideration of this matter, the Whatcom County Council has received sufficient information to warrant consideration of vacation of the right-of-way identified in the above-referenced petition and described more fully below;

NOW, THEREFORE, BE IT RESOLVED that it is the intention of the Whatcom County Council to consider vacation of the following described right of way:

All that portion of Thomas Road as dedicated on Bakerview Addition to the City of Bellingham, filed for record February 26, 1938, and recorded in Volume 7 of Plats, Pages 40 through 45, records of Whatcom County, Washington, more particularly described as follows: All that portion of said Thomas Road lying between the east right of way margin of Boxwood Road, as dedicated on said Bakerview Addition Plat and the centerline of Bennett Road, as dedicated on said Bakerview Addition Plat. Excepting therefrom the South 30.00 feet of said Thomas Road abutting Block 39 of said Bakerview Addition Plat. Situate in Whatcom County, Washington.

Subject to and/or together with all easements, covenants, restrictions and/or agreements of record or otherwise, and further subject to Whatcom County retaining an easement in respect to the portion of right-of-way proposed for vacation, for the construction, repair, and maintenance of any and all public utilities and services now located on or in the portion that may be vacated.

AND BE IT FURTHER RESOLVED that the County Engineer investigate and report to the County Council on the matter of the proposed vacation so that the Council may set a public hearing on the matter.

APPROVED this _____ day of _____, 2021

ATTEST:

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

Dana Brown-Davis, County Clerk

Barry Buchanan, Council Chair

Christopher Quinn
Civil Deputy Prosecutor
(approved electronically 7/27/2021)

BEFORE THE WHATCOM COUNTY COUNCIL

IN THE MATTER OF VACATION OF
THE COUNTY ROAD KNOWN AS

THOMAS ROAD

Petitioned for by:

CITY OF BELLINGHAM / FRANK AND PATRICIA IMHOF

et.al.

PETITION FOR VACATION
OF PLATTED ROAD

(RCW 58.17 AND 36.87)

JON AND AUBREY KORNELIS, TRACY DRURY, PORT OF BELLINGHAM, DANA AND DIANA JOHNSON and NWROAD PROPERTIES, LLC

Pursuant to Whatcom County Ordinance No. 1-72, dated February 14, 1972, the undersigned and those signing attached petition, which bears signatures and property descriptions of five land owners residing in the vicinity of said road, request vacation of the county road hereinafter described, and agree with the statements below:

1. Petitioners are residents of Whatcom County and owners of real property in the vicinity of the road sought to be vacated.

Yes. The City of Bellingham owns the property to the north and south of Thomas Road and Frank and Patricia Imhof own on the north side.

2. The road sought to be vacated is legally described as follows:

ALL THAT PORTION OF THOMAS ROAD, AS DEDICATED ON BAKERVIEW ADDITION TO THE CITY OF BELLINGHAM, FILED FOR RECORD FEBRUARY 26, 1938, AND RECORDED IN VOLUME 7 OF PLATS, PAGES 40 THROUGH 45, RECORDS OF WHATCOM COUNTY, WASHINGTON, MORE PARTICULARLY DESCRIBED AS FOLLOWS: ALL THAT PORTION OF SAID THOMAS ROAD LYING BETWEEN THE EAST RIGHT OF WAY MARGIN OF BOXWOOD ROAD, AS DEDICATED ON SAID BAKERVIEW ADDITION PLAT AND THE CENTERLINE OF BENNETT ROAD, AS DEDICATED ON SAID BAKERVIEW ADDITION PLAT. EXCEPTING THEREFROM THE SOUTH 30.00 FEET OF SAID THOMAS ROAD ABUTTING BLOCK 39 OF SAID BAKERVIEW ADDITION PLAT. SITUATE IN WHATCOM COUNTY, WASHINGTON. CONTAINING 1.73 ACRES, MORE OR LESS.

3. The pertinent facts in support of this petition are:

The subject portions of Thomas Road are unused right of way and traverse extensive wetlands near Bear Creek making development of a road difficult.

4. The road to be vacated is useless as a part of the County road system and the public will benefit by its vacation and abandonment. The right of way is not presently constructed and their vacation will allow the City to add property to its wetland mitigation bank area as well as allowing abutting owners to include the vacated ROW into their ownerships.

5. Petitioners will pay all costs and expenses incurred by the Count in examination, report, notice and proceedings pertaining to this petition.

The City of Bellingham will pay the cost and expenses for the vacations.

6. A bond in the penal sum of \$790.00, payable to Whatcom County Treasurer, accompanies this petition.

Yes it does.

7. The application fee accompanies this petition.

Yes it does.

WHEREFORE, petitioners request the County Road Engineer to report upon this petition, that a hearing take place on this report, and that an order be entered vacating and abandoning said road.

CONTACT PERSON:

Aneliese Burns

(COB Natural Resources - Habitat and Restoration Manager) Signed this 5th day of MAY, 2021.

Matt Gossett

(COB Real Property Manager)

Eric Johnston

(COB Public Works Director)

Page 1 of 2

WHEREFORE, petitioners request the County Road Engineer to report upon this petition, that a hearing take place on this report, and an order be entered vacating and abandoning said road. (NOTE: A minimum of five signatures is required by law; see statement near the beginning of page 1).

PETITIONERS' NAMES: Property owned by petitioner (part of sec. or name of plat, see (lot), TWP, (Blk) Range):

CITY OF BELLINGHAM:

Assessor's Parcel Numbers: 380202 209221 0000, 380202 150361 0000,
380202 333346 0000

Legal: Ptn of the NE1/4 of SW 1/4 of Section 2, Township 38, Range 2 East W.M.
and Lots 3-8, in both Blocks 92 and 93 Baker View Addition and Lot A in
Block 92 of Baker View Addition.

Address: 104 W. Magnolia Street, Bellingham, WA 98225

SIGNATURE OF THE MAYOR, SETH FLEETWOOD:



A map of the road proposed to be vacated and surrounding properties, with each of the above signed petitioners properties indicated thereon, shall be attached to this petition in order for it to be accepted in the County Council Office.

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PETITIONERS' NAMES: Property owned by petitioner (part of sec. or name of plat, see (lot), TWP, (Blk) Range):

FRANK AND PATRICIA IMHOF:

Assessor's Parcel Number: 380202 197020 0000

Legal: The E 1/2 of the SW 1/4, and in the SW 1/4 of the SE 1/4, all in Section 2,
Township 38N, Range 2E, lying southwesterly of Northwest Road.

Address: 4525 Northwest Drive, Bellingham, WA 98226

SIGNATURES OF FRANK and PATRICIA IMHOF:

Frank Imhof *Patricia Imhof*

A map of the road proposed to be vacated and surrounding properties, with each of the above signed petitioners properties indicated thereon, shall be attached to this petition in order for it to be accepted in the County Council Office.

Page 2 of 2

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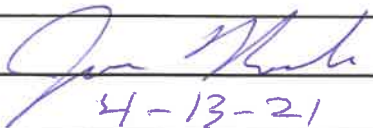
JON and AUBREY KORNELIS

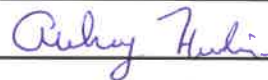
Assessor's Parcel Number: 380202 447237 0000

Legal: Bakerview Add to Bellingham - Lots 7-8 BLK 89 DAF-BEAP ON NLY LI
OF BLK 89 634.09 FT WLY OF NELY COR OF BLK 89 - TH SLY 627.30
FT TAP 633.72 FT FR ELY LI OF BLK 89 - TH WLY 331.87 FT TAP 626.60
FT FR NLY LI OF BLK 89 - TH NLY 626.60 FT TAP ON NLY LI OF BLK 89

Address: 4703 Aldrich Road, Bellingham, WA 98226-9683

SIGNATURES OF JON and AUBREY KORNELIS


4-13-21


4-15-21

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PETITIONERS' NAMES: Property owned by petitioner (part of sec. or name of plat, see (lot), TWP, (Blk) Range):

TRACY DRURY:

Assessor's Parcel Number: 380211 467546 0000

Legal: Lot 4 of the Jacobson short Plat as Recorded in Book 10 short Plats,

Page 36. Section 11, Township 38N, Range 2E

Address: 592 Trout Lake Drive, Bellingham, WA 98226

SIGNATURE OF TRACY DRURY:



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(The Port of Bellingham acknowledges notification of the petitioner's intent to seek vacation of the county road or portion thereof.)

PORT OF BELLINGHAM:

Assessor's Parcel Number: 380203 425205 0000

Legal: Lease Area 29 Bellingham International Airport General - Specific Binding
Site Plan as Recorded in Book 1, binding Site Plans, Page 64 - Bakerview
Addition to Bellingham - All of Lot 10 - that portion of Lot 11, Block 100
defined as follows - Beginning at a point on the southerly line of Lot 11
which is 110 feet east of intersection of said southerly line. Section 3,
Township 38N, Range 2E.

Address: XXXX Pacific Hwy., Bellingham, WA 98226

SIGNATURE OF THE PORT OF BELLINGHAM:

X 
Executive Director, Rob fix

Date: 3/3/21

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DDJ INVESTMENTS, LLC (DANA and DIANA JOHNSON):

Assessor's Parcel Number: 380203 500077 0000

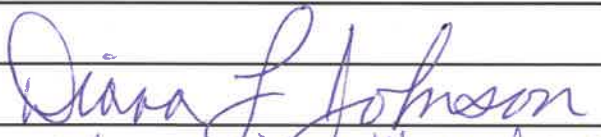
Legal: Bakerview Addition to Bellingham, Lot A, Block 97. Section 3, Township
38N, Range 2E.

Address: 928 Thomas Road, Bellingham, WA 98226

SIGNATURES OF DANA and DIANA JOHNSON:


Managing Member

2-1-2021


Managing Member

2-1-2021

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NWROAD PROPERTIES, LLC:

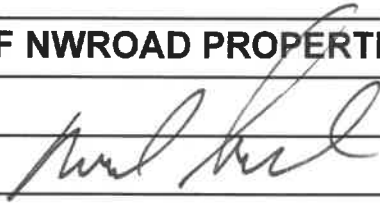
Assessor's Parcel Number: 380202 065211

Legal: Bakerview Addition to Bellingham Block 87

Address: 4719 Northwest Drive, Bellingham, WA 98226

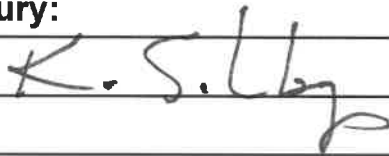
SIGNATURES OF NWROAD PROPERTIES, LLC:

Mark Salisbury:



2/10/21

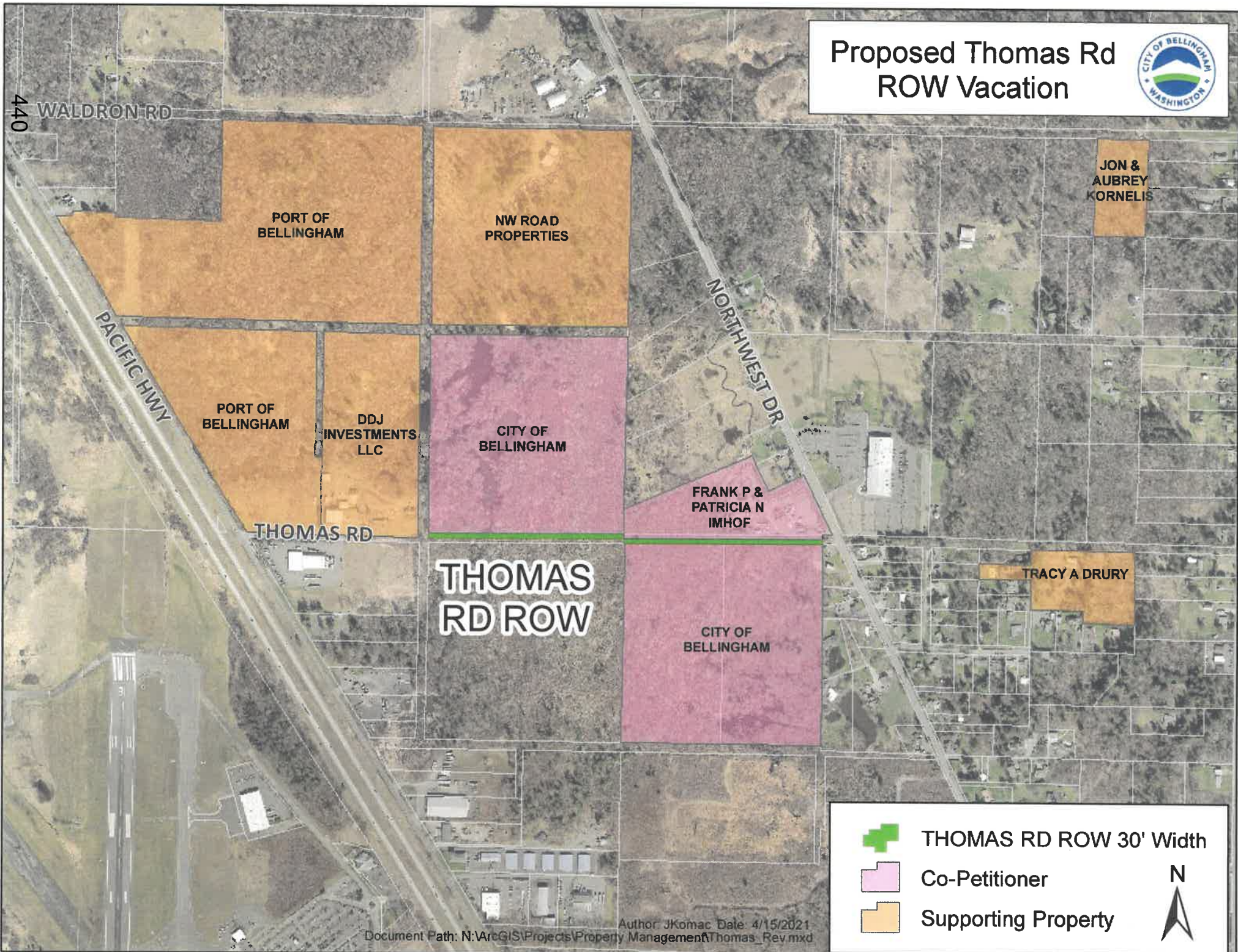
Kathy Salisbury:

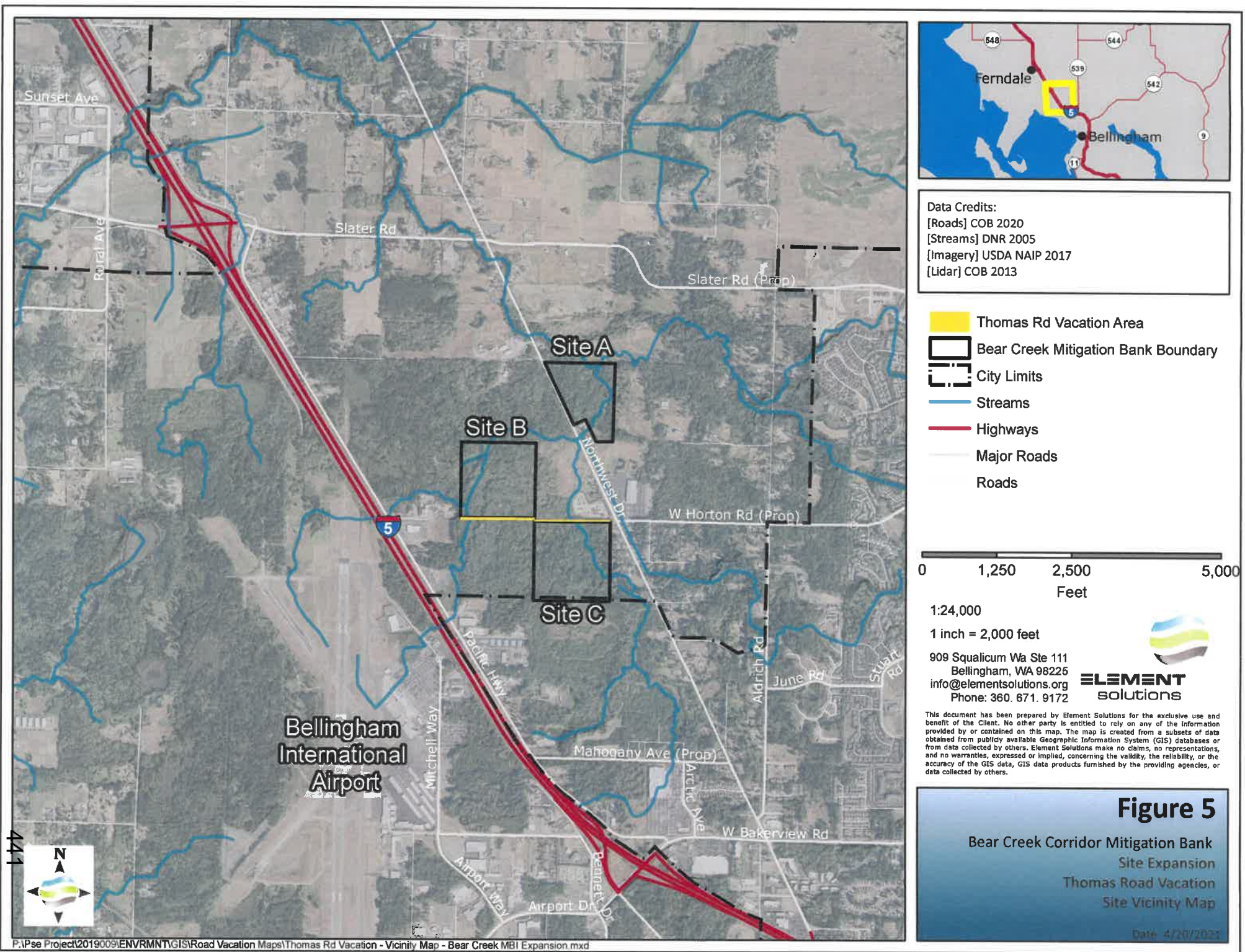


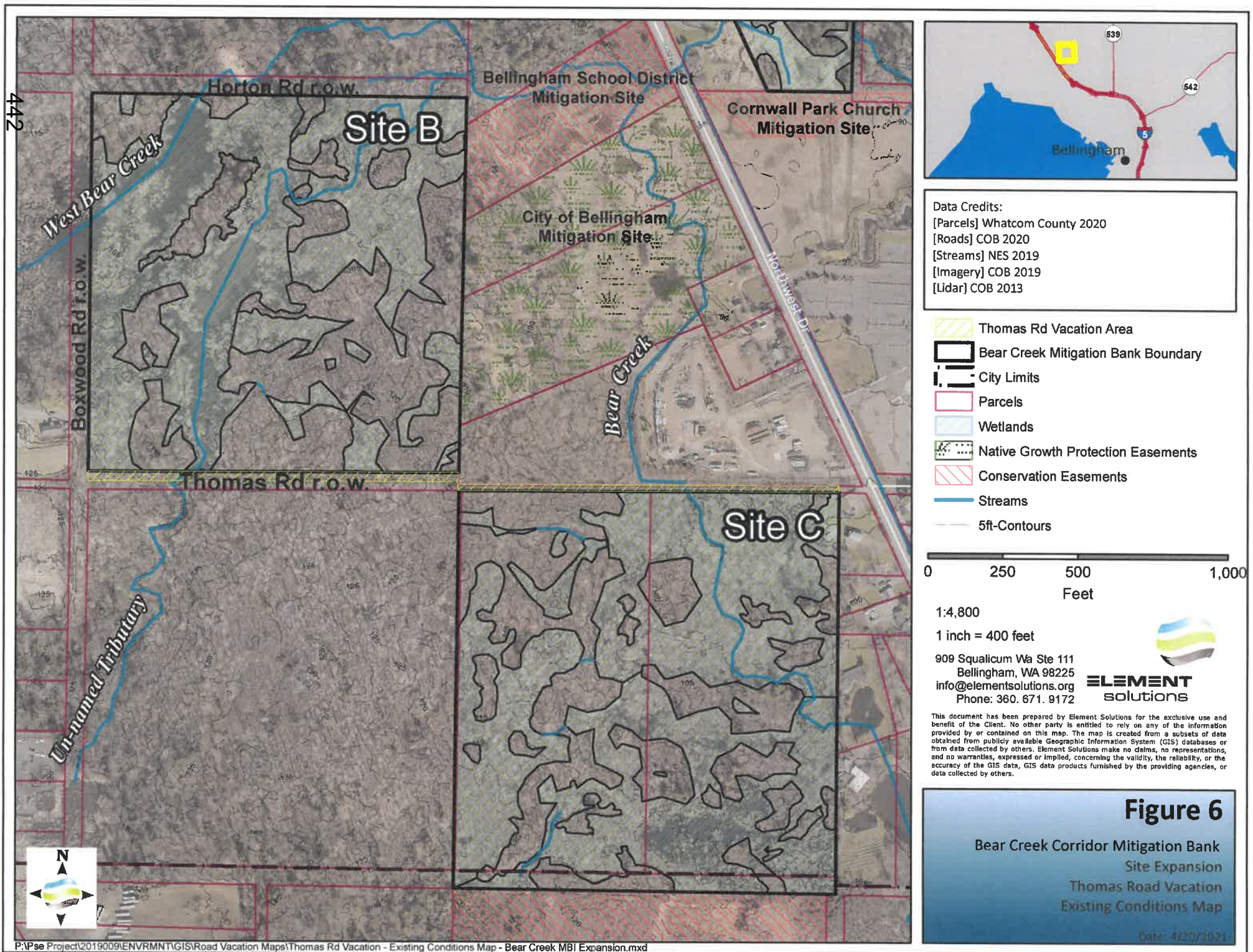
2/10/21

A map of the road proposed to be vacated and surrounding properties, with each of the above signed petitioners properties indicated thereon, shall be attached to this petition in order for it to be accepted in the County Council Office.

Proposed Thomas Rd ROW Vacation









Pacific Surveying & Engineering, Inc
land surveying • civil engineering • consulting • environmental
909 Squalicum Way #111, Bellingham, WA 98225
Phone 360.671.7387 Facsimile 360.671.4685 Email info@psurvey.com

EXHIBIT 'A'

THOMAS ROAD VACATION

ALL THAT PORTION OF THOMAS ROAD, AS DEDICATED ON BAKERVIEW ADDITION TO THE CITY OF BELLINGHAM, FILED FOR RECORD FEBRUARY 26, 1938, AND RECORDED IN VOLUME 7 OF PLATS, PAGES 40 THROUGH 45, RECORDS OF WHATCOM COUNTY, WASHINGTON, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

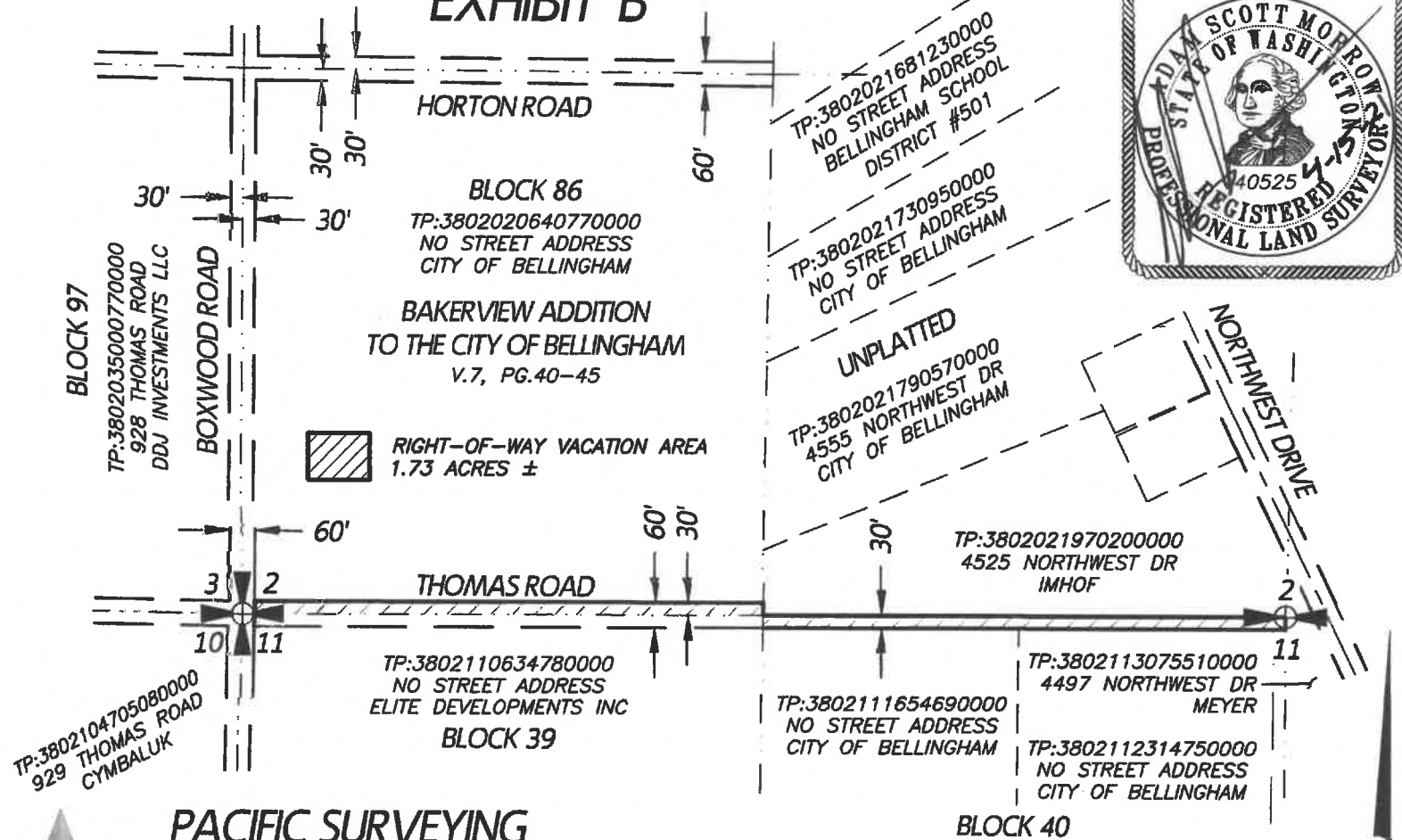
ALL THAT PORTION OF SAID THOMAS ROAD LYING BETWEEN THE EAST RIGHT OF WAY MARGIN OF BOXWOOD ROAD, AS DEDICATED ON SAID BAKERVIEW ADDITION PLAT AND THE CENTERLINE OF BENNETT ROAD, AS DEDICATED ON SAID BAKERVIEW ADDITION PLAT.

EXCEPTING THEREFROM THE SOUTH 30.00 FEET OF SAID THOMAS ROAD ABUTTING BLOCK 39 OF SAID BAKERVIEW ADDITION PLAT.

SITUATE IN WHATCOM COUNTY, WASHINGTON.

CONTAINING 1.73 ACRES, MORE OR LESS.



EXHIBIT 'B'
**PACIFIC SURVEYING
& ENGINEERING, INC.**

909 Squallicum Way, Suite 111 | BELLINGHAM, WA 98225
 T: 360.671.7387 | F: 360.671.4685
 WWW.PSESURVEY.COM | INFO@PSESURVEY.COM

SITUATE IN A PORTION OF THE SW 1/4 OF THE SW 1/4 OF SECTION 2 AND A
 PORTION THE NW1/4 OF THE NW 1/4 AND THE NE 1/4 OF THE NW 1/4 OF SECTION
 11, TOWNSHIP 38 NORTH, RANGE 2 EAST, W.M., WHATCOM COUNTY, WASHINGTON

Legend

- City Limits
- Urban Growth Boundary
- City Owned Property

Proposed Vacation

- County ROW
- City ROW



**Proposed ROW Vacations
& City-Owned Properties**



HORTON RD 60'

BOXWOOD
RD 60'

THOMAS RD 60'

STUART RD 60'



Whatcom County

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

Agenda Bill Master Report

File Number: AB2021-466

File ID:	AB2021-466	Version:	1	Status:	Agenda Ready
File Created:	07/28/2021	Entered by:	AHester@co.whatcom.wa.us		
Department:	Public Works Department	File Type:	Resolution		
Assigned to:	Council Public Works & Health Committee	Final Action:			
Agenda Date:	08/10/2021	Enactment #:			

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

TITLE FOR AGENDA ITEM:

Resolution in the matter of considering vacating a portion of Horton Road

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

The attached resolution in the matter of considering vacating a portion of Horton Road is submitted per RCW 36.87 and WCC 12-20. Adoption of this resolution will trigger the County Engineer to report on the proposed vacation at a future Council meeting. Once the County Engineer's report is submitted the road vacation will be considered by Council under a separate resolution and a public hearing will need to be scheduled

HISTORY OF LEGISLATIVE FILE

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

Attachments: Staff Memo, Proposed Resolution, Petition

JON HUTCHINGS
DIRECTOR



CIVIC CENTER
322 N. Commercial Street, Suite 210
Bellingham, WA 98225-4042
Telephone: (360) 778-6200
FAX: (360) 778-6201
www.whatcomcounty.us

MEMORANDUM

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

Through: Jon Hutchings, Director *AH*

From: Andrew Hester, Real Estate Coordinator *AH*

Date: July 27, 2021

Re: In the Matter of Considering Vacating a Portion of Horton Road

The attached petition asks for the vacation of a portion of Horton Road.

Recommended Action

The attached petition for vacation meets all statutory requirements. It is recommended that the County Council direct the County Engineer to investigate and report his findings to the County Council.

Please contact me at extension 6216 if you have any questions regarding this action.

Encl.

SPONSORED BY: _____

PROPOSED BY: _____ Public Works _____

INTRODUCTION DATE: _____

RESOLUTION NO. _____

IN THE MATTER OF CONSIDERING VACATING A PORTION OF HORTON ROAD

WHEREAS, on May 5, 2021; the City of Bellingham, et. al. submitted a petition for the vacation of a portion of Horton Road lying within the unincorporated area of Whatcom County, accompanied by the penal sum of \$790.00, and,

WHEREAS, as described in RCW 36.87.010, when a county road or any part thereof is considered useless the Whatcom County Council may declare its intention to formally consider vacation, by resolution.

WHEREAS, without pre-judging the result of its future consideration of this matter, the Whatcom County Council has received sufficient information to warrant consideration of vacation of the right-of-way identified in the above-referenced petition and described more fully below;

NOW, THEREFORE, BE IT RESOLVED that it is the intention of the Whatcom County Council to consider vacation of the following described right of way:

All that portion of Horton Road as dedicated on Bakerview Addition to the City of Bellingham, filed for record February 26, 1938, and recorded in Volume 7 of Plats, Pages 40 through 45, records of Whatcom County, Washington, more particularly described as follows: All that portion of said Horton Road lying between the east right of way margin of Boxwood Road, as dedicated on said Bakerview Addition Plat and the east line of Blocks 86 and 87 extended of, said Bakerview Addition Plat. Situate in Whatcom County, Washington.

Subject to and/or together with all easements, covenants, restrictions and/or agreements of record or otherwise, and further subject to Whatcom County retaining an easement in respect to the portion of right-of-way proposed for vacation, for the construction, repair, and maintenance of any and all public utilities and services now located on or in the portion that may be vacated.

AND BE IT FURTHER RESOLVED that the County Engineer investigate and report to the County Council on the matter of the proposed vacation so that the Council may set a public hearing on the matter.

APPROVED this _____ day of _____, 2021

ATTEST:

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

Dana Brown-Davis, County Clerk

Barry Buchanan, Council Chair

Christopher Quinn
Civil Deputy Prosecutor
(approved electronically 7/27/2021)

**IN THE MATTER OF VACATION OF
THE COUNTY ROAD KNOWN AS**

HORTON ROAD

Petitioned for by:

CITY OF BELLINGHAM / MARK AND KATHY SALISBURY

et.al.

PETITION FOR VACATION OF PLATTED ROAD

(RCW 58.17 AND 36.87)

JON AND AUBREY KORNELIS, TRACY DRURY, PORT OF BELLINGHAM, DANA AND DIANA JOHNSON and FRANK AND PATRICIA IMHOF

Pursuant to Whatcom County Ordinance No. 1-72, dated February 14, 1972, the undersigned and those signing attached petition, which bears signatures and property descriptions of five land owners residing in the vicinity of said road, request vacation of the county road hereinafter described, and agree with the statements below:

1. Petitioners are residents of Whatcom County and owners of real property in the vicinity of the road sought to be vacated.

Yes. The City of Bellingham owns the property to the south and, Mark and Kathy Salisbury own the property to the north.

2. The road sought to be vacated is legally described as follows:

ALL THAT PORTION OF HORTON ROAD AS DEDICATED ON BAKERVIEW ADDITION TO THE CITY OF BELLINGHAM, FILED FOR RECORD FEBRUARY 26, 1938, AND RECORDED IN VOLUME 7 OF PLATS, PAGES 40 THROUGH 45, RECORDS OF WHATCOM COUNTY, WASHINGTON, MORE PARTICULARLY DESCRIBED AS FOLLOWS: ALL THAT PORTION OF SAID HORTON ROAD LYING BETWEEN THE EAST RIGHT OF WAY MARGIN OF BOXWOOD ROAD, AS DEDICATED ON SAID BAKERVIEW ADDITION PLAT AND THE EAST LINE OF BLOCKS 86 AND 87 EXTENDED OF, SAID BAKERVIEW ADDITION PLAT. SITUATE IN WHATCOM COUNTY, WASHINGTON. CONTAINING 1.73 ACRES, MORE OR LESS.

3. The pertinent facts in support of this petition are: the subject portions of Horton Road have been unused right of way since the plat was recorded. It traverses extensive wetlands and crosses Bear Creek. The surrounding land has good access to other developed roads and future construction of the right of way would be difficult.

4. The road to be vacated is useless as a part of the County road system and the public will benefit by its vacation and abandonment. The right of way is not presently constructed and its vacation will allow the City to add property to its wetland mitigation bank area as well as allowing abutting owners to include the vacated ROW into their ownerships.

5. Petitioners will pay all costs and expenses incurred by the Count in examination, report, notice and proceedings pertaining to this petition.

The City of Bellingham will pay the costs and expenses for the vacations.

6. A bond in the penal sum of \$790.00, payable to Whatcom County Treasurer, accompanies this petition.
Yes it does.

7. The application fee accompanies this petition.
Yes it does.

WHEREFORE, petitioners request the County Road Engineer to report upon this petition, that a take place on this report, and that an order be entered vacating and abandoning said road.

CONTACT PERSON:

Analiese Burns

(COB Natural Resources - Habitat and Restoration Manager) Signed this

Matt Gossett

(COB Real Property Manager)

Eric Johnston

(COB Public Works Director)

Page 1 of 2

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CITY OF BELLINGHAM:

Assessor's Parcel Numbers: 380202 209221 0000, 380202 150361 0000,
380202 333346 0000

Legal: Ptn of the NE1/4 of SW 1/4 of Section 2, Township 38, Range 2 East W.M.
and Lots 3-8, in both Blocks 92 and 93 Baker View Addition and Lot A in
Block 92 of Baker View Addition.

Address: 104 W. Magnolia Street, Bellingham, WA 98225

SIGNATURE OF THE MAYOR, SETH FLEETWOOD:



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PETITIONERS' NAMES: Property owned by petitioner (part of sec. or name of plat, see (lot), TWP, (Blk) Range):

NWROAD PROPERTIES, LLC:

Assessor's Parcel Number: 380202 065211

Legal: Bakerview Addition to Bellingham Block 87

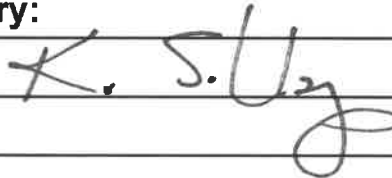
Address: 4719 Northwest Drive, Bellingham, WA 98226

SIGNATURES OF NWROAD PROPERTIES, LLC:

Mark Salisbury:

 2/10/21

Kathy Salisbury:

 2/10/21

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JON and AUBREY KORNELIS

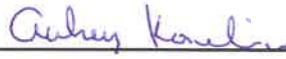
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OF BLK 89 634.09 FT WLY OF NELY COR OF BLK 89 - TH SLY 627.30
FT TAP 633.72 FT FR ELY LI OF BLK 89 - TH WLY 331.87 FT TAP 626.60
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TRACY DRURY:

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Legal: Lot 4 of the Jacobson short Plat as Recorded in Book 10 short Plats,
Page 36. Section 11, Township 38N, Range 2E

Address: 592 Trout Lake Drive, Bellingham, WA 98226

SIGNATURE OF TRACY DRURY:



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(The Port of Bellingham acknowledges notification of the petitioner's intent to seek vacation of the county road or portion thereof.)

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Assessor's Parcel Number: 380203 425205 0000

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defined as follows - Beginning at a point on the southerly line of Lot 11
which is 110 feet east of intersection of said southerly line. Section 3,
Township 38N, Range 2E.

Address: XXXX Pacific Hwy., Bellingham, WA 98226

SIGNATURE OF THE PORT OF BELLINGHAM:

X 
Executive Director, Rob Fix

Date: 3/3/21

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Address: 928 Thomas Road, Bellingham, WA 98226

SIGNATURES OF DANA and DIANA JOHNSON:

Dana Johnson Managing Member 2-1-2021
Diana Johnson Managing Member 2-1-2021

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FRANK AND PATRICIA IMHOF:

Assessor's Parcel Number: 380202 197020 0000

Legal: The E 1/2 of the SW 1/4, and in the SW 1/4 of the SE 1/4, all in Section 2,
Township 38N, Range 2E, lying southwesterly of Northwest Road.

Address: 4525 Northwest Drive, Bellingham, WA 98226

SIGNATURES OF FRANK and PATRICIA IMHOF:

The block contains two handwritten signatures in cursive. The first signature, on the left, is 'Frank Imhof' and the second, on the right, is 'Patricia Imhof'. They are written on a set of horizontal lines.

A map of the road proposed to be vacated and surrounding properties, with each of the above signed petitioners properties indicated thereon, shall be attached to this petition in order for it to be accepted in the County Council Office.

Proposed Horton Rd ROW Vacation



HORTON RD ROW

PORT OF
BELLINGHAM

NWROAD
PROPERTIES
LLC

JON &
AUBREY
KORNELIS

PACIFIC HWY

PORT OF
BELLINGHAM

DDJ
INVESTMENTS
LLC

CITY OF
BELLINGHAM

NORTHWEST DR

FRANK P &
PATRICIA N
IMHOF

THOMAS RD

TRACY A DRURY

457



HORTON RD ROW 60' Width

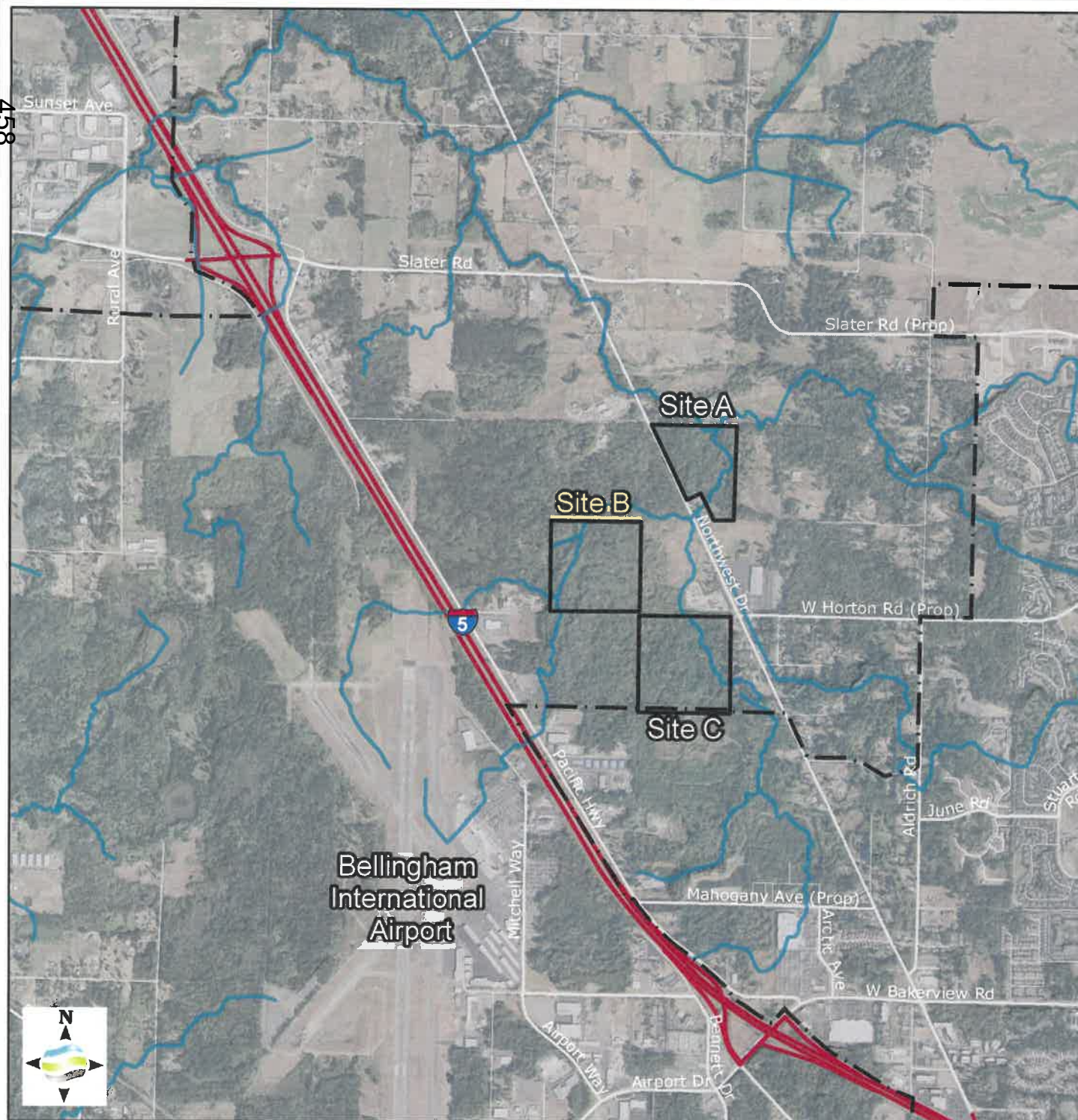


Co-Petitioner



Supporting Property





Data Credits:

[Roads] COB 2020

[Streams] DNR 2005

[Imagery] USDA NAIP 2017

[Lidar] COB 2013

- Horton Rd Vacation Area
- Bear Creek Mitigation Bank Boundary
- City Limits
- Streams
- Highways
- Major Roads
- Roads

0 1,250 2,500 5,000
Feet

1:24,000

1 inch = 2,000 feet

909 Squicum Wa Ste 111
Bellingham, WA 98225
info@elementsolutions.org
Phone: 360. 671. 9172

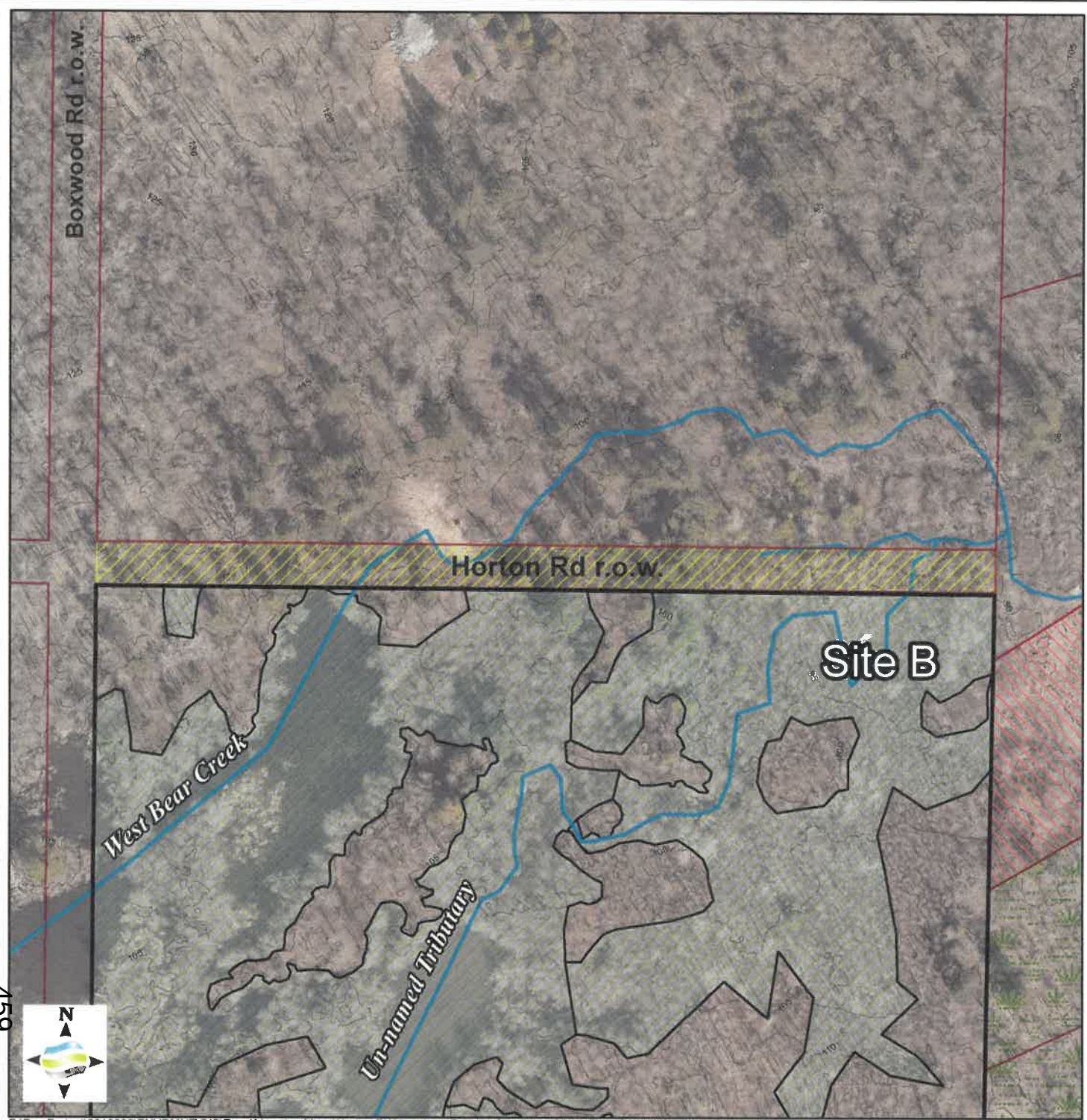


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Figure 3

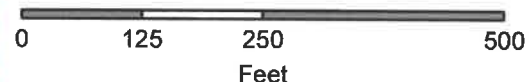
Bear Creek Corridor Mitigation Bank
Site Expansion
Horton Road Vacation
Site Vicinity Map

Date: 4/20/2021



Data Credits:
 [Parcels] Whatcom County 2020
 [Roads] COB 2020
 [Streams] NES 2019
 [Imagery] COB 2019
 [Lidar] COB 2013

- Horton Rd Vacation Area
- Bear Creek Mitigation Bank Boundary
- Parcels
- Wetlands
- Native Growth Protection Easements
- Conservation Easements
- Streams
- 5ft-Contours



1:2,400
 1 inch = 200 feet

909 Squallicum Wa Ste 111
 Bellingham, WA 98225
 info@elementsolutions.org
 Phone: 360. 671. 9172



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Figure 4
 Bear Creek Corridor Mitigation Bank
 Site Expansion
 Horton Road Vacation
 Existing Conditions Map
 Date: 4/20/2021



Pacific Surveying & Engineering, Inc

land surveying • civil engineering • consulting • environmental
909 Squalicum Way #111, Bellingham, WA 98225
Phone 360.671.7387 Facsimile 360.671.4685 Email info@psurvey.com

EXHIBIT 'A'

HORTON ROAD VACATION

ALL THAT PORTION OF HORTON ROAD AS DEDICATED ON BAKERVIEW ADDITION TO THE CITY OF BELLINGHAM, FILED FOR RECORD FEBRUARY 26, 1938, AND RECORDED IN VOLUME 7 OF PLATS, PAGES 40 THROUGH 45, RECORDS OF WHATCOM COUNTY, WASHINGTON, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

ALL THAT PORTION OF SAID HORTON ROAD LYING BETWEEN THE EAST RIGHT OF WAY MARGIN OF BOXWOOD ROAD, AS DEDICATED ON SAID BAKERVIEW ADDITION PLAT AND THE EAST LINE OF BLOCKS 86 AND 87 EXTENDED OF, SAID BAKERVIEW ADDITION PLAT.

SITUATE IN WHATCOM COUNTY, WASHINGTON.

CONTAINING 1.73 ACRES, MORE OR LESS.



BLOCK 87
TP:3802020652110000
4719 NORTHWEST DR
NWROAD PROPERTIES LLC

BLOCK 86
TP:3802020640770000
NO STREET ADDRESS
CITY OF BELLINGHAM
**BAKERVUE ADDITION
TO THE CITY OF BELLINGHAM**
V.7, PG.40-45

BLOCK 97
TP:3802035000770000
928 THOMAS ROAD
DDJ INVESTMENTS LLC

BLOCK 39
TP:3802110634780000
NO STREET ADDRESS
ELITE DEVELOPMENTS INC

TP:3802021601570000
NO STREET ADDRESS
GUNDERSON

TP:3802021681230000
NO STREET ADDRESS
BELLINGHAM SCHOOL
DISTRICT #501

TP:3802021730950000
NO STREET ADDRESS
CITY OF BELLINGHAM

UNPLATTED
TP:3802021790570000
4555 NORTHWEST DR
CITY OF BELLINGHAM

TP:3802021970200000
4525 NORTHWEST DR
IMHOF

TP:3802111654690000
NO STREET ADDRESS
CITY OF BELLINGHAM

TP:3802104705080000
929 THOMAS ROAD
CYMBALUK

HORTON ROAD

BOXWOOD ROAD

THOMAS ROAD

30' 30' 60' 30' 60' 30' 30' 60'

3 2 10 11

RIGHT-OF-WAY VACATION AREA
1.73 ACRES ±

Legend

- City Limits
- Urban Growth Boundary
- City Owned Property

Proposed Vacation

- County ROW
- City ROW



**Proposed ROW Vacations
& City-Owned Properties**



HORTON RD 60'

BOXWOOD
RD 60'

THOMAS RD 60'

STUART RD 60'



Whatcom County

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

Agenda Bill Master Report

File Number: AB2021-467

File ID:	AB2021-467	Version:	1	Status:	Agenda Ready
File Created:	07/28/2021	Entered by:	AHester@co.whatcom.wa.us		
Department:	Public Works Department	File Type:	Resolution		
Assigned to:	Council Public Works & Health Committee	Final Action:			
Agenda Date:	08/10/2021	Enactment #:			

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

TITLE FOR AGENDA ITEM:

Resolution in the matter of considering vacating a portion of Boxwood Road

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

The attached resolution in the matter of considering vacating a portion of Boxwood Road is submitted per RCW 36.87 and WCC 12-20. Adoption of this resolution will trigger the County Engineer to report on the proposed vacation at a future Council meeting. Once the County Engineer's report is submitted the road vacation will be considered by Council under a separate resolution and a public hearing will need to be scheduled

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:

Attachments: Staff memo, Proposed Resolution, Petition



MEMORANDUM

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

Through: Jon Hutchings, Director

From: Andrew Hester, Real Estate Coordinator AH

Date: July 27, 2021

Re: In the Matter of Considering Vacating a Portion of Boxwood Road

The attached petition asks for the vacation of a portion of Boxwood Road.

Recommended Action

The attached petition for vacation meets all statutory requirements. It is recommended that the County Council direct the County Engineer to investigate and report his findings to the County Council.

Please contact me at extension 6216 if you have any questions regarding this action.

Encl.

SPONSORED BY: _____

PROPOSED BY: _____ Public Works _____

INTRODUCTION DATE: _____

RESOLUTION NO. _____

IN THE MATTER OF CONSIDERING VACATING A PORTION OF BOXWOOD ROAD

WHEREAS, on May 5, 2021; the City of Bellingham, et. al. submitted a petition for the vacation of a portion of Boxwood Road lying within the unincorporated area of Whatcom County, accompanied by the penal sum of \$790.00, and,

WHEREAS, as described in RCW 36.87.010, when a county road or any part thereof is considered useless the Whatcom County Council may declare its intention to formally consider vacation, by resolution.

WHEREAS, without pre-judging the result of its future consideration of this matter, the Whatcom County Council has received sufficient information to warrant consideration of vacation of the right-of-way identified in the above-referenced petition and described more fully below;

NOW, THEREFORE, BE IT RESOLVED that it is the intention of the Whatcom County Council to consider vacation of the following described right of way:

All that portion of Boxwood Road as dedicated on Bakerview Addition to the City of Bellingham, filed for record February 26, 1938, and recorded in Volume 7 of Plats, Pages 40 through 45, records of Whatcom County, Washington, more particularly described as follows: All that portion of said Boxwood Road lying between the south right of way margin of Horton Road, as dedicated on said Bakerview Addition Plat and the north right of way margin of Thomas Road, as dedicated on said Bakerview Addition Plat. Situate in Whatcom County, Washington.

Subject to and/or together with all easements, covenants, restrictions and/or agreements of record or otherwise, and further subject to Whatcom County retaining an easement in respect to the portion of right-of-way proposed for vacation, for the construction, repair, and maintenance of any and all public utilities and services now located on or in the portion that may be vacated.

AND BE IT FURTHER RESOLVED that the County Engineer investigate and report to the County Council on the matter of the proposed vacation so that the Council may set a public hearing on the matter.

APPROVED this _____ day of _____, 2021

ATTEST:

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

Dana Brown-Davis, County Clerk

Barry Buchanan, Council Chair

Christopher Quinn
Civil Deputy Prosecutor
(approved electronically 7/27/2021)

BEFORE THE WHATCOM COUNTY COUNCIL

IN THE MATTER OF VACATION OF
THE COUNTY ROAD KNOWN AS

BOXWOOD ROAD

Petitioned for by:

CITY OF BELLINGHAM / DANA and DIANA JOHNSON

et.al.

JON AND AUBREY KORNELIS, TRACY DRURY, FRANK AND PATRICIA IMHOF, PORT OF BELLINGHAM, and NWROAD
PROPERTIES, LLC

**PETITION FOR VACATION
OF PLATTED ROAD**

(RCW 58.17 AND 36.87)

Pursuant to Whatcom County Ordinance No. 1-72, dated February 14, 1972, the undersigned and those signing attached petition, which bears signatures and property descriptions of five land owners residing in the vicinity of said road, request vacation of the county road hereinafter described, and agree with the statements below:

1. Petitioners are residents of Whatcom County and owners of real property in the vicinity of the road sought to be vacated.

Yes. The City of Bellingham owns the property to the east and Dana and Diana Johnson own the property to the west.

2. The road sought to be vacated is legally described as follows:

ALL THAT PORTION OF BOXWOOD ROAD AS DEDICATED ON BAKERVIEW ADDITION TO THE CITY OF BELLINGHAM, FILED FOR RECORD FEBRUARY 26, 1938, AND RECORDED IN VOLUME 7 OF PLATS, PAGES 40 THORUGH 45, RECORDS OF WHATCOM COUNTY, WASHINGTON, MORE PARTICULARLY DESCRIBED AS FOLLOWS: ALL THAT PORTION OF SAID BOXWOOD ROAD LYING BETWEEN THE SOUTH RIGHT OF WAY MARGIN OF HORTON ROAD, AS DEDICATED ON SAID BAKERVIEW ADDITION PLAT AND THE NORTH RIGHT OF WAY MARGIN OF THOMAS ROAD, AS DEDICATED ON SAID BAKERVIEW ADDITION PLAT. SITUATE IN WHATCOM COUNTY, WASHINGTON. CONTAINING 1.73 ACRES MORE OR LESS.

3. The pertinent facts in support of this petition are: The subject portions of Boxwood Road have been unused ROW since they were recorded. Boxwood traverses an extensive wetland area and crosses a section of West Bear Creek. The surrounding land has good access to other developed roads and future construction of the ROW would be difficult.

4. The road to be vacated is useless as a part of the County road system and the public will benefit by its vacation and abandonment. The ROW is not presently constructed and its vacation will allow the City to add property to its wetland mitigation bank area as well as allowing abutting owners to include vacated ROW into their ownerships.

5. Petitioners will pay all costs and expenses incurred by the Count in examination, report, notice and proceedings pertaining to this petition.

The City of Bellingham will pay the costs and expenses for the vacations.

6. A bond in the penal sum of \$790.00, payable to Whatcom County Treasurer, accompanies this petition.

Yes it does.

7. The application fee accompanies this petition.

Yes it does.

WHEREFORE, petitioners request the County Road Engineer to report upon this petition, that a hearing take place on this report, and that an order be entered vacating and abandoning said road.

CONTACT PERSON:

Analiene Burns

(COB Natural Resources - Habitat and Restoration Manager) Signed this 5th day of MAY, 2021.

Matt Gossett

(COB Real Property Manager)

Eric Johnston

(COB Public Works Director)

Page 1 of 2

WHEREFORE, petitioners request the County Road Engineer to report upon this petition, that a hearing take place on this report, and an order be entered vacating and abandoning said road. (NOTE: A minimum of five signatures is required by law; see statement near the beginning of page 1).

PETITIONERS' NAMES: Property owned by petitioner (part of sec. or name of plat, see (lot), TWP, (Blk) Range):

CITY OF BELLINGHAM:

Assessor's Parcel Numbers: 380202 209221 0000, 380202 150361 0000,
380202 333346 0000

Legal: Ptn of the NE1/4 of SW 1/4 of Section 2, Township 38, Range 2 East W.M.
and Lots 3-8, in both Blocks 92 and 93 Baker View Addition and Lot A in
Block 92 of Baker View Addition.

Address: 104 W. Magnolia Street, Bellingham, WA 98225

SIGNATURE OF THE MAYOR, SETH FLEETWOOD:



A map of the road proposed to be vacated and surrounding properties, with each of the above signed petitioners properties indicated thereon, shall be attached to this petition in order for it to be accepted in the County Council Office.

WHEREFORE, petitioners request the County Road Engineer to report upon this petition, that a hearing take place on this report, and an order be entered vacating and abandoning said road. (NOTE: A minimum of five signatures is required by law; see statement near the beginning of page 1).

PETITIONERS' NAMES: Property owned by petitioner (part of sec. or name of plat, see (lot), TWP, (Blk) Range):

DDJ INVESTMENTS, LLC (DANA and DIANA JOHNSON):

Assessor's Parcel Number: 380203 500077 0000

Legal: Bakerview Addition to Bellingham, Lot A, Block 97. Section 3, Township
38N, Range 2E.

Address: 928 Thomas Road, Bellingham, WA 98226

SIGNATURES OF DANA and DIANA JOHNSON:

Dana Johnson Managing Member 2-1-2021

Diana Johnson Managing Member 2-1-2021

A map of the road proposed to be vacated and surrounding properties, with each of the above signed petitioners properties indicated thereon, shall be attached to this petition in order for it to be accepted in the County Council Office.

WHEREFORE, petitioners request the County Road Engineer to report upon this petition, that a hearing take place on this report, and an order be entered vacating and abandoning said road. (NOTE: A minimum of five signatures is required by law; see statement near the beginning of page 1).

PETITIONERS' NAMES: Property owned by petitioner (part of sec. or name of plat, see (lot), TWP, (Blk) Range):

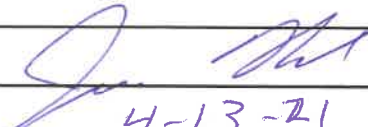
JON and AUBREY KORNELIS


Assessor's Parcel Number: 380202 447237 0000

Legal: Bakerview Add to Bellingham - Lots 7-8 BLK 89 DAF-BEAP ON NLY LI
OF BLK 89 634.09 FT WLY OF NELY COR OF BLK 89 - TH SLY 627.30
FT TAP 633.72 FT FR ELY LI OF BLK 89 - TH WLY 331.87 FT TAP 626.60
FT FR NLY LI OF BLK 89 - TH NLY 626.60 FT TAP ON NLY LI OF BLK 89

Address: 4703 Aldrich Road, Bellingham, WA 98226-9683

SIGNATURES OF JON and AUBREY KORNELIS


4-13-21


4-15-21

A map of the road proposed to be vacated and surrounding properties, with each of the above signed petitioners properties indicated thereon, shall be attached to this petition in order for it to be accepted in the County Council Office.

WHEREFORE, petitioners request the County Road Engineer to report upon this petition, that a hearing take place on this report, and an order be entered vacating and abandoning said road. (NOTE: A minimum of five signatures is required by law; see statement near the beginning of page 1).

PETITIONERS' NAMES: Property owned by petitioner (part of sec. or name of plat, see (lot), TWP, (Blk) Range):

TRACY DRURY:

Assessor's Parcel Number: 380211 467546 0000

Legal: Lot 4 of the Jacobson short Plat as Recorded in Book 10 short Plats,

Page 36. Section 11, Township 38N, Range 2E

Address: 592 Trout Lake Drive, Bellingham, WA 98226

SIGNATURE OF TRACY DRURY:



A map of the road proposed to be vacated and surrounding properties, with each of the above signed petitioners properties indicated thereon, shall be attached to this petition in order for it to be accepted in the County Council Office.

Page 2 of 2

WHEREFORE, petitioners request the County Road Engineer to report upon this petition, that a hearing take place on this report, and an order be entered vacating and abandoning said road. (NOTE: A minimum of five signatures is required by law; see statement near the beginning of page 1).

PETITIONERS' NAMES: Property owned by petitioner (part of sec. or name of plat, see (lot), TWP, (Blk) Range):

FRANK AND PATRICIA IMHOF:

Assessor's Parcel Number: 380202 197020 0000

Legal: The E 1/2 of the SW 1/4, and in the SW 1/4 of the SE 1/4, all in Section 2,
Township 38N, Range 2E, lying southwesterly of Northwest Road.

Address: 4525 Northwest Drive, Bellingham, WA 98226

SIGNATURES OF FRANK and PATRICIA IMHOF:

The block contains two handwritten signatures in cursive. The first signature, on the left, is 'Frank Imhof' and the second signature, on the right, is 'Patricia Imhof'. They are written on a set of horizontal lines.

A map of the road proposed to be vacated and surrounding properties, with each of the above signed petitioners properties indicated thereon, shall be attached to this petition in order for it to be accepted in the County Council Office.

WHEREFORE, petitioners request the County Road Engineer to report upon this petition, that a hearing take place on this report, and an order be entered vacating and abandoning said road. (NOTE: A minimum of five signatures is required by law; see statement near the beginning of page 1).

PETITIONERS' NAMES: Property owned by petitioner (part of sec. or name of plat, see (lot), TWP, (Blk) Range):

(The Port of Bellingham acknowledges notification of the petitioner's intent to seek vacation of the county road or portion thereof.)

PORT OF BELLINGHAM:

Assessor's Parcel Number: 380203 425205 0000

Legal: Lease Area 29 Bellingham International Airport General - Specific Binding
Site Plan as Recorded in Book 1, binding Site Plans, Page 64 - Bakerview
Addition to Bellingham - All of Lot 10 - that portion of Lot 11, Block 100
defined as follows - Beginning at a point on the southerly line of Lot 11
which is 110 feet east of intersection of said southerly line. Section 3,
Township 38N, Range 2E.

Address: XXXX Pacific Hwy., Bellingham, WA 98226

SIGNATURE OF THE PORT OF BELLINGHAM:

X 
Executive Director, Rob Fix

Date: 3/3/21

A map of the road proposed to be vacated and surrounding properties, with each of the above signed petitioners properties indicated thereon, shall be attached to this petition in order for it to be accepted in the County Council Office.

WHEREFORE, petitioners request the County Road Engineer to report upon this petition, that a hearing take place on this report, and an order be entered vacating and abandoning said road. (NOTE: A minimum of five signatures is required by law; see statement near the beginning of page 1).

PETITIONERS' NAMES: Property owned by petitioner (part of sec. or name of plat, see (lot), TWP, (Blk) Range):

NWROAD PROPERTIES, LLC:

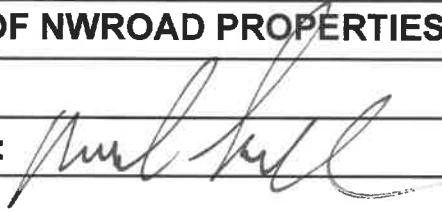
Assessor's Parcel Number: 380202 065211

Legal: Bakerview Addition to Bellingham Block 87

Address: 4719 Northwest Drive, Bellingham, WA 98226

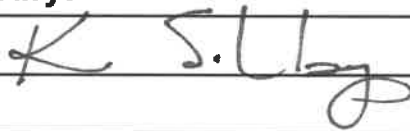
SIGNATURES OF NWROAD PROPERTIES, LLC:

Mark Salisbury:



2/10/21

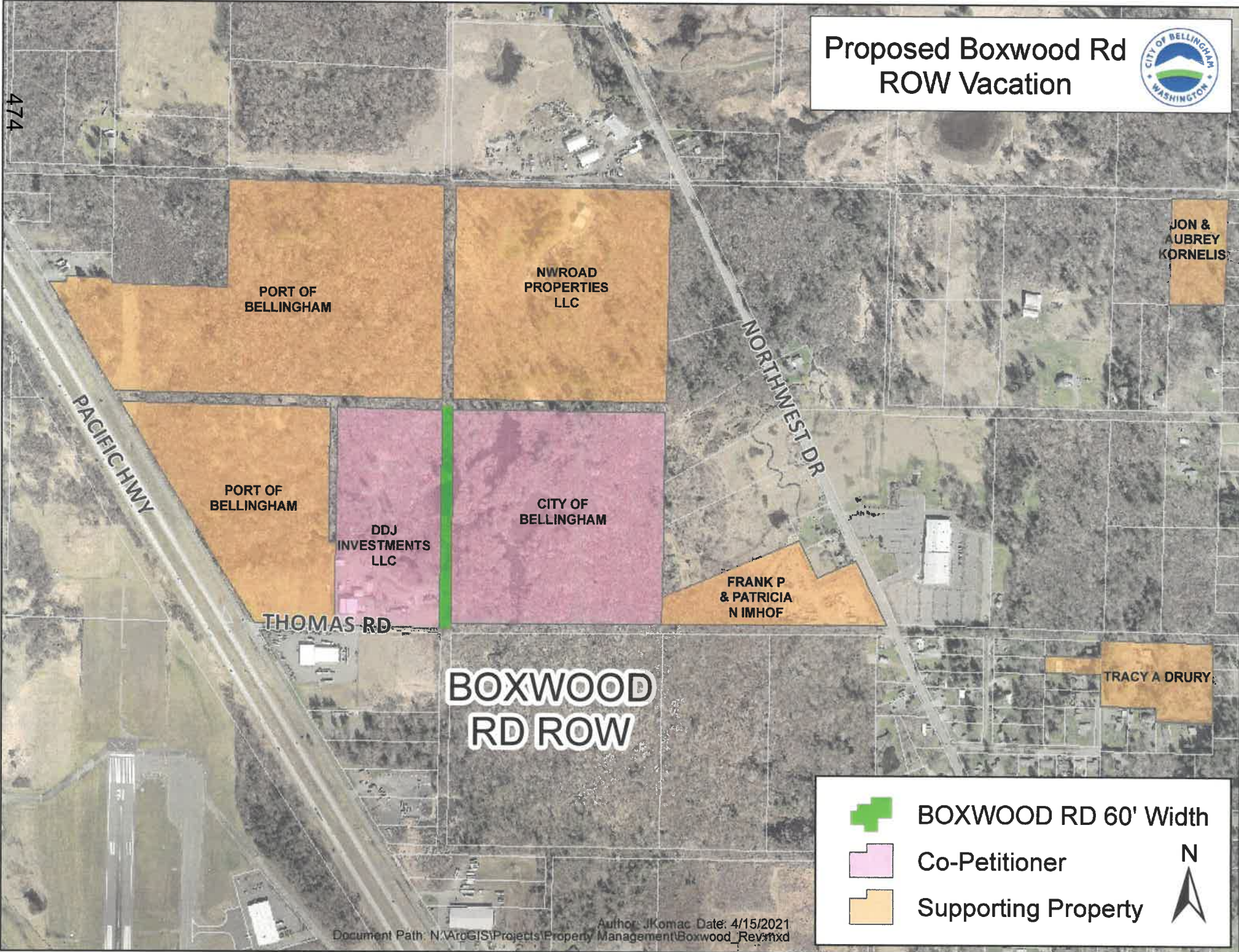
Kathy Salisbury:



2/10/21

A map of the road proposed to be vacated and surrounding properties, with each of the above signed petitioners properties indicated thereon, shall be attached to this petition in order for it to be accepted in the County Council Office.

Proposed Boxwood Rd ROW Vacation



474

JON &
AUBREY
KORNELIS

PORT OF
BELLINGHAM

NWROAD
PROPERTIES
LLC

PORT OF
BELLINGHAM

DDJ
INVESTMENTS
LLC

CITY OF
BELLINGHAM

FRANK P
& PATRICIA
NIMHOF

THOMAS RD

**BOXWOOD
RD ROW**

TRACY A DRURY



BOXWOOD RD 60' Width

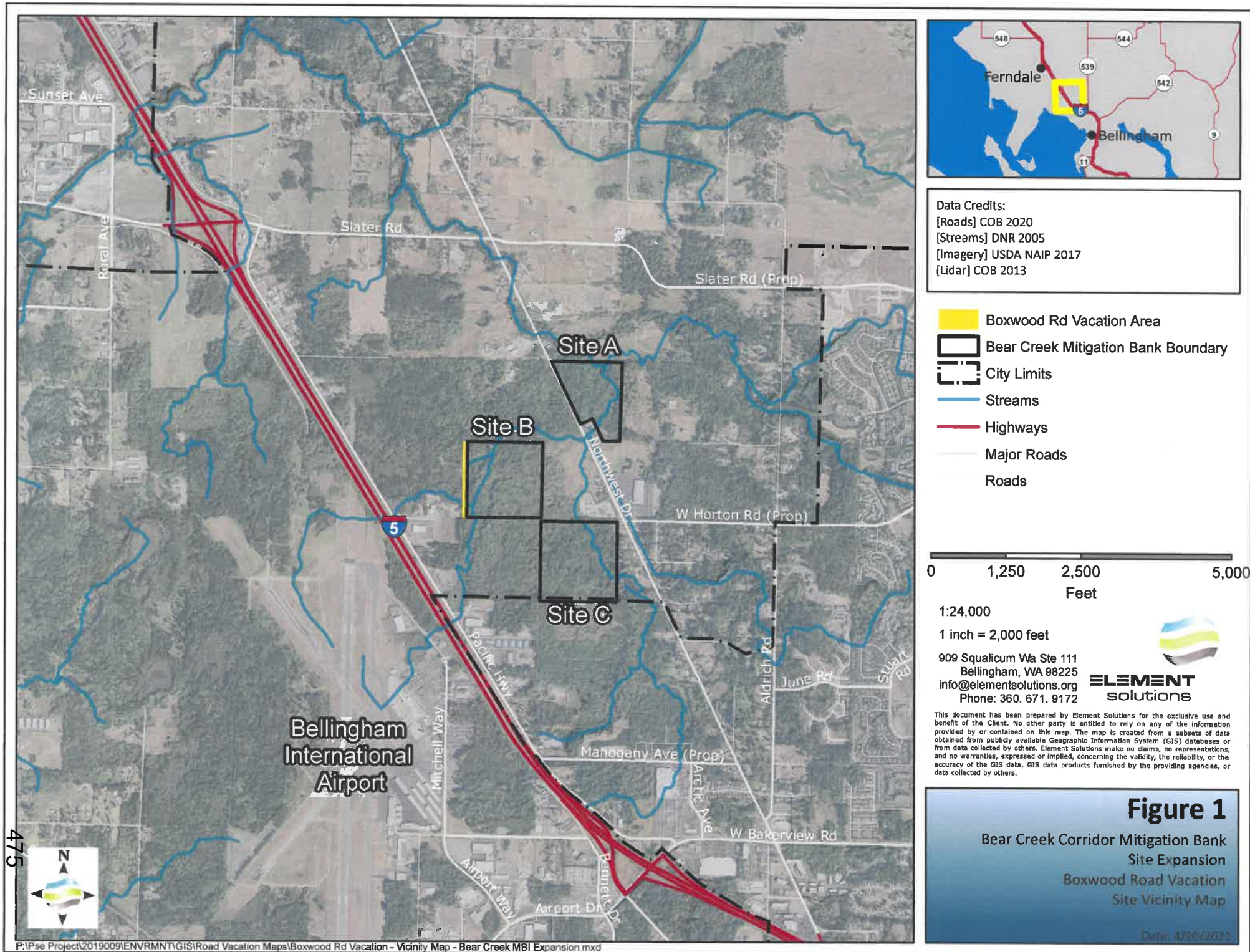


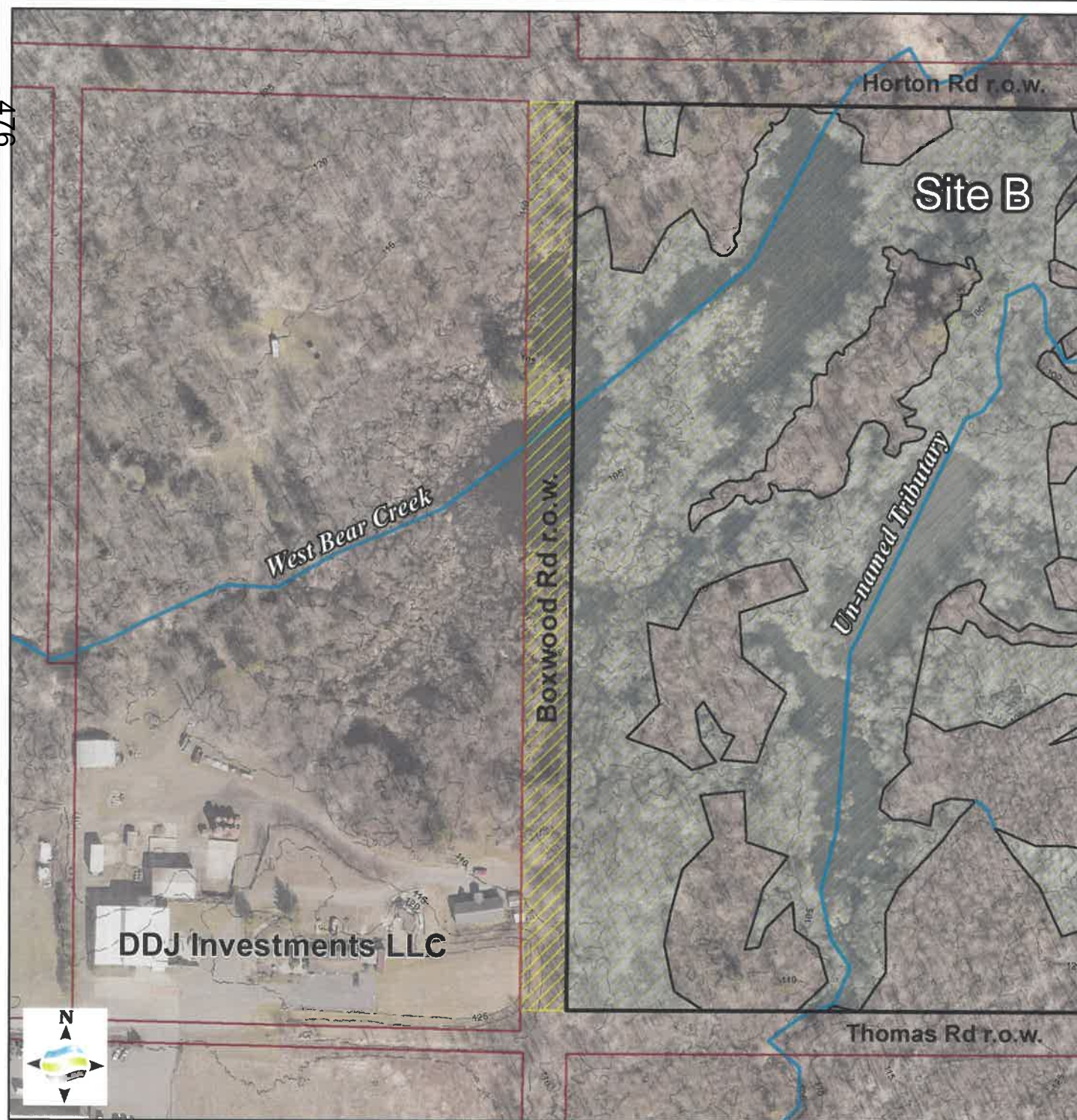
Co-Petitioner



Supporting Property



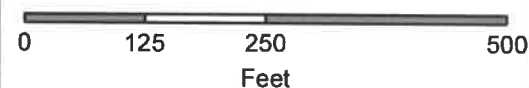




Data Credits:

[Parcels] Whatcom County 2020
 [Roads] COB 2020
 [Streams] NES 2019
 [Imagery] COB 2019
 [Lidar] COB 2013

- Boxwood Rd Vacation Area
- Bear Creek Mitigation Bank Boundary
- Parcels
- Wetlands
- Streams
- 5ft-Contours



1:2,400

1 inch = 200 feet

909 Squallicum Wa Ste 111
 Bellingham, WA 98225
info@elementsolutions.org
 Phone: 360. 671. 9172



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Figure 2

Bear Creek Corridor Mitigation Bank
 Site Expansion
 Boxwood Road Vacation
 Existing Conditions Map

Date: 4/20/2021



Pacific Surveying & Engineering, Inc

land surveying • civil engineering • consulting • environmental
909 Squalicum Way #111, Bellingham, WA 98225
Phone 360.671.7387 Facsimile 360.671.4685 Email info@psurvey.com

EXHIBIT 'A'

BOXWOOD ROAD VACATION

ALL THAT PORTION OF BOXWOOD ROAD AS DEDICATED ON BAKERVIEW ADDITION TO THE CITY OF BELLINGHAM, FILED FOR RECORD FEBRUARY 26, 1938, AND RECORDED IN VOLUME 7 OF PLATS, PAGES 40 THROUGH 45, RECORDS OF WHATCOM COUNTY, WASHINGTON, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

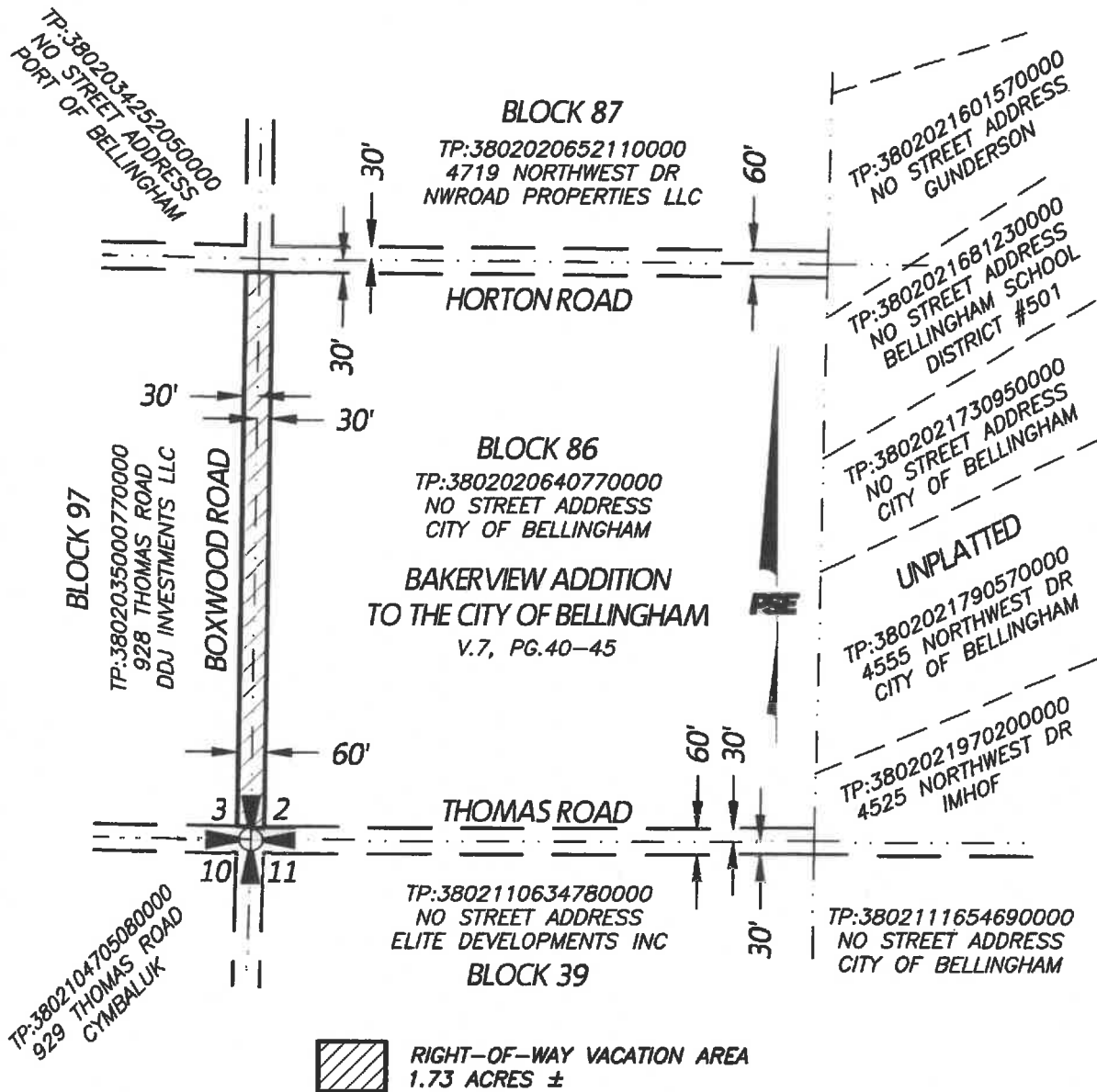
ALL THAT PORTION OF SAID BOXWOOD ROAD LYING BETWEEN THE SOUTH RIGHT OF WAY MARGIN OF HORTON ROAD, AS DEDICATED ON SAID BAKERVIEW ADDITION PLAT AND THE NORTH RIGHT OF WAY MARGIN OF THOMAS ROAD, AS DEDICATED ON SAID BAKERVIEW ADDITION PLAT.

SITUATE IN WHATCOM COUNTY, WASHINGTON.

CONTAINING 1.73 ACRES, MORE OR LESS.



EXHIBIT 'B'



SITUATE IN A PORTION OF THE SW 1/4 OF THE SW 1/4 OF SECTION 2 AND
A PORTION THE SE 1/4 OF THE SE 1/4 OF SECTION 3, TOWNSHIP 38 NORTH,
RANGE 2 EAST, W.M., WHATCOM COUNTY, WASHINGTON



**PACIFIC SURVEYING
& ENGINEERING, INC.**

909 Squallicum Way, Suite 111 | BELLINGHAM, WA 98225
T: 360.671.7387 | F: 360.671.4685
WWW.PSESURVEY.COM | INFO@PSESURVEY.COM



DWG: 2019009_svX_ROW_Vacation.dwg DATE: 3.29.2021 JOB#: 2019009 SCALE: 1"=400' SHEET: 1 OF 1

Legend

- City Limits
- Urban Growth Boundary
- City Owned Property

Proposed Vacation

- County ROW
- City ROW



**Proposed ROW Vacations
& City-Owned Properties**



HORTON RD 60'

BOXWOOD
RD 60'

THOMAS RD 60'

STUART RD 60'



Whatcom County

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

Agenda Bill Master Report

File Number: AB2021-455

File ID:	AB2021-455	Version:	1	Status:	Agenda Ready
File Created:	07/26/2021	Entered by:	AReynold@co.whatcom.wa.us		
Department:	County Executive's Office	File Type:	Report		
Assigned to:	Council Criminal Justice and Public Safety Committee				Final Action:
Agenda Date:	08/10/2021	Enactment #:			

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

TITLE FOR AGENDA ITEM:

Report from the Sheriff's Office

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

Sheriff's Office annual report to Council

HISTORY OF LEGISLATIVE FILE

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

Attachments:



Whatcom County

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

Agenda Bill Master Report

File Number: AB2021-471

File ID:	AB2021-471	Version:	1	Status:	Agenda Ready
File Created:	07/28/2021	Entered by:	JGay@co.whatcom.wa.us		
Department:	Health Department	File Type:	Presentation		
Assigned to:	Council Committee of the Whole			Final Action:	
Agenda Date:	08/10/2021			Enactment #:	

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

TITLE FOR AGENDA ITEM:

Presentation from the Health Department of the Community Health Impact Assessment

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

The Health Department's Community Health Impact Assessment is a compilation of quantitative and qualitative data regarding COVID impacts on community health. The assessment was intentionally limited to the five priority areas that are the focus of the community health improvement process. These are:

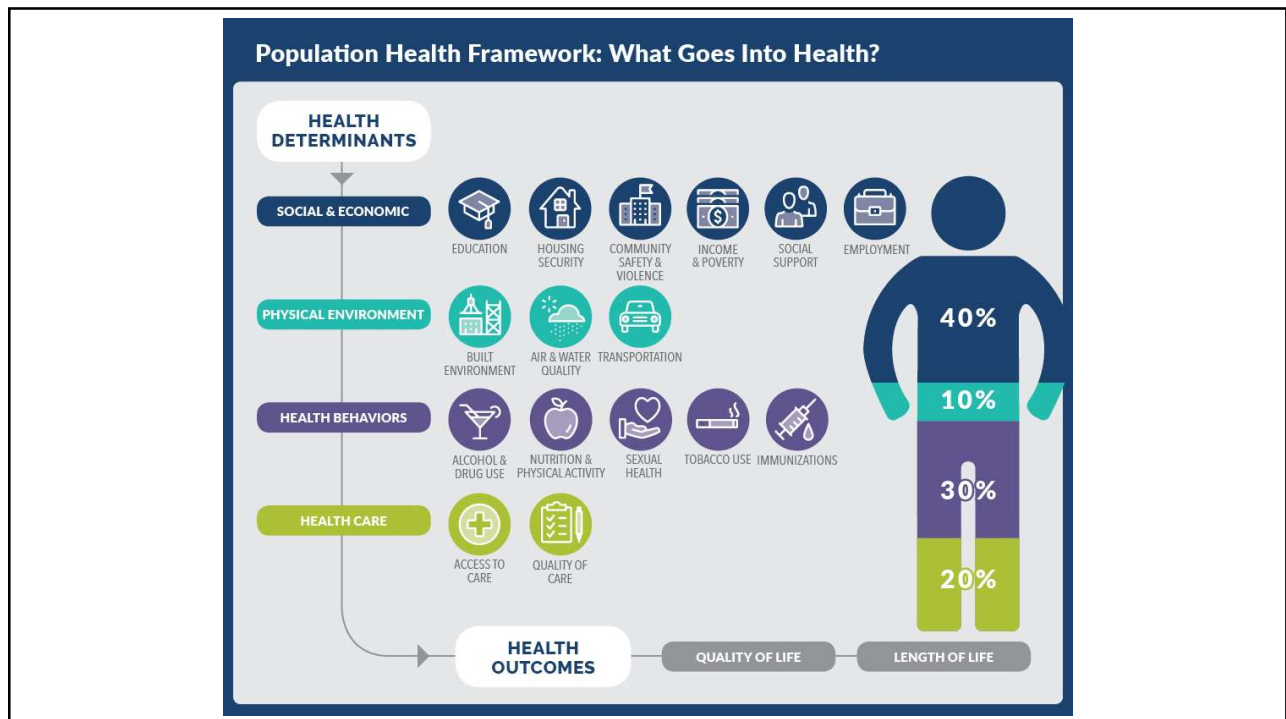
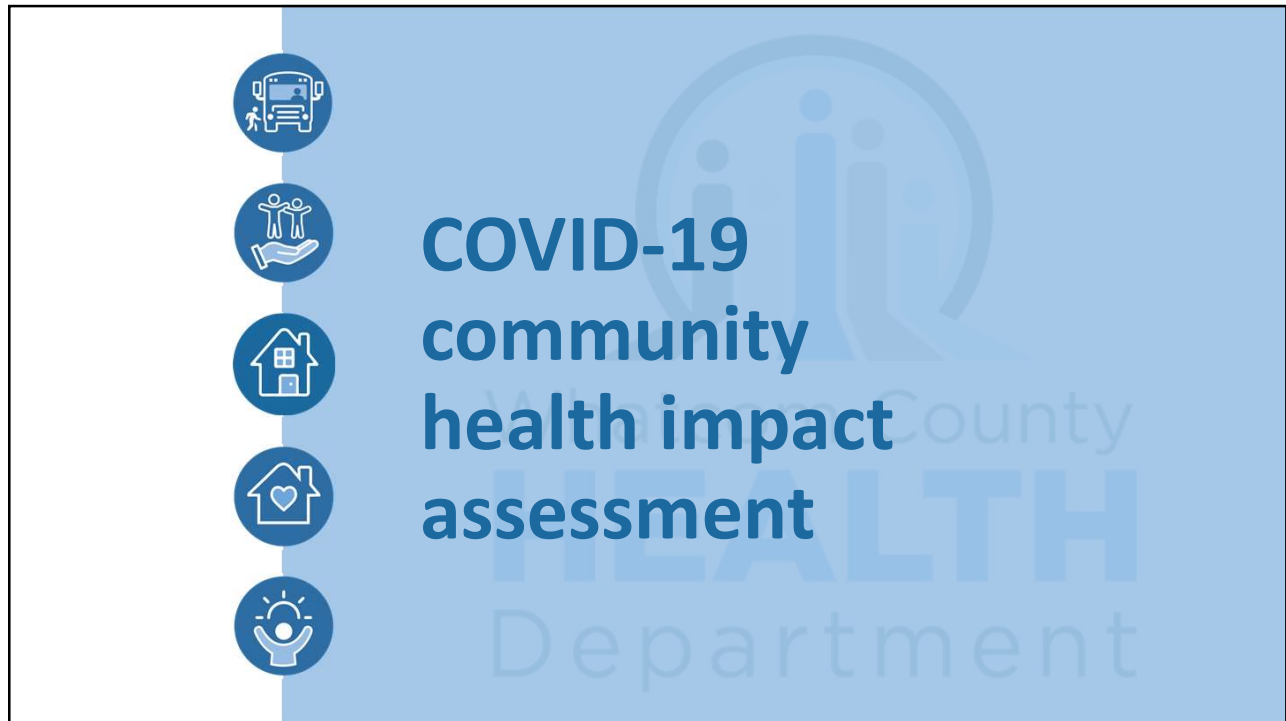
- Kindergarten readiness (an indicator of child and family well-being)
- Child care (an indicator of employment and economic opportunity)
- Housing security (ability to retain safe and stable housing as a health determinant)
- Homelessness (crisis intervention for unhoused individuals and families as a health determinant)
- Behavioral health (a health outcome)

The results are organized in terms of current negative and positive impacts, and projected long-term impacts in each priority area as well as systemic issues that cut across all of these community health priorities

HISTORY OF LEGISLATIVE FILE

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

Attachments: Presentation





kindergarten readiness



child care



housing security



homelessness




behavioral health



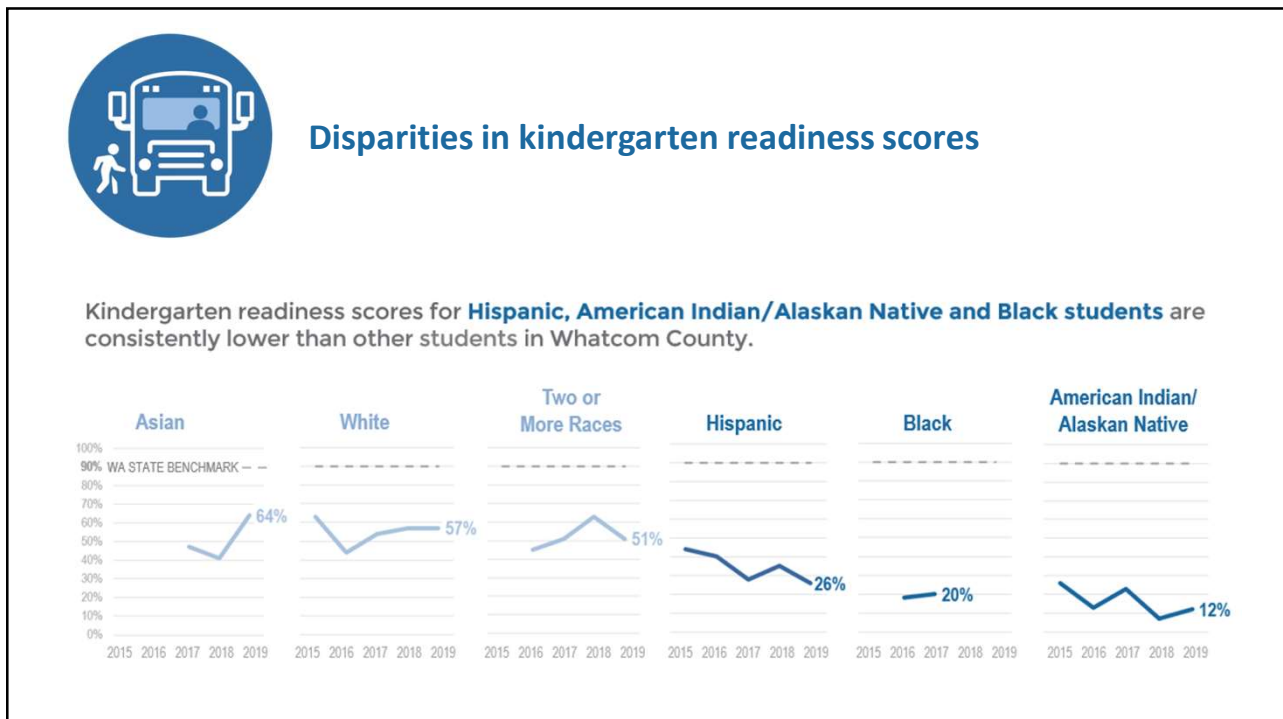
kindergarten
readiness





Access to early care and education programs

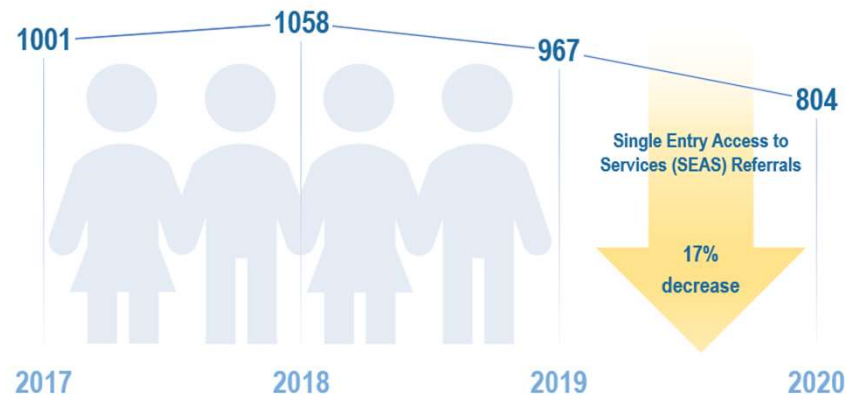
- Over 80% of child care programs closed at least temporarily
- 1 in 4 sites remain closed
- Say they are at risk of closing:
 - 67% of child care centers
 - 47% of family child care providers





Screenings, intervention, & well-child visits were disrupted

During the pandemic, **the number of referrals** for Whatcom County children with suspected special health care needs decreased by 17%.



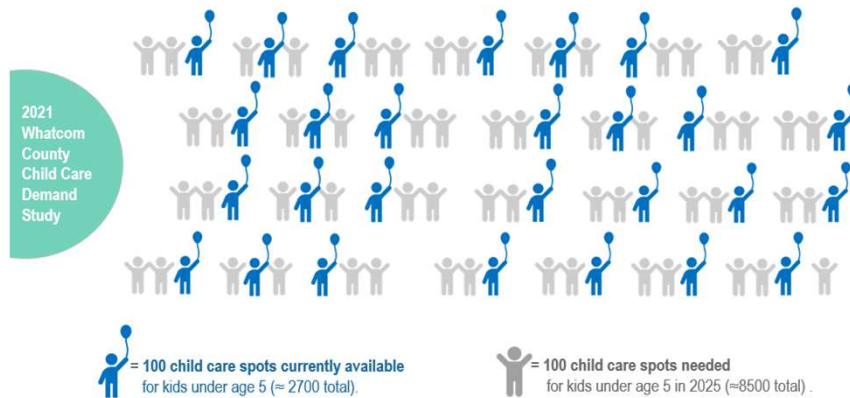
child care





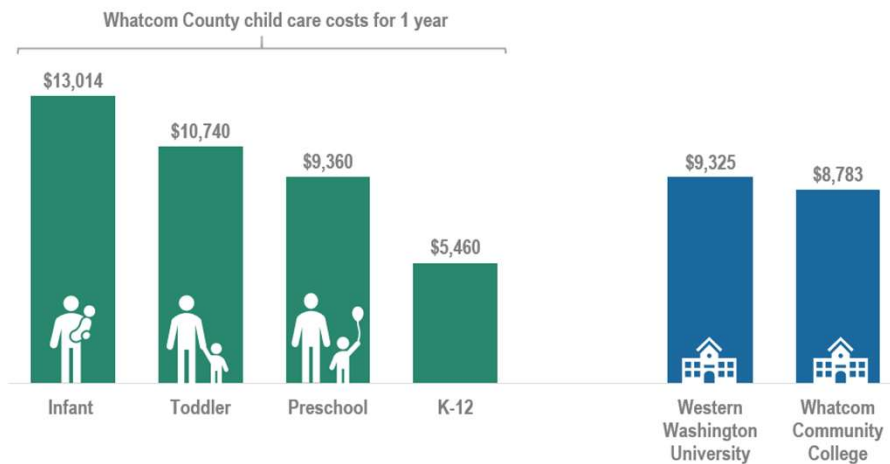
Closures of child care facilities are worsening previously-existing shortages of child care slots

The amount of **currently available child care for kids under age 5** will need to triple by the year 2025 in order to meet Whatcom County's anticipated child care needs.



Reduced options and high costs of child care threaten family budget stability

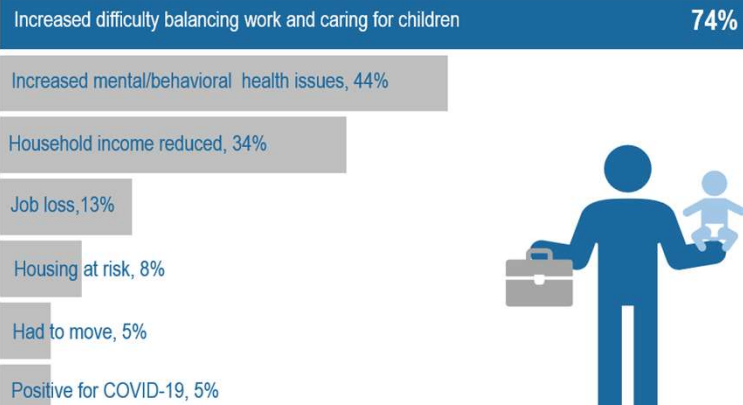
One year of child care for kids under five costs more than **one year of college tuition**.





Child care facility closures had a direct impact on families' incomes, housing, mental health, and more

The 2021 WWU Child Care Demand Study found that the increased difficulty in **balancing work and child care was the biggest COVID-19 Impact** for survey takers.



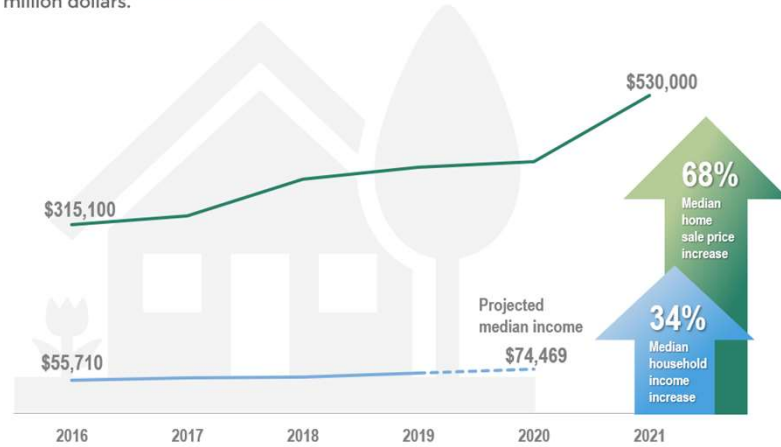
housing security





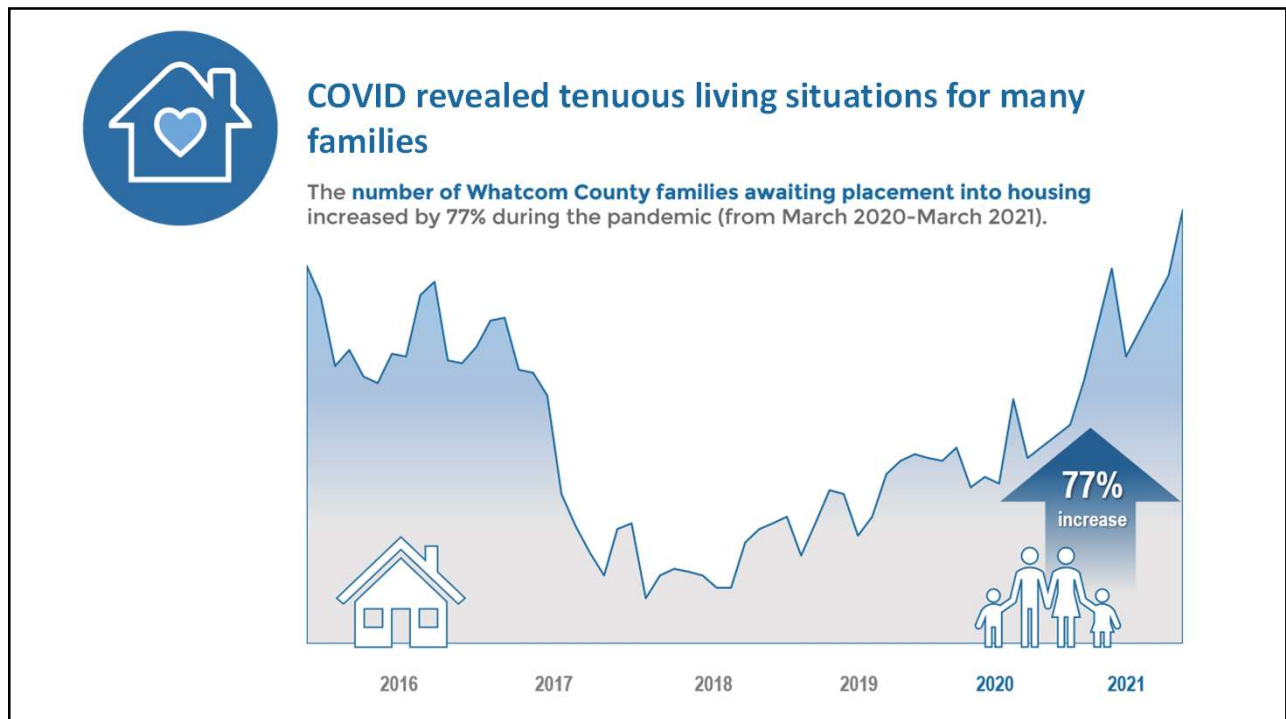
Lack of affordable housing for rent or purchase is persistent and worsening


In the past 5 years, **median home sale prices in Whatcom County** increased by twice as much as the **median household income**. In June 2021, median home sale prices are above half a million dollars.



Eviction prevention programs are due to end








Pre-existing workforces shortages and COVID protocols hampered services

- Emergency shelter moves to allow distancing
- Program transportation options cease
- Drop-in services cut
- Funding restrictions limit use for wages



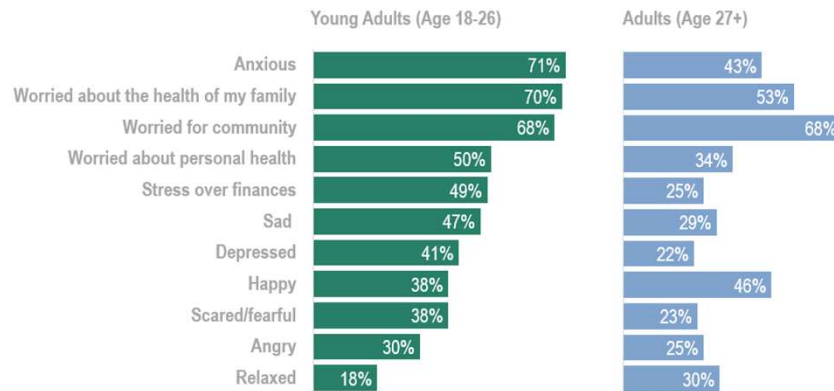

behavioral health






More – and more severe – behavioral health issues

A survey taken during the pandemic found that **young adults in Whatcom County** reported feeling anxiety and depression more frequently than their **adult counterparts**.

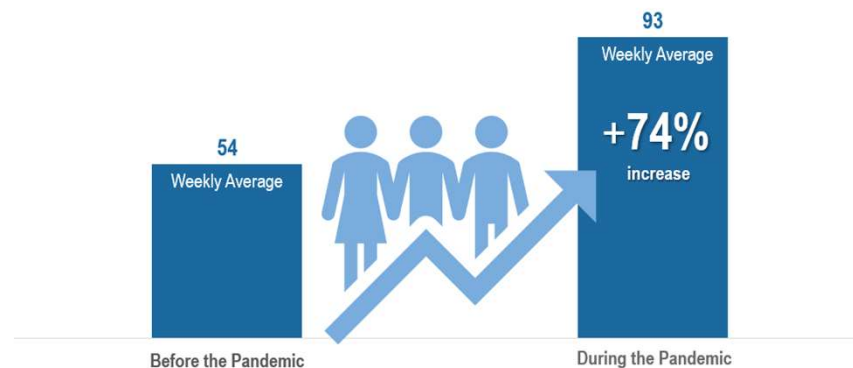


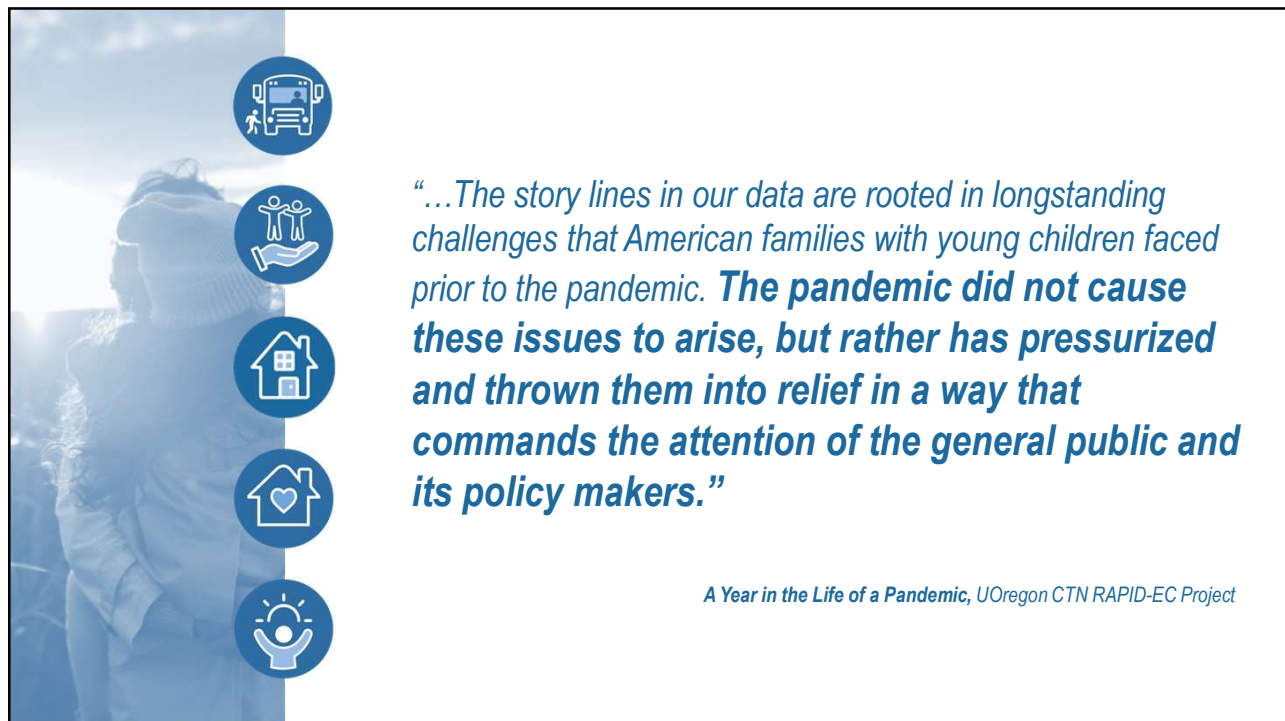
Percentage of 4,273 respondents who reported "often" or "always" during the preceding month.



Uncertainty and trauma of the pandemic increased demand for behavioral health services

The **weekly average of mental health crisis services** provided by North Sound Behavioral Health Administrative Services increased by 74% during the pandemic.







Acknowledgements

Many thanks to representatives from the following organizations for taking the time to be interviewed for this assessment.

Arc of Whatcom County
 Behavioral Health Advisory Committee
 Bellingham Academy of Arts for Youth
 Bellingham Schools – Multiple district leaders and support service providers
 Blaine Schools Family Resource Coordinator
 Catholic Community Services
 Child & Family Well-being Task Force
 Chuckanut Health Foundation
 City of Bellingham Housing
 Ferndale Schools Family Resource Coordinator
 Food Security Task Force
 Generations Forward Family Council and Policy, Advocacy, & Funding Team
 Healthy Whatcom
 Lighthouse Mission
 Lummi Public Health
 Lynden Schools Family Resource Coordinator
 Max Higbee Center
 Meridian Schools Family Resource Coordinator
 Mount Baker Schools Family Resource Coordinator
 Nooksack Medical Clinic
 Nooksack Valley Schools Family Resource Coordinator
 North Sound Accountable Community of Health
 North Sound Behavioral Health Administrative Services Organization

Northwest Washington Indian Health Board
 Northwest Youth Services
 Opportunity Council (OC) (multiple divisions)
 PeaceHealth
 Perinatal Mental Health Task Force and providers
 Port of Bellingham's Regional Economic Partnership
 Public Health Advisory Board
 Racial Equity Commission
 Sea Mar - Behavioral health care
 The Whatcom Dream
 Unity Care Northwest
 WA State Dept. of Children, Youth, and Families
 Whatcom Asset Building Coalition (OC)
 Whatcom Child Care Coalition
 Whatcom County Health Department (WCHD) (multiple divisions)
 Whatcom County Housing Advisory Committee
 Whatcom Early Learning Alliance
 Whatcom Infants and Children's Council
 Whatcom Prevention Coalition (WCHD)
 Whatcom Taking Action
 Whatcom Youth Behavioral Health Stakeholders Gathering
 WWU Professors



Whatcom County

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

Agenda Bill Master Report

File Number: AB2021-482

File ID:	AB2021-482	Version:	1	Status:	Agenda Ready
File Created:	08/02/2021	Entered by:	THelms@co.whatcom.wa.us		
Department:	County Executive's Office	File Type:	Presentation		
Assigned to:	Council Committee of the Whole				Final Action:
Agenda Date:	08/10/2021	Enactment #:			

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

TITLE FOR AGENDA ITEM:

Presentation regarding Whatcom County's proposed American Rescue Plan Act funding priorities

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

Presentation regarding Whatcom County's proposed American Rescue Plan act funding priorities

HISTORY OF LEGISLATIVE FILE

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

Attachments: ARPA Fund Priorities Memo July 20, 2021, Recover Funds Memo June 1, 2021



Satpal Singh Sidhu
Whatcom County Executive



MEMO

Date: July 20, 2021
To: Whatcom County Council
From: County Executive Satpal Sidhu
RE: Follow-up Discussion of ARPA Priorities

Satpal

This is a follow-up to Council to address some of the discussions which have taken place since my memo on May 28, 2021, discussing the deployment of American Rescue Plan funds allocated to Whatcom County.

The comment period for the Interim Final Rule (guidelines) concluded July 16 and many questions remain regarding eligible uses. To get a sense of the limitations and areas of concern with regard to the Interim Final Rule, I would suggest you read the comments submitted to the Treasury by NACo. It remains unclear when Treasury will issue a revised and definitive Final Rule.

Before looking ahead, I think it is helpful to reflect on our experience in the past year and how that might inform our approach going forward. The most valuable achievement of 2020 was creating a coalition of mayors from all 7 cities and the County. We pooled the CARES Act funding and planned together to deploy the funds for various programs through joint consultations. Altogether, we received approximately \$26 million in CARES Act allocation for the County and all cities. With County Council's guidance, input and approval, these funds were spent as follows:

- Over \$10 Million spent on Public Health Emergency Response (WCHD and WUC staffing, contact tracing, testing, Isolation/Quarantine, etc. (Some additional funds were allocated by State DOH to WCHD Dept directly and were used in the latter part of 2020 and early 2021 for Covid Response.)
- Almost \$12 million for Community programs, including:
 - Approximately \$5 million in small business support
 - \$2.6 million in school district
 - \$1 million for childcare support
 - Approximately \$1 million for social services
 - \$650K in food security
 - \$600K in homeless shelter / services
 - \$500K in Rental and Mortgage assistance

Today, we face the challenge of making prudent decisions to deploy the County's ARPA allocation of \$44.5 million. I would suggest we work cooperatively with Bellingham and the other cities to jointly deploy common community projects, where possible. The American Rescue Plan allows us a three-year window to plan and allocate funds, whereas we barely had 6 months to expend CARES Act Funding. I have articulated to the Council that this is a 'once-in-a-lifetime' occasion of receiving such financial assistance and we must make investments to achieve objectives which can benefit our community for many years into future.

With that strategy in mind, and expanding on previous discussions, I would like to share a draft outline of our investment strategy for Council's consideration.

Major tasks / projects facing the Administration and our community are varied and several require substantial funds. ARPA funds alone are not enough to meet all of the need. **Both the Administration and Council face the difficult task of determining priorities and levels of investment** in these various community needs:

We perceive the following as major Categories:

- A. Community Program Investments**
- B. County Infrastructure Investments**
- C. County Government Operations**

Further details on each category include:

Community Program Investments

- Child & Family – Childcare Facilities / Entrepreneurship Support / Workforce Development & Retention
- Affordable Housing – Capital Assistance for Low Income and Workforce Housing (to expand opportunities for use of 1590, 1406 and EDI Funds)
- Mental & Behavioral Health Services (startup investment in GRACE / LEAD)
- Housing Security – Rental / Utility Assistance, Shelter, Way Station, Outreach for Homeless population (we have received separate allocations for Rental and Utility Assistance needs)
- Food security needs, if any
- Economic Recovery needs, if any (e.g., Tourism, Small Business Assistance)

County Infrastructure Investments:

Collaborate with Cities / PUD / Port on Countywide Projects for

- Water, Sewer and Broadband Investments
- Industrial Park, Ready to Build Industrial Lands (Public Private Partnership)
- Affordable Housing

County Government Operations

- Public Health continued COVID Response (2021-24)
- Criminal Justice backlog clearing (2021-24)
- Cost of Administering ARPA Funds
- Frozen Positions 2021 (after 2021, this expense will move to general fund)
- County Revenue Loss recovery

Reimbursement for frozen positions and revenue loss creates a resource unhampered by ARPA eligibility restrictions, giving the Council broader flexibility to spend these funds. For transparency's sake, we suggest creating a sub-account of the General Fund which would hold ARPA reimbursements. to track these dollars.

Also, please note that we are continually monitoring other fund availability by allocation or grants for specific tasks under the ARPA legislation.

I would like to engage Councilmembers **to bring suggestions, ideas, and projects**, which meet the criteria of “long-term benefits to our community”. I look forward to a constructive discussion for a larger community benefit. Please note that the eligibility guidelines for ARPA funds are significantly more restrictive than for CARES Act funds. For example, there are hurdles to broadly implementing a capital projects program for childcare, as some Councilmembers have suggested (see May 28 memo for details).

At the same time, I would urge Council not to rush to allocate all the ARPA funds by end of this year at the time of mid-biennium budget adjustment. I suggest we should keep a portion of funds in reserve for allocation during the next Biennium (2023-24) Budget Development.

My team plans to present further details to Council at the August 10th Council Meeting.

Strategy to Work with City of Bellingham:

I believe County Council / Administration can take the lead to provide **leadership and establish overall goals / objectives** for American Rescue Plan investments. This will allow early planning and coordination with Bellingham City Council and Mayor’s Office to develop joint strategies for Community Programs in the areas of:

- Childcare
- Affordable Housing
- Mental and Behavioral Health Programs
- Housing Security and other initiatives

Working with Small Cities:

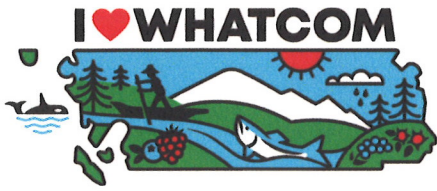
Once the County Council / Administration establish overall goals and objectives for the investments, we can reach out to all small cities and seek collaboration in their local priorities as those enhance the goals of County Government.

We are sharing our preliminary planning information with COB and small cities to ensure they are informed of County plans in a timely manner.

For a frame of reference, please consider these suggested Guiding Principles for Use of ARPA Funds:

- ARPA funds are **non-recurring**, so their use should be applied primarily to non-recurring expenditures.
- Care should be taken to **avoid creating new programs** or add-ons to existing programs that do not have a dedicated funding source upon the exhaustion of ARPA funds.
- **Investment in infrastructure** is a particularly well-suited use of ARPA funds because it is a one-time expenditure that can be targeted to strategically important long-term assets that **provide benefits over many years**.
- We should be aware of **plans for ARPA funding from the state and other jurisdictions** as well as other buckets of money allocated through ARPA in addition to the direct allocation of Fiscal Recovery Funds.

NACo has developed a [comprehensive overview of eligibility requirements](#), which may be helpful in informing your discussions. Please feel free to reach out to me or Tyler Schroeder for any specific inquiries or questions.



Satpal Singh Sidhu
Whatcom County Executive



MEMO

Date: June 1, 2021
To: County Council Members
From: Satpal Singh Sidhu, County Executive
RE: Discussion of Fiscal Recovery Funds

Whatcom County has been allocated \$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.

The purpose of this memo is to describe the framework of potential uses of these funds and begin discussions to establish priorities, identify opportunities and take the appropriate next steps.

General Framework

The Federal Government has identified four categories of expenses which are intended to be funded through the State and Local Fiscal Recovery Funds in ARPA.

1. Support urgent COVID-19 response efforts
2. Replace lost revenue for local governments to support vital public services and retain jobs
3. Support immediate economic stabilization
4. Address systemic public health and economic challenges

The Treasury provided both high-level (below) and more detailed elaboration (see Interim Final Rule) of eligible expenses.

- To support public health expenditures, by funding COVID-19 mitigation efforts, medical expenses, behavioral healthcare, and certain public health and safety staff;
- To address negative economic impacts caused by the public health emergency, including economic harms to workers, households, small businesses, impacted industries, and the public sector;
- To replace lost public sector revenue, using this funding to provide government services to the extent of the reduction in revenue experienced due to the pandemic;
- To provide premium pay for essential workers, offering additional support to those who have borne and will bear the greatest health risks because of their service in critical infrastructure sectors;
- To invest in water, sewer, and broadband infrastructure, making necessary investments to improve access to clean drinking water, support vital wastewater and stormwater infrastructure, and to expand access to broadband internet.

- The funds must be obligated by December 31, 2024, and must be expended with all work performed and completed by December 31, 2026.

Within the categories of eligible uses, Whatcom County has broad flexibility to decide how best to use this funding to meet the needs of our community.

Guiding Principles for Use of ARPA Funds

- ARPA funds are non-recurring, so their use should be applied primarily to non-recurring expenditures.
- Care should be taken to avoid creating new programs or add-ons to existing programs that do not have a dedicated funding source upon the exhaustion of ARPA funds.
- Investment in infrastructure is a particularly well-suited use of ARPA funds, because it is a one-time expenditure that can be targeted to strategically important long-term assets that provide benefits over many years.
- We should be aware of plans for ARPA funding from the state and other jurisdictions as well as other buckets of money allocated through ARPA in addition to the direct allocation of Fiscal Recovery Funds.

County Government and Community-wide Priorities

It is recommended that we consider utilization of the ARPA funds in a two-tiered approach. As has been the case with the distribution of CARES Act funding, this will require us to be strategic, flexible and adaptive. One main difference between the CARES Act funding and the ARPA funds is that the ARPA funds has an extended timeline and can be used through 2024. This allows time for thoughtful and deliberate decisions for the betterment of our organization and community to provide long-term resiliency.

First, the County intends to utilize these funds in 2021 to support the continued efforts of urgent COVID-19 Public Health response efforts, replace lost public sector revenue, and to rebuild and strengthen the County's vital public services by retaining, rehiring, and hiring for County jobs to sustain and improve the post-pandemic level of service provided to the constituents of Whatcom County. The County administration will be bringing forward budget supplementals between now and the end of the year to implement this to ensure the continuity of vital government services.

Second, the County Administration also intends to work with the community seeking ideas / projects for long-term resilient framework on how best to utilize this substantial infusion of resources to help turn the tide on the pandemic, strengthen the public health system, provide economic stabilization and lay the foundation for a strong and thriving economy. This process will be timed along with the upcoming mid-biennium budget process through the fall of 2021. It is envisioned that we will continue our collaboration between the public sector (Whatcom County, City of Bellingham, Small Cities, Port of Bellingham, etc.) and the non-profit sector (Food Security Taskforce, Childcare Taskforce, Child & Family Taskforce, housing and human services agencies, local foundations, etc.) to formulate and prioritize community wide programs for ARPA expenditures.

County Government Operations Priorities

The County Administration proposes some specific near-term actions related to supporting vital public services within County Government.

1. Calculation of Revenue Loss

Whatcom County will compute reduction in revenue by comparing actual revenue to an alternative representing what could have been expected to occur in the absence of the pandemic. Analysis of this expected trend begins with the last full fiscal year (2019) prior to the public health emergency and projects forward at 4.1% growth for next 3 years (Dec 31, 2024), which was the national average state and local revenue growth rate from 2015-18. The Treasury allows recipients to presume that any diminution in actual revenue relative to the expected trend is due to the COVID-19 public health emergency.

Based on the Interim Final Rule, it remains unclear whether capital grants are to be considered as revenue for the purpose of this calculation. In 2020, Whatcom County fell short of the financial benchmark (2019 revenues + 4.1%) and had a revenue reduction of approximately \$9 million excluding grants or by \$1 million including grants. Calculating capital grants (restricted revenue) into general revenue replacement does not seem to meet the intent of the revenue replacement section of the act and we are hopeful for additional direction and guidance on this topic.

Treasury's guidance gives recipients broad latitude to use funds for the provision of government services to the extent of reduction in revenue; the greater the revenue loss demonstrated, the larger the pot of money available with few eligibility constraints. This funding may not be used to directly or indirectly offset a reduction in net tax revenue. Additionally, the funds may not be placed in reserve or "rainy day" funds.

2. Public Health and Safety General Fund Positions.

A portion of personnel costs (namely, public health and safety staff dedicated to COVID response) typically funded through the General Fund can be covered by ARPA funds. This will result in a healthier balance in the General Fund, which can in turn be deployed more flexibly.

3. Frozen Positions and Workforce Support

As departments prepare to reopen for more in-person services, it is important to unfreeze unfilled positions. Additionally, due to financial projections at the onset of COVID, the County implemented financial austerity measures that impacted our employees. These measures included employee furloughs and a number of un-represented and represented employee groups did not get cost of living adjustments in 2020 and 2021. We believe that we need to support our valuable workforce to strengthen the County's vital public services by retaining and rehiring County jobs to sustain and improve the post-pandemic level of service provided to the constituents of Whatcom County.

4. Criminal and Civil Justice Backlog

The pausing of jury trials and other COVID-related limitations has created an unprecedented backlog of unresolved court cases. The cost of delayed access to justice is very high for our community. We propose funding temporary positions in the public defender's office, prosecutor's office and the courts until the backlog is addressed.

5. Economic Relief & Recovery – Grant Writing and Administration

An unprecedented amount of money has been allocated through ARPA in addition to the funds which the County receives directly. For perspective, allocations to county governments represented less than 3.5% of the American Rescue Plan. We also know that Congress is working on a sweeping infrastructure package. Access to these funds will be contingent on our ability to identify opportunities, align projects with funding eligibility requirements, and submit well-written and timely applications.

To accomplish this, Whatcom County needs both grant writing and grant administration capacity. We propose to establish a small Economic Relief & Recovery team working under Administrative Services and tasked with identifying opportunities, preparing and managing grant applications using ARPA funds. The goal of this team will be to improve efficacy of programs that help address negative economic impacts through: use of data analysis, consumer outreach, improvements to data or technology infrastructure and impact evaluations. This team's work would not be limited to County projects. It would also offer grant writing support services to the Small Cities and, where appropriate, non-profit organizations which serve the public benefit.

The team may include outside consultants and at least one FTE within Administrative Services. The team's performance and effectiveness would be reviewed after three years, with the expiration of ARPA funds, and a decision could be made regarding the program's future.

Community Funding Priorities

The County Administration wants to engage Council and the public in meaningful discussions about community-wide funding priorities. We want to recognize that Council has already been engaged in discussions about priorities, drawing attention to such issues as childcare, workforce housing, low-income housing and homeless services.

It is important to note that Treasury's guidance suggests there are eligibility hurdles for using ARPA funds directly on such projects. For instance, the guidance links funding eligibility for some categories; including but not limited to affordable housing, homeless services, childcare, early learning services, mental and behavioral health services, and more to recognized low-income census tracts (Qualified Census Tracts – QCTs - QCTs must have 50% of households with incomes below 60 percent of the Area Median Gross Income (AMGI) or have a poverty rate of 25 percent or more.) In 2021, four census tracts in Whatcom County are identified as QCTs, all in the City of Bellingham. However, there is a caveat. Whatcom County can provide this broader array of services to other populations, households, or geographic areas disproportionately impacted by the pandemic. In identifying these disproportionately impacted communities, we must be able to support that determination for how the pandemic disproportionately impacted the populations, households, or geographic areas to be served. For instance,

we know that some of our communities have been disproportionately impacted by the border travel restrictions. The closure of Intalco also disproportionately impacted a specific geographic area, but it would be challenging to link that event to the pandemic, which is key to eligibility.

We will be seeking more clarification / Guidance from Treasury (through State and NACO) for small Counties like ours, where it is difficult to use the established QCTs in this manner, like large metropolitan cities and counties of 1 million or higher population. We will propose such an amendment to the Interim Final Rule to allow more flexibility to rural counties like ours.

Below are some categories which have been flagged as potentially of interest.

1. Childcare – eligible for direct funding only in QCTs, indirect funding possible in other areas

If the County's ARPA funds are committed to invest in childcare, it would be important to ensure that either the investment is not a recurring expense or that a dedicated funding mechanism is established to sustain any recurring costs after ARPA funds are fully deployed. There have been discussions around the idea of committing some of the County's banked capacity to create a sustainable funding source for a countywide Child & Family program. We expect the Child & Family Taskforce to bring forward community-supported ideas and proposals as it proceeds with its work.¹

2. Affordable Housing – eligible for direct funding only in QCTs, indirect funding possible in other areas

Affordable housing projects may be an attractive, non-recurring investment for ARPA funds. However, the current guidance limits such investments to QCTs and any areas identified as being disproportionately impacted by the pandemic.

3. Behavioral Health Needs – eligible for direct funding

The guidance recognizes that government services may be needed to meet behavioral health needs exacerbated by the pandemic and respond to other public health impacts. Eligible services include mental health treatment, substance misuse treatment, other behavioral health services, hotlines, crisis intervention, overdose prevention, infectious disease prevention, and services or outreach to promote access to physical or behavioral health primary care and preventative medicine.

4. Broadband – eligible for direct funding

To be eligible for funding, a broadband project must establish or improve broadband service to unserved or underserved populations to reach an adequate level to permit a household to work or attend school

1 A key challenge is identifying childcare investments that would not be covered by new state and federal childcare initiatives. The Fair Start for Kids Act passed in Olympia this past session provides more than \$400 million to increase subsidy rates, reduce copays and make capital investments in childcare facilities. Additionally, through ARPA, Washington State is receiving \$633 million for childcare. It remains unclear whether this level of spending by the state and federal governments will be sustained.

from home, and that are unlikely to be met with private sources of funds. The Port of Bellingham has already developed the Whatcom County Rural Broadband Project, which is shovel ready. The routes have been established and the cost estimates developed. However, the funding mechanism envisioned for this project already includes a mix of local, state and federal funds with specific matching requirements. Fiscal Recovery Funds are subject to pre-existing limitations in other federal statutes and regulations and may not be used as non-federal match for other Federal programs whose statute or regulations bar the use of Federal funds to meet matching requirements.

5. Infrastructure, including County Capital Projects

Making necessary improvements to infrastructure, such as water, sewer and stormwater facilities are vital investments for the long-term. It is recommended that we work with the Cities (including COB) to establish infrastructure projects throughout the County that will provide for increased areas for long-term economic development, including commercial/industrial opportunities as well as potential affordable housing development.

Also, capital projects for County facilities are generally not eligible for ARPA funding. However, ARPA funds which cover revenue loss can be used for almost any government expense. The County can also use existing county revenue from CARES Act reimbursement for this purpose.

6. Other Economic Relief – eligible for direct funding

Treasury's guidance allows for small business support, aide to non-profit organizations, and aide to tourism, travel, hospitality, and other impacted industries. Providing utility, rental or other financial assistance to households negatively impacted by COVID is also an eligible expense. However, it is important to recognize that small grant programs typically come with a heavy administrative burden.

Next Steps

Following discussion with Council on June 1, the Administration will be drafting an ordinance with budget amendments enabling the County to move forward on the near-term actions outlined in this memo.

We will continue to explore eligibility criteria and develop investment options supporting economic relief and recovery with the Council's guidance and input. Our expectation is to have an ongoing discussion with Council and the public as part of the 2021-2022 Mid-Biennium Review process. This process will be further defined and will last through the fall of 2021. We encourage anyone who is interested in proposing possible uses of Fiscal Recovery Funds to read the Interim Final Rule, which lays out in detail the types of services and projects that are envisioned. A Quick Reference Guide is also available for a concise presentation of the guidance.

Based on past experience, we expect the guidance to evolve as the Treasury reviews and responds to feedback from local governments.

Next Biennium Budget 2023-24

We will start the next biennium budget process in June/July of 2022. We believe that by that time ARPA rules and guidance will be further clarified, and we will have some results from our 2021 initiatives. We expect the second installment of \$22.5 million in May of 2022. At that time, we will also know the outcome of two major Federal Initiatives currently being discussed, namely, the American Jobs Plan (transportation, digital infrastructure, electrical grid, climate resiliency, etc.) and the American Families Plan (childcare, pre-school, post-secondary education, tax relief, etc.). These are substantial outlays and could play a huge role in our local planning for future long-term community investments. This will provide the Council and the Administration additional opportunity to review and revise our plans for remaining APRA funds within the framework of our discussions for the next Biennium budget.

With all these points of consideration, the Administration proposes a collaborative and measured approach to ensure that we make well-informed budgeting decisions over the next couple of years.



Whatcom County

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

Agenda Bill Master Report

File Number: AB2021-484

File ID:	AB2021-484	Version:	1	Status:	Agenda Ready
File Created:	08/02/2021	Entered by:	AHaines@co.whatcom.wa.us		
Department:	County Executive's Office	File Type:	Presentation		
Assigned to:	Council Committee of the Whole	Final Action:			
Agenda Date:	08/10/2021	Enactment #:			

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

TITLE FOR AGENDA ITEM:

Presentation from Prosecuting Attorney, Public Defender, Superior Court and District Court on the impacts and staffing needs due to the significant backlog of court cases caused by the COVID-19 pandemic

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

N/A

HISTORY OF LEGISLATIVE FILE

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



Whatcom County

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

Agenda Bill Master Report

File Number: AB2021-463

File ID:	AB2021-463	Version:	1	Status:	Agenda Ready
File Created:	07/27/2021	Entered by:	AKell@co.whatcom.wa.us		
Department:	Council Office	File Type:	Discussion		
Assigned to:	Council Committee of the Whole			Final Action:	
Agenda Date:	08/10/2021			Enactment #:	

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

TITLE FOR AGENDA ITEM:

Discussion and review of the draft update to the Climate Action Plan

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

The Climate Impact Advisory Committee will present the draft update of the Whatcom County Climate Action Plan to the County Council for review and discussion, as required in Whatcom County code 2.126.030. This draft represents several years of work by the committee including significant input and support from numerous members of the public as well as County staff. The Committee will take input from Council before the Climate Action Plan is finalized and recommended for adoption

HISTORY OF LEGISLATIVE FILE


Date:	Acting Body:	Action:	Sent To:
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Attachments: Memo, Draft Climate Action Plan



MEMORANDUM

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

THROUGH: Jon Hutchings, Public Works Director
Gary S. Stoyka, Natural Resources Manager 

FROM: Chris Elder, Senior Watershed Management Planner

RE: Draft Climate Action Plan

DATE: July 27, 2021

The Climate Impact Advisory Committee has been working for the past several years to achieve the mandated task, as described in Whatcom County Code 2.126.030, of updating the County's Climate Action Plan. The committee is pleased and excited to present the current draft to you for your review and consideration. The committee held an open public review and comment period for the month of July and received numerous comments and suggested edits from members of the community. Those comments and suggested edits have not yet been incorporated into the current draft.

The Committee requests that Council review the draft Climate Action Plan and provide comments and input on any needed improvement or changes. This item and presentation to Council is intended for discussion and review only. The final draft of the plan and supporting resolution will be presented to Council at a September meeting and will be recommended for adoption at that time.

Please contact Chris Elder at extension 6225, if you have any questions or concerns in advance of the discussion.

Encl.

One (1) document for discussion

- Draft 2021 Whatcom County Climate Action Plan

Whatcom County Draft Climate Action Plan

July 2021

Preface

The Climate Impact Advisory Committee was created in 2017 by the Whatcom County Council under Ordinance 2017-080, Whatcom Code Chapter 2.126. The Whatcom County Council established the goal of 100% renewable energy use within County operations and the larger Whatcom County community.

The Whatcom County Climate Impact Advisory Committee (CIAC) has been tasked with revising the County's Climate Action Plan (CAP) at a minimum of every five years. The CIAC is entirely composed of volunteers from our community who have spent many months researching, writing, and editing this Climate Action Plan. As requested by the County Council this plan provides recommendations for both reducing and/or mitigating greenhouse gas emissions and adapting to the inevitable changes occurring from climate disruption.

The recommendations in this Whatcom Climate Action Plan were informed by key background reports from Cascadia Consulting Group that included Whatcom Climate Trends and Projected Impacts, Whatcom County Greenhouse Gas Inventory 2017, and Vulnerability Assessments. In addition, the recommendations or strategies in this Climate Action Plan are aligned with the Washington 2021 State Energy Strategy.

The CIAC has also drawn heavily on the knowledge of stakeholders in Whatcom County. In 2019 volunteers from the CIAC and the local League of Women Voters interviewed over 120 community leaders and stakeholders in the County to ask them what they would like to see in a revised climate action plan. This Climate Action Plan incorporates many of the ideas from this early community outreach effort.

Additionally, numerous subject area experts in the community helped develop the recommendations and/or review draft content. The CIAC is grateful for the support it has received in compiling this report as well as the support from Whatcom County staff and the County Council during the development and publication of this Climate Action Plan.

Climate Impact Advisory Committee (CIAC) Members

2021 CIAC Members		2020 CIAC Contributors
William Bethel	Katherine Kissinger, <i>Secretary</i>	Treva Coe
Ginny Broadhurst	Ellyn Murphy, <i>Chair</i>	Casey Harmon
Kaylee Galloway	Imran Sheikh	Hunter Hassig
Sue Gunn	Phil Thompson, <i>Vice Chair</i>	Cynthia Mitchell
Stevan Harrell	Eddy Ury	
David Kershner	Chris Elder, <i>Staff</i>	

Key Supporting Documents:

- [Whatcom County Climate Action Plan: Summary of Observed Trends and Projected Climate Change Impacts](#), prepared by Cascadia Consulting Group, January 2020 (website)

- [Whatcom County Greenhouse Gas Inventory 2017](#), prepared by Cascadia Consulting Group, July 2020.
- Vulnerability Assessments Toolkit, prepared by Cascadia Consulting Group, 2020
- [Washington 2021 State Energy Strategy](#), Transitioning to an Equitable Clean Energy Future, December 2020, prepared by the Washington Department of Commerce.
- [Community Research Project Report](#), 2019

DRAFT

List of Acronyms

Acronym	Full Name
AAC	Agriculture Advisory Committee
BSEL	Bioproducts Science and Engineering Laboratory
<i>bp</i>	British Petroleum
CAP	Climate Action Plan
CCSU or CCS	Carbon Capture Storage and Utilization or Carbon Capture and Storage
CEF	Clean Energy Fund
CETA	Clean Energy Transformation Act
cfs	Cubic feet per second – a measure of water flow
CH ₄	Methane
CIAC	Climate Impact Advisory Committee
CNG	Cascade Natural Gas Corporation
CO	Carbon Monoxide
CO ₂	Carbon Dioxide
CO ₂ e	Carbon Dioxide equivalent
CoSMoS	Coastal Storm Modeling System
COVID-19	Coronavirus Disease of 2019
C-PACER	Commercial Property Assessed Clean Energy + Resiliency
CRP	Conservation Reserve Program
DER	Distributed Energy Resources
DG	Distributed Generation
DLC	DesignLights Consortium
DNR	Washington Department of Natural Resources
DR	Demand Response
EIA	Energy Information Administration
E/VMT	Emissions per Vehicle Mile Traveled
EPA	Environmental Protection Agency
EV	Electric vehicle
°F	Degrees Fahrenheit
FEMA	Federal Emergency Management Agency
FERC	Federal Energy Regulatory Commission
FTE	Full Time Equivalent
GHG	Greenhouse Gas
GMA	Growth Management Act

ICE	Internal combustion engine
IPCC	Intergovernmental Panel on Climate Change
KWh	Kilowatt hour
LENS model	Lynden-Everson-Nooksack-Sumas model (surface/groundwater)
MJ	Megajoule
MT	Metric Tons
MW	Megawatt
NERC	North American Electric Reliability Corporation
NGO or NGOs	Non-Governmental Organization(s)
NOX	Nitrogen Oxides
NSEA	Nooksack Salmon Enhancement Association
NZC	Net Zero Carbon
PACE	Property Assessed Clean Energy
pH	potential of Hydrogen
PDR	Purchase and Development Rights
PNNL	Pacific Northwest National Laboratory
PSE	Puget Sound Energy
PUD1	Whatcom Public Utility District No 1
PV	Photovoltaics (solar)
SMP	Shoreline Management Program
SOV	Single Occupancy Vehicle
TDM	Transportation Demand Management
TNC	Transportation Network Companies
TOD	Transit Oriented Development
UGA	Urban Growth Area
UTC	Utilities and Transportation Commission
VMT	Vehicle Miles Traveled
WCOG	Whatcom Council of Governments
WRIA	Water Resource Inventory Area (Watershed Management Board)
WTA	Whatcom Transit Authority
WUI	Wildland/Urban Interfaces

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Executive Summary

We write this executive summary soon after our County experienced a record-breaking 3-day heat wave that exceeded 100°F in many areas of the Pacific Northwest including Whatcom County. The effects of this heat wave are still being assessed, but it is estimated that a billion small sea creatures – including mussels, clams, and snails – died along the coastlines of the Salish Sea and 25 to 30% of the raspberry crop in Whatcom County was likely destroyed. In addition, the snowpack in the North Cascades, which was measured at 130% of normal in March, contained no available water by July 6th.

The recent heat wave in the Pacific Northwest is just the latest in a long list of similar extreme weather events becoming more commonplace around the world. Although we are often told that we cannot equate weather events with climate change, 27 international climate scientists in the World Weather Attribution group have found that this heat wave could not have occurred if the planet had not already warmed by about 2°F. A sobering finding from their models was that this event, previously expected to occur about once in 1000 years, can be expected every 5 to 10 years within the next 20 years with continued warming. The rate of global warming is alarming and our climate models to date have frequently underpredicted the impacts because of this rapid pace of change.

This update of the 2007 Climate Action Plan was two years in the making and much of the writing was completed by a dedicated group of community volunteers who drew heavily on the knowledge of County staff and stakeholders in the County. These volunteers also spent untold time researching the science and the best approaches for reducing greenhouse gas (GHG) emissions and adapting to the inevitable warming and associated climate impacts that are currently occurring and will continue with or without action at every level of government.

The Pathway to Climate Resilience

Our committee is in consensus that the most important recommendation to the Whatcom County Council and Executive is the necessity to establish an Office of Climate Action. This office would house staff dedicated to coordinating efforts across multiple County departments, providing critical information to County departments and the public, and promoting community engagement in projects that boost climate resilience. Without such an Office the County will miss multiple opportunities to implement the specific recommendations for climate mitigation and adaptation detailed in the following sections of this Report. Without an Office of Climate Action, the County will also miss the growing opportunities for funding from private, State and federal agencies, as well as opportunities to participate in the emerging clean fuel economy. The Office should be headed by a Senior Climate Advisor with wide knowledge of climate policy and science, in addition to experience in public service. The office should also include a data analyst/information specialist dedicated to providing and publicizing information relating to local climate and its effects, as well as monitoring the progress of our efforts toward mitigation and adaptation.

This Climate Action Plan closely follows the science and technology recommendations that are widely accepted by policy experts across the globe. Experts agree that the key to reducing greenhouse gas (GHG) emissions is the electrification of systems that currently use fossil fuels with clean electricity

(defined as electricity that is generated without emissions). This is the only way we can reduce emissions rapidly in the next three decades. It is also clear that if we do not start immediately, this mountain of emissions will be too steep to climb. New technologies are rapidly evolving, and all levels of government need to continue to support research, development, and deployment, but we cannot wait for a silver bullet to save us. We must act now with the tools we have.

Electrification of buildings and transportation, combined with accelerated conversion to renewable sources of energy, could alone reduce emissions by 70 to 80% across the US and create a much healthier environment for our families, both indoors and out. Minor contributors to emissions such as gas stovetops and fireplaces are not the issue. Instead, we need to encourage a transition away from space and water heating with gas, a major source of CO₂ emissions in buildings. Electric vehicle technology is accelerating so fast that many major car manufacturers will curtail production of gasoline-powered vehicles by 2035. Providing the required amount of electricity will take major investments in infrastructure, as well as collaboration and planning among governments, utilities and communities.

In addition to electrification of transportation, we need to greatly reduce the amount of single occupancy vehicle travel. Residents, businesses, municipalities and the County should all work together to significantly expand interconnected multimodal transportation, especially non-motorized trails that are separated from busy and congested thoroughfares, to provide the public safe options for commuting.

Industrial point-source emissions are the County's largest source of emissions, contributing 51%--a fact we did not know until the greenhouse gas assessment for 2017 was completed in June 2020. Since the largest emissions source for the state is transportation, the state, Whatcom County, and the refineries should work together on win-win solutions to reduce transportation-related GHG emissions while securing long-term economic benefits for the County. Our petroleum refining industry and its highly-skilled workforce have the opportunity to become part of the statewide solution for reducing emissions through the production of low-carbon fuels and development of other renewable energy sources.

The County's effort to restrict the growth in industrial emissions (i.e., Cherry Point Amendment) is a good example of using the County's authority over land use to address climate change. Smart land use practices can reduce GHG emissions and also help us better adapt to the inevitable changes that are already occurring. We view land use as the bridge or fulcrum that can balance emissions from the built environment with storage or sequestration of carbon in our natural environment. Changes in zoning codes and regulations are also an effective way to reduce the amount of single-occupancy vehicle transportation by requiring emphasis on density, giving commuters alternative transportation options in existing and new neighborhoods, and preservation of green spaces.

Smart land use can also increase climate resilience to drought, flooding and wildfires. For example, wetlands not only store large quantities of carbon, but are also a critical component of our overall hydrologic system for water storage, filtration of contaminants, habitat for many different plant and animal species, and as a collection point for flood waters. Likewise, preservation of estuaries protects against storm surge in coastal areas and is a critical link in the food chain for saltwater and freshwater species. Stronger codes and regulations in wildland-urban interface, in addition to the overall reduction

in development potential in those areas, can reduce the frequency of wildfires and the resulting economic damage as well as enhancing the forestry economy.

The vast natural ecosystems in our forests, foothills, lowlands and flood plains can be used to increase carbon storage and build climate resilience. Climate adaptation efforts are essential so that our natural ecosystems can continue to thrive under a changing climate. When healthy, natural environmental systems can sequester large amounts of carbon and provide carbon storage. Adaptation will be difficult for some ecosystems and will likely require significant help from us to restore the damage that is already occurring and to prevent future damage.

Climate impacts are nowhere more visible than on our water supply. Whatcom County faces the challenge of too much water in the winter and early spring, combined with too little water in the later summer and early fall. Continued increases in the frequency of flooding and drought are very visible signs of our changing climate. Over the last 150 years or more, development has reduced the flood capacity of our river systems. In addition, natural water storage systems (snowpack, glaciers, and even our shallow groundwater aquifer) that would normally feed our river systems in late summer have been directly impacted by climate change or development or both.

Resolving uncertainty in our current and future water supply under climate change is the first step in understanding and dealing with this contentious issue. Restoring and protecting our streamflow levels and temperature to ensure year-round salmon migration and survival is the greatest climate challenge currently facing Whatcom County. Fortunately, there are many tools we can employ to adapt to climate change such as incentivizing efficiency in water consumption systems, rebuilding the connectivity of our fragmented hydrologic system, and enhancing estuarine, marine shoreline and coastal wetland habitats for fish and shellfish.

Agriculture can also play an important role in water use efficiency, increasing soil carbon storage, and also building food security and enhancing the local agriculture economy. Regenerative farming practices have been shown to enhance carbon storage, increase soil moisture, and reduce the amount of fertilizer needed. These practices can be economically incentivized by establishing a carbon market in Whatcom County to reward farmers for increasing their soil carbon. The County also needs to change codes for renewable energy siting so farmers can benefit from the additional income generated from these installations.

The large amount of forested land in Whatcom County is a huge sink for atmospheric carbon and needs to be wisely managed. A baseline for carbon sequestration by forests was recently established using information from 2000 to 2010. Our forests were found to sequester, on average, 4 million MT CO₂e per year, roughly equal to half of the emissions in the County. This important carbon sink should be monitored every 5 years as an indicator of forest health and land use changes. Revising decades old forest management practices will also be necessary to maintain our forest economy and reduce destruction from wildfires and disease.

Our natural ecosystem services provide clean water, clean air, soil productivity, water storage, flood control and many other services that are necessary for life on Earth. Climate change is occurring faster than our ecosystems can adapt therefore we must do everything we can to preserve these systems. This

includes promoting community education on the importance of preserving ecosystems such as wetlands and wildlife corridors. Some land use codes may need revision based on current and future climate conditions and the County can provide technical, logistical and financial support for community organizations that are restoring and enhancing ecosystems. A long-term monitoring program of ecosystem health is essential.

The longer we delay climate action, the more difficult and expensive it will be to preserve the natural systems that support life as we know it on Earth. The need to combat climate change and prevent irreversible damage to our County and planet is urgent and we must rise to the challenge facing us, for our own sake and for that of future generations.

Key Priorities in the Whatcom County Climate Action Plan

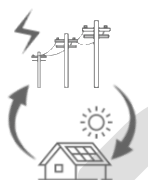
County Implementation



In order to accomplish climate resilience in Whatcom County through the many strategies and actions recommended by this plan, the County needs to establish and staff an Office of Climate Action.

- Establish an Office of Climate Action within the Office of the Executive.
- Appoint an interim director from within current County staff while pursuing funding to hire a permanent Senior Climate Advisor to head the office.
- Hire a data analyst/information specialist to begin compiling relevant climate data and making them available to staff and the community.

Electricity and Buildings



Electrification of buildings is one of the most important strategies for quickly reducing emissions, especially if electricity generation comes from clean, emissions free sources. Climate resilience occurs when buildings can operate at times without utility power & can provide power back to the grid. In essence, buildings become grid assets to help manage the electricity load on the grid.

- Commit to net zero carbon emissions for government buildings & create resilience hubs for emergencies & community benefits.
- Accelerate deployment of distributed energy resources & broadband while ensuring equity & energy resilience.
- Develop an equity-based financing plan to expand energy efficiency upgrades and electrification of space and water heaters.
- Promote leadership at the state and county levels through support of climate legislation and demonstration projects that promote climate resilience.

Industry



Because industry is the largest GHG emitter in Whatcom County, rapid reductions in industry emissions are essential. The state, County and refineries need to work together to successfully transition to the production of clean fuels and ensure a strong long-term manufacturing base and the jobs that come with it.

- Facilitate a solutions-focused collaboration with *bp's* Cherry Point plant manager and energy experts in academia, state, and federal governments to discuss ways to reduce refinery emissions 50% by 2030.
- Promote the research, development, & collaboration needed to build a hydrogen electrolysis facility to create green hydrogen in Whatcom County.
- Establish a regional center for research, development and demonstration to accelerate the development of low carbon fuels and building materials modeled after Washington's Maritime Blue Strategy.

Transportation



Transportation is already on a rapid pathway to decarbonization with the growing transition to EVs. The County can make this transition equitable with new programs, & updates in regulations and codes that accelerate EV charging infrastructure and provide multimodal transportation options for County residents.

- Accelerate adoption of EVs through pooled EV purchases, charging stations at all government buildings and parks, and building codes that promote EV charging at businesses and homes.
- Implement the regional trails plan for commuting and recreation and provide safe active transportation routes for schools.
- Explore and encourage electrification of buses throughout the county.

Waste



Waste is an expanding problem for disposal & consumer expense, but information on the magnitude of this problem is unavailable. Nevertheless, much can still be done through codes to reduce the amount of waste we generate and encourage recycling.

- Collect the necessary data through expanded audits to evaluate the success of existing programs & the benefit of new programs.
- Encourage the eliminate single use plastic bags, containers & utensils.
- Expand the Food Recovery Program to add a food kitchen to reduce food waste.

Land Use



Land use zoning and codes are perhaps the most important tools that the County can use to mitigate emissions in industry, buildings, transportation, and waste. These tools also help us adapt to climate change and ultimately create climate resilience.

- Create a climate-resilient regulatory framework for new County development.
- Use regulations to enhance active & public transportation systems & infrastructure.
- Require a climate-focused risk assessment for all County infrastructure.
- Protect ecological zones that create climate resilience such as riparian areas, floodplains, shorelines, wetlands & migrations corridors.

Water Resources and Fisheries



No climate impact is as predominant as its effect on Whatcom's water resources and fisheries. Water availability also impacts agriculture, forestry and our important plant and animal ecosystems. It is currently the most important and contentious issue in the County. Fortunately, there are approaches we can employ now to help these important ecosystems adapt to climate change.

- Resolve uncertainty in current & future water supply under climate change.
- Restore and protect watersheds that enhance streamflow and reduce water temperature to ensure year-round salmon migration & survival.
- Incentivize efficiency upgrades to water consumption systems and new augmentation approaches.
- Rebuild connectivity of our fragmented hydrologic system to increase natural water storage on the landscape & reduce flood damage.
- Enhance estuarine, marine shoreline and coastal wetland habitats for fish and shellfish.

Agriculture



Farmers have long been recognized as stewards of our land and can play an important role in efforts to adapt to our changing climate. Low till or no till management practices increase soil carbon and moisture content. Irrigation efficiency and improved management of drainage can also enhance soil water storage. Development of heat- and drought- resistant crops will be essential under a changing climate.

- Adopt climate smart farm management practices that maximize soil carbon storage and increase water and nutrient availability.
- Ensure a minimum of 100,000 acres of farmland is available for agriculture including rezoning the Rural Study Areas to Agricultural zoning.
- Reduce agriculture emissions & increase renewable energy, while providing farmers with new income opportunities.
- Promote use of climate research including drought- and heat-resistant crops.

Forestry



Our forests are an important part of our economy providing recreation, wood products, and cultural identity. We must adapt our decades old forest management practices to the drier and warmer conditions today and in the future or suffer the economic and health impacts of more wildfires and disease. This starts with measuring the health of our forests & adapting our forest practices to maximize health.

- Protect, enhance, & monitor carbon storage and sequestration in forest ecosystems through implementation of a carbon credit program and other mechanisms.
- Increase forest health, survival & climate resilience using forest management practices that reduce wildfire risk, increase soil moisture, streamflows, & preserve wildlife habitat.
- Promote climate resilient planning & programs to maintain our forest economy for recreation and wood products.
- Reduce development pressure on rural forestry and other forested lands through re-zones and voluntary conservation easements

Ecosystems



Although many ecosystems are already covered above, this chapter emphasizes the crosscutting issues necessary to adapt to climate change that are common across natural environment systems. The common themes are community education, revising land use codes, financial support for restoration, and implementing a long-term monitoring system for ecosystem health.

- Develop and implement zoning regulations that protect wildlife climate migration corridors
- Revise land use & development codes based on current & projected climate impacts to reduce damage & enhance resilience.
- Provide technical, logistical, and financial support for community efforts to restore & enhance ecosystems.
- Implement long-term monitoring to assess the impact of climate on ecosystem health.

Crosscutting Issues

Although the climate mitigation and adaptation strategies and actions are organized by topic areas in this report, several crosscutting themes reoccur in multiple areas. These crosscutting issues will need to be actively coordinated across County departments and among senior County staff and the County Council.

- 1. Leadership.** County climate action efforts are largely invisible to Whatcom residents. There is no single person who is dedicated to coordinate climate action across departments, seek state and federal funding for programs, and is accountable to the public. During state legislation sessions, the County needs to voice its position on various bills that support climate action recommendations. The Senior Climate Advisor in the Office of Climate action should, under the guidance of the Executive and Council, provide this leadership.
- 2. Equity and Inclusion.** Equity, especially in energy upgrades, and inclusion of a representative cross-section of the community in the planning and priorities associated with climate actions is essential as the County moves forward. The goal of the County should be to protect the most vulnerable communities first. Climate risk may include exposure to excessive heat or cold temperatures and poor air quality. Climate risk of flooding, drought, and wildfires is highly dependent on location. These issues disproportionately impact low-income households, people of color, and people on fixed incomes.
- 3. Honor Tribal Treaties and Sovereignty.** The County needs to remain committed to our government-to-government relationship with our sovereign tribal nations when implementing climate recommendations in this plan. For example, Cherry Point is acknowledged as the ancestral homelands of the Lummi Nation, which has historic burial grounds located in the heart of this industrial zone. Cherry Point also holds traditional reef net fishing areas as well as harvesting for salmon and crab. The County needs to continue honoring Tribal treaty rights when preserving critical habitats and fully recognize land, water, and resource rights, and protect cultural sites.
- 4. Evaluation of Climate Impacts in All Aspects of Planning.** Climate impact and risk (present and future) need to be evaluated in all aspects of planning to understand the potential impact on carbon emissions:
 - a. In the Comprehensive Plan;
 - b. In the planning process for new County infrastructure (such as roads, bridges, and buildings);
 - c. Regulations for urban growth areas and new industrial, commercial and residential developments (density, building codes, and multimodal transportation plans);
 - d. Zoning for rural and commercial forest lands;
 - e. Shoreline Management Plan
- 5. Increased Resources for Planning, Data Analysis and Outreach.** The data analyst/information specialist in the Office of Climate Action should provide necessary information services. A common theme throughout the different sectors was a general lack of readily accessible data for both planning and evaluating the success or outcomes of various programs. Information on the carbon footprint of County facilities was not available nor the carbon footprint of employee commuting. Energy savings for building efficiency upgrades were also not available. Although the County

produced an excellent solid waste management plan, we do not know if this planning is impacting the trend in per capita waste.

In the natural environment multiple organizations collect information such as streamflow levels, temperature, and water quality, yet the County lacks a centralized database that could serve as a repository for this information to evaluate trends. Snohomish County has such a system at tableau.com, where information can be accessed by the public and analyzed and graphed to indicate trends and get a better understanding of changes occurring over time. Whatcom County needs to sponsor such a system.

Community outreach is also very important, especially if this outreach reaches a diversity of viewpoints. A diversity of viewpoints can lead to better planning and outcomes, while at the same time generating community buy-in. Community workshops should be considered for designing new programs that embrace the guiding principles that are discussed in Section 1 of this report.

- 6. Need for Financial Incentives and Mechanisms.** To quickly reduce emission, the County will need to provide financial incentives and mechanisms. The initial cost of energy efficiency upgrades can be steep for homeowners and businesses. Ecosystem restoration and floodplain management projects can also be very expensive. There are many sources of stimulus and infrastructure funds available at the state and federal levels that could help fund new programs, yet individual staff may be unaware of these opportunities or do not have the time to apply for grants.

Another concept that crosscuts the Natural Environment section of this report is the need for a Carbon Market to incentivize management practices that increase carbon storage in soils and plants. A carbon market sells offsets or carbon credits to businesses that are large carbon emitters and financially rewards landowners who store carbon. A similar idea is being promoted locally to form the [Kushan Carbon Trust](#). The trust does not own the land, but instead buys an easement to ensure long-term storage of the carbon. The landowner generates income from the carbon credits and is responsible for protecting the carbon asset.

- 7. Need for Universal Broadband Access.** Universal broadband access was recommended in several sectors. Reliable internet access can be used to remotely control energy use in homes and reduces transportation emissions by enabling work from remote locations. Social equity is not achieved if broadband is only available to wealthier households or those outside rural areas.
- 8. Benefit of Research, Development and Demonstration Projects.** Although this Climate Action Plan relies on existing technologies, many of these available technologies are not widely deployed and may be unfamiliar to the public. Local demonstration projects are a very effective way to test new technologies and show residents and builders their advantages. The County should design and execute demonstration projects through collaborations with local research universities, national laboratories, state and federal agencies and the private businesses. Data and information collected from demonstration projects can also be used to support changes in existing regulations or even state laws and legislation. This may especially be important for modernizing our state water laws.

Organization of the Climate Action Plan

This Climate Action Plan covers both the Built and Natural Environments in Whatcom County. Although the plan is long, it provides a detailed roadmap of the actions that need to be accomplished in order to avoid the most devastating impacts of climate change and do our part to meet state emission targets.

This plan is organized as follows with the primary authors listed in parentheses:

Section 1 – “Climate Change in Whatcom County” discusses climate impacts, terminology, our 2017 greenhouse gas assessment, and the guiding principles for our strategies and actions. (Ellyn Murphy)

Section 2 - "The Built Environment" Electricity & Buildings (Cynthia Mitchell, David Hostetler, Ellyn Murphy), Industry (Sue Gunn), Transportation (Phil Thompson), and Waste (Ellyn Murphy). These are the main sources of emissions, and we present the solutions and strategies to reduce emissions.

Section 3 - "Natural Environment" Land Use (Kaylee Galloway), Water Resources and Fisheries (Chris Elder, Ellyn Murphy, Stevan Harrell), Agriculture (Stevan Harrell), Forestry (Ellyn Murphy) and Ecosystems (Katherine Kissinger). This section discusses the impacts of climate change on these areas and how these areas can be part of the solution.

Section 4 - "Implementation" suggests how best to coordinate and implement the strategies and actions suggested in Sections 2 & 3 and the Appendix (Stevan Harrell). Good management oversight of climate actions includes community engagement, a stepwise process for defining individual projects, coordinating project execution, assessing outcomes, and adapting next steps based on current circumstances.

Section 5 - Appendix - Details of the strategies, actions, and benefits of the proposed recommendations.

The CIAC would also like to thank the numerous stakeholders in the community that participated in strategy development and reviewed sections and chapters of this report. Without their expertise and willingness to help, we could not have completed such a comprehensive plan and are grateful for their support. These participants are listed in the appendices for the various sectors covered in this report.

SECTION 1 - CLIMATE CHANGE IN WHATCOM COUNTY

DRAFT

Much has changed since Whatcom County released the 2007 Climate Action Plan and the window of opportunity for avoiding the worst impacts of climate change has narrowed.

The climate crisis is like a slow-moving pandemic impacting the world's ecosystems, those systems upon which all life on earth depends to survive and thrive. There is no climate vaccine, but we have the tools to control the climate pandemic if we choose to use them.

Whatcom County's challenge is straightforward but by no means easy. To avoid irreversible damage to these natural systems, it is estimated that the global community needs to reduce greenhouse gas (GHG) emissions by about 7.6% every year until 2030 to meet the Paris target of no more than 2.7°F warming.¹ Today we live in a world where the global average temperature already has risen almost 2°F above pre-industrial levels. On our current track, temperatures are expected to rise by almost 6°F, bringing even wider-ranging and more destructive climate impacts.

Governments at all levels, many global corporations, and millions of private citizens are acting to reduce their GHG emissions. Many of the giants of US industry, such as Apple,² Amazon,³ and Microsoft,⁴ which were built on science, have committed to net zero or net negative carbon by 2030. These are aggressive plans to decarbonize in a relatively short period of time. But this is what the scientific evidence and modeling tells us is needed.

All greenhouse gas emissions contribute to worldwide impacts from climate change, but only we can act locally to do our part in solving the problem.

In fact, utilities and fossil fuel companies are adapting – acknowledging that fossil assets such as coal-fired power plants are becoming cost inefficient to operate. Government policy shifts in favor of cleaner energy are hastening the stranding of some in-ground fossil fuel reserves. British Petroleum (*bp*) and Shell wrote off billions in such assets, citing Covid-19 and climate change.⁵ *bp* itself set a net zero carbon target for 2050⁶ and recently, went even farther and committed to reducing oil production by more than 40% by 2030 and emissions from refining by nearly 30%. In the next decade, *bp* plans to invest \$50

¹ Cut Global Emissions by 7.6% Every Year for Next Decade to Meet 1.5°C Paris Target – UN Report, Nov 26, 2019. <https://unfccc.int/news/cut-global-emissions-by-76-percent-every-year-for-next-decade-to-meet-15degc-paris-target-un-report#:~:text=Cut%20Global%20Emissions%20by%207.6,Paris%20Target%20%2D%20UN%20Report%20%7C%20UNFCCC>

² Apple commits to be 100% carbon neutral for its supply chain and products by 2030, July 21, 2020. <https://nr.apple.com/dE9n5d3o7T>

³ We are all in on The Climate Pledge: net zero carbon by 2040, June 23, 2020. <https://blog.aboutamazon.com/sustainability/we-are-all-in-on-the-climate-pledge-net-zero-carbon-by-2040>

⁴ Jay Greene, "Microsoft pledges to remove more carbon than it produces by 2030," Jan 16, 2020, *The Washington Post*. <https://www.washingtonpost.com/technology/2020/01/16/microsoft-climate-change-pledge/>

⁵ Nicholas Kuznets, "BP and Shell Write Off Billions in Assets, Citing Covid-19 and Climate Change." *Inside Climate News*, July 2, 2020. <https://insideclimatenews.org/news/01072020/bp-shell-coronavirus-climate-change>

⁶ Jillian Ambrose, "*bp* sets net zero carbon target for 2050," Feb 12, 2020, *The Guardian*. <https://www.theguardian.com/business/2020/feb/12/bp-sets-net-zero-carbon-target-for-2050>

billion in renewable energy.⁷ How will this impact Whatcom County, home to two large refineries owned by *bp* and Phillips 66?

Fortunately, we already have the cost competitive technology needed to reverse our current climate trajectory.⁸ Just as we mobilized the entire US economy to win World War II, we can do the same today with significantly smaller shifts in economic activity.⁸ The renewable energy sector has become a major US employer with over 3 million workers and outnumbers fossil fuel workers by 3-to-1.^{9,10} One recent estimate suggests that as many as 15 to 20 million jobs would be created over the next decade through a serious decarbonization effort.¹¹

Seventy to 80% of US carbon emissions could be eliminated by 2035 using the following five commercially available technologies: wind and solar power plants, rooftop solar, electric vehicles, heat pumps, and batteries (Fig. 1.1).⁸

Eliminating fossil fuels in the electricity system and widespread use of EVs would address more than 70% of total emissions. It's time to get started.

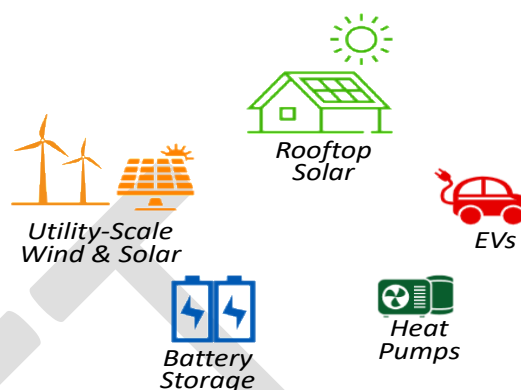


Figure 1.1: Five available technologies to reduce carbon emissions by 70 to 80%.

⁷ David Blackmon, “*bp* Commits Big Investments Toward Its ‘Net Zero Emissions by 2050’ Target,” *Forbes*. <https://www.forbes.com/sites/davidblackmon/2020/08/04/bp-commits-big-investments-towards-its-net-zero-emissions-by-2050-target/#18662c8c2003>.

⁸ David Roberts, “How to drive fossil fuels out of the US economy, quickly” *Vox*. <https://www.vox.com/energy-and-environment/21349200/climate-change-fossil-fuels-rewiring-america-electrify>

⁹ Anna McGinn “Fact Sheet – Jobs in Renewable Energy, Energy Efficiency, and Resilience” (2019) Environmental and Energy Study Institute. <https://www.eesi.org/papers/view/fact-sheet-jobs-in-renewable-energy-energy-efficiency-and-resilience-2019#3>

¹⁰ Silvio Marcacci, “Renewable Energy Job Boom Creates Economic Opportunity as Coal Industry Slumps,” Apr 22, 2019. *Forbes*, <https://www.forbes.com/sites/energyinnovation/2019/04/22/renewable-energy-job-boom-creating-economic-opportunity-as-coal-industry-slumps/#4127763e3665>

¹¹ Saul Griffith, founder, and chief scientist of Otherlab (otherlab.com); co-founder of Rewiring America <https://www.rewiringamerica.org/>

Important Climate Concepts

GHG emissions are anthropogenically-produced heat-trapping gases in the atmosphere that result in global warming. The impacts of these emissions are dependent on where you live, even where you live in Whatcom County. For example, if you live on the coast, sea level rise and storm surge are a concern; if you live near the Nooksack River, flood intensity and frequency are a concern; and if you live in a wooded area, wildfires are a concern. Whatcom County must do its part to reduce emissions while addressing the impacts already occurring at the County level.

A **GHG assessment** is a detailed inventory of the GHGs released to the atmosphere during a given year. This assessment is divided into the major categories of GHG sources. **ClearPath**, a leading online software platform, was used for this report. ClearPath adheres to international protocols for GHG assessments and is available through Whatcom County's membership in Local Governments for Sustainability.

Greenhouse gas emissions are reported in metric tons, MT, "carbon dioxide equivalents," written CO₂e. This reflects that there are additional GHGs, such as methane and nitrous oxide that are important. Expressing these gases as carbon dioxide equivalents allows for more valid comparisons.

Climate resilience is our ultimate aim in planning for, and responding to, climate change. Resilience is "the capacity of a system, be it a person, a forest, a city or an economy, to deal with change and continue to function."¹² Resilience is especially important given the uncertainty about the timing and magnitude of climate change impacts. In advocating for climate resilience, we acknowledge that change will continue to occur, and when it does, our built and natural systems can recover with proper planning and policy decisions.

Actions to combat climate change and its effects fall into two broad categories in this Climate Action Plan. **Mitigation** is the avoidance, reduction (and when possible, the total elimination) of heat-trapping emissions usually associated with human activity.

Adaptation is altering human behavior and/or systems to reduce or avoid the climate change impacts likely to occur despite any mitigation. Climate resilience requires both mitigation and adaptation (Fig. 1.2). This Plan's climate adaptation strategies focus on these more localized effects in Whatcom County.

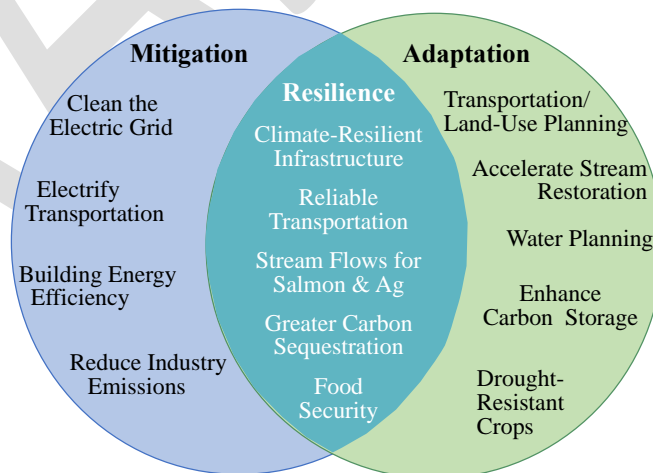


Figure 1.2: Climate resilience relies on implementing both mitigation and adaptation strategies.

¹² "Resilience is the New Sustainability," March 25, 2019, *HydroPoint*.
<https://www.hydpoint.com/blog/resilience-is-the-new-sustainability/>

The content of this revised climate action plan has necessarily evolved since the 2007 Whatcom County Climate Action Plan.¹³ Nearly 15 years have passed with increasing impacts and damage of climate change requiring more adaptation coupled with mitigation. Economic and environmental impacts of climate change will inevitably worsen without more ambitious action at every level of government.

Climate vulnerability assessments are used to rate the susceptibility of a natural or human system to damage from climate change. Vulnerability is a function of exposure, sensitivity, and adaptive capacity. Vulnerability assessments were completed for transportation, land use and agriculture, freshwater, and ecosystems and species and are discussed in more detail under those topic areas in this report.

While the vulnerability ratings tend to be qualitative in nature, the underlying technical data demonstrates that the County government and its residents are facing severe and costly climate-related impacts. Adaptation planning and investment can avert much of the economic toll. Climate strategies and actions are designed to minimize disruption of Whatcom County's economy and environment, while increasing community resilience and improving long-term economic and public health. However, to succeed, the County will need to devote substantial resources now to avoid much higher climate-related costs down the road.

This updated Climate Action Plan reviews the current and projected climate impacts for Whatcom County and provides a roadmap of strategies and actions that are necessary to avoid or alleviate the most devastating impacts of climate change.

Observed Trends and Projected Impacts in Whatcom County

Cascadia Consulting Group's full climate science summary for Whatcom County is briefly summarized here.¹⁴

Temperature

- By the 2050s, the average year in Washington will likely be warmer than the hottest year of the 1900s.
- By the 2050s, average annual temperatures in Puget Sound are projected to increase by 4.2 °F to 5.5 °F under low- and high-emissions scenarios, respectively. By 2100, they are projected to be 5.5 °F to 9.1 °F warmer.
- Heat waves have increased in frequency every decade since the 1960s and are projected to continue to do so.¹⁵

¹³ Whatcom County Climate Protection and Energy Conservation Action Plan, September, 2007.
<https://whatcomcounty.us/DocumentCenter/View/36617/Whatcom-County-2007-Climate-Protection-and-Energy-Plan>

¹⁴ Whatcom County Greenhouse Gas Inventory 2017, prepared in 2020 by Cascadia Consulting Group:
https://www.whatcomcounty.us/DocumentCenter/View/48029/WhatcomCountyGHGInventory_DRAFT_June2020

¹⁵ Climate Change Indicators: Heat Waves. <https://www.epa.gov/climate-indicators/climate-change-indicators-heat-waves>

Precipitation

- Average annual precipitation in Puget Sound is projected to increase by 4% to 5% by the 2050s under low- and high-emissions scenarios, respectively, and another 2% by the 2080s under both emissions scenarios.
- Wetter conditions are anticipated in spring, fall, and winter, while summer will likely continue to get drier and warmer in Puget Sound. By the 2050s, summer precipitation is projected to decrease by 50% under a high-emissions scenario.
- Under a high-emissions scenario, heavy precipitation events west of the Cascades are projected to increase in intensity by 22% by the 2080s—meaning events will bring 22% more rain and a higher frequency.

Hydrology

- Mountains draining into Puget Sound are projected to have 29% less snowpack by the 2040s.
- By the 2040s, 40 miles of the Nooksack River basin will exceed the thermal tolerance of adult salmon, compared to zero miles currently.¹⁶
- The Nooksack River basin is anticipated to transition from being a mixed snow and rain-dominant system to a rain-dominant system in the future. By the 2080s, peak streamflow in the Nooksack River is projected to shift approximately 27 days earlier in the year.
- Flooding in the Nooksack River is expected to become more intense and frequent. Under a moderate emissions scenario, streamflow in the Nooksack River during a 100-year flood event is projected to increase by 27% by the 2080s.
- Under a moderate emissions scenario, summer minimum streamflow in the Nooksack River is projected to decrease by 27% by the 2080s.

Sea Level Rise and Storm Surge

- By 2100, relative sea level rise in the Bellingham area is projected to be between 1.5 and 1.9 feet with a 50% likelihood of exceeding those values.
- Puget Sound coastlines, including Whatcom County, are expected to experience increased storm surge and high tide flooding due to sea level rise.

Wildfire

- By the 2050s, Western Washington is projected to have 12 more days per year with very high fire danger.
- By 2100, the time period between wildfires in the North Cascade ecoregion will shorten by a factor of 2.2 to 2.5.
- The median area burned annually from wildfire across the Northwest is projected to increase by 0.6 million hectares (1,482,000 acres) by the 2080s.

¹⁶ Floodplain by Design and The Nature Conservancy, 2018. Climate Change in the Nooksack River: A quick reference guide for local decision-makers: <https://cig.uw.edu/our-work/decision-support/floodplains-by-design/>

Air Quality

- In the future, Whatcom County's air quality is likely to decline during periods of increased wildfire activity in the Pacific Northwest, especially during the summer and early fall.
- Warmer temperatures and increases in ozone pollution may reduce Whatcom County's air quality and can affect sensitive vegetation and ecosystems.

Whatcom County Greenhouse Gas Challenge

Largely because of the industries at Cherry Point, Whatcom County emits more than double the GHG per capita as the state as a whole. We have 3% of the state's population but generate almost 8% of its greenhouse gases. Even if we leave the industrial emissions aside, our per capita emissions are still 30% higher than the state average, because well over half our electricity is generated from fossil fuels.

Whatcom County emits more than double the GHG per capita as the state as a whole. We have 3% of the state's population but generate almost 8% of its greenhouse gases.

Communitywide Emissions

Overall, our communitywide emissions grew 35% between the 2001 inventory that was the basis of the 2007 Climate Action Plan and the 2017 GHG assessment we use here, while population grew only 27% during that interval (Table 1). Because of our high emission rates, a rapid transition to clean energy here is imperative. It is a crucial element in the state's effort to cut statewide emissions of GHG in half by 2030 and requires Whatcom's rapid transition to a clean energy economy.

Table 1. Total Communitywide GHG emissions and County government emissions for 2000-2001 and 2017. Emissions are reported in MT of carbon dioxide equivalent (MT CO₂e). FTE is Full Time Equivalent.

Communitywide Inventory	2001	2017	% Change
Population	170,980	216,300	+27%
Residential Households	75,740	96,271	+27%
Total Emissions	2,750,728	7,583,578	+176%
Total Emissions (without Industrial point source emissions)	2,750,728	3,721,230	+35%
County Government Inventory	2000	2017	% Change
County Staff FTE's	759	813	+7%
County Government Total Emissions	10,318	9,950	-4%

Our communitywide distribution of GHG emissions is very different when compared to statewide emissions. The categories in Figure 1.3 were previously established by the State Department of Ecology. Transportation is the largest emitter of GHGs in Washington State, followed by burning fossil fuels (principally natural gas) for buildings and water heating. The third category of emissions results from

electricity generated by fossil fuels, biomass, and waste. The fourth category is somewhat of a catch-all, including industrial point source, waste, and agriculture.

In Whatcom County, industrial point source emissions constitute 51% of this combined category of industry, waste and agriculture that together represents over half of Whatcom’s GHG emissions. GHG emissions from electricity generation is the second highest category in Whatcom County because almost 60% of our electricity is generated using fossil fuels.

These simplified categories help explain the state’s basic energy strategy – electrify all possible end uses in the transportation, space and water heating, and industry sectors and eliminate fossil fuels from electricity generation. At the same time, electrification is not enough unless we decarbonize the grid itself. Removing fossil fuels from the electric grid is the focus of the 2019 Clean Energy Transformation Act (CETA). Here in Whatcom County, electrification of buildings and transportation, decarbonization of the grid and severely reducing industrial emissions, are thus the three legs of our climate mitigation actions that will be explained in the following sections of this Climate Action Plan.

The 2021 Washington State Energy Strategy provides an overarching roadmap to guide reduction of sector emissions where city and county governments have influence. In developing climate strategies, the CIAC is aware that there are areas where the County has direct control and areas where the County has indirect influence. The strategies and recommendations in this report will follow, where possible, the state energy strategies and policies.

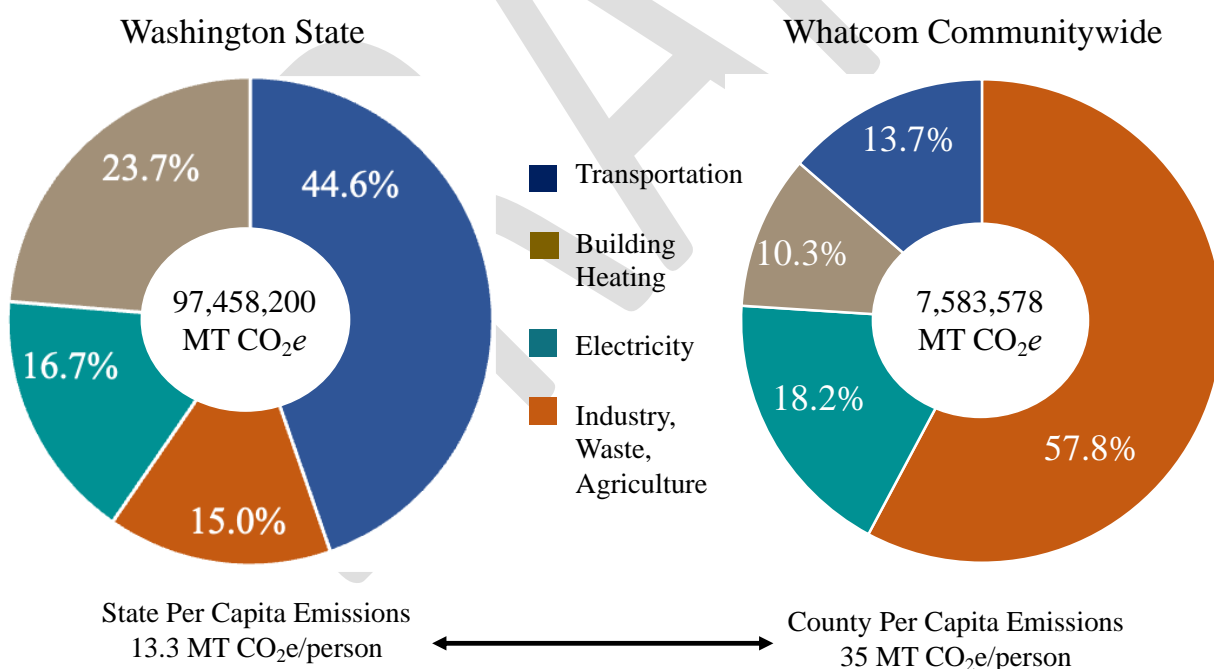


Figure 1.3: A comparison of 2017 statewide and Whatcom communitywide GHG emissions. Building Heating includes all residential, commercial, and industrial buildings use of fossil fuels for heating buildings and water (does not include heating by electricity). The state adds fugitive emissions from refrigerants to the Industry, Waste, Agriculture category, while ClearPath includes these fugitive emissions with Buildings.

County Government Operations Emissions

The Whatcom government operation's GHG emissions in 2017 show a slight decline from 2000 (Table 1). Like the communitywide emissions for Whatcom, the approaches for data collection and evaluation have changed, making it difficult to derive any insights from this trend. For example, in 2007 it was assumed that carbon dioxide was trapped in landfill waste, leading to no or negative emissions. In contrast, the 2017 GHG inventory includes emissions from waste generation and emissions from closed landfills within Whatcom County (Fig 1.4), comprising almost a fifth of the overall government operations emissions.

Some information is available on the implementation of recommendations in the 2007 Climate Action Plan for the County's government operations. One recommendation was to hire a staff member to coordinate the climate strategies, a position that was eliminated during the 2009 economic recession and never replaced. Another recommendation to purchase renewable energy for all County buildings through PSE's Green Direct Program was only fully instituted in 2019.

County purchases of hybrid vehicles and improvements in facilities energy efficiencies since 2007 are reflected in the 2017 GHG inventory, but no evaluation has been done by the County on cost and energy savings from these upgrades. Finally, although the County continues to support "SMARTrips," a program to encourage reduction in staff vehicle miles traveled, there is no data to indicate that the program has changed overall staff commute behavior. Only 10% of County staff participated in this program in 2019. So, the decline in staff commute emissions may be due to any number of factors including the method of data collection, higher fuel efficiency of vehicles, more staff living closer to work, or other factors.

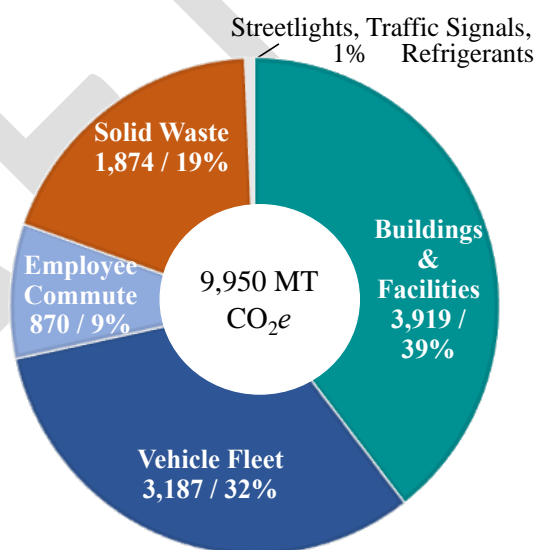


Figure 1.4: 2017 Whatcom Government Operations Emissions (in MT CO₂e)

Comparison with the Last Whatcom County GHG Assessment

The last time Whatcom County did a GHG inventory was in 2006 and the assessment was based on calendar years 2000 and 2001 (Table 1). This inventory was the basis of the first Whatcom County Climate Action Plan (CAP) published in 2007. The actual trends in GHG emissions are difficult to interpret because methods of data collection and analysis have changed over this long time period. Ideally, these inventories need to be done every five years to make valid comparisons and measure the effectiveness of mitigation and adaptation strategies.

The significant increase in communitywide GHG emissions in 2017 is because the earlier report did not include industrial point-source emissions from two large petroleum refineries (~3 million MTCO₂e) and aluminum production (~1 million MTCO₂e) at Cherry Point. This industrial emissions information was not available in 2007.

Even if industry point source emissions were excluded, GHG emissions in Whatcom County still increased at a greater rate than population growth. Any number of reasons or combinations of reasons could account for this increase but evaluating trends or the effectiveness of strategies and actions in the 2007 Climate Action Plan is problematic for the following reasons:

- The model used for the 2000-2001 inventory was a precursor to the current ClearPath model and less sophisticated.
- Methodologies for collecting data have changed. Data source and collection process are not uniformly documented in the 2000-2001 inventory.
- More information is available and required in the 2017 GHG emissions inventory.
- A significant lack of history and data on the implementation of climate recommendations due to County staff employment turnover.

Overall, our high emission rates call for a rapid transition to clean energy in Whatcom County, in tandem with the state's effort to cut statewide emissions of GHG in half by 2030. Transportation is the state's largest emitter, while industrial point source from refineries is the County's, creating a strong rationale for the two levels of government to work together.

GHG Emissions Targets

In order to meet the 100% renewable energy goal established in Whatcom County Ordinance 2017-080¹⁷ and to analyze strategies for GHG reductions, the CIAC proposes the following timelines for communitywide and County government emissions reductions (Fig. 1.5):

Communitywide (Whatcom County) Targets:

- A 45% reduction below 1990 levels by 2030
- A 95% reduction below 1990 levels and net zero emissions by 2050

County Government Targets:

- An 85% reduction below 2000 levels by 2030
- A 100% reduction below 2000 levels by 2050

The County government targets are more aggressive to demonstrate leadership and are consistent with GHG targets established by the City of Bellingham, including an 85% reduction below 2000 levels by 2030 to 1,500 MTCO₂e or a reduction of ~8,400 MTCO₂e. These estimated reductions do not include the County's participation in PSE's Green Direct wind energy program that started in mid-2019.

Based on County Council guidance, the CIAC will be updating the GHG inventory and Climate Action Plan every five years, making future comparisons of progress feasible.

¹⁷ <https://www.whatcomcounty.us/Archive/ViewFile/Item/14045>

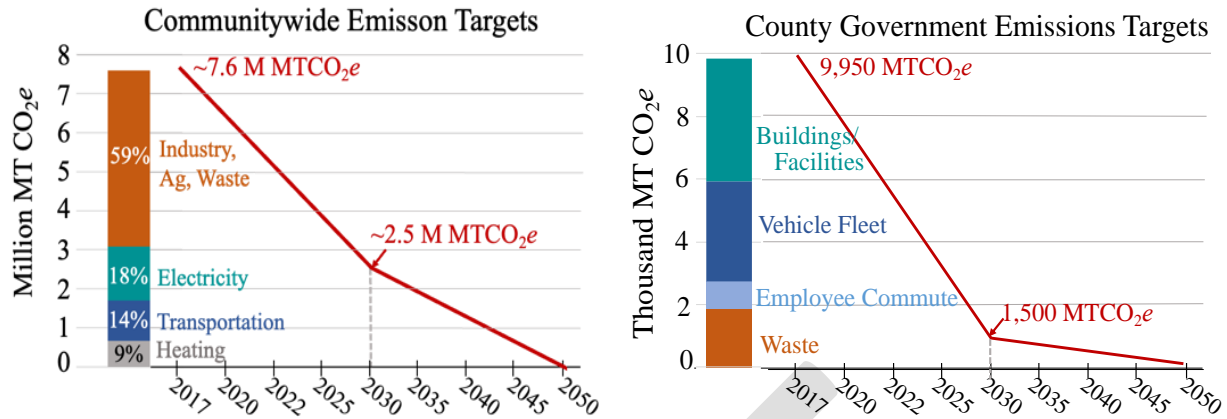


Figure 1.5: Communitywide emissions targets and County government emissions targets

Recent Washington Climate Legislation

Whatcom County's GHG targets are daunting and will be a significant challenge. However, the Washington State government has enacted legislation that will make it easier for our community to meet these aggressive targets. Two very important pieces of legislation were passed by the Washington State Legislature and signed into law by Governor Inslee in 2021. Both the [Climate Commitment Act \(SB5126\)](#) and the [transportation fuel carbon intensity bill \(HB1091\)](#) use variations of a cap and trade approach to set a price on the carbon content of energy used in Washington State.

Generally speaking, under cap-and-trade regulation an overall cap on emissions is set and allowances equal to the emissions cap are issued, which can then be traded among participants. The market price of the allowances becomes the price of emitting another unit of the pollutant, with emitters who can lower their emissions at a relatively low cost will do so and sell their extra allowances to emitters who face high emissions reduction costs. The result is that emissions are reduced to the desired limit—the “cap”—at the lowest possible cost of doing so through allowance “trading.” This approach also provides incentives for emitters to discover better and cheaper ways to achieve the desired emission reductions. An important feature of cap and trade is that limits are not placed on individual emitters or even (usually) on economic sectors—reductions are undertaken primarily by those emitters with the lowest reduction costs, regardless of their industry or location.¹⁸ Existing examples of cap and trade systems for carbon emissions include the [California-Quebec](#) market, the [Regional Greenhouse Gas Initiative](#) in the eastern U.S., and the European Union's [Emission Trading System](#).

The most important feature of these bills is that the caps (reduced gradually over the next twenty to thirty years) are effectively placed on carbon emissions consistent with emissions reductions goals set out in [RCW 70A.45.020](#), on which the reduction goals in this CAP are based. One result is to increase the cost of carbon-emitting activities thereby discouraging them. But the legislation goes beyond requiring a price on carbon emissions. Revenues collected through the sale of allowances (in SB 5126) or carbon intensity credits (HB1091) are earmarked for a variety of possible programs and projects to reduce

¹⁸ There are dozens of references that explain cap and trade in more detail; a basic one is provided by the [Environmental Defense Fund](#)

carbon emissions, increase carbon sequestration, and improve environmental resilience to the impacts of climate change, all while lessening the impacts on overburdened or low-income communities of climate change itself and of the policies designed to reduce those impacts.

Both of these bills call for a series of rulemakings to be conducted by state agencies, which will yield the detailed regulations implementing the legislation. HB1091 is targeted almost entirely at transportation fuels, but SB5126 caps emissions from nearly all sectors for the entire state, which makes it difficult to predict the extent of reductions that will occur within specific sectors in a single county. Both bills will use revenues they generate to fund programs in all economic sectors. Emissions related transportation projects are first in line for funding under SB5126, but the remainder of expenditures will occur across sectors through the climate commitment account, including funding the working families tax rebate, the deployment of renewable energy and grid modernization, increasing industrial energy efficiency, increasing energy efficiency in and the electrification of buildings, assisting workers who lose jobs in fossil fuel related industries, and carbon sequestration projects. SB5126 also establishes a natural climate solutions account, which will fund projects promoting climate resilience and adaptation through flood programs, healthy forests, and natural carbon sequestration.¹⁹

Guiding Principles for Advancing Climate Resilience

Ultimately, this Climate Action Plan should protect the County's citizens, businesses, environment, and governments from the detrimental impacts of climate change by achieving optimal climate resilience. This Climate Action Plan (CAP) provides guidance on how the County can achieve climate resilience to ensure long-term economic and social prosperity.

The CIAC's role is to recommend strategies based on commercially available technology that will lead to the greatest reductions in GHG emissions and address the natural and human-built systems that support life and are at greatest risk of damage from climate disruption.

To enhance climate resilience the following seven guiding principles will be considered when developing strategies that prioritize needs and investments.²⁰

1. Act with Urgency, Intention, Transparency, and Accountability

The far-reaching consequences of climate change dictate that we can no longer wait to take bold action. We must also accept the fact that actions taken today won't bear fruit for at least a few years. Many local governments within the County, as well as the County government itself, have not focused enough on the contribution of climate change to storm surge, flooding, salmon survival, or air quality. To

Guiding Principles

- 1. Act with Urgency, Intention, Transparency and Accountability*
- 2. Lead with Racial Equity, Social & Environmental Justice*
- 3. Respond to Community Needs and Economic Concerns*
- 4. Prioritize Health, Safety and Preparedness*
- 5. Increase County Leadership through Action, Partnerships, and Influence*
- 6. Seek Cross-Cutting Systems-Level Solutions*
- 7. Use the Best Available Science and Data Management Practices*

¹⁹ See Sections (26) – (31) of [SB5162](#) for more detail on funding possibilities for county and local governments.

²⁰ 2020 Strategic Climate Action Plan, King County, WA.

address this existential crisis, aggressive emission reduction targets must be accompanied by demonstrated action, investments, and accountability. To make sure our efforts are effective we need to ensure transparency and accountability. The County will need to make data widely available to the public and adhere to broadly accepted standards.

2. Lead with Racial Equity and Social and Environmental Justice

The long-term health and wealth of low-income communities, especially communities of color, have been disproportionately impacted by pollution from manufacturing, agriculture, and transportation, including the production, transport, and use of fossil fuels.²¹ These historic inequities are aggravated by climate change, which is also disproportionately burdening people of color, both in the US and abroad. In Whatcom County, agriculture is a large sector of the economy and people of color represent a large percentage of the agricultural workforce, making people of color disproportionately vulnerable to crop damage and extreme heat events associated with climate change.

Many factors increase sensitivity to climate change, with systemic racism and economic inequality being two root causes (Fig. 1.6). Local, state, and federal governments have a responsibility to address these inequities in their climate policy making.

Proposed actions to mitigate climate change can either increase injustice in society or reduce it. The

tools we use are important. Funding for climate stabilization needs to be progressive rather than regressive and increase equity for historically marginalized communities. To promote social and environmental justice, this plan seeks to reverse injustices of the past and create a healthier future for all County residents.

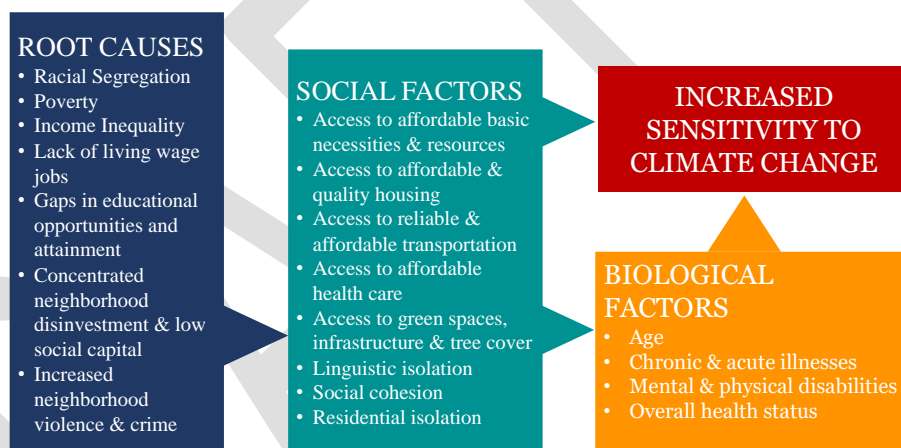


Figure 1.6: Root causes of climate change vulnerability, from Urban Sustainability Network Directors Guide to Equitable, Community-driven

3. Respond to Community Needs and Economic Concerns

To develop the background information needed to prepare this CAP, the CIAC began community outreach and engagement in 2019 with the Community Research Project. The stakeholders interviewed represented utilities and industries, individual business owners such as farmers and fishers, city, county, state, and federal staff, tribal leaders, and representatives of nonprofits. To create a viable and enduring

²¹ <https://www.pugetsoundsage.org/true-cost-of-fossil-fuel-use-for-communities-of-color/>

climate action plan, it will be critical for County staff to do additional community outreach and communication.

The financial risk associated with such effects of climate change as coastal and river flooding and wildfires could be substantial for the County, putting a strain on our emergency, public health, and many other County services.

Modeling efforts have shown that what have in the past been considered 100-year floods of the Nooksack River will eventually occur every 10 years.²²

Sea-level rise and coastal storm surge intensify river flooding by causing a restriction or

“backup” in the Nooksack River flow. Water continues to flow down rivers but meet a rising tide causing it to back up and/or spread out as it spills over levees and dikes (Fig. 1.7).²³

Climate change also increases the risk of wildfires, which can be especially frequent in wildland/urban interfaces (WUI). Seventy to 90% of all wildfires are human caused.²⁴

Potential financial risks can be reduced if the County incorporates the likely impacts of climate change in every aspect of planning, whether it is critical infrastructure, such as roads, bridges or ferries, new developments, or even planning associated with emergency services and response. For example, the shoreline development plan can no longer ignore climate change. The County must consider damage from sea level rise and storm surge over the next few decades prior to approving coastal developments and associated road access. Taxpayers will ultimately pay for poor decisions made today or delays in needed action. Smart land use planning can be an effective tool for reducing financial risk to the County government and the community at large and the pain of property loss and relocation.

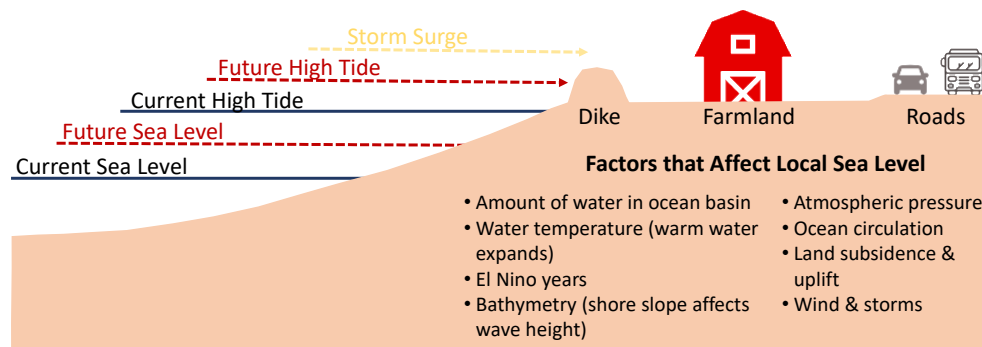


Figure 1.7: Rising Sea Levels and Storm Surge. A 12-inch increase in sea level turns a 100-year coastal storm event into a 10-year coastal storm event. A 24-inch increase in sea level turns a 100-year coastal storm event into an annual coastal event.

²² Dickerson-Lange, S.E. and R. Mitchell. 2013. Modeling the Effects of Climate Change Projections on Streamflow in the Nooksack River Basin, Northwest Washington. Hydrological Processes, Published Online in Wiley Online Library

²³ <http://www.skagitclimatescience.org/skagit-impacts/sea-level-rise/>

²⁴ Human-started wildfires expand the fire niche across the United States, by J.K. Balch, et al, *PNAS*, MARCH 14, 2017. 114(11) 2946-2951.

Whatcom County's economy is in a relatively difficult position as the world pushes to decarbonize. Major investors around the world are starting to divest from fossil fuel companies. As home to two major refineries, the County's strong dependence on fossil fuel jobs and revenue has the potential to make the County economically vulnerable unless the issues related to the economy and jobs are addressed in advance.

In a letter to stockholders²⁵ in January 2020, Larry Fink, asset manager at the mega-investment firm Blackrock, stated that a fundamental reshaping of finance is now underway at Blackrock because *climate risk is investment risk*.

"Climate change has become a defining factor in companies' long-term prospects. Last September, when millions of people took to the streets to demand action on climate change, many of them emphasized the significant and lasting impact that it will have on economic growth and prosperity – a risk that markets to date have been slower to reflect. But awareness is rapidly changing, and I believe we are on the edge of a fundamental reshaping of finance." Larry Fink, BlackRock

4. Prioritize Investments in Health, Safety and Preparedness

A recent analysis found that air pollution from fossil fuels leads to almost 250,000 premature deaths per year in the US.²⁶ Avoiding the increased medical costs and productivity losses associated with burning fossil fuels – even without including climate-related benefits - equates to over \$700 billion per year in economic benefits to the US – far more than the cost of the energy transition to renewables.²⁷

In addition, floods, extreme rainfall events, snowstorms and heatwaves all affect access to health care and emergency services. Climate change is already increasing the frequency of extreme weather events that can destroy both public and private property and infrastructure while also increasing susceptibility to disease and pests.

Insurance companies started tracking climate-related disasters as early as 30 years ago. To protect their liability, these companies have been re-evaluating flood and fire zones and either increasing rates or denying coverage.²⁸ State Farm has stopped insuring homes in Florida and are evaluating similar action in parts of California.²⁹ The economic and societal impacts of US weather and climate have increased

²⁵ Sustainability as BlackRock's New Standard for Investing by Larry Fink, CEO BlackRock.

<https://www.blackrock.com/corporate/investor-relations/blackrock-client-letter>

²⁶ The Devastating Health Impacts of Climate Change by Drew Shindell, Duke University, Aug 5, 2020, testimony to the House Committee on Oversight and Reform.

²⁷ Air pollution is much worse than we thought, Ditching fossil fuels would pay for itself through clean air alone, by David Roberts, Aug 12, 2020, Vox.com.

²⁸ How climate change is changing your insurance, PBS News Hour, Nov 27, 2018.

<https://www.pbs.org/newshour/economy/making-sense/how-climate-change-is-changing-your-insurance>

²⁹ State Farm to exit Florida property insurance, by Alistair Barr, MarketWatch, Jan 27, 2009.

<https://www.marketwatch.com/story/state-farm-to-pull-out-of-floridas-property-insurance-market>

substantially over the last few decades with an estimated cumulative cost since 1980 that exceeds \$1.75 trillion.³⁰

As the recent pandemic has illustrated, planning and investments in our emergency and public health systems are critical to lessening the economic and human impacts of natural disasters. Countries with strong public health systems and leadership, such as Taiwan, South Korea, and New Zealand, were in a better position to contain the Covid-19 virus relatively quickly.

Whatcom County has a valuable tool for increasing public health, safety, and preparedness in the face of a changing climate—land use planning. The way we use land is fundamental to our safety and climate change can amplify any problem. Enhanced protection starts by including climate change considerations when approving new developments, roads, bridges, and emergency facilities. Such actions were once viewed as radical and as a result, avoided. The result is that federal agencies are now using our tax dollars to move whole communities out of flood zones.³¹

5. Increase County Leadership through Action, Partnerships, and Influence

The complexity of climate impacts on the built and natural environments cannot be solved by government alone. Solving complex problems such as preserving water quantity and quality will require a broad range of partnerships across jurisdictions. To succeed, the County will need to provide strong leadership and coordination.

The County can also lead through example, by implementing and achieving aggressive goals to reduce carbon emissions in County operations, increase energy efficiency, and require zero-carbon operations in buildings. County-led demonstration projects that increase the availability of renewable energy, promote “green” jobs, and protect Whatcom County’s environment are all necessary leadership actions. The CAP will propose several demonstration projects that would qualify for state, federal or foundation funding, be a benefit to the County, serve as an education and communication tool, and honor the historical roots of the County.

Finally, there are some policy areas where County government has direct control through regulations and others where it can exercise influence. For example, the County can influence changes in state laws and regulations that can help solve climate-related problems, such as state water laws or state laws on financing energy efficiency upgrades. The County can also influence companies to encourage new approaches to reduce GHG emissions.

6. Seek Cross-Cutting Systems-Level Solutions

Systems-level thinking is simply taking into account how different parts of a system or systems interact, and by doing so, develop approaches that can solve multiple problems. For example, any solution that provides for adequate water quantity in agriculture must also address adequate in-stream flow for fish.

³⁰ NOAA Climate.gov, <https://www.climate.gov/news-features/blogs/beyond-data/2010-2019-landmark-decade-us-billion-dollar-weather-and-climate>

³¹ US Flood Strategy Shifts to ‘Unavoidable’ Relocation of Entire Neighborhoods, by Christopher Flavelle, New York Times, Aug 27, 2020, <https://www.nytimes.com/2020/08/26/climate/flooding-relocation-managed-retreat.html?referringSource=articleShare>

Systems-level solutions acknowledges that most problems, particularly environmental problems, are multidimensional. The best climate strategies solve a cross-cutting problem in a way that benefits multiple sectors. Properly implemented, the Climate Commitment Act will be an important part of system level solutions for Washington State.

7. Use the Best Available Science and Data Management Practices

Whatcom County has and continues to fund important science to better understand and address climate change impacts such as Nooksack River flooding and coastal sea level rise. Continued support of this type of research will be critical to planning efforts at the County level. The latest science should be incorporated when climate strategies are evaluated for effectiveness.

Data collection and analysis are not only critical for making decisions but also for evaluating our progress in addressing climate change. Data are often missing or unavailable for evaluating the benefits of various mitigation strategies such as upgrading the energy efficiency of buildings, commute trip reduction programs, waste recycling initiatives, and carbon footprint differences between projects completed by County employees versus private contractors.¹²

Data collected on natural resources in Whatcom County are fragmented and housed in multiple organizations. For example, several organizations in the County collect information on in-stream flow and water quality in the Nooksack River Basin. Recording all of this information in a common database that could be accessed by researchers and the general public could accelerate a greater understanding of this complex river system resulting in problem-solving and action. Snohomish County has such an online platform at tableau.com where information is collected from multiple sources, analyzed, and graphed to indicate trends and get a better understanding of changes occurring over time. Whatcom County should host such a system.

When making all planning and purchasing decisions the County needs to ask how they affect progress toward our climate goals. County decisions must move us toward a lower-carbon, climate-resilient future, while also helping to promote economic prosperity, equity, and social justice. To maintain a prosperous Whatcom County, we must adopt both mitigation and adaptation strategies that maximize our resilience to flooding, water shortages and wildfires, and move closer to a sustainable cleaner energy economy. Our economy and health depend on clean water and air, healthy farmland, and resilient ecosystems. This revised Climate Action Plan is intended to be a roadmap to get started.

SECTION 2 - BUILT ENVIRONMENT

DRAFT

Introduction to the Built Environment

The built environment in this report includes the human-built infrastructure that is a part of everyday life—electricity, buildings, industry, transportation, and waste.

Additionally, land use is considered throughout this Climate Action Plan because its policies play a critical role in both increasing and reducing emissions. Land use can be viewed as a tool to help balance the built and natural environments.

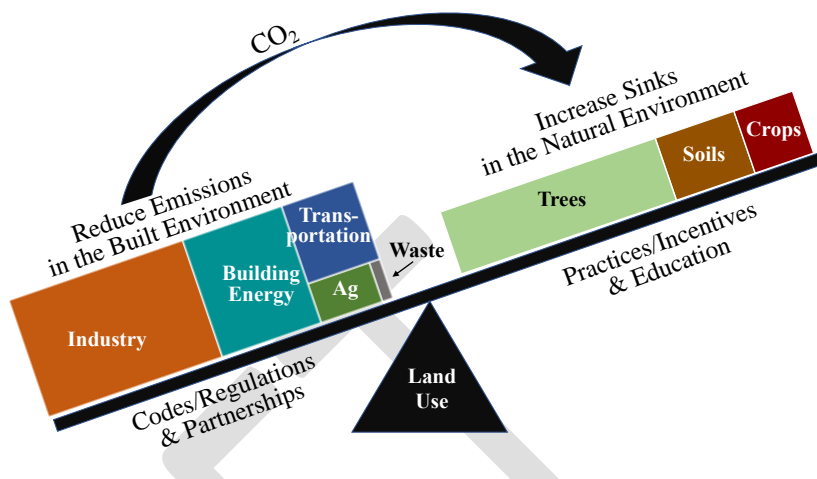


Figure 2.1: Land use can also be viewed as the fulcrum of a GHG balance beam with the built environment on one side and the natural environment on the other.

Land use can also be viewed as the fulcrum of a GHG balance beam with the built environment on one side and the natural environment on the other. Sources of GHG emissions currently outweigh potential sinks for GHG emissions. Smart decisions on land use practices are one of several tools that can help us balance this beam and reach net zero emissions by 2050.

The pie chart (Figure 2.2) showing categories of Whatcom County's total communitywide emissions for 2017 includes five categories analyzed in the ClearPath modeling for Whatcom County. Industrial point source emissions are by far the largest contributor to Whatcom County's communitywide emissions, followed by building energy, transportation, agriculture, and solid waste and wastewater. Building energy includes emissions from electricity, fossil fuels used in heating (primarily natural gas), and refrigerants.

Whatcom's industrial emissions are dominated by two oil refineries which produce gasoline that in turn contributes to the state's largest emitter, transportation. The state's largest refinery is owned and operated by *bp*, which understands the need to transition to renewable fuels and is quickly adapting its plans.³²

All parties—the state, County, and private industry—should work together on win-win solutions to reduce GHG emissions from industry, while securing long-term economic benefits for Whatcom County.

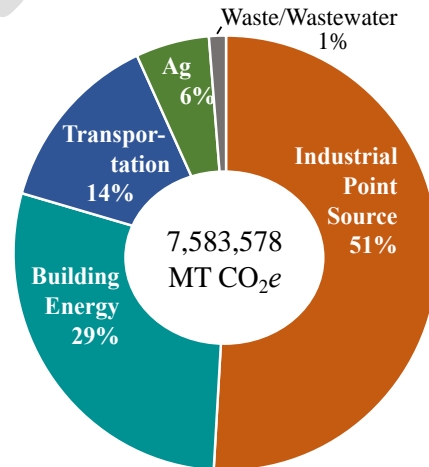


Figure 2.2: Categories of 2017 Whatcom communitywide GHG emissions.

³² *bp* sets net zero carbon target for 2050, by Jillian Ambrose, Feb 12, 2020, *The Guardian*.
<https://www.theguardian.com/business/2020/feb/12/bp-sets-net-zero-carbon-target-for-2050>

Our industries and workforce, therefore, have the opportunity *to become part of the statewide solution for GHG emissions* through the production of low-carbon fuels, which will accelerate our economic competitiveness in the emerging worldwide clean energy economy.

In addition, to reduce GHG emissions from building and transportation sectors, Washington’s 2021 State Energy Strategy emphasizes electrifying end uses to the greatest extent possible.³³ Space and water heating account for the majority of energy consumed in commercial and residential buildings, and commercially available heat pump-based appliances are far more energy efficient than other methods. Electric vehicle adoption will dramatically reduce carbon pollution but increase the demand on the grid. Fossil fuels must therefore be rapidly replaced on the grid for maximum gain.

Hence, electricity is often referred to as the *linchpin* for reducing GHG emissions (Figure 2.3). Large-scale wind and solar combined with energy storage make possible the replacement of most fossil fuel generation. A modern, flexible smart grid infrastructure can more effectively balance electricity supply and demand in real time as conditions change, reducing the high cost of fossil fuel peaking plants.³⁴ These cost competitive smart grid technologies can significantly reduce GHG emissions in Whatcom County.

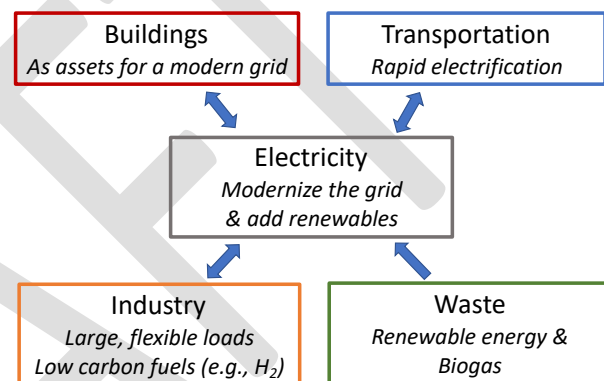


Figure 2.3: Electricity is the kingpin for reducing GHG in the built environment.

While electrification is a major thrust of mitigating GHG emissions, adaptation also has an important role in the built environment. For example, we must consider current and future climate change impacts, such as high temperatures, severe storms, flooding, sea-level rise, and other factors when designing new homes, buildings, and critical infrastructure such as hospitals, emergency response centers, roads, bridges, and broadband.

The built environment areas of Electricity and Buildings, Industry Point Source Emissions, Transportation, and Waste represent systems where mitigation practices are the major emphasis in the climate strategies. The built environment is an ecosystem of interconnected components that can be adapted when developing a sustainable, climate-resilient community. In many respects Land Use connects the built and natural environments as an effective tool for mitigation and a critical component in adaptation to climate change.

Agriculture is another area to consider and is responsible for a small portion of the emissions in Whatcom County; however, agricultural land has the potential to become a net carbon sink for addressing GHG emissions. This area is discussed in Section 3, Natural Environment.

³³ Washington 2021 State Energy Strategy, pg. 48. <https://www.commerce.wa.gov/growing-the-economy/energy/2021-state-energy-strategy/>

³⁴ “Peaker” plants can quickly ramp up electricity generation during periods of high electricity use. PSE has 4 natural gas peaking plants in Whatcom County alone.

Electricity and Buildings

To fight climate change, we must modify our buildings. To do so, we need to do two things —use less energy and make sure what energy we do use is clean, i.e., decarbonized. Buildings will increasingly play a key role in creating a modern, smart grid because most electricity on the grid is consumed in buildings. As a consequence, there is a growing need to view electricity and buildings as an integrated system — where electricity use in buildings can be used to manage the electricity load in a modern grid. Hence, buildings (and their major energy devices) can be operated as grid assets. For these reasons we treat electricity and buildings together.

Both Washington State and the US have mandated a transition of our energy economy to be carbon-neutral by 2050 or sooner. This 30-year economic transition will be difficult, and the exact roadmap is unclear. The overarching strategy is to rapidly electrify end uses while simultaneously removing fossil fuels from the electrical grid.

Over the last century the traditional approach for providing electricity in the U.S. has been top-down centralized generation and delivery of electricity by a utility (Fig 2.4). This approach has served us well but is increasingly susceptible to cascading failures in the grid that are often the result of extreme weather events attributed to climate change. Grid failures can trigger blackouts caused by unseasonably cold weather such as what happened in 2021 in Texas³⁵ to drought-induced wildfires in California and Oregon.

Extreme weather events have resulted in a steep increase in grid failures over the last two decades.³⁶ Accordingly, state, and federal agencies have called for investments in a modern, smart grid that will be resilient to the unpredictable changes in climate. A critical component of creating a resilient electric grid will require much more emphasis on a bottom-up approach that uses buildings as grid assets (Fig 2.4).

Washington State’s 2021 State Energy Strategy concludes that *the most effective way to reduce GHG emissions sufficiently is to decarbonize the grid and electrify end uses to the greatest extent possible.* “To

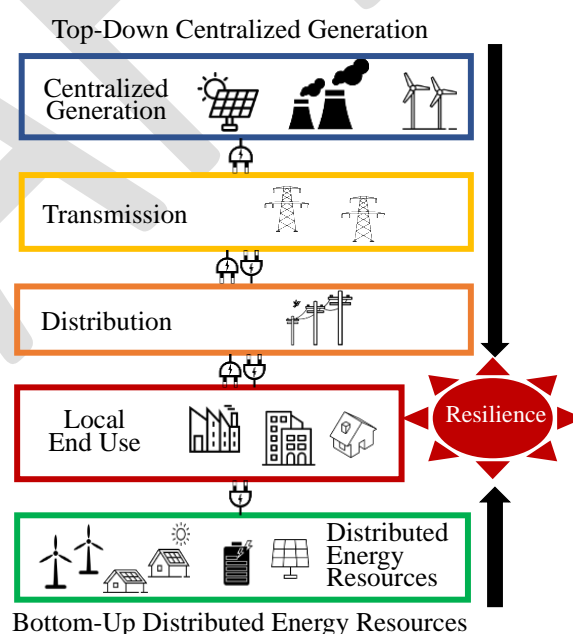


Fig 2.4: A modern, resilient electrical grid depends on both centralized and distributed energy resources.

³⁵ Jeffrey Ball, “The Texas Blackout is the Story of a Disaster Foretold,” Feb 19, 2021. Texas Monthly, <https://www.texasmonthly.com/news-politics/texas-blackout-preventable/>

³⁶ Melissa R Allen-Dumas, Binita KC, and Colin I Cunliff. “Extreme Weather and Climate Vulnerabilities of the Electric Grid: A Summary of Environment Sensitivity Quantification Methods,” August 16, 2019. Oak Ridge National Laboratory, ORNL/TM-2019/1252/:<https://www.energy.gov/sites/prod/files/2019/09/f67/Oak%20Ridge%20National%20Laboratory%20EIS%20Response.pdf>

electrify the economy while assuring system reliability and resilience requires a smart, flexible, and optimized grid.”³⁷ Water heating and space heating/cooling use upwards of 70% of building energy; that is why we must focus on wisely electrifying them first.

Using high efficiency appliances on a modern smart grid provides a dual benefit: reduced energy use and better management of electricity supply and demand. Federal and state agencies recommend these aggressive approaches as having the best chance of creating reliability and resilience while cutting GHG emissions and minimizing the need for additional natural gas peaking plants. Key approaches are detailed below that will build a modern grid to provide our community with clean electricity and enhance our ability to adapt to a changing climate.

Our Local Electricity System

Unlike the rest of the US, Washington State has access to abundant hydroelectricity, which dominates all other renewables. Climate change, however, will change the seasonal distribution and availability of hydroelectricity according to forecasts from the Northwest Power and Conservation Council.

The Northwest Power and Conservation Council forecasts that changes to climate will cause major change in the region’s hydro operations:

- Increased winter and spring runoff,
- Increased summer electricity use for cooling,
- Decreased summer and fall river flows exacerbating problems, particularly for fish passage.

Seventy-eight percent of all the electricity generated in Washington uses renewables as the energy source (Fig 2.5). The fuel mix of electricity used in the state is the aggregate of electricity delivered by utilities to end users.³⁸ The Bonneville Power Administration (BPA) manages most of the hydroelectricity resource outside of Seattle. It provides electricity to public utilities in Whatcom County such as the cities of Blaine and Sumas and to Whatcom PUD1. Whatcom PUD1 supplies electricity to the Phillips 66 refinery at Cherry Point. Through an arrangement with other PUDs in Washington State, PUD1 was able to obtain the energy which permitted the building of the original refinery at Cherry Point.

The communitywide GHG emissions from electricity, ~1.38 million metric tons, are the second largest source of GHG emissions after point-source emissions from industry. Electricity use is

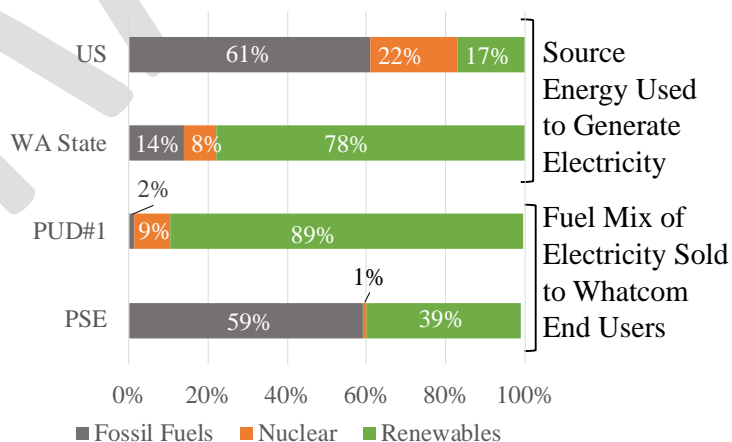


Fig 2.5: Reported 2017 fuel mix for electricity generation and the fuel mix of electricity sold to end users in Whatcom County.

³⁷ Washington 2021 State Energy Strategy, pg. 122. <https://www.commerce.wa.gov/growing-the-economy/energy/2021-state-energy-strategy/>

³⁸ Washington State Electric Utility Fuel Mix Disclosure Reports for Calendar Year 2017, Washington Department of Commerce, November 2018, Report to the Legislature, Brian Bonlender, Director.

roughly split in thirds among residential, commercial, and industrial buildings (Fig 2.6). The majority of residential, commercial, and industrial customers in Whatcom County buy electricity from PSE, a private, investor-owned utility. Given the hydroelectricity generation's dominance in the state, it is often surprising to local PSE customers that most of their electricity is generated by coal and natural gas, similar to the US-wide generation (Fig 2.5). PSE owns and operates four electricity generating plants in Whatcom County which are fueled by natural gas. The fossil fuel component of PSE's electricity increased to 66% in 2019.³⁹

Decarbonization of electricity in Whatcom County will be a challenge. As electrification needs increase for space and water heating and for transportation, PSE in particular will need to generate more electricity while also rapidly reducing the amount of fossil fuels used to generate the electricity.

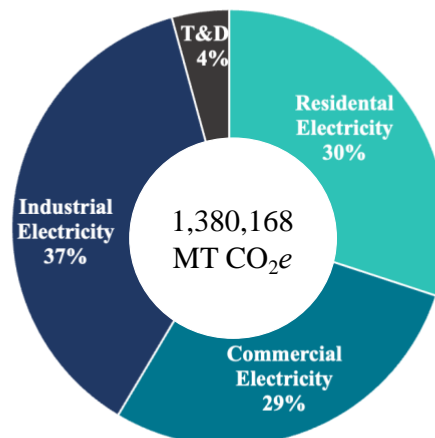


Fig 2.6: Communitywide GHG emissions from electricity use in buildings in 2017, representing 18% of total GHG emissions. T&D are Transmission & Distribution

Goal and Strategies for Electricity and Buildings

Goal: Reduce communitywide GHG emissions from electricity and buildings 45% by 2030, while creating equity-centered resilience in these sectors. County government will lead this effort and demonstrate action and operational cost savings via energy efficiency and new building concepts for government operations, effectively reducing government operations emissions 85% by 2030.

Six strategies are proposed to support this goal and are aligned with Washington's 2021 Energy Strategy. The strategies address both the traditional, top-down centralized generation and delivery of electricity, as well as a bottom-up distributed energy resource where buildings become assets to the grid for balancing supply and demand.

Strategies for Electricity and Buildings

1. Assert County leadership in state legislation, regulatory matters (Washington Utilities and Trade Commission and Commerce), and electric utilities operations that enables implementation of Whatcom climate strategies and facilitates a 45% reduction in GHGs by 2030.
2. Create resilience hubs for key community services throughout the County. Collaborate with utilities to identify needed transmission and distribution investments.

³⁹ PSE | Our Diversified Electricity Supply – Puget Sound Energy website: <https://www.pse.com/pages/energy-supply/electric-supply>. Note: Utilities are required to disclose their fuel mix. PSE's website only displays their most recent annual calculation, which was 2019 at the time of this report. PSE's 2018 fuel mix also reported 66% fossil fuel generation (coal plus natural gas).

3. Leading by example: electrify end uses in County government buildings, install renewable energy and energy storage where feasible to reduce energy operational costs and GHG emissions.
4. Create a communitywide focus on *buildings as grid assets* to maximize the reliability and resilience of the electric grid and reduce GHG emissions. Accelerate the use of clean Distributed Energy Resources (DERs) and microgrids to reduce peak electricity demand, optimize the grid, and provide electricity to buildings when the utility grid is down.
5. Moving to net zero: upgrade existing buildings by collaborating with local NGOs to accelerate energy efficiency upgrades. Require new buildings to be net zero carbon emissions capable no later than 2027.
6. Pilot key concepts to reduce electricity and buildings GHG emissions through demonstration projects that can scale up rapidly.

Strategy 1: The Need for Leadership in Greening Whatcom's Electric Grid

Although the County has no direct control over the operation of private and public utilities, the County does have influence over local utilities, state legislation, and state utility regulations that will help it achieve its climate goals by reducing GHG emissions from the electricity grid.

The 2019 Clean Energy Transformation Act (CETA) is a good example of where the County in concert with other cities and counties can exert leadership with the Washington Utilities and Transportation Commission (WUTC). CETA requires all electric utilities serving retail customers to eliminate coal-fired electricity by 2025 and be GHG neutral by 2030. GHG neutral means that utilities have flexibility to use limited amounts of electricity from natural gas if offset by other actions. By 2045, utilities must supply electricity that is 100% renewable or non-emitting, with no provision for offsets.

Whatcom County should actively participate in WUTC and Commerce regulatory proceedings for CETA, as well as engage in PSE's Integrated Resource Plan (IRP) and Clean Energy Implementation Plan (CEIP). These proceedings and plans are important opportunities for the public to exert influence on utilities to actually reduce their reliance on fossil fuels.

As we electrify end uses (e.g., space heating and transportation), the resulting impact on emission levels depends on how much carbon is removed from electricity generation. Without the cooperation of local utilities, County efforts to reduce GHG emissions from our energy supply will be difficult to achieve and could fall far short of desired outcomes.

Whatcom County is also home to three public utilities that provide electricity primarily generated by renewables – Whatcom PUD1 and municipal utilities in Blaine and Sumas. To provide consumer choice and reduce GHG emissions, the County should support the evaluation of Whatcom PUD1 expansion within the County. PUDs and municipal utilities in our state generally charge lower prices and use more renewable energy because they buy a large share of less expensive hydropower from BPA (Fig 2.5).

On average statewide, PUD rates are about 10% lower than PSE's (Fig 2.7).⁴⁰ Delivery costs for public and private power companies are roughly the same – at about \$0.05/kWh. The difference is in the average cost of power, around 6 cents/kWh for PSE and ~4 cents/kWh for PUDs purchasing from BPA.

To reduce GHG emissions, the County should encourage and facilitate the addition of utility-scale renewable energy resources such as solar, wind, and battery, plus necessary transmission, and distribution infrastructure to deliver power to end users. Considerable wind resources are potentially available in Montana, Wyoming, and eastern Washington.

PSE's retirement of its 700 MW share of the coal-based Colstrip power plant located in Montana frees up transmission capacity that it could use in the robust out-of-state renewable generation market (Fig 2.8). An emerging option for Washington State is to deploy offshore wind turbines in the Pacific (not in the Salish Sea), like the new GE turbine that is able to deliver 13 megawatts of power, six times more electrical power than current land-based windmills in the state.⁴¹

Renewable generation with battery storage can overcome daily issues in electricity peak demand. Washington state's first utility-scale solar and battery storage site was just completed in Richland. In addition to generating electricity, this facility will offer a training program for solar and battery storage technicians.⁴² A Colorado energy company is also in-

vesting in southeast Washington, announcing plans for the 850 MW Horse Heaven Wind, Solar and

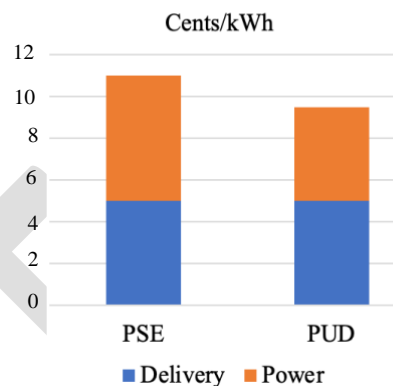


Fig. 2.7: PSE and PUD average cost of electricity in Washington.

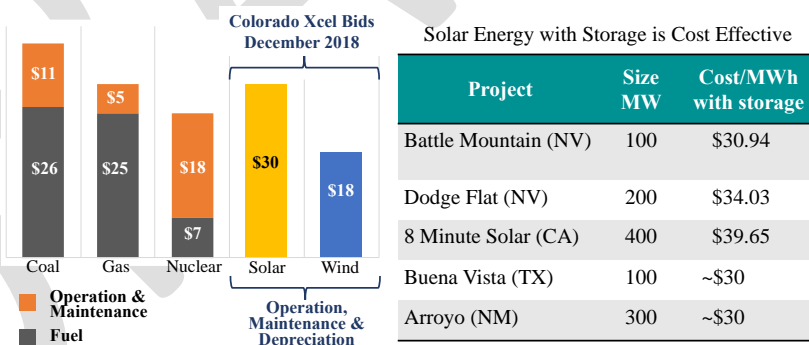


Figure 2.8: Cost of utility-scale renewables from actual bids. Coal, Gas and Nuclear costs are Energy Information Administration data prepared by the Regulatory Assistance Program (www.raponline.org)

⁴⁰ Prepared by the Regulatory Assistance Program (RAP), www.raponline.org, using information from the Energy Information Administration at the US Department of Energy.

⁴¹ Stanley Reed, "GE gives wind turbines a whirl – and upends an industry" The New York Times. Reprint in the Seattle Times January 7, 2021: https://replica.seattletimes.com/popovers/dynamic_article_popover.aspx?artguid=8e7dcee5-6a58-42da-b852-77b1f6fa5206

⁴² Horn Rapids Solar, Storage and Training Project, Energy Northwest, November 2020; <https://www.energy-northwest.com/energyprojects/horn-rapids/Pages/default.aspx>

Battery Farm near the Tri-Cities.⁴³ Solar and wind energy is cost-competitive with fossil fuel generation of electricity as shown in Figure 2.8. The Department of Energy (DOE) has recently set a target of reducing solar costs 60% by 2030.⁴⁴ DOE's previous 2011 *SunShot Initiative* met its 75% reduction goal for utility-scale solar cost three years early in 2017.⁴⁵

Key Priorities for County Leadership:

- **Monitor utilities' progress with CETA, while exploring options for greater renewable energy for electricity end-users in Whatcom County.**
- **Support and be an advocate for state legislation that accelerates a reduction in GHG emissions in electricity and buildings.**

Strategy 2: Create Resilience Hubs for Key Community Services

Resilience hubs are defined as additions to community-serving facilities so that they can support residents and coordinate resource distribution and services before, during or after a natural or man-made disaster.⁴⁶ On a daily basis, community resilience hubs provide a space for public meetings and activities that draw neighborhoods together and promote a shared sense of responsibility. A resilience hub can operate independent of the electrical grid temporarily. Examples include public facilities such as community centers or emergency shelters, fire stations, hospitals, schools, and water treatment plants. Resilience hubs can also apply to private facilities such as food processing and cold storage units vital to maintaining the food supply.

Resilience hubs are especially important in areas of the County where there is limited electricity transmission and distribution coverage, areas subject to frequent outages, and/or communities frequently impacted by flooding, heat waves and wildfires. Resilience hubs can be designed to address several of the guiding principles that were outlined in Section 1, such as health, safety and preparedness, community needs, and racial equity and social and environmental justice. They can serve as life-saving cooling centers for homeowners and renters who lack or cannot afford air

The Lummi Island workshop "Brainstorming a Pathway for an Energy Resilient Future" (April 2021) is an excellent example of active community involvement to determine their desired future. The focus was to bring together various organizations to learn best practices to develop a solar/ battery microgrid from neighboring OPALCO. The proposed Lummi Island microgrid would provide resilience for the electric grid and a source of energy for a new hybrid electric ferry. Whatcom County can show leadership by facilitating and supporting this process.

⁴³ Carissa Lehmkuhl, "Richland's new solar and battery project is first of its kind in Washington State," YAKTRINEWS.com, Nov 11, 2020, <https://www.yaktrineews.com/richlands-new-solar-and-battery-project-is-first-of-its-kind-in-washington-state/>

⁴⁴ DOE Announces Goal to Cut Solar Costs by More than Half by 2030, March 25, 2021. <https://www.energy.gov/articles/doe-announces-goal-cut-solar-costs-more-half-2030>

⁴⁵ The SunShot Initiative, DOE's Solar Technologies Office (<https://www.energy.gov/eere/solar/sunshot-initiative>).

⁴⁶ ISDN Resilience Hubs, Urban Sustainability Directors Network, <https://www.usdn.org/resilience-hubs.html>.

conditioning. The County should work with local utilities to identify these areas to help prioritize resilience hubs.

Resilience hubs enhance social equity. For example, facilities with rooftop solar and/or batteries can be used to reduce electricity costs. Large solar arrays on multiple facilities could serve as a basis for a large community solar project to benefit renters and low-income households and create greater equity within the community. The planning of resilience hubs must engage community members, vulnerable populations, and consider GHG emissions reductions. Resilience hubs can and should have the goal of building community or social infrastructure and cohesion.

Key Priority for Resilience Hubs:

- *Create resilience hubs by fortifying key emergency and community services to provide clean energy daily for community benefits during normal times and backup power and shelter during disasters.*

Strategy 3: Leading by Example – Electrification of County Facilities

Whatcom County government operations can show both leadership and action by electrifying County buildings. The County should start by developing a multi-year master plan for upgrading, consolidating, or replacing government facilities to maximize energy efficiency *and* eliminate GHG emissions. Electrification of space and water heating, rooftop solar, battery storage, and EV charging infrastructure will not only save taxpayer money by reducing long-term County operating costs but serve as an example to local businesses on how they too can also increase resilience and reduce GHG emissions while reducing costs and saving money.

Key Priorities for Whatcom Government Operations:

- *Develop a multi-year master plan for upgrading and/or consolidating County government facilities to maximize energy efficiency, renewable energy and storage, and EV charging infrastructure to reduce greenhouse gases.*
- *Commit to net zero carbon emissions for new County government buildings and facilities.*

Strategy 4: Use Buildings as Grid Assets

To maximize reliability and resilience in the electrical grid, while at the same time reducing GHG emissions, a truly win-win strategy is to aggressively deploy Distributed Energy Resources (DERs) and develop microgrids.⁴⁷ As shown in Fig 2.9, DERs can be employed by the utility (top-down generation) or at the building/facility scale (bottom-up generation). Rapid adoption of DERs and microgrids cannot be accomplished without innovative

“DERs are not a boutique version of, or a distraction from, utility-scale renewables; they are a necessary complement, and an enabler and accelerator.” They save building owners money, create local jobs, improve equity, reduce peak demand, while increasing individual and community resilience. David Roberts, Volts

⁴⁷ David Roberts, “Rooftop solar and home batteries make a clean grid vastly more affordable; Distributed energy is not an alternative to big power plants, but a complement.” Volts, May 28, 2021.

financing mechanisms, just as automobile and home financing dramatically expanded their respective markets in the last century.

DERs encompass the following three categories:⁴⁸

- **Energy Generation (or Supply):** Rooftop solar, wind turbines, mini-hydro, and biomass boilers.
- **Energy Storage:** Batteries, fuel cells, EVs, or phase change materials that can release or absorb energy when changing physical state. Energy management software can switch batteries quickly to discharging energy, thus making electricity available to the distribution grid if needed.
- **Energy Management:** “Smart” meters, inverters, and appliances; home energy management software; microgrid control systems.

A distinct advantage of DERs is that they can be deployed relatively quickly, incrementally, and at specific locations such as the resilience hub discussed above, targeting areas in the County that have frequent electric outages, and/or addressing equity and social justice needs.

A microgrid is a miniature, semi-independent grid. Microgrids combine energy generation and storage and have a control system that enables the facility to operate independently of the utility grid during outages or, alternatively, reduce loads during peak demand.

A microgrid may consist of a single building such as your home or a local fire station, multiple buildings such as a campus or neighborhood, or a community solar and/or battery storage facility, such as the Snohomish County Arlington microgrid⁴⁹ or the Decatur Island OPALCO microgrid.⁵⁰ Since 2010 the Pentagon has acknowledged that climate change poses a threat to military readiness and operations.⁵¹ As a result, military bases have become one of the key drivers of microgrid growth in the U.S.⁵² And Washington state’s Clean Energy Fund strongly supports microgrids for grid modernization, such as

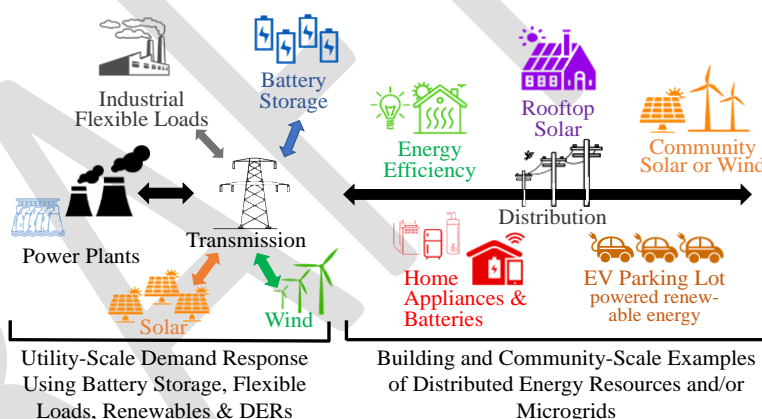


Fig. 2.9: Distributed energy resources and microgrids can be used to maintain electricity load in a modern, smart grid.

⁴⁸ David Roberts, “Wildfires and blackouts mean Californians need solar panels and microgrids,” Oct 28, 2019, [Vox.com](https://www.vox.com).

⁴⁹ Arlington Microgrid Project, www.snopud.com/PowerSupply/ar-microgrid.ashx?p=3326

⁵⁰ OPALCO’s First Local Microgrid is Complete! OPALCO Newsroom, <https://www.opalco.com/opalcos-first-local-microgrid-is-complete/2021/02/>

⁵¹ Pentagon declares climate change a ‘national security issue,’ by Ellen Mitchell, Jan 27, 2021. <https://thehill.com/policy/defense/536188-pentagon-declares-climate-changes-a-national-security-issue>

⁵² US Military Microgrids – Why? <http://microgridprojects.com/military-microgrid-army-navy-air-force-microgrids-drivers/>

Avista’s campus microgrid and PNNL’s Transactive Energy Campus.⁵³ A microgrid involves “customers generating, storing, and managing their own power, either individually or in networked groups of any size.”⁵⁴ Figure 2.10 shows the microgrid’s point of connection to the main grid, or *behind-the-meter*. The energy supply and demand circles overlap showing four major energy using devices (hot water, HVAC, battery, and EV) responsible for the majority of building energy use. Wisely managing and communicating with these devices minimizes peak usage by effectively storing electrical or thermal energy for anticipated uses. Critical loads are end uses important enough to have priority on backup power during outages.

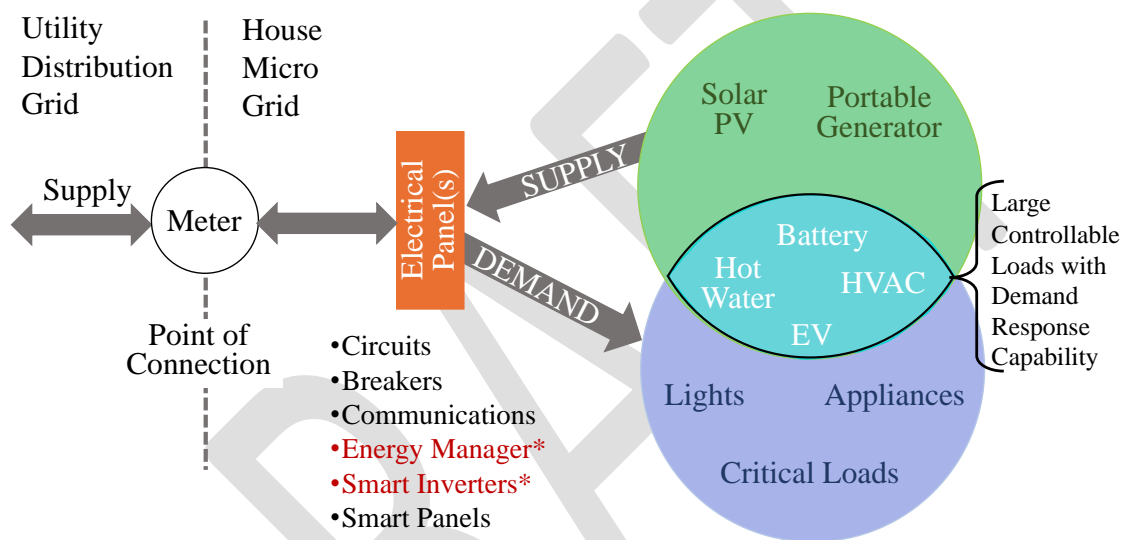


Figure 2.10: Future (Electrified & Smart) Home for reduced GHGs, lower energy costs, and resilient.
**New microgrid products are available from Tesla, Enphase, Instant ON, to name a few.*

Accelerating the deployment of DERs and microgrids can provide power during outages and reduce or defer the high cost of electricity transmission and distribution upgrades. The 2021 State Energy Strategy intends to avoid the electrical grid outages and rolling blackouts highlighted by the California wildfires, by adding DERs quickly and creating microgrids for maximum benefit to a modernized grid.

Demand for electricity in the County varies by season, day, and time. In Whatcom County, the electric utilities experience peak electricity demand during winter cold spells. This winter peak is of limited duration, driven by predictable weather events and has been managed using natural gas peaking plants.

Daily peak electricity demand usually occurs for a few hours in early morning and early evening. As renewables such as wind and solar are added, the peaks become more steep due to excess solar on the grid during mid-day when demand typically drops – resulting in the so called “duck curve.”⁵⁵ Demand

⁵³ Green Mountain Power’s pioneering steps in transactive energy raise big questions about DERs value, The Vermont utility’s program will show what distributed energy resources are worth in customer-to-customer transactions; by Herman Trabish, March 4, 2020, Utility Dive.

⁵⁴ Roberts, “Wildfires and blackouts mean Californians need solar panels and microgrids.

⁵⁵ Jim Lazar, “Teaching the Duck to Fly”

response, essentially moving non time-dependent uses such as water heating and battery charging to off-peak hours, can reduce daily electricity peaks with minimal cost.

A BPA demonstration of demand response, conducted in cooperation with Pacific Northwest utilities including PSE, showed how daily peak loads for water heating could be shifted in a simple and cost-effective manner *without* affecting the customers' lifestyle.⁵⁶ The vast majority of customers were satisfied with the pilot and would likely join a program based on this technology. The business case for this water heater project showed a benefit-cost ratio of 1.74 compared to a simple peaking generation plant. The key is how to transform the appliance marketplace quickly and then recruit customers to a utility's demand response program first for water heaters, then progressing to other energy intensive appliances.⁵⁷

As of January 2021, all water heaters sold in Washington state are required to have a standard communication interface for demand response. Utilities should offer a demand response program and give customers the option to participate. Technologies such as demand response, in combination with energy storage, can be used to manage peak load more cost effectively, more quickly, and with a much lower carbon impact and should be implemented before considering adding possibly unnecessary additional natural gas peaking plants.

Key Priorities for Distributed Energy Resources and Microgrids:

- *Support efforts to deploy DERs, including expansion of broadband to facilitate DER expansion (while also benefiting remote work, education, and commerce).*
- *Work with utilities to accelerate use of demand response to reduce daily peak electricity demand and modernize control of the grid.*
- *Deploy energy storage in targeted locations where batteries, can provide more than one function (e.g., store solar for evening use and provide backup during outages)*

Strategy 5: Moving to Net Zero Carbon Emission from Buildings

Overall energy use by buildings (electricity, natural gas) accounts for 27% of the communitywide GHG emissions. Most of the electricity on the grid is consumed in (or near) buildings. Across the U.S., buildings are the fastest growing sector of GHG emissions. If electricity generation is decarbonized and the grid modernized, rapid electrification of buildings reduces GHG emissions and allows buildings to become grid assets that can play a role in managing electric load as discussed in strategy 4.

⁵⁶ BPA Technology Innovation Project 336, CTA-2045 Water Heater Demonstration Report, November 9, 2018, pg. iii. <https://www.bpa.gov/EE/Technology/demand-response/Pages/CTA2045-DataShare.aspx>

⁵⁷ Trevor Higgins, et al., To Decarbonize Households, America Needs Incentives for Electric Appliances, Rewiring America and Center for American Progress, June 2021. <https://www.americanprogress.org/issues/green/reports/2021/06/03/500084/decarbonize-households-america-needs-incentives-electric-appliances/>

New building construction only accounts for about 1% of the total building stock nationally every year, so our approach to reducing emissions in buildings must also focus on existing stock.⁵⁸ The overarching goal for new and, where feasible, existing buildings is to transition to be net zero carbon (NZC) emissions. *NZC buildings are so energy efficient to operate that onsite or offsite renewable energy can offset total energy use over a year's time period.*⁵⁹ Some newer buildings are so efficient that rooftop solar panels can make the building net positive energy production over a year-long period, even in Bellingham.⁶⁰ In order to reach NZC, these buildings maximize energy efficiency, install renewable energy generation as practical, and/or procure offsite renewable energy.⁶¹

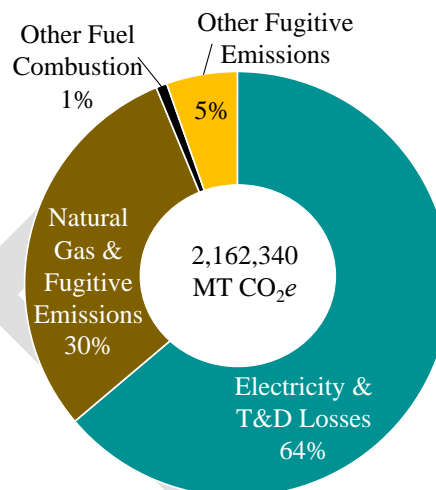


Fig. 2.11: Building GHG emissions from energy use. Other fugitive emissions are refrigerants.

A building with a positive energy profile can be used to offset embodied carbon (carbon in construction materials and the building process), or power an EV. New building materials are being developed that will reduce embodied carbon. For example, cross-laminated timber (CLT) is increasingly being produced by the timber industry and used in buildings as a replacement for high-carbon materials like steel and cement. Use of CLT in buildings would also support Whatcom's local forest industry.

Energy efficiency has long been the first step in reducing energy use in existing buildings. An evaluation of whole building performance includes peoples' needs, the electrification of major appliances, readily available grants and financing, and the potential for carbon reduction. Energy improvements may involve upgrades to insulation, windows, doors, and lighting, as well as energy efficient furnaces and water heaters. Increasing social equity and improving occupant health should be emphasized. Community organizations, like the Community Energy Challenge, Opportunity Council and PSE's Efficiency Boost program provide energy audits, rebates, and low-income weatherization assistance. In addition,

The Importance of Addressing Existing and Older Buildings

"I ran numbers recently on an 1100 sq/ft home that was built in 1878. It was using 16 times the energy compared to today's code-minimum homes. Changing out its old oil heater in favor of a ductless heat pump, with no changes to the envelope, would reduce the carbon use of the home by about 70%, based on the current fuel mix in Washington." Ted L. Clifton, Clifton View Homes, Coupeville, WA.

⁵⁸ Calculation of 1% based on US Census data: <https://www.census.gov/quickfacts/fact/table/US/HSD410218> and <https://www.census.gov/construction/nrc/pdf/newresconst.pdf>

⁵⁹ Shifting to Zero: Zero Carbon Building Policy Toolkit, Shift Zero, www.shiftzero.org

⁶⁰ TC Legend Builds Homes for a Carbon Neutral Future; <https://www.tclegendhomes.com/>

⁶¹ Shift Zero Policy Toolkit, <https://shiftzero.org/toolkit/>

Sustainable Connections sponsors a Green Building Slam⁶² every year to educate the public on energy efficient buildings.

Space heating/cooling and water heating on average account for 70% of energy consumption in U.S. homes.⁶³ Water heaters and gas furnaces that are at the end of their life span should be replaced with new high-efficiency electric appliances wherever possible. Water heaters do not need to heat water 24 hours per day, every day. Modern, smart water heaters can pre-heat and store hot water before daily periods of peak demand, which can be coordinated in areas where utilities offer demand response programs. The benefit is less cost to the consumer and the water heater can be used as grid asset to manage the peak electricity load.

New electric heat-pumps, have energy efficiencies of up to 300% and are capable of both heating and cooling, saving energy and reducing fossil fuel use. Cooling will become more important as summer temperatures rise and wildfires create air pollution during late summer and fall. Many new HVAC (Heating, Ventilation, Air Conditioning) systems incorporate the latest air filtration to improve public health, particularly for those who need it most. Even if an aging gas furnace is still functioning, electric heat-pump based “mini-splits” (also called ductless heat pumps) can significantly reduce the use of natural gas, provide zonal heating and cooling, and reduce overall energy use. Mini-splits are cost-effective, easily installed, and can be added incrementally – thus enabling more rapid electrification.

The initial cost of new HVAC systems is often an obstacle, so financing is a critical component of their adoption. The Property Assessed Clean Energy program, or PACE, actively used in several states, but not in Washington, allows participants to finance energy efficiency and renewable energy projects through property assessments that last the functional life of a project. So, if an owner upgrades to a high-efficiency heat pump that has a 25-year life span, payments become part of the property assessment that transfers to a new owner if the property is sold. This program allows owners to install energy efficiency improvements to reduce their energy costs, even if they plan to sell the property in the near future (a frequent obstacle to upgrading). Legislation called C-PACER for commercial properties was passed by the state legislature in 2020 but vetoed due to COVID-19 budget constraints. Regardless, Whatcom County may pilot a C-PACER program in 2021 that will accelerate energy efficiency improvements. To underscore, *more and better financing is critical*, and promotes equity for low-income households.

Building codes are the most effective tool for creating energy efficiency and are essential for meeting the 2030 GHG targets and beyond. According to the U.S. Department of Energy, today’s energy codes provide over 30% energy savings compared to codes of a decade ago.⁶⁴ In addition, current codes save home and business owners approximately \$5 billion annually in operation cost. The County needs to

⁶² <https://sustainableconnections.org/events/green-building-slam/>

⁶³ Use of Energy Explained. Energy use in homes, Energy Information Administration.
<https://www.eia.gov/energyexplained/use-of-energy/homes.php>

⁶⁴ Building Energy Codes Fact Sheet, US Department of Energy:
<https://www.energy.gov/eere/buildings/downloads/building-energy-codes-fact-sheet>

incorporate new building codes adopted by the state of Washington and recognize the need for increasing resilience from natural and climate impacts.

Energy efficiency upgrades should also consider GHG emissions. *Instead of using kilowatt-hours and therms saved, energy efficiency success should be measured by carbon emissions reduced.* This type of measure would likely favor electrification, as has been the case with the Sacramento Municipal Utility District,⁶⁵ and can incentivize lower carbon intensity in the existing building stock. Climate change and population growth suggest that much more is needed to make buildings grid assets and resilient to natural and man-made disasters.

Key Priorities for Net Zero Carbon Emissions from Buildings:

- *Develop a robust financing plan that 1) supports major electric appliance upgrades, 2) promotes the transition of buildings to net zero carbon emissions operations and 3) is equitable for low- or fixed-income households.*
- *Support and work with nonprofit organizations to expand energy efficiency upgrades and electrification of space and water heaters to residential and commercial buildings.*
- *Implement latest WA state building codes into County building codes, with NZC and all-electric by the 2027 code where electricity distribution is available.*

Strategy 6: Demonstration Projects

Many of the strategies outlined for electricity and buildings are innovative and promise to deliver great benefits in our efforts to reduce GHG emissions. They continue to build on current best practices and also on the latest science and engineering breakthroughs. But because they are new, many of them have not been proven at large scale. Rather than wait for large-scale demonstrations that we can follow, we need to take the lead and implement the most important technologies in these strategies as small demonstration projects that will provide experience, public acceptance, and make it easier to scale-up rapidly in the future.

Grid flexibility is the core to resilience and to the deep decarbonization needed to meet our targets.⁶⁶ Making buildings grid assets is an important part of a modern, flexible grid. Upgrading building energy systems leverages both public and private investments to develop a smart modern grid with efficient appliances that can be managed individually or together in groups for greater impact.

The following sample projects are designed to explain and demonstrate the potential for reducing GHG emissions as existing buildings become grid assets. These projects also kick-start strategies 3 and 5 to electrify existing homes and buildings, strategy 4 to add DERs throughout the community in an equitable manner, and strategy 2 to create resilience hubs that are self-sustaining during emergencies, but also provide low- and middle-income residents with low-cost renewable energy on a daily basis.

⁶⁵ SMUD first in US to change efficiency metric to “avoided carbon,” The new metric expected to encourage building electrification. <https://www.smud.org/en/Corporate/About-us/News-and-Media/2020/2020/SMUD-first-in-US-to-change-efficiency-metric-to-avoided-carbon>

⁶⁶ Grid Modernization Implications for WA State Energy Strategy, Carl Imhoff, PNNL, October 9, 2020.

1. ***Electrification Prequalification Project***

Define electrification incentives for high-efficiency heat pumps (for hot water and HVAC) to enable more rapid market adoption. Prequalify heat-pump products, installers, and associated financial incentives for use by Community Energy Challenge analysts to speed new appliance deployment and market transformation. Prequalified products will have built-in demand response capability for future DR programs.

2. ***Solar/Battery Microgrid Project***

Demonstrate daily peak shaving and reduced load on the distribution grid, plus provide backup to the building's critical loads during power disruptions for selected homes. Install microgrid (energy manager, smart inverter) and renewable energy generator (solar and/or battery). Split federal/state incentives between solar and battery to stimulate deployment of distributed energy storage throughout the grid as prices continue to decline in the future.⁶⁷

3. ***Resilience Hubs Project***

Fund a project to identify and prioritize potential resilience hub sites for critical community services in Whatcom County.⁶⁸ Consider both public and private community services, similar to examples from the state of Maryland's Resiliency Hub Grant Program⁶⁹. Resilience hubs use large microgrids with DERs to meet community needs for improving equity and social justice (e.g., community solar), providing important resilience during disruptions to the grid, and reducing GHGs daily with renewable energy and efficiency. Whatcom County must lead by example, implementing its most important resilience hub site quickly. Funding should be sought for other top priority hub sites and coordinated with the State's Office of Disaster Resilience.

Key Priorities for Demonstration Projects:

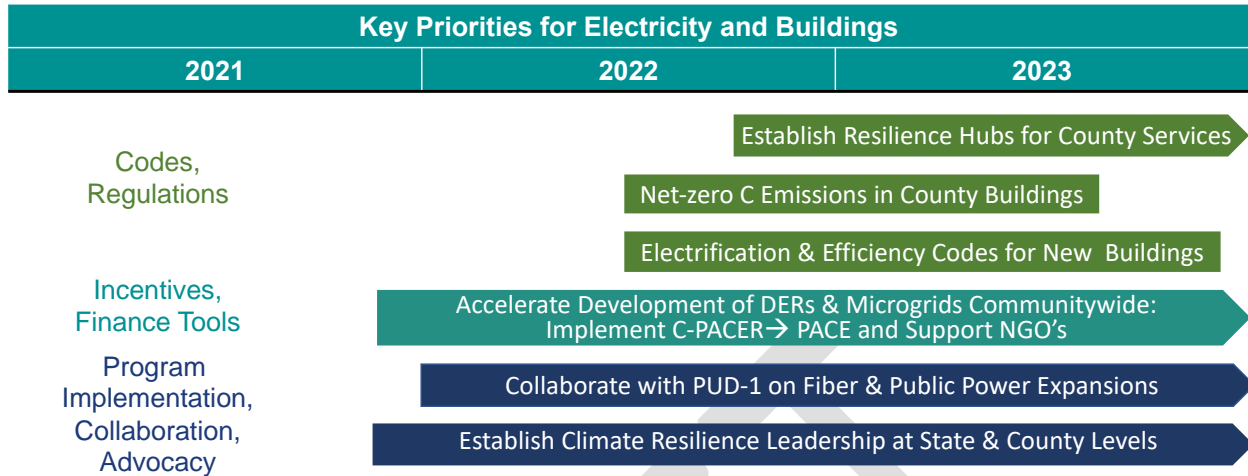
- ***Design and implement demonstration projects that will rapidly advance strategies 3 through 5 in a manner that promotes public acceptance and equity.***
- ***Plan and implement a resilience hub at the most important County site to reduce long-term energy operating costs, provides critical backup during power outages, and demonstrates the value of buildings as grid asset.***

⁶⁷ Ted Clifton on Zero Energy Plans and the Future of Zero Energy Homes, by Joe Emerson, September 2017, Zero Energy Project; Also confirmed in 2021 per email from Ted L. Clifton, Coupeville, WA, DOE Award Winning Builder in Pacific Northwest has advocated this since at least 2017.

⁶⁸ Consider California's "Resilience before Disaster – The Need to Build Equitable, Community-Driven Social Infrastructure" as a guide in the evaluation.

⁶⁹ <https://energy.maryland.gov/Pages/Resiliency-Hub.aspx>

Timeline for Electricity and Buildings Priorities



Conclusion

Most of the electricity we use is consumed in our buildings. We must modify our buildings to use less energy and ensure their energy mix is green. To achieve the energy transition our state has mandated, it requires we utilize electricity and buildings as grid assets. The best way to achieve our goals is to rapidly electrify end uses while simultaneously removing fossil fuels from the electrical grid.

This discussion on Electricity and Buildings focuses on how to reduce GHG emissions using financing solutions, code revisions, and technologies already used by other communities; strategies for enhancing social equity during the transition; and new technologies such as distributed energy generation and storage. Electrification of our buildings is particularly promising since we have many tools – incentives and regulatory measures, by which to assist in a just transition away from fossil fuels. Both Washington State and the US are applying an overarching strategy to rapidly electrify end uses while simultaneously removing fossil fuels from the electrical grid.

We believe that some of the simplest recommendations can be implemented to bring down GHG emissions while tackling the planning and policy work required to enable the shift to occur by 2030.

Industry Point-Source Emissions

Whatcom County has a GHG problem greater than many of the counties in the state. Cherry Point is home to two refineries, an aluminum smelter and a gas-fired thermal power plant that combined, were responsible for an astounding 51% of Whatcom County's GHG emissions in 2017 (Figure 2.2). There are three counties in Washington State with this concentration of GHG pollution and all are home to one of the five refineries. They include Whatcom, Skagit, and Pierce Counties.

Point-source emissions are those GHG emissions released from manufacturing processes and are defined by the US Environmental Protection Agency (EPA) as "any single identifiable source of pollution from which pollutants are discharged, such as a pipe, ditch, ship or factory smokestack." Industries that produce 25,000 metric tons (MT) of CO₂ equivalent (CO₂e) emissions yearly are required to report their emission data to the US EPA.

Emissions from industrial buildings' energy use (e.g., electricity, natural gas) are categorized separately by EPA and included in Electricity and Buildings. Industrial point source emissions are GHG emissions released from manufacturing processes.

For decades our refineries and former aluminum smelter have provided immense economic benefit to the County and its citizens, but they also have been major contributors to climate change. This puts us in a paradoxical situation. The community is working diligently to reduce its GHG emissions, but our point-source industries still are discharging massive quantities of GHG pollutants into our atmosphere, making it impossible to reach net-zero emissions by 2050 without dramatic changes.

The worldwide transition to a clean energy economy is ramping up rapidly and this is a pivotal moment for Whatcom County to assert leadership to improve our environmental and economic future. It's a worldwide competition and our hope is that Whatcom County will act on this unique opportunity.

State and County Roles

Washington derives its authority to regulate GHG emissions from the US EPA. The Washington State Department of Ecology requires entities that emit 10,000 tons per year of CO₂e to comply with state reporting and recordkeeping for GHGs. In 2016 Washington's Department of Ecology adopted a Clean Air Rule that established GHG emission standards for "petroleum producers and importers" among other entities. The rule was challenged in 2018 but in January 2020 Washington's Supreme Court ruled that the State has the authority to regulate direct (point-source) emissions. The rule requires direct emitters reduce GHG emissions by 5% every three years. That reduction can be satisfied by purchasing reduction credits.

Unfortunately, a 1.7% reduction in GHG emissions annually by point-source emitters hardly addresses the urgent nature of our climate crises and would only reduce these emissions by 14% by 2030 using these emission goals. Far more than incremental reductions are needed to reduce these immense point-source GHG emissions.

The State Department of Commerce recently released its 2021 Energy Strategy. In the effort to deeply decarbonize, the state's strategy promotes the development of clean fuel refining and carbon capture, storage and utilization (CCSU) and focuses on the production of green hydrogen and renewable fuels

from biomass among numerous other innovative goals.⁷⁰ Washington's recently enacted low carbon fuel standard will only increase the demand for renewable fuels.

The Washington [Climate Commitment Act of 2021](#) is a comprehensive cap and invest system that will go into effect January 2023.⁷¹ This Act will establish a [cap and trade emissions market](#) in the state. Industries that emit 25,000 metric tons of GHGs or more will receive free emissions allowances equal to their emissions in 2022. The refineries at Cherry Point are subject to foreign and out-of-state competition and fall under the category of "Emissions-Intensive Trade-Exposed" (EITE) in this Act. EITE industries will receive free GHG credits through 2035 and not be subject to the cap on emissions to prevent relocation to non-regulated regions. Regardless of the EITE exception, this Act sets up a timetable for reducing GHG emissions and may increase the transition to renewable energy. The State's leadership and commitment to implementing bold solutions to our climate problems should inspire and motivate our County leadership ambitions.

Whatcom County also has a role in regulating Industrial point-source GHG emissions through its zoning codes and the authority the State has granted in administering the State Environmental Policy Act or SEPA. The "Cherry Point Amendment" would require a conditional use permit for the expansion of existing fossil fuel refineries that would result in a cumulative increase by more than 10,000 barrels per day of crude distillation capacity or transshipment capacity. New fossil fuel refineries, piers, docks, or wharves are prohibited at Cherry Point as well as coal-fired power plants. Conversion of a renewable fuel refinery or renewable transshipment facility to fossil fuel is also prohibited.

Whatcom County has the opportunity to create an historic solution to this industry problem. In order for Whatcom County to reduce its GHG emissions, the industries responsible for point-source emissions need to use new greener technologies for refining processes now, and plan to respond to future demands by reducing the production of refined petroleum products⁷² as internal combustion engine (ICE) technology and gasoline continue to lose market share.⁷³

2017 Assessment for Industrial Point-Source Emissions

As mentioned previously, the County's point-source industries were not included in the 2007 Whatcom County Action Plan (CAP) because disclosure of this information was not required to be reported until 2010. Table 2.1 shows 2017 emissions by specific point-source industries; they total 3,862,348 MT CO₂e. Since the completion of the GHG Inventory, the Alcoa Intalco aluminum smelter halted production in 2020. With this closure, point-source emission countywide will drop by over a million metric tons of CO₂e in future GHG assessments. Unfortunately, that substantial reduction was associated with the loss of over 700 jobs.

⁷⁰ Washington 2021 State Energy Strategy, Department of Commerce. December 2020.

⁷¹ After a decade of failures, Washington state passes a cap on carbon emissions, by Kate Yoder, April 27, 2021, Grist. <https://grist.org/economics/after-a-decade-of-failures-washington-state-passes-a-cap-on-carbon-emissions/>

⁷² Northwest states need a plan to move beyond gas, by Laura Feinstein and Eric de Place, December 9, 2020, Sightline

⁷³ Gasoline is becoming worthless, by Rick Newman, February 3, 2021, Yahoo! Finance News,

Table 2.1. 2017 Industrial Point-Source Emissions by Source and by Facility (in Mt CO₂e)⁷⁴

Sources of Emissions	Alcoa Intalco	Bp Cherry Point Refinery	NW Pipeline GP Sumas C/S	Phillips 66 Ferndale Refinery	Whitehorn Generation Station	Totals (by emission sources)
Stationary fuel combustion	N/A	1,251,561	N/A	383,963	1,715	1,637,239
Aluminum production	1,025,298	N/A	N/A	N/A	N/A	1,025,298
Petroleum refineries	N/A	239,213	N/A	305,344	N/A	544,557
Petroleum & natural gas systems	N/A	N/A	3,903	N/A	N/A	3,903
Industrial waste landfills	9,648	N/A	N/A	N/A	N/A	9,648
Hydrogen production	N/A	641,703	N/A	N/A	N/A	641,703
Totals (by facility)	1,034,946	2,132,477	3,903	689,307	1,715	3,862,348

From the data in the Table 2.1, it is clear that *bp* is the single greatest point-source emitter of GHGs in the County and also in the state during 2017. *bp* is a larger refinery and emits nearly three times the amount of GHGs as Phillips 66's refinery. Therefore, *bp*'s Whatcom County-generated GHG pollution poses a serious, long-term problem for our community. Hopefully, this may simultaneously provide a remarkable opportunity to partner with *bp* to facilitate the transformative change that is necessary to meet the challenges of global warming. The ultimate goal is to facilitate the transition to low-emission industries by promoting green technologies as well as the sustainable energy jobs it will create for Whatcom residents.

As mentioned in [Section 1](#), *bp* is supporting a major shift to renewable energy production. Their intention is to reinvent *bp* and reduce their GHG emissions to net zero by 2050 or sooner. This includes reducing their oil production 40% and investing \$5 billion this decade. *bp* intends to spend 80% of this \$50 billion by 2025 and grow their hydrogen operations.⁷⁵ In addition, they plan to partner with 10 to 15 major cities around the world.⁷⁶ As *bp*'s US headquarters, *bp* partnered with the City of Houston to implement its CAP goals and is providing a \$2 million grant and two staffers to the Houston's Office of Sustainability to that end.⁷⁷

⁷⁴ Table 2.2 from Cascadia Consulting's GHG Inventory

⁷⁵ *bp* Commits Big Investments Towards Its 'Net Zero Emissions By 2050' Target, by [David Blackmon](#), October 10, 2020, Forbes.

⁷⁶ Partnering with countries, cities and industries by William Lin, September 2020, *bp* week. <https://www.bp.com/content/dam/bp/business-sites/en/global/corporate/pdfs/investors/bpweek/bpweek-partnering-with-cities-countries-industries.pdf>

⁷⁷ City of Houston Partners with *bp* to Advance Climate Action Plan Goals by Mayor's Office Press Release, July 22, 2020.

These actions are strategic on *bp*'s part, not just a sudden conversion to environmental values but an economic necessity. Weak natural gas and crude oil prices are a harbinger of the future for the industry. According to the law firm Haynes and Boone, in the first eleven months of 2020 forty-five oil and gas companies filed for bankruptcy.⁷⁸ Simultaneously wind and solar technologies are surging and will be further supported in future infrastructure bills which include efforts to remove electricity generated from fossil fuels from the grid by 2035 and strictly regulate methane emissions.⁷⁹

Despite *bp*'s international aspiration, their Whatcom County refinery has not yet announced any effort to reduce its GHG emissions. It is hoped that *bp*'s Cherry Point refinery would address this problem. The VP of Corporate Analysis at Wood MacKenzie describes *bp* as the only organization of its "stature that has gone so far, or committed so unequivocally, to transforming itself in the face of the energy transition."⁸⁰ Therefore, *bp* should be open to a conversation about their local emissions and possible solutions. If corporate headquarters is buying charging stations, partnering to create large amounts of green hydrogen, funding major American city's Climate Action Plans, reducing oil production, eliminating all new exploration, and divesting itself of \$25 billion in assets over the next five years, then the Cherry Point facility, the newest refinery in the United States, should be thinking about innovations to reduce its GHG emissions.

Goal and Strategies for Industry Point Source Emissions

Goal: Eliminate 90% of the GHG emissions from the refineries by 2050.

It is internationally acknowledged that the world's energy sector must be transformed rapidly to meet our collective goal of preventing a 2°C (3.6°F) increase in global temperature above pre-industrial levels. That translates into a goal of a 95% reduction below 1990 CO₂ levels by 2050. Remarkably, most of the nations of the world are now working to vastly overhaul their fossil-fuel-based economies in less than 30 years.

Whatcom County's refinery-derived CO₂ emissions pose a considerable challenge to meeting that goal and hence we offer detailed strategies designed for our specific situation. All strategies are offered from a collaborative mind set, utilizing creative problem-solving, and underpinned by an optimistic vision of what a carbon-neutral energy industry could look like.

Strategies for Industry

1. Facilitate a solutions-focused collaboration with *bp*'s Cherry Point plant manager, energy experts in academia, and state and federal governments to discuss ways to achieve a 50% reduction in their point source GHG emissions by 2030.

⁷⁸ Trump's unplanned gift to Biden: Clean energy on the rise by Ben Lefebvre and Kelsey Tamborrino, December 29, 2020, <https://www.politico.com/news/2020/12/29/trump-biden-clean-energy-451546>.

⁷⁹ Ibid.

⁸⁰ *bp* Commits Big Investments Towards Its 'Net Zero Emissions By 2050' Target, by David Blackmon, October 10, 2020, Forbes.

2. Promote the research, development, and collaboration needed to build a hydrogen electrolysis facility to create green hydrogen in Whatcom County.
3. Establish a regional center for research, development and demonstration (RD&D center) to accelerate the development of low carbon fuels and building materials modeled after Washington's Maritime Blue Strategy.

Strategy 1: Facilitate a solutions-focused collaboration with *bp*'s Cherry Point plant manager, energy experts in academia, and state and federal governments to discuss ways to achieve a 50% reduction in their point source GHG emissions by 2030.

Whatcom County's goal should be to aid in any possible manner the implementation of the greenest technologies available to reduce GHG emissions from our refineries, particularly *bp*. Such a public-private collaboration, focused on designing and implementing pathways to carbon neutral solutions, has the potential to benefit all parties and aligns with the climate goals of Whatcom County, Washington State, the federal government and *bp*'s net-zero ambitions.

The purpose of an in-depth discussion with *bp* is to motivate this international organization to specifically focus on its GHG emissions impacts to Whatcom County, Washington State, and the adjacent communities of Blain, Ferndale, and Bellingham. While *bp* is the major emitter of GHGs in Whatcom County and Washington State, it is also one of the most climate-conscious petroleum companies in the world, but to date their carbon-reduction efforts have not been focused on their Cherry Point refinery. Since *bp*'s Cherry Point refinery is the newest in the nation and is therefore anticipated to be in operation well into the future, their emissions have the potential to be a chronic problem for our community. For this reason, a public-private dialogue and collaboration is warranted.

This solutions-focused discussion is needed to understand the history of previous efforts, the feasibility of possible actions, the resources required and potential sources of funding, the need for technical partnerships, and any legislative policy or appropriations needed to reduce the industry's GHG emissions.

Numerous resources are available to the county that can provide the support and creative problem solving necessary to expedite this task. They include the technical expertise of Western Washington University's Institute for Energy Studies, the University of Washington, Washington State University, and the Whatcom PUD1. This dialogue should also include appropriate representation from relevant federal and state agencies. For example, Washington State's Departments of Commerce and Ecology as well as the Governor's Office could be instrumental in aiding with resources needed to implement a significant GHG solution as could the federal government through the National Laboratories of the Department of Energy and/or the White House.

The moment is uniquely ripe for public-private collaboration given the climate focus of Governor Jay Inslee and the Biden Administration. Reducing GHG is a priority for this president who has made a commitment to a historic investment in energy and climate research and innovation. Retooling existing refining process to reduce emissions by utilizing green technologies is exactly the type of task that warrants extensive federal, state, local, and private partnership.

One area that should be discussed is enhancing energy efficiency in industrial processes. The US EPA's EnergyStar program is a voluntary program that provides energy management tools and strategies for the petroleum refining industry, among others. The program provides guidance on organization-wide energy management systems. It employs sub-metering, monitoring and control systems that can reduce the time required to perform complex tasks hence reduce energy consumption and GHG emissions.⁸¹ The list of potential energy reductions (and associated emission reductions) is extensive and includes suggestions related to power recovery in high pressure operations such as fluid catalytic crackers and hydrocrackers, the use of combined heat to power (CHP) cogeneration plants, or medium- to high-temperature heat pumps to electrically crack petroleum feedstock.

The Phillips 66 refinery at Cherry Point has been awarded an EPA EnergyStar certificate for their voluntary efforts to reduce greenhouse gas emissions through energy efficiency. The certification indicates that the refinery performed in the top 25 percent of similar facilities nationwide for energy efficiency and met specific environmental performance levels set by the EPA.⁸² *bp* has not participated in this program but no doubt has instituted some if not many of the energy efficiencies suggested. It's highly recommended that *bp* voluntarily engage in this program to show their commitment to reducing GHG emissions in Whatcom County.

As mentioned earlier, electricity use by industry is not categorized as a point-source emission, so the use of clean electricity will not reduce this category but would reduce industrial electricity emissions that are shown in [Figure 2.6 in Electricity and Buildings](#). Currently the *bp* refinery uses energy purchased on the spot market or from PSE, neither of which provide carbon-free electricity. In fact, both sources of energy are fossil fuel intensive, and the electricity generated is usually derived from greater than 60% fossil fuel. By comparison PUD1's electricity generation is only 2% fossil fuel.

Nearly a century ago Congress authorized the Bonneville Power Administration (BPA) to sell power to utilities and a few large industries. Whatcom PUD1's electricity is purchased from BPA and provided to Phillips 66 at Cherry Point. *bp*'s location at Cherry Point offers the company with a unique opportunity to explore utilizing low carbon electricity provided by PUD1 to effectively reduce their GHG emissions.

Whatcom PUD1 is currently engaged in strategic planning related to their electricity capacity needs for the future. The PUD1 should seriously evaluate expanding its capacity to provide significant quantities of clean, green electricity to decrease the carbon footprint of our local industries. PUD1 is uniquely positioned to provide significant climate solutions to the State and the County. And for that reason, PUD1 in coordination with the County should attempt to engage *bp*.

BPA lines currently serve the curtailed Alcoa plant, and the distance required to extend those lines to *bp* is minimal, although costly. There may be an opportunity to use the mechanisms provided by Washington State's [2021 Climate Commitment Act](#) to help finance extension of these power lines.

⁸¹ Energy Efficiency Improvement and Cost Saving Opportunities for Petroleum Refineries by Ernst Worrell, Mariëlle Corsten, and Christina Galitsky, USEPA, February 2015. p 15.

⁸² <https://www.phillips66.com/sustainability/energystar>

Clearly creative thinking is warranted to reduce the more than 2 million metric tons of CO₂e emitted by *bp* annually in Whatcom County.

Ultimately, it may take the assistance of the federal government to accelerate the greening of refining processes. The federal government has long intervened in the energy market, some of these tax subsidies have existed for a century.⁸³ Tax subsidies provide a means to encourage domestic energy production. But in order for the tax code to align with fossil-free energy goals, tax subsidies need to be overhauled to provide incentives to reduce GHG emissions and enable new climate-compatible energy technologies. Currently the code allows companies to deduct a majority of the costs incurred from drilling new wells domestically. Instead, the federal government should subsidize the creation of utility scale renewable energy farms and/or the implementation of green hydrogen production at refineries.

Strategy 2: Promote the research, development, and collaboration needed to build a hydrogen electrolysis facility to create green hydrogen in Whatcom County.

Hydrogen is used predominately in petroleum refining in the hydrocracking and hydrotreating processes. It is also used in transportation as rocket fuel and in hydrogen fuel cell powered forklifts and vehicles. Although a minor component of transportation there is considerable effort to expand hydrogen use in that sector to reduce the amount of GHGs in the atmosphere. Hydrogen fuel cells are the most likely replacement for diesel-powered semitrucks, trains, and ships. Multiple federal reports name transportation as the largest new market opportunity for hydrogen.

California has taken the lead in promoting hydrogen use. It has over 40 hydrogen fueling stations and dozens under construction to support the 7,500 hydrogen cars on the road. Los Angeles Department of Water and Power has pledged to transition to a hydrogen fueled power plant from its coal-fired Intermountain Power Plant, the first effort of this kind.⁸⁴ Airbus announced in September 2020 that it plans to develop a commercially-viable, hydrogen fuel cell airplane within five years.⁸⁵

Washington State has also seen the value of hydrogen. In 2019 Washington State authorized public utilities districts (PUDs) to produce, distribute and sell renewable hydrogen. Douglas County's PUD received \$250,000 in the 2020 Supplemental Capitol Budget for its Renewable Hydrogen Project.⁸⁶ The project provides a model for other PUDs along the Columbia River but also for PUDs interested in developing solar and wind power. In September 2020 Douglas County's PUD and Toyota received a \$1.9 million grant from the Centralia Coal Transition Board to develop the first hydrogen fueling station in Washington State.

Hydrogen Varieties

⁸³ Fact Sheet | Fossil Fuel Subsidies: A Closer Look at Tax Breaks and Societal Costs, Environmental and Energy Study Institute, July 29, 2019.

⁸⁴ Los Angeles wants to build a hydrogen-fueled power plant, LA Times, Sammy Roth, 4/10/19).

⁸⁵ Airbus bets on hydrogen to deliver Zero-Emission Jets, Bloomberg News, Charlotte Ryan and Will Mathis, 12/4/20

⁸⁶ Renewable Hydrogen Production Facility Groundbreaking, by Meaghan Vibbert. March 8, 2021.
<https://douglaspud.org/Pages/Renewable-Hydrogen-Production-Facility-Groundbreaking.aspx>

The carbon footprint of hydrogen is dependent on the method of production. There are three main varieties of hydrogen are referred to as grey hydrogen, blue hydrogen and green hydrogen.

Currently, 95 percent of all hydrogen produced in the US is created through the intensive CO₂-emitting process of steam methane reforming (SMR). The resulting gas is referred to as **grey hydrogen** because of its high GHG footprint (Table 2.2). The process uses natural gas (methane) and steam (heated water) to produce hydrogen and carbon monoxide (CO). The CO converts in a subsequent reaction with steam to create CO₂ and H₂.

Table 2.2. Calculated GHG emissions by H₂ production method. Emissions from blue H₂ can vary widely with the age and efficiency of the SMR process. Upstream methane emissions are not included in the SMR estimates.

Grey hydrogen generation produces large quantities of CO₂ and should not be used as a replacement for natural gas (methane). Because of this, grey hydrogen has a greater carbon footprint than using natural gas-to produce electricity.⁸⁷

Type of H ₂	Method of H ₂ Production	GHG Emissions (kg CO ₂ /kg H ₂)
Green Hydrogen	Electrolysis with Renewable Energy	0
Blue Hydrogen	SMR with CCS	1.7
Grey Hydrogen	SMR	9.3

Another fundamental concern is that the SMR process utilizes methane (CH₄). Methane is a far more powerful GHG but not as long-lived CO₂, although it does decompose to CO₂. When it leaks to the atmosphere, it traps 84 times as much heat in the atmosphere than CO₂ as over a 20-year period. It is estimated that methane is responsible for 23 percent of all observed changes to the Earth's climate over the last century.⁸⁸ The point is, natural gas leakage occurs along the entire path from mining to end use, and is an environmental threat along that pathway.

To reduce the amount of CO₂ released in the production of grey hydrogen, efforts have focused on carbon capture, storage and utilization (CCSU)⁸⁹ to reduce the environmental impact. Grey hydrogen treated by CCSU is referred to as **blue hydrogen**. CCSU is simply a process to capture the CO₂ from the SMR process and either permanently store it in deep geologic formations or utilize the CO₂ to form other products. Unfortunately, markets for such large quantities of CO₂ do not currently exist in many areas of the county, including Washington state. The economics of the carbon capture and storage (CCS) process are also daunting, requiring large amounts of energy. Future advances in technology may reduce the cost of hydrogen produced by SMR with CCS.

Green hydrogen is created by using emissions-free electricity (electricity generated from solar, wind, hydroelectric dams or nuclear) to run a current through water to break the bond between the hydrogen

⁸⁷ Estimating the Carbon Footprint of Hydrogen Production by Robert Rapier, Forbes, Jun 6, 2020

⁸⁸ https://climate.nasa.gov/climate_resources/225/video-methane-sources/, July 20, 2020.

⁸⁹ The US Department of Energy defines CCSU as a process that captures carbon dioxide emissions from sources like fossil-based power plants and either reuses or stores it so it will not enter the atmosphere. CO₂ storage in geologic formations includes oil and gas reservoirs, coal seams and deep saline reservoirs – structures that have stored these oil, gases, and brines for over millions of years. <https://www.energy.gov/carbon-capture-utilization-storage>

and oxygen atoms to produce hydrogen gas in a process called electrolysis. The hydrogen gas is then compressed to create a fuel that can be stored or used in fuel cells where it is converted to electricity. Water vapor is discharge as opposed to CO₂. There are no batteries involved in fuel cell vehicles and hydrogen fuel is pumped similar to gas-consuming vehicles.

Currently electrolysis requires massive amounts of electricity. As a result, most electrolysis installations in Washington State are in areas where excess emissions-free electricity is available for no or low cost. This excess emissions-free electricity may come from grid curtailments of solar, wind and hydroelectricity when production of electricity exceeds the demand needed for the electric grid. For example, the 5 MW hydrogen electrolysis facility being built in Douglas County in eastern Washington will use excess hydroelectricity generated by high river flows in the winter and early spring, which are only intensifying with climate change.

The Clean-Energy Potential of Green Hydrogen and World-Wide Demand

As the world becomes more and more concerned with reducing GHG emissions the demand for green hydrogen has grown dramatically to replace coal, oil, and natural gas with this carbon-free fuel. Countries around the world, various states, and numerous industries are banking on hydrogen as an energy carrier and storage medium, in places where there will be a surplus of renewable electricity available. Europe is taking the lead in developing a hydrogen economy.⁹⁰ France, Germany, Italy, Portugal, and Spain as part of their hydrogen strategy anticipate investing \$44 billion in green and blue hydrogen programs in the next decade.⁹¹

The International Energy Agency roadmap for net zero energy by 2050 predicts that hydrogen use will increase globally from less than 90 million MT in 2020 to more than 200 million tons in 2030.⁹² In the US, almost two thirds of the annual 10 million tons of hydrogen is used for petroleum refining. Most of the remainder is used in other industrial processes such as ammonia and methanol production, metal refining, glass production and electronics fabrication.⁹³

The cost of generating green hydrogen has fallen by 40% since 2015 and is anticipated to fall an additional 40% by the end of 2025.⁹⁴ Hydrogen Europe, a coalition of private companies,

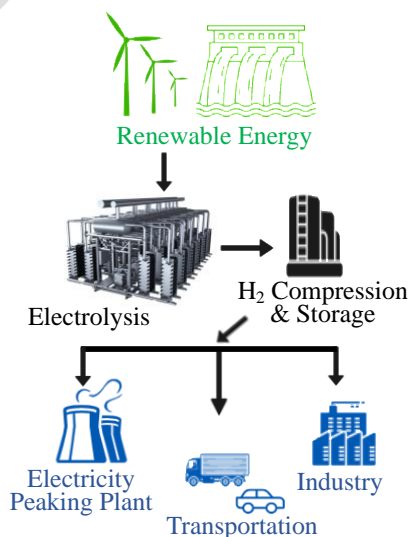


Figure 2.12. Liquid H₂ production, storage, and use.

⁹⁰ Who will be the Hydrogen superpower? The EU or China, by Soren Amelang, August 31, 2020, <https://energypost.eu/who-will-be-the-hydrogen-superpower-the-eu-or-china/>

⁹¹ Europe emerges as leader in hydrogen economy by Kevin Adler, December 15, 2020, [ihsmarkit.com](https://www.ihsmarkit.com).

⁹² Ruth, M, Jadun, P, Gilroy, N, et al. 2020. The Technical and Economic Potential of the H2@Scale Concept within the United States. Golden, CO: National Renewable Energy Laboratory, NREL/TP-6A20-77610.

⁹³ Net Zero by 2050, A Roadmap for the Global Energy Sector. International Energy Agency, 2021. <https://www.iea.org/reports/net-zero-by-2050>

⁹⁴ Ibid.

research institutions and national agencies are working to push through the barriers of no to low demand for hydrogen and lack of infrastructure to achieve their climate goals and generate a substantial number of new jobs.

bp is on the cutting edge of green hydrogen technology in Germany. In November 2020, *bp* and Ørsted announced they will collaborate on a 50 MW electrolyzer in Germany to replace 20% of the refinery's existing fossil-fuel-derived hydrogen.⁹⁵ This is *bp*'s first full-scale commercial hydrogen venture. It is anticipated to be functional by 2024. Additionally, by 2030 *bp* anticipates having 10% of the clean hydrogen market in "core hydrogen markets" as it pursues carbon-neutrality by 2050.

This is not the only hydrogen electrolysis plant in Germany. Shell is part of a consortium that is building the world's largest hydrogen electrolysis plant at its Rheinland refinery. The REFHYNE project will replace Shell's two existing SMR processes and significantly reduce its CO₂ emissions. It will also allow the company to provide leadership in the refining industry's transition to clean energy.

These and numerous other green hydrogen ventures are igniting across the world despite concerns about the cost of generating electricity to produce hydrogen. But there is increasing optimism that green hydrogen may become significantly cheaper.

Bill Gates and Hong Kong billionaire Li Ka-shing recently provided funds to back H₂Pro, an Israeli start up, that is using a new method to produce green hydrogen. The method reduces the energy required by adding an additional thermal step. H₂Pro anticipates making green hydrogen for \$1 per kilogram by the end of the decade, far cheaper than the \$2.5 to \$6.80 2019 price of a kilo of green hydrogen.⁹⁶ If this venture is successful most of the criticism of hydrogen energy will likely evaporate. It is this type of innovative endeavor that will give *bp* a competitive edge in the burgeoning renewable fuels market of the near future.

It is acknowledged that strategy 2 is the most aspirational and challenging of the three strategies outlined in this chapter, but the concept is consistent with goals of numerous states and countries as well as supported by the 2021 Washington State Energy Strategy. Certainly, this initiative would warrant the full-scale support of the county, state, and federal governments as producing green hydrogen will enable numerous benefits and should be one of the main focuses of Strategy 3.

Strategy 3: Establish a regional center for research, development and demonstration (RD&D center) to accelerate the development of low carbon fuels and building materials modeled after Washington's Maritime Blue Strategy.

Whatcom County has a long history of supporting energy production. It has been home to a petroleum refining economy since the mid-1950s starting with the construction of the Phillips 66 plant and followed in the early 1970s with the addition of the *bp* plant. These two Fortune 500 companies support

⁹⁵ *bp* and Ørsted Launch Green Hydrogen Partnership by John Parnell, Greentech Media, November 10, 2020

⁹⁶ Gates-backed startup joins race to make hydrogen cheaper by Akshat Rathi and Will Mathis, Bloomberg Green, March 8, 2021

over 2,600 high-paying manufacturing jobs and have created a significant portion of our economic prosperity.⁹⁷

As the world accelerates its efforts to reach net-zero emissions in the coming years petroleum consumption will decline as will refineries and refinery jobs. This fact was confirmed in a recent study that showed over the coming decade, the fossil fuel industry is expected to lose about 140 jobs per year in Washington.⁹⁸ *bp*'s corporate announcement to reduce their fossil fuel production worldwide by 40% over this decade will undoubtedly reduce their workforce – unless *bp* simultaneously invests in new clean fuels production.

The purpose of forming a RD&D center is to develop and initiate an integrated strategy around the production of low-carbon fuels and building materials. Washington's Maritime Blue is an excellent example of such a center and can be used as a template. "Maritime Blue gathers businesses, public entities, community organizations, researchers and training institutions together to build a low-carbon marine industry that remains economically competitive. Our County should be involved in this RD&D center due to Whatcom's strong maritime industry. To date, Maritime blue has assembled 55 industry members along with four research institutions, 14 organizational partners and 22 public sector partners and leveraged \$6.5 million in public funding for programming and projects."⁹⁹ This public-private partnership has received \$32 million in private capital and \$6 million in business sales for the first 11 innovative start-ups. It is clear that this center can serve as a framework to decarbonize other industries in the state, including the production of clean fuels.

In his 2021 book *How to Avoid a Climate Disaster*, Bill Gates confirms the necessity of public/private partnerships that have the capability to bring in the people who know how to innovate, especially in the early stages of development and deployment.¹⁰⁰ Government assistance is a necessity because of the size and the scope of the overhaul needed to decarbonize the energy sector. The federal government could fund various projects through its numerous agencies and can also aid in overcoming barriers, producing prototypes, creating tax credits and incentives, providing loans, research grants, and lab facilities.

The Washington 2021 State Energy Strategy supports replication of the Maritime Blue framework to accelerate and support emerging low-carbon industrial opportunities for other industries in the state. Whatcom County is in an excellent position to take advantage of this approach with our current petroleum refineries, agriculture, and forestry industries. As

Forming an RD&D center around clean fuels and building materials is facilitated by: Pacific Northwest National Laboratory, one of 17 national energy laboratories, large regional research universities including WWU, and technical colleges and training facilities, such as Bellingham Technical College. In addition, the Clean Tech Alliance has over 1,100 members that facilitate the growth of clean technologies and jobs.

⁹⁷ Employment at Cherry Point by the Center for Economic and Business Research, Western Washington University, March 2019. [https://cbe.wvu.edu/files/2019 Cherry Point Employment Impact Study.pdf](https://cbe.wvu.edu/files/2019%20Cherry%20Point%20Employment%20Impact%20Study.pdf)

⁹⁸ Robert Pollin and Heidi Garrett-Peltier, and Jeannette Wicks-Lim, 2017. "A Green New Deal for Washington State." University of Massachusetts Amherst, <https://www.peri.umass.edu/publication/item/1033-a-green-new-deal-for-washington-state>.

⁹⁹ Washington 2021 State Energy Strategy, pg 99.

¹⁰⁰ Bill Gates, 2021. *How to Avoid a Climate Disaster*. Alfred A. Knopf, New York, p 202.

stated earlier in this chapter, electrification of heat-based processes and increasing the overall efficiency of refining petroleum would reduce GHG emissions. Also stated previously Washington's low carbon fuel standard will promote greater emphasis on biofuel and hydrogen fuel production. The agriculture and forest product industries both produce feedstocks that can be used in biofuel production. The current problem is the cost involved in collecting and transporting this waste to a facility that produces biofuels. Innovations that make it less costly and easier to produce biofuels at the farm or municipal level provide opportunities for economic development.

Pacific Northwest National Laboratory's Bioproducts Sciences and Engineering Laboratory (BSEL) focuses on the science and engineering for deriving energy from agricultural and forest residues, and municipal and industrial waste streams. The BSEL facility has a scaled-up engineering facility that can test new processes for converting waste to biofuel, which is a critical step prior to deploying new technologies.¹⁰¹ Researchers at BSEL have technical expertise in advanced biotechnology, catalysis, and thermal processing which enable advances in biofuel production.



Figure 3.13. Biofuel process testing at PNNL's Bioproducts, Sciences, and Engineering Facility.

Breakthroughs in technologies to reduce the power needed and subsequent cost of hydrogen fuels are also important. For example, Washington State University researchers have discovered and tested a new inexpensive catalyst for an electrolysis exchange membrane that does not rely on expensive precious metal catalysts such as platinum and iridium and also does not require use of corrosion-resistant metal plates.¹⁰² Promising breakthroughs like these that lower the cost of hydrogen production need to be deployed and evaluated at scale to really fully understand the cost savings a feasibility of these new approaches.

Cross-laminated timber (CTL) is a fast-growing opportunity for the lumber industry in Washington State. This proposed RD&D center should also consider innovations in producing cross-laminate timber (CLT) to replace steel in many building projects and reduce embodied carbon in building materials. CLT will not replace steel in skyscrapers but can significantly reduce the use of steel in multilevel apartment or commercial buildings. For example, the Brock Commons Tallwood House at the University of British Columbia in Vancouver BC is 18 stories high and houses over 400 students.¹⁰³ The first two stories of this

¹⁰¹ PNNL Researchers are Turning Kitchen Waste into Biofuels, February 22, 2021, <https://www.pnnl.gov/news-media/pnnl-researchers-are-turning-kitchen-waste-biofuels>

¹⁰² "Water splitting advance holds promise for affordable renewable energy," by Sara Zaske, WSU News, March 9, 2020: <https://news.wsu.edu/2020/03/09/water-splitting-advance-holds-promise-affordable-renewable-energy/>

¹⁰³ Brock Commons Tallwood House fact sheet: https://sustain.ubc.ca/sites/default/files/brock_commons_tallwood_house_apr_2018_web_003.pdf

hybrid building are cement with CLT used for subsequent stories. The wood structure portion of this LEED gold residence building was completed in only nine and a half weeks.

An important aspect of the economic transition of decarbonizing industrial processes and producing low carbon fuels and building materials is the creation of new skilled, living wage jobs. Workforce development must be at the forefront of this new RD&D center. Washington state and the federal government are continuing to invest heavily in preparing workers for the growth in clean energy jobs. To succeed and bring new economic development to Whatcom County, the RD&D center will need to provide educational opportunities through the funded startups that emerge from this innovation center.

Finally, in developing a RD&D center, we must take into account the many attributes of Whatcom County that can attract new carbon-free industries. PUD1 offers clean electricity that can be used in manufacturing processes. Our agriculture and forest products industries can help supply the feedstocks for clean fuels and new building products. Our ports and rail systems provide transportation for new products. And finally, the outdoor recreation opportunities, resources and climate provide the high quality of life important to many families and skilled workers.

Conclusion

We must acknowledge the importance of this moment and let it motivate us to be as creative and strategically-sound as possible in designing the next steps to deeply decarbonize and transform the energy sector. We need to look with fresh eyes at new processes not merely the mechanics but the soundness of the process of each technical energy innovation. We are in fact outlining a peaceful technologic revolution to the cleanest, healthiest, and most sustainable way of doing things.

This discussion on industrial point source emissions has focused on how to reduce GHG emissions from petroleum refineries and help Washington state transition to a clean fuel economy. We believe that some of the simplest strategies can be implemented and easily bring down GHG emissions while simultaneously beginning to turn the wheels on the process of envisioning, designing, and implementing the green energy industrial sector that Whatcom County and the state of Washington needs for a healthy and safe future. This rapid transition is inevitable and necessary. But it is also a competition with winners and losers. Whatcom County must compete vigorously in order to define our path.

2019 Washington Clean Energy Jobs

11x more clean energy jobs in Washington than fossil fuel jobs

10% of Washington clean energy workers are veterans, nearly double the national average

8.3K rural Washington residents work in clean energy

7 OUT OF 10 clean energy employees in Washington work at companies with fewer than 20 employees

45% of Washington's clean energy workforce is located outside of the Seattle metro area

5 OUT OF 10 counties by clean energy jobs per capita have populations fewer than 100,000 – including Jefferson County which has 23 clean energy jobs for every 1,000 employable residents

Transportation

Whatcom County's climate action goals, strategies, and actions are intended to reduce GHG emissions in alignment with federal, state, municipal, and other existing community efforts. The Washington 2021 State Energy Strategy describes numerous proposals (most of which require action by the Washington State Legislature) that lead to GHG emissions reductions, including many in the area of transportation.

Transportation is critical to human civilization. We must have efficient ways to move goods and people. This movement requires energy, and in our current transportation system, the primary mode of transportation is single-occupancy internal combustion engine (ICE) vehicles that use fossil fuels as an energy source. One of the major drawbacks to the use of ICE vehicles is their emissions of a variety of pollutants, including large quantities of greenhouse gases (GHGs) such as CO₂ and nitrogen oxides (NO_x).¹⁰⁴

In 2017, transportation was the third largest source of Whatcom County's GHG emissions (at 13.7%); only industrial sources (50.9%) and electricity consumption (18.2%) were larger (Fig. 2.2). Because Whatcom County's transportation demand is projected to increase in the coming years with a growing population,¹⁰⁵ addressing mobility needs while reducing transportation emissions should be a primary target of Whatcom County's climate change mitigation efforts.

The combustion of fossil fuels by on-road vehicles is the leading contributor to transportation emissions (see Figure 2.14¹⁰⁶). Another essential component of transportation-related emissions is land use. Land use patterns, such as road networks, housing density, and zoning laws, determine transportation accessibility and behavior. Therefore, reducing transportation emissions will require changes in Whatcom County's land-use patterns. Land use issues, including those related to transportation, are

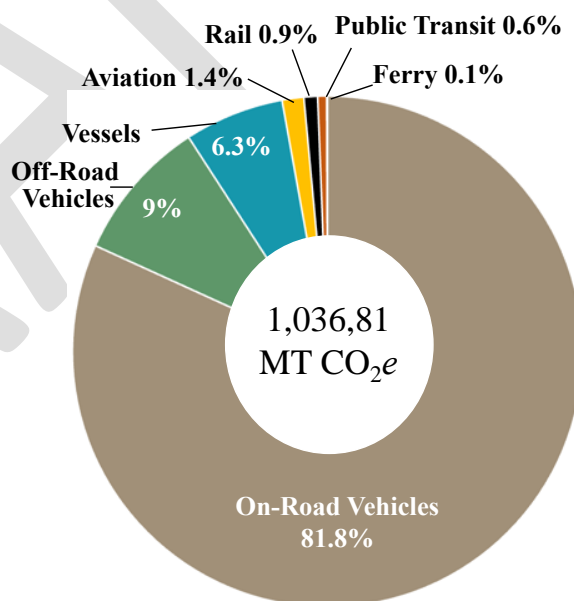


Figure 2.14: Whatcom transportation emissions in metric tons of CO₂e.

¹⁰⁴ When we estimate the benefits of GHG reductions we should also include the co-benefits of reducing the health effects of local pollution.

¹⁰⁵ Whatcom Council of Governments, June 9, 2017, Whatcom Mobility 2040 <https://whatcommobility.org/2040-2/2040activity/>

¹⁰⁶ Whatcom County Greenhouse Gas Inventory Report, 2020, p. 12 Fig. 5. https://www.whatcomcounty.us/DocumentCenter/View/48029/WhatcomCountyGHGInventory_DRAFT_June2020 Note that "off-road" vehicles are "agricultural, construction, commercial and industrial, lawn and garden, and recreational vehicles and equipment."

addressed in detail in a later [chapter](#) of this report.

Generally, there are two ways to reduce transportation emissions associated with a trip: reduce vehicle miles traveled (VMT) or reduce the emissions per vehicle mile traveled (E/VMT)¹⁰⁷.

- Strategies for reducing vehicle miles traveled could be achieved in various ways, such as through land-use changes, using public transit instead of single-occupancy vehicles, or expanding remote work options.
- Strategies and actions that reduce the emissions per vehicle mile traveled include switching to alternative modes of transportation, such as bicycling and walking, or using alternative fuels for transportation, such as electricity or hydrogen.

Multiple state and local government agencies engage in transportation (and other) planning processes, all of which include consideration of climate-related issues. The goals and strategies in this Climate Action Plan are compatible with and supportive of those found in other agencies' plans.

- Many counties and cities are addressing climate change through land use and transportation planning or by adding optional elements to their Growth Management Act comprehensive plans.
- The Washington State Department of Transportation has both a Transportation Plan¹⁰⁸ and an Active Transportation Plan;¹⁰⁹ the latter is concerned with active transportation, defined as walking, biking or skateboarding to get from one place to another. While active transportation considerations often play a role in overall transportation planning (e.g., the inclusion of bike lanes on public thoroughfares), it is also beneficial for safety reasons to maintain active transportation routes apart from those used by motorized vehicles.
- Transportation planning in Whatcom County is overseen by the Whatcom Council of Governments (WCOG). WCOG maintains a long-term transportation plan, called the Whatcom Mobility 2040 Plan,¹¹⁰ as well as shorter term (~5 years) Transportation Improvement Programs¹¹¹ that prioritize projects to be undertaken. In addition, the Whatcom Transit Authority 2017 Strategic Plan¹¹² (to be replaced by in 2021 by the adoption of WTA 2040, a long-range strategic plan) incorporates climate considerations through analyses of the potential for electric buses and the installation of solar panels at major WTA facilities and bus stops.

¹⁰⁷ A simple but useful way to think about total transportation emissions (E) is as the mathematical product of vehicle miles traveled (VMT) and emissions per vehicle-mile traveled (E/VMT): $E = VMT \times (E/VMT)$. Note that the equation also implies that when E/VMT is at or very close to zero, reductions in VMT have little impact on emissions; they would still reduce traffic congestion, accidents, etc.

¹⁰⁸ Washington Department of Transportation, 2015, Washington Transportation Plan 2035 <https://washtransplan.com/>

¹⁰⁹ Washington Department of Transportation, 2021, Draft Active Transportation Plan, <https://engage.wsdot.wa.gov/active-transportation-plan/>

¹¹⁰ Whatcom Council of Governments, Whatcom 2040 Mobility Plan. https://wcog.org/wp-content/uploads/WM40_COMPLETE.pdf

¹¹¹ Whatcom Council of Governments, Transportation Improvement Programs. <https://wcog.org/planning/tip/>

¹¹² Available at <http://www.ridewta.com/business/reports/plans>

Whatcom County's Bicycle/Pedestrian Advisory Committee is in the process of updating the County's Pedestrian and Bicycle Plan¹¹³, which was last revised in 2011. In December of 2019, the City of Bellingham produced a Climate Action Task Force Report that includes recommendations regarding transportation issues, and the City also regularly updates its own Transportation Improvement Program.

Recent Legislation

Three important climate related bills with direct or indirect impacts on the strategies and actions contained in this document were passed by the Washington State Legislature in its recently concluded 2021 session. Two of these take direct aim at transportation emissions.

- An act relating to preparedness for a zero-emissions transportation future (HB 1287) requires state agencies and electric utilities to plan for increased EV charging capacity, requires new multifamily residential buildings to include EV charging capability, and establishes a goal that all publicly and privately owned passenger and light duty vehicles of model year 2030 or later sold, purchased, or registered in Washington state be electric vehicles.
- An act relating to reducing GHG emissions by reducing the carbon intensity of transportation fuel (HB 1091) establishes a tradeable credit based clean fuel standard (CFS) and contains provisions designed to help expand EV charging capabilities, including those in underserved areas.
- The third bill, known as the Climate Commitment Act (SB5126), establishes a cap-and-trade carbon pricing system requiring that refineries (along with utilities, natural gas companies, and other facilities emitting more than 25,000 metric tons CO₂e¹¹⁴) obtain tradeable permits to cover the quantity of emissions associated with the production and consumption of their products. The total number of permits issued by the state will decline over time in line with state emission reduction goals. Both SB5126 and HB 1091 contain provisions that will fund a variety of climate change related activities, including at the local level, from the revenues gained in the sale of allowances or credits. This system will result in effectively putting a price to be paid for each ton of GHGs emitted from the electricity, natural gas, and motor fuel sold anywhere in Washington, including Whatcom County.

Governor Inslee signed the legislation,¹¹⁵ and this will be the start of a complicated implementation process. First, both HB1091 and SB5126 require, prior to their becoming effective, the passage of a state transportation funding act meeting certain standards. In addition, state agencies must conduct rulemakings to implement specific portions of the legislation. Rulemaking processes typically last from several months to more than a year, especially for complicated pieces of legislation,¹¹⁶ and they offer opportunities for interested parties to comment on proposed regulations.

¹¹³ Available at <https://www.whatcomcounty.us/DocumentCenter/View/239/Whatcom-Pedestrian-Bike-Plan-PDF?bidId=>

¹¹⁴ CO₂e refers to CO₂ equivalence; quantities of GHGs other than CO₂ are converted to CO₂ equivalent quantities based on their climate warming impacts.

¹¹⁵ The governor vetoed the portion of HB 1287 requiring EVs, along with portions of SB 5126 concerning state-tribal consultations.

¹¹⁶ For example, rulemaking processes stemming from the 2019 Clean Energy Transformation Act are still underway.

The basic purpose of carbon pricing and clean fuel standards approaches to GHG emissions reductions is to incorporate the previously unaccounted for costs of pollution into decisions made by producers and consumers, with the increased costs being passed to consumers. Producers, in trying to keep their prices lower, have an incentive to reduce emissions from production processes and, where possible, from the usage of their products. To the extent that carbon pricing results in higher final product prices, consumers have an incentive to use less of that product. One negative impact of carbon pricing is that it is regressive—it takes a larger share of low-income consumers’ incomes than it takes from high-income consumers. SB 5126 contains environmental justice provisions to favor overburdened communities in the awarding of projects funded from revenues collected by the state under the legislation.

At the time of this report, the legislative outcomes regarding federal climate change efforts remain uncertain, but current proposals contain a wide variety of provisions designed to decrease the shares of GHG producing fuels in our nation’s energy system. Nevertheless, some federal grant money is already available from the Federal Highway Administration for EV charging infrastructure on the national highway system, which in Whatcom County consists of Interstate 5.¹¹⁷

Goal and Strategies for Transportation

Goal: Reduce transportation-related GHG emissions 45% below 1990 levels by 2030, including eliminating fossil fuels from County government transportation operations where technology permits, while ensuring climate-resilient transportation systems.

Strategies proposed toward achieving this goal involve both benefits (benefits beyond those directly related to climate change are often referred to as “co-benefits”) and potential obstacles or drawbacks. Some co-benefits of the proposed transportation strategies are cleaner air and increased use of active transportation, leading to positive health outcomes. The reduction in local pollution is significant, especially for historically marginalized communities who have often borne a greater share of the negative impacts of that pollution.

While the primary goal of eliminating fossil fuels from transportation is to reduce GHG emissions, the co-benefit of reductions in local and regional air pollution are important. These pollutants include nitrogen oxides (NO_x), volatile organic compounds (VOCs), particulate matter (PM) and air toxics, all of which have negative health effects caused by breathing dirty air. For example, nitrogen oxides and VOCs react in sunlight to form ozone, which is the primary component of smog, which can cause a variety of health problems.¹¹⁸ These effects are more pronounced in areas close to busy thoroughfares, which tend to have higher housing concentrations occupied by disadvantaged populations.

¹¹⁷ US Dept. of Transportation, Federal Highway Administration. “Federal Funding is Available for Electric Vehicle Charging Infrastructure On the National Highway System,” April 21, 2021.

https://www.fhwa.dot.gov/environment/alternative_fuel_corridors/resources/ev_funding_report_2021.pdf

¹¹⁸ For a good basic discussion of these impacts, see US EPA, “How Mobile Source Air Pollution Affects Your Health” <https://www.epa.gov/mobile-source-pollution/how-mobile-source-pollution-affects-your-health>

It should be noted that while these strategies are largely aimed at mitigating GHG emissions, some of them also present opportunities for adaptation, which will make Whatcom County more resilient to the expected impacts of an already changing climate.

The four transportation strategies below address three broad areas: reducing VMT directly, moving toward alternative modes of transportation, or switching to alternative fuels. A detailed discussion of specific actions recommended under each of these strategies can be found in the appendix.

Strategies for Transportation

1. Reduce vehicle miles traveled (VMT) by promoting alternatives to single occupancy vehicle (SOV) transportation.
 2. Promote increased use of electric, hybrid, and alternative fuel vehicles.
 3. Improve County vehicle fleet utilization while transitioning to non-fossil alternatives and reducing GHG emissions associated with County projects.
 4. Use County resources to participate in and advocate for inter-governmental efforts at the state level for policies and programs to reduce GHG emissions associated with transportation.
-

Strategy 1: Reduce vehicle miles traveled (VMT) by promoting alternatives to Single Occupancy Vehicle transportation

Single occupancy vehicles (SOVs) are the most common form of transportation because of their convenience and affordability, and road networks have been designed primarily for them. In addition, lower density land use patterns in the County often make walking, biking, or using public transit more difficult than in higher density urban areas. Strategy 1 focuses on promoting alternative transportation modes – one approach to reducing SOV use. Increasing the accessibility, affordability, and convenience of multimodal transportation options, such as bicycling, walking, or riding public transit, and even by eliminating the need for transportation through improved information technology options, can in principle incentivize their increased use. Although little data exists on the extent to which such improvements would stimulate the use of alternative modes in Whatcom County, we do know that good transportation infrastructure has been shown to attract new businesses and investment.¹¹⁹

Careful planning to expand and enhance County trail networks now will increase possibilities for both recreation and commuting by alternative means to the SOV, whereas delay will likely increase costs and lead to reduced siting options. Additionally, improvements to public transit and rail, such as increasing frequency, reducing costs, and promoting the ease of single trip multimodal use (e.g., park and ride lots or secure bicycle storage near transit links) can make these transportation options preferable to SOVs.

¹¹⁹ Grant Powell, March 3, 2021. “Build It and They will Come; Why Infrastructure Should Come First.” Forbes online: <https://www.forbes.com/sites/grantpowell/2021/03/03/build-it-and-they-will-come-why-infrastructure-should-come-first/?sh=15d4bce57e9d>

In addition to providing better infrastructure for multimodal commuting (i.e., the supply side), it is important to find ways to encourage commuters to change their behaviors (the demand side) by using that infrastructure and through increases in telecommuting. The pandemic has forced employers to explore how best to adapt their workforces to remote working. As the pandemic abates, some of these new habits are likely to remain in place, presenting opportunities to help achieve climate goals. On the webpage introducing its recent case study of Expedia,¹²⁰ Nelson/Nygaard Consulting Associates states, “Work from home policies that sat undefined in the wings for decades have been forced centerstage practically overnight. While this is a time of uncertainty for organizations large and small, it is also an ideal time to plan for the future.” The study, which was conducted before the pandemic, documents ways in which careful data analysis and behavioral approaches (e.g., strong employee engagement and a pay-as-you-park system) led to large reductions in SOV commuting by Expedia employees, both before and after moving the company headquarters from Bellevue to Seattle’s Interbay district.

Although Whatcom County’s largest city does not have the traffic congestion of Seattle, major employers such as Peace Health and Western Washington University are considering more active transportation management programs that can actually change commute behavior. The County should work internally as well as with employers to encourage the adoption of new, more aggressive programs to promote climate-friendly commuting behaviors and to overcome barriers to these changes.¹²¹

Key Priorities for Strategy 1:

- *Expand local and regional trail networks for non-motorized transportation to create safe active transportation to schools and enhance bicycle and pedestrian commuting infrastructure.*
- *Work with major employers to create programs that incentivize multimodal commuting, expand telecommuting, and allow flexible scheduling.*

Strategy 2: Promote increased use of electric, hybrid, and alternative fuel vehicles.

This strategy aims to reduce emissions of fossil fuel burning SOVs by increasing the transportation share of electric, hybrid, and alternative fuel vehicles that generate lower GHG emissions. Reaching emissions reduction goals will require the increased use of alternative modes of transportation; however, we must recognize that SOVs will still be used for transportation for some time.

Because they see their market changing through a combination of buyer preferences and government mandates,¹²² many automobile manufacturers have announced plans to increase EV production and

¹²⁰ Nelson/Nygaard, Luum, and Expedia. April 2021. Expedia Group Case Study: How a phased commute program led to longstanding behavior change. <https://nelsonnygaard.com/expedia-group-case-study/>.

¹²¹ Whillans, Ashley et al. “Nudging the Commute: Using Behaviorally-Informed Interventions to Promote Sustainable Transportation,” Harvard Business School, Working Paper 21-002. https://www.hbs.edu/ris/Publication%20Files/21-002_d78ef6ca-b99a-4b13-93eb-be1027914a18.pdf

¹²² Traugott, Jay. “Third US State Banning Combustion-Engine Car Sales,” *CarBuzz*, Jan 3, 2021. <https://carbuzz.com/news/third-us-state-banning-combustion-engined-car-sales>. Since this article was published, Washington state has become the fourth state on the list—legislation to ban the sale, purchase, or registration of any non-electric vehicle of model year 2030 or later is awaiting Gov. Inslee’s signature.

reduce or eliminate the production of internal combustion vehicles. For example, Toyota, with one of the largest market shares globally, is introducing new EV, hybrid, and hydrogen fuel cell models including for their trucks.¹²³ General Motors was the first American manufacturer to announce their commitment to produce 30 new global EVs by 2025¹²⁴ and pledged to stop making oil powered passenger cars, vans, and sport utility vehicles by 2035.¹²⁵

By working with the community, local electric utilities, and the private sector, the County can accelerate the adoption of EVs, encourage the construction of electric vehicle charging infrastructure, and help ensure the growth of a skilled EV-related workforce. Since Whatcom County will be reliant on SOVs for some time, and on-road vehicles currently generate the most emissions in the transportation sector, implementing this strategy will be crucial to achieving this goal's emissions reductions.

The number of electric vehicle registrations more than doubled from 2017-2020, but the figure for 2020 still represents only about 0.5% of total Whatcom County vehicles (Fig 2.15)¹²⁶.

Reducing transportation emissions by 45% by 2030 would require the replacement of somewhere between 50,000 and 100,000 fossil fuel vehicles with EVs (assuming VMT remain unchanged).

While the higher initial purchase costs of EVs are generally offset over the life of the vehicle by lower operating, fuel, and maintenance costs, the higher upfront cash outlay can nevertheless serve as a deterrent to EV purchases. The County should therefore explore establishing a group buying program, such as the one in place in Fort Collins, Colorado,¹²⁷ that would result in discounts to EV prices.

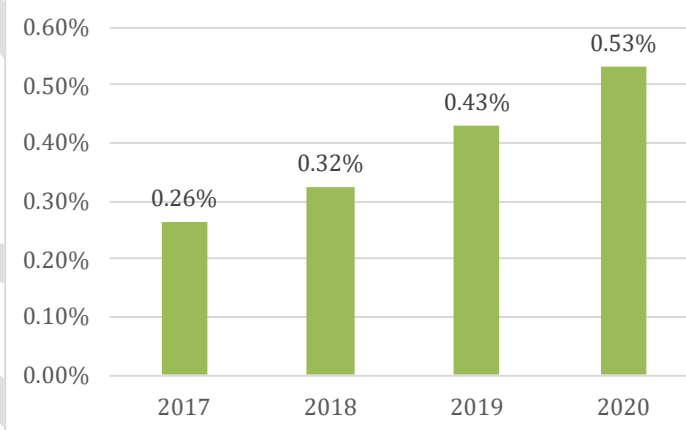


Figure 2.15: Whatcom County EV registrations by calendar year 2017-2020, Percent of total vehicles

¹²³ Hogan, Mack. "Hybrid and Electric Toyota Pickup Trucks Are Coming," *Road and Track*, Apr 20, 2021.

<https://www.roadandtrack.com/news/a36176318/hybrid-and-electric-toyota-pickup-trucks-are-coming/>

¹²⁴ Our Path to a All-Electric Future, zero crashes, zero emissions, zero congestion. <https://www.gm.com/electric-vehicles.html>

¹²⁵ General Motors to eliminate gasoline and diesel light-duty cars and SUVs by 2035, by Steven Mufson, Jan 28, 2021. The Washington Post. <https://www.washingtonpost.com/climate-environment/2021/01/28/general-motors-electric/>.

¹²⁶ Based on data taken from Washington Department of Licensing, Vehicle and Vessel Fee Distribution Reports at <https://fortress.wa.gov/dol/vsd/vsdFeeDistribution/ReportList.aspx>. This data comes from Motor Vehicle Registration by Class and County reports.

¹²⁷ Marmaduke, Jacy. "Electric vehicles for sale at reduced prices in Fort Collins during group buy event," *Fort Collins Coloradoan*, Oct. 30, 2020. <https://www.coloradoan.com/story/news/2020/10/30/fort-collins-electric-vehicle-group-buy-offers-lower-prices/6071879002/>.

Key Priority for Strategy 2:

- *Sponsor pooled purchasing of EVs, facilitate additional EV charging infrastructure, promote training opportunities to create an EV workforce, and electrify school bus fleets.*

Note: While Strategies 1 and 2 are aimed at reducing transportation emissions generated by the community, the next strategies present significant opportunities for the County to lead by example.

Strategy 3: Improve County vehicle fleet utilization while transitioning to non-fossil alternatives and reducing GHG emissions associated with County projects

Strategy 3 is focused on what the County can do to modify its operations to reduce emissions: improve County vehicle fleet utilization while transitioning to non-fossil-fuel alternatives and reduce GHG emissions associated with County projects. Doing so will not only reduce emissions but will also allow the County to serve as a visible example for businesses and other government units of what can be accomplished in moving toward transportation decarbonization. The most important step to take under this strategy is to analyze the existing fleet of County vehicles to optimize its use and to begin the replacement of fossil fuel vehicles with EVs or alternative fuel vehicles. Washington HB1091, concerning low carbon fuels, may provide funding for vehicle conversion.

Some of the proposed County actions in this area (e.g., adopting EVs for fleet use or replacing fossil fuel powered equipment) might also serve as pilot projects, allowing for further exploration of these GHG reduction approaches while illustrating how they might be best applied for other governments and the private sector.

The County is already moving in the direction of electrifying the Lummi Island Ferry, which is a recommended transportation action. This is especially important because the new ferry will be in use well after 2050, the target date for net zero emissions. In addition, we are recommending that contractors performing work for the County report the quantities and types of fuel used for County funded projects and that the County consider imposing standards regarding emissions reductions by contractors.

Key Priorities for Strategy 3:

- *Perform analyses designed to optimize County fleet use and incorporate EVs and alternative fueled vehicles and implement the recommendations thereof.*
- *Replace the Lummi Island Ferry with either an all-electric technology or a hybrid that can be converted to all-electric.*
- *Require fuel use reports from County contractors and incorporate emission reduction standards into County contracts.*

Strategy 4: Use County resources to participate in and advocate for inter-governmental efforts at the state level for policies and programs to reduce GHG emissions associated with transportation.

Strategy 4 calls on the County to use County resources to participate in and advocate for inter-governmental efforts at the state level for policies and programs to reduce GHG emissions associated with transportation. The County already participates in such efforts, such as the Whatcom Council of

Governments' transportation planning process and should continue to do so while advocating for the increased inclusion of climate change goals. The State Energy Strategy includes multiple recommendations relating to inter-governmental cooperation.

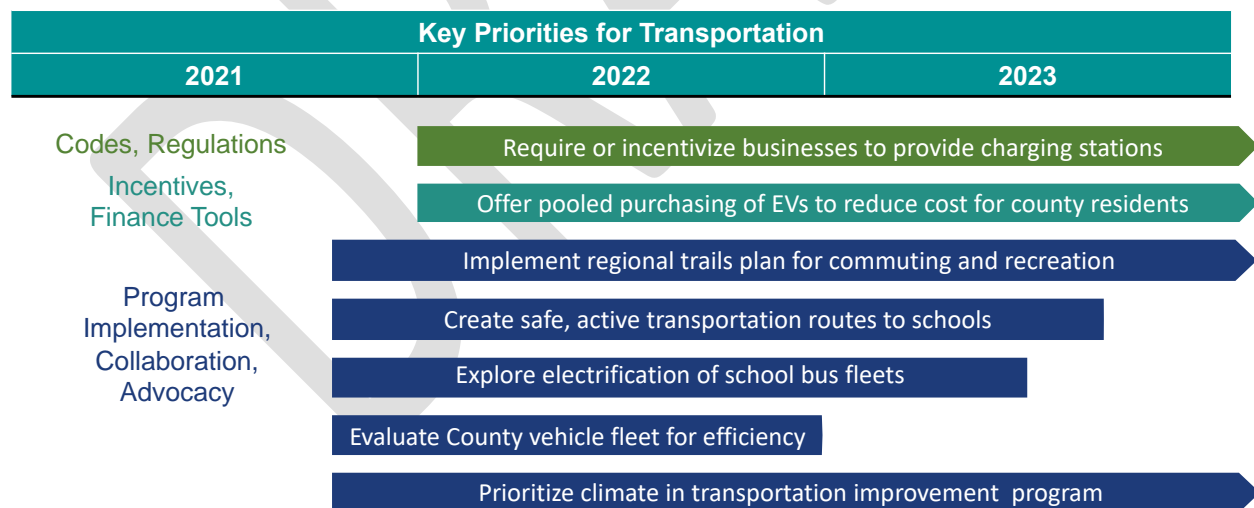
Strategy 4 also recommends taking advantage of opportunities for funding and other types of assistance made available at the state level. For example, the low-carbon fuel bill HB1091 passed by the legislature in 2021 provides for the possibility of receiving funds and other assistance for transportation decarbonization, both in the County fleet and for the general public.

Key Priority for Strategy 4:

- *The County should continue existing inter-governmental cooperation and seek out new opportunities to work with other agencies of government, while taking advantage of new funding opportunities made possible by recent Washington state legislation.*

Although the stated transportation strategies are fairly specific (and the actions described in the Appendix even more so), it is important to understand that the broader policy and social environments in which they will be implemented are changing. For this reason, policy makers must remain flexible. The recent change of administrations will result in more aggressive climate change policy at the federal level. Washington state government is adding important provisions to its climate-related agenda through legislation and regulation. Old-line automakers are planning to increase EV production while reducing their output of ICE vehicles.

Timeline of Transportation Priorities



Conclusion

The strategies presented in here are based on an extensive review of other communities' climate action plans, the Community Research Project report¹²⁸, the recently released Washington 2021 State Energy

¹²⁸ Whatcom County Climate Impact Advisory Committee, 2019, Community Research Report; available at <https://www.whatcomcounty.us/3162/Meetings-Additional-Information>

Strategy¹²⁹, transportation-related plans or proposals produced by various agencies in Washington State and Whatcom County, and other information sources.

The pandemic has accelerated changes in work life and shopping behavior that will lead to a reduced need for transporting people, and longer-term trends will lead to lower rates of personal auto ownership, especially in urban areas. For all of these reasons and others, it will be critical to regularly and frequently reevaluate the strategies and actions recommended here.

DRAFT

¹²⁹ Washington State Department of Commerce, 2021, 2021 State Energy Strategy
<https://www.commerce.wa.gov/growing-the-economy/energy/2021-state-energy-strategy/>

Waste

The World Bank predicts that without urgent action, global waste will grow by 70% by 2050.¹³⁰ High-income countries are responsible for more than one-third of the world's waste. Plastics are especially problematic because most forms of plastic cannot be recycled and end up in landfills. Many corporations have sold us on a throw-away culture and convinced us that it is solely our responsibility to recycle the packaging they use for their products. Accountability for plastic waste packaging in particular, must shift back to the corporations that produce the packaging and the individual products that use the packaging. The way we handle waste is currently unsustainable.

Excellent detailed descriptions of waste disposal in Whatcom County can be found in the Comprehensive Solid and Hazardous Waste Management Plan¹³¹ and the Community Research Project.¹³² Unlike these reports, this discussion will focus only on the key waste areas that contribute to our 2017 communitywide GHG inventory.

Our Current Waste Disposal System

Whatcom is one of only two counties in the state that has a privatized solid waste management system, which includes curbside pickup, transfer stations, and transport to landfills for burial (Fig 2.16). With the exception of the City of Blaine, the cities in Whatcom County manage their solid waste collection system.

No one is required to have trash or compost bins in rural areas, even though waste haulers are required to offer this service. Point Roberts is an exception where everyone must pay for waste pickup to make this service profitable.

Greenhouse gas emissions from waste falls into two general categories: Solid Waste and Wastewater. Waste accounts for only 1% of the total Whatcom GHG emissions, yet it is still an important environmental issue that should be addressed.

The overall basic strategy for solid waste management is reduction and recycling. Much of our current waste is buried in landfills in eastern Washington and Oregon, including a large quantity of the waste we attempt to recycle.

¹³⁰ What a Waste 2.0: A Global Snapshot of Solid Waste Management to 2050, by Kaza, Silpa; Yao, Lisa C.; Bhada-Tata, Perinaz; Van Woerden, Frank. Urban Development; Washington, DC: World Bank: <https://openknowledge.worldbank.org/handle/10986/30317>

¹³¹ Comprehensive Solid and Hazardous Waste Management Plan, Whatcom County, WA, June 14, 2016. <https://whatcomcounty.us/DocumentCenter/View/6723/Whatcom-County-Comprehensive-Solid-and-Hazardous-Waste-Management-Plan>

¹³² 2019 Community Research Project, Chapter 3 Waste Reduction and Recycling, by Vicki Thomas. <https://whatcomcounty.us/3162/Meetings-Additional-Information>

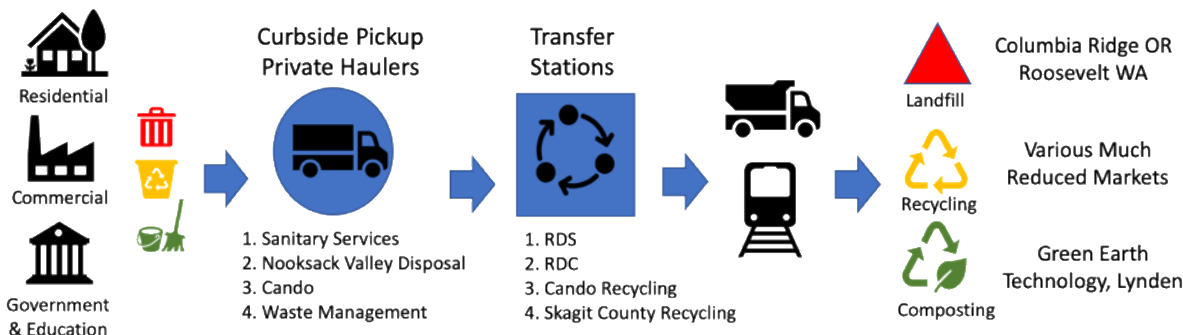


Figure 2.16: Depiction of the Whatcom County privatized solid waste management system.

Emissions from Solid Waste

Solid Waste is the major contributor, representing 91% of the overall GHG emissions from waste in Whatcom County. Solid waste is basically anything we put in garbage bins, whether the item is recyclable or not. It can also include industrial and sewage sludge, construction waste, vehicle parts and contaminated soils.

While plastics can make up a large volume of non-degradable landfill waste, organic waste accounts for most of the GHG emissions from landfills. Statewide, organic waste accounts for over 40% of the residential waste stream. Reduction of food waste is a priority and most often occurs through composting or redistribution of food to pantries, missions, and soup kitchens. The SSC curbside food and yard waste program, Food Plus, is voluntary and services about 19% of the households in the County.

Solid waste GHG emissions can be broken down into generation, transport, and processing (Fig. 2.17). All new landfill material from Whatcom County is sent to large landfills in eastern Washington or Oregon. Waste statistics for Whatcom County² indicate that waste per household has trended downward as the public becomes more educated and aware of this problem.

At 70%, solid waste generation is the largest component of County waste management related emissions. Even though the solid waste is disposed of in landfills located outside of Whatcom County, the County is still responsible for the emissions from this waste.

Methane is the largest component of GHG emissions from buried waste, followed by smaller amounts of carbon dioxide. These GHG emissions are based on the overall composition and mass of the annual solid waste.

Only organic waste is used in calculations for methane emissions. Inert wastes in landfills are not expected to produce GHG emissions unless they are combusted in the future.

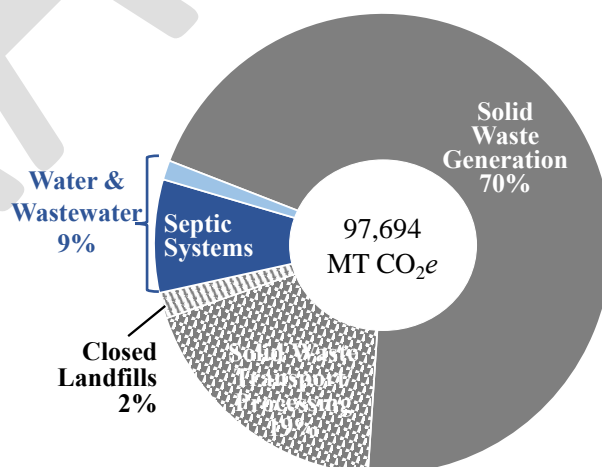


Figure 2.17: Whatcom communitywide emissions from solid waste and water and wastewater.

Transport of the solid waste by rail or truck to landfills in eastern Washington and Oregon accounts for approximately 16% of the emissions with the remaining 3% from processing at the landfill.

Landfills are also subject to the recent Climate Commitment Act if their emissions exceed 25,000 MT CO₂e. The State legislature plans to adopt a program specific to landfills which would suspend application of the carbon cap. Without this legislation, landfills will be subject to the carbon cap unless they capture at least 75% of their emissions or produce electricity or natural gas from these emissions.

The landfill at Roosevelt in Klickitat County disposes of most of Whatcom's solid waste. This landfill takes shipments of solid waste from five states and British Columbia.¹³³ The Roosevelt landfill is now capturing the methane emitted from decomposing waste that could provide biogas to as many as 19,000 households. PSE has signed a contract to purchase this methane and will own the renewable credit.

Whatcom County has no open landfills and will not open any in the future due to issues related to shallow groundwater. The County Health Department is responsible for monitoring the six closed landfills that contain solid waste. These closed landfill emissions represent less than 2% of the total waste GHG emissions for our County. The GHG emissions from landfills peaked shortly after closing and then continued to decline as organic material has degraded. By 2030, GHG emissions from these closed landfills are expected to decline by 30%.

Whatcom Landfills	Closed
Cedarville	1990
Birch Bay	1983
Point Roberts PW	1990
Point Roberts Park	1990
Y Road Landfill I	1970
Y Road Landfill II	1989

Emissions from Water and Wastewater

Water and wastewater emissions include fugitive emissions or leaks and other irregular releases of gases or vapors from septic systems (8%), and minor emissions from a combination of wastewater treatment lagoons, process N₂O from effluent discharge to rivers and estuaries, combustion of biosolids and sludges, and wastewater treatment. Methane is produced when microorganisms biodegrade organic matter in septic systems, which in turn escapes to the atmosphere. The total amount of methane emissions is based on the population served by the septic systems in the County.

Together the minor sources only account for an additional 1% of total waste emissions. Wastewater lagoons create a small quantity of emissions from a combination of biological, physical, and chemical processes. Wastewater treatment plants in Everson, Newhalem, and Lynden discharge treated wastewater, which contains nitrous oxides directly into lakes, rivers, and Puget Sound. Nitrous oxides are GHGs. The Post Point Wastewater Treatment Facility reported combusting biosolids in 2017 which also releases small amounts of CO₂.

¹³³ Giant landfill in tiny Washington hamlet turns trash to natural gas, as utilities fight for a future, by Hal Bernton. Seattle Times updated article, March 5, 2021. <https://www.seattletimes.com/seattle-news/turning-trash-to-natural-gas-utilities-fight-for-their-future-amid-climate-change/>

Goal and Strategies for Waste Emissions

Goal: Reduce by 40% the volume of communitywide solid waste transported to landfills and the growth in methane emissions from wastewater by 2030 through the use of education, incentives, and regulations on disposal.

Strategies for Waste Reduction and Reuse

1. Reduce the volume of non-recyclable single-use items and product packaging materials by increasing restrictions on disposal and communitywide education.
 2. Reduce the growth of food waste through better utilization, collection and composting.
 3. Understand the impact of methane emissions from septic systems in the County.
 4. Provide incentives to builders for the reuse of building materials in new construction.
-

Strategy 1: Reduce the volume of non-recyclable single-use items and product packaging materials

The average American is responsible for approximately 250 pounds of plastic waste each year. Over 75% of this plastic, based on weight, ends up in landfills across the US equal to around 27 million tons per year. Only about 9% of this plastic is recycled, with the remaining 16% combusted for energy.¹³⁴ These percentages will vary depending on the available regional markets that can use recycled plastics, such as for carpet or fleece clothing manufacturing. Actual recycling information for Whatcom County plastic waste is not available but could be requested from local solid waste disposal companies.

We do know the categories of plastic waste that are never recycled: plastic wrap, plastic bags, flexible packaging, small plastic items such as bottle caps, utensils, and plastic packaging to name a few. Clamshells used for fruit, cupcakes, cut lettuce, and sandwiches are also often not recycled. Ridwell, a new recycling service that is planning to expand in Bellingham, collects hard-to-recycle items at your doorstep, such as batteries, light bulbs, plastic bags, films, and threads (clothes, shoes, textiles).¹³⁵

The first strategy for solid waste is to restrict the use of single use plastic items and product packaging materials that cannot be recycled. To support this strategy, more detailed information is needed from material handlers on the composition and volume or weight of non-recyclables that are shipped annually to landfills. By ordinance, the County can as appropriate require the use of compostable single-serving containers and utensils by restaurants, stadiums, and local businesses. The County can also do more to educate the community on identifying product packaging that cannot be recycled, which may reduce demand for the product or alternatively, convince manufacturers to use recyclable packaging.

¹³⁴ Plastics: Material-Specific Data, U.S. EPA, most recent data from 2018 used. website: <https://www.epa.gov/facts-and-figures-about-materials-waste-and-recycling/plastics-material-specific-data#PlasticsTableandGraph>

¹³⁵ Ridwell, <https://www.ridwell.com/>

County government operations should require a higher percentage of recycled materials in products and packaging purchased by the County government. To reduce plastic bottle waste, the County should also install water refill stations at all County parks.

Strategy 2: Reduce the growth of food waste

Food waste has the greatest impact on the solid waste GHG emissions from landfills. The Whatcom Community Food Assessment in 2017¹³⁶ estimated that organic waste makes up more than half of our community's waste stream. Only about 19% of Whatcom households use SSC's voluntary Food Plus program and it is unknown how many additional households have their own composting bins.

The Whatcom Community Food Assessment listed the following key challenges to reducing food waste:

- A continued increase in food waste partly resulting from the "all you can eat" mentality that results in the waste of prepared foods from buffets, grocery store outlets, delis, etc.
- Some regulations to protect food safety and promote good nutrition also led to food waste.
- Food service businesses are hesitant to reduce meal portion size or add labor hours to collect and compost food waste.
- A lack of incentives for renters to use recycling/food composters or lack of space in apartment buildings to accommodate multiple bins for separating waste.
- The contamination of food waste with non-recyclable items.
- Lack of curbside collection in rural areas of the County.

Community education is one strategy in reducing food waste. More direct solutions to reduce food waste would be to expand funding for food recovery and redistribution programs and expand requirements for the disposal of food waste via curbside recycling or on-site composting. In rural areas on-site composting may include the use of anaerobic digesters that can turn food waste and manure into usable bioenergy.

Strategy 3: Understand the impact of methane emissions from septic systems

Rural septic systems were a small but significant contributor at 8% to the overall GHG emissions related to our waste stream. Currently there are about 30,000 total septic systems in the County. Septic systems are required to be inspected every year for pressurized systems and every 3 years for gravity-based systems. These inspections help identify leakage problems that can result in contamination of water systems.

Understanding the scale of the problem of methane emissions from septic systems requires more information on the rate of growth of these systems in the County. For septic systems located in urban growth areas, the County should create incentives for households to switch to municipal sewage systems when available. This could include a surcharge for septic systems when a municipal sewage system is available. However more information is needed on the scale of the problem and the cost/benefit in respect to lowering GHG emissions and reducing water pollution.

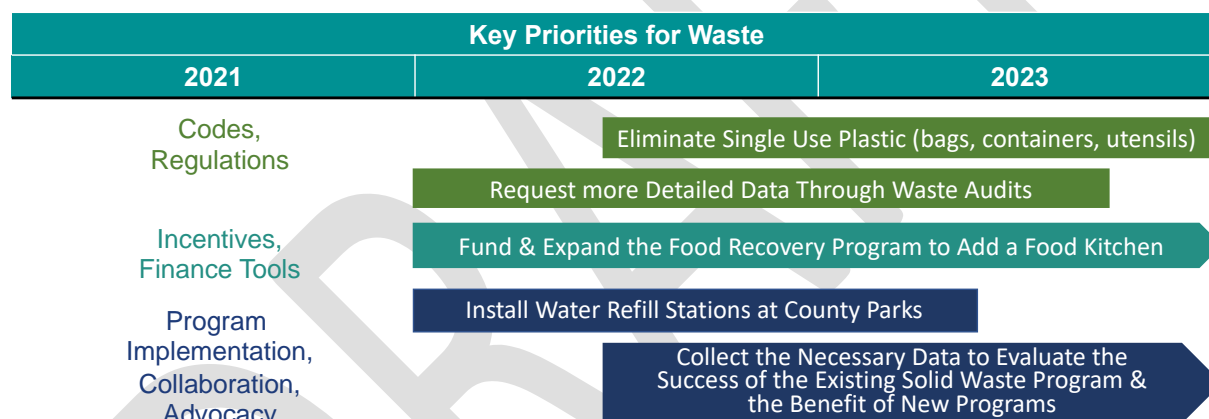
¹³⁶ Whatcom Community Food Assessment, 2017 Update Report prepared by the Whatcom Food Network CFA Update Subcommittee. <https://co.whatcom.wa.us/DocumentCenter/View/54385/Community-Food-Assessment-2017>

Strategy 4: Provide incentives to builders for the reuse of building materials

An actual breakdown of the amount of waste generated by building demolition and construction is lacking for Whatcom County. However, the latest statewide Waste Characterization Study estimates that up to 10% could be from construction.¹³⁷ To prevent disposal of this waste at undesignated disposal sites and encourage recycling of building materials, the County's Flow Control Ordinance (No. 91-041) could be revised to include construction and demolition debris.

The recycling of building materials is a valuable service in Whatcom County and deserves community support. One of the largest retail stores is The RE Store in Bellingham which provides a wide range of used building materials recovered from building remodels and demolition. According to the Building Industries Association of Whatcom County, area builders are mindful of estimating materials and creating as little waste as possible. This association's Green Built program provides environmental benefits on many fronts including reducing waste.¹³⁸

Timeline of Waste Priorities



Conclusion

State law requires the County to develop a comprehensive solid and hazardous waste management program that is updated every five years. The County's solid water management program relies primarily on educational programs to reduce waste including many actions implemented over the five-year time period between report updates. Little information is publicly available on the effectiveness or success of these actions. Our community may not see the waste because it is not landfilled here. However, the emissions are still attributed to our County and should be mitigated. Lack of data on some areas of emissions warrant further study and deliberate data gathering. Best practices should be applied to the issue to accomplish the goal of 40% reduction in our waste streams. However, until basic information such as annual per capita waste in Whatcom County is provided, it will be difficult to monitor the effectiveness of strategies and actions for GHG reduction.

¹³⁷ 2015-2016 WA Statewide Waste Characterization Study, Publication 16-07-032, Department of Ecology, pg. 89.

¹³⁸ 2019 Community Research Project, Chapter 3 Waste Reduction and Recycling, by Vicki Thomas.

<https://whatcomcounty.us/3162/Meetings-Additional-Information>

Land Use

Incorporating climate change into County land use policy, regulations, comprehensive planning, and project implementation has the potential to address resilience while helping to mitigate and adapt to the impacts of climate change. Conscientious land use policies and regulations can significantly reduce environmental harm while also enhancing the local economy and quality of life.

Development and land use change can often alter the natural environment, degrading land with high ecological, economic, and resilience value. Changes in land use can also threaten food systems, access to clean water, carbon sequestration, critical wildlife habitat, recreation, and cultural sites. A meaningful response to climate change will require strategic changes in the County's land use code and comprehensive plan, prioritizing climate resilient development in the built environment and increasing protection of the natural environment and working lands.

Goal and Strategies for Land Use

Goal: Increase the mitigation of GHG emissions by natural systems and promote climate resilience by preserving and protecting the health and function of ecosystems through sustainable land use and development policies.

Strategies focus on four sectors: development, transportation, infrastructure, and natural resources.

Strategies for Land Use

- 1. Sustainable Land Development:** Design and implement a sustainable and climate resilient regulatory framework for new County developments (residential, commercial & industrial) that includes improved building energy use, greater density, multimodal mobility options, and minimal impact to natural ecosystems.¹³⁹
 - 2. Transportation:** Employ County land use policy and regulations to enhance active and public transportation systems and infrastructure and increase transit ridership.
 - 3. Green Infrastructure:** Require a climate-focused risk assessment using future climate scenarios for all new County infrastructure (e.g., roads, bridges, emergency services, etc.) over the projected lifespan of the new infrastructure that reduces environmental impacts and risks.
 - 4. Natural Resources:** Protect climate-sensitive areas of high ecological value such as riparian corridors, floodplains, shorelines, wetlands, and migration corridors using science-based future climate scenarios.¹⁴⁰
-

Growth in Whatcom County is inevitable, so considering climate change in comprehensive planning and land development is key to ensuring protection of the natural environment and reduction of the overall

¹³⁹ "Sustainable development is the organizing principle for meeting human development goals while simultaneously sustaining the ability of natural systems to provide the natural resources and ecosystem services on which the economy and society depend." (https://en.wikipedia.org/wiki/Sustainable_development)

"Sustainable development is development that meets the needs of the present without compromising the ability of future generations to meet their own needs." (<https://www.iisd.org/about-iisd/sustainable-development>)

¹⁴⁰ Refer to [WWC Chapter 16.16 Critical Areas](#), [WWC Title 23 Shoreline Management Program](#), and our Resource Lands policies and regulations.

risk and vulnerability to climate change. In the built environment, low-density development is one of the key contributors to carbon emissions.

While the Washington State Growth Management Act (GMA) dictates how cities and counties can grow, it is important to continue efforts to reduce sprawl by increasing housing density in more urban areas, promoting an accessible multi-modal transportation system, and ensuring that existing and new infrastructure is climate resilient and meets an established “green” criterion.

Planned interventions to promote sustainability and resilience in the built environment have many benefits including reducing greenhouse gas emissions, altering harmful human behavior, and improving overall quality of life.

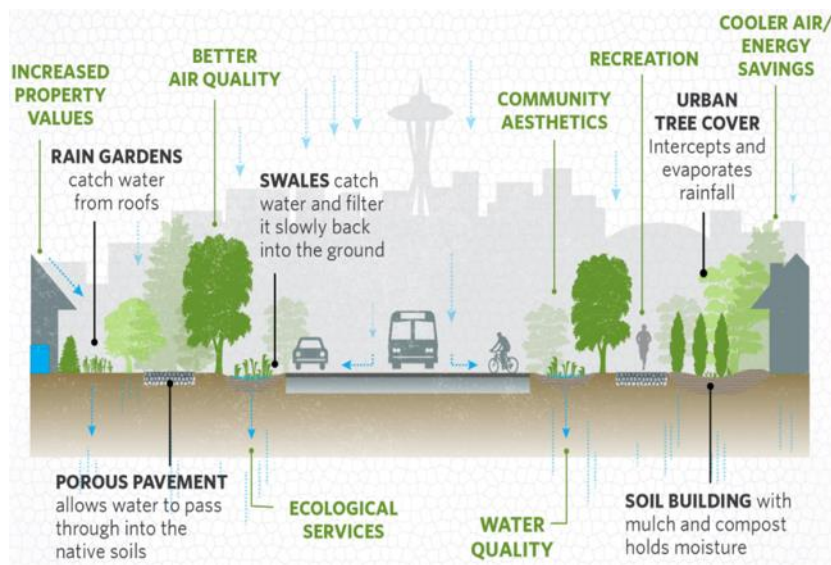


Figure 2.18: Example of sustainable development components, such as green infrastructure, worth considering in a sustainable development framework or model. Source: The Nature Conservancy

Strategy 1. Create a Climate Resilient Regulatory Framework for Sustainable Land Development

Mitigation and adaptation to climate change will require the County to prioritize low impact and sustainable community development, which involves thinking about how a community is designed from a land use perspective. Buildings, transportation systems, and infrastructure must minimize impact and environmental harm while maximizing efficiency. Sustainable development reduces greenhouse gas emissions by reducing sprawl, enhancing carbon sequestration through open green space and urban forests, conserving energy, water, and natural resources, and preserving critical ecosystem services. The County needs to establish and implement a sustainable development framework and code that informs and dictates future development. Furthermore, the County, in conjunction with the cities, must assess the suitability of land for development based on climate resilience characteristics.¹⁴¹ Coordinating with the cities when it comes to Countywide development is key. City urban growth areas (UGAs) consist of the city

¹⁴¹ This assessment should be informed by and in conjunction with the Whatcom County [Review & Evaluation Program \(Buildable Lands\)](#). “Components of the Review and Evaluation Program include updating county-wide planning policies, annual collection of data, developing a buildable lands program methodology, reviewing achieved densities, evaluating land suitable for development, and issuing a final report by June 30, 2022. The information contained in the final Review and Evaluation Program Report will inform the next update of the Whatcom County Comprehensive Plan, which is due by June 30, 2025.”

and surrounding unincorporated area designated by the county as UGA, appropriate for annexation and urban development. There are also three non-city UGAs that are not associated with a city.¹⁴²

Replacing Conventional Design with Conservation Design

Conventional design refers to “residential developments where all the land is divided into house lots and streets, with the only open space typically being undevelopable wetlands, steep slopes, floodplains, and storm water management areas.”¹⁴³ Problems with the conventional design include poor pedestrian infrastructure, minimal to nonexistent open green spaces, and fewer natural environments for plant and wildlife habitat.

By contrast, conservation design “refers to residential developments where... half or more of the buildable land area is designated as undivided, permanent open space”, which can be achieved by “designing residential neighborhoods more compactly.”¹⁴⁴

Conservation subdivisions are allowed, but the County needs to actively promote, incentivize, or require conservation designed land use and incorporate green infrastructure into the development strategy. While conservation design is desirable in all County zones, it is particularly important for rural areas and resource lands, to help protect high ecological value lands and increase climate resilience.



Figure 2.19: Architectural renderings depict a town filling in with development while preserving open space. Source: Steve Wright, Conservation Subdivisions: Good for the Land, Good for the Pocketbook.

Green Spaces and Urban Forests

Development with more open and green spaces, such as urban forests, parks, and community gardens, can increase carbon sequestration and enhance surrounding habitat. The County can promote carbon capture and sequestration in public areas by adding new goals and policies to the comprehensive plan that promote open green spaces, urban forests, street trees, and low impact landscaping practices.

In addition to carbon sequestration, tree canopies provide a number of environmental, economic, and human health benefits, including 1) helping manage storm water by intercepting rainfall from ground run off, 2) reducing the urban heat island effect, thus decreasing heating and cooling costs,

¹⁴² For City UGAs, the city has sole authority relating to development that happens within the city limits. The county has land use authority over the portion of the UGA outside city limits; however, the seven cities have policies in place that generally do not allow extension of public water and sewer outside city limits. The result is that urban residential development typically does not occur in these UGAs until annexation.

¹⁴³ Arendt, Randall. Conservation Design for Subdivisions: A Practical Guide to Creating Open Space Networks. Washington, D.C.: Island Press, 1996

¹⁴⁴ Ibid

air temperatures, and air pollution, 3) increasing property values, 4) providing wildlife habitat, and 5) improving quality of life.¹⁴⁵

The County can promote urban forests by expanding and strengthening Countywide tree canopy requirements and retention in existing and new developed areas. This will require an implementation timeline, encouraging best practices for tree health and maintenance, collection of canopy data, and tracking tree removal and replacement to best understand short-term canopy changes.¹⁴⁶

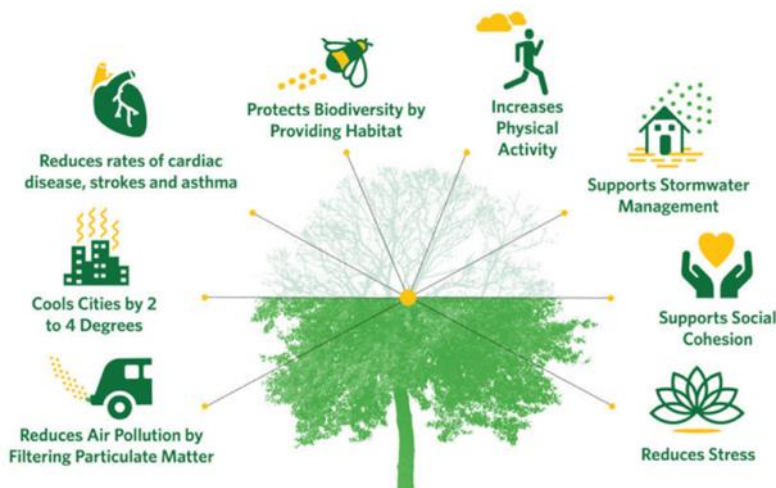


Figure 2.20: Source: The Nature Conservancy

Reevaluating tree regulations can protect existing canopy and ensure that trees are replaced with right sized and more climate resilient native trees. The County can also collaborate with the seven cities and private landowners to create a network of street trees, adding trees on roads with County right of ways, and increasing tree planting requirements and incentives for all public and private projects, especially transportation projects.

Codes and Zoning

Updating and strengthening land use codes and housing regulations can further encourage dense, sustainable, low impact, and energy efficient development. The County should prioritize strategies and expand incentives for compact development where consistent with the Growth Management Act. Strategies could include density bonuses, inclusionary zoning, clustering subdivisions to preserve green spaces, urban villages or mixed housing such as smaller homes on smaller lots, accessory dwelling units, duplexes, town homes, and multifamily complexes. These strategies should be encouraged in developable lands within urban growth areas (UGA). For non-UGA portions of the County, **developers can cluster with a reserve**, but it is important to note that "Rural" and "Residential Rural" zones do not allow duplexes or anything more than a single accessory dwelling per lot with conforming density.

The County can also encourage cities to develop their own infill housing toolkit, subsidize the cost of sidewalks for qualifying developments, and explore public-private partnerships for parking, wetland mitigation and restoration, and stormwater management. Densely developed communities can reduce water and energy consumption, improve utility efficiencies, increase use of alternative transportation

¹⁴⁵ Urban Watershed Protection, Urban Tree Canopy, <https://www.cwp.org/urban-tree-canopy/>

¹⁴⁶ Whatcom County Water Resource Protection Overlay districts currently have tree canopy regulations including replacement and retention rules, but they can be expanded and strengthened. For example, regulations still allow for removal of trees younger than 50 years old without replacement requirements. Refer to tree removal and retention in [Chapter 20.51 Lake Whatcom Watershed Overlay District](#) to inform a countywide tree policy.

modes, and improve community infrastructure such as interurban trails and pathways for bicyclists and pedestrians.

A compact community equipped with a robust alternative transportation system, combined with access to reliable broadband, can significantly help reduce single occupancy vehicle miles travelled, therefore reducing the demand and use of fossil fueled vehicles and subsequently reducing carbon emissions.

In addition to reviewing and updating land use codes and regulations, the County should require a climate impact vulnerability assessment for all new large-scale development¹⁴⁷ including a lifecycle analysis of greenhouse gas emissions in industrial development and incorporating carbon offsets in carbon-intensive commercial or industrial uses. Increasing impact fees for major projects in rural areas and building incentive programs such as fast-tracking permits and reducing permit fees for sustainable, low impact development will shift development behavior.

The County can also decrease the risk of property damage by wildfires by updating and adopting building codes consistent with the Wildland Urban Interfaces (WUIs), including incorporating WUI recommendations into the construction, alteration, movement, repair, and maintenance of any building structure within these areas.¹⁴⁸

Key Priorities for Sustainable Land Development:

- *Establish and implement a sustainable development framework and code that incorporates green infrastructure, greater development density and energy efficiency, and low impact to natural systems.*
- *Promote, incentivize, or require conservation designed land use and expand tree canopy in existing and new development areas.*
- *Require a climate impact vulnerability assessment for all new large-scale development and increase impact fees where climate vulnerability is high.*

Strategy 2. Enhance Active and Public Transportation Systems

Land use is an important consideration when it comes to the planning, development, and implementation of an active and multimodal transportation system. As discussed in [Transportation](#), Whatcom County must consider ways to reduce vehicle miles travelled (VMT) by single occupancy vehicles with internal combustion engines. There are three main ways to reduce VMT: 1) restrictive land use policy in unincorporated portions of the County, 2) incorporating transit-oriented land use planning and development, and 3) compact development of building amenities close to residential neighborhoods.

The Whatcom Mobility 2040 report predicts a substantial increase in VMT resulting from the projected growth in households and employment. This increase in VMT would be even greater in unincorporated

¹⁴⁷ A climate impact vulnerability assessment should be highly encouraged, but not required, for smaller scale development including for single-family houses on existing lots. It should be noted that these assessments might increase cost of residential housing development. Housing affordability is already a barrier to many residents in Whatcom County, and we acknowledge this as an unintentional consequence.

¹⁴⁸ The state legislature instructed the Department of Natural Resources to map wildland urban interfaces by county with the stated purpose of mitigating wildfire hazard. [RCW 19.27](#) / [Senate Bill 6109](#) passed in 2018

areas if not for the rural land protections in the Washington’s Growth Management Act.”¹⁴⁹ Future transit service is also influenced by land-use decisions.



Figure 2.21: Transportation demand management and VMT/GHG reductions.

The County can improve transportation efficiency including increased accessibility to transit services and enhanced bicycle and pedestrian infrastructure by incorporating the transit- oriented development framework in land use planning. According to the Washington State Energy Strategy, “Transportation efficiency can be implemented in two basic ways. The first is to reduce the need for travel, which means either shortening the distance that people and goods have to travel (e.g., through improved urban design) or avoiding the need for trips altogether (e.g., via telemedicine). The second way is to shift travel to more efficient modes, such as public transit or maritime freight transport, which can move more passengers or goods per trip.”¹⁵⁰ Furthermore, it has been found that in order to achieve “VMT reduction goals, the most effective and lowest-cost strategy is to combine land-use policy (focusing on compact, transit-oriented development (TOD)), enhancement of transit service and travel-demand management policies including vehicle usage charges.”¹⁵¹

The County should consider requiring a multimodal transportation plan for all new planned multi-unit residential, commercial, or industrial development. A transportation plan can help identify and ensure

¹⁴⁹ Whatcom Council of Governments, Whatcom Mobility 2040, https://whatcommobility.org/wp-content/uploads/2020/11/WM40_COMPLETE.pdf, 25

¹⁵⁰ Washington State Energy Strategy, Department of Commerce, <https://www.commerce.wa.gov/wp-content/uploads/2020/12/Washington-2021-State-Energy-Strategy-December-2020.pdf>, 52

¹⁵¹ Ibid, 52

community access to public transit options, and determine the impact on traffic congestion, access to basic services, and emergency response including safe evacuation routes. Transportation plans can also facilitate connectivity between communities, ensuring that people can travel efficiently. Efficiency and accessibility are major factors in determining if people will choose something other than a single occupancy vehicle for their regular commute trips.

Establishing transit-oriented land use policies and standards can influence development near transit corridors or develop new transit corridors that can serve a concentrated population. One example might be to require that new residential projects consisting of 25 units or more be located within a half mile of a transit node, shuttle service, or bus route with regularly scheduled daily service. Alternatively, the County may encourage or require developers to coordinate with the Whatcom Transportation Authority to see where additional bus routes and bus stops may be established relative to new residential, commercial, and industrial development.

In addition to transit service, access to safe bicycle and pedestrian infrastructure will encourage more people to bike or walk. The positive health impacts and reduction of obesity resulting from biking and walking are well documented. Trails for non-motorized travel should be planned and developed where possible in new, expanding, or existing community development. This may require a revision to setback requirements or collaboration with cities or state agencies where existing rights of way exist. Implementing “Complete Streets” development principles and standards can help the County achieve a more user-friendly alternative transportation system, especially for more rural communities. Complete Streets “are designed and operated to prioritize safety, comfort, and access to destinations for all people who use the street” and “may include sidewalks, bike lanes (or wide paved shoulders), special bus lanes, comfortable and accessible public transportation stops, frequent and safe crossing opportunities, median islands, accessible pedestrian signals, curb extensions, narrower travel lanes, roundabouts, and more.”¹⁵²

Public multimodal transportation may not be an option for everyone in every community. As such, when people require use of a passenger vehicle, the County should encourage carpooling and increased use of electric vehicles. The County should consider establishing additional park and rides as well as ensuring that building and land use codes support the installation of electric vehicle charging stations in more places. Siting electric vehicle charging stations in multifamily housing complexes and public hubs such as park and rides, parks, and shopping centers can maximize their convenience and use.

Finally, actions outlined in the Washington State Energy Strategy can help future transportation funding and planning in Whatcom County. For these actions, the County should consult the State and other local governments including the seven Whatcom cities and Skagit County. State actions include “take steps to incentivize and remove barriers that restrict TOD” and “link cross-jurisdictional coordination and community engagement with funding related to the planning and implementation of land-use policies, TOD, transportation demand management (TDM) measures (including vehicle usage charges or similar policies), transit and active transport infrastructure development and other measures designed to reduce VMT and enhance accessibility and mobility.”¹⁵³

¹⁵² <https://smartgrowthamerica.org/program/national-complete-streets-coalition/publications/what-are-complete-streets/>

¹⁵³ Washington State Energy Strategy, <https://www.commerce.wa.gov/wp-content/uploads/2020/12/Washington-2021-State-Energy-Strategy-December-2020.pdf>, 55

The County should also be aware that the Energy Strategy recommends that “the Legislature should fund WSDOT and Commerce to provide centralized assistance for jurisdictions to support development and implementation of model code related to corridor planning, ‘smart growth’ zoning and land-use policies, TOD and related infrastructure development.”¹⁵⁴ These potential funding sources are critical to ensuring implementation of this plan’s transportation and infrastructure goals, strategies, and actions as they pertain to land use.

Key Priorities for Transportation:

- *Improve the accessibility of transit and active transportation including promoting safe bicycle and pedestrian infrastructure and implementing the Regional Trails Plan*
- *Require a multimodal transportation plan that facilitates alternative transportation (e.g., park and ride, connection to bike and walking trails, bus stops and electric charging) for all new planned multi-unit residential, commercial, or industrial development.*

Strategy 3. Infrastructure that is Climate-Resilient and Reduces Environmental Impact

The County needs to establish a “green” or climate resilient infrastructure criterion and develop a plan that identifies, protects, connects, and re-greens the landscape. Green infrastructure can help the County combat climate change while also protecting the environment, wildlife habitat, and natural resources. Green infrastructure includes bioswales, rain gardens, and permeable pavements, all of which help filter polluted stormwater runoff close to its source, and green roofs that can help sequester carbon.

Bioswales and raingardens also provide habitat for certain birds and other species and even provide linkages to large habitats if planned accordingly. Green infrastructure also includes renewable energy systems, grid modernization (generation, transmission, and distribution), electric vehicle charging stations, broadband (which enables smart technology), and wastewater treatment. Culverts are also critical infrastructure, and when removed or replaced, can improve habitat and fish passage.

As a part of the green infrastructure plan, the County should identify critical infrastructure, such as



No migration – fish stuck below the culvert



Freedom to migrate up and down restored!

Figure 2.22: Source: Nooksack Salmon Enhancement Association

roads, bridges, and emergency services at risk in climate impact zones and develop plans to flood proof, relocate or remove. It is also important to retrofit, or develop new, roads, bridges, and culverts to be climate resilient and to incorporate sea level rise, storm surge, and flood predictions into design require-

¹⁵⁴ Washington State Energy Strategy, 55

ments. All new County infrastructure should adhere to the new criteria, which would be designed to protect critical watersheds and ecosystems.

Green infrastructure can be integrated into both new and existing structures to reduce greenhouse gas emissions. For example, developers and building owners can install green roofs or solar panels to mitigate carbon emissions.

Additionally, access to broadband opens up opportunities for smart grid, smart buildings, and smart transportation and infrastructure, which use internet of things technology to collect and analyze data from devices or sensors using high-speed broadband.¹⁵⁵ The data can help cities and counties address issues such as traffic congestion, but it can also improve energy efficiency and resilience to climate change.¹⁵⁶

Additional sustainability outcomes include smarter water management, environmental monitoring, multi-modal and advanced transit, and smart buildings.¹⁵⁷ Green infrastructure can come in many forms with many benefits, that the County should consider when planning and developing new infrastructure or replacing old infrastructure.

Key Priorities for Infrastructure:

- ***Establish climate resilient infrastructure criteria to focus investments and protect, connect and re-green the landscape.***
- ***Identify critical infrastructure at risk in climate impact zones and develop a plan to retrofit, relocate or remove.***
- ***Incentivize installation of renewable energy systems and increase access to municipal owned broadband to facilitate grid modernization and become a “Smart County.”***

Strategy 4. Protect Climate-Sensitive Natural Resources of High Ecological Value

In the natural environment, we must limit development in critical areas, agricultural lands, and forests in order to protect water, natural resources, habitat, wildlife, and ecosystems. Many ecosystem services are already adversely impacted by human activities, and there is growing concern that climate change will further compromise the benefits of intact ecosystems. At the same time, there is growing evidence that restoration of habitat can help mitigate the effects of climate change while helping to avoid significantly greater costs of future climate impacts.¹⁵⁸ It will take significant investment and devotion of more resources to protect Whatcom County farmland, forestlands, shorelines, and riparian corridors.

Currently, the County has a mitigation program for developers who want to develop on wetlands that allows them to invest in the enhancement of degraded wetlands or restore wetlands in other locations. While there is no evaluation as to whether key ecosystem services provided by the wetlands are sufficiently restored, enhancing mitigation requirements for all new development in the County will help

¹⁵⁵ Yesner, Ruthbea, “Accelerating the Digital Transformation of Smart Cities and Smart Communities,” Microsoft. <http://info.microsoft.com/rs/157-GQE-382/images/Accelerating-the-Digital-transformation-of-smart-cities.pdf>

¹⁵⁶ Ibid

¹⁵⁷ Ibid

¹⁵⁸ <https://blogs.ei.columbia.edu/2019/06/28/nature-based-solutions-climate-adaptation/>

minimize degradation to the natural environment. The County should also consider expanding the mitigation programs to include other places where we need to retain or restore ecosystem services.

Section 3 discusses in more detail the importance of protecting Whatcom County's water resources, fisheries, agriculture, forestry, and ecosystems. From a land use perspective, zoning lands strategically can help limit development in sensitive areas and protect ecosystem services and natural resources essential to building climate resilience. One way to permanently conserve critical lands is through exploring a compensatory re-zone program where landowners subject to a re-zone receive a portion of the estimated value of rights removed.¹⁵⁹

Furthermore, limiting or concentrating development ensures that critical working lands, including forest and agricultural lands, are not converted to residential or commercial use. Aside from the carbon sequestration benefits, productive agricultural lands are key to preserving the local food system. Forestry lands not only sequester carbon and fuel the local timber economy, but also serve as critical habitat for wildlife. It is important to recognize that sustainable forest management practices and timber harvesting can help mitigate the impacts of wildfires including threats to human health, air quality, and agricultural production.

Whatcom County's significant increase in population over the last few decades has resulted in the loss of working lands. In 2002, Whatcom County established the Purchase of Development Rights program. "The PDR program is a voluntary program that compensates property owners for the value of their unused development rights and protects the land through the placement of permanent conservation easements. Conservation easements are perpetual contract agreements where a landowner agrees to protect the values present within the property, such as working farmlands, working forestlands, and important ecosystems. By protecting these areas, we are protecting local economies and local ecosystems for current and future generations."¹⁶⁰ To ensure the success of the PDR program, the County would benefit from increasing its capacity by providing additional funding and staff support.

In addition, the County can protect natural resources through strategic conservation and land use planning. First, the County needs to consider climate change vulnerability and adaptation when updating plans pertaining to shoreline management, shoreline restoration, watershed management, salmon recovery, critical areas ordinances, floodplain management, and flood hazard assessments. More specifically, with guidance from the State, Whatcom County should thoroughly incorporate climate change, salmon recovery, and net ecological gain throughout the Comprehensive Plan and the corresponding development regulations, including the Shoreline Management Program, Critical Areas Ordinance, and other County codes.

Net ecological gain is defined as a standard for a comprehensive plan in which the ecological integrity is improved and enhanced as a result of mitigation measures, leaving it better off than before. The County would benefit from developing an ecosystem conservation plan that prioritizes protection of critical habitat and vulnerable wildlife. All future planning and development in Whatcom County, especially in rural areas, should be informed through a climate resilience and natural resource enhancement lens.

¹⁵⁹ Many of these strategies and actions, such as compensatory rezones, will require a source of funding. Subsequent chapters will consider potential finance tools as current county budget and resources are already constrained.

¹⁶⁰ <https://www.whatcomcounty.us/573/Purchase-of-Development-Rights-Oversight>

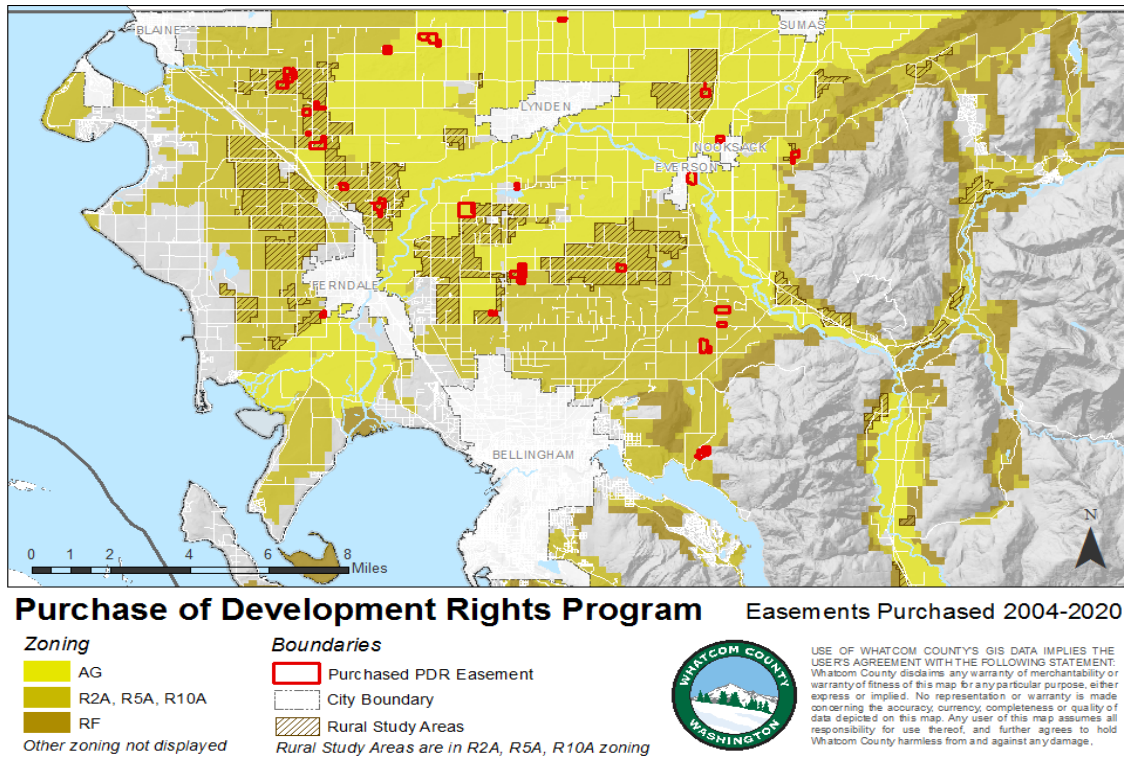
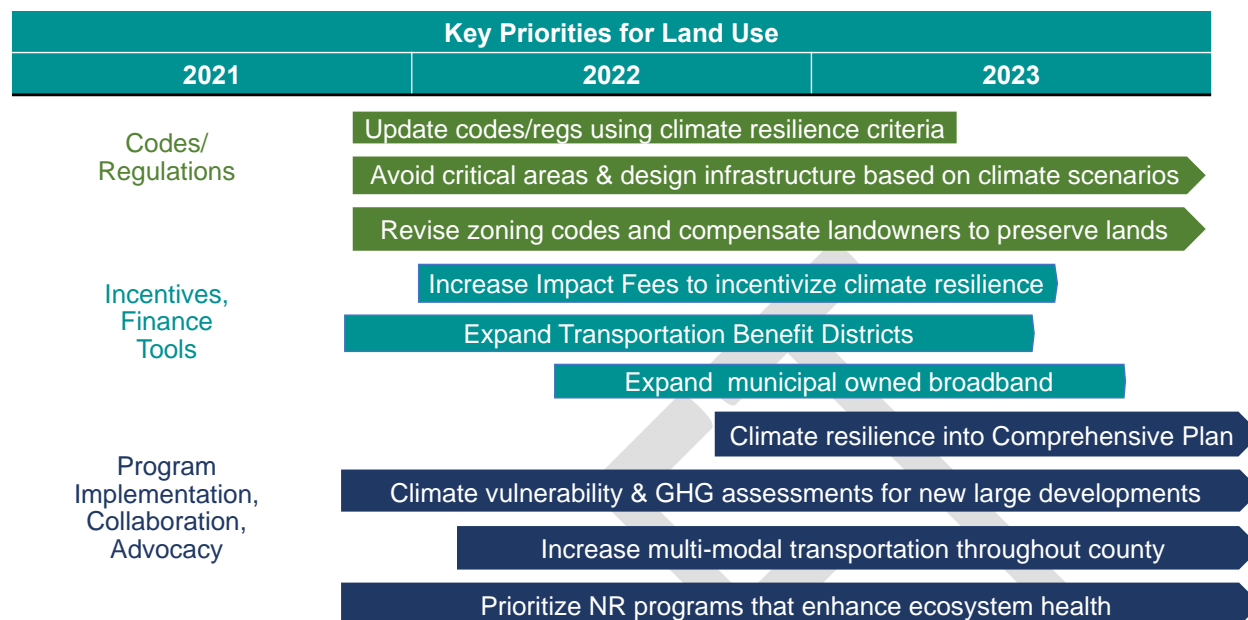


Figure 2.23. Whatcom County PDR map.

Key Priorities to Protect Climate-Sensitive and High-Ecological Value Natural Resources:

- *Significantly reduce and limit developments in climate impact zones, critical areas, wetlands, floodplains, agricultural lands, and forestry areas in order to protect key ecosystems services, critical core habitat and wildlife corridors.*
- *Increase capacity of Whatcom County's Purchase of Development Rights program*
- *Assess climate change vulnerability and adaptation when updating the County's various plans that involve natural resources.*
- *Incorporate climate change, salmon recovery, and net ecological gain throughout the Comprehensive Plan and Whatcom County Code*

Timeline of Land Use Priorities



Conclusion

Solutions for climate change mitigation and adaptation require planned intervention in the built environment and protection of the natural environment. “Whatcom County’s land use and development policies will play an important role in building resilience to projected climate impacts like warming temperatures, shifting precipitation patterns, wildfires, floods, and droughts.”¹⁶¹

Whatcom County’s land use planning, policies, and regulations intersect all sectors considered in this Climate Action Plan including electricity and buildings, industry, transportation, infrastructure, water resource management, working lands, and ecosystems. In order to fully mitigate and adapt to climate change, the County must be strategic in all future growth and development, and integrate watershed management, salmon recovery, and climate action planning within the broader land use planning processes.

The goal is to concentrate development within the urban growth areas in order to preserve working lands and critical areas. Climate and natural resource-informed comprehensive planning and land use policies can help protect productive working lands, natural resources, and ecosystem services. The County must address its large and growing carbon footprint by reducing the environmental impacts of buildings, industry, land development, transportation, and infrastructure. Considering climate change and natural resources in all County land use policies is necessary to meet greenhouse gas emission reduction goals and ensure mitigation, adaptation, and resiliency to climate change.¹⁶²

¹⁶¹ Whatcom County Land Use and Agriculture Vulnerability to Climate Change Factsheet

¹⁶² <https://unfccc.int/topics/land-use/the-big-picture/introduction-to-land-use>

SECTION 3 - NATURAL ENVIRONMENT

DRAFT

Introduction to the Natural Environment

Whatcom County is home to a wealth of natural resources, but these natural environmental systems are under an increasing threat from unsustainable development and climate disruption. Humans already directly affect more than 70% of the global, ice-free land surface, and about a quarter of this land surface has been degraded.¹⁶³ Climate change is exacerbating land degradation, because land surface air temperature has risen nearly twice as much as the reported globally averaged temperatures. Increases in the frequency and intensity of extreme weather events have contributed to topsoil removal, food insecurity and in general, declining ecosystem health. If we do not act immediately, we may risk losing some of the things that make Whatcom County such a wonderful place.

Perhaps the natural resource most directly threatened by climate change is water and in particular, freshwater. Water is the fundamental resource that supports our fisheries, forests, agriculture, and other critical ecosystems that support life on earth. Freshwater resources represent only about 3% of the total water on earth of which about 1% is readily available for human use.¹⁶⁴

Rising stream temperatures are putting stress on our local salmon runs resulting in fewer fish for everyone. Climate change projections predict that 40 miles of the Nooksack River will exceed the thermal tolerance of salmon by 2040.¹⁶⁵

Ecosystems in the Salish Sea are also suffering from the cumulative impacts of 150 years of development and climate stressors.¹⁶⁶ The climate impacts of ocean acidification and sea level rise threaten our fisheries and shellfish industry and destroy important shoreline and estuary ecosystems that are a vital part of the marine food chain.

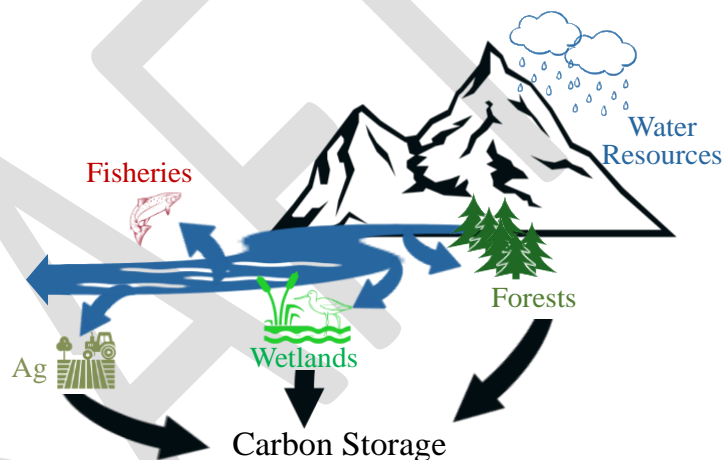


Figure 3.1: Water is the key resource for healthy ecosystems and carbon storage.

¹⁶³ Climate Change and Land, An IPCC Special Report on climate change, desertification, land degradation, sustainable land management, food security, and greenhouse gas fluxes in terrestrial ecosystems. A Summary for Policymakers. January 2020. https://www.ipcc.ch/site/assets/uploads/sites/4/2020/02/SPM_Updated-Jan20.pdf

¹⁶⁴ NASA Freshwater Availability, <https://earthdata.nasa.gov/learn/toolkits/freshwater-availability>

¹⁶⁵ Floodplains by Design and The Nature Conservancy, 2018. Climate Change in the Nooksack River: A quick reference guide for local decision-makers: <https://cig.uw.edu/our-work/decision-support/floodplains-by-design/>

¹⁶⁶ Sobocinski, K. L. (2021), The State of the Salish Sea, G. Broadhurst and N.J.K Baloy (Contributing Eds.), Salish Sea Institute, Western Washington University, <https://doi.org/10.25710/vfhhb-3a69>

The natural environment in this plan includes those ecosystems that are threatened by climate disruption, but also can be part of the climate solution, especially in their role as natural sinks for large quantities of carbon (Fig. 3.1). Cropland, grasslands, forests, riparian corridors, wetlands, and estuaries serve many critical functions in addition to carbon storage, such as clean water, clean air, soil formation and food production to name a few. These are vital functions that must be resilient to climate change and play an important role in carbon uptake and storage.

As emphasized in Section 2 of this report, land use is a valuable tool that can reduce GHG emissions and enhance natural carbon sinks (Fig. 3.2). Sustainable management practices, incentives and education can increase the carbon storage potential of cropland, forests, and wetlands. Wetlands are also a vital component of watersheds that support the overall hydrologic system.

Increases in forest cover not only increase carbon dioxide uptake but can also alleviate some of the negative impacts of climate change by decreasing surface temperatures through evapotranspiration. Land use conversions to grassland, developments (settlement) or other lands results in a release of about 160 thousand MT CO₂e per year in Whatcom County.¹⁶⁷ This amount of land conversion is not sustainable and would add about 1.6 million tons of GHG emissions over the next decade.

The addition of the natural environment in this Climate Action Plan signifies both the importance of natural ecosystems in achieving climate resilience and the increasing threat to these systems and our quality of life in Whatcom County. As expressed often and eloquently by Native Americans, we are temporary occupants and passing custodians of these natural resources and they must be protected for future generations.

This section provides an assessment of the current knowledge available on the status of the natural environment in Whatcom County and how these resources can be strengthened to build climate resilience.

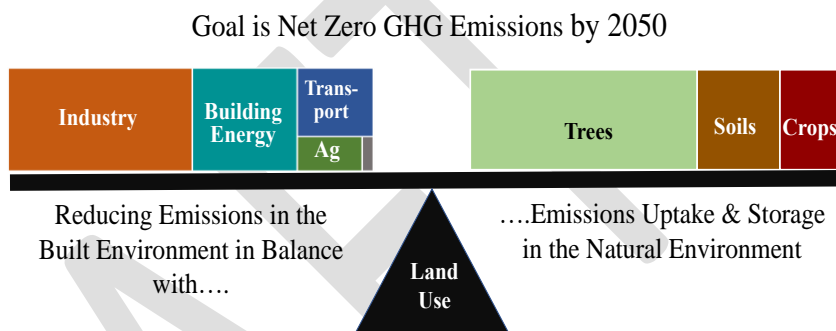


Figure 3.2: Using the natural environment along with emissions reduction in the built environment to help rebalance GHGs.

¹⁶⁷ ICLEI sponsored study on the GHG Inventory for Forests and Trees Outside Forests for Whatcom County. 163,000 MT CO₂e was the average per year emissions over a ten-year interval from 2000-2010 for Whatcom County.

Water Resources and Fisheries

The landscape of Whatcom County has changed greatly over the past 150 years. The lowland forests have been nearly eliminated, the lower Nooksack River has been leveed with a large percentage of wetlands ditched or filled, permeable ground surfaces have been replaced with impervious surfaces and developments, and upland forests have been harvested multiple times in most places and most recently with short-duration harvest rotations. Watershed¹⁶⁸ functions and the interrelated hydrologic systems have been adversely impacted by these changes and in many cases the habitats they support are degraded. Recent studies suggest that young Douglas fir plantations are inefficient when it comes to water use and may reduce late summer streamflows by up to 50% as compared to mature and old growth stands.¹⁶⁹ With the projected impacts of climate change, a healthy, intact watershed is critically important.

Water resources in Whatcom County include the rivers, streams, floodplains, wetlands, estuaries, glaciers, and aquifers. These resources supply water for multiple municipal, domestic, industrial, and agricultural uses; provide habitat for all life stages and migration corridors for salmon and other aquatic and non-aquatic species; store and convey floods; support recreation and resilient ecosystem processes; and contribute to the natural character and beauty of our county.

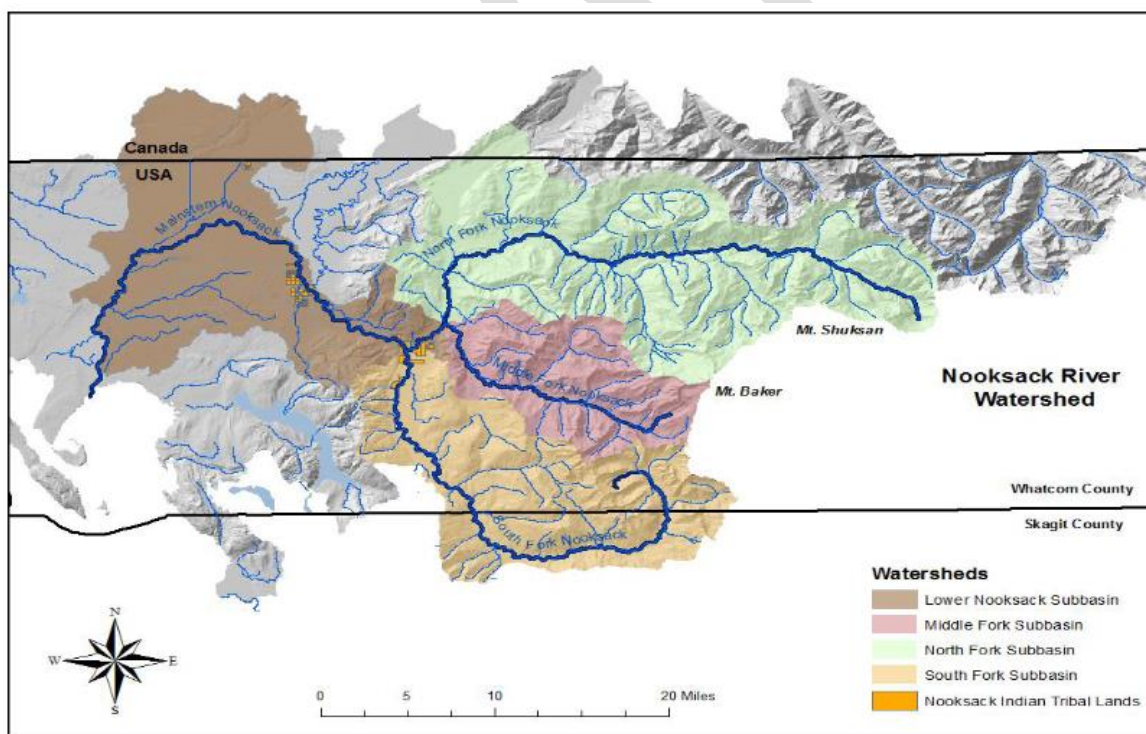


Figure 3.4. Nooksack River Watershed.

¹⁶⁸ <https://nplcc.blob.core.windows.net> 1 FINAL Glacier Summary Report_2015.pdf

¹⁶⁹ Perry, T.D., and J.A. Jones. 2016. Summer streamflow deficits from regenerating Douglas fir forest in the Pacific Northwest, USA. *Ecohydrology* 2016:1-13. DOI 10.1002/eco.1790.

Climate change is already having a profound impact on Whatcom's water resources.¹⁷⁰ More intense, heavy rains,¹⁷¹ coupled with greater proportion of precipitation falling as rain during the winter instead of snow, will increase the frequency and magnitude of flooding and could overwhelm stormwater systems. Sea level rise¹⁷² and increased storm surge will increase coastal flooding and create a "coastal squeeze"¹⁷³ that may result in loss of intertidal wetlands as well as the potential for damage and loss of buildings, roads, and other infrastructure near the shoreline.

Most detrimental to salmon survival, and restoring sustainable fisheries are declining summer streamflows (Fig. 3.4)¹⁷⁴, higher water temperatures, reduced habitat quantity and quality, redd scour loss due to increased peak flows and flooding, and insufficient in-stream river flow. The contribution of glacial meltwater to summer base flows that reduce stream temperatures will, in a matter of decades, be drastically diminished and essentially may no longer be available. In August 2015, total flow in the North Fork of the Nooksack River was 60-95% glacier melt. Glacier melt contribution will be drastically reduced in the future with continued climate change.¹⁷⁵ Annual winter snowpack will decline under a warming climate and changing precipitation types (e.g., snow vs. rain) and dynamics (location and amounts per time period). Further reductions to the already limited water supply threaten to intensify conflicts over water use.

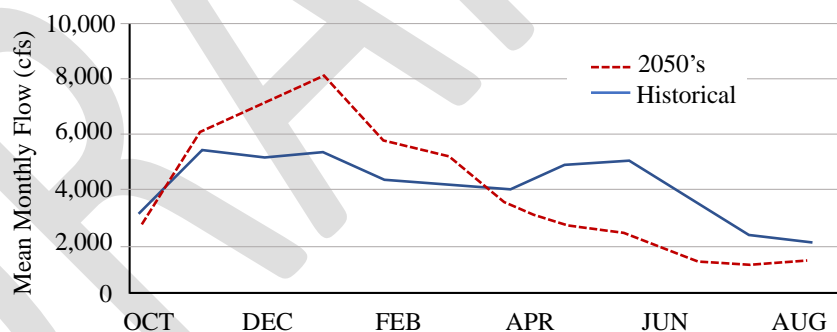


Figure 3.4: Projected Nooksack River flows at Ferndale in 2050's.

¹⁷⁰ Dickerson-Lange, S.E. and R. Mitchell. 2013. Modeling the Effects of Climate Change Projections on Streamflow in the Nooksack River Basin, Northwest Washington. Hydrological Processes, Published Online in Wiley Online Library

¹⁷¹ Office of the Washington State Climatologist, "PNW Temperature, Precipitation, and SWE Trend Analysis Tool," March 2019. [Online]. Available: <https://climate.washington.edu/climate-data/trendanalysisapp/>. [Accessed 25 October 2019].

¹⁷² NOAA, "Sea Level Rise Viewer," [Online]. Available: <https://coast.noaa.gov/slr/#/layer/flid/2/-13657290.7071441/6246546.839721947/11.015246303680001/satellite/94/0.8/2100/interHigh/midAccretion/>, [Accessed 16 January 2020]

¹⁷³ Coastal squeeze is defined as intertidal habitat loss which arises due to the high-water mark being fixed by a defense and the low water mark migrating landwards in response to sea level rise.

¹⁷⁴ Floodplains by Design and The Nature Conservancy, 2018. Climate Change in the Nooksack River: A quick reference guide for local decision makers. <https://cig.uw.edu/our-work/decision-support/floodplains-by-design/>

¹⁷⁵ Ryan Murphy, 2016. Modeling the Effects of Forecasted Climate Change and Glacier Recession on Late Summer Streamflow in the Upper Nooksack River Basin. WWU Graduate School Collection. 461. <https://cedar.wwu.edu/wwuet/461>.

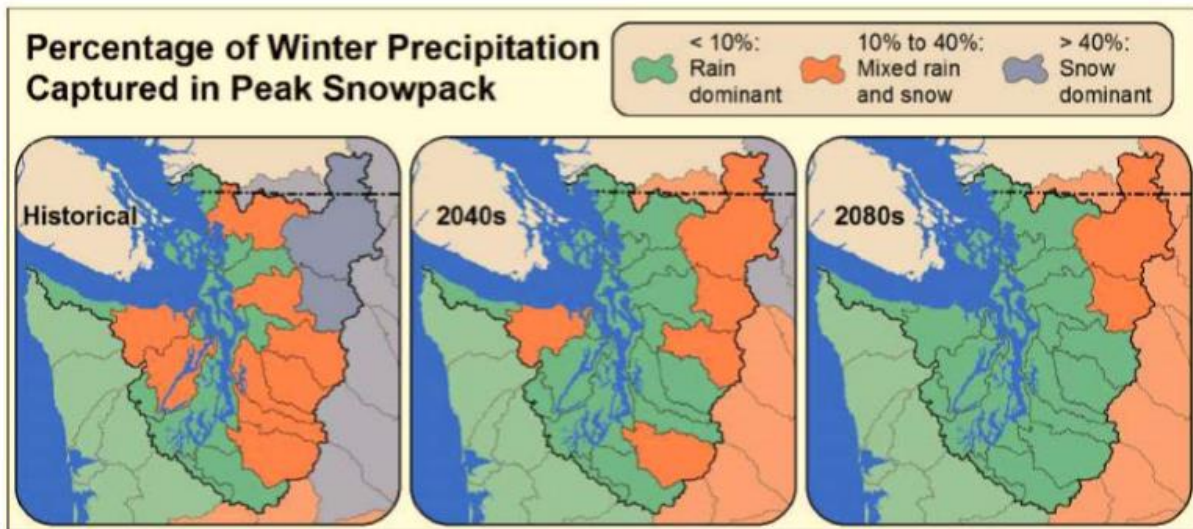


Figure 3.5: Model projections of Puget Sound watersheds suggest a transition to largely rain-dominant basins by the 2080s.

In addition to the impact of climate change on freshwater systems, Whatcom County's saltwater fisheries (including shellfish) are threatened by climate change, particularly by the effects of ocean water warming, sea level rise, and ocean acidification. These threats come at a time when other pressures, environmental and economic, have caused decline in fishing activity: for example, the Lummi Nation has only about half the number of active fishers as it had in the early days of the Boldt decision in the mid-1970s,¹⁷⁶ and the non-tribal fishing fleet has likely seen similar declines.

Water Rights and Whatcom County's Role

Waters of the state are a public resource, and a water right is required to beneficially use water. Western water law operates under the doctrine of prior appropriation, or "first-in-time, first-in-right," based on the date the water is first put to a beneficial use. Beneficial use includes sufficient streamflow to sustain the habitat and life cycle needs necessary to provide a harvestable surplus of salmon that supports treaty-reserved fishing rights. Climate change is predicted to produce drier summers in Whatcom County which will increase water scarcity during critical periods for instream resources like salmon and out of stream water needs such as irrigation for farms.

Management and enforcement of water law is complicated by the number and complexity of water rights in the Nooksack Basin. It has been estimated that up to 40% of all water used in agriculture may lack a legal water right.¹⁷⁷ Both the Lummi Nation and Nooksack Indian Tribe have petitioned the state Department of Ecology to initiate stream adjudication, a court process that identifies, quantifies, and confirms legal water rights. The Washington state legislature secured funding (SB-5092 in 2021) to prepare and start the adjudication of state water rights for the Nooksack water resource inventory area.

¹⁷⁶ Kara Kuhlman, "Lummi Nation Climate Change Mitigation and Adaptation Plan, 2016-2026," 2016.

¹⁷⁷ Community Research Project report, 2019. Document listed at: <https://whatcomcounty.us/3162/Meetings-Additional-Information>

In addition, funds were appropriated for Whatcom County to start a collaborative negotiation process to complement water rights adjudication.

Whatcom County's responsibility for water resources management is primarily assigned to the Public Works Department Natural Resources Division. The Planning and Development Services, and the Health Department also support specific water resource review and planning functions. The Public Works Department supports the following water resource management responsibilities:

- The River and Flood Division provides emergency flood response and floodplain management services. These services include integrated floodplain management planning, flood risk reduction through capital projects and acquisition of flood-prone areas, repair and maintenance of levees and other flood protection structures, floodplain permitting and administration of the National Flood Insurance Program. River and Flood staff, in partnership with Tribes and agricultural and other stakeholders, lead the Floodplain Integrated Planning (FLIP) process.
- The Natural Resources Division supports and engages in salmon recovery and water resources planning, monitoring, management, including staffing the WRIA (Water Resource Inventory Area) 1 Watershed Management Board (see below) and Planning Unit. Whatcom County serves as the lead administrative agency for watershed management planning efforts.
- Planning and Development staff review development applications, issue development permits, enforce zoning and other development-related codes, and perform long range land use planning for the County. Long range planning efforts include periodic updates of the Comprehensive Plan, Shoreline Management Program, critical areas regulations, and the Coordinated Water System Plan, in addition to serving a primary role of implementing the Streamflow Restoration Act in WRIA-1.
- The Health Department responsibilities related to water resources primarily relate to the review and approval of potable water sources and the review, approval, and inspection of on-site septic systems.

Whatcom County's role in fisheries. Whatcom County supports the 2005 WRIA 1 Salmonid Recovery Plan¹⁷⁸ goal of restoring healthy, self-sustaining runs of salmon to harvestable levels. The County has also formed shellfish protection districts improving water quality so that all shellfish harvesting areas are free of fecal contamination and can be opened for harvest. Achieving these goals is essential to maintaining the way of life for the Lummi Nation and Nooksack Indian Tribe and for the Whatcom County community at large.

Whatcom County has both tribal ceremonial, subsistence, and commercial fisheries and non-tribal commercial and recreational fishing industries. The Lummi Nation and Nooksack Tribe rely on salmon and shellfish and other traditional foods as a major



Figure 3.6: WRIA 1 Salmonid Recovery Plan map. 2005

¹⁷⁸ WRIA 1 Salmon Recovery Program, <https://salmonwria1.org/salmon-recovery>

part of their diet and are actively promoting consumption of traditional foods for their health and cultural value. Their rights to “take fish at usual and accustomed places” are guaranteed by the 1855 Treaty of Point Elliott and have been repeatedly confirmed by the courts. Tribal communities continue to fight for enforcement of their treaty rights and maintaining their legal sovereignty, as well as the chance to revitalize their communities economically and preserve their cultural autonomy. In addition to ceremonial and subsistence fisheries, the Lummi Nation and its individual members maintain the largest native commercial fishing fleet in the US, producing salmon, clams, and crabs for sale, and the Nation co-manages several treaty-reserved fisheries. The Nooksack Indian Tribe and its members are also heavily involved in commercial salmon fishing, both in the Nooksack River and in saltwater. Over one hundred commercial fishing boats (tribal and non-tribal) based here operate in the north Pacific, and there are several processing plants in Bellingham, Blaine, and Ferndale, as well as five commercial shellfish producers. Commercial fishing in the County brought in \$320 million in 2013.¹⁷⁹

Climate change is an urgent concern to tribal and commercial fishers and shellfish producers, threatening both the way of life and the economic viability of both tribal and non-tribal fishers and shellfish producers. The cultural, social, and economic vitality of tribal communities depends partly on other stakeholders’ maintaining and strengthening a relationship of mutual respect and cooperation, so that we can react to climate change and other environmental challenges in ways that preserve the Tribes’ legal and cultural rights to subsistence, income, and sovereignty.

Goal and Strategies in Water Resources and Fisheries

Goal: Ensure long-term equitable and climate-resilient water resources in Whatcom County that address the impacts of climate change on water quantity and quality, sea-level rise and storm surge, and the challenges associated with water resource management.

The strategies identified below also support the overarching natural resource goal of promoting adaptation and improving community and ecosystem resilience to climate change.

The nine water resources and fisheries climate strategies support two main areas: the seasonal impacts on water availability (strategies 1 through 5), and the increasing risk and damage from climate-related flooding and storm damage (strategies 6 through 9). There are many cross-cutting issues in water resources that intersect and overlap with agriculture, forestry, ecosystems, and other land uses, which are discussed throughout this larger Section 3 on Natural Environment. Ensuring long-term equitable and climate-resilient water resources will require significant effort. To be most effective, actions pursuant to these strategies should be designated, designed, and implemented as soon as practical to be effective at offsetting the adverse impacts of continued climate change into the future.

The water resources strategies support two main areas: the seasonal impacts on water availability and the increasing risk and damage from climate-related flooding and storm damage.

¹⁷⁹ Port of Bellingham, The Economic Impacts of the Commercial Fishing Fleet at the Port of Bellingham. <https://www.portofbellingham.com/DocumentCenter/View/5138/Commercial-Fishing-Impact-Study-2014-FINAL?bidId=>

Climate Strategies in Water Resource and Fisheries

1. Resolve uncertainty in current and future water resources
2. Restore and protect streamflow to a level and temperature that ensures year-round salmon migration and survival and other aquatic and non-aquatic species.
3. Maintain and enhance estuarine, marine shoreline and coastal wetland habitats for fish and shellfish.
4. Reduce water demand through conservation and efficiency
5. Protect existing and develop new or alternative water supplies.
6. Promote climate resilient floodplain management.
7. Manage riverine floodplains to reduce flood risk and allow for natural processes that increase the capacity to store floodwaters and attenuate flood peaks.
8. Reduce flood risk by moving people and infrastructure out of harm's way.
9. Manage stormwater infrastructure for increased frequency and magnitude of rainfall/flood events.

Strategy 1: Resolve Uncertainty in Current and Future Water Resources

Our local water supply is paramount to the livelihood and economy of the County through its role for salmon, ecosystem services, agriculture, industrial, domestic, and municipal consumption, and diverse cultural and recreational values. Surface and groundwater in the Nooksack River Watershed are the primary sources of fresh water for Whatcom County. Lake Whatcom is the source of water for about 50% of Whatcom County residents.

When averaged annually, Whatcom County has ample water for all requirements. This annual average results from combining an oversupply (in the winter and early spring) with a scarcity (low stream flows and increased irrigation needs) in the summer and early fall when demand for irrigation is high (Fig 3.7).¹⁸⁰ As stated in the 1997

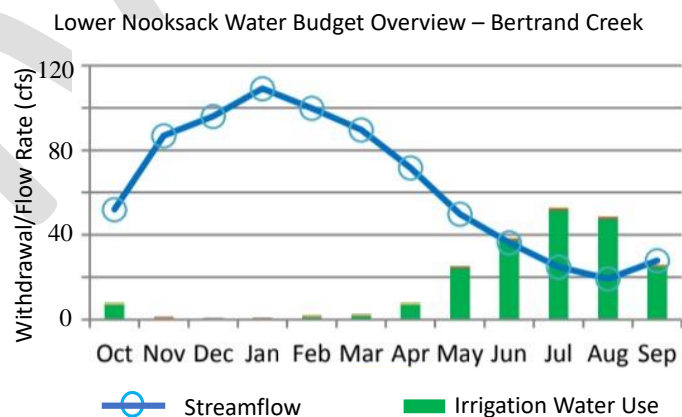


Figure 3.7: Simulated monthly streamflow 1999-2011 and estimated water use (Topnet-WM model as a function of evapo-transpiration irrigation efficiencies, crop type and acreage).

¹⁸⁰ Lower Nooksack Water Budget Overview, WIRA-1 Joint Board. Prepared by Silver Tip Solutions, Hydrologic Services Co., Dumas and Associates, and Associated Earth Sciences, Inc.

Reconnaissance Survey of Whatcom County Water Storage Options:¹⁸¹ “The Nooksack River streamflow is strongly seasonal, with almost 50% of the runoff occurring between November and March and another 20% occurring during the spring snowmelt season.”

Meeting our county’s diverse needs with the quantity of water available will only become more difficult with climate disruption.¹⁸² A projected shift in the amount and timing of precipitation with significantly less in spring and summer will continue to cause water shortages during the growing season. Glacial melt derived streamflow will increase slightly over the next 30 years in glacial creeks and in the North and Middle Forks and in the lower Nooksack River, but then decrease substantially in the latter half of the century as glaciers disappear.¹⁸³

Moving forward on solutions to our water supply has been stymied by several issues that start with accurate measurements of our water supply and use. Approximately 20% of irrigation water for agriculture is drawn from the Nooksack River system (all three forks) and the remaining 80% from groundwater – mostly the Abbotsford-Sumas aquifer that extends into Canada.¹⁸⁴ Considering only direct withdrawals from the Nooksack River is deceptive, because withdrawals from shallow aquifers, like the Abbotsford-Sumas aquifer, that feed the river system also have a direct impact on stream levels. Although an exact assessment is lacking, community leaders often estimate that up to 40% of water withdrawals are not legally permitted in the Nooksack basin.¹⁸⁵

While predictions of climate change impacts to specific water quantity concerns may contain uncertainty, there is sufficient confidence in the projected climate trajectories that indicate efforts to conserve, plan and adapt for less water availability will benefit regional resilience. The LENS Area Numerical Groundwater model¹⁸⁶ should be used to support implementation of the WRIA 1 Watershed Management Plan. This regional model will provide a better understanding of groundwater and surface water interactions to allow resource managers to make decisions on how to allocate water for existing and future uses and how to mitigate impacts while maintaining instream flow. Data supported water planning and implementation will improve the climate resilience in the Nooksack River Basin and ensure a stable economic future and healthy environment.

¹⁸¹ Nooksack Basin Water Users Steering Committee: Reconnaissance Survey of Whatcom County Water Storage Options, December 1, 1997

¹⁸² Climate change in the Nooksack River: A quick reference guide for local decision-makers. Issued by Floodplains by Design and The Nature Conservancy. Based on the UW Climate Impacts Group, State of Knowledge: Climate Change in the Puget Sound, 2015.

¹⁸³ Ryan Murphy, 2016. Modeling the Effects of Forecasted Climate Change and Glacier Recession on Late Summer Streamflow in the Upper Nooksack River Basin. WWU Graduate School Collection. 461. <https://cedar.wvu.edu/wwuet/461>

¹⁸⁴ Henry Bierlink interview, April 12, 2019, Community Research Project report, <https://whatcomcounty.us/3162/Meetings-Additional-Information>

¹⁸⁵ *Ibid.*

¹⁸⁶ Lynden, Everson, Nooksack, Sumas (LENS) area of Whatcom County. Chuck Lindsay (Associated Earth Sciences, Inc.), Gilbert Barth (S.S. Papadopoulos and Assoc., Inc.), and Christina Bandaragoda (University of Washington).

Key Priorities for Strategy 1:

- *Use climate change projections to estimate future water availability.*
- *Use the LENS model with climate projections to estimate the impact of different sectors on stream flow levels.*

2. Restore and Protect Streamflow to a Level and Temperature that Ensures Year-Round Salmon Migration and Survival

Instream flow levels in the Nooksack River, which help support salmon life cycle needs, frequently fall below state requirements in the summer and fall. Recent studies suggest that flow in the Nooksack River has been declining since the late 1800's and that minimum instream flows at Nugent's Corner currently are not met approximately 112 days of the year. By 2075, minimum instream flows may not be met for as many as 190 days.¹⁸⁷ As a result, water quantity in Whatcom County has been the subject of much debate, planning, and at times, legal action over the last several years.

A combination of hotter temperatures, lowered stream flows, and historic removal of shade from riparian forests has raised the temperature of our creeks and rivers, to the point that temperatures in some areas are sub-lethal to lethal to salmon and trout. High water temperatures can also promote bacterial infections that can kill ESA listed early Chinook salmon adults before they are able to spawn.

The South Fork Nooksack River in particular experiences dangerously high summer and fall water temperatures that threaten "early" or "spring" Chinook, that enter the Nooksack River in the spring and migrate upstream where they can stay for several months before spawning in August and September. Cool, deep pools with woody cover provide important resting areas where fish are safer from predators and disturbance and can conserve their energy for spawning. If the water table is lowered by increased irrigation or municipal use, these cool pools may no longer provide this needed refuge.

The North and Middle Forks of the Nooksack River receive a significant amount of their summer flow from snowfields and glaciers on Mount Baker, keeping water temperatures lower than on the South Fork. If glaciers shrink as less snow accumulates each winter, there will be less summer water and less cool water in the future.

To maintain a healthy aquatic ecosystem it will be necessary to increase stream flows when they drop below a critical level. In addition, the scientific basis for the current minimum instream flow standards is in question and may be low estimation of actual needs. There are numerous recommended approaches proposed to improve streamflow in upland and lowland streams. Efforts are underway to evaluate the role of forest hydrology in streamflow and significant projects are proposed in the South Fork Nooksack River basin to assess this approach. Restoration of forest hydrology also improves fish habitat, reduces sedimentation, and increases carbon storage across the landscape.

Projects are also proposed for stream augmentation which may be an effective way to increase streamflow from deep groundwater sources. These projects can generate the data needed to justify a change in state water regulations and laws that impact our ability to enhance stream flow under a changing climate.

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Multiyear demonstration projects should involve most areas of the Nooksack River basin that typically experience low instream flows during the summer and early fall. Volunteers from different organizations could collect data on the economic, social, and environmental impacts of this augmentation demonstration project. Ultimately, the information collected will be used to develop best practices and legislative fixes of state water laws and regulations as needed.

Salmon hatcheries, including two operated by the Lummi Nation and the Kendall hatchery operated by the Department of Fish and Wildlife, have partially mitigated the effects of habitat loss on salmon runs. However, even enhancement by hatcheries may not be able to keep pace with the effects of diminished flows and warmer water on salmon reproduction.

Increasing air temperatures, declines in the depth and area of winter snowpack, retreat of snowlines to higher elevations, shrinking glaciers, and decreasing summer precipitation are expected to continue to disrupt freshwater systems, habitats, and watershed functions in Whatcom County. It is important for communities and natural resource managers to monitor, maintain, and adapt water policy to prepare for the risks and impacts associated with climate change.

Key Priorities for Strategy 2:

- *Develop demonstration projects to increase streamflow and lower stream temperatures.*
- *Restore and protect wetlands and riparian zones.*

3. Maintain and Enhance Estuarine, Marine Shoreline and Coastal Wetland Habitats for Fish And Shellfish

Aquatic habitat loss is a prime factor in endangering our salmon runs, other fish resources, and shellfish production. We can halt and reverse habitat loss and degradation through removing hard shore protection, restoring wetlands to promote structural complexity and biological diversity, and promoting mechanisms for sediment transport and deposition.

With 3 feet of sea level rise by 2100 predicted by many climate models, much of the current intertidal shellfish habitat could become permanently under water, reducing the total area available for shellfish production. Sea level rise may result in erosion of the estuaries of the Nooksack and other streams, impacting habitat for juvenile salmon. Attempts to armor shorelines to protect coastline residences and infrastructure can exacerbate the effects of sea level rise by causing waves to bounce off the bulkheads and erode the beach, impacting intertidal habitats for shellfish and forage fish such as sand lance and surf smelt. It is possible that in a few areas the shoreline and associated shellfish beds could move inland to places two to three feet higher elevation, but this is not certain.

Declining pH of ocean water is perhaps the most serious threat to our fisheries, particularly shellfish. Oysters, clams, and mussels cannot “set” shells when the water becomes too acidic, and some growers are already having to add basic materials to the water where shellfish larvae begin to set shells, or to seed larvae elsewhere and bring the juveniles here for maturation. Other disruptions may happen in the marine food web. For example, Dungeness crabs, a key source of food and income for both Native and non-tribal fishers, probably will suffer declines in many of their prey species.

Warmer ocean water incidents in the Eastern Pacific in recent decades, including the famous “blob” that formed from 2015 to 2018 and repeated El Niño events, also bring warmer waters. This affects the

distribution of the marine organisms that salmon feed on, and thus the distribution, growth, and survival of salmon in the Pacific Northwest and Alaska. It can also affect the migration routes of salmon returning to spawn; these all have direct effects on the number of fish available to local tribal and commercial fishers for harvest and to return to the spawning grounds to sustain the populations.

Ocean waters also become more stratified during warm water events; this promotes red tides, which have recently lasted longer into the fall, affecting the safety of our shellfish harvests. Rising ocean temperatures also promote toxic algal blooms as well as *Vibrio* and other bacteria, which release toxins rendering oysters toxic to humans. In addition, competing invasive species, such as the European green crab, have moved northward recently because of rising ocean temperatures. Other important tribal subsistence resources, such as sea urchins and sea cucumbers, also have their reproductive cycles shifted in time with changes in ocean temperatures.

The Shoreline Management Program (SMP) requires the County to understand the current and potential ecological functions and processes provided by shorelines, understand how exempt development will impact these ecological functions, and include policies and regulations to address the cumulative impact on these ecological functions.

The Shoreline Management Program can be significantly strengthened by consideration of climate change and sea level rise. The permitting of new building developments and associated infrastructure that may be in place for decades must be evaluated using projected risks of sea level rise, storm surge and flooding over the projected lifetime of the building, road, or bridge. Coastal and riverine flooding will increase in magnitude and frequency.

Whatcom County is currently participating in development of a local Coastal Storm Modeling System (CoSMoS) which will further inform the extent of potential impacts of sea level rise combined with storm surge, wind currents, barometric pressure, and other environmental factors. This effort will support selection of an actual sea level rise elevation and/or shoreline impact zone. New County code language is needed that clearly identifies the projected impacts of sea level rise and increased impacts of riverine and coastal flooding. Code improvements must also require applicants pursuing development within the shoreline jurisdiction to perform a climate vulnerability assessment for the proposed action and highlight mitigation measures proposed to address projected climate impacts. This language will support applicants in mitigating climate risk to their private investment and will support local government in protecting public safety, private property, and environmental health.

Key Priorities for Strategy 3:

- ***Revise codes and regulations for shoreline management to create healthy ecosystems that are climate resilient.***
- ***Facilitate shoreline migration of wetlands.***

4. Reduce Water Demand through Conservation and Efficiency

Much can be done to conserve and improve the efficiency of water use in Whatcom County through educational outreach and modification of current practices. Whatcom County has contracted with the Whatcom Conservation District to implement the Enhanced Whatcom Water Alliance Program that

promotes water use efficiency and conservation for domestic and municipal user and is also partnering with the District to develop an Agricultural Water Use Efficiency and Conservation Program.

Key Priority for Strategy 4:

- *Incentivize efficiency upgrades to systems that consume large quantities of water.*

5. Protect Existing and Develop New or Alternative Water Supplies

The County should consider developing new sources of groundwater that could replace the use of water withdrawals that impact the streamflow levels in the Nooksack Basin. Both the Birch Bay Water and Sewer District and the City of Ferndale have drilled deep groundwater wells in the past few years that have yielded potable water. For example, Birch Bay drilled an exploration well¹⁸⁸ that intersected a confined aquifer at a depth of around 600 feet. The available data indicates that the recharge area for the aquifer extends a significant distance into southern British Columbia¹⁸⁹ and therefore would not impact water levels in the Nooksack Basin.

The science is just beginning to reveal the deep aquifer potential in Whatcom County and whether this source of groundwater will be able to provide sufficient water for irrigation or municipal and industrial uses. It may also be possible to utilize these deep aquifers in northwest Whatcom County without impairing established water rights or minimum instream flows.

Protection of existing wetlands, aquifer recharge areas, and upland forest hydrology also have significant impacts on streamflow and provide significant potential to enhance or increase streamflows in the future. Current efforts to identify, restore, and protect wetlands, aquifer recharge areas, and headwater areas must be significantly enhanced and expanded. This could be accomplished through increased rate of acquisition of conservation easements on these priority areas, development of a carbon credit program to acquire protections on forested watershed areas, and improved protections within development regulations to minimize impacts to watershed health and water supply.

Other approaches for new and alternative water supplies may be as simple as rainwater harvesting to provide water for buildings or yards, advanced wastewater treatment for water reuse, and technologies like reverse osmosis for desalination.

Key Priority for Strategy 5:

- *Develop a better understanding of deep groundwater resources that can augment freshwater needs.*

6. Promote Climate Resilient Floodplain Management

In contrast to water shortages in the summer and early fall, climate change is increasing the frequency and intensity of extreme rainfall events in the late fall and winter causing the potential for severe flooding. According to one study, this will result in a 27% increase in Nooksack River streamflows in late

¹⁸⁸ Dan Eisses, General Manager of the Birch Bay Water and Sewer District, presentation given at the Academy of Lifelong Learning, Whatcom Water Woes II, December 2018.

¹⁸⁹ Charles Lindsay, Senior Principal Hydrologist, Associated Earth Science, Inc., personal communication.

winter and early spring, and the 100-year flood event may become the 10-year flood event.¹⁹⁰ The County's Public Works department, in partnership with Tribal staff and representatives from the agricultural community, is updating the 1999 comprehensive flood hazard management plan through the Floodplain Integrated Planning (or FLIP) process. Whereas the 1999 plan focused on flood hazard management, the intent of FLIP is to develop an Integrated Floodplain Management Plan that addresses flood hazard management, agricultural protection, and salmon recovery needs.

The County, together with the City of Bellingham and Port of Bellingham, is also supporting a USGS project to develop a fine-scale flood risk model for the lower Nooksack River (Compound Flood Model) and coastal areas of Whatcom County that includes consideration of the combined impact of sea level, storm surge and stream flooding under climate change (Coastal Storm Model System - CoSMoS). By including climate change in the FLIP process and the flood risk modeling of the river and coastal areas, the County will have a better understanding of flood risk and economic consequence. In turn, this should lead to improvements in floodplain management, revised land use regulations, and the County's approach to designing and locating infrastructure.

Key Priority:

- **Lower flood risk and damage by implementing FLIP.**

7. Manage riverine floodplains to reduce flood risk and allow natural processes that increase the capacity to store floodwaters and attenuate flood peaks

The Nooksack River channel has changed dramatically over the last 150 years (Fig 3.8).¹⁹¹ The historical meandering stream helped manage the energy flow of water by increasing resistance and reducing the channel gradient. In essence the meandering stream created a wider floodplain that accommodated the peak flows. Log jams were removed in the early 1900s to facilitate boat travel and economic development. This removal reduced the natural braiding and oxbows in the river channel and contributed to a narrowing of the natural channel. Removal of snags, levee construction and removal of riparian zones for agriculture further straightened the channel and increased the gradient.

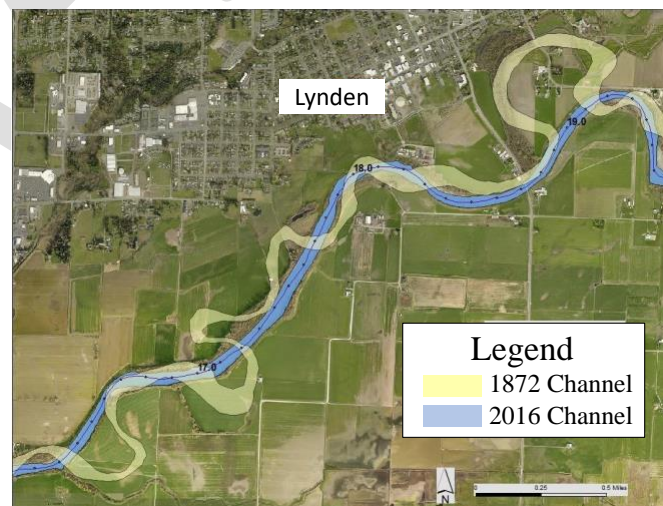


Figure 3.8: Changes in the Nooksack River channel between 1872 and 2016

¹⁹⁰ Dickerson-Lange, S.E. and R. Mitchell. 2013. Modeling the Effects of Climate Change Projections on Streamflow in the Nooksack River Basin, Northwest Washington. Hydrological Processes, Published Online in Wiley Online Library

¹⁹¹ Lower Nooksack River Geomorphic Assessment, Final Report, by Applied Geomorphology, Inc., Element Solutions, Northwest Hydraulic Consultants, and DMT Consulting. February 11, 2019.

This straight river channel and high flow gradient can no longer accommodate the increases in winter and early spring rainfalls that are occurring due to climate change. To reduce flood risk and economic damage, the County needs to establish channel migration zones, reconnect floodplains by lowering or setting back levees and restore habitat in riparian zones.

Connectivity of wetlands and riparian areas to streams provides sources for water-conveyed materials such as sediment, nutrients, and woody debris, while reducing streamflow energy, promoting channel complexity, and providing habitat. Human alterations such as dams, levees, roads, and water withdrawals have reduced stream-floodplain or stream-wetland connectivity among other impacts.

Farming is the preferred land use for historical floodplains. The County needs to increase funding and capacity for the Purchase and Development Rights (PDR) Program to discourage development in floodplains and re-evaluate land use designations and regulations in light of climate change.

Key priority for Strategy 7:

- *Restore connectivity of our fragmented hydrologic system to increase water storage and reduce flood damage.*

8. Reduce Riverine and Coastal Flood Risk by Moving People, Development, and Infrastructure

A recent analysis showed that most US homeowners do not carry sufficient flood insurance to cover flood damage and could face \$18.8 billion in flood damage annually.¹⁹² For Whatcom County the annual loss per property with substantial flood risk would amount to \$4,000 to \$8,000 per year. Only a few areas in the US have higher annual flood losses. This information is based on an analysis done by the First Street Foundation, which now provides a flood factor risk for homeowners by zip code.¹⁹³ For example, 43 percent of the properties in Lynden are at risk and annual damage could be as high as \$732 thousand this year.

FEMA has been updating its flood risk rating system using insurance industry approaches that will likely face backlash from homeowners who cannot afford the higher cost of flood insurance.¹⁹⁴ This new flood risk rating system is expected to be released sometime in 2021. Many communities are already requesting federal tax dollars to move whole neighborhoods out of high flood risk zones.¹⁹⁵ Moving structures out of harm's way is the only long-term solution to reduce financial risk and ensure public safety. Moving to higher ground was noted by the Lummi Nation as the logical adaptation solution to sea level rise.¹⁹⁶ The County should also evaluate the need to move critical emergency infrastructure and

¹⁹² Most Americans Don't Have Enough Flood Insurance for Climate Change by Leslie Kaufman and Mira Rojanasakul, Bloomberg Green, February 22, 2021. <https://www.bloomberg.com/graphics/2021-flood-risk-financial-cost/>

¹⁹³ Find your home's Flood Factor, <https://floodfactor.com/>

¹⁹⁴ FEMA's Upcoming Changes Could Cause Flood Insurance to Soar at the Shore, by Ed Leefeldt and Amy Danise, Forbes Advisor, March 18, 2021. <https://www.forbes.com/advisor/homeowners-insurance/new-fema-flood-insurance-rates/>

¹⁹⁵ US Flood Strategy Shifts to 'Unavoidable' Relocation of Entire Neighborhoods, by Christopher Flavelle. New York Times, August 26, 2020. <https://www.nytimes.com/2020/08/26/climate/flooding-relocation-managed-retreat.html?referringSource=articleShare>

¹⁹⁶ Lummi Nation Climate Change Mitigation and Adaptation Plan: 2016-2026 prepared by the Water Resources Division, Lummi Natural Resources Department. February 16, 2016.

develop a plan.

Key priority for Strategy 8:

- *Move people and emergency infrastructure based on updated FEMA maps on flood risk.*

9. Manage Stormwater Infrastructure for Increased Frequency and Magnitude of Rainfall/Flood Events

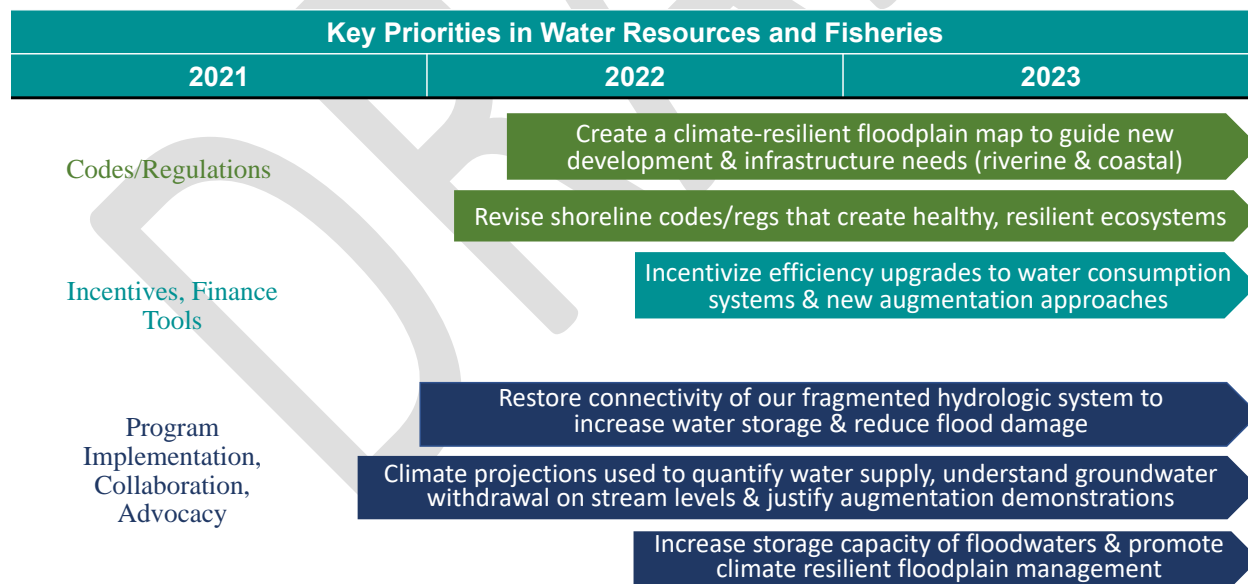
Stormwater impacts are projected to increase under future climate scenarios. To effectively protect stream channels, wetlands, and watershed function from increased erosion and water impacts, it is necessary to manage the higher frequency, magnitude, and duration of stormwater flows. Future climate scenarios need to be incorporated into stormwater project design. This includes replacing culverts with structures that can convey increased flow while ensuring fish passage.

Codes and regulations should be updated to minimize impervious surfaces in developments and consideration of green stormwater infrastructure to reduce erosion from large storm events (see [Land Use](#)). The County should also accelerate the construction and retrofit of stormwater flow control system, runoff treatment and infiltration facilities to increase capacity and accommodate future rainfall and flood events.

Key Priorities for Strategy 9:

- *Update stormwater infrastructure such as culverts to minimize ecological damage from increased magnitude and frequency of storm events.*

Timeline for Water Resources and Fisheries Priorities



Conclusion

Water, which has always been viewed as a plentiful resource in the Northwest, is increasingly causing damage from oversupply in the winter and scarcity in the summer. In hindsight, many of our current problems with flooding and drought have been caused by humans trying to control and change the natural hydrologic system. Climate change has highlighted and accelerated the problems associated with

these past water management approaches. We still have time to adapt our water management approaches to climate change to lessen detrimental impacts, but the sooner we act, the more we can avoid costs to life, property, our environment, and our economy in the future.

Agriculture

Agriculture plays a critical role in Whatcom County's economy, history, and culture. Like other sectors of our economy, agriculture must adapt to climate change to remain economically viable and produce the food we all depend upon. Agriculture can also be a large part of the climate solution through soil carbon sequestration. Nationally, the USDA is focusing on improving soil health and building agricultural resilience that will put farmers in a stronger position as the impacts of climate change begin to mount.

As a part of our human infrastructure and an emitter of GHGs (Fig. 2.2), agriculture could have easily fit into the Built Environment Section of this report. Instead, we chose to place agriculture into this section because 1) the tremendous potential of agricultural soils to sequester carbon, and 2) the need for immediate action in agriculture to adapt to the high temperatures and drought that is already a growing problem, as demonstrated by the losses farmers suffered during the June 2021 extreme heat wave, a type of that is forecast to become more common as global temperatures rise.¹⁹⁷

Agriculture is also central to our concern with climate equity and justice, as our field crops in particular depend on intensive farm labor during the hottest summer months, and farm workers are among those most exposed to the effects of heat waves.

Agriculture in Whatcom County

In 2017 Whatcom County had 1712 farms operating on 102,000 acres.¹⁹⁸ Preserving this acreage provides the foundation for addressing the other impacts to climate change. Over a twenty-year period (1997-2017) nearly three times as much farmland was lost in Whatcom County as compared to the overall losses in western Washington. In response, Whatcom County established a goal to maintain a minimum of 100,000 acres¹⁹⁹ of agricultural land to support an economically viable industry.

Approximately 75,000 acres of farmland is used to grow crops, both food and animal feed. With this fertile Pacific Northwest farmland, Whatcom County ranks in the top 3% of farm production in the US and is home to many favorite brands.²⁰⁰ These include large and small farms producing berries, milk products, seed potatoes, tree fruit, cattle, horses, vegetables, ornamental plants, and others.

Total value of agricultural products was \$372 million, \$218 million from animal agriculture and \$154 million from crops. In addition, agriculture creates economic benefits locally due to agricultural production and consumption.²⁰¹

¹⁹⁷ *Bellingham Herald* 5 July 2021: <https://www.bellinghamherald.com/news/local/article252532053.html/>

¹⁹⁸ <https://s3.wp.wsu.edu/uploads/sites/2091/2019/08/2017AgStatsSummary.pdf>

¹⁹⁹ <https://www.whatcomcounty.us/DocumentCenter/View/3989/Land-Cover-Analysis-PDF?bidId=>

²⁰⁰ <http://choosewhatcom.com/agriculture/>

²⁰¹ All figures are from the National Census of Agriculture, 2017.

https://www.nass.usda.gov/Quick_Stats/CDQT/chapter/2/table/1/state/WA/county/073

Several special characteristics of Whatcom County agriculture may impact our ability to adapt to climate change.

- Agricultural land here is expensive, almost tripling in value from 2002 to 2017, and growing more expensive since—often \$20,000 to 25,000 per acre with water rights. Farmland rental rates and taxes are also high. This restricts the crops that can be grown profitably.
- The majority of our agricultural products come from family-owned and operated small and medium-sized farms. In 2017, only 42 farms were larger than 500 acres; the average size was 60 and the median only 12. Farms of 10 acres or less have also more than doubled since 2002.
- About half of all agricultural land is irrigated.
- We grow a small number of crops compared to other regions: Dairy products and berries combined accounted for \$292 million, or 78% of total agricultural sales.
- Although the total number of cows has increased since 1950, the number of small dairy operations has decreased dramatically over this timeframe.
- Almost all of our agricultural products are sold as commodities and consumed elsewhere; only an estimated 3-5% of locally grown agricultural products are consumed within the county.

Concern for Climate Change in the Agricultural Community

Whatcom County farmers have a strong, often multi-generational sense of stewardship of the land and of the environment and are concerned with the immediate and observable environmental trends and changes. Farmers are also concerned about the economic and regulatory environments in which they must run their businesses.

Washington crops and livestock are being affected by climate impacts such as increasing temperatures and water stress, declining availability of water during the growing season, rising atmospheric carbon dioxide, and changing pressures from pests, weeds, and pathogens. Some impacts on agriculture may be beneficial while others may lead to losses – the consequences will be different for different cropping systems and locations.²⁰²

“Farmers have experienced a lot of extreme weather since 2011, from droughts to extreme wet, and it’s likely that’s driving some of the changes in perspectives. Of course, farmers are closer to the weather than most folks, and that extreme weather can really make it difficult to plant, raise and harvest high-quality crops.” Professor J. Arbuckle and extension sociologist at Iowa State University.

Higher temperatures will impact crop types, quantity, and quality. Warmer winter temperatures and fewer freezing days have already brought northward movement of insect pests, such as the spotted-winged fruit fly (*Drosophila suzukii*) that attacks raspberries and blueberries. Since the fruit fly appeared, farmers have had to return to the intensive spraying practices of the early 2000s. In addition, two fungal pests, *Botrytus* or gray mold and *Monilinia* or mummy berry, affect raspberries, blueberries, strawberries, wine grapes, and other crops.

Like plant pests, animal diseases migrate with changes in climate. Pigeon fever has recently affected horses here, and it or similar diseases may come to affect cattle, especially since about 250,000 livestock come into the county every year, and about 150,000 go out.²⁰³

²⁰² <https://cig.uw.edu/wp-content/uploads/sites/2/2020/12/snoveretalsok2013sec11.pdf>

²⁰⁶ Interview with Michael Anderson, DVM.

Western Washington agriculture is likely less vulnerable than the interior. Water availability, access to urban markets, and the milder climate of coastal Washington will likely make it easier for agriculture to adapt in this region.²⁰⁴ Additionally, other parts of the country may experience more extreme climate impacts, encouraging more people to move to Whatcom County, thus increasing pressure to develop agricultural lands for residential purposes. Climate change is resulting in a shift in seasonal precipitation – more precipitation in the winter and spring and less in the summer will increase pressure on an already complex and competitive water-rights regime. Water supply is a huge agricultural concern where planting schedules can be delayed by spring flooding and growing seasons often coincide with the dry season. Agricultural irrigation is the largest user of water in the county (44%), and irrigation peaks in August when streamflows are low.²⁰⁵ With decreasing snowpack, more winter precipitation will flow into streams and rivers when fields are fallow or crops do not need to be irrigated, and less water will be available during the summer irrigation season.

Summer water shortages are likely to become much more common. In dry years, the County's irrigation water use typically increases approximately 25%. As precipitation patterns change, demand for irrigation water will increase at the same time the supply decreases. Conditions like those during the 2015 and 2018 droughts or the 2021 heat wave — when crops failed and pastures went dry because of inadequate water — are likely to become more common.

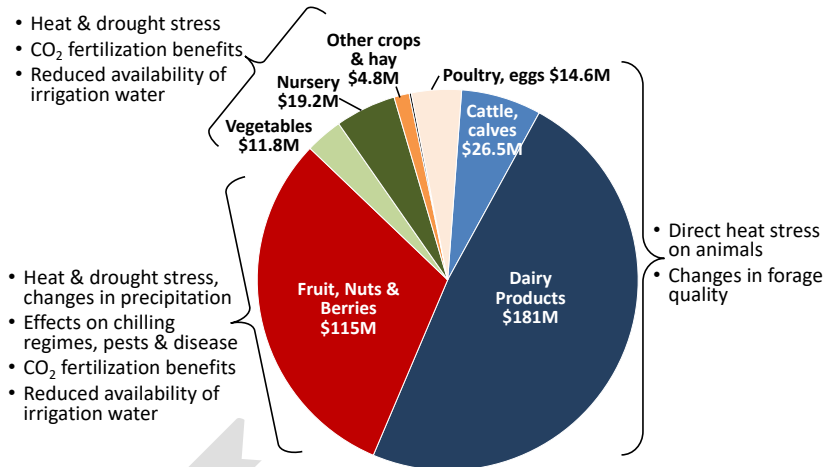


Figure 3.9: Impact of climate change on farm products in Whatcom County using values from the latest census data (2017). Total market value was \$373 million.

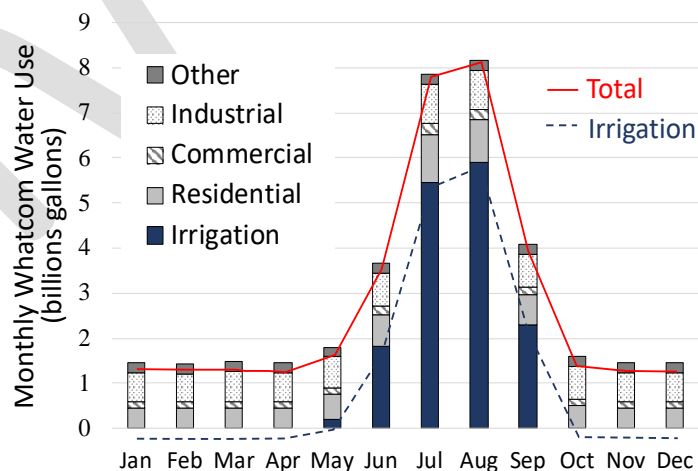


Figure 3.10: Example of monthly water use in Whatcom County (from Hirst, E. "Analysis of Whatcom County Water Use," January 2017: https://nwcitizen.com/images/fileuploads/Analysis_of_Whatcom_County_Water_Use.pdf).

²⁰⁴ <https://cig.uw.edu/wp-content/uploads/sites/2/2020/12/snoveretalsok2013sec11.pdf>

²⁰⁵ See the UW Climate Impacts Group SWE [Trend Analysis Tool](#) for trends in the last 160 years. For projections, see the [Regional Climate Projections Tool](#) on the same website.

It's important to note that as winter precipitation increases and more of it falls as rain rather than snow, lagoons, and tanks where dairy manure is stored during the winter may reach their maximum capacity, forcing farmers to cut their herds or increase storage capacity.

Farmers will also face increased competition, particularly for water from the transnational Abbotsford-Sumas aquifer. Aquifer recharge is highly dependent on climate variables and this shallow, unconfined aquifer impacts river and stream flows and aquatic life as well. Currently, groundwater supplies about 80% of the agricultural irrigation needs in the summer. The Abbotsford-Sumas aquifer is highly productive and provides water supply for nearly 10,000 people in the US (towns of Sumas, Lynden, and farmlands) and 100,000 in Canada, mostly in the City of Abbotsford, but also in the township of Langley.²⁰⁶ With drier summers and increased use, this shallow aquifer may no longer be adequate to meet water demands sustainably.

Already, many streams in the Nooksack River watershed are over-appropriated, and many farms lack adequate water rights, meaning they may not be allowed to use surface or shallow ground water sources for irrigation when streamflows are low. Water rights, already a contentious issue, may become even more so, making a just and equitable solution to water allocation the single most vital imperative for climate change adaptation.

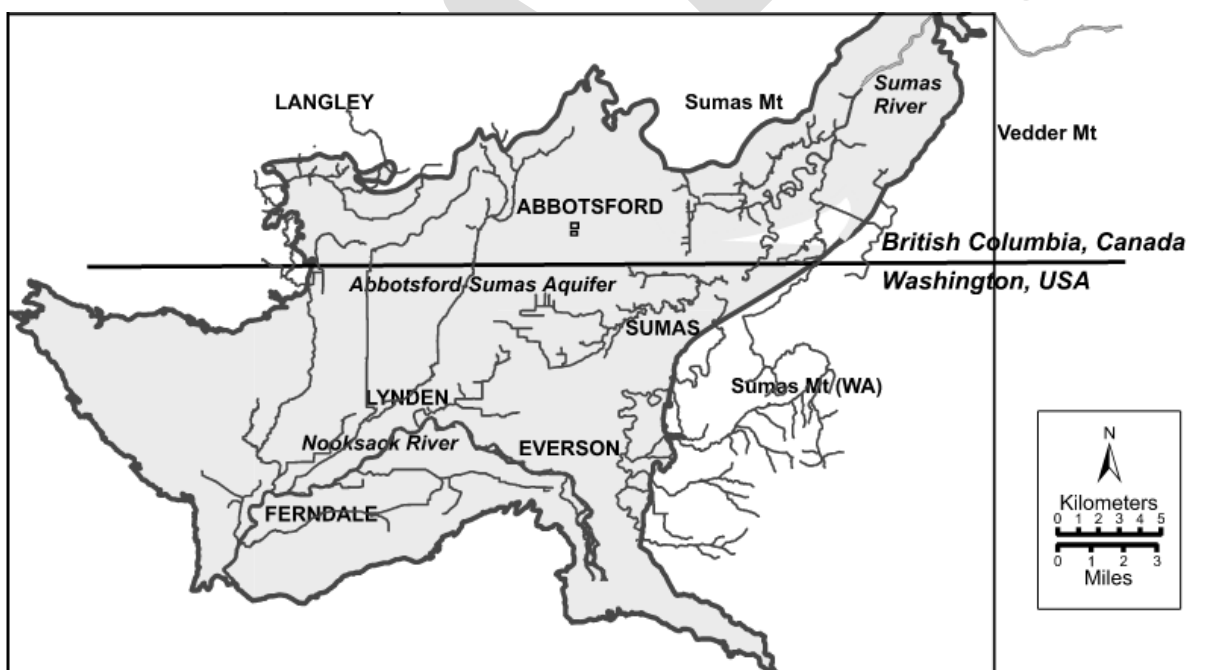


Figure 3.11: Aerial extent of the shallow, unconfined Abbotsford-Sumas aquifer in southwestern British Columbia and northwestern Washington State.

Finally, our local agricultural economy depends on farmworkers, particularly in the summer season. Because farm laborers are among our most vulnerable populations, mitigating climate change becomes an imperative of environmental justice. Although heat stress is now a problem only on the hottest days, if temperatures continue to rise there may be more days like those of late June 2021, when field

²⁰⁶https://www.researchgate.net/figure/Recharge-zones-for-the-Abbotsford-Sumas-Aquifer-The-recharge-model-was-run-for-each-of_fig6_253490522

workers are exposed to dangerously hot conditions. Additionally, smoke from more frequent wildfires²⁰⁷ in increasingly hot and dry summers also a more serious threat, exposing farm workers to dangerous levels of particulate matter, especially on the hottest days. Any actions we can take to mitigate temperature increase in the coming decades will redound to the benefit of these crucial participants in our agricultural community.

Climate Goal and Strategies for Agriculture

Farmers are more likely to support new farming approaches to increase climate resilience if they are economically feasible and address their more immediate concerns of water availability, loss of topsoil and soil productivity, and loss of crops from disease, pests, and extreme weather events.

It will require both mitigation and adaptation strategies to maintain a viable agriculture economy and livelihoods in the County under a changing climate. Several specific and feasible strategies for addressing the problems outlined above are discussed below and detailed in the strategies, actions, and benefits table in the Appendix.

Goal: Employ farm management practices that create climate resilience while at the same time reducing operational costs in agriculture and ensure a viable long-term food supply.

Climate Strategies for Agriculture

1. Adopt farm management practices that maximize soil carbon storage and increase water and nutrient availability.
2. Avoid the conversion of agricultural lands to maintain farm production at a level that sustains a vibrant and climate-resilient agricultural economy.
3. Enlist the agricultural community in preserving and enhancing water storage and stream-flow levels that enable salmon migration, healthy ecosystems, and agricultural irrigation.
4. Reduce agriculture-related emissions and increase renewable energy, while providing farmers with new income opportunities.
5. Strengthen agricultural diversity to expand the eat local market and increase farm incomes.
6. Encourage increases in research and development of drought- and heat-resistant agricultural crops at the state and federal levels and flexible infrastructure to support diversified crops.

Strategy 1: Adopt Farm Management Practices that Maximize Soil Carbon Storage and Increase Water and Nutrient Availability

Agriculture can play a very important role in reversing many of the detrimental impacts of climate change while at the same time reducing the high operational costs associated with modern industrial farming. Modern industrial farming has led to a tremendous increase in food production, but has also led to high operational costs, low profit margins for farmers, and in some cases, unintentional environmental damage. Climate change is further complicating farming practices, and in many areas of the country, rendering these practices unsustainable.

²⁰⁷ EPA, Change in Annual Burned Acreage by State, 1984-2001 and 2002-2020 <https://www.epa.gov/climate-indicators/climate-change-indicators-wildfires>

NASA satellite imagery has shown that concentrations of CO₂ increase in April and peak in May across the US. This is attributed both to soils warming and the practice of agricultural tillage. The release of CO₂ to the atmosphere is reduced and carbon storage in soils is enhanced by no-till or low-till farming methods.

Farmers have long known that off-season cover crops can increase soil carbon storage and important soil nutrients like nitrogen, while at the same time prevent soil erosion. Farmlands across the US could absorb 276 million tons of atmospheric CO₂ every year or about 5% of annual emissions according to a National Academy of Sciences report.²⁰⁸

Managing for soil health is one of the best ways farmers can increase crop productivity while preparing for stresses on crop growth due to climate change. Extreme weather events, such as extended drought and heavy precipitation, are out of landowners' and growers' control; but through effective soil health management systems they can better manage how they prepare for and react to these circumstances.

Results are often realized immediately and last well into the future.

No-till and cover crops can help stabilize yields, improve agricultural productivity, and build resiliency through increased soil organic carbon content and soil water storage.²⁰⁹ Four basic principles improve the health of soil and can facilitate agricultural resilience: minimize disturbance, maximize soil cover, maximize biodiversity, and maximize presence of living roots.²¹⁰

- Healthy soil allows more water to infiltrate and retains more moisture, enabling it to effectively absorb extreme rainfall as well as support crops during droughts.
- Adopting soil health systems before extreme events hit can save farmers significant time and money in the long run and preserve the vitality of their soils for many years to come.
- Employing soil health systems by using practices such as no-till and cover crops, can help stabilize yields, improve agricultural productivity, and build resiliency through increased soil organic carbon content and soil water storage.
- These practices also benefit the environment, reducing nutrients lost through run-off, replenishing aquifers, and also acting as a natural filter for our waterways.

Additionally, the soil additive biochar acts as a sponge for water and nutrients making them available for plant growth and soil microorganisms. Biochar is essentially charcoal and is formed from a process called pyrolysis, where organic matter is burned under low oxygen conditions. The US Biochar Initiative supports increasing the rate of natural carbon sequestration and reducing emissions of greenhouse gases remains critical. Biochar technology can do both.

²⁰⁸ National Academies of Sciences, Engineering, and Medicine 2019. *Negative Emissions Technologies and Reliable Sequestration: A Research Agenda*. Washington, DC: The National Academies Press.
<https://doi.org/10.17226/25259>.

²⁰⁹ <https://soilhealthinstitute.org/how-does-soil-health-increase-resilience-to-droughts-and-extreme-rainfall/>

²¹⁰ https://www.nrcs.usda.gov/wps/PA_NRCSCconsumption/download?cid=nrcseprd1386665&ext=pdf

The conclusion of the recent documentary, *Kiss the Ground*²¹¹, proposes that by regenerating the world's soils, humans can rapidly stabilize Earth's climate, restore lost ecosystems, and create abundant food supplies by exploring the possibilities of regenerative farming. Climate adaptation can be rooted in taking better care of our soils and drawing down carbon from our atmosphere by rebuilding our soils, practicing integrated pest management, nutrient and fertilizer management, and conservation agriculture. The Whatcom Conservation District provides critical support for local farmers interested in increasing their soil health; however, demand for support and services exceeds the District's capacity.

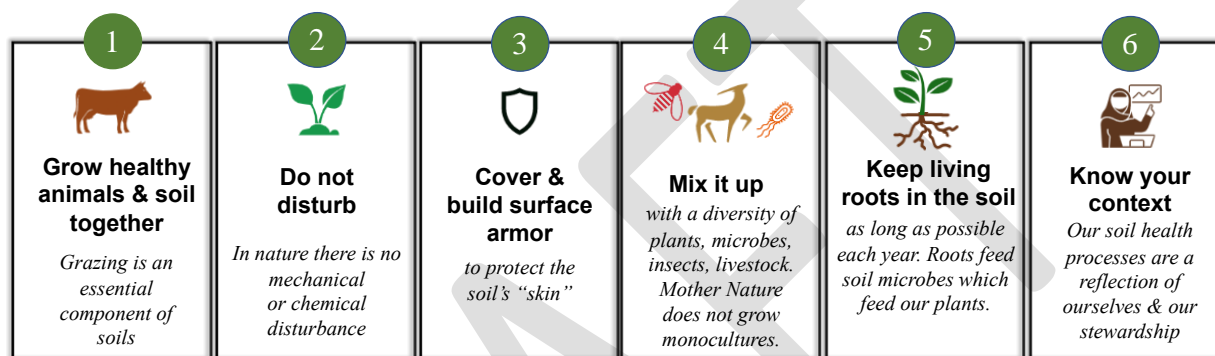


Figure 3.12: The six principles of soil health from the Soil Health Academy.
<https://soilhealthacademy.org/fact-sheets/>

Increasing soil organic matter has the added benefit of absorbing large amounts of water, which creates more soil moisture retention and availability for crops. The 2018 farm bill included a Soil Health Demonstration Trial whose participants will follow certain soil health assessment protocols to enable further research and encourage widespread adoption of practices. In addition, the bill includes enhancements to the Conservation Stewardship Program for agricultural producers to improve soil health.²¹²

The USDA is ramping up the Conservation Reserve Program to have higher rental payments and expanding the number of incentivized environmental practices allowed with a more targeted focus on climate change.²¹³ Farmers enrolled in this program receive a yearly payment to preserve environmentally sensitive areas that are difficult to cultivate, such as wetlands, from agricultural production.

Changing farm practices to promote soil health is a long-term investment and an excellent first step in creating greater climate resilience in our agricultural economy. Whatcom County can help farmers initiate this transition by sponsoring local workshops on soil health developed by organizations like the

²¹¹ <https://kisstheground.com/>

²¹² <https://www.pewtrusts.org/en/research-and-analysis/blogs/stateline/2019/08/23/soil-health-can-combat-climate-change-from-the-ground-up>

²¹³ Expansion and Renewal of Conservation Reserve Program, <https://www.fsa.usda.gov/programs-and-services/conservation-programs/conservation-reserve-program/index>

Soil Health Academy.²¹⁴ This series of workshops could be sponsored with the WSU Extension, Whatcom Conservation District, Sustainable Connections, and the local regenerative farm, Inspiration Farm.

A common solution that occurs throughout this section on the Natural Environment is the need for a carbon marketplace to reward farmers, foresters, and other landowners for their efforts to increase carbon storage. An example of a carbon marketplace could be as simple as establishing a monetary value on carbon sequestration that would allow landowners to sell carbon credits to companies that want to offset their carbon emissions. This in turn incentivizes landowners to increase the carbon storage potential of their lands. Carbon markets offer an opportunity to improve soil health and moisture and bolster rural economies.

"If you can get something green on the ground year-round, you're feeding the microbes in the soil and it's a lot healthier. And if somebody wants to pay you to do that, it looks to me like you're foolish not to do it." Ohio farmer, Rick Clifton, grows cover crops year-round & is paid ~\$35,000 per year to store soil carbon by Indigo Agriculture.

Key priorities for carbon sequestration and water protection

- **Promote regenerative farming practices to increase soil carbon storage**
- **Form a carbon marketplace to provide carbon offsets and reward landowners**

Strategy 2: Avoid the conversion of agricultural lands to maintain farm production at a level that sustains a vibrant and climate-resilient agricultural economy

If predictions of up to three feet of sea level rise by 2100²¹⁵ are accurate, Whatcom County faces the loss of up to 5,000 acres of farmland in coastal areas,²¹⁶ particularly around Ferndale. Another concern, as sea level rises, is saltwater intrusion into groundwater and/or soil salinization in low-lying areas. Flood risk associated with storm surge will further exacerbate the problem.

In addition to climate change, population growth will continue to exert pressure to convert agricultural lands to other purposes. Agricultural land here is expensive, almost tripling in value from 2002 to 2017, and growing more expensive since—often \$20,000 to 25,000 per acre with water rights. These high land costs discourage a new generation of farmers and often persuade older farmers to convert and sell portions of their land for development in order to fund their retirement. Loss of agricultural lands occurred over the last twenty years when the County allowed the proliferation of 5-acre *ranchette* developments. High agricultural land prices have also increased the potential transition of family farms into corporate farming.

Rapid residential development of former agricultural and forest lands threatens the viability of agriculture and continues to highlight the urgent need for greater protection of farmland at a time when climate change also threatens the viability of some forms of agriculture. We should strive to maintain the minimum of 100,000 acres of agricultural land as mandated by the County Council in 2009.

²¹⁴ <https://soilhealthacademy.org/>

²¹⁵ [According to IPCC](#), depending on the amount of global temperature change, sea level is projected to rise from 26 to 98mm (10 to 38 inches).

²¹⁶ Interview with Chris Elder, Sr. Planner: Watersheds, Whatcom County, 23 May 2019.

Whatcom County currently has slightly more than 87,000 acres zoned as agricultural, plus over 28,000 acres of rural-zoned (R5 and R10) lands that contain many working farms on prime agricultural soils. The Agriculture Advisory Committee recommends that these identified Rural Study Areas receive additional protection, from development and fragmentation, through 1) reducing development in R5 and R10 rural-zoned areas, 2) reducing conversion and fragmentation of farmland, 3) preserving agricultural neighborhoods, and 4) protecting open space from fragmentation.

The Purchase of Development Rights Program²¹⁷(PDR) and the Open Space Farm and Agriculture Current Use Assessment²¹⁸ program can be used. However, many farmers consider the compensation provided by the PDR program to be inadequate, as it comes nowhere near the value of the development rights on the open market. To be effective, the PDR program will need to be funded at a higher level, both to enable more land to be protected and to incentivize landowners to sell their development rights.

The updated 2019 Washington State Farmland Preservation Indicators Report²¹⁹ documents efforts to preserve agricultural land. Conservation Futures²²⁰ is a county tax levy program provided for in RCW 84.34.230 that protects, preserves, maintains, improves, restores, and limits the future use of threatened areas of open space, timberlands, wetlands, habitat areas, culturally significant sites, and agricultural farmlands. The funds for Conservation Futures are acquired through a property levy and are used to purchase rights or interests in real property for counties to preserve lands of public interest for future generations. In 2020, Whatcom County collected \$1,148,380 from this fund to support the PDR program.²²¹

Because of the high cost of farmland, it is very difficult for new farmers to acquire the land needed to get started. Incentives to sell and subsidization of new farm purchases through low-interest loans would contribute to preserving agricultural land.

Key priorities for land conversion

- ***Expand PDR program and re-evaluate compensation levels***
- ***Re-zone rural study areas to preserve and increase total farm acreage***
- ***Adopt innovative financial mechanisms that would facilitate entry for new farmers***

Strategy 3. Enlist the agricultural community in preserving and enhancing water storage and stream-flow levels that enable salmon migration, healthy ecosystems, and agricultural irrigation

For agriculture, we need to address both inadequate summer supplies and competition among different users. Since negotiated settlements have failed in the past, the joint processes of negotiation and

²¹⁷ <https://www.whatcomcounty.us/573/Purchase-of-Development-Rights-Oversight>

²¹⁸ <https://www.whatcomcounty.us/1160/Open-Space-Program>

²¹⁹ [2019 Washington State Farmland Preservation Indicators Report \(PDF\)](#)

²²⁰ <https://app.leg.wa.gov/rcw/default.aspx?cite=84.34.240>

²²¹ https://uploads-ssl.webflow.com/5faf8a950cdaa224e61edad9/6070c2b0676da848f07246c0_2020%20OFP%20Conservation%20Futures%20Report.pdf

adjudication of water rights will most likely resolve the issue of water equity among the various users. Clarification of water rights must also recognize the future challenges brought about by climate change.

Several specific reforms to the current state water law could address summertime shortages and maldistribution, making local agriculture more resilient to increasingly severe shortages in the future. For example, the current “use it or lose it” relinquishment provision²²² discourages water augmentation and water trading approaches. The County should also explore and possibly pilot water trading mechanisms including leasing, sales, banking and trading and innovative approaches to metering water.

None of these reforms would eliminate competition over water. However, greater flexibility in water allocation could improve the ability of competing interests to negotiate creatively and reach mutually acceptable solutions. Because it is inevitable that conflicts will arise, such conflicts must be addressed by a process that includes fair representation of all stakeholders.

Restoring salmon habitat also restores the health of our watershed. The watersheds provide clean drinking water, flood protection, waste assimilation, aesthetic and recreational benefits and other ecosystem services. As these services are lost, benefits are reduced and costs to residents increase. As the watershed is restored to health, our quality of life rises and the costs of watershed degradation decline. Sufficient funding mechanisms for salmon habitat would enable operating capacity and enable capital projects as well as provide matching funds for grants to leverage the work. Money spent in the watershed provides jobs and economic development.²²³

Salmon-safe²²⁴ offers a peer-reviewed certification and accreditation program to implement farming practices that protect water quality, maintain watershed health, and restore habitat. As a leading U.S. ecolabel, Salmon-Safe offers peer-reviewed certification, linking site development and land management practices with the protection of agricultural and urban watersheds. Their mission is to transform land management practices so Pacific salmon can thrive in West Coast watersheds. Currently, 95,000 acres of farm and urban lands in Oregon, Washington, B.C. and California are certified through their program.

The Nooksack Basin Salmon Recovery Program²²⁵ does a tremendous job in educating the community and restoring healthy rivers and marine shorelines. The County should support and continue to collaborate with these non-profit organizations to engage actively with local landowners, businesses, and the larger community. Recent efforts to restore anadromous fish passage with culvert removals and diversion dam removal on the Middle Fork Nooksack and efforts by the Floodplain Integrated Planning (FLIP)²²⁶ are working to integrate actions with multiple stakeholders that address flooding, salmon needs, and land use.

²²² See WSU, Landowner’s Guide to Washington Water Rights, page 7:

https://s3.wp.wsu.edu/uploads/sites/2073/2014/09/landownerguide_waterrights.pdf

²²³ <https://www.govlink.org/watersheds/9/committees/archive/1005/WRIA9-FundingMechanism-PolicyBrief2-FundingNeed.pdf>

²²⁴ <https://salmonsafe.org/about/>

²²⁵ <https://salmonwria1.org/>

²²⁶ <https://whatcomcounty.us/2971/FLIP-Reports>

Where feasible, the agricultural community should employ drainage management, such as adjustable weirs, to increase storage early in the growing season and promote subirrigation of crops. Advanced wastewater treatment and manure treatment approaches can also be employed to allow water reuse. Finally, employing modern irrigation and efficiency technologies can greatly increase conservation of freshwater resources.

Key priorities for ensuring adequate water for agriculture and fish habitat

- ***Use collaborative demonstration projects to collect the information needed to seek greater flexibility in our current water law.***
- ***Implement irrigation modernization and efficiency technologies to reduce water use.***

Strategy 4: Reduce Agriculture-Related Emissions and Increase Renewable Energy, while Providing Farmers with New Income Opportunities

Agriculture is responsible for about 6% of the County's GHG emissions - from machinery, transportation, agricultural chemical manufacturing, and energy use, along with methane emissions from animal agriculture.²²⁷ There are measures that can reduce agriculture's emissions and environmental effects while also maintaining "critical mass" and enhancing farmers' income.

Nutrient (i.e. manure) treatment systems can reduce agricultural greenhouse gas emissions as well as alleviate the problems of poor distribution of water. Manure gives off methane, a potent greenhouse gas. Anaerobic digesters draw off the methane, which can be burned on site to produce electric power and release carbon dioxide, a much less potent greenhouse gas. Liquid residues still contain bioactive nitrogen and can be used as fertilizer, and solid residues can be used as bedding for cows, for mulch, or other uses. Other agricultural residues such as food processing waste can also be used in the digester, increasing its power output and making the investment more attractive to the dairy farmer.²²⁸ Digesters can also lessen the problem of manure storage in the wintertime, which can contaminate waterways.

At present, however, anaerobic digesters are affordable only with cost-share for construction or subsidized prices for the electricity generated, because electricity prices are much lower in the Pacific Northwest with its large amounts of hydropower. Although farmers who installed digesters between 2010 and 2012 sell electricity at contract prices high enough to pay back construction costs, now new or renewed contracts offer prices so low that digesters are no longer economical for farmers. Hence there have been only five digesters built in the county, four of them now operating.

Rather than burning digester methane on site, it can be sold to natural gas suppliers and help make the digester technology affordable. These systems are in place in Oregon, California, and British Columbia, and could be tried here if the price structure were attractive to farmers. Methane from digesters is considered renewable methane similar to the methane derived from landfills. The new CETA law that will increase the amount of renewable energy used to generate electricity by utilities may very well increase the contract price of renewable methane. As discussed in [Electricity and Buildings](#), many

²²⁷ US Environmental Protection Agency, [Sources of Greenhouse Gas Emissions](#), 2018; IPCC, "Climate Change and Land," 2019, p. 9.

utilities like PSE are purchasing renewable methane from large landfills to offset their current use of fossil fuels.

Other nutrient management technologies can potentially address both climate change and other environmental issues: one of these is an innovative, three-stage processing system recently installed at Coldstream Farms near Deming. The end product is clean water that can be returned to a stream. Such systems, however, are expensive to operate, suggesting that the County should incentivize installation and support research into lower-cost operation.

Petrochemical fertilizers and pesticides use fossil carbon both as feedstock and as fuel, so reducing their use can reduce carbon emissions of agricultural operations and increase farm incomes. In addition, farmers have long known that petrochemical fertilizers can harm soil quality, so reduced use of chemicals can contribute to the improvement of soil quality as discussed in strategy 1.

Farms also have land and roof tops that can be used for wind and/or solar power. When paired with battery storage, farms can meet their own electricity needs when averaged over a year and may be able to sell excess renewable electricity as they do with power generated by burning methane from digestion. Starting in the late 1800's, farmers used windmills to pump water or grind grain. This practice largely ended with the Rural Electrification Act of 1936. Throughout the country farmers are enhancing their income by leasing land for windmills. Ninety-five percent of the land around wind turbines can continue to be farmed. The added income farmers receive from developers or utility companies can offset periods of low commodity prices, tariffs, or crop damage from droughts, floods, and pests.

Key priorities for emissions reduction

- **Reduce emissions associated with fertilizer by incentivizing manure management systems**
- **Support renewable energy projects in agriculture to reduce emissions and generate farm income**

Strategy 5. Strengthen Agricultural Diversity to Expand the Eat Local Market and Increase Farm Incomes

The trend in eating local will not only reduce transportation emissions but is also another way to increase farm incomes. Our focus on a few monoculture crops increases Whatcom County agriculture's vulnerability to climate change and other environmental disturbances, but also to changes in markets. Almost all the food we produce goes to distant markets, and almost all the food we consume is produced elsewhere. This makes us dependent on markets as well as increasing fuel consumption.



Figure 3.13: Coldstream Dairy Farm has installed a three-stage processing system to manage dairy manure and produce water clean enough to be returned to nearby streams.

Reducing this dependence by developing a more diversified local food system would improve climate resilience and support local markets and new income streams for farmers.

Most local dairy farmers receive a nationally set price for their milk, which in recent years has been low enough to cause them hardship, or even induce them to sell out. Independent producer-handlers who sell specialty products locally, often at premium prices, should be encouraged, perhaps through tax breaks or assistance with marketing. Sustainable Connections²²⁹ has a strong collective marketing campaign that supports local food and the businesses that sell it.

Connections between local food producers and consumers, particularly through direct sales, already happen at farmers markets and dockside fish sales, but most large grocery stores sell very few local foods. In specialty markets, consumers will pay more for organic products, and local markets might accommodate most, or all of the *organic* berries grown in the county. Expanding the farm-to-school program²³⁰ in which local schools buy directly from farmers provides children with more healthy alternatives.

Promoting local food systems would facilitate the entry of small-scale farmers. The prosperity of farming depends in part on a trained workforce and access to land. Farm internship programs are gaining popularity.²³¹ As our farming workforce ages, the County should consider programs that provide access to small amounts of land for intensive, diversified vegetable, fruit, grain, and livestock farming. Additionally, farm transition planning is available for families who want to keep their farmland in production or in the family from generation to generation.²³² Washington FarmLink²³³, a program of Tilth Alliance, connects aspiring and experienced farmers to landowners, ensuring that land remains in agricultural production. Sustainable Connections has its Food and Farming initiative²³⁴ which advocates for and strengthens our local food economy and runs a farmer incubator program. Cloud Mountain Farm Center²³⁵ is a nonprofit working farm committed to agricultural education.

The County should adopt a funding mechanism that supports the Whatcom Conservation District's efforts to ensure a sustainable agricultural economy. Currently the Conservation District receives 100% of its funding from grants and contracts. Historically, funding has come from the State legislature through the State Conservation Commission, but this has been declining. Our local Conservation District could do much more to increase soil carbon storage and help local farmers adapt to climate change if they had a guaranteed base of support. [RCW 89.08.405](#) authorizes the County to approve revenues for the Conservation District to support Council priorities, such as those outlined in this CAP. The County

²²⁹ <https://eatlocalfirst.org/elf-for-biz/>

²³⁰ <https://www.whatcomfarmtoschool.org/>

²³¹ https://uploads-ssl.webflow.com/5ec2d4f7da309c68cdc0655a/5f3ffbb650595cedb5952a67_FINAL-Indicator-Fact-Sheet-EO.pdf

²³² <https://www.scc.wa.gov/ofp/transition-planning>

²³³ <http://wafarmlink.org/>

²³⁴ <https://sustainableconnections.org/programs/food-farming/>

²³⁵ <https://www.cloudmountainfarmcenter.org/education/>

Council can approve by resolution an additional annual property rate that may not exceed 10 cents per acre with the maximum annual per parcel rate not exceeding \$5.²³⁶

Key priority for expanding local markets:

- ***Diversify our local agricultural crops to increase climate resilience in our food system, enable eat local options, and increase farm incomes.***

Strategy 6: Encourage Increases in Research and Development of Drought- and Heat-Resistant Agricultural Crops at the state and federal level and Flexible Infrastructure to Support these Crops

The small number of crops currently grown in Whatcom County²³⁷ renders our agricultural economy especially vulnerable to major changes in temperature and precipitation. Providing that water is available, warmer temperatures may facilitate growing new crops, but they may also challenge the viability of currently planted varieties. With decreasing water availability, however, it may be necessary to look for varieties that are more drought-tolerant or heat-tolerant, or even to switch to different crops. In addition, our major crops require specialized infrastructure to produce and process, making it more difficult for farmers to switch crops if this becomes necessary.

Currently, adequate infrastructure exists for berries, seed potatoes, and dairy products, but not for other potential crops. If agronomic and market research indicate that other crops would do well here, especially under anticipated future climate conditions, the County should consider facilitating infrastructure construction and equipment purchase, through loan guarantees, assisting farmers and businesses in obtaining grants and cost-share funding, and develop other ways to make purchase of necessary infrastructure more affordable for farmers. Food processors headquartered in British Columbia and Eastern Washington have recently shown interest in establishing operations here, something the County should encourage.

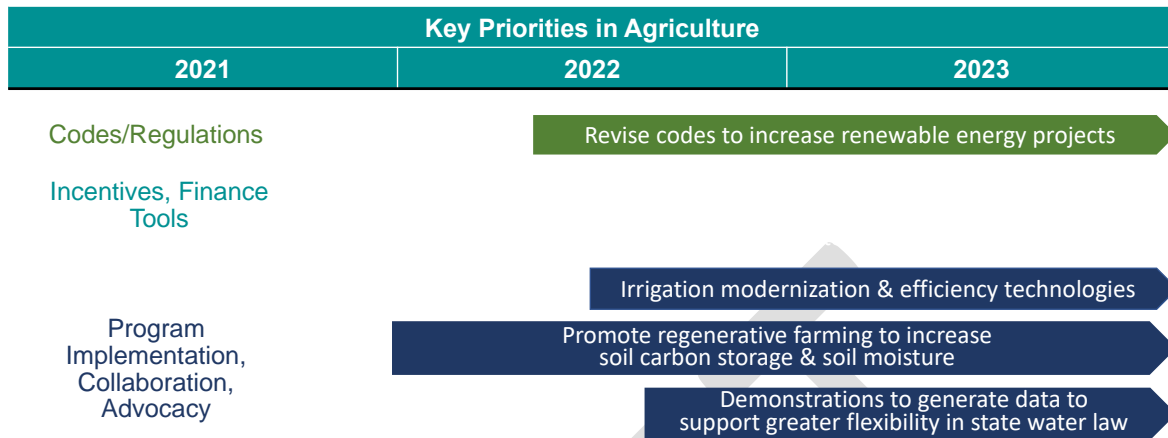
Key priority for local food system

- ***Prioritize development of flexible food processing facilities***

²³⁶ <https://app.leg.wa.gov/rcw/default.aspx?cite=89.08.405>

²³⁷ See 2017 Census of Agriculture
https://www.nass.usda.gov/Quick_Stats/CDQT/chapter/2/table/1/state/WA/county/057

Timeline for Agricultural Priorities



Conclusion

Farming and forestry practices can support the County's efforts in removing greenhouse gases from the atmosphere. Agricultural soils are potentially a large carbon sink and through management of soil health, can be a large part of the climate solution. Climate adaptation strategies in this sector are significant for improving food security and agricultural resilience as well, because many of them contribute to a more robust and inclusive food system, better able to withstand climate impacts.²³⁸

To achieve the ambitious but imperative goals outlined here, we must promote continued collaboration among federal, tribal, state, and local government agencies, conservation and water districts, universities and research organizations, representatives of the farming industry, farm worker social justice organizations, and most importantly, farmers. This will require leadership from the County Council and agencies of the county government, which need to be proactive in promoting innovative, resilient, and adaptive agriculture.

²³⁸ <https://drawdown.org/sectors/food-agriculture-land-use>

Forestry

Forested land accounts for the majority of the natural land cover encompassing over 60% of the county. If managed well, these forests can substantially contribute to carbon mitigation and climate adaptation. Climate disruption is the most important threat to the survival of forests and their viability as a carbon sink. Increasing temperatures, prolonged drought, and extreme weather events – all associated with our changing climate - are leading to larger and more destructive wildfires, flooding, landslides, and pest outbreaks. Forests also play an important role in climate resilience contributing to biodiversity, natural water filtration and storage, and removal of pollutants from the air. It is clear that climate disruption poses not only a threat to forest resources and their environmental benefits, but also to human habitation.

Forest lands contribute to Whatcom's economy, supporting our forest industry, as well as providing extensive educational and recreational opportunities and the jobs that support these sectors. Climate disruption is complicating the future viability of these important economic sectors. Higher overall temperatures and lower soil moisture impacts tree survival during summer months and have already caused a decline in western red cedar and western hemlock.²³⁹ Tree survivability can especially be a problem when reforesting steep south- and west-facing slopes that tend to be hotter and drier.



Adopted from Whatcom Conservation District

Figure 3.14: Drier fuels and forests from changing climate conditions

Further, increased year-round temperatures allow for many invasive species to survive and damage the forest ecosystem. With warmer winters, invasive species whose population numbers and range were previously limited by extended cold temperatures are now able to survive and spread. A notable example of this is the western pine beetle, whose populations in the past were severely reduced each winter is now able to survive mild winter temperatures and cause more extensive damage in Northwest forests. Invasive species, both floral and faunal, may damage the local ecosystem by killing or outcompeting native tree species. In addition, some common invasive species such as Scotch broom and Himalayan blackberry are highly flammable and increase the risk of wildfire spread.

Forests in Whatcom County exist within a variety of jurisdictions and ownerships. Roughly two thirds of Whatcom County forests are located on federal lands including North Cascades National Park and Mount Baker-Snoqualmie National Forest. Non-Federal forestland within Whatcom County is managed or owned by the Washington Department of Natural Resources (DNR), large timber companies, and

²³⁹ Hot, dry weather killing Washington trees, <https://www.king5.com/article/tech/science/environment/hot-dry-weather-killing-washington-trees/281-586640386>. Numerous news organizations have reported on this topic over the last few years.

small acreage landowners. The Lummi Nation manages its forests under the auspices of the Bureau of Indian Affairs.

Goal and Strategies for Forestry

The goal and strategies identified below support the overarching natural resource goal of mitigating emissions, while promoting adaptation and improving forest ecosystem resilience to climate change. These strategies encompass changes that could be made to current forestry practices and additional practices that could improve the sustainability of Whatcom County's forest resources in the future. Many strategies in forestry are also applicable or relevant to other topics in the natural resources section, particularly land use, water resources and ecosystems.

Goal: Ensure a long-term equitable and resilient forest resource in the county by acknowledging, educating, and preserving the benefits from current forest management practices and addressing the impacts of climate change on forest health and adapting forest management practices to this new reality.

Forestry Strategies

1. Protect and enhance carbon storage and sequestration in forest ecosystems
2. Increase forest health, survival and climate resilience through forest management practices that reduce wildfire risk, increase soil moisture, and stream flows, and preserve wildlife habitat
3. Promote climate resilient planning and programs to maintain our forest economy for recreation and wood products through leadership, education, and successful programs.

Strategy 1: Protect and Enhance Carbon Storage and Sequestration in Forest Ecosystems

Whatcom County was part of a pilot study for the Local Governments for Sustainability to develop and test a protocol for estimating the amount of carbon that is removed from the atmosphere through photosynthesis and stored by forests. This protocol is now part of the ClearPath model for GHG assessments. Using data from early 2000 – 2010, the study established a baseline that indicated Whatcom forests are removing about four million metric tons of CO₂e every year, or about half of Whatcom's total emissions in 2017. In addition, Whatcom forests store about 400 million tons of carbon dioxide in total. The county cannot afford to lose this important carbon mitigation resource to wildfires, drought, or disease. Although this forest protocol was not evaluated in the 2017 GHG assessment, it should be included in future county-wide GHG assessments.

The trend in forest carbon storage and sequestration over time might indicate conversions in land use or disturbances such as logging and wildfires. This new ClearPath protocol for forests is definitely a step forward, providing information on the value of our forests; however, it is also important to understand the value of the carbon storage potential for different forest and non-forest ecosystems. For example, wetlands that exist within and outside forests are known to store large quantities of carbon. Carbon storage can vary with soil and vegetation type, so identifying and protecting those lands with a high potential for carbon storage should be a priority.

Another approach that should be considered is the value of setting up a county carbon market or carbon trading to offset GHG emissions. A carbon market establishes a monetary value on carbon sequestration

that would allow landowners to sell carbon credits to companies that want to offset their emissions. For example, under the Climate Commitment Act, carbon offsets can be used for compliance up to limits specified in the legislation. This new source of revenue would incentivize landowners to increase the carbon storage potential through forest management processes like thinning to increase growth rates or extending the rotation age of a forest stand before harvesting. In short, carbon markets offer an opportunity to protect county forests from conversion, encourage more sustainable forest practices and bolster rural economies.²⁴⁰

Key Priorities for Carbon Sequestration and Storage:

- *Identify and preserve the most important forest resource lands based on carbon storage and sequestration potential through i) expanded purchase of forestry conservation easements through Purchase of Development Rights program to rapidly retire development rights where pressure of conversion is greatest, and ii) rezone Rural Forestry to Commercial Forestry to remove development potential.*
- *Establish values and trends in forest carbon sequestration and storage over time using the ClearPath GHG assessment protocol.*
- *Fund a study to evaluate the potential of setting up a carbon market in the county to encourage and reward forest landowners for enhancing carbon storage and sequestration.*

Strategy 2: Increase Forest Health, Survival and Climate Resilience Through Forest Management Practices that Reduce Wildfire Risk, Increase Soil Moisture, and Stream Flows, and Preserve Wildlife Habitat.

Healthy forests are stable, sustainable, and resilient to stress, but most importantly, vital to our future.²⁴¹ Forests provide large quantities of clean water, prevent soil erosion, and provide habitat for a diversity of plants and animals. Defining forest health however is difficult since it is so dependent on location. An ecologist may define the health of forests as those ecosystems that are able to maintain their organization such as species diversity and autonomy over time.²⁴² A utilitarian may define forest health as to the average diameter and height of the trees based on age and species. The US Forest Service's program on Forest Health Monitoring uses a combination of both definitions.

There are 212 permanent forest inventory plots in Whatcom County for monitoring forest health, but only about half of these sample plots have been measured twice since 2002.²⁴³ The county should

²⁴⁰ Whatcom Forests Provide Resilience Amidst Changing Climate, by Ellyn Murphy and Chris Elder. Whatcom Watch, March 2020. <https://whatcomwatch.org/?s=Whatcom+Forests>

²⁴¹ Forest Health Monitoring: National Status, Trends, and Analysis 2020, draft report by Kevin Potter and Barbara Conkling. USDA US Forest Service Forest Health Monitoring Program. https://www.fs.fed.us/foresthealth/publications/FHM_2020_SRS_draft_national_technical_report.pdf.

²⁴² Toward an operational definition of ecosystem health. In: Costanza, R.; Norton, B.G.; Haskell, B.D., eds. Ecosystem health: new goals for environmental management. Washington, DC: Island Press: 239–256.

²⁴³ Community Research Project, Chapter 7 by Ellyn Murphy, 2019. <https://whatcomcounty.us/3162/Meetings-Additional-Information>.

partner with the various conservation organizations to provide more frequent evaluation of sample plots as they relate to forest health. Wetland areas within forest tracts are especially important to wildlife, as well as the overall health of the ecosystem and have large carbon storage potential. Maintaining mature forest cover for these areas is important and may also involve increasing no harvest buffers along perennial and non-perennial streams.

Reforestation and afforestation are challenging under a changing climate. The challenge is to plant a tree today that can withstand the higher temperatures, lower soil moisture, and more frequent wildfires over the next sixty-plus years. Several agencies such as the Washington DNR, Native American tribes and the USFS have initiated progressive programs to confront the risk of climate disruption. These programs are an excellent start but have not always resulted in actual changes in forest management practices, especially for commercial and rural forest landowners.

Wildland fires are a serious and growing hazard threatening life, property, while releasing large quantities of GHGs. Severe wildfires also reduce soil moisture retention by removing organic matter and in some cases volatilizing compounds that can form a water-repellent layer on the soil.²⁴⁴ Milder winter temperatures and more rainfall in the winter and early spring creates a buildup of ground vegetation. During summer droughts this vegetation dries out, becoming fuel for wildfires, and creating conditions more conducive to wildfire spread. Low intensity fires are now widely recognized as a natural process that reduces understory vegetation and facilitated reforestation; the County should explore the judicious use of prescribed burns to counteract the buildup of fuel and excessive density of trees.

With population growth in Whatcom County a significant number of homes and businesses have been built in wildland-urban interfaces (WUIs) – the area where structures and other human development meets or intermingles with undeveloped wildland or vegetative fuels – often increasing the risk of fires and the destruction of property. These interface areas are particularly vulnerable because seventy to ninety percent of wildfires are human caused. Some of these areas, such as Glacier, also lack road access options beyond one way in and out, further raising the risk to property and life.²⁴⁵ The Washington DNR was instructed by the State Legislature in 2018 to map WUIs in each county to mitigate wildfire hazard. This WUI mapping tool is now available for use by counties as a component of understanding and assessing wildfire risk. The intent is to apply stricter international building fire codes in WUI areas to reduce damage.

Resilience in the county's next generation of forests from wildfires, drought and disease will require forest owners to consider different harvesting strategies, specifically timing, size, and shape of harvests to reduce the spread of wildfires, damage from insects and disease, flooding and increasing sediment load in creeks and landslides. Even thinning young forest stands can enhance survival, growth, and carbon sequestration by reducing competition for soil moisture and sunlight as well as provide an opportunity to remove invasive plants. Survival of forests may also depend on a more diversified

²⁴⁴ The Effect of Fire on Soil Properties by Leonard DeBano. Rocky Mountain Research Institute. https://forest.moscowfsl.wsu.edu/smp/solo/documents/GTRs/INT_280/DeBano_INT-280.php.

²⁴⁵ Dye, A.W., J.B. Kim, A. McEvoy, F. Fang and K.L. Riley. 2021. [Evaluating rural Pacific Northwest towns for wildfire evacuation vulnerability](https://usfs.maps.arcgis.com/apps/View/index.html?appid=8630fdb3e88f475fb5304415ce9e03c0&extent=-136.2333,39.1055,-102.4834,50.3252). Natural Hazards, 2021. USFS Wildfire evacuation risk for PNW communities: <https://usfs.maps.arcgis.com/apps/View/index.html?appid=8630fdb3e88f475fb5304415ce9e03c0&extent=-136.2333,39.1055,-102.4834,50.3252>.

portfolio of tree species, an increase in tree spacing where soil moisture is a problem, or even assisted migration-planting stock from seed zones that are adapted to drier conditions. "...a land manager may need to consider appropriate seed lots or seed sources within populations. There may be populations within a species that are more suited to expected climate conditions and acquiring seed sources from those populations may help the species perform well into the future." There are tools to help foresters make decisions about assisted migration including the Climate Change Tree Atlas, and ForeCASTS for species-level considerations and the Seedlot Selection Tool for seed lot and seed source considerations.²⁴⁶

Douglas fir is one of the most predominant trees in western Washington that responds well to different environments. Recent studies have shown that Douglas fir from areas with the coldest winters and driest summers had the greatest drought resistance, not seedlings from the warmest, driest climate.²⁴⁷ This makes sense because the physiological processes that help the tree tolerate dry winter winds and frozen soils also help the tree tolerate summer drought stress. Reforestation projects must consider future site conditions and should use tree stock from seed zones that can survive these conditions.

The Nooksack Salmon Enhancement Association (NSEA) recommended that forests should incorporate mixed landscape for greater diversity that allows shifts in species distribution.²⁴⁸ This can be accomplished by creating a mosaic of patch sizes and age classes for timber harvest and avoiding monocultures. Species diversity has created more resilience in northeast deciduous forests but is rarely considered in the northwest conifer forests where monocultures are the norm.

The county can demonstrate and educate forest landowners by partnering with the Million Tree Project²⁴⁹ to test climate-resilient practices in selected areas where a grassland may be converted to forest land. Large land disturbances may also present an opportunity to establish new genotypes and forest heterogeneity and diversity. Although Douglas fir is one of the most drought-tolerant commercial species in the Pacific Northwest, small rural landowners in the county and county parks might be more willing to experiment with a wider selection of species.

Key Priorities to Enhance Forest Health and Survival:

- ***Increase monitoring of forest inventory plots and use information to revise forest management practices to reflect climate risk.***²⁵⁰
- ***Demonstrate climate resilient species as part of the Million Tree Project.***

Strategy 3: Promote Climate Resilient Planning and Programs to Maintain our Forest Economy for Recreation and Wood Products Through Leadership and Education.

²⁴⁶ <https://www.fs.usda.gov/ccrc/topics/assisted-migration>.

²⁴⁷ Predicting Douglas-Fir's Response to a Warming Climate by Andrea Watts. Science Findings, Pacific Northwest Research Station, US Department of Agriculture Forest Service. Nov. 2015.
<https://www.fs.fed.us/pnw/science/scifi179.pdf>.

²⁴⁸ Taylor, Lindsay and Henson, Kayla, Model Forest Policy Program, the Cumberland River Compact, and the Nooksack Salmon Enhancement Association "Forest and Water Climate Adaptation: A Plan for Whatcom County, WA," December 2010.

²⁴⁹ Whatcom Million Trees Program, www.whatcommilliontrees.org.

²⁵⁰ The Forest Health Watch website <https://foresthealth.org/>.

Whatcom County has a large financial stake in promoting a strong and vibrant forest industry as well as healthy forests on protected lands. According to the State Department of Commerce,²⁵¹ forestry contributed 1,889 direct jobs and over 3,000 indirect or induced jobs²⁵² in Whatcom County in 2017. These jobs translated into \$220 million in wages and \$5.8 million in taxes and fees.

The county can play an important leadership role by incorporating climate change risk into all aspects of the Comprehensive Plan. Forest zoning and new roads and developments all have an impact on forest health and survival under a changing climate. Many of the issues are complex and cross cutting such as the competing interests between the timber industry, watershed management, recreation, and preservation of important ecosystem functions.

Support and partnerships with local organizations that educate the public about the important role of natural resource management in promoting climate resilience and producing food and fiber can sustain our local economy, environment, and wellbeing. The County can also use its purchasing power to buy locally sourced lumber for all county building projects and promote this concept to local builders. County efforts in economic development should encourage the research and development of new forest products such as cross-laminated timber that can reduce the carbon footprint of new buildings.

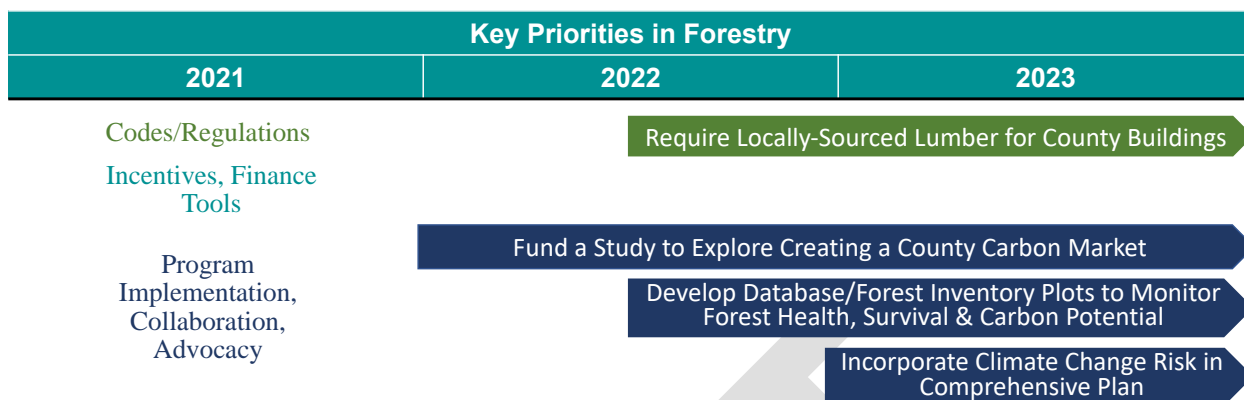
Key Priorities in Forest Climate Resilience Planning and Programs:

- ***Incorporate climate change risk in all aspects of the Comprehensive Plan on forests and land use.***
- ***Support local organizations that educate the public about the important role of natural resource management in promoting climate resilience.***
- ***Use county economic drivers and influence to promote locally sourced lumber and development of new wood products such as Cross Laminated Timber.***

²⁵¹ Washington State Department of Commerce, <http://data.workingforests.org/#Whatcom>.

²⁵² Economists define indirect as those jobs created as a result of the direct jobs, while induced are jobs within the supply chain.

Timeline for Forestry Priorities



Conclusion

Climate change dictates that we must anticipate and be prepared for rapid changes in forest management practices in commercial, rural, and recreational forests. Rapid change in a sector that is accustomed to fifty to sixty years between planting and harvesting is challenging. What works today might not work in a decade or half century. Although we cannot say with absolute certainty how forests will respond to a changing climate, we can incorporate and test new ideas that may preserve a forest industry for future generations.

Forestry research on climate change has been going on for at least twenty years but has intensified over the last decade. Incorporating climate change vulnerabilities into reforestation plans should become routine, rather than an exception. The county should support and partner with organizations that hire stewardship foresters such as the Whatcom Conservation District, Washington State University Extension Forestry, Tribes, and others. We can adapt and build resilience into our forest resources and maintain this vital resource for future generations. As with all change, communication and education are critical.

Ecosystems

Whatcom County ranges from the Cascade Mountains to the lowlands to the Salish Sea creating a wide range of diverse ecosystems. Despite the alterations of the landscape and impacts on wildlife over time, Whatcom County remains an area of significant biodiversity. The County is characterized by 36 general habitat types and presently has 433 non-fish vertebrate species, including 15 amphibians, 8 reptiles, 320 birds, and 86 mammals.²⁵³ Adding fish species to this list, there are well over 500 vertebrate species known to occur. Whatcom County is also home to over 1,100 species of plants as well as an unknown number of fungi, invertebrates, and other organisms on which the higher forms, including humans, depend.

Our ecosystems maintain many environmental processes that benefit humans, sustaining life as we know it. There are countless ecosystem services that humans and animals alike depend on for our health and wellbeing, but they generally fall into four broad categories: 1) *provisioning*, such as food products or water resources; 2) *regulating*, such as stabilizing climate and limiting disease; 3) *supporting*, such as nutrient cycling, carbon storage and oxygen production to maintain life; and 4) *offering cultural services*, such as spiritual benefits and recreational opportunities.²⁵⁴ All of these ecosystem functions require healthy ecosystems.

Impacts from climate change are already affecting the health of ecosystems in Whatcom County.²⁵⁵ Shorelines and stream banks are being degraded by storm surge and flooding, salmon runs are threatened, western red cedar trees are dying, and native plants are migrating to more favorable growing zones. Climate impacts are likely to worsen without intervention. Ecosystem services that help us stabilize the climate and adapt to a changing climate are essential to human well-being and require immediate attention.

Ultimately, planning for climate change may be viewed as a form of risk management with the goal of building resilience to climate change impacts. By implementing the strategies and actions in this document we may avert, lessen, or adapt to some of the expected consequences of climate change. For example, adaptation strategies such as landscape-level planning can play an important role in controlling outbreaks of pests and diseases, and improving risk sharing and transfer mechanisms. Land use decisions the County makes today will either reduce the effects of climate change in the future or worsen the economic and environmental toll. Consideration of climate change in all of the County's land use policies and regulations can significantly reduce this damage to our economy and quality of life.²⁵⁶

²⁵³ Whatcom County 2017 Ecosystem Report, prepared by the Wildlife Advisory Committee.
<https://www.whatcomcounty.us/DocumentCenter/View/30221/2017-Whatcom-County-Ecosystem-Report-Final?bidId=>

²⁵⁴ Kershner, D. 2019, Chapter 8, Land Use, Recreation, and Wildlife and Habitat. 2019 Community Research Project, prepared for the Whatcom Climate Impact Advisory Committee.
<https://whatcomcounty.us/3162/Meetings-Additional-Information>

²⁵⁵ Mauger, G.S., et. al. 2015. State of Knowledge: Climate Change in Puget Sound. Report prepared for the Puget Sound Partnership and the National Oceanic and Atmospheric Administration. Climate Impacts Group, University of Washington, Seattle. doi:10.7915/CIG93777D

²⁵⁶ Kershner (n 40)

Providing information on climate-related risk can improve the capacity of land managers and enable timely decision making. A risk management approach may also save resources, amplify social resilience, support ecological restoration, and foster engagement and collaboration between multiple stakeholders. Due to the complexity of challenges and the diversity of actors involved in addressing land use challenges, a mix of policies, rather than single policy approaches, can deliver improved results in addressing the complex challenges of sustainable ecosystem management and climate change. An example of a risk-based adaptive policy mix is combining universal access to early warning systems with effective contingency planning.

Goal and Strategies for Ecosystems

Ecosystems and their component elements, including biodiversity and associated processes, are vulnerable to ongoing, gradual changes in climate, and extreme perturbations from storms, floods, droughts, or wildfires. Resilience is defined as “the capacity of a system to absorb disturbance and reorganize while undergoing change so as to still retain essentially the same function, structure, identity, and feedbacks.” The following overarching goal is designed to maintain the health of local ecosystems in the face of a changing climate:

Goal: *Develop climate resilient ecosystems by protecting and restoring ecosystems and the carbon they store and maximizing ecosystem health to enhance carbon sequestration.*

The strategies that support this goal fall into three main categories: i) Protecting existing ecosystems and the carbon they store (strategies 1 and 2; ii) Restoring natural ecosystems (strategy 3); and iii) Ensuring healthy ecosystems to maximize carbon sequestration (strategies 4 and 5).

Strategies for Ecosystems

1. Increase community awareness about the importance of healthy, climate-resilient ecosystems to our economy and quality of life.
2. Incorporate projected climate change impacts into revised land use and development codes to reduce damage to healthy ecosystems and increase the climate resilience of vulnerable ecosystems.
3. Provide technical, logistical, and financial support for community efforts to restore and enhance ecosystems.
4. Implement long-term monitoring to assess the impact of climate on ecosystem health.
5. Preserve and enhance ecosystem health to build climate resilience in our hydrologic processes, air and water quality, carbon storage, and ecological connectivity.

Strategy 1: Increase Community Awareness about the Importance of Healthy, Climate-Resilient Ecosystems to our Economy and Quality of Life

Ecosystem services such as carbon sequestration and storage should play a central role in our climate change response, both toward achieving net carbon neutral or net negative targets and as a by-product of the other goals described below. Community awareness of the importance of ecosystems is, in general, low. Wetland, estuary, and forest ecosystems are capable of storing much more carbon than

they release. This stored carbon accumulates in soil and sediments, live plant and animal tissues, and wood products, and in some instances (e.g., in peatlands and conifer forests of the Pacific Northwest) can serve as a carbon sink for centuries. Enlisting community support for protecting these critical ecosystems is essential.

Community awareness starts at the County level. The protection of ecosystems from climate and human impacts must be reflected throughout the Comprehensive Plan and the codes and regulations associated with land use (strategy 2). The County should also support our local non-profit organizations that enlist public volunteers in environmental projects and promote climate change education in our local school systems.

Strategy 2: Incorporate Projected Climate Change Impacts into Revised Land Use and Development Codes to Reduce Destruction and Increase the Climate Resilience of Vulnerable Ecosystems

Protecting land for recreation and wildlife habitat generally provides ecosystem services that are essential to the resilience of society in the face of climate change. These ecological benefits, which are freely provided when ecosystems are properly functioning, include such services as wood products, fish, clean drinking water, flood control and natural pollination of crops.²⁵⁷

A meaningful response to climate change will require changes in the land use code. It will require increasing the pace of protection of working lands, recreation lands, habitat, and ecosystem restoration activities, as well as the scale of investment in these efforts. If there is going to be growth in Whatcom County that doesn't make us even more vulnerable to climate change, the County government needs to do a better job of focusing development in existing urban areas, while devoting more resources to protecting farmland and forest lands, shorelines, and riparian corridors and to restoring habitat. Low density development is one of the key contributors to carbon emissions.²⁵⁸

Currently, the County allows wetland mitigation projects in new developments, which simply means that a wetland can be removed if a comparable-size wetland is created elsewhere. Studies have shown that wetland mitigation projects are not providing the ecosystem services equal to what is being lost to permanent development.²⁵⁹ At the very least, the mitigation project should be required to catalogue the ecosystem functions and demonstrate how they would recreate these key functions. Climate vulnerability assessments should also be considered for significant land use changes.

Strategy 3: Provide Technical, Logistical and Financial Support for Community Efforts to Restore and Enhance Ecosystems

Retaining, restoring, and expanding critical habitats can have outsized positive benefits. Planting trees in non-forested areas such as grasslands is an excellent example of increasing carbon sequestration and provides a host of ancillary ecological services. Enhancing carbon storage also requires protecting accumulated carbon in vegetation and soils from future catastrophic loss (or "sink reversal") triggered by disturbances such as flood, drought, fire, or pest outbreaks, or future poor management.

²⁵⁷ Kershner (n 40)

²⁵⁸ Kershner (n 40)

²⁵⁹ Chandrasekhar, A., How effective is restoration at recreating wetlands? The Economics of Ecosystems and Biodiversity blog, published December 24, 2013. <http://www.teebweb.org/how-effective-is-restoration-at-recreating-wetlands/>

Many local non-profit organizations are involved in restoring and enhancing natural ecosystems by expanding riparian zones and purchasing wildlands for preservation. These organizations are well-equipped to do this work and should be supported by the County.

Strategy 4: Implement Long-Term Monitoring to Assess the Impact of Climate on Ecosystem Health

Maintaining and enhancing ecosystem health ties together both strategies 4 and 5. Ecosystem health is the indicator or measure of the well-being and natural condition of ecosystems and their functions. The most important aspect of measuring ecosystem health is that it provides a baseline for assessing changes over time, especially the changes that are occurring as a result of climate change. Both the Critical Areas Ordinance and the Shoreline Management Program have no standards for net loss of ecological function, nor does the County directly monitor ecological function over time. Baseline information on the health status of ecosystems in the County is sorely lacking.

Much of the needed information on ecosystem health can be accomplished by expanding County-sponsored citizen science programs, modeled after programs sponsored by the Marine Resources Committee. The County can also enlist and help fund local conservation organizations to help create a system for measuring ecosystem health and periodic monitoring of designated ecosystems in the County. This information on ecosystem health, along with considering cross-cutting strategies and actions in the other areas covered in this section on the Natural Environment, will assist prioritization of the projects presented in strategy 5.

Strategy 5: Preserve and Enhance Ecosystem Health to Build Climate Resilience in Our Hydrologic Processes, Air and Water Quality, Carbon Storage, and Ecological Connectivity

Enhancing ecosystem health is important because climate-induced stressors are projected to increase, including more intense rainfall events, floods, periods of extreme heat, drought, and wildfire, higher sea levels and damaging waves. In Whatcom County, ongoing coastal erosion will only intensify as sea levels rise, adding to land use pressure. A pro-active strategy is needed to restore, revegetate, and strengthen coastlines and estuaries to withstand changing conditions. Great attention needs to be focused on preserving and enhancing ecosystem resilience to compensate for projected extreme impacts if climate policy falls short.

Ecosystems most at risk are those that are already degraded or near the limits of tolerance. Low resilience may be exacerbated by loss of key species, introduction of invasive species or diseases, and reduction and fragmentation of habitats, factors that may or may not be related to climate change. As such, reversing or mitigating these factors can increase ecosystem health and climate resilience. For example, reintroducing American beaver can help adapt to declines in glaciers and snowpack, which impact summer streamflow, because they help store more water in wetland and riparian areas.

Restoring saltwater wetlands is an effective strategy for sequestering carbon, while improving habitat for salmon and migratory birds. Western Washington University researchers John Rybczyk and Katrina Poppe have studied sediments in at the Nature Conservancy's Port Susan Preserve, where dike removal and lowering of another dike have begun the process of restoring a 150-acre portion of the

Stillaguamish Estuary. These researchers have found that restoring the marsh has resulted in twice the carbon sequestration of other marsh properties outside the restoration zone.²⁶⁰

Additionally, enhancing the connectivity of natural areas will facilitate the movement of plant and animal communities to more suitable climate zones in more northerly latitudes and higher elevations.²⁶¹ Consultants to the County recommended in 2005 that the impact of development projects on wildlife connectivity be considered in development permitting. The County Council didn't approve the change²⁶² but this issue should be revisited.

Sustainable ecosystem management can also contribute to resiliency in various ways, through reducing extraction of natural resources, expanding protected areas, combatting invasive species, and managing for species at risk. Ensuring that all components that make up an ecosystem function effectively is essential for the overall health of our natural resources.

The County has tools to address strategy 5, including the PDR program and potentially creating a county-wide carbon offset program that would value carbon storage and compensate property owners who voluntarily protect and enhance their carbon stores. This cross-cutting carbon offset market would apply to forests and agricultural lands in addition to ecosystems.

Key Priorities for Ecosystems:

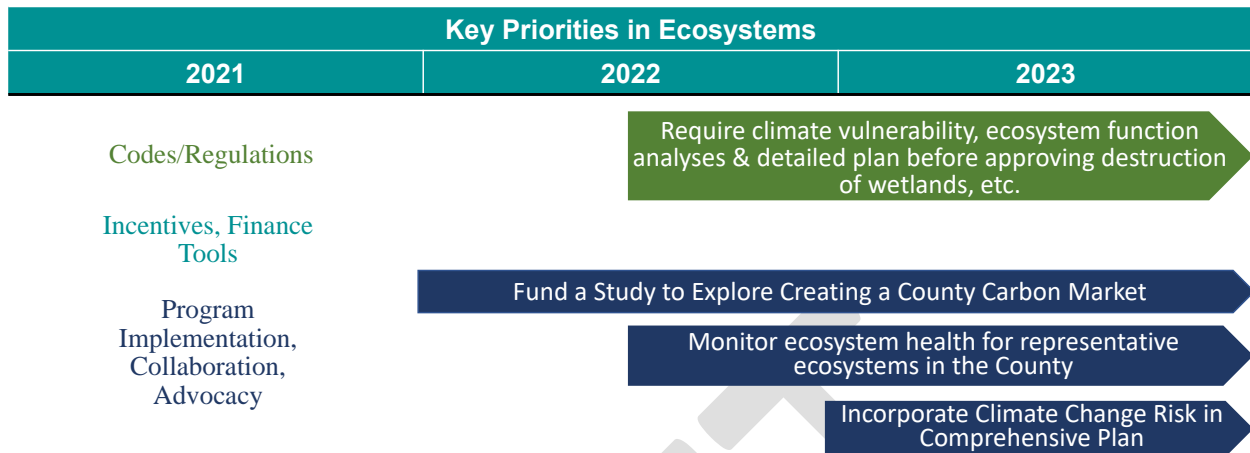
- *Increase funding and community awareness of ecosystem restoration projects.*
- *Create a system for monitoring ecosystem health over time and apply to representative ecosystems in the County.*
- *Require climate vulnerability analysis, ecosystem function assessments, and a detailed plan to recreate these functions before approving any destruction of wetlands or other critical ecosystems.*
- *Broaden the County PDR program and develop a carbon offset market.*

²⁶⁰ Grace-Sanders, J, "A saltwater marsh in recover is gobbling carbon, gaining ground," *Seattle Weekly*, August 29, 2019

²⁶¹ Krosby, M., et.al. 2016. The Washington-British Columbia Transboundary Climate-Connectivity Project: Identifying climate impacts and adaptation actions for wildlife habitat connectivity in the transboundary region of Washington and British Columbia. Climate Impacts Group, University of Washington.

²⁶² Parametrix et al., Critical Areas Ordinance Best Available Science Review and Recommendations for Code Update, Prepared for Whatcom County, May 2005.

Timeline for Ecosystem Priorities



Conclusion

Healthy ecosystems will provide greater climate resilience for Whatcom County. Healthy ecosystems and the essential services they provide are not only necessary for sustaining our economy, but also contribute to the high quality of life in this County. Protecting sensitive ecosystems and habitat should be a top priority for the County, with restoration as a second priority, because it is cheaper to prevent damage than to try to fix it. Creating climate resilient ecosystems now will help us avoid potential irreversible damage over the next decade.

SECTION 4 - IMPLEMENTING THE CLIMATE ACTION PLAN

Office of Climate Action

The message of this Plan is clear. Section 1 explains why we must act quickly and decisively. We must mitigate the effects of our activities on the local and global climate, and we must adapt to those effects of changing climate that are beyond our ability to mitigate. Sections 2 and 3 outline specific, detailed, scientifically backed actions that we need to take in order to accomplish our mitigation and adaptation goals.

The County needs to place high priority on reducing greenhouse gas emissions and building climate resilience in our communities, while ensuring an equitable transition for those whose jobs and livelihoods may be affected by climate change and climate action. This final section proposes an organizational structure for effectively implementing climate action.

To be effective, the County must act according to the guiding principles laid out in Section 1 with emphasis on urgency, environmental and social equity and justice, transparency, and accountability. The County must also exercise leadership, promote systems-level solutions, and employ best available science and management practices. The inevitable transition to net zero emissions will have an enormous impact on Whatcom County's economy, which is home to two refineries that represent almost 2,400²⁶³ highly skilled jobs. Whatcom County must be a leader in facilitating this economic transition to be competitive in the rapidly evolving clean energy future.

We propose that the first step toward climate resilience is to establish an Office of Climate Action within the County Government, headed by a senior Climate Advisor and located in the County Executive's Office. This Office needs to exercise leadership in addressing the three areas of concern that emerged in the 2019 Community Research Project coordination, information, and community engagement.

Coordination

The sheer number of strategies and actions presented in this plan's Appendix illustrates both the challenge and urgency needed to address climate disruption. We believe that to realize the full potential for climate action, the County needs a single office responsible for coordination, data collection and communication. As the County works toward more effective climate action, many departments will continue the important work they are doing now and much of their expertise will be needed to address the strategies and actions outlined in this plan. The job of the Office of Climate Action should be to coordinate programs that draw on this expertise, seek and secure funding for climate related activities, and ensure that County departments are aware of each other's plans and activities work in concert to achieve climate action goals, and act according to the principles of urgency, equity, transparency, and accountability. In particular, the Office of Climate Action can help the County take full advantage of increasing opportunities for funding of climate-related projects such as the Washington Clean Energy Fund, various funds established under the 2021 Climate Commitment Act, and any new federal grant opportunities that address climate change.

²⁶³ Hodges, H., A. Rucker, J. McCafferty, March 2019. Employment at Cherry Point, Exploring the economic impacts of Cherry Point on Whatcom County. Prepared by the Center for Economic and Business Research, Western Washington University. The number of jobs includes *bp*, Phillips 66 and Western Refinery Services.

To ensure coordination in addressing all aspects of the Climate Action Plan, the Office of Climate Action should be housed in the office of the County Executive, rather than in any particular department. In some cases, continuing the work of the existing Climate Leadership Committee, to be chaired by the Senior Climate Advisor, may be the most expedient way to ensure this coordination. In addition, it is vital that all County agencies consider climate effects when deciding and implementing policy; the Office of Climate Action can help agencies see their own particular responsibilities through a "climate lens."

In addition to coordinating key climate priorities and programs, the Climate Advisor should actively coordinate and cooperate with those organizations and communities in Whatcom County and beyond who will be affected by climate change and who can be partners in the effort to mitigate and adapt to it. Within the County, these include tribes, city governments, school districts, water and conservation district, ports, utilities, labor organizations, agricultural organizations, businesses, media, and community advocacy groups. Partners outside the county include neighboring counties, state and federal agencies, local and provincial governments in British Columbia, and state and national climate advocacy organizations.

In order to carry out these tasks of leadership, the Senior Climate Advisor should have wide experience in government and corporate relations, as well as technical and policy knowledge of the nature of the climate crisis, basic climate science, and energy policy. In addition, an important part of leadership is problem-solving and identifying opportunities. It is inevitable that, in the next few years as we move toward carbon-neutrality and climate resilience, unexpected problems and opportunities will arise. The current world-wide transition to net zero emissions is promoting rapid advances in technologies, so flexibility and willingness to change strategies are critical. The Senior Climate Advisor should have the ability to think creatively and adaptively, where necessary recommending that the County adjust and update climate policies and actions as our knowledge and experience grow, and local conditions change.

The Office should also consider engaging interns from local colleges and universities to undertake specific, time-limited tasks.

Information

Accurate and current data and information resources are essential for effective climate action and for compliance with our principles of transparency and equity. The Office of Climate Action should exercise leadership through collecting and disseminating vital information about climate change and about the County's progress in addressing it. In order to carry out the informational aspects of the Office's mission, the Advisor should be assisted by a technical information specialist who can compile and disseminate information regarding climate change and the County's progress in climate action.

The information specialist should have experience in climate-related data and information science. Data compilation services will include tracking and modeling emissions with the ClearPath model, updating information on energy savings from facility upgrades or other investments made to enhance climate resilience, monitoring information on climate programs at the state and federal levels and in neighboring counties and maintaining an online dashboard for the County on climate progress.

In addition to *collecting* information, the office should be a readily available *source* of reliable information. The public will be most interested in the impacts on workforce transition, jobs, equity, and

the environment over time. The Office should regularly inform the public about our climate goals and our progress toward achieving them. Thus a transparent, public-facing dashboard of county climate-related data and information will be essential. The Office should also provide testimony when required to relevant state and federal bodies on climate legislation and rules that facilitate our County climate goals.

The Office can also serve as a source of information about the County's ongoing and future programs of climate action. For example, the County has upgraded facilities to increase energy efficiency, reducing operational costs and saving taxpayers money. However, actual reporting on these savings is hard to find. Another example is the County-instituted a purchase of development rights program that can increase climate resilience by preserving and enhancing open space, high value working lands, and ecosystem services. This program is important and deserves much greater visibility.

In addition to compiling relevant data and making them available to county staff and the public, the Office should consult where appropriate with academic, government, and foundation experts on the biophysical, economic, and social aspects of climate change.

Community Engagement

Coordinating climate action and collecting and disseminating climate information will only be effective if the public understands the urgency of climate action and knows that this Plan is being carried out in a just, equitable, and transparent manner. For this reason, the Office of Climate Action needs to take a broad range of actions to inform, influence, and secure support from the general public in our County.

As soon as it is established, the Office should mount a campaign through print, electronic, and social media to explain the Climate Action Plan. It should enlist members of CIAC, academic and scientific experts, and advanced university and college students to give presentations to variety of interested organizations and community stakeholders.

The Office should also request that to kick off the implementation of this Plan, the County Executive and the Climate Advisor hold a public, town-hall type meeting to announce and promote the Climate Action Plan and hold yearly town-hall meetings thereafter to report on progress and discuss issues regarding the implementation of the Plan.

The Office should develop an outreach plan with local organizations involved in conservation, sustainability, and environmental education to inform the community on climate change. The main focus of this educational outreach would be school districts, but it is also important to reach out to community organizations that can help spread the message of the importance of climate action.

Role of the Climate Impact Advisory Committee

The County Council established the Climate Impacts Advisory Committee in 2017. Its mandate includes both providing expert advice to the County Council and Executive and serving as “a conduit to the public for information exchange, education, and engagement.” We recommend that the Office of Climate Action take advantage of the expertise and experience of CIAC members to carry out aspects of its mission.

The Committee should continue the active role it began with the Community Research Project in 2019 and has continued with the compilation of this Plan. In accordance with its enabling legislation, it should be prepared to advise the County Council on cross-cutting projects that will enhance climate resilience, changes to the Comprehensive Plan and existing codes, budgetary priorities, and possible sources of funding for climate action. CIAC members can provide their own expert advice, consult with scientific and policy experts, and help with community outreach as directed by the Office of Climate Action. An important function of the CIAC is advising the Office of Climate Action of new, emerging technologies and opportunities to provide a systems-level approach to achieve climate resilience.

To take full advantage of CIAC's role, the Climate Advisor needs to serve as the County liaison to the committee. We recommend that in the future, when citizens apply for CIAC vacancies, the Climate Advisor should recommend to the County Council those applicants that might best meet the needs for specific expertise and community representation. The Committee can thus serve as volunteer advisers to the Office on general policy directions as well as on specific projects and their implementation.

Funding

To be effective, the Office of Climate Action needs adequate funding. We fully realize that funds are scarce in a time of economic uncertainty, but we also believe that action is urgent and imperative to simultaneously help combat climate change and recover the economy. Strategic investments made now can save the County both money and effort in the future. We therefore recommend that the County Council allocate funds for the Office of Climate Action immediately, including supporting the Senior Climate Advisor and the information specialist as permanent positions beginning in fiscal year 2022. Staffing the Office of Climate Action, in turn, will enable the County to seek and secure outside funding for specific actions recommended in this Plan. Without such staffing, it may be difficult to take full advantage of the increasing opportunities to secure funding for climate mitigation and resilience.

Whatcom County is competing with other communities to be a leader in Washington state for the clean energy transition, as the state rapidly replaces fossil fuels in its economy. This transition will create the jobs needed to compete worldwide over the next several decades. A successful transition will also provide Whatcom County with the skilled workforce needed to effectively compete in the 21st Century and a stable, growing economy.

Once the Office of Climate Action is established, it can coordinate proposals for grants requests that are already available and should become increasingly so over the next two years. The State Department of Commerce is sending out requests for proposals for the Clean Energy Fund, including for example energy retrofits for public buildings. Other state sources, such as the funds appropriated in the various transportation-related bills detailed in Transportation, should also come online soon. The infrastructure bill currently being negotiated, in whatever form it passes Congress, will almost certainly include many programs that can enable many of the recommendations made in Section 2 on the Built Environment.

Other possible sources include the Amazon Climate Pledge Fund ²⁶⁴and the Gates Foundation's Breakthrough Energy Ventures. In addition, the Office can collaborate with universities to seek funding for research, including for example agricultural programs through WSU and marine ecology programs through WWU and UW. A combination of all these sources could provide funds for GHG emission reductions, ecosystem adaptations, equitable job transitions, and climate resilience. But it takes time to pursue grants, loans, and collaborative projects, and we believe that quickly establishing and funding the Office of Climate Action is a timely investment that will bring immense returns in the form of money for desperately needed climate action measures.

Key Priorities for Implementation

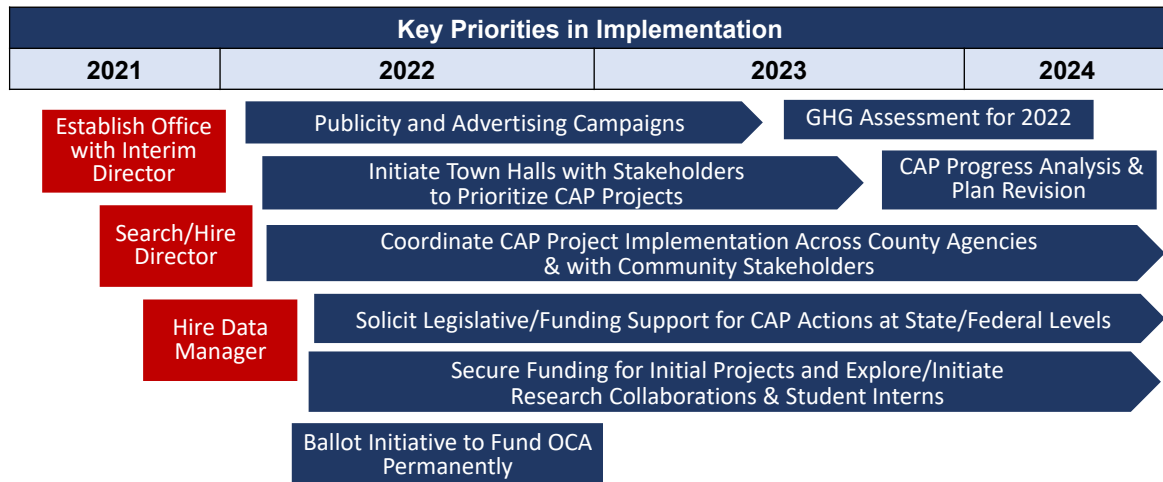
- *Establish and staff the Office of Climate Action, with a full-time Director and a data analyst.*
- *Seek outside funding for specific programs and projects including mitigation, adaptation and transitioning the skilled workforce for the future low-carbon economy.*
- *Mount a publicity and education campaign to increase public awareness of and commitment to climate mitigation and adaptation.*

Timeline for Implementation

Signs of climate change are increasingly apparent, and its effects have potential to devastate our communities. Now is the right time to take concerted action. We thus recommend that the Council direct County leadership to further refine the functions and duties of this Office of Climate Action within the current County government organizational structure. County leadership should appoint an interim Climate Advisor (probably from current County staff) to begin setting up the Office while the search for a permanent Advisor is proceeding, with the goal of having the permanent Advisor working at the start of 2022.

As soon as the interim Advisor is in place, the Office can begin to prioritize specific projects in climate mitigation and adaptation, as recommended in Sections II and III of this Plan. High-quality, timely, well-targeted projects will be more successful in securing authorization and funding. The Office should begin by consulting with relevant experts (County staff, members of CIAC, or others) to develop concrete project plans for County approval and proceed as rapidly as possible to pursue funding and begin these projects. When the permanent Climate Advisor is in place, they can continue with the projects already started and begin working on others.

²⁶⁴ <https://sustainability.aboutamazon.com/about/climate-pledge-fund>



Concluding Thoughts

It is an oft-repeated cliché that reports are written in order to gather dust on shelves in government offices. With the present state of the global and local climate crisis, we do not have the luxury of dust-gathering. This report is written in the spirit of both urgency and optimism—we are in a crisis and all of us we must act now, involving government, stakeholders, and citizenry. At the same time, we have the knowledge, commitment, and planning to make a difference *for our communities and our environment* before it is too late. Organizing for effective climate action, as outlined in this Section, can give us both the hope and the tools to implement the concrete recommendations contained in Sections 2 and 3 of this report.

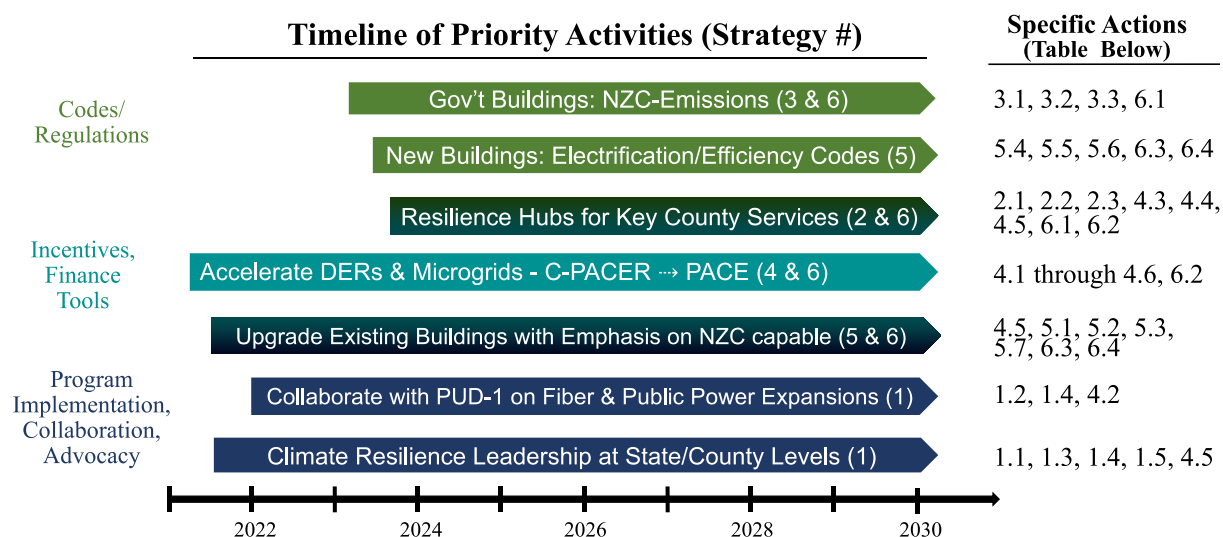
SECTION 5 - APPENDICES

Electricity and Buildings Appendix

We would like to acknowledge the following individuals who responded to our request for technical review and provided valuable insight for this chapter:

Reviewer	Organization or Technical Area
Hunter Hassig	former CIAC member, PSE Energy Advisor
Imran Sheikh	CIAC member, WWU Asst. Prof. Institute for Energy Studies
Eddy Ury	CIAC member, energy policy
Phil Thompson	CIAC member, retired WWU economics & energy professor
Emily Kubiak	Sustainable Connections & Community Energy Challenge
Rose Lathrop	Sustainable Connections, Buildings
Erin McDade	Architecture 2030
Atul Deshmane	PUD1 Commissioner
Markus Virta	President, WA Solar Energy Industries Assn.
Mark Schofield	Mgr-Community Energy Challenge
Ted Clifton Sr	Clifton View Homes, net zero energy home design and construction
Christine Grant	WWU Adjunct Instructor Energy Policy; PUD1 commissioner
Sarah Vorpahl	Dept of Commerce, State Energy Strategy
Austin Scharff	Dept of Commerce, State Energy Strategy
Rob Ney	Whatcom County Facilities Manager
Ray Kamada	Kamada Science and Design
Deepa Sivarajan	Climate Solutions – WA Policy Mgr

Timeline of Actions



Electricity and Buildings Actions and Benefits

1. Assert County leadership in state legislation, regulatory matters (WUTC and Commerce), and electric utilities operations that enables implementation of Whatcom climate strategies and facilitates a 45% reduction in GHGs by 2030.	
Actions	Benefits
<p>1.1 Climate advisor participation in WUTC rule making and legal proceedings examining utilities compliance with CETA.</p> <p>1.2 Pass a resolution to co-fund a municipalization study with Whatcom PUD-1 that would accelerate the use and development of renewable energy and give residents options.</p> <p>1.3 Identify areas where large scale solar or wind could be located and facilitate county regulations for deployment.</p> <p>1.4 Partner with PSE and/or public utilities and residents with cost-competitive utility scale options for renewable energy.</p> <p>1.5 Support state-wide legislation through testimony/letters that will help achieve GHG goals for 2030 (e.g., VNM,²⁶⁵ PACE).</p>	<ul style="list-style-type: none"> • Provides competition to lower consumer electricity costs while at the same time expanding renewable electricity. (1.1, 1.2, 1.5) • Virtual Net Metering/community solar allows renters and low-income households to access renewable energy. (1.3, 1.4) • Actions directly address equity issues and accelerate use of renewables. (1.4,1.5) • Creates new local jobs. (1.4,1.5)
2. Create resilience hubs for key community services throughout the county. Collaborate with utilities to identify needed Transmission and Distribution investments.	
Actions	Benefits
<p>2.1 Work with communities in the County to identify public buildings, such as schools, fire departments, etc., for community solar/battery projects and resilience hubs.</p> <p>2.2 Fund a study to evaluate and prioritize resilience hubs and microgrids (identified in 2.1) to fortify key emergency and public services and provide clean energy power in the event of a disaster and community benefits during normal times.</p> <p>2.3 Promote underground utility lines in areas of the county where frequent outages occur due to downed distribution lines (or target emergency battery backup where needed).</p>	<ul style="list-style-type: none"> • Better address customer electricity needs across the county and provide climate resilience. (2.1, 2.2, 2.3) • Allows the county to focus efforts on areas that are currently underserved and create more equity. (2.2) • Creates local jobs (2.1, 2.3)

²⁶⁵ VNM is Virtual Net Metering is required in many states, but not Washington. VNM is an accounting/billing process that is offered by some utilities, such as the Snohomish PUD and OPALCO, to compensate customers who have partial ownership in community solar or wind projects. This mechanism can provide equity to customers who rent or cannot afford rooftop solar.

3. Leading by example: electrify end uses in County government buildings, install renewable energy and energy storage where feasible to reduce energy operational costs and GHG emissions.

Actions	Benefits
<p>3.1 Develop a multiyear master plan for up-grading/consolidating county government facilities while meeting GHG targets.</p> <p>3.2 Work with the utility to install behind the meter battery storage systems, rooftop solar on county government buildings and EV charging infrastructure.</p> <p>3.3 Commit to NZC emissions for new county government buildings and facilities.</p>	<ul style="list-style-type: none"> • Take advantage of the window of funding over the next few years from state, federal, and private foundations. (3.1, 3.2, 3.3) • Batteries and rooftop solar show a commitment to saving operating costs and leadership in promoting a local clean energy economy. (3.2) • Transparency and urgency needed to address climate change. (3.3)

4. Create a community wide focus on *buildings as grid assets* to accelerate the use of clean Distributed Energy Resources (DERs) and microgrids to reduce peak electricity demand, optimize the grid, and provide electricity to buildings when the utility grid is down.

Actions	Benefits
<p>4.1 Advocate the use and demonstration of demand response with local utilities to reduce daily peak electricity and modernize control of the grid.</p> <p>4.2 Pass a resolution to support PUD-1 broadband deployment to facilitate DERs.</p> <p>4.3 Identify electricity distribution limitations where DERs and microgrids should be added to promote climate resilience.</p> <p>4.4 Deploy energy storage in targeted locations where batteries can provide more than one function (i.e., peak demand reduction and outage backup).</p> <p>4.5 Pilot C-PACER program in 2021, PACE in 2023.</p> <p>4.6 Maintain a publicly available dashboard of up to date, DERs and grid-connected renewable energy resources over time against target GHG emissions to show progress.</p>	<ul style="list-style-type: none"> • Optimize grid to accommodate EVs and gas appliance conversion to electricity. (4.1, 4.2) • DERs can postpone investments in distribution lines and reduce peak electricity demand, while providing clean power (and backup power) to underserved areas. (4.3, 4.4, 4.5) • Provide intraday storage of energy from intermittent renewable resources. (4.1, 4.4) • Creates new jobs in <i>clean</i> energy. (4.4, 4.6) • Allows building owner, regardless of income status, to defer the upfront cost of efficient electric space and water heating <i>accelerating adoption</i>. (4.6, 4.1) • Transparency and accountability (4.1 through 4.6)

5. Moving to net zero: upgrade existing buildings by collaborating with local NGOs to accelerate energy efficiency upgrades. Require new buildings to be net zero carbon emissions capable no later than 2027.

Actions	Benefits
<p>5.1 Fund a local NGO to develop a plan to pre-qualify heat pump products, installers, and suggest financial incentives/policies for County review and approval.</p>	<ul style="list-style-type: none"> • Ensures that buildings and homes are energy efficient, lowers operating costs for owners, decreases impact on the electrical

<p>5.2 Require/subsidize the installation of high efficiency electric heat pump water heater or furnace in existing buildings when replacement is needed.</p> <p>5.3 Develop a robust financing plan based on financial need that 1) supports major electric appliance upgrades, and 2) transition to NZC operations.</p> <p>5.4 Increase support of non-profit organizations that provide energy efficiency upgrades to residential and commercial buildings.</p> <p>5.5 Implement the latest WA state building codes into county building codes, with NZC and all-electric furnace and water heater by the 2027 code where possible.</p> <p>5.6 Educate the public and builders on the value of NZC homes and buildings and available financing.</p> <p>5.7 Explore options that reduce embodied carbon in building construction.</p> <p>5.8 Transition from kilowatt-hours and therms saved to carbon emissions reduced as the measure of success for energy efficiency programs.</p> <p>5.9 Develop policies and standard building plans for fast-tracking NZC building permits.</p>	<p>grid and reduced GHG emissions. (5.1 thru 5.9)</p> <ul style="list-style-type: none"> • Electrification reduces indoor air pollution and health risks. (5.2) • Focus funding and efforts to create equity in underserved and low-income communities. (5.2, 5.3, 5.4) • Transparency and urgency needed to address climate change. (5.9)
6. Pilot key concepts through demonstration projects that can scale up rapidly to full-scale implementation to reduce electricity and buildings GHG emissions.	
Actions	Benefits
<p>6.1 Convene a workshop to identify and prioritize a list of possible projects, including partners (i.e., utilities, NGOs, etc.) and with special attention to funding sources. Also use this workshop to identify initial candidate resilience hub sites (strategy 2).</p> <p>6.2 Identify an ad hoc task force of local experts to produce a comprehensive plan for reducing carbon emissions from existing and new buildings.</p> <p>a) Evaluate solar + battery microgrids for daily peak shaving and grid services, and backup during disruptions.</p> <p>b) Evaluate the benefit of a full-featured home energy management system consisting of “smart” appliances under local control, utility control, or a combination.</p>	<ul style="list-style-type: none"> • Opportunity to educate officials, businesses, and the general public on energy efficiency and new building techniques that lead to NZC. It is also an opportunity to identify partners and sources of state and federal funding. (6.1, 6.2) • Demonstrate cost-benefits and leverage early adopters in private sector (and their investments), thus accelerating market changes. (6.2) • Projects can be used to evaluate and justify new policies/incentives at the county level. (6.1, 6.2) • Project plans are developed rapidly in conjunction with an ad hoc group of local experts and stakeholders and could be

	<p>planned in multiple phases with review against milestones. (6.1, 6.2)</p> <ul style="list-style-type: none"> • These early demonstration projects leverage expected trends in price-performance of key technologies and standards that can then be more broadly implemented more quickly as marketplaces mature. (6.1, 6.2)
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Example Demonstration Projects

In the race to reduce GHG emissions in half by 2030, new innovations will be required that can be deployed later this decade. They continue to build on current best practices and also on the latest science and engineering breakthroughs. But because they are new, many of them have not been proven at large scale. Rather than wait for large-scale demonstrations that we can follow, we need to take the lead and implement the most important examples in these strategies as small demonstration projects that will provide local experience, public acceptance, and make it easier to scale-up rapidly in the future to meet our GHG targets. To wait for others to lead on all things will make it unlikely to meet our targets.

Whatcom County leadership will need to continuously evaluate the potential value of an evolving list of example projects against the CAP's recommended strategies. The list below is just a starting point. All projects start as a business value proposition or concept that is evaluated against available resources (e.g., time, funding, staffing, collaborators). The most important and promising projects then develop a detailed project plan for formal review. If the plan is approved, then it is executed. If the value proposition is not sufficient, then business conditions can be monitored for new future developments.

Grid flexibility is the core to resilience and to the deep decarbonization needed to meet our targets.²⁶⁶ Buildings become grid assets by upgrading to energy saving appliances that can be managed individually or together in groups for much greater impact.

We identified three projects that were key to getting started: 1) an electrification prequalification project, 2) a solar/battery microgrid project, and 3) a resilience hub project. These example projects are designed to understand and demonstrate the potential for reducing GHG emissions. These projects also kick start strategies 3 and 5 to electrify existing homes, farms, and buildings, strategy 4 to add DERs throughout the community in an equitable manner, and strategy 2 to create resilience hubs that are self-sustaining during emergencies, but also provide low- and middle-income residents with low-cost renewable energy on a daily basis.

Additional examples to consider are:

Community Solar – The purpose is to enable customers without solar panels to buy whole or a portion of a solar panel available elsewhere on the grid and to credit their generation of electricity on their

²⁶⁶ Grid Modernization Implications for WA State Energy Strategy, Carl Imhoff, PNNL, October 9, 2020.

utility bill. Community solar is critical to equity-centered climate resilience by allowing those without access to clean energy (e.g., renters or owners without good solar exposure), and subsidizing lower income customers. There are many solar-exposed roofs throughout the local community capable of hosting community solar panels that would provide local resilience, better equity, and local investments and jobs – instead of funding utility-scale renewables elsewhere. The existing financial structure for community solar projects in Washington State makes participation an uneconomical investment, but that could be changed by state legislation and/or rulemaking to create a viable community solar program with Virtual Net Metering (VNM). With VNM, ratepayers that participate in community solar would be credited a fair price per kWh for their share of power production which is deducted from their home or apartment utility bill, just as net metering currently works for rooftop solar PV installations on owner-occupied residences. With the intent to make community solar programs functional, fair and rewarding for participants in Washington State, the County should support legislation that promotes community solar and VNM.

Water Heater Demand Response (DR) – The purpose is to shift water heating away from peak times by heating water earlier for use when needed. All new electric water heaters in Washington are required to have built-in demand response capability. Thus, a utility only needs to define policies for recruiting customers into a demand response program, and begin a demonstration project, that can scale up over time. This should receive high priority, especially as part of the electrification incentive process. With sufficient customer participation, new natural gas peaking plants can be avoided.

HVAC DR – The purpose is to shift building heating and cooling away from peak times by adjusting thermostats in anticipation of customer needs. For example, Consumers Energy in the state of Michigan is giving away 100,000 free smart thermostats in exchange for customer participation in their demand response program. Smart thermostats connect to the internet and allows the customer/owner or utility to remotely adjust space heating or cooling during extreme events. The results of this demonstration will be used to guide similar efforts to decarbonize the state’s energy supply.²⁶⁷ This should receive high priority, especially as part of the electrification incentive process. With sufficient customer participation, new natural gas peaking plants can be avoided.

Solar + Battery + EV – The purpose is to manage for 1) maximum energy storage for backup during outages (e.g. a battery), 2) peak shifting (e.g. storing solar energy for evening), or 3) responding to utility signals (e.g., time of use pricing) according to the **customer-configured** preferences. To emphasize, the customer decides and can change, the operating configuration at any time. This is made possible by new “microgrid” products available from Tesla, EnPhase Energy, and others in response to customer needs in California and elsewhere. Microgrids are a sort of building block for incremental grid modernization. In a simple sense, any electrical system that can “island” off the main grid is a microgrid or a semi-independent grid of its own. With the right equipment and software, a microgrid can coordinate DERs within its group, maximizing local resources while ensuring that enough power is drawn from the larger grid to keep supply and demand matched. Small residential microgrids typically “island” only when the

²⁶⁷ Free Google Nest thermostats available for Consumers Energy customer, posted May 19, 2020 on Michigan Live; <https://www.mlive.com/news/2020/05/free-google-nest-thermostats-available-for-consumers-energy-customers.html>

main grid loses power and reconnect when power returns.²⁶⁸ Wildfires in Australia and California have driven demand for these products, but the multifunction capability will improve, and costs will decline—*making them broadly available for modernizing the grid and providing resilience.*

County Services Hub – Similar to Snohomish PUD’s Arlington Microgrid, provide a solar PV array, battery storage, and electric vehicle charging for the new Northwest County Services buildings to add renewable energy, resilience, and community solar services. This a simple resilience hub focused on these county buildings (Public Works and Planning Departments).

Battery Storage DR – The purpose is three-fold in the case of Green Mountain Power in Vermont, whose demonstration project is being watched closely. The demonstration manages battery charging in homes to shave peaks, to provide emergency back up in outages, and to test the value of “transactive energy” enabled by the energy management module. This program will show what distributed energy resources are worth in customer-to-customer transactions (as opposed to utility-to-customer transactions)²⁶⁹ A recent Federal Energy Regulatory Commission (FERC) Order 2222 removes obstacles to wide scale deployment of DERs on the grid, which could facilitate customer to customer interactions according to Richard Brooks of Energy Central.²⁷⁰ In the future when high-performance EV batteries are updated, the old batteries will be repurposed at low cost for less demanding applications like home backup, and rooftop solar. *All of this potential from a simple battery in a building, which can then be leveraged together in groups for even greater impact (see Virtual Power Plant).*

Virtual Power Plant – Large aggregations of DERs called Virtual Power Plants or VPPs are growing rapidly. Modern VPPs are a decentralized network of DERs, that can be combined and controlled at a central control point, often a cloud-based software platform operated for the utility by a third party. These DERs often remain independent in their ownership, but their operation can be managed under certain conditions in exchange for a subsidy or rebate to the owner. Tesla has been a leader in large-scale VPPs with its Hornsdale Australia battery installation that replaced a fossil-based peaking plant. Portland General Electric (PGE) in Oregon is assembling a 4-megawatt VPP by placing battery storage in over 500 homes.²⁷¹ PGE offers households a rebate on the battery purchase or are paid \$20 or \$40 per month for use of households that have existing batteries. This PGE project will demonstrate the value of

²⁶⁸ Wildfires and blackouts mean Californians need solar panels and microgrids, by David Roberts, Oct 28, 2019, [Vox.com](https://www.vox.com).

²⁶⁹ Green Mountain Power’s pioneering steps in transactive energy raise big questions about DER’s value; The Vermont utility’s program will show what distributed energy resources are worth in customer-to-customer transactions; Utility Dive, Herman Trabish, March 4, 2020.

²⁷⁰ My review of FERC Order 2222, Energy Central, Sep 20, 2020; <https://energycentral.com/c/ec/my-review-ferc-order-2222>

²⁷¹ “PGE program will transform hundreds of homes into a virtual power plant” 4 MW pilot to launch this fall. Each home 12-16 kWh of batteries. <https://www.portlandgeneral.com/our-company/news-room/news-releases/2020/07-01-2020-pge-program-will-transform-hundreds-of-homes-into-a-virtual-power-pl>

managing peak load, provide emergency backup, and address social equity, while modernizing their smart grid.²⁷²

Campuses – The purposes of campus microgrids go beyond residential microgrids described earlier. Campus microgrids remain “separate but connected” to the main grid all the time. Campuses of various public and private organizations increasingly do this to modernize their operations and achieve organizational goals. The private utility Avista is currently developing a transactive energy microgrid in Spokane that will optimize energy use in “a hub building and five buildings of about 160,000 square feet each that will have net zero energy impact,” Avista’s Curtis Kirkeby said.²⁷³ The Department of Energy’s Pacific Northwest National Laboratory (PNNL) campus in Richland launched its Clean Energy and Transactive Campus in 2015, leading the way for innovations in distributed devices and control systems that more efficiently and cost-effectively manage DER and building energy usage.²⁷⁴ The PNNL campus is similar in size to a small university campus. Both Avista and PNNL microgrids were supported by the Washington state Clean Energy Fund, in order to lead the way on grid modernization in the state.

Potential Funding Opportunities for Electricity and Building Projects

Throughout [Electricity and Buildings](#), CIAC recommends that the County facilitate demonstration projects that focus on key approaches to modernizing the electric grid and integrating buildings as grid assets with the ultimate goal of creating resilience. With a new federal emphasis on modernizing our infrastructure and increasing resilience, funding and grant opportunities over the next few years promises to be significant. Therefore, it is important for County staff to develop a list of priority projects to begin implementation of the Climate Action Plan. These projects should be mapped against possible funding sources, starting with the Washington Clean Energy Fund (administered by the Department of Commerce) and the anticipated American Jobs Act. If passed, the American Jobs Act will most likely be administered over several federal departments, including Energy, Transportation, Commerce, Agriculture, to name a few.

This Washington State Department of Commerce: is the place to start as Washington’s Energy Strategy is implemented through information, resources and funding provided through this website. Expect these pages to update with the most recent strategy and legislative mandates soon. Covers the Clean Energy Fund (CEF); Energy Efficiency and Solar Grants; Forest Products financial Assistance Program; Home Rehabilitation Loan Program; and a map of locations for [Energy Grants and Loans Programs](#).

²⁷² PGE Energy storage program - <https://www.portlandgeneral.com/our-company/energy-strategy/resource-planning/energy-storage> very good resource. See 5-part battery testing strategy: microgrid, substation, large solar + battery, residential VPP, and large-scale transmission-connected storage device.

²⁷³ Microgrid of the future emerges in Washington as Avista preps transactive DER project, by Robert Walton, UtilityDive, July 15, 2020. <https://www.utilitydive.com/news/microgrid-of-the-future-emerges-in-washington-as-avista-preps-transactive-d/581644/>

²⁷⁴ Clean Energy and Transactive Campus – Demand-side transactive controls at scale. <https://www.pnnl.gov/projects/clean-energy-and-transactive-campus>

[The Clean Energy Fund](#) description and reports of past awards also describes the status and updates of the following Commerce grant programs:

Grid Modernization Program

Commerce Grant Program	Description
Grid Modernization Program	This program is for public and private electrical utilities serving Washington customers. Utilities can partner with other public and private sector research organizations and businesses to apply for funding.
Electrification of Transportation Systems	This program provides grants to Washington State local governments and retail electric utilities for charging infrastructure.
Research, Development and Demonstration	This program provides a match for federal and non-state funds for strategic research and development projects on new and emerging technologies.
Wood Energy for Public Facilities	This program emphasizes projects that replace fossil energy sources with wood energy products (e.g., pellets, chips, cordwood, and other forms of forestry management debris) to meet the thermal and/or electrical needs of public facilities.
Grants to Nonprofit Lenders	Revolving Loan Fund grants show that a modest public investment can promote private investment. This drives economic activity and jobs for Washingtonians and helps our state lead the nation in energy efficiency.
Solar Deployment	The Solar Deployment program supports the development of projects that deliver environmental and economic benefit to Washington communities.
Dairy Digester Enhancement	The 2019 capital budget provides grants that enhance the viability of dairy digester projects, including bioenergy, improved energy efficiency and advanced nutrient recovery systems. Grants will include one project east and one west of the Cascades.

Commerce Clean Technology Sector

The Washington State clean technology sector is working with a variety of industries to provide technology and related production processes. These will improve their environmental and business performance. Our top priority is to create an economic understanding across the state, where innovation and entrepreneurship can thrive and create well-paying jobs. Website:

<https://www.commerce.wa.gov/growing-the-economy/key-sectors/clean-technology/>

American Jobs Plan (Federal Funding plan will be voted on sometime in the summer 2021; versions of this plan have significant funding for building climate resilience in communities)

Amazon Climate Fund

The Climate Pledge Fund ²⁷⁵ is a corporate venture capital fund that invests in companies that can accelerate Amazon's path to meeting The Climate Pledge. The scope is global and will consider

²⁷⁵ <https://www.theclimatepledge.com/us/en/about/the-climate-pledge-fund.html>

investments in companies developing products or services that reduce carbon emissions and help preserve the natural world.

Sector focus areas include:

- Transportation and Logistics
- Energy use, storage, and management
- Manufacturing and materials
- Circular economy
- Food and agriculture
- Renewable energy technology

Gates Related Funds

Breakthrough Energy Ventures²⁷⁶ – This fund basically follows the outlines of Bill Gates recent book and describes the problems and possible solutions under evaluation now.

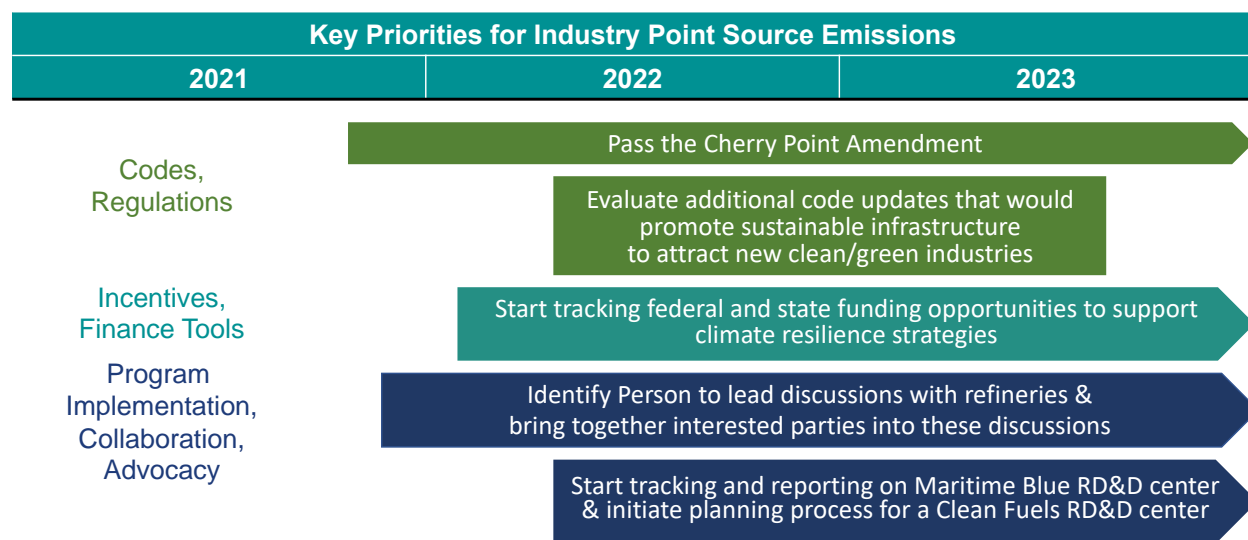
²⁷⁶ <https://www.breakthroughenergy.org/>

Industry Point Source Emissions Appendix

We would like to acknowledge the following individuals who provided valuable technical guidance and reviews of the industry point source emissions chapter:

Reviewer	Organization or Technical Area
Joel Swisher, PhD	Director, Institute of Energy Studies, WWU
Don Goldberg	Director of Economic Development, Port of Bellingham
Christine Grant	WWU, PUD1 Commissioner
Atul Deshmane	PUD1 Commissioner
Glenn Blackmon, PhD	Manager of Energy Office, WA Dept of Commerce
Michelle Jordon	Institute of Energy Studies, WWU
Ken Dragoon	Director of Hydrogen Division, Obsidian Renewables
Eugene Akiaten	Retired Petroleum Refinery Systems Director
Ray Kamada, PhD	Physicist, Kamada Science and Design
Robert Ruiz, PhD, MBA	President, Ruiz Energy Corporation
Pam Brady	Government Affairs Manager, <i>bp</i>
Elizabeth Davis	Commercial Optimization Superintendent, <i>bp</i>
Courtney Lancaster	Operations Superintendent, <i>bp</i>
James Berburg	Senior Environmental Engineer, <i>bp</i>
Sharon Shewmake, PhD	State Representative, WA 42 nd & WWU Energy Economics
David Hostetler	Engineer, research information & State Energy Strategy
Ellyn Murphy, PhD	CIAC - reviewing

Timeline:



Strategies, Actions and Benefits for Industry

1. Facilitate a solutions-focused collaboration with <i>bp</i> 's Cherry Point plant manager, energy experts in academia, and state and federal governments to achieve a 50% reduction in their point source emissions by 2030.	
Actions	Benefits of Actions
<p>1.1 Promote enhanced energy efficiency at <i>bp</i>'s Cherry Point refinery through recommendations outlined in US EPA's EnergyStar program.</p> <p>1.2 Replace the current production and use of grey hydrogen at <i>bp</i>'s refinery with green hydrogen.</p> <p>1.3 Reduce GHG emissions at <i>bp</i>'s Cherry Point refinery and at any new or expanded facility at Cherry Point by promoting and facilitating the supply (i.e., transmission) and use of fossil-fuel free electricity.</p> <p>1.4 Develop recommendations for potential inclusion in the State's Climate Commitment Act's rulemaking process.</p> <p>1.5 Evaluate & promote possible incentives & tax subsidies at the federal level to accelerate the greening of refinery processes.</p>	<ul style="list-style-type: none"> • Reduce GHG emissions from industrial point source (1.1, 1.2). • Action 1.3 will reduce emissions from industrial buildings electricity use (insert hyperlink later) but will not impact industrial point-source emissions, which only apply to manufacturing processes. • Represent the County's interests at the state (1.4) and federal (1.5) levels, especially development of the workforce.
2. Promote the research, development, and collaboration needed to build a hydrogen electrolysis facility to create green hydrogen in Whatcom County.	
Actions	Benefits of Actions
<p>2.1 Encourage PUD1 to evaluate the access to and availability of clean electricity from BPA to develop a 100 MW green hydrogen plant in Whatcom County.</p> <p>2.2 Create a task force with PUD1, Port of Bellingham, tribal & public representation with the goal of developing a solar and/or wind energy facility.</p> <p>2.3 Collaborate with PUD1 and the Port of Bellingham to reach out to known green hydrogen supporters and producers to build a new green hydrogen facility at Cherry Point.</p> <p>2.4 Working with State, federal, PUD1 and Port, understand the necessary legislative & fiscal support needed to construct a green hydrogen plant and supporting workforce.</p>	<ul style="list-style-type: none"> • Enabling increased T&D capacity to Cherry Point leverages access to regional electricity resources for all current and future users. (2.1) • A green H₂ facility will provide a large flexible load on the regional BPA grid that can negotiate lower prices for power. (2.1, 2.3) • Produce green hydrogen for multiple new markets by leveraging existing infrastructure (shipping, transport) and skilled workforce. • Attract additional clean energy manufacturers to Whatcom County. (all actions)

3. Establish a regional center for research, development and demonstration (RD&D center) to accelerate the development of low carbon fuels and building materials modeled after Washington’s Maritime Blue Strategy.

Actions	Benefits of Actions
<p>3.1 Ensure that the County or Port has representation in Maritime Blue given Whatcom’s strong maritime industry.</p> <p>3.2 Identify the technical areas and people needed to develop a concept document for the RD&D center on low carbon fuels and building materials. Solicit advice and help from the State Dept of Commerce Energy Office, Maritime Blue, and the US Dept of Energy for the concept document.</p> <p>3.3 Use the concept document to solicit funding for a detailed planning report to guide establishment of the RD&D center that includes potential industrial partnerships, funding opportunities, workforce training needs, and initial innovative demonstration projects that could be used to launch the center.</p>	<ul style="list-style-type: none"> • Sets the course and action to ensure Whatcom industries are relevant over the next several decades. • Provides the basis for workforce development needs in the County. • Ensures a vibrant future economy for the County by proactively competing in a rapid clean energy transition.

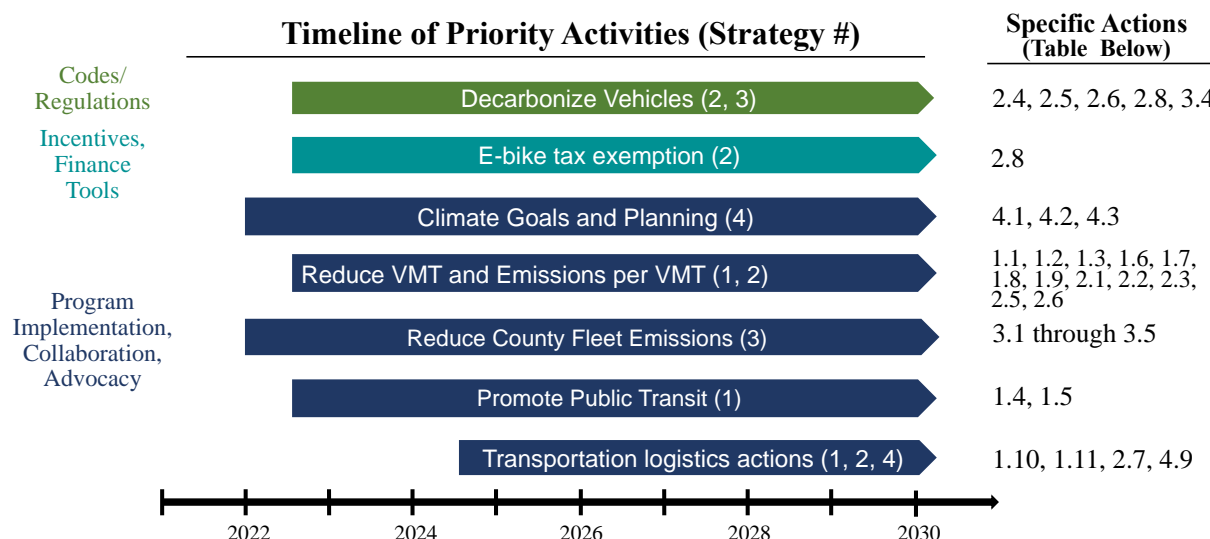
Transportation Appendix

This appendix provides a complete listing of all recommended actions under transportation strategies, along with description of each, as well as an identification of the actions that have a higher priority. Included in the descriptions that follow are suggestions about how to proceed and the identification of co-benefits and potential drawbacks.

While stressing that we believe all of the recommended actions should be completed, we can offer some suggestions regarding which of the proposed actions should receive a higher priority and have a higher sense of urgency attached. Some have been chosen because of their potentially large emission reductions or because they involve purchases of long-lasting vehicles or equipment. Others should be undertaken as soon as possible because they can be undertaken unilaterally and relatively quickly by County government units without requiring much in the way of additional expenditures and which in most cases can be easily incorporated into processes already taking place; these can also demonstrate the County's resolve to address climate change issues. Some require legislative actions or changes to County regulations, while others can be accomplished through departmental policy changes that put more emphasis on the County's climate goals.

We would like to thank the following reviewers who provided valuable comments and suggestions:

Reviewer	Organization or Technical Expertise
John Shambaugh	Washington Department of Transportation
Adrienne Hegedus	Port of Bellingham
Carryn Vade Griend	Puget Sound Energy
Daniel Tepper	Whatcom Parks and Recreation Foundation
Tim Wilder	Whatcom Transit Authority
Kirsten Wert	Whatcom Council of Governments
Lethal Coe & Transportation Technical Advisory Group	Whatcom Council of Governments



1. Reduce vehicle miles traveled (VMT) by promoting alternatives to SOV transportation
Actions
<p>1.1 Update and Implement the Regional Trails Plan as identified in the 2011 Bicycle Pedestrian Plan and 2004 Chain of Trails plan and any subsequent revisions thereto to expand the regional trail network for commuting and recreation.</p> <p>1.2 Create safe active transportation routes to schools where they don't already exist, enhance existing active transportation routes to schools, and explore the electrification of school bus fleets.</p> <p>1.3 Create a countywide non-motorized plan, especially in UGAs of cities to Enhance bicycle and pedestrian commuting infrastructure, including storage/parking and dedicated off-road non-motorized trails.</p> <p>1.4 Work with WTA to improve transit service through network expansion, changes in transit schedules, and improved connections between transit routes and with other transport modes.</p> <p>1.5 Adopt any available state programs and fund local efforts to provide means-tested transit subsidies, such as low or no cost passes, to increase accessibility to transit.</p> <p>1.6 Support existing and develop new education and outreach programs to promote alternative transportation options.</p> <p>1.7 Work with employers to find programs and incentives to support multimodal commuting.</p> <p>1.8 Expand telecommuting and flextime scheduling for county employees and encourage other employers to do the same.</p> <p>1.9 Expand broadband internet countywide.</p> <p>1.10 Explore the feasibility of building multi-modal transfer stations to move freight from trucks to rail in coordination with the Port of Bellingham.</p> <p>1.11 Foster increased rail transportation for the public and industries.</p>
2. Promote increased utilization of electric, hybrid, and alternative fuel vehicles
Actions
<p>2.1 Implement a countywide EV promotions program through education and outreach.</p> <p>2.2 Offer pooled purchasing of EVs to reduce the upfront cost of such vehicles for Whatcom County residents.</p> <p>2.3 Work with local trade and technical schools, unions, and businesses to create an EV workforce pipeline.</p> <p>2.4 Install electric charging stations in strategic locations, prioritizing underserved locations.</p> <p>2.5 Require or provide financial incentives for major employers to provide onsite charging stations for employee EVs.</p> <p>2.6 Work with WTA and municipalities in the county to create infrastructure for electric buses.</p> <p>2.7 Develop an infrastructure plan for H₂ fuel distribution and other fuel mix options in coordination with state efforts.</p> <p>2.8 Exempt e-bikes and other e-ride devices from local sales taxes.</p>

3.Improve county vehicle fleet utilization while transitioning to non-fossil alternatives and reducing GHG emissions associated with county projects

Actions

- 3.1 The County should undertake an evaluation of its on-road vehicle fleet in order to achieve maximum GHG reductions. Considerations should include moving away from fossil fuels to electricity (EVs) and other clean fuels, the matching of vehicle numbers and types to their uses, and the potential for vehicle sharing among county departments. Ideally this would be accomplished by funding a study by an outside expert consultant.
- 3.2 Invest in a hybrid or electric technology to replace the Whatcom Chief ferry to Lummi Island.
- 3.3 Require end-of-life replacement of County-owned construction equipment using fossil fuels with alternative-fuel or electric equipment and encourage such replacements by private operators.
- 3.4 Incorporate contractor fuel emission reduction standards into bids and contracts and require reporting of fuel types and quantities used on specific contracted jobs.
- 3.5 Perform diesel exhaust retrofits for county-owned equipment, including filter technology with passive or active cleaning systems.

4. Use County resources to participate in and advocate for inter-governmental efforts to reduce GHG emissions associated with transportation.

Actions

- 4.1 Prioritize recommended actions within this Plan for funding and implementation within the County's 6-year Transportation Improvement Program
- 4.2 Continue to advocate for the advancement of climate goals in the Whatcom Council of Governments Regional Transportation Planning efforts.
- 4.3 Prioritize transportation climate goals when updating the Whatcom County Comprehensive Plan.
- 4.4 To the greatest extent possible adopt state Vehicle Miles Traveled (VMT) reduction targets and land use planning approaches designed to reduce VMT and SOV use. A separate strategy should be to adopt lower vehicular LOS standards in the County Comp Plan as a disincentive to auto-centric transportation planning.
- 4.5 While both are reliant on higher density development, participate in State-led efforts to provide resources and promote interjurisdictional coordination for VMT reduction programs, including Transit Oriented Development (TOD) and Transportation Demand Management (TDM).
- 4.6 Obtain available state funding to improve connections between transportation system elements.
- 4.7 Participate in any available state programs that would facilitate the transition to hybrid or electric vehicles by ride-share programs like Uber and Lyft.
- 4.8 Obtain available state-level funding for local jurisdictions to study freight travel reduction opportunities and plan for infrastructure improvements.
- 4.9 Evaluate and adopt methods for data collection to understand the impacts of commuting behavior.

Detailed Description of Actions

- **Recommended actions for Transportation Strategy 1: Create behavior change by promoting alternatives to SOV transportation**

Action 1.1: Implement the Regional Trails Plan as identified in the 2011 Bicycle Pedestrian Plan and 2004 Chain of Trails plan and any subsequent revisions thereto to expand the regional trail network for commuting and recreation.

A connected network of trails creates more walking, biking, horseback riding, and other active transportation opportunities to reduce the number of trips of single occupancy vehicles and provide more recreation options. Such a network can also assist school districts in creating safe routes to schools (see Action 1.2 below), and planning should incorporate that consideration. Efforts to create a well-integrated system of trails in Whatcom County have existed since the 1970s, and while good progress has been made, there still remains much work to do. The 2011 Bicycle Pedestrian Plan, created by the Bicycle Pedestrian Advisory Committee, contains planning considerations, implementation recommendations, and policy recommendations that are intended to provide guidance for expanding the active transportation trail network. The Bicycle Pedestrian Advisory Committee maintains a current list of priority projects. Expanding a trail network will require the County to acquire easements, purchase property, and work with the existing landholders and developers.

Action 1.2 Create safe active transportation routes to schools where they don't already exist, enhance existing active transportation routes to schools, and explore the electrification of school bus fleets.

Work with school districts to ensure that school property renovations support walking, biking, carpooling, and bussing to schools and that all school districts in Whatcom County maintain their Walk Route Plans, to be updated every two years. The Washington State Department of Transportation maintains Walk Route Plans and other resources, such as the Safe Routes to School Grant program, which provides funding to communities for project development. Work with school districts to ensure new schools are constructed in areas already well served by the multimodal transportation network. Consider implementing school crossing guard programs. Creating safe active transportation options for youth can also promote positive behavior and health outcomes. Messaging to students and their parents about available alternatives and their benefits will also play an important role.

We recognize that rural settings create challenges to active student transportation that aren't present in urban areas, but those challenges can be lessened if student transportation is included in County trail planning efforts (see action 1.1 above). We also recognize that school transportation systems are the responsibility of school districts, not county government, and that high costs

present a formidable barrier to school bus fleet electrification, but we note that new ownership models (e.g., leasing rather than purchase) are being tested in an effort to reduce those barriers.²⁷⁷

Action 1.3: Enhance bicycle and pedestrian commuting infrastructure, including storage/parking and dedicated off-road non-motorized trails.

Improvements to active transportation infrastructure can make such transportation modes safer, faster, more reliable, and more accessible. There are many potential infrastructure upgrades that would encourage increased use of active transportation. Some potential improvements can be found in the 2011 Bicycle Pedestrian Plan, including increasing safe and secure bicycle parking infrastructure at transportation nodes and residential, commercial, and public facilities; creating protective physical barriers for active mobility infrastructure; and installing adequate lighting, on-road paint, signage, and rain protection.

It is important to note that there is a distinction between Actions 1.1 and 1.3. Specifically, on-road active mobility infrastructure improvements, such as bicycle lanes, are less accessible and safe than trails and paths that are segregated from roads. Past efforts to grow the County trail system referred to in item 1.1 above included both off-road and on-road components, which should also account for a significant part of all relevant County transportation and parkland planning.

Action 1.4: Work with WTA to improve transit service through network expansion, changes in transit schedules, and improved connections between transit routes and with other transport modes.

Important factors that affect the willingness to use public transit are convenience and efficiency, its proximity to riders and any additional time required to use public transit as compared to SOV travel. WTA's goal is to increase public transit's share of work commuting from 5% to 9%²⁷⁸. The County should work with WTA to support and expedite these efforts, including the construction of park and ride lots and the extension of trails to public transit access points. Employers would also have an interest in such improvements, as many businesses and their employees are not located conveniently near current WTA routes.

Action 1.5: Adopt any available state programs and fund local efforts to provide means-tested transit subsidies, such as low or no cost passes, to increase accessibility to transit.

Reducing or eliminating the financial costs of riding transit can increase ridership. The outcomes can be improved when targeting specific communities, such as low-income, disabled, youth, seniors, or underserved communities. Cost reduction programs, such as Regional Reduced Fare Permits for

²⁷⁷ See, for example, Mufon, S., and S. Kaplan, "A lesson in electric school buses," Washington Post, Feb. 24, 2021. <https://www.washingtonpost.com/climate-solutions/2021/02/24/climate-solutions-electric-schoolbuses/>

²⁷⁸ WTA 2040 Long-Range Transit Plan, <https://www.wta2040.org/>

seniors and riders with disabilities, exist and could be expanded to include more people. State assistance in this area is recommended in the State Energy Strategy²⁷⁹.

Action 1.6: Support existing and develop new education and outreach programs to promote alternative transportation options.

Support and expand existing education and outreach programs that promote community mobility or active transportation. Work with other community partners who have shared interests like Whatcom County Public Health to promote active transportation and improve community health outcomes through transportation choices. Use targeting marketing in concurrence with new projects to increase community awareness of new projects and routes. The County could also partner with ridesharing apps as pandemic concerns about social distancing subside; this would be useful for not only trips to school and work, but also for shopping and leisure.

Action 1.7: Work with employers to find programs and incentives to support multimodal commuting.

Continue to offer transportation advising to employers, with an emphasis on large employers. Large employers in particular can change employee commute behavior by offering rebates for transit expenses, bike or walk to work incentives, secure bike parking, e-bike charging, flexible daily charging for parking, or employee showers within each building. For example, The Community Food Co-op currently offers employees a rebate on transit and bicycle costs.

Action 1.8: Expand telecommuting and flextime scheduling for county employees and encourage other employers to do the same.

Whenever possible, employers should develop telecommuting and flextime abilities for their employees. Telecommuting refers to the ability of employees to perform regular job duties remotely, or away from their primary business location. Flextime refers to a work schedule that permits employees to work hours that are alternative to the 8am to 5pm standard work schedule. In addition to reducing transportation demand, allowing employees the flexibility to choose their schedule and work remotely can assist individual needs, such as family needs, and increase employee morale and productivity while reducing tardiness and absence. County adoption of these approaches can serve as an example for other employers in the county and can inform them of the possible benefits. The community has gained very helpful insights into opportunities for and the workability of telecommuting during the COVID-19 pandemic. The County Human Resources Department would have the primary responsibility for leading this effort for County employees and the proposed Office of Climate Action recommended in Section 4 of this report would carry out communications with other employers.

Action 1.9: Expand broadband internet countywide.

²⁷⁹ Washington State Department of Commerce, 2021, 2021 State Energy Strategy, p. 58.
<https://www.commerce.wa.gov/growing-the-economy/energy/2021-state-energy-strategy/>

Expanding broadband internet countywide should be done prior to or in conjunction with action 1.7. In addition to reducing commuting needs, providing broadband internet countywide can also increase quality of life to underserved or more distant, rural areas by allowing access to online services. There is an existing community interest in expanding broadband internet countywide, and the pandemic has strengthened that interest.

Private internet service companies typically provide adequate service in denser urban settings but find less dense rural areas less lucrative, resulting in unserved or underserved areas where publicly owned providers should step in. Funding such public efforts is an important barrier to rural broadband extension. While state funding is available for counties classified as rural, Whatcom County is not in that category. Some federal infrastructure money that could be used for broadband projects has been made available to states through the recently enacted American Rescue Plan, and there is also some pending federal legislation to help fund the expansion of broadband access.

In its latest strategic plan²⁸⁰ Whatcom PUD No. 1 identifies, as one of its 2019 New Initiatives, “Working with the Port of Bellingham to advance analysis of need for development of broadband services in the county to determine future role of the PUD in infrastructure (fiber) development.” The County should support any such community efforts to provide publicly owned broadband access, both financially and by taking any regulatory actions necessary to assist broadband expansion. It should also seek any available federal or state funding available to counties.

Action 1.10: Explore with the Port of Bellingham the feasibility of building multi-modal transfer stations to move freight from trucks to rail.

The County currently relies on medium- and heavy-duty freight trucks for transporting goods. Because the technology for zero and low emission freight trucks is undeveloped or still being developed, the County should consider a shift to rail to offset freight emissions. Increasing the use of rail for transportations of goods will require a broader, more regional effort that includes potential coordination with the State, British Columbia, or the entire West Coast, in addition to the private freight rail carriers. Because of the regional nature of this option, it is likely that the most likely role for the County (through the proposed Office of Climate Action)

Action 1.11: Foster increased rail transportation for the public and industries.

Increasing the use of rail for transportations of goods or people will require a regional effort. The County should work with community partners and stakeholders to explore the benefits and opportunities of increased rail transportation in Whatcom County and explore/consider opportunities to develop passenger rail service transportation within Whatcom County. For example, efforts are underway to add an Amtrak station in Blaine, thus improving rail connectivity along the I-5 corridor.

- **Recommended actions for Transportation Strategy 2: Promote increased utilization of electric, hybrid, and alternative fuel vehicles.**

²⁸⁰ Public Utility District No. 1 of Whatcom County, “Strategic Plan 2025,” p. 8 https://www.pudwhatcom.org/wp-content/uploads/2019/04/Whatcom-County-PUD-No.-1-Strategic-Plan_2025.pdf

Action 2.1: Implement a countywide EV promotions program through education and outreach.

One important barrier to more rapid adoption of EVs, which can be minimized through education and outreach efforts, is a basic lack of understanding on the part of consumers. These efforts should be overseen in Whatcom County by the Office of Climate Action recommended in Section 4 of this report. For example, Puget Sound Energy (PSE) has shown a willingness (in official filings with the Washington Utilities and Transportation Commission in 2018) to assist in those efforts, and County EV education and outreach should take advantage of that. In addition, the recently issued State Energy Strategy recommends that the Legislature provide resources for these efforts. Whatcom County Code Chapter 2.126, which established the Climate Impact Action Committee, states (2.126.030H) that one of CIAC's functions is to "Serve as a conduit for public education, information exchange, and engagement in support of Whatcom County's climate change mitigation and impact prevention, adaptation, and preparation goals. This action recommendation would therefore be carried out by CIAC in conjunction with the proposed Office for Climate Action and any other relevant county departments.

Action 2.2: Offer pooled purchasing of EVs to reduce the upfront cost of such vehicles for Whatcom County residents.

Pooled purchases reduce the upfront cost of EVs to consumers. While there is already a federal tax credit of up to \$7,500 for EV purchases, pooled purchasing can provide an additional incentive. This would be even more important for buyers in lower income brackets whose income tax liability would not be high enough to allow for the full \$7,500 credit. Whatcom County government may be able to use its buying power to initiate and maintain such a program, which would be established and coordinated through the Office of Climate Action recommended in Section 4 of this report.

Action 2.3: Work with local trade and technical schools, unions, and businesses to create an EV workforce pipeline.

More widespread adoption of EVs will require a larger skilled workforce to sell and service EVs as well as maintaining the publicly or privately owned charging infrastructure. For example, the Whatcom Transit Authority's 2017 Six-year Strategic Plan identifies the need for a maintenance personnel training program as WTA adds electric buses to its fleet. In Skagit County the Northwest Washington Electrical Industry Joint Apprenticeship training center in Mount Vernon has a program for installing EV charging stations. Bellingham Technical College or Whatcom Community College could develop a similar training program. The proposed Office of Climate Action can help coordinate these efforts.

Action 2.4: Install electric charging stations in strategic locations, prioritizing underserved locations.

What has been termed "range anxiety" is the concern of existing and potential EV owners regarding when and where to charge their vehicles. Initial adopters typically are single-family homeowners who for the most part charge their vehicles at home, but there will be an increased need for public charging stations, especially in underserved areas. The 2020 State Energy Strategy recommends state funding of a charging infrastructure needs assessment.

PSE has four pilot programs in place to help increase charging capabilities: single family, multi-family, public charging, and for employers. There are also privately owned public stations in Whatcom County. See [PlugIn America](#) for a locator map of these stations.

Level 1 charging is the simplest, but also the slowest (2-5 miles of range per hour of charge time), requiring only a standard 120V grounded outlet at 8 or 12 amps, and is most commonly used in single family homes. Level 2 charging requires 240V service but is at least twice as fast as Level 1 (10-25 miles of range per hour of charge time); these can be installed in single family homes but are more common at workplaces, apartment buildings, and public areas. Finally, Level 3 or DC fast charging will provide a full charge in approximately one hour. This requires more specialized equipment and is commonly found in public areas and along heavy traffic corridors such as interstate highways. Note that “public” does not necessarily mean “free”; various pricing structures are used, including subscription and pay-by-the-hour.

Although private charging companies are becoming more common, they typically do not place chargers in low use areas, sometimes called “nonattainment” areas. Such areas will have to be served in other ways, such as through publicly funded chargers. Recently enacted Washington State legislation (HB 1091) regarding a Low Carbon Fuel Standard provides for funding by electric utilities of chargers in these underserved areas. In addition, PSE is running a “Multifamily Charging” pilot at four multifamily housing sites in Whatcom County.

Coordinated efforts to provide charging capabilities could be overseen by the proposed Office of Climate Action, which could also assess the extent to which the County should be involved in the provision of charging facilities. One concrete action that county government could take is an adjustment of building codes to require new (and perhaps older) buildings to have electrical systems capable of handling the increased electrical demands resulting from EV charging activities. If necessary, zoning regulations should be changed to allow easier placement of charging stations. Building codes should be revised to require or strongly encourage the inclusion of or, at the very least, the electrical system capability for charging stations in multifamily residential buildings

Action 2.5: Require or provide financial incentives for major employers to provide onsite charging stations for employee EVs.

While some employers are already doing this, possible county government actions in this area include requiring by law employers of a certain size to provide charging facilities or offering tax advantages to employers who do so. PSE has a Workplace Charging pilot underway with Western Washington University and the Whatcom County Civic Center.

Action 2.6: Work with WTA and municipalities in the county to create infrastructure for electric buses.

Whatcom Transit Authority's 2017 Six-year Strategic Plan, Appendix C, presents an analysis of the possibilities and challenges associated with public transit electrification, including the need for charging stations in appropriate locations. WTA expects delivery of its first two electric buses in early 2021. A major impediment to rapid electrification is the high initial cost of the buses (\$400,000 higher than conventional diesel), but new ownership models being used for school bus fleets might

also be applied to public transit fleets (see the discussion of Action 1.2 above). Whatcom County's role could include assistance in finding such locations and in helping WTA fund the installation of the chargers, which could be done through the proposed Office of Climate Action.

Action 2.7: Develop, in coordination with state efforts, an infrastructure plan for H2 fuel distribution and other fuel mix options.

While EVs are clearly the immediate future of non-fossil fueled vehicles, technologies for fuel cell vehicles (FCVs) that use hydrogen as a fuel are showing considerable promise. An important issue confronting this technology (similar to charging stations for EVs) is providing an adequate fueling station network. This would eventually require a new hydrogen pipe system connecting fueling stations. Whatcom County's immediate role in this process would be to cooperate with state efforts outlined in the 2020 State Energy Strategy to undertake a comprehensive FCV fueling infrastructure needs assessment, and such County efforts would be overseen by the proposed Office of Climate Action.

Action 2.8: Exempt e-bikes and other e-ride devices from local sales taxes.

While the portion of an e-bike's final sales price accounted for by local sales taxes is small, so is the proportion of county tax revenues. Exempting such sales from these taxes would be a low-cost way to signal the County's support for these vehicles and accommodates a proposed action in the State Energy Strategy (p. 58) for local governments to "explore options for providing incentives for e-bikes and other electric transportation devices." This exemption could be modelled after [HB 1330](#).

➤ **Recommended actions for Transportation Strategy 3: Improve county vehicle fleet utilization while transitioning to non-fossil fueled alternatives and reducing GHG emissions associated with county projects.**

Action 3.1: The County should undertake an evaluation of its on-road vehicle fleet in order to achieve maximum GHG reductions. Considerations should include moving away from fossil fuels to electricity (EVs) and other clean fuels, the matching of vehicle numbers and types to their uses, and the potential for vehicle sharing among county departments. This would be best accomplished by funding a study by an outside expert consultant.

Although total emissions from all County government operations amount to just over 0.001% of the overall total for Whatcom County, it is important for county government to demonstrate its commitment to GHG emission reductions and model ways in which other organizations and the general public can achieve such reductions. While the County vehicle fleet accounts for only a third or so of county government operations emissions, and those fleet emissions fell by roughly 20% between 2000 and 2017, the county fleet can serve as a very visible example of ways in which emissions can be reduced by the broader Whatcom community. (Emissions data are taken from the recently completed Whatcom County Greenhouse Gas Inventory Report.)

The most obvious way to reduce fleet emissions is to convert the fleet to EVs and other clean vehicles. The optimal approach to doing so involves first understanding how the fleet is used, and then determining and following the best path to conversion without reducing the benefits of the

vehicle fleet. It is likely that the County will have to engage an outside consulting firm with experience in performing such analyses. That analysis would also help to ensure that the fleet composition is optimal. While vehicle sharing may not result in significant emissions reductions, it would reduce the required size of the fleet, thereby decreasing required expenditures.

Action 3.2: Invest in a hybrid or electric technology to replace the Whatcom Chief ferry to Lummi Island.

The ferry only accounts for .05% of Whatcom County transportation GHG emissions, but it is a significant single source. Although the Washington State Energy Strategy ²⁸¹(p. 61) discusses efforts of Washington State Ferries to decarbonize its fleet using hybrid and electric technologies, it makes no specific recommendation regarding funding those activities, nor does it address ferries operated by other units of government. It is especially important to consider a cleaner technology now because the ferry will likely have a long life—the Whatcom Chief is 60 years old—and locking in an old GHG emitting technology for such a long time should be avoided. Adopting a carbon neutral ferry would not only result in lower GHG emissions, but it would also have the additional significant benefit of reducing the local air and water pollution impacts from burning and handling diesel fuel.

Fortunately, the County is already taking steps in this direction. The Whatcom County 2019-2032 Fourteen Year Ferry Capital Program²⁸² quotes from Whatcom County Resolution 2018-026, stating “To approach the goal of a carbon neutral vessel and provide flexibility for future electric conversion and reliability, the design of the vessel shall be a hybrid diesel-electric.” The capital budget shown in the Ferry Capital Program indicates an anticipated \$14.35 million for boat construction; part of this cost would be covered by the recently approved increase in Lummi Island Ferry fares. The Lummi Island Ferry Advisory Committee has stated in a February 2020 resolution that “once funding is in hand and the project can begin, LIFAC recommends that PWD allocate planning resources and create a timeline with milestones for upgrading the vessel to a carbon neutral propulsion system.” This Committee strongly urges the County to follow the LIFAC recommendation.

One challenge to the full electrification of the ferry is increasing electricity transmission and distribution capacity on the Lummi Peninsula or Lummi Island to accommodate higher loads caused by charging the ferry, and, since these technologies are relatively new and still evolving, there is also a potential of reduced reliability and increased maintenance costs.

Action 3.3: Require end-of-life replacement of County-owned construction equipment using fossil fuels with alternative-fuel or electric equipment and encourage such replacements by private operators.

Most construction equipment currently utilizes diesel fuel. First, the County should explore such replacements for its own equipment inventory and make those replacements when equipment reaches the end of its useful life. Second, the County should engage in outreach to construction

²⁸¹ <https://www.commerce.wa.gov/growing-the-economy/energy/2021-state-energy-strategy/>

²⁸² Available at <https://www.whatcomcounty.us/DocumentCenter/View/40743/Exhibit-B-2019-2032-Ferry-Capital-Plan-v21-RR-Final>

companies or other businesses that use fossil-fuel burning equipment to ensure awareness of the options and benefits of alternatives and encourage their adoption. Encouragement could take the form of requiring that all equipment used on work under contract with the County be fueled by electricity or other clean alternative fuels by some future date certain (e.g., 2030).

Action 3.4: Incorporate contractor fuel emission reduction standards into bids and contracts and require reporting of fuel types and quantities used on specific contracted jobs.

Work with the Planning and Development Services Department to modify existing contracts and other documents and implement data collection programs. County Requests for Proposals should require estimates of the amount of fossil fuels that will be used on a project as well as maintaining an actual record of the amount of these fuels used after the project has concluded; such information will improve the accuracy of future GHG inventories. This action will have no direct impact on current emissions, but it has nevertheless been designated a high priority item because it has a relatively low cost, and it sends a signal about potential future requirements.

Action 3.5: Perform diesel exhaust retrofits for county-owned equipment, including filter technology with passive or active cleaning systems.

Cleaning up the exhaust from off-road mechanical equipment would not appreciably reduce CO₂ emissions, but it can reduce other GHG emissions (e.g., NO_x) as well as other types of pollution that cause negative health impacts (e.g., particulates).

Recommended actions for transportation strategy 4: Use County resources to participate in and advocate for inter-governmental efforts to reduce GHG emissions associated with transportation.

Action 4.1: Prioritize recommended actions within this Plan for funding and implementation within the County's 6-year Transportation Improvement Program.

Whatcom County's Transportation Improvement Program (TIP) is a federally mandated plan that lists upcoming transportation and associated funding sources and informs regional long-range transportation planning efforts. The plan reflects the transportation priorities of the County as identified in the Comprehensive Plan. In coordination with an update to the Comprehensive Plan, as recommended in Action 4.3, the Capital Construction projects identified in the TIP should align with the County's climate goals. The next update for the plan is scheduled for 2025.

Action 4.2: Continue to advocate for the advancement of transportation climate goals in the Whatcom Council of Governments Transportation Improvement Programs.

WCOG currently considers climate impacts and prioritizes emissions reductions in its decision-making process. See, for example, the 2016 Comprehensive Plan and Whatcom Mobility 2040. The County should continue to use its position in WCOG to advocate for the prioritization of emissions reductions and climate resilient transportation infrastructure in WCOG's TIP projects. While there are several items in the current TIP that align with other recommended actions in this report, climate change issues (both emission reductions and improved climate resilience) should be emphasized equally with safety issues in formulating future plans.

Action 4.3: Prioritize transportation climate goals when updating the Whatcom County Comprehensive Plan.

Whatcom County's Comprehensive Plan is a guiding document for growth in unincorporated areas in coordination with the new plans of its cities that establishes a framework of goals, policies, and action items for growth planning. The Comprehensive Plan is a tool to be used in decision-making and can also be used to apply for grant funding. In the County's 2016 Comprehensive Plan, Goal 10-D calls for the "Strengthen[ing of] the sustainability of Whatcom County's economy, natural environment, and built communities by responding and adapting to the impacts of climate change." At the same time, the Plan's Goal 6B in [Transportation](#) does not include climate or other environmental goals as clear priorities, while other goals (e.g., 6D, 6E, and 6K) clearly support other recommendations in this report. The 2025 Comprehensive Plan should include an emphasis on the most current emissions reduction goals.

Action 4.4: To the greatest extent possible adopt state Vehicle Miles Traveled (VMT) reduction targets and land use planning approaches designed to reduce VMT and SOV use.

The recently released Washington 2021 State Energy Strategy ²⁸³(pp. 53-54 and Appendix C) recommends the establishment of clear VMT reduction targets that can be used to gauge the joint progress of multiple activities targeted at reductions in transportation activities. That document states (Appendix C, p. 1): "VMT is a function of the distances between destinations, the availability of transportation options and the availability of technologies and services that could replace travel. Land use patterns are a key factor in demand for transportation. Reducing VMT requires transportation planning and land use planning to be coordinated." Targets are to be achieved through direct means such as increased use of alternatives to SOV travel as well as through land use decisions such as the adoption of transportation-oriented development (TOD) principles; see Action 4.5 also. One simple example of the intersection of transportation and land use policy is the difficulty of using public transit in rural areas because buses lack safe "turn-around" options and passengers lack safe pedestrian access to the network. The Strategy recognizes that transportation needs are different in urban, suburban, small city, and rural environments and recommends that the state adopt regional VMT targets, perhaps linking state transportation funding to achieving targets for VMT along with other efficiency and equity metrics. Whatcom County should monitor and, if possible, participate in the development of these targets, and once the targets are established, they should be incorporated into all relevant County planning processes.

Action 4.5: Participate in State-led efforts to provide resources and promote interjurisdictional coordination for VMT reduction programs, including Transportation Oriented Development (TOD) and Transportation Demand Management (TDM).

This recommendation is related to Action 4.4 in that it also flows from the Washington 2021 State Energy Strategy (see pp. 54-55). Whatcom County should monitor and participate in these coordination efforts through the Office of Climate Action recommended in Section 4 of this report.

²⁸³ <https://www.commerce.wa.gov/growing-the-economy/energy/2021-state-energy-strategy/>

Action 4.6: Obtain available state funding to improve connections between transportation system elements.

Regularly explore and seek funding options for local jurisdictions to improve connections between transportation system elements. The Washington 2021 State Energy Strategy recommends (p. 57) the establishment of a state-level fund to support these efforts. Whatcom County would carry out this recommendation through the Office of Climate Action recommended in Section 4 of this report.

Action 4.7: Participate in any available state programs that would facilitate the transition to hybrid or electric vehicles by ride-share programs like Uber and Lyft.

Regularly explore and participate in any available state programs that would facilitate the transition to hybrid or electric vehicles by ride-share programs like Uber and Lyft. The City of Seattle's "Clean Transportation Electrification Blueprint" calls for the electrification of ride-sharing vehicles by 2030. Such services are less prominent in Whatcom County than in Seattle, so that electrifying them would not yield significant emissions reductions, but doing so would nevertheless serve as a reinforcement of the push for electric vehicles in the county. Whatcom County would carry out this recommendation through the Office of Climate Action recommended in Section 4 of this report.

Action 4.8: Obtain available state-level funding for local jurisdictions to study freight travel reduction opportunities and plan for infrastructure improvements.

Heavy duty trucks account for only 5% of the vehicles on the road nationally but are responsible for 25% of US transportation emissions²⁸⁴. Such vehicles therefore represent important emissions reductions opportunities. The County should explore and seek funding options for local jurisdictions to study freight travel reduction opportunities and plan for infrastructure improvements. The Washington 2021 State Energy Strategy states (p. 60): "State and local governments should have access to sufficient resources, including data, to conduct planning and implement strategies for reducing VMT and greenhouse gas emissions in freight operations." The Office of Climate Action recommended in Section 4 of this report would be tasked with monitoring and participating in freight VMT and emissions reductions programs established at the state level.

Action 4.9: Evaluate and adopt methods for data collection to understand the impacts of commuting behavior.

Explore data collection tools and methods best practices and regularly collect transportation data that can help inform continued transportation-related decisions. Consider expanding on existing data collection efforts, such as the City of Bellingham's Bicycle/Pedestrian Survey. Involve other local public/private jurisdictions in data-collection efforts. After establishing a preferred method of data collection, regularly measure and publish relevant data. This recommendation parallels one made in the 2019 Community Research Report produced by the Climate Action Advisory Committee (see

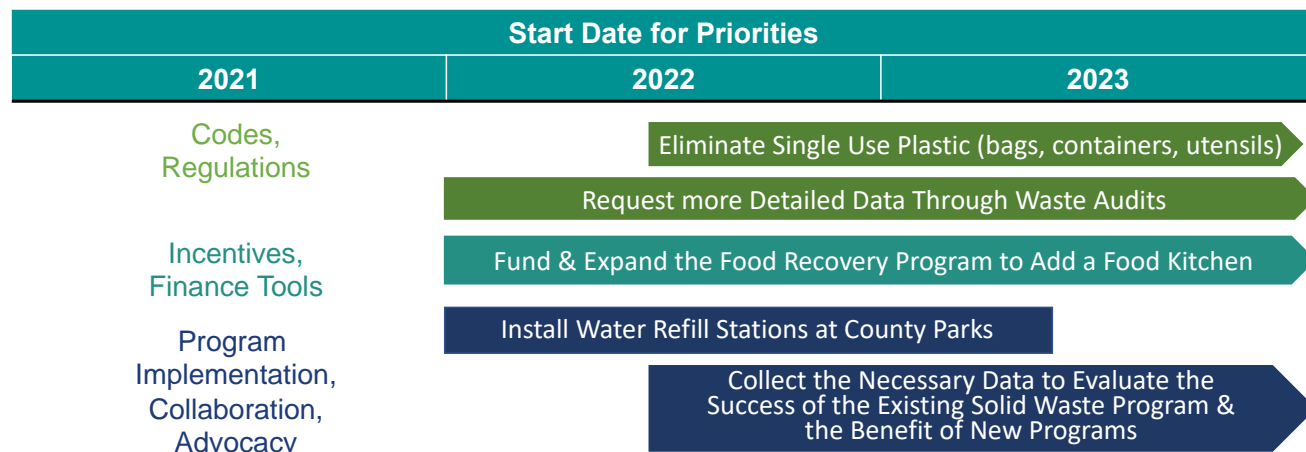
²⁸⁴ Walton, Robert, 2021. "As EV economics improve, medium- and heavy-duty trucking may be 'next big frontier' for clean transportation," *Utility Dive*, March 25, 2021.

Table 2.1, p. 54). This task could be performed by the proposed Climate Action Office or by a contracted outside organization.

Waste Appendix

We would like to thank the following people in the Whatcom County Health Department who provided valuable insights for this chapter on waste emissions: Ali Jensen, Jennifer Hayden, and John Wolpers. A very special thank you to Vicki Thomas (LWV) who conducted interviews and wrote the chapter on Waste for the 2019 Community Research Project. Much of the information in this Climate Action Plan originate directly from her work.

Timeline of Priority Actions



Waste Strategies and Actions

1. Reduce the volume of non-recyclable single-use items and product packaging materials by increasing restrictions on disposal and communitywide education.
Actions
1.1 Eliminate single use plastic bags, containers and utensils used by restaurants and retailers via County ordinances. Require compostable, single-serving containers at commercial locations including stadiums.
1.2 Educate County residents and retailers on identifying product packaging that cannot be recycled and incentivize product manufacturers to provide better packaging options.
1.3 Request more detailed data through waste audits, as needed, from material handlers to better understand the effectiveness of County programming.
1.4 Identify large volume contributors to the solid waste stream and develop a community-wide campaign that either discourages product consumption or promotes changes in the packaging by the manufacturer.
1.5 Require higher percentages of recycled materials in products and packaging purchased by the County government.
1.6 Install water refill stations at County parks to avoid the need for people to buy water in plastic bottles.

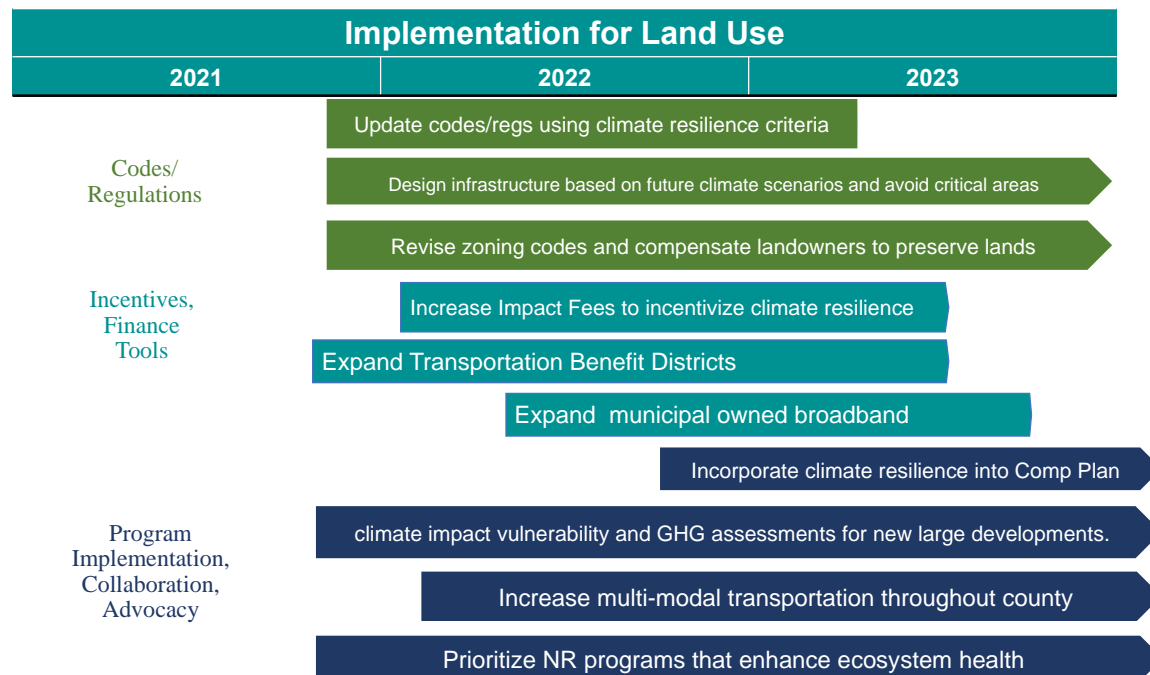
2.Reduce the growth of food waste through better utilization, collection, and composting.
Actions
<p>2.1 Fund and expand the Sustainable Connections Food Recovery program. Add funding for a food kitchen to better utilize time-sensitive food use.</p> <p>2.2 Make Food Plus (the curbside food and yard waste recycling) mandatory for single and multi-family residents that do not have an on-site composting capability (e.g., compost bin or feed for livestock).</p> <p>2.3 Provide option of smaller trash containers at a reduced cost to offset the cost of action 2.2.</p>
3.Understand the impact of methane emissions from septic systems in the county.
Actions
<p>3.1 Evaluate the growth trend in septic systems in the County and determine how regulations can be used to limit future growth in methane emissions.</p> <p>3.2 Determine the costs and potential GHG emission benefit of switching current septic systems to nearby/accessible municipal sewage systems.</p>
4.Provide incentives to builders for the reuse of building materials in new construction.
Actions
<p>4.1 Revise the County's Flow Control Ordinance (No. 91-041) to include construction and demolition debris to prevent disposal at undesignated disposal sites and encourage recycling of building materials.</p> <p>4.2 Evaluate potential for instituting recycling requirements for construction sites through the building permit program.</p>

Land Use Appendix

We would like to acknowledge the following people who provided valuable suggestions to the early formulation and drafts of this section on land use:

Reviewers	Role/Contribution
Kavlee Galloway	Lead author
Ellyn Murphy	Guidance and big picture
Steve Harrell	Guidance and text editing
Dave Kershner	Guidance; Land Use lead for CRP Report
Phil Thompson	Advised on transportation and infrastructure
Chris Elder	County Staff
Cliff Strong	County Staff
Matt Aamot	County Staff
Karlee Deatherage	RE Sources, Water and Land Use Policy

Timeline for Land Use



Land Use Strategies and Actions

1. Buildings, Industry and Land Development: Develop and implement a sustainable and climate resilient regulatory framework for new County developments (residential, commercial and industrial) that includes improved building energy use, greater density, multimodal mobility options, and minimal impact to natural ecosystems.

Actions

- 1.1 Use climate resilience as a criterium for updating the Comprehensive Plan, land use codes and building codes in rural areas. Consider building energy efficiency and density, drought-tolerant landscaping, and maintenance of tree canopy cover. Also revise codes to encourage the siting of community-scale renewable energy.
- 1.2 Update land use/housing regulations to concentrate new developments in urban growth areas (UGAs) that can be serviced by city utilities to eliminate expansion of septic and well water systems. Promote increased building energy efficiency and density of single and multifamily housing and encourage cities to also increase density to reduce urban sprawl. Provide incentives to build mixed-use neighborhoods.
- 1.3 Exclude residential development in riparian corridors, floodplains, and on shoreline areas subject to storm surge. In addition, preserve rural and commercial forest lands and agricultural lands.
- 1.4 Require climate impact vulnerability assessments and projected GHG emissions and mitigation in the planning of large new county residential, commercial or industrial developments.
- 1.5 Collect or increase impact fees in rural areas to help offset the climate-related costs to the County. Use these fees to fund projects that reduce GHG emissions and promote climate resilience.
- 1.6 Use the updated County Wildland Urban Interface (WUI) map from the DNR to require International Building Codes in WUI areas to reduce wildfire damage

2. Transportation: Develop a climate resilient County transportation system that maximizes safe and efficient multimodal mobility, while protecting natural ecosystems and reducing GHG emissions.

Actions

- 2.1 Require multimodal transportation plans for new large-scale developments²⁸⁵, and encourage for smaller developments, to identify public multimodal options, impact on traffic congestion, access to basic services and emergency response, safe evacuation routes, as well as improved quality of life.²⁸⁶
- 2.2 Promote equitable transit-oriented development policies and standards that support efficient use of land, affordable housing developments near transit corridors, reduced volume of single occupancy vehicles, and increased urban access and circulation within the UGA.
- 2.3 Work with Whatcom Transportation Authority to ensure service is planned for high density areas. The target should be for new residential projects consisting of 25 units or more to be located within 0.5 mile of a transit node, shuttle service, or bus route with regularly scheduled daily service.

²⁸⁵ For residential development, examples of large-scale developments may include planned unit developments, manufactured home parks and subdivisions, trailer/mobile home parks, and large multi-family residential complexes. For commercial and industrial, major industrial development as defined in [RCW 36.70A.365](#).

²⁸⁶ Are there thresholds proposed? If a duplex or a minor commercial addition is proposed, will they have to do the plan? How will this add to the cost of housing and other development?

- 2.4 Require bicycle/walking trail infrastructure planning and development in new multi-unit developments, long subdivisions, and in developments where relevant County codes already require sidewalks. Emphasize trail connectivity to schools and services.
- 2.5 Expand Transportation Benefit Districts under RCW Chapter 36.73 to fund transportation projects that reduce greenhouse gas emission such as new trails, electric vehicle charging stations, and park and ride lots.
- 2.6 Require new County buildings be located in areas with convenient multimodal transportation systems, including public transit and bicycle/walking trails. Include an assessment of employee commute emissions and projected public emissions based on the current transportation options.

3. Infrastructure: Require a climate-focused risk assessment of the project’s ability to function under future climate scenarios for all new County infrastructure (e.g., roads, bridges, emergency services, etc.) over the projected lifespan of the new infrastructure.

Actions

- 3.1 Develop a climate resilient infrastructure plan that identifies, protects, connects, and enhances ecosystem resilience. Require all new county infrastructure to meet resilient criteria. Plan should identify critical infrastructure, such as roads, bridges, and emergency services at risk in climate impact zones or related hazardous areas and a plan to upgrade or relocate.
- 3.2 Avoid infrastructure development in critical watershed areas, wetlands, and high value ecosystems.²⁸⁷
- 3.3 Prioritize replacement or retrofits of all county culverts that impact fish passage with fish friendly and climate resilient alternatives.
- 3.4 Collaborate with the Port of Bellingham and Whatcom PUD to fully fund and implement municipal-owned broadband service, especially in rural and underserved areas.

4. Natural Resources: Strengthen zoning codes and regulations to limit development in sensitive areas and high ecological value lands such as riparian corridors, floodplains, shorelines, forestry, agricultural lands, and climate impact zones that are not part of the urban growth area.

Actions

- 4.1 Accelerate and increase funding for the County’s Purchase of Development Rights program to compensate landowners willing to sell conservation easements.
- 4.2 Revise zoning codes to reduce development potential in high value working lands and ecosystem areas, including the Rural Study Areas²⁸⁸ and climate impact zones. Consider zoning changes based on water availability. Compensate landowners subject to a rezone based on the estimated value of the rights removed.
- 4.3 Update the Whatcom County Comprehensive Plan to require 1) net ecological gain as a component of land use actions (HB 1117²⁸⁹), and 2) vulnerability assessments using science-based future climate scenarios.
- 4.4 Develop and implement a County ecosystem conservation plan or program that implements protection of critical habitat, critical core wildlife habitat, and climate migration corridors, and incorporate into relevant county plans and codes, as currently assigned to the Wildlife Advisory Committee.

²⁸⁷ Refer to [WCC Chapter 16.16 Critical Areas](#) definitions for critical watersheds and ecosystems

²⁸⁸ https://www.whatcomcounty.us/DocumentCenter/View/44710/Final_Rural-Land-Study-Report-2019-Update

²⁸⁹ <https://app.leg.wa.gov/billssummary?BillNumber=1117&Year=2021&Initiative=false>

Water Resources and Fisheries Appendix

We would like to acknowledge the following people who provided valuable suggestions to the early formulation and drafts of this chapter on water resources and fisheries:

Reviewers	Organization or Technical Expertise
Lisa Wilson, G.I. James, Kara Kuhlman, Karl Mueller	Lummi Nation Natural Resources
John Thompson	Whatcom County

Strategy, Action, Benefit Table for Water Resources & Fisheries

1. Resolve uncertainty in current and future water supply by accurately measuring water supply and understanding the impact of climate change on watersheds.	
Actions	Benefits of Actions
1.1 Support resolution of WRIA 1 water supply by utilizing groundwater/surface water model analyses of current water use and supply, including projections of future water supply based on climate science. 1.2 Expand monitoring of residential, industrial, and agricultural water use, including metering to ensure an accurate baseline for climate action planning. 1.3 Evaluate smart water meter technologies for application locally. 1.4 Encourage connection to available water systems for households currently using permit-exempt wells. 1.5 Create a County-hosted public database that includes all the relevant field measurements on water levels & other environmental measurements that are routinely collected by various organization in the County.	<ul style="list-style-type: none"> Provides the quantitative information needed to make decisions that will ultimately ensure an adequate water supply. (all actions) “You can’t manage what you don’t measure.” <i>Peter Drucker</i>

2. Restore and protect streamflow and temperature that ensures year-round salmon migration and survival.	
Actions	Benefits of Actions
<p>2.1 Develop and demonstrate projects that increase in-stream flow such as, surface-to-groundwater conversions, restoration of mature forest hydrology, and innovative approaches such as water banking and water spreading.</p> <p>2.2 Prioritize restoration and protection of wetlands in headwater areas and in the floodplain to improve base flows.</p> <p>2.3 Adopt innovative tools to decrease the impact of land use (e.g., forestry, agriculture, development) on summer stream flows such as minimizing impervious surfaces, restoration of mature forests, and maintenance of green infrastructure corridors.</p> <p>2.4 Restrict development that negatively impacts functionality of wetlands and effective aquifer recharge.</p>	<ul style="list-style-type: none"> • Preserve current and future salmon runs in the Nooksack River Basin. (all actions) • Increase the base flows in rivers and streams. (all actions)
3. Maintain and enhance estuarine, marine shoreline and coastal wetland habitats for fish and shellfish.	
Actions	Benefits of Actions
<p>3.1 Include climate change and sea level rise in the codes and regulations associated with the Shoreline Management Program.</p> <p>3.2 Measure ecological function health of shorelines and require vulnerability assessments for new buildings and infrastructure in the shoreline impact zone.</p> <p>3.3 Facilitate shoreward migration of coastal wetlands through removal of hard shore protection (e.g., bulkheads, dikes, seawalls) or other barriers to tidal flow.</p> <p>3.4 Preserve and restore structural complexity and biological diversity when undertaking wetland enhancement activities.</p> <p>3.5 Promote and maintain mechanisms for sediment transport and deposition.</p>	<ul style="list-style-type: none"> • Reduce economic damage to property and shoreline ecosystem functions. • Preserve a diverse habitat for shellfish juvenile fish and other marine organisms. (3.2, 3.3, 3.4) • Maintain water clarity and decrease pollution of shellfish beds (3.5)

4. Reduce water demand through conservation and efficiency and improve drought readiness.	
Actions	Benefits of Actions
<p>4.1 Expand outreach and education programs to promote water conservation and efficiency for domestic, municipal, and agricultural water users.</p> <p>4.2 Reduce water demand by promoting drought tolerant landscaping and crops, and promotion of agroforestry principles.</p> <p>4.3 Evaluate/adapt agricultural drainage management to increase storage and promote subirrigation (e.g. permaculture swales, swales on contour, drainage ditch weirs).</p> <p>4.4 Provide incentives and cost-share to support farmers and homeowners to switch to more efficient irrigation processes.</p>	<ul style="list-style-type: none"> • Outreach and education promote public participation in solving the problem. (3.1, 3.2, 3.3) • Rewards early adopters for their efforts to reduce water demand (3.4)
5. Protect existing and develop new or alternative water supplies.	
Actions	Benefits of Actions
<p>5.1 Implement advanced wastewater treatment for water reuse.</p> <p>5.2 Encourage rainwater harvesting to provide water supply for buildings and agriculture.</p> <p>5.3 Implement new technologies such as reverse osmosis for desalination.</p> <p>5.4 Evaluate feasibility and sustainability of deep aquifer resources.</p> <p>5.5 Protect and restore mature forest hydrology in headwater areas, perennial and non-perennial stream corridors, and upland wetlands.</p> <p>5.6 Restore mature forest conditions throughout uplands to achieve greater than 50% mature forests to provide improved hydrology and streamflow.</p>	<ul style="list-style-type: none"> • Reuse of water and new aquifer sources will improve water quantity. (4.1, 4.2, 4.3, 4.4) • Increases water quality and quantity through the use of natural systems. (4.5, 4.6)

6. Promote climate resilience by incorporating climate scenarios in all aspects of floodplain management and infrastructure needs.	
Actions	Benefits of Actions
<p>6.1 Incorporate probabilistic scenarios for riverine/coastal flooding to inform planning and management and restrict development in the floodplain zone.</p> <p>6.2 Incorporate future climate scenarios into riverine and coastal floodplain management planning and flood risk assessment.</p> <p>6.3 Inform landowners, developers, and contractors about the climate change risks of developing in the floodplain (Conservation Reserve Program - CRP).</p> <p>6.4 Modify flood zone designations, and update County code to incorporate sea level rise/storm surge and increased peak flows.</p>	<ul style="list-style-type: none"> • Reduce the economic losses associated with flooding. (5.1, 5.2, 5.3 5.4) • Smart climate resilience planning reduces taxpayer expenditures on infrastructure damage. (5.1, 5.2, 5.4)
7. Use natural processes that increase the capacity to store floodwaters and attenuate flood peaks to reduce flood risk.	
Actions	Benefits of Actions
<p>7.1 Establish channel migration zone and/or meander limits sufficient to accommodate increase in peak flows and sediment.</p> <p>7.2 Identify and prioritize opportunities to reconnect floodplains by removing, lowering, or setting back levees to reduce maintenance costs, reduce flood risk, and increase opportunity for restoration.</p> <p>7.3 Restore riparian vegetation and wetlands within floodplains, including prioritization of 300' landward of the historic migration zone.</p>	<ul style="list-style-type: none"> • Natural processes are often the most effective and least costly approach. (all actions)
8. Reduce flood risk by moving people and infrastructure out of harm's way.	
Actions	Benefits of Actions
<p>8.1 Identify critical infrastructure at risk of river/coastal flooding and relocate as needed.</p> <p>8.2 Evaluate public and private developments and develop managed retreat plans as appropriate.</p> <p>8.3 Acquire properties in the floodplain to reduce repetitive flood loss, reduce need for flood protection, and allow for floodplain restoration.</p> <p>8.4 Remove development rights within floodplains through voluntary and regulatory pathways.</p>	<ul style="list-style-type: none"> • Ultimately the least costly and most effective approach to reducing damage and the economic losses to individual landowners and County infrastructure. (all actions)

9. Manage stormwater infrastructure for increased frequency and magnitude of rainfall/flood events.	
Actions	Benefits of Actions
9.1 Incorporate future climate scenarios into stormwater management. 9.2 Accelerate construction or retrofit stormwater flow control, runoff treatment and infiltration facilities to increase capacity to accommodate future rainfall/flood. 9.3 Plan, create incentives for, and expand green stormwater retrofit projects such as rain gardens and other low-impact designs. 9.4 Restore fish passage at artificial barriers, prioritizing barrier replacement in cool-water tributaries that can function as cold-water refuge habitat.	<ul style="list-style-type: none"> Incorporating climate now into stormwater planning will ensure infrastructure integrity into the future and reduce replacement costs. (all actions)

Implementation of Strategies:

Throughout this Climate Action Plan we have stressed the need for actual information/data as a foundation for formulating strategies and for measuring the effectiveness of strategies and actions.

For example, it is anticipated that strategy 1 will provide the information needed to implement strategy 2 including the following:

- What are the minimum flows (in cubic feet per second) that must be maintained for fish health and long-term sustainability, and how do these values vary across watersheds and season?
- How much do stream flows need to be increased, where (by sub-basin watershed), and when?
- How are we to achieve this goal of increasing streamflows?
- What are the costs to do that?
- What entities are responsible for the projects that increase streamflows?
- What are the determinants of success to know when flows have increased sufficiently?

Agriculture Appendix

We would like to thank the following people who reviewed versions of this chapter and added valuable insight and suggestions:

Reviewer	Organization or Technical Area
Henry Bierlink	Washington Raspberry Commission
Nichole Embertson	Whatcom Conservation District
Michael Anderson	DVM
John Steensma, Karen Steensma, Kate Steensma, Zach Steensma	Steensma Dairy and Creamery
Galen Smith	Coldstream Farms

Strategy, Action, Benefit Table for Agriculture

1. Adopt farm management practices that maximize soil carbon storage and increase water and nutrient availability	
Actions	Benefits of (Actions)
<p>1.1 Promote no-till and reduced-till agricultural practices to increase soil carbon storage, nutrients, and water-holding capacity of soils.</p> <p>1.2 Support County-sponsored local workshops on regenerative agriculture taught by the Soil Health Academy.</p> <p>1.3 Work with local agricultural organizations to develop a regenerative agriculture program that supports and incentivizes landowners to participate and monitors results.</p> <p>1.4 Increase incentives for the maintenance or restoration of areas within agricultural zoned property, such as wetlands and ponds, that function as carbon sinks, promote water storage, and provide other ecosystem services.</p> <p>1.5 Promote agroforestry practices to protect soil, animals, and crops from extreme weather events, improve water quality, sequester carbon, and promote long-term agricultural production.</p> <p>1.6 Develop & implement a carbon credit trading and offset program to pay farmers to sequester carbon.</p> <p>1.7 Initiate demonstration projects to educate our communities on the benefits of regenerative agriculture and carbon sequestration.</p>	<ul style="list-style-type: none"> • Increased carbon storage (all actions) • More efficient water use & conservation (1.3, 1.4) • Reduce runoff & erosion (1.1, 1.2) • Lower temperature of microclimate above land and water bodies. (1.1, 1.3, 1.4, 1.5) • Additional farm income for increasing carbon storage. (1.6)

2. Avoid the conversion of agricultural lands to maintain farm production at a level that sustains a vibrant and climate-resilient agricultural economy.	
Actions	Benefits of (Actions)
2.1 Strengthen codes to discourage the conversion of agricultural lands for residential, commercial, and industrial development. 2.2 Significantly increase purchase of agricultural conservation easements in Agricultural and Rural Zones through an expanded PDR Program 2.3 Re-zone Rural Study Areas to lower density zoning such as Ag 20 or Ag 40 zoning 2.4 Work with farmers to develop approaches to incentivize retiring farmers to sell land to new farmers 2.5 Subsidize new farmers' land purchase through low-interest loans and other supportive mechanisms	<ul style="list-style-type: none"> • Maintain a critical mass of agricultural land (all actions) • Discourage sprawl, preserve farmland, encourage small & diverse farms & a new generation of farmers (2.1-2.4) • Allow people to begin farming without large amounts of capital (2.5)
3. Enlist the agricultural community in preserving and enhancing water storage and stream-flow levels that enable salmon migration, healthy ecosystems, and agricultural irrigation.	
Actions	Benefits of (Actions)
3.1 Develop and seek funding for demonstration projects on water conservation and augmentation to develop a basis for changing or eliminating the state water law on relinquishment. 3.2 Allow water spreading, leasing, and transfer through establishment of a water bank, in coordination with Natural Resource Market development. 3.3 Encourage farmers to manage adjustable weirs in drainage ditches to maintain higher water levels in the unsaturated zone. 3.4 Support local organizations that improve floodplain connectivity and restore riparian zones and wetlands. 3.5 Implement irrigation modernization and efficiency technologies.	<ul style="list-style-type: none"> • Prevent escalating water conflicts, encourages cooperation and more efficient water use (all) • Reduce the threat of flooding and/or reduce runoff (3.4) • Maintain cooler water temperatures for fish (3.1, 3.5) • Improve water use efficiency & conservation (all actions) • Encourage development of water-trading and reduce opposition to water metering (all)
4. Reduce agriculture-related emissions and increase renewable energy, while providing farmers with new income opportunities.	
4.1 Work with agricultural groups to explore economic incentives that may encourage farmers to reduce emissions and chemical fertilizer use, enable installation of nutrient treatment systems 4.2 Incentivize and invest in modern manure management such as Anaerobic digesters, Farm to Fresh Water Systems, or other technologies/systems 4.3 Incentivize and support development of renewable energy projects such as wind and solar that complement farm operations. 4.4. Encourage reduced use of petrochemical fertilizers and pesticides.	<ul style="list-style-type: none"> • Make nutrient treatment & low-carbon farming economically attractive (4.1) • Reduce methane emissions and pollution. Mitigate public opposition to animal agriculture (4.2) • Green power plus income source (4.3) • Reduced GHG emissions & improve soil quality (4.4)

5. Strengthen agricultural diversity to expand the eat local market and increase farm incomes.	
Actions	Benefits of (Actions)
5.1 Prioritize purchase, sale, and distribution of local agriculture and fisheries products to local facilities, groceries, and schools. 5.2 Expand the farm-to-school food program.	<ul style="list-style-type: none"> • Provide markets for locally produced food & transportation emissions (5.1) • Improve school children's diets (5.2) • Increase farm incomes. (all)
6. Encourage increases in research and development of drought- and heat-resistant agricultural crops at the state and federal level and flexible infrastructure to support these crops.	
Actions	Benefits of (Actions)
6.1 Develop crop varieties that will use less water and thrive in warmer conditions. 6.2 Introduce new crops adapted to a changing climate. 6.3 Anticipate invasive pests and develop resistant varieties or other biological control methods. 6.4 Research and prepare for animal diseases that are likely to occur here under future climate scenarios. 6.5 Prioritize development of flexible food processing and local distribution facilities.	<ul style="list-style-type: none"> • Decrease demands for water & increased crop resilience to warming temperatures. (6.1) • Increase climate resilience (all) • Reduce dependence on chemicals (6.3) & decrease disease outbreaks (6.4) • Diversified markets reduce dependency on single crops & provide jobs in food processing (6.2, 6.5)

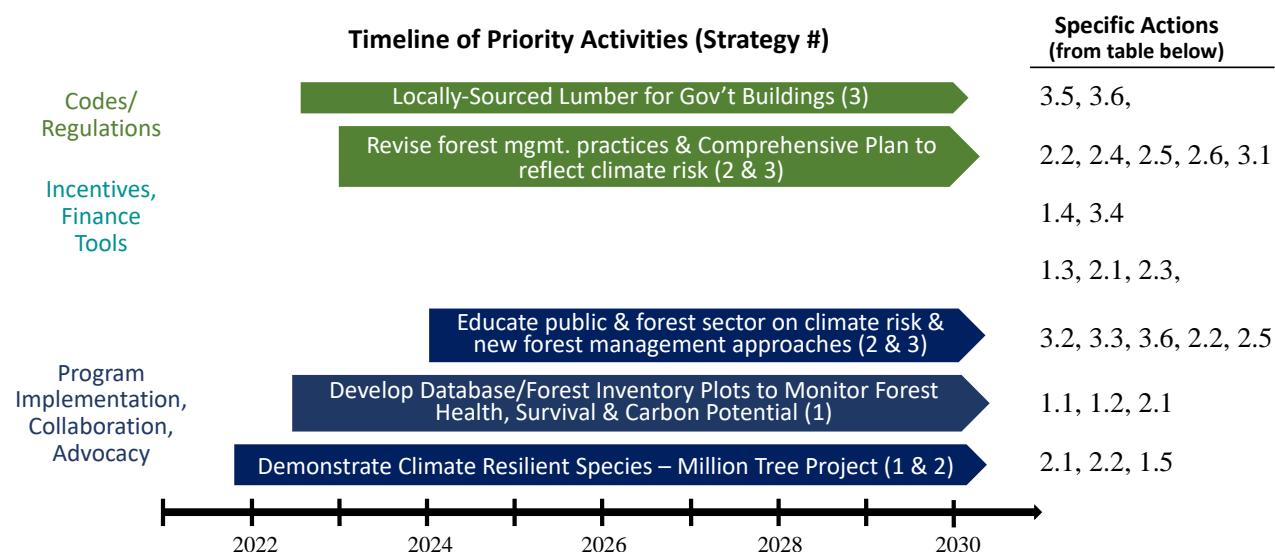
Forestry Appendix

We would like to acknowledge the following people who provided valuable suggestions to the early formulation and drafts of this chapter on water resources and fisheries:

Reviewers	Organization or Technical Expertise

Timeline for Forestry Actions

The timeline below shows the adoption year to institute different actions in order to realize actual benefit to climate resilience and reduction in emissions over the next decade. Unlike the timeline shown in Section 3 on [Forestry](#), this timeline includes all the recommended actions.



Strategies, Actions and Benefits Table for Forestry

1. Protect and enhance carbon storage and sequestration in forest ecosystems.	
Actions	Benefits of Actions
<p>1.1 Include the ClearPath protocol for assessing GHG emissions and removals from forests and trees outside of forests every five years to understand general trends in carbon storage, sequestration, and emissions.</p> <p>1.2 Work with local forest conservation, research, and educational organizations (including tribal governments) to develop measures to assess carbon storage potential: i) associate carbon storage with descriptors such as soil type and tree species and age; ii) identify a variety of ecosystem plots to monitor including wetlands, and iii) create a database to identify changes over time.</p> <p>1.3 Identify and preserve the most important forest resource lands based on carbon storage and sequestration potential through i) expanded PDR programs to rapidly retire development rights where pressure of conversion is greatest, ii) purchase of forestry conservation easements in Rural and Rural Forestry zones, and rezone Rural Forestry to Commercial Forestry to remove development potential.</p> <p>1.4 Fund a study to evaluate the potential of setting up a carbon market in the County to encourage and reward forest landowners for enhancing carbon storage and sequestration.</p> <p>1.5 Assess the potential for increasing carbon sequestration on County-owned forest lands and measure the results of these programs.</p>	<ul style="list-style-type: none"> • Maintain or increase carbon mitigation and storage potential of forests (All actions) • Maintain and increase species diversity (Actions 1.2, 1.3) • Preserve important hydrologic features for trees, fisheries, and wildlife (Actions 1.2, 1.3). • Enhance the ability of rural forestry to extend rotation age before harvest (1.4).
2. Increase forest health, survival and climate resilience through forest management practices that reduce wildfire risk, increase soil moisture, and stream flows, and preserve wildlife habitat.	
Actions	Benefit
<p>2.1 Work with local conservation, research, and educational organizations (including tribal governments) to actively measure and assess forest health in Forest Inventory Plots.</p> <p>2.2 Plant one million trees in Whatcom County by 2030 and incorporate forest management practices that include selective thinning, diversity of tree species, elimination of invasive species and attention to the local microclimate. Experiment with assisted migration using tree stock from more heat- and drought-tolerant seed zones.</p> <p>2.3 Increase soil moisture in forest ecosystems by i) mapping wetlands and identifying key function(s) and measures for health; ii) maintaining mature forest cover on and around wetlands, headwater areas, and significant watershed</p>	<ul style="list-style-type: none"> • Educate the public on the important role forests play in our local economy and the need to preserve (Actions 2.1, 2.2) • Preserve important hydrologic features in forests to maintain soil moisture and critical habitat for wildlife (Actions 2.3, 2.6) • Reduce the damage, intensity, and extent of wildland fires (Actions 2.4, 2.5) • Reduce property destruction and loss of life (and wildlife) during wildfires (Action 2.5, 2.6)

<p>features; and iii) increasing the width of no harvest buffers along fish-bearing, perennial, and non-perennial streams.</p> <p>2.4 Harvests and reforestation should be designed to increase diversity in tree species and age, and to create natural firebreaks to control wildfires.</p> <p>2.5 Promote the National Fire Protection Association Firewise USA® Program and wildfire preparedness and planning concepts to communities and individual landowners in the county. Adopt and enforce International fires codes for building construction in DNR-designated wildland-urban areas. Ensure that local fire departments have the equipment and training to manage wildfires.</p> <p>2.6 Identify and designate critical habitat cores and climate migration routes and fund the acquisition/protection/restoration of these areas through the PDR program. Consider expanding PDR program to WUI high-wildfire risk areas.</p>	
3. Promote climate resilient planning and programs to maintain our forests economy for recreation and wood products through leadership and education.	
Actions	Benefits of Actions
<p>3.1 Incorporate climate change risk into county planning activities such as the Comprehensive Plan and permitting when considering forest zoning or new roads and developments.</p> <p>3.2 Educate the public about the importance and role of natural resource management in climate resilience and producing food and fiber to support our economy, environment, and wellbeing.</p> <p>3.3 Engage local foresters on the impacts of climate change and promote ecological forestry practices including certifications such as the Forest Stewardship Council (FSC).</p> <p>3.4 Prioritize management and harvest for lumber production to maximize carbon sequestration. Encourage the development of new forest products like Cross Laminated Timber that can reduce the carbon of new buildings.</p> <p>3.5 Use locally sourced lumber for all County building projects and promote this concept to local builders.</p> <p>3.6 Initiate demonstration projects on climate resilience that increase public education and build partnerships with local agencies such as Whatcom Conservation District, DNR, WWU and Whatcom Land Trust, WSU Ext. Forestry.</p>	<ul style="list-style-type: none"> • Improve emergency ingress and egress for wildfires, floods, landslides, and other natural disasters (Actions 3.1, 3.6) • Strengthen public knowledge and appreciation of our local forestry resource (Actions 3.2, 3.6) • Improve the climate resilience of forests throughout the County (Actions 3.3, 3.4, 3.5, 3.6)

Ecosystems Appendix

Strategies, Actions and Benefits for Resilient Ecosystems

3. Increase community awareness on the importance of healthy, climate-resilient ecosystems to our economy and quality of life.	
Actions	Benefits of Actions
<p>3.1 Prioritize the preservation of healthy, climate-resilient ecosystems throughout the Comprehensive Plan.</p> <p>1.2 Support local non-profit organizations and institutions to i) raise awareness of the importance of ecosystem services and the role these services play in building resilience to climate change, and ii) promote climate change education in school systems.</p>	<ul style="list-style-type: none"> • Demonstrates commitment to the community to address climate issues. (1.1, 1.2) • Community buy-in (1.2)
2. Incorporate projected climate change impacts into revised land use and development codes to reduce destruction and increase the climate resilience of vulnerable ecosystems.	
Actions	Benefits of Actions
<p>2.1 Conduct climate vulnerability assessments when planning and developing infrastructure (roads, bridges, stream crossings, buildings) in sensitive ecosystems.</p> <p>2.2 Require climate vulnerability assessments when permitting new development or land use projects in or adjacent to climate impact zones (100+ yr. floodplains, coastal shorelines, geohazard areas, etc.).</p> <p>2.3 Designate climate impact zones within the Critical Areas Ordinance and regulate according to projected climate impacts and climate resilience needs, for example, include migration corridors and refugia to allow shifts in species distribution.</p> <p>2.4 Consider future climate conditions into the identification of fish and wildlife habitat conservation areas and wetlands.</p> <p>2.5 Incorporate greater diversity of topography and climate conditions in areas protected from development such as riparian and wetland habitats to allow for shifts in species distribution and ensure ecosystem resilience.</p> <p>2.6 Rezone areas immediately adjacent to high-value habitat areas and climate movement corridors to maintain larger, undisturbed tracts of intact ecosystems.</p> <p>2.7 Protect wetlands, riparian areas, and associated buffers from logging and other stressors.</p>	<ul style="list-style-type: none"> • Better understanding of the true value of ecosystems. (2.1, 2.2, 2.3, 2.4) • Expand habitat for wildlife and avoid human-wildlife interaction (2.3, 2.4, 2.5, 2.6) • Protect sensitive hydrologic systems and prevent fragmentation (2.5, 2.6, 2.7, 2.8) • Increase freshwater availability for humans, wildlife, fish, and ecosystems (2.4, 2.5, 2.7, 2.8) • Maintain maximum diversity of species (all actions).

2.8 Incorporate climate change into the Ecosystem Plan and develop an adaptation plan that leverages the work already done by the Nooksack Indian Tribe. ²⁹⁰	
3. Provide technical, logistical, and financial support for community efforts to restore and enhance ecosystems.	
Actions	Benefits of Actions
<p>3.1 Support the planting of one million trees in Whatcom County by 2030 by identifying non-forested County-owned lands and by partnering with other organizations and private landowners. Provide logistical support and tree stock for County-owned lands.</p> <p>3.2 Expand support for non-profit conservation programs that build ecosystem resilience to climate change through land protections, restoration, and community engagement.</p>	<ul style="list-style-type: none"> • Raise community awareness and support for climate action (3.1, 3.2) • Increased community funding to preserve natural systems (3.2)
4. Implement long-term monitoring to assess the impact of climate on ecosystem health.	
Actions	Benefits of Actions
<p>4.1 Monitor the status of critical areas and priority habitats (e.g., ecological processes sustaining these habitats and factors limiting them) and incorporate findings into planning and regulatory updates.</p> <p>4.2. Assess and monitor ecosystem health on County owned properties, including parks, right of ways, floodplain properties, etc.</p> <p>4.3. Develop goals, risk tolerances, and restoration strategies on County owned properties to address climate impacts and climate resilience.</p> <p>4.4. Expand County-sponsored citizen science programs for terrestrial ecosystems, modeled after programs sponsored by the Marine Resource Committee. Western Washington University faculty and staff could support these efforts.</p>	

²⁹⁰ Nooksack Indian Tribe Climate Change Adaptation Plan for Key Species and Habitats, <https://cig.uw.edu/wp-content/uploads/sites/2/2020/05/Nooksack-Indian-Tribe-Climate-Change-Adaptation-Plan.pdf>

5. Preserve and enhance ecosystem health to build climate resilience in our hydrologic processes, air and water quality, carbon storage, and ecological connectivity.

Actions	Benefits of Actions
<p>5.1 Significantly increase the rate and scale of conservation easement acquisition of important ecosystems through the Purchase of Development Rights Program.</p> <p>5.2 As part of the County’s Natural Resource Marketplace, develop a carbon valuation program to compensate property owners who voluntarily protect and increase carbon stores (forests, wetlands, soils) to mitigate climate impacts.</p> <p>5.3 Restore floodplain connectivity, native vegetation, and forest ecosystems within floodplains to enhance natural flood storage and mitigate flood impacts to ecosystems.</p> <p>5.5 Identify and protect mature forest stands that form connected habitat blocks from the Puget Sound to the Cascade Mountains (e.g., Chuckanut Wildlife Corridor, Nooksack River, and associated tributaries) through regulations, codes, and management guidelines.</p>	



Whatcom County

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

Agenda Bill Master Report

File Number: AB2021-485

File ID:	AB2021-485	Version:	1	Status:	Agenda Ready
File Created:	08/02/2021	Entered by:	CHalka@co.whatcom.wa.us		
Department:	Council Office	File Type:	Council Appointment		
Assigned to:	Council			Final Action:	
Agenda Date:	08/10/2021			Enactment #:	

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

TITLE FOR AGENDA ITEM:

Council appointment of interim District Court Judge

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

Council appointment of interim District Court Judge

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:

Attachments:



Whatcom County

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

Agenda Bill Master Report

File Number: MIN2021-061

File ID:	MIN2021-061	Version:	1	Status:	Agenda Ready
File Created:	07/30/2021	Entered by:	KFelbing@co.whatcom.wa.us		
Department:	Council Office	File Type:	Minutes Consent		
Assigned to:	Council			Final Action:	
Agenda Date:	08/10/2021			Enactment #:	

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

TITLE FOR AGENDA ITEM:

Committee of the Whole Executive Session for July 27, 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 Jul 27 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 NOON (TO
PARTICIPATE, SEE INSTRUCTIONS AT
www.whatcomcounty.us/joinvirtualcouncil OR CALL 360.778.5010)
Tuesday, July 27, 2021**

11 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 11:07 a.m. in a virtual meeting.

Roll Call

Present: 7 - Rud Browne, Barry Buchanan, Tyler Byrd, Todd Donovan, Ben Elenbaas, Carol Frazey, and Kathy Kershner

Absent: None

Announcements

Committee Discussion

Attorney Present: Karen Frakes.

Buchanan stated that discussion of agenda item one may take place in executive session pursuant to RCW42.30.110(1)(h) and that they would be going into executive session to evaluate the qualifications of the applicants for the District Court Judge position. He then stated agenda item two may take place in executive session pursuant to RCW 42.30.110(1)(b). Executive session will conclude no later than 12 p.m. If the meeting extends beyond the stated conclusion time, Council staff will step out of the meeting to make a public announcement.

Browne moved to go into executive session until no later than 12 p.m. to discuss the agenda items pursuant to the RCW citations as announced by the Council Chair. The motion was seconded by Frazey.

The motion failed by the following vote:

Aye: 3 - Buchanan, Frazey, and Browne

Nay: 3 - Byrd, Elenbaas, and Kershner

Abstain: 1 - Donovan

Karen Frakes, Prosecuting Attorney's Office, answered questions about and Councilmembers discussed whether the discussion for AB2021-339 should be public or in executive session.

Byrd moved to go into executive session to discuss the second item, AB2021-411.

Browne moved to reconsider the vote to go into executive session for both items but there was a motion already on the floor.

Byrd's motion was seconded by Kershner.

Councilmembers and Frakes discussed Byrd's motion, whether AB2021-339 should be discussed in executive session, what aspects of appointing a District Court Judge can be discussed in executive session, and which should be in a public meeting.

Byrd's motion failed by the following vote:

Aye: 2 - Byrd and Kershner

Nay: 5 - Donovan, Elenbaas, Frazey, Browne, and Buchanan

Browne moved to reconsider the first motion to go into executive session to discuss the District Court judicial vacancy (AB2021-339). The motion was seconded by Frazey.

Councilmembers and Frakes discussed the motion to reconsider and bifurcating the motion to go into executive session for the first of the two agenda items.

The motion to reconsider failed by the following vote:

Aye: 3 - Frazey, Browne, and Buchanan

Nay: 3 - Elenbaas, Kershner, and Byrd

Abstain: 1 - Donovan

Browne moved to go into executive session for the second item (AB2021-411). The motion was seconded by Frazey.

The motion carried by the following vote:

Aye: 7 - Elenbaas, Frazey, Kershner, Browne, Buchanan, Byrd, and Donovan

Nay: 0

1. [AB2021-339](#) Discussion to establish a process for filling district court judicial vacancy
See discussion notes under agenda header above.

This agenda item was DISCUSSED but not in Executive Session.

2. [AB2021-411](#) Discussion regarding potential property acquisition for the Flood Control Zone District [Discussion of this item may take place in executive session (closed to the public) pursuant to RCW 42.30.110(1)(b)]
See discussion notes under agenda header above.

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 11:53 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: MIN2021-062

File ID:	MIN2021-062	Version:	1	Status:	Agenda Ready
File Created:	07/30/2021	Entered by:	KFelbing@co.whatcom.wa.us		
Department:	Council Office	File Type:	Minutes Consent		
Assigned to:	Council			Final Action:	
Agenda Date:	08/10/2021			Enactment #:	

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

TITLE FOR AGENDA ITEM:

Committee of the Whole for July 27, 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 Jul 27 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 BY 4:45 P.M.; MAY BEGIN EARLY

Tuesday, July 27, 2021

3:45 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 3:31 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. [AB2021-402](#) Report on activities in progress pursuant to Homeless Strategies Workgroup recommendations

Anne Deacon, Health Department, updated the Councilmembers and answered questions about what percent of homeless in the county are just passing through and whose last residence was not in Whatcom County, what non-profits they are working with to provide overflow winter shelter, how many families are using motel stays, how many families are still homeless right now that would be looking for the service, the decline in housing availability, how much they have started forecasting the implications of the eviction moratorium expiring, whether there are other options beyond the Opportunity Council that people needing assistance can go to, what reasons they are hearing for the increase in families being homeless, why a loss of income would be causing the loss of housing, and whether the County will still be able to use the Depot Market Square as an emergency winter shelter.

Ann Beck, Health Department, also answered questions about the eviction moratorium.

This agenda item was REPORTED.

Committee Discussion and Recommendation to Council

1. [AB2021-438](#) Resolution approving the Whatcom County Water District No. 7 Water System Plan

Dana Brown-Davis, Clerk of the Council, briefed the Councilmembers.

Byrd moved and Frazey seconded that the Resolution be RECOMMENDED FOR APPROVAL. The motion carried by the following vote:

Aye: 6 - Buchanan, Byrd, Donovan, Frazey, Elenbaas, and Kershner

Nay: 0

Absent: 0

Temp Absent: 1 - Browne

2. [AB2021-185](#) Ordinance amending Whatcom County Code 9.32, Unlawful Discharge of Firearms, to establish a no shooting zone in the Drayton Harbor area of Whatcom County
- Dana Brown-Davis, Clerk of the Council, briefed the Councilmembers and Councilmembers discussed how they would like to proceed with the item, a recent letter from the Lummi Indian Business Council (on file) and a request for more government-to-government collaboration, and the version of the ordinance that should be considered.

Byrd moved to recommend introduction of the ordinance with the 1000-foot rule. The motion was seconded by Browne.

Councilmembers discussed the motion.

Byrd withdrew his motion. He stated that the Lummi Indian Business Council's letter requested a government to government meeting.

Councilmembers and Brown-Davis discussed a timeline for the aforementioned meeting, who should attend the meeting, a request to Council staff to contact the governments in the next two weeks, and the Council getting an update about scheduling the meeting on August 10.

This agenda item was DISCUSSED.

Committee Discussion

1. [AB2021-339](#) Discussion to establish a process for filling district court judicial vacancy
- Cathy Halka, Council Legislative Analyst, updated the Councilmembers.
- Councilmembers discussed and Halka answered questions about why one applicant was going to be reevaluated, whether the interviews will be in a noticed and open public meeting, how the interview process will work, whether the reconsideration of the applicant being reevaluated will be back to them in time for interviews, whether there will be time limits for interviewees to answer questions, the process for voting on candidates, and whether they could get the candidate reevaluation by Monday, August 2nd.
- Councilmembers and Dana Brown-Davis, Clerk of the Council, discussed how to set up a voting system.
- Browne moved* that they set up a ranked choice voting system of the top

three candidates. The motion was seconded by Donovan.

Browne withdrew his motion **and moved** to do a first round of votes, take the top vote getters, do a second round of voting, and if after the second round of voting they do not have a clear winner then do a ranked choice vote. The motion was seconded by Donovan.

Councilmembers discussed the motion and voting options.

Browne restated his motion to start with a process of voting for your one favorite candidate, and if we get in a deadlock after two rounds, do ranked choice voting.

Donovan shared his screen and Councilmembers tried a sample voting tool online.

Karen Frakes, Prosecuting Attorney's Office, answered whether the voting tool online would be ok to use and Councilmembers discussed the use of this type of voting.

Browne clarified his motion to go through the process of voting for one person until they get deadlocked and if they are deadlocked, they would go to ranked choice voting.

The motion carried by the following vote:

Aye: 6 - Buchanan, Byrd, Donovan, Frazey, Kershner, and Browne

Nay: 1 - Elenbaas

Councilmembers discussed the interview questions.

Browne moved to accept the interview questions. The motion was seconded by Byrd.

Councilmembers discussed the motion.

Frazey moved to send the interview questions to each candidate. The motion was seconded by Donovan but a motion was already on the floor.

Browne amended his motion to include Frazey's suggestion.

Councilmembers continued to discuss the motion.

The motion carried by the following vote:

Aye: 5 - Donovan, Frazey, Kershner, Browne, and Buchanan

Nay: 1 - Elenbaas

Abstain: 1 - Byrd

This agenda item was DISCUSSED AND MOTION(S) APPROVED.

2. [AB2021-439](#) Brief discussion of Comprehensive Plan amendments scheduled for concurrent review and adoption on July 27, 2021

Dana Brown-Davis, Clerk of the Council, briefed the Councilmembers.

This agenda item was DISCUSSED.

Items Added by Revision

There were no agenda items added by revision.

Other Business

Councilmembers requested that the Health Department's letter (AB2021-457) be moved in the agenda tonight to be after Sheriff Elfo's presentation.

Adjournment

The meeting adjourned at 5:05 p.m.

ATTEST:

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WA

Dana Brown-Davis, Council Clerk

Barry Buchanan, Council Chair

Kristi Felbinger, Minutes Transcription



Whatcom County

COUNTY COURTHOUSE
311 Grand Avenue, Ste #105
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Agenda Bill Master Report

File Number: MIN2021-063

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File Created:	08/02/2021	Entered by:	KFelbing@co.whatcom.wa.us		
Department:	Council Office	File Type:	Minutes Consent		
Assigned to:	Council			Final Action:	
Agenda Date:	08/10/2021			Enactment #:	

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

TITLE FOR AGENDA ITEM:

Regular County Council for July 27, 2021

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

None

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
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Attachments: Draft Minutes Council Jul 27 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, July 27, 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 6:01 p.m. in a virtual meeting.

ROLL CALL

Present: 7 - Rud Browne, Barry Buchanan, Tyler Byrd, Todd Donovan, Ben Elenbaas, Carol Frazey, and Kathy Kershner

Absent: None

FLAG SALUTE

ANNOUNCEMENTS

Buchanan read the following announcement: The Council is accepting applications to fill 5 vacancies on the Portage Bay Shellfish Protection District Advisory Committee. The vacancy must be filled by someone with a direct interest in the district. If you are interested in filling this vacancy and meet the qualifications, please let us know at 360-778-5010 or email the council at Council@co.whatcom.wa.us.

COUNTY EXECUTIVE'S REPORT

Satpal Sidhu, County Executive, stated he did not have a report.

SPECIAL PRESENTATION

1. [AB2021-440](#) Presentation on police reform in Washington State

Bill Elfo, Sheriff, gave a presentation and answered questions about the new legislation, how many officers the Sheriff's Office will be short, whether it would be helpful if money was allocated in the budget for hiring bonuses, hiring behavioral health professionals and who would supervise them, whether the new legislation will cause more people to take the law into their own hands and whether that would make communities more safe.

Anne Deacon, Health Department, spoke about the shortage of mental health professionals and keeping those workers safe.

Councilmembers discussed the next steps forward, why it was just scheduled in a Council meeting and whether a discussion should be scheduled for committee, tracking the effects and costs of the legislation, and what it is that the Council can do.

Satpal Sidhu, County Executive, stated it is something the Administration

has been working on for six months or more with Emergency Medical Services, the City of Bellingham, and other programs.

This agenda item was PRESENTED AND DISCUSSED.

ITEMS ADDED BY REVISION

1. [AB2021-457](#) Letter of support for opioid treatment program in Bellingham

Clerk's note: This item was moved from the "ITEMS ADDED BY REVISION" header later in the agenda.

The following people briefed the Councilmembers and answered questions:

- Jackie Mitchell, Health Department,
- Jessica DePriest, Acadia Healthcare
- Colleen Bowles, Clinic Director
- Anne Deacon, Health Department

Browne moved that they approve the letter. The motion was seconded by Donovan.

DePriest answered a question about recovery rate for the methadone treatment.

Browne's motion that the REQUEST be APPROVED carried by the following vote:

Aye: 7 - Browne, Buchanan, Byrd, Donovan, Elenbaas, Frazey, and Kershner

Nay: 0

Absent: 0

MINUTES CONSENT

Donovan moved to accept the minutes consent items. The motion was seconded by Frazey (see votes on individual items below).

1. [MIN2021-055](#) Committee of the Whole Executive Session for July 13, 2021

Donovan moved and Frazey seconded that the Minutes Consent be APPROVED BY CONSENT. The motion carried by the following vote:

Aye: 7 - Browne, Buchanan, Byrd, Donovan, Elenbaas, Frazey, and Kershner

Nay: 0

Absent: 0

2. [MIN2021-056](#) Committee of the Whole for July 13, 2021

Donovan moved and Frazey seconded that the Minutes Consent be APPROVED BY CONSENT. The motion carried by the following vote:

Aye: 7 - Browne, Buchanan, Byrd, Donovan, Elenbaas, Frazey, and Kershner

Nay: 0

Absent: 0

3. [MIN2021-057](#) Regular County Council for July 13, 2021

Donovan moved and Frazey seconded that the Minutes Consent be APPROVED BY CONSENT. The motion carried by the following vote:

Aye: 7 - Browne, Buchanan, Byrd, Donovan, Elenbaas, Frazey, and Kershner

Nay: 0

Absent: 0

4. [MIN2021-059](#) Water Work Session for July 20, 2021

Donovan moved and Frazey seconded that the Minutes Consent be APPROVED BY CONSENT. The motion carried by the following vote:

Aye: 7 - Browne, Buchanan, Byrd, Donovan, Elenbaas, Frazey, and Kershner

Nay: 0

Absent: 0

PUBLIC HEARINGS

Dana Brown-Davis, Clerk of the Council, answered a question about the process for this and the other ordinances to be considered concurrently. Council staff played a short instructional video about how to speak at the meeting.

1. [AB2021-403](#) Ordinance adopting amendments to the Whatcom County Comprehensive Plan and Whatcom County Code relating to the Cherry Point UGA fossil fuel facilities, renewable fuel facilities, piers, SEPA, greenhouse gas emissions, and other matters

Buchanan opened the Public Hearing and the following people spoke:

- Lance Calloway
- Cary Clemenson
- Todd Taylor
- Sandy Lawrence
- Rod Roth
- David Kershner

- Larry Montgomery
- Charles Bailey
- Tom Wolf
- Zach McCown
- Matt Krogh
- Shannon Wright
- Brad Brown
- Trevor Smith
- Pam Brady
- Dave Brune
- Tim Johnson
- Rick Stumph
- Christopher Watrobka
- Alex Ramel
- Luis Serragon
- Tony Galina
- Matthew Hepner
- Kamal Bhachu
- Doris Smith
- Barney Smith
- Barbara Chase
- Bruce Gregory Tims
- Andrew Gamble
- Wendy Harris
- Adam Lamb
- Dana Briggs
- Kelley Bouma
- James Arstead

Hearing no one else, Buchanan closed the Public Hearing.

PUBLIC TESTIMONY RECEIVED.

Buchanan moved to forward this ordinance for concurrent review with the other Comprehensive Plan amendment proposals scheduled later this evening. The motion was seconded by Donovan.

Dana Brown-Davis, Clerk of the Council, explained the process for reviewing the Comprehensive Plan amendments concurrently.

Councilmembers discussed the motion.

Byrd suggested a friendly amendment to add the agenda bill number to the motion so that the motion says to forward this ordinance (AB2021-403) for concurrent review with the other Comprehensive Plan amendment proposals scheduled later this evening.

Buchanan accepted the friendly amendment.

Buchanan's motion that the Ordinance Requiring a Public Hearing (AB2021-403) be FORWARDED FOR CONCURRENT REVIEW carried by the following vote:

Aye: 7 - Browne, Buchanan, Byrd, Donovan, Elenbaas, Frazey, and Kershner

Nay: 0

Absent: 0

APPROVAL OF COMPREHENSIVE PLAN AMENDMENTS

1. [AB2021-403](#) Ordinance adopting amendments to the Whatcom County Comprehensive Plan and Whatcom County Code relating to the Cherry Point UGA fossil fuel facilities, renewable fuel facilities, piers, SEPA, greenhouse gas emissions, and other matters
Donovan moved and Byrd seconded that the Ordinance Requiring a Public Hearing be ADOPTED.

Councilmembers discussed the motion and Satpal Sidhu, County Executive, also commented. See vote on concurrent approval of this item in the minutes below.

Donovan's motion that the Ordinance Requiring a Public Hearing be ADOPTED carried by the following vote:

Aye: 7 - Browne, Buchanan, Byrd, Donovan, Elenbaas, Frazey, and Kershner

Nay: 0

Absent: 0

Enactment No: ORD 2021-046

2. [AB2021-380](#) Ordinance adopting amendments to the Whatcom County Comprehensive Plan relating to density credits, PDRs, and TDRs
See vote on concurrent approval of this item in the minutes below.

Browne moved and Donovan seconded that the Ordinance be ADOPTED (see motion below related to concurrent review). The motion carried by the following vote:

Aye: 5 - Browne, Buchanan, Donovan, Frazey, and Kershner

Nay: 2 - Byrd, and Elenbaas

Absent: 0

Enactment No: ORD 2021-047

3. [AB2021-381](#) Ordinance adopting Whatcom County Comprehensive Plan amendments concerning the Lummi Island Ferry, modifying Policy 6A-1 relating to ferry level of service and deleting Policy 6C-9 relating to a ferry feasibility study

See vote on concurrent approval of this item in the minutes below.

Browne moved and Donovan seconded that the Ordinance be ADOPTED (see motion below related to concurrent review). The motion carried by the following vote:

Aye: 7 - Browne, Buchanan, Byrd, Donovan, Elenbaas, Frazey, and Kershner

Nay: 0

Absent: 0

Enactment No: ORD 2021-048

4. [AB2021-363](#) Ordinance amending the Whatcom County Code and Comprehensive Plan, requiring a site-specific geotechnical analysis when mineral extraction is proposed within 500 feet of a gas or petroleum transmission pipeline

Dana Brown-Davis, Clerk of the Council, stated that the ordinance has already been adopted (ORD 2021-040) but it needs to be part of concurrent review. See vote on concurrent approval of this item in the minutes below.

This item was adopted in a previous meeting (see motion below related to concurrent review).

Concurrent Review Vote

Buchanan moved to approve the above adopted Comprehensive Plan amendments concurrently. The motion was seconded by Frazey.

Dana Brown-Davis, Clerk of the Council, stated that includes AB2021-363.

The motion carried by the following vote:

Aye: 7 - Byrd, Donovan, Elenbaas, Frazey, Kershner, Browne, and Buchanan

Nay: 0

OPEN SESSION (20 MINUTES)

Council staff played a short instructional video about how to speak at the meeting.

The following people spoke:

- Misty Flowers
- Cliff Langley
- Nancy Bergman
- Jennifer Durant
- Jean Purcell
- Natalie Chavez
- Helga Deliban
- Andrea Ward
- Richard Tran
- Hannah (last name not given)
- Dana Briggs
- Brad Brown
- Alicia McCoy

Hearing no one else, Buchanan closed the Open Session.

CONSENT AGENDA

(From Council Finance and Administrative Services Committee)

Browne reported for the Finance and Administrative Services Committee and ***moved*** to approve Consent Agenda items one and two. Councilmembers voted on those items (see votes on individual items below).

1. [AB2021-407](#) Request authorization for the County Executive to enter into a contract between Whatcom County and GeoEngineers, Inc. to provide on-call geotechnical engineering services for 2021-2022 in the amount not to exceed \$200,000

Browne reported for the Finance and Administrative Services Committee and moved that the Contract be AUTHORIZED BY CONSENT. The motion carried by the following vote:

Aye: 7 - Browne, Buchanan, Byrd, Donovan, Elenbaas, Frazey, and Kershner

Nay: 0

Absent: 0

2. [AB2021-429](#) Request authorization for the County Executive to enter into a contract between Whatcom County and Lifeline Connections to support the Whatcom Recovery House, in the amount of \$51,447

Browne reported for the Finance and Administrative Services Committee and moved that the Contract be AUTHORIZED BY CONSENT. The motion carried by the following vote:

Aye: 7 - Browne, Buchanan, Byrd, Donovan, Elenbaas, Frazey, and Kershner

Nay: 0

Absent: 0

OTHER ITEMS

(From Council Finance and Administrative Services Committee)

1. [AB2021-405](#) Ordinance requesting that the Whatcom County Auditor include the question of establishing a Birch Bay Library Capital Facility Area to finance a new library facility in Birch Bay on the ballot at the November general election

Browne reported for the Finance and Administrative Services Committee and moved that the Ordinance be ADOPTED. The motion carried by the following vote:

Aye: 7 - Browne, Buchanan, Byrd, Donovan, Elenbaas, Frazey, and Kershner

Nay: 0

Absent: 0

Enactment No: ORD 2021-049

2. [AB2021-431](#) Resolution to set hearing and notice of hearing to declare Whatcom County real property as surplus

Browne reported for the Finance and Administrative Services Committee and moved that the Resolution be APPROVED. The motion carried by the following vote:

Aye: 7 - Browne, Buchanan, Byrd, Donovan, Elenbaas, Frazey, and Kershner

Nay: 0

Absent: 0

Enactment No: RES 2021-023

3. [AB2021-432](#) Resolution to set hearing and notice of hearing to authorize the sale of Whatcom County surplus property

Browne reported for the Finance and Administrative Services Committee and moved that the Resolution be APPROVED. The motion carried by the following vote:

Aye: 7 - Browne, Buchanan, Byrd, Donovan, Elenbaas, Frazey, and Kershner

Nay: 0

Absent: 0

Enactment No: RES 2021-024

4. [AB2021-396](#) Request approval for the County Executive to enter into a contract between Whatcom County Flood Control Zone District and the Washington Department of Ecology in the amount of \$153,520 (Council acting as the Flood Control Zone District Board of Supervisors)

Browne reported for the Finance and Administrative Services Committee and moved that the Contract (FCZDBS) be AUTHORIZED. The motion carried by the following vote:

Aye: 7 - Browne, Buchanan, Byrd, Donovan, Elenbaas, Frazey, and Kershner

Nay: 0

Absent: 0

5. [AB2021-409](#) Request approval for the County Executive to enter into an interlocal agreement on behalf of the Flood Control Zone District between Whatcom County and the City of Lynden in the amount of \$20,000 for the construction of the Lynden Levee Channel Realignment Project (Council acting as the Flood Control Zone District Board of Supervisors)

Browne reported for the Finance and Administrative Services Committee and moved that the Contract (FCZDBS) be AUTHORIZED. The motion carried by the following vote:

Aye: 7 - Browne, Buchanan, Byrd, Donovan, Elenbaas, Frazey, and Kershner

Nay: 0

Absent: 0

Dana Brown-Davis, Clerk of the Council, answered a question about an item added by revision (AB2021-456).

(From Council Committee of the Whole)

6. [AB2021-438](#) Resolution approving the Whatcom County Water District No. 7 Water System Plan
Buchanan reported for Committee of the Whole.

Byrd moved and Donovan seconded that the Resolution be APPROVED. The motion carried by the following vote:

Aye: 7 - Browne, Buchanan, Byrd, Donovan, Elenbaas, Frazey, and Kershner

Nay: 0

Absent: 0

Enactment No: RES 2021-025

ITEMS ADDED BY REVISION

2. [AB2021-456](#) Request authorization for the County Executive to enter into a contract to purchase 2000 Division Street property

Dana Brown-Davis, Clerk of the Council, read AB2021-456 into the record.

Browne reported for the Finance and Administrative Services Committee and moved that the Contract be AUTHORIZED. The motion carried by the following vote:

Aye: 7 - Browne, Buchanan, Byrd, Donovan, Elenbaas, Frazey, and Kershner

Nay: 0

Absent: 0

INTRODUCTION ITEMS

Buchanan reported for Committee of the Whole and stated that AB2021-185 (Introduction item number 9) was withdrawn from introduction.

Donovan moved to introduce items 1-8. The motion was seconded by Byrd (see votes on individual items below).

1. [AB2021-412](#) Ordinance amending the 2021 Whatcom County Budget, request no. 12, in the amount of \$1,506,763

Donovan moved and Byrd seconded that the Ordinance be INTRODUCED. The motion carried by the following vote:

Aye: 7 - Browne, Buchanan, Byrd, Donovan, Elenbaas, Frazey, and Kershner

Nay: 0

Absent: 0

2. [AB2021-420](#) Ordinance amending the Whatcom County Comprehensive Plan Map and zoning code for the Nooksack Falls Exclave within the Mount Baker-Snoqualmie National Forest

Donovan moved and Byrd seconded that the Ordinance Requiring a Public Hearing be INTRODUCED FOR PUBLIC HEARING. The motion carried by the following vote:

Aye: 7 - Browne, Buchanan, Byrd, Donovan, Elenbaas, Frazey, and Kershner

Nay: 0

Absent: 0

3. [AB2021-422](#) Ordinance for reestablishing a speed limit for a portion of Bay Road

Donovan moved and Byrd seconded that the Ordinance Requiring a Public Hearing be INTRODUCED FOR PUBLIC HEARING. The motion carried by the following vote:

Aye: 7 - Browne, Buchanan, Byrd, Donovan, Elenbaas, Frazey, and Kershner

Nay: 0

Absent: 0

4. [AB2021-424](#) Ordinance adopting amendments to the Whatcom County Code Title 20, Zoning to allow and regulate Battery Energy Storage Systems

Donovan moved and Byrd seconded that the Ordinance Requiring a Public Hearing be INTRODUCED FOR PUBLIC HEARING. The motion carried by the following vote:

Aye: 7 - Browne, Buchanan, Byrd, Donovan, Elenbaas, Frazey, and Kershner

Nay: 0

Absent: 0

5. [AB2021-433](#) Resolution declaring Whatcom County real property as surplus

Donovan moved and Byrd seconded that the Resolution Requiring a Public Hearing be INTRODUCED FOR PUBLIC HEARING. The motion carried by the following vote:

Aye: 7 - Browne, Buchanan, Byrd, Donovan, Elenbaas, Frazey, and Kershner

Nay: 0

Absent: 0

6. [AB2021-434](#) Resolution authorizing the sale of Whatcom County surplus property

Donovan moved and Byrd seconded that the Resolution Requiring a Public Hearing be INTRODUCED FOR PUBLIC HEARING. The motion carried by the following vote:

Aye: 7 - Browne, Buchanan, Byrd, Donovan, Elenbaas, Frazey, and Kershner

Nay: 0

Absent: 0

7. [AB2021-413](#) Request authorization for the County Executive to enter into an interlocal agreement between Whatcom County and City of Bellingham for FY2021 Byrne Justice Assistance Grant (JAG) Program Award, in the amount of \$14,001

Donovan moved and Byrd seconded that the Agreement Requiring a Public Hearing be INTRODUCED FOR PUBLIC HEARING. The motion carried by the following vote:

Aye: 7 - Browne, Buchanan, Byrd, Donovan, Elenbaas, Frazey, and Kershner

Nay: 0

Absent: 0

8. [AB2021-417](#) Resolution transferring a Whatcom County Flood Control Zone District property to the Lummi Nation (Council acting as the Flood Control Zone District Board of Supervisors)

Donovan moved and Byrd seconded that the Resolution (FCZDBS) Requiring a Public Hearing be INTRODUCED FOR PUBLIC HEARING. The motion carried by the following vote:

Aye: 7 - Browne, Buchanan, Byrd, Donovan, Elenbaas, Frazey, and Kershner

Nay: 0

Absent: 0

9. [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

This agenda item was WITHDRAWN.

OTHER BUSINESS FROM COMMITTEE

Dana Brown-Davis, Clerk of the Council, spoke about a need for a Pro and Con Statement Committee for a Ballot Measure to Amend the Charter.

Councilmembers concurred to have staff set up a special Council meeting for Monday, August 2, 2021.

They then discussed Bellingham Community Television (BTV)'s decision to not air Council meetings if they contain medical misinformation as defined by YouTube.

Byrd moved to formally request a joint session with the City of Bellingham's Council and Mayor to discuss the topic if they choose not to air the episode we send them tomorrow. The motion was seconded by Frazey.

Councilmembers and Brown-Davis discussed the motion.

Byrd clarified his motion to send BTV the July 27, 2021 meeting video and if they refuse to air it in its entirety unedited, then follow up with a formal request for a Joint meeting with the City of Bellingham's Council.

The motion carried by the following vote:

Aye: 7 - Frazey, Kershner, Browne, Buchanan, Byrd, Donovan, and Elenbaas

Nay: 0

COMMITTEE REPORTS, OTHER ITEMS, AND COUNCILMEMBER UPDATES

Councilmembers gave committee reports.

Dana Brown-Davis, Clerk of the Council, read a motion into the record from Committee of the Whole Executive Session.

Browne moved to authorize the County Executive, acting on behalf of the Whatcom County Flood Control Zone District, to execute a Purchase and Sale Agreement and Relocation Assistance Package for the acquisition of a property as discussed in Executive Session. The motion was seconded by Frazey.

Councilmembers discussed the motion.

The motion carried by the following vote:

Aye: 5 - Kershner, Browne, Buchanan, Elenbaas, and Frazey

Nay: 1 - Byrd

Out of the Meeting: 1 - Donovan

They and Satpal Sidhu, County Executive, also discussed an issue concerning a recent Council vote about providing funding for COVID-19 education through the Health Department.

ADJOURN

The meeting adjourned at 10:11 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
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Agenda Bill Master Report

File Number: MIN2021-064

File ID:	MIN2021-064	Version:	1	Status:	Agenda Ready
File Created:	08/02/2021	Entered by:	KFelbing@co.whatcom.wa.us		
Department:	Council Office	File Type:	Minutes Consent		
Assigned to:	Council			Final Action:	
Agenda Date:	08/10/2021			Enactment #:	

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

TITLE FOR AGENDA ITEM:

Special Council for August 2, 2021

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

None

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
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Attachments: Draft Minutes Special Council Aug 2 2021

Whatcom County Council (Special)

**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)**

Monday, August 2, 2021

1 PM

Virtual Meeting

COUNCILMEMBERS

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

CLERK OF THE COUNCIL

Dana Brown-Davis, C.M.C.

Call To Order

Council Chair Barry Buchanan called the meeting to order at 1:02 p.m. in a virtual meeting.

Roll Call

Present: 6 - Rud Browne, Barry Buchanan, Tyler Byrd, Todd Donovan, Carol Frazey, and Kathy Kershner

Absent: 1 - Ben Elenbaas

Announcements**Council Action**

1. [AB2021-473](#) Appointment of members to serve on committees that will prepare Whatcom County Voters' Guide statements for two ballot measures, one to amend the County Charter and the other to establish a Birch Bay Library Capital Facility Area

Dana Brown-Davis answered a question about process for this item.

Browne moved and Donovan seconded that the following applicants for the PRO statement for Proposal 1 (Charter) be nominated and appointed:

- Andrew Reding
- Cindy Madigan

The motion carried by the following vote:

Aye: 6 - Browne, Buchanan, Byrd, Donovan, Frazey, Kershner

Nay: 0

Absent: 1 - Elenbaas

Donovan moved and Frazey seconded that the following applicants for the PRO statement for Proposal 2 (Library) be nominated and appointed:

- Ruth Higgins
- Doralee Booth
- Keith Alesse

The motion carried by the following vote:

Aye: 6 - Buchanan, Byrd, Donovan, Frazey, Kershner, and Browne

Nay: 0

Absent: 1 - Elenbaas

This agenda item was NOMINATED AND APPOINTED.

Introduction

1. [AB2021-475](#) Ordinance repealing Ordinance 2021-029, which imposed an interim moratorium on the acceptance and processing of applications for new or expanded facilities in the Cherry Point Urban Growth Area, the primary purpose of which would be the shipment of unrefined fossil fuels not to be processed at Cherry Point

Kershner moved and Browne seconded that the Ordinance be INTRODUCED.

Councilmembers and Dana Brown-Davis, Clerk of the Council, discussed whether the amendments that were passed last week have taken effect and whether there is time for this to go into effect before that. This item will be considered on August 16, 2021.

Kershner's motion that the Ordinance be INTRODUCED carried by the following vote:

Aye: 6 - Browne, Buchanan, Byrd, Donovan, Frazey, and Kershner

Nay: 0

Absent: 1 - Elenbaas

Other Business

There was no other business.

Adjournment

The meeting adjourned at 1:08 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: AB2021-413

File ID:	AB2021-413	Version:	1	Status:	Introduced for Public Hearing
File Created:	07/13/2021	Entered by:	DPierce@co.whatcom.wa.us		
Department:	Sheriff's Office	File Type:	Agreement Requiring a Public Hearing		
Assigned to:	Council			Final Action:	
Agenda Date:	08/10/2021			Enactment #:	

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

TITLE FOR AGENDA ITEM:

Request authorization for the County Executive to enter into an interlocal agreement between Whatcom County and City of Bellingham for FY2021 Byrne Justice Assistance Grant (JAG) Program Award, in the amount of \$14,001

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

See Attachment

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
07/27/2021	Council	INTRODUCED FOR PUBLIC HEARING	Council

Attachments: Staff Memo, Contract

**WHATCOM COUNTY
SHERIFF'S OFFICE**

BILL ELFO
SHERIFF



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

MEMORANDUM

TO: Satpal Sidhu, County Executive

FROM: Bill Elfo, Sheriff *Bill Elfo*

DATE: July 13, 2021

RE: Interlocal Agreement Between the City of Bellingham, and County of Whatcom
FY2021 Byrne Justice Assistance Grant (JAG) Program Award

Enclosed for review and signature are two (2) originals of the Interlocal Agreement between the City of Bellingham and Whatcom County for Edward Byrne Memorial Justice Assistance Grant (JAG) Program FY2020.

Total Whatcom County Jurisdiction allocation is \$38,736 (with \$24,735 for the City of Bellingham and \$14,001 for Whatcom County). The City of Bellingham will administer the grant and provide \$14,001 to the Whatcom County Sheriff's Office to purchase ballistic resistant vests.

Please contact Undersheriff Chadwick at extension 6618 with any questions or concerns.

Thank you.

enclosure

WHATCOM COUNTY CONTRACT INFORMATION SHEET

Whatcom County Contract No.

Originating Department:	35 Sheriff's Office								
Division/Program: (i.e. Dept. Division and Program)	3520 Bureau of LE & Investigations / 352020 Patrol and OT								
Contract or Grant Administrator:	Doug Chadwick, Undersheriff								
Contractor's / Agency Name:	City of Bellingham								
Is this a New Contract? If not, is this an Amendment or Renewal to an Existing Contract? Yes <input type="radio"/> No <input checked="" type="radio"/>									
Yes <input checked="" type="radio"/> No <input type="radio"/> If Amendment or Renewal, (per WCC 3.08.100 (a)) Original Contract #: _____									
Does contract require Council Approval? Yes <input checked="" type="radio"/> No <input type="radio"/> If No, include WCC: _____									
Already approved? Council Approved Date: _____ (Exclusions see: Whatcom County Codes 3.06.010, 3.08.090 and 3.08.100)									
Is this a grant agreement? Yes <input checked="" type="radio"/> No <input type="radio"/> If yes, grantor agency contract number(s): _____ CFDA#: 16.738									
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: 1003521003									
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: <table border="0"> <tr> <td><input type="checkbox"/> Professional services agreement for certified/licensed professional.</td> <td><input type="checkbox"/> Goods and services provided due to an emergency</td> </tr> <tr> <td><input checked="" type="checkbox"/> Contract work is for less than \$100,000.</td> <td><input type="checkbox"/> Contract for Commercial off the shelf items (COTS).</td> </tr> <tr> <td><input type="checkbox"/> Contract work is for less than 120 days.</td> <td><input type="checkbox"/> Work related subcontract less than \$25,000.</td> </tr> <tr> <td><input checked="" type="checkbox"/> Interlocal Agreement (between Governments).</td> <td><input type="checkbox"/> Public Works - Local Agency/Federally Funded FHWA.</td> </tr> </table>		<input type="checkbox"/> Professional services agreement for certified/licensed professional.	<input type="checkbox"/> Goods and services provided due to an emergency	<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 checked="" type="checkbox"/> Interlocal Agreement (between Governments).	<input type="checkbox"/> Public Works - Local Agency/Federally Funded FHWA.
<input type="checkbox"/> Professional services agreement for certified/licensed professional.	<input type="checkbox"/> Goods and services provided due to an emergency								
<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 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): \$ 14,001.00 This Amendment Amount: \$ _____ Total Amended Amount: \$ 14,001.00	Council approval required for: all property leases, contracts or bid awards exceeding \$40,000 , and professional service contract amendments that have an increase greater than \$10,000 or 10% of contract amount, whichever is greater, except when : <ol style="list-style-type: none"> 1. Exercising an option contained in a contract previously approved by the council. 2. Contract is for design, construction, r-o-w acquisition, prof. services, or other capital costs approved by council in a capital budget appropriation ordinance. 3. Bid or award is for supplies. 4. Equipment is included in Exhibit "B" of the Budget Ordinance. 5. Contract is for manufacturer's technical support and hardware maintenance of electronic systems and/or technical support and software maintenance from the developer of proprietary software currently used by Whatcom County. 								
Summary of Scope: _____									
Interlocal Agreement between City of Bellingham and Whatcom County for U.S. Department of Justice Edward Byrne Memorial Justice Assistance Grant (JAG) Program FY2021. The Whatcom County jurisdiction allocation is \$38,736 (with \$24,735 for the City of Bellingham and \$14,001 for Whatcom County). The City of Bellingham will administre the grant and provide \$14,001 to the Whatcom County Sheriff's Office to purchase ballistic vests.									
Term of Contract: upon execution	Expiration Date: 12/31/2022								

Contract Routing:	1. Prepared by: D. Pierce	Date: 07/13/21
	2. Attorney signoff: APPROVED VIA EMAIL BW/dp	Date: 07/13/21
	3. AS Finance reviewed: APPROVED VIA GRANICUS BB/dp	Date: 07/15/21
	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:

THE STATE OF WASHINGTON

COUNTY OF WHATCOM

**INTERLOCAL AGREEMENT
BETWEEN THE CITY OF BELLINGHAM, AND COUNTY OF WHATCOM
2021 BYRNE JUSTICE ASSISTANCE GRANT (JAG) PROGRAM AWARD**

This Agreement is made and entered into this _____ day of _____, 2021, by and between The COUNTY of Whatcom, acting by and through its governing body, the County Council, hereinafter referred to as COUNTY, and the CITY of Bellingham, acting by and through its governing body, the City Council, hereinafter referred to as CITY, both of Whatcom County, State of Washington, witnesseth:

WHEREAS, each governing body, in performing governmental functions or in paying for the performance of governmental functions hereunder, shall make that performance or those payments from current revenues legally available to that party: and

WHEREAS, each governing body finds that the performance of this Agreement is in the best interests of both parties, that the undertaking will benefit the public, and that the division of costs fairly compensates the performing party for the services or functions under this agreement: and

WHEREAS, per the grant, Whatcom County Jurisdiction is allocated \$38,736 in grant funding, \$24,735 for the City and \$14,001 for Whatcom County: and

WHEREAS, the CITY agrees to provide the COUNTY \$14,001 from the JAG award for the purchase of body armor (ballistic resistant vests): and

WHEREAS, the CITY and COUNTY believe it to be in their best interests to reallocate the JAG funds.

NOW THEREFORE, the COUNTY and CITY agree as follows:

Section 1.

CITY agrees to pay COUNTY a total of \$14,001 of JAG funds.

Section 2.

COUNTY agrees to use \$14,001 for the purchase of ballistic vests until 2022.

Section 3.

Nothing in the performance of this Agreement shall impose any liability for claims against the "CITY" or "COUNTY"

Section 4.

Each party to this agreement will be responsible for its own actions in providing services under this agreement and shall not be liable for any civil liability that may arise from the furnishing of the services by the other party.

Section 5.

The parties to this Agreement do not intend for any third party to obtain a right by virtue of this Agreement.

Section 6.

By entering into this Agreement, the parties do not intend to create any obligations express or implied other than those set out herein; further, this Agreement shall not create any rights in any party not a signatory hereto.

CITY OF Bellingham, WA

COUNTY OF Whatcom, WA

Seth Fleetwood, Mayor

Bm Eep

Sheriff

ATTEST:

APPROVED AS TO FORM:

Brian Henshaw, Finance Department

APPROVED VIA EMAIL BW/dp 07-13-21

Prosecuting Attorney

APPROVED AS TO FORM:

City Attorney

Satpal Sidhu, Whatcom County Executive

Chief of Police

Whatcom County Sheriff's Office
2021 Edward Byrne Memorial JAG Program
FY 2021 Local Solicitation

Applicant Disclosure of Pending Applications

The Whatcom County Sheriff's Office does have a pending application within the last 12 months for federal funding to cover some costs of the proposed program under this solicitation.

The Whatcom County Sheriff's Office has applied for the 2020 DOJ Bulletproof Vest Partnership grant.

Federal Funding Agency	Solicitation Name	Name/Phone/Email for Point of Contact
USDOJ	Bulletproof Vest Partnership	1-877-758-3787/owner-bvp-list@ojp.usdoj.gov

**Whatcom County Sheriff's Office
Program Abstract**

Abstract

Enhanced officer safety and ballistic protection for first responders – In response to continued violent critical incidents at schools and public venues, the Whatcom County Sheriff's Office has developed enhanced training for Active Shooter scenarios. In an effort to prepare for and provide an enhanced response to critical violent incidents, the Whatcom County Sheriff's Office conducts ongoing training to deal with these threats and unusual situations that require an expedited response in order to save lives.

In addition to training, law enforcement must be prepared and equipped to deal with armed suspects in order to effectively mitigate the threat posed to the public. It is essential that all members of the Sheriff's Office have sufficient ballistic resistant vests to protect them from gunfire. The Sheriff's Office objective is to utilize allocated funds to purchase and replace current ballistic vests and improve officer safety.

Project identifiers – Equipment – Tactical, Body Armor – Ballistic Resistant, Counter Terrorism and Officer Safety.

Whatcom County Sheriff's Office
2021 Byrne JAG grant
Program Narrative

Narrative

The continued trend of violent attacks nationwide and abroad has reaffirmed why it is imperative that responders be trained and prepared to respond to incidents of active violence in a safe, efficient, and effective manner. The Sheriff's Office is uniquely positioned on the international border between the US and Canada, and is subject to both domestic and international threats. This includes not only schools and public venues, but multiple federal facilities and critical infrastructure that may be the targets of violent attacks and/or terrorism. The Sheriff's Office continues to train all deputies to deal with critical incidents, to include terrorist attacks, active shooter scenarios, and high-risk operations.

In addition to training, law enforcement officers must be provided necessary equipment that enhances their officer safety and increases the likelihood that they will be able to carry out their duties without serious injury or loss of life. In order to provide enhanced ballistic protection and increase officer safety, the Whatcom County Sheriff's Office intends to purchase ballistic vests. Ballistic vests are essential personal protective equipment that utilized by members of the Whatcom County Sheriff's Office. The use by deputies allows them to carry out their duties while protecting them from sudden violent attacks from gunfire.

The Sheriff's Office intends to utilize JAG funding to purchase ballistic vests, to improve officer safety/wellness and operational performance.

**Whatcom County Sheriff's Office
2021 Edward Byrne Memorial JAG Program
FY 2021 Local Solicitation**

Review Narrative

The Whatcom County Sheriff's Office intends to make its Fiscal Year 2021 JAG application available to the Whatcom County Council for its review and comment on July 27, 2021.

The application has not yet been made available for public review and comment. The Whatcom County Sheriff's Office will make its Fiscal Year 2021 JAG application available to citizens for comment at the Whatcom County Council meeting on August 10, 2021.

Whatcom County Sheriff's Office

2021 Byrne JAG program

Budget and Narrative

BUDGET

E. Supplies

Ballistic resistant vests	\$14,001
Total	\$14,001
Total project costs	\$14,001

BUDGET NARRATIVE

EQUIPMENT: In order to provide enhanced ballistic protection and increase officer safety, the Whatcom County Sheriff's Office intends to purchase ballistic vests. Ballistic vests are essential personal protective equipment utilized by members of the Whatcom County Sheriff's Office. The use by deputies allows them to carry out their duties while protecting them from sudden violent attacks from gunfire.

Ballistic Vests- The intent is to equip deputies with NIJ certified ballistic vests that are rated to stop handgun rounds, as well as some shotgun rounds. The Whatcom County Sheriff's Office intends to purchase vests which are made in America. These vests are worn by all deputies when responding to incidents where weapons are known to be present or the use of firearms is suspected. The use of ballistic vests by all deputies allows them to respond quickly to an active shooter incident, while providing ballistic protection and improving officer safety. The recent mass shootings throughout the United States highlights the use and role ballistic vests play in protecting those who protect others. The use of ballistic vests serves to increase the likelihood that they can carry out their duties and save lives, while improving the chances that they go home at the end of the day.

D. Equipment						
Item <i>List and describe each item of equipment that will be purchased</i>		Computation <i>Compute the cost (e.g., the number of each item to be purchased X the cost per item)</i>				
		# of Items	Unit Cost	Total Cost	Non-Federal Contribution	Federal Request
				\$0		\$0
Total(s)				\$0	\$0	\$0
Narrative						
E. Supplies						
Supply Items <i>Provide a list of the types of items to be purchased with grant funds.</i>		Computation <i>Describe the item and the compute the costs. Computation: The number of each item to be purchased X the cost per item.</i>				
		# of Items	Unit Cost	Total Cost	Non-Federal Contribution	Federal Request
Ballistic Vests		4	\$3,537.52	\$14,151		\$14,151
				\$0		\$0
Total(s)				\$14,151	\$0	\$14,151
Narrative						

U.S. DEPARTMENT OF JUSTICE
OFFICE OF JUSTICE PROGRAMS

Justice Assistance Grant (JAG) Program

Body Armor Mandatory Wear Policy Certification

On behalf of the applicant entity named below, I certify the following to the Office of Justice Programs, U.S. Department of Justice:

I have personally read and reviewed the section entitled "Body Armor Certification" in the program announcement for the grant program identified above. I certify that our agency currently has a written "mandatory wear" policy in effect.

I acknowledge that a false statement in this certification may be subject to criminal prosecution, including under 18 U.S.C. § 1001. I also acknowledge that Office of Justice Program grants, including certifications provided in connection with such grants, are subject to review by the Office of Justice Programs, and/or by the Department of Justice's Office of the Inspector General.

I have authority to make this certification on behalf of the applicant entity (that is, the entity applying directly to the Office of Justice Programs).

Fiscal Year of JAG Award: 2021


Signature of Certifying Official

Jason Gum

Printed Name of Certifying Official

Chief Criminal Deputy

Title of Certifying Official

Whatcom County Sheriff's Office

Full Name of Applicant Entity

June 8, 2021

Date



Whatcom County

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

Agenda Bill Master Report

File Number: AB2021-417

File ID:	AB2021-417	Version:	1	Status:	Introduced for Public Hearing
File Created:	07/14/2021	Entered by:	AHester@co.whatcom.wa.us		
Department:	Public Works Department	File Type:	Resolution (FCZDBS) Requiring a Public Hearing		
Assigned to:	Council	Final Action:			
Agenda Date:	08/10/2021	Enactment #:			

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

TITLE FOR AGENDA ITEM:

Resolution transferring a Whatcom County Flood Control Zone District property to the Lummi Nation
(Council acting as the Flood Control Zone District Board of Supervisors)

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

This resolution is for the transfer of Whatcom County Flood Control Zone District real property to the Lummi Nation in exchange for wetland mitigation credits in the amount of \$17,000 pursuant to WCC 1.10.340 (A) and WCC 1.10.370

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
07/27/2021	Council	INTRODUCED FOR PUBLIC HEARING	Council

Attachments: Staff Memo, Proposed Resolution, Bargain and Sale Deed, Conservation Easement, Aerial Map



MEMORANDUM

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

Through: Jon Hutchings, Director *JH*

From: Andrew Hester, Real Estate Coordinator *AH*

Date: July 14, 2021

Re: Interlocal Agreement and Resolution Transferring Whatcom County Flood
Control Zone District Property to the Lummi Nation

Enclosed is an interlocal agreement and resolution requesting the approval of a transfer of Whatcom County Flood Control Zone District property to the Lummi Nation.

Requested Action

Public Works respectfully requests that the Whatcom County Council hold a public hearing and take action on the proposed property transfer.

Background and Purpose

The Whatcom County Flood Control Zone District purchased a property located on Ferndale Road in 2008. A portion of the property was used for mitigation purposes for a Public Works road project. The property has been subject to trespassing and dumping. The Lummi Nation would like to acquire the property and has offered wetland mitigation credits in the amount of \$17,000 in exchange for the property. Whatcom County Public Works recommends the transfer of this property subject to a conservation easement protecting the mitigation area and deed restrictions preventing the future development of the property.

Funding Amount and Source

No County funds are being expended on this agreement.

Please contact me at extension 6216 if you have any questions or concerns regarding this resolution.

Encl.

SPONSORED BY: _____

PROPOSED BY: Public Works

INTRODUCTION DATE: _____

RESOLUTION NO. _____

TRANSFERRING A WHATCOM COUNTY FLOOD CONTROL ZONE DISTRICT
PROPERTY TO THE LUMMI NATION

WHEREAS, Whatcom County Flood Control Zone District (FCZD) owns property on Ferndale Road designated as Whatcom County tax parcel number 380208 042156 0000; and

WHEREAS, FCZD acquired property to prevent development in a frequently flooded area; and

WHEREAS, a portion of the property was used for stream buffer mitigation for a Whatcom County Public Works project; and

WHEREAS, the property has been subject to trespassing and dumping; and

WHEREAS, the Lummi Nation requested the property be transferred for fishing access; and

WHEREAS, FCZD is agreeable to the transfer of the property to the Lummi Nation if the mitigation area is protected and property is not developed in the future; and

WHEREAS, FCZD and Lummi Nation have negotiated that consideration for the property will be in the amount of \$17,000 to be applied towards a future wetland mitigation credit transaction; and

WHEREAS, this matter has been reviewed by the Property Management Committee with a recommendation to present to the County Council for approval; and

WHEREAS, after due consideration by the Whatcom County Council acting as the FCZD Board of Supervisors, it appears to the Council that it will be in the best interest of the FCZD to convey to the Lummi Nation a bargain and sale deed subject to deed restrictions and a conservation easement.

NOW, THEREFORE, BE IT RESOLVED by the Whatcom County Council acting as the FCZD Board of Supervisors, that the Executive is authorized to execute a bargain and sale deed transferring Whatcom County tax parcel number 380208 042156 0000 as described in Exhibit A to the Lummi Nation subject to a conservation easement and deed restrictions as set forth in Exhibit B and subject to the transfer of \$17,000 to the FCZD to be applied towards a future wetland mitigation credit transaction.

APPROVED this ____ day of _____, 2021

ATTEST:

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

Dana Brown-Davis, County Clerk

Barry Buchanan, Council Chair

APPROVED AS TO FORM:

Christopher Quinn
Civil Deputy Prosecutor
(approved electronically 7/7/2021)

EXHIBIT A

Legal Description of property to be quitclaimed

The North 100 feet of the South 300 feet of that portion of the Northwest Quarter of the Northwest Quarter of the Southwest Quarter of Section 8, Township 38 North, Range 2 East of W.M., lying westerly of the present channel of the Nooksack River, and south of the slough, except right-of-way commonly referred to as Ferndale Road, lying along the Westerly line of said premises, and less River Wash.

Situate in Whatcom County, Washington.

EXHIBIT B

Deed Restrictions

- A. Compatible uses. The property shall be dedicated and maintained in perpetuity as open space for the conservation of natural floodplain functions. Such uses may include: outdoor recreational activities, restoration; nature reserves; cultivation; grazing; camping (except where adequate warning time is not available to allow evacuation); unimproved, unpaved parking lots; unpaved access roads; and buffer zones.
- B. No permanent structures or improvements shall be erected on the property. Temporary structures associated with outdoor recreational activities shall be allowed subject to the approval of Grantor. Any improvements on the property shall be in accordance with proper floodplain management policies and practices.
- C. Any grading activities required to construct approved improvements or access roads on the property shall restore the grades to pre-project conditions so as to not affect the conveyance of floodwaters. Proposed grading activities must be approved by the Grantor prior to ground disturbance.
- D. The Grantee is responsible for obtaining all applicable permits for any proposed improvements or grading on the property.

After recording return document to:

Lummi Nation
2665 Kwina Road
Bellingham, WA 98226

Document Title: Bargain and Sale Deed
Reference Number of Related Documents: NA
Grantor: Whatcom County Flood Control Zone District
Grantee: Lummi Nation
Legal Description: A Ptn of the NW ¼ SW ¼, S8, T38N. R2E, W.M.
Assessor's Tax Parcel Number: 380208 042156 0000

BARGAIN AND SALE DEED

The Grantor, **WHATCOM COUNTY FLOOD CONTROL ZONE DISTRICT, A QUASI-MUNICIPAL CORPORATION OF THE STATE OF WASHINGTON**, for and in consideration of TEN AND NO/100 Dollars and other valuable consideration, in hand paid, bargains, sells, and conveys to **LUMMI NATION**, the following described real estate, situated in Whatcom County, in the State of Washington:

The North 100 feet of the South 300 feet of that portion of the Northwest Quarter of the Northwest Quarter of the Southwest Quarter of Section 8, Township 38 North, Range 2 East of W.M., lying westerly of the present channel of the Nooksack River, and south of the slough, except right-of-way commonly referred to as Ferndale Road, lying along the Westerly line of said premises, and less River Wash.

Situate in Whatcom County, Washington.

Subject to deed restrictions described in Exhibit A.

BARGAIN AND SALE DEED

Executed this _____ day of _____, 2021 for Grantor, WHATCOM
COUNTY FLOOD CONTROL ZONE DISTRICT (FCZD), by:

Satpal Singh Sidhu, County Executive
Acting on behalf of the FCZD Board of Supervisors

Approved as to form:
Prosecuting Attorney's Office

Christopher Quinn
Civil Deputy Prosecutor
(approved electronically 7/7/2021)

Accepted this _____ day of _____, 2021 for Grantee, LUMMI
NATION, by:

Lawrence Solomon, Chairman
Lummi Indian Business Council

Approved as to form:

Office of the Reservation Attorney

BARGAIN AND SALE DEED

STATE OF WASHINGTON)
)
) : ss
)
COUNTY OF WHATCOM)

On this _____ day of _____, 2021, before me personally appeared Satpal Singh Sidhu, to me known to be acting on behalf of the Board of Supervisors of the FCZD, a Quasi-Municipal Corporation in the State of Washington, that executed the within and foregoing instrument, and acknowledged said instrument to be the free and voluntary act and deed of FCZD, for the uses and purposes herein mentioned, and on oath stated that he was authorized to execute said instrument on behalf of the FCZD Board of Supervisors.

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

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

BARGAIN AND SALE DEED

STATE OF WASHINGTON)
)
) : ss
)
COUNTY OF WHATCOM)

On this _____ day of _____, 2021, before me personally appeared _____, to me known to be the Lawrence Solomon of the Lummi Nation, that executed the within and foregoing instrument, and acknowledged said instrument to be the free and voluntary act and deed of the Lummi Nation, for the uses and purposes herein mentioned, and on oath stated that Lawrence Solomon was authorized to execute said instrument on behalf of the Lummi Nation.

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

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

BARGAIN AND SALE DEED

Exhibit A

Deed Restrictions

- A. Compatible uses. The property shall be dedicated and maintained in perpetuity as open space for the conservation of natural floodplain functions. Such uses may include: outdoor recreational activities, restoration; nature reserves; cultivation; grazing; camping (except where adequate warning time is not available to allow evacuation); unimproved, unpaved parking lots; unpaved access roads; and buffer zones.
- B. No permanent structures or improvements shall be erected on the property. Temporary structures associated with outdoor recreational activities shall be allowed subject to the approval of Grantor. Any improvements on the property shall be in accordance with proper floodplain management policies and practices.
- C. Any grading activities required to construct approved improvements or access roads on the property shall restore the grades to pre-project conditions so as to not affect the conveyance of floodwaters. Proposed grading activities must be approved by the Grantor prior to ground disturbance.
- D. The Grantee is responsible for obtaining all applicable permits for any proposed improvements or grading on the property.

After recording return to:
Whatcom County Planning
and Development Services
5280 Northwest Drive
Bellingham, WA 98226

GRANTOR:
GRANTEE: WHATCOM COUNTY
GRANTEE (Trustee): N/A
LEGAL DESCRIPTION:
TAX PARCEL I.D. #:
REFERENCE #'s:

CONSERVATION EASEMENT

This grant of a conservation easement is made by and between _____, referred to hereafter as "Grantors," and Whatcom County, referred to hereafter as "Grantee." The Grantors own real property in Whatcom County, the legal description of which is attached hereto as Exhibit A (hereinafter the "Property"). The intent of Grantors and Grantee, through this conservation easement, is to preserve, protect, maintain and limit use of a portion of Grantors' undeveloped Property containing an identified critical area(s) and/or its associated buffer area(s), defined pursuant to WCC 16.16 – Whatcom County Critical Areas Ordinance, for the purpose of protecting the ecological functions and values provided by said critical area(s).

Grantors hereby convey to Grantee, its successors, heirs, and assigns, an easement for conservation purposes in reference to wetlands and/or Habitat Conservation Areas and/or associated buffers as defined pursuant to WCC 16.16. The conservation easement is depicted as "Conservation Easement" on Exhibit B attached hereto (hereinafter the "Conservation Easement").

It is the intent of this easement that the grant of protection not exceed the purpose, boundaries, or duration of critical area protection required by law under the Whatcom County Critical Areas Ordinance. Should the size, shape, or character of the identified critical area be altered by natural processes and/or operation of law in favor of the grantor, this easement shall be subject to amendment to conform to those changes, as determined by the administrator or a court of competent jurisdiction.

This conservation easement consists of mutual rights and obligations and is subject to the reservation of rights set forth below.

1. **Rights, Obligations and Reservations.** All rights, obligations and reservations shall operate as covenants running with the land.

2. Permitted Uses and Rights Reserved by Grantors. Grantor reserves the following rights:

- a. To use the property as allowed by applicable Whatcom County Ordinances after disclosing the proposed use to Whatcom County.
- b. To include the acreage of the conservation easement within any development permit application or any project proposal that may be located on the Property for the purposes of calculating residential density or designating required open space.
- c. To maintain fish and wildlife habitat.
- d. Only upon written consent of Grantee, or by an approved farm plan or an approved addendum by the Technical Administrator:
 - (1) to enhance or restore degraded fish or wildlife habitat, wetlands, or wildland forest characteristics, on an ecologically managed basis; or
 - (2) to allow construction of unpaved foot trails; or
 - (3) to allow for ongoing agriculture activities outside of approved mitigation areas; or
 - (4) install utilities as approved by the Technical Administrator.

3. Restrictions on Use. Except as provided above, and as may be necessary to carry out those rights reserved, and after review by Technical Administrator, the Grantors shall not conduct the following activities within the Conservation Easement area:

- a. Remove trees or native vegetation.
- b. Permit grazing of domestic animals.
- c. Excavate, dredge, fill, dike or otherwise alter the landscape or topography.
- d. Store derelict vehicles, hazardous substances, or waste of any kind.
- e. Explore for or extract minerals, hydrocarbons, soils, gravel or other materials.
- f. Construct, erect or place any buildings, structures, or improvements, either of a temporary or permanent nature.
- g. Grant or allow road or utility construction and easements.

- h. Alter the surface or subsurface hydrology entering or exiting the conservation easement area.

Otherwise use the conservation easement area in a manner that is inconsistent with the reservation of rights and the purposes of this Conservation Easement.

4. Rights and Responsibilities of Grantee.

- a. Any forbearance by Grantee to exercise any rights under this agreement, in the event of a breach, shall not be deemed to be a waiver of Grantee's rights under this Conservation Easement.
- b. To access, with permission from Grantor, or with an administrative search warrant, to grantee, agents, successor and assigns for the limited purpose of monitoring this easement.

5. General Conditions.

- a. This conservation easement does not grant or permit public access to any portion of the conservation easement.
- b. Grantee may assign its interest in this conservation easement upon written consent of grantor.
- c. This conservation easement shall run with the property and shall be binding on successors, assigns, heirs of Grantor and Grantee.
- d. In the event that any of the provisions contained in this conservation easement are declared invalid or unenforceable in the future, all remaining provisions shall remain in affect.

Dated this _____ day of _____, _____.

Grantor

Grantor

Grantor/Print Name

Grantor/Print Name

STATE OF WASHINGTON)
)ss.
COUNTY OF WHATCOM)

I certify that I know or have satisfactory evidence that _____
is/are the person(s) who appeared before me, and said person acknowledge that he signed
this instrument, on oath stated that he was authorized to execute the instrument and
acknowledged it to be the free and voluntary act of such party for the uses and purposes
mentioned in the instrument.

Dated: _____

NOTARY PUBLIC, in and for the State of Washington,
residing at: _____
Printed Name: _____
My Commission expires: _____

STATE OF WASHINGTON)
)ss.
COUNTY OF WHATCOM)

I certify that I know or have satisfactory evidence that _____
is/are the person(s) who appeared before me, and said person acknowledge that he signed
this instrument, on oath stated that he was authorized to execute the instrument and
acknowledged it to be the free and voluntary act of such party for the uses and purposes
mentioned in the instrument.

Dated: _____

NOTARY PUBLIC, in and for the State of Washington,
residing at: _____
Printed Name: _____
My Commission expires: _____

Reviewed and approved by:

Whatcom County Natural Resources Division

Date

Conservation Easement
PL4-86-002 K

- 4 -
September 2012

**WHATCOM COUNTY
PUBLIC WORKS DEPARTMENT**

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

EXHIBIT "A"

A CONSERVATION EASEMENT LYING OVER, UNDER AND ACROSS A PORTION OF THE FOLLOWING DESCRIBED PARCEL:

(PER STATUTORY WARRANTY DEED AF. NO. 2080903242)

THE NORTH 100 FEET OF THE SOUTH 300 FEET OF THAT PORTION OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 8, TOWNSHIP 38 NORTH, RANGE 2 EAST W.M., LYING WESTERLY OF THE PRESENT CHANNEL OF THE NOOKSACK RIVER, AND SOUTH OF THE SLOUGH, EXCEPT RIGHT-OF-WAY COMMONLY REFERRED TO AS FERNDAL ROAD, LYING ALONG THE WESTERLY LINE OF SAID PREMISES, AND LESS RIVER WASH.

SITUATE IN WHATCOM COUNTY, WASHINGTON.

CONSERVATION EASEMENT DESCRIPTION

THAT PORTION OF THE ABOVE DESCRIBED PARCEL LYING EAST OF THE FOLLOWING DESCRIBED LINE:

COMMENCING AT A REBAR AND CAP MARKING THE NORTHWEST CORNER OF SAID PARCEL AS SHOWN ON THAT CERTAIN RECORD OF SURVEY RECORDED UNDER WHATCOM COUNTY AUDITOR'S FILE NO. 2141000660, SAID POINT ALSO BEING ON THE EASTERLY RIGHT OF WAY MARGIN OF FERNDAL ROAD (CO. RD. NO. 558); THENCE ALONG THE NORTH LINE OF SAID PARCEL SOUTH 88°52'24" EAST 324.58 FEET TO THE **POINT OF BEGINNING**; THENCE DEPARTING SAID NORTH LINE SOUTH 03°30'17" EAST 100.32 FEET MORE OR LESS TO THE SOUTH LINE OF SAID PARCEL AND THE **TERMINUS** OF SAID LINE.

SITUATE IN WHATCOM COUNTY, WASHINGTON.

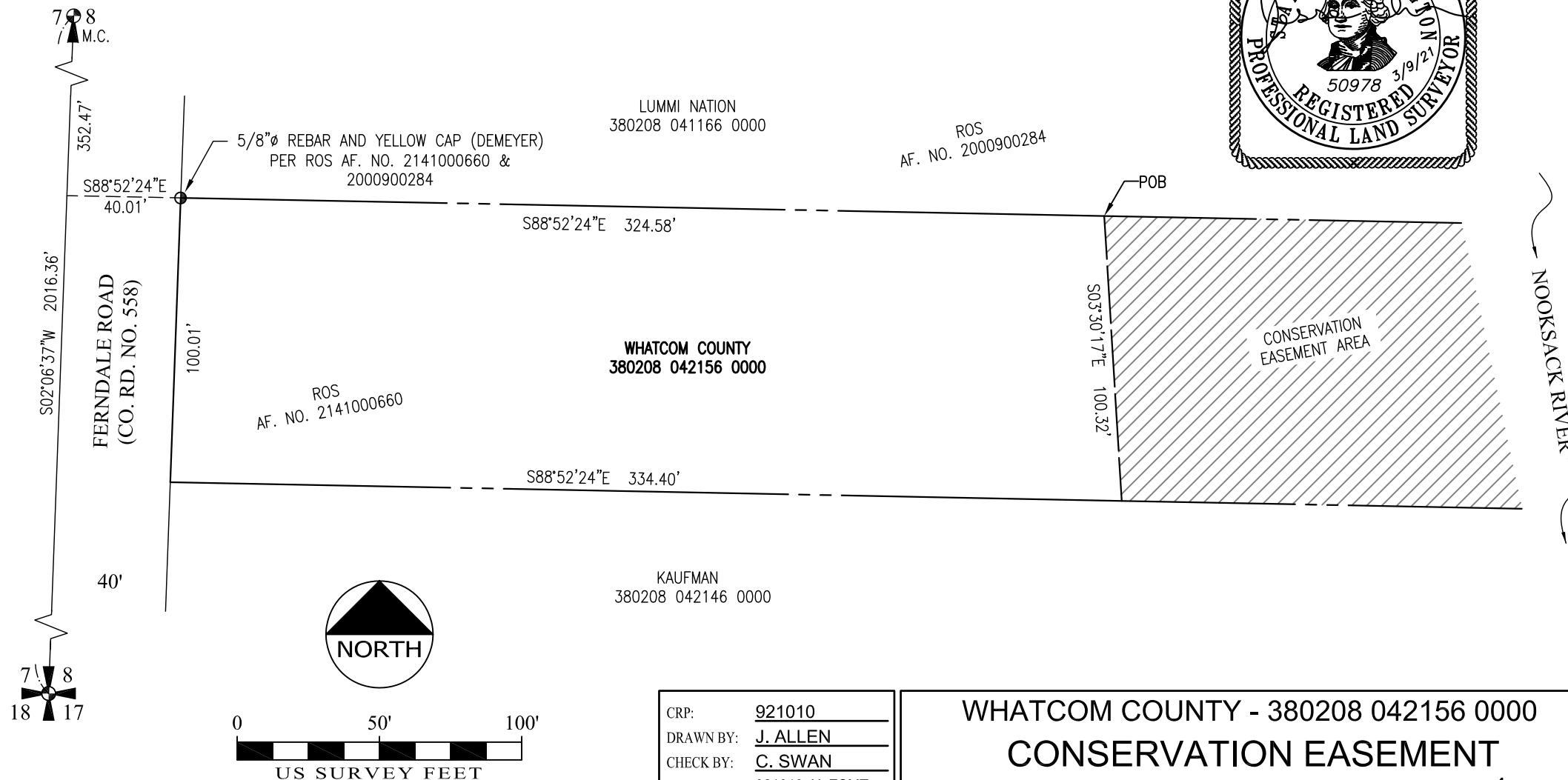
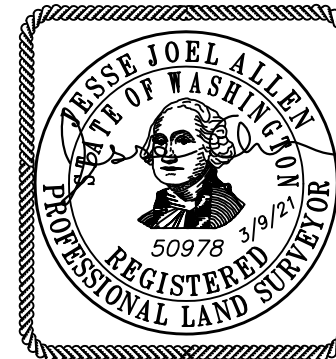




EXHIBIT

DEPARTMENT OF PUBLIC WORKS
322 N. COMMERCIAL ST., SUITE 301
BELLINGHAM, WA 98225 (360) 778-6210

SITUATE IN A PORTION OF SECTION 8, TOWNSHIP 38 NORTH,
RANGE 2 EAST, W.M., WHATCOM COUNTY, WASHINGTON







Whatcom County

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

Agenda Bill Master Report

File Number: AB2021-422

File ID:	AB2021-422	Version:	1	Status:	Introduced for Public Hearing
File Created:	07/14/2021	Entered by:	RMcconne@co.whatcom.wa.us		
Department:	Public Works Department	File Type:	Ordinance Requiring a Public Hearing		
Assigned to:	Council			Final Action:	
Agenda Date:	08/10/2021			Enactment #:	

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

TITLE FOR AGENDA ITEM:

Ordinance for reestablishing a speed limit for a portion of Bay Road

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

See attached memo

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
07/27/2021	Council	INTRODUCED FOR PUBLIC HEARING	Council

Attachments: Staff Memo, Proposed Ordinance



Memorandum

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

Through: Jon Hutchings, Director *JH*

From: James P. Karcher, P.E., County Engineer *gpk*

Date: July 14, 2021

Re: **Ordinance for Re-establishing a Speed Limit for a Portion of Bay Road**

Requested Action

Public Works respectfully requests that the County Council adopt the proposed ordinance to reestablish a speed limit of 35 MPH on Bay Road from 500 feet east of Jackson Road to Halibut Drive.

Background and Purpose

Residents of the Bay Crest North development, through the Birch Bay Chamber of Commerce have requested that the speed limit on this portion of Bay Road be returned to 35 MPH. The 25 MPH speed limit in this area was originally established on Bay Road in order to facilitate its use as part of the Birch Bay Golf Cart Zone. Residents of Bay Crest North have rightly pointed out that if they want to access the Golf Cart Zone they can use the local access roads within the development to get to Jackson Road and ultimately Birch Bay Drive, thus making the 25 MPH speed limit on this section of Bay Road unnecessary.

Information

This ordinance will allow for the installation of speed limit signs and is necessary to comply with RCW 46.61.415 to establish speed limits on certain County roads.

Please contact Douglas Ranney II, P.E., Engineering Services Manager at extension 6255 with any questions regarding this ordinance.

ORDINANCE NO. _____

REESTABLISHING A SPEED LIMIT FOR A PORTION OF BAY ROAD

WHEREAS, the Whatcom County Council is authorized under RCW 46.61.415 to establish speed limits on certain County Roads; and

WHEREAS, the residents of Birch Bay have requested that the speed limit on Bay Road be increase to thirty-five miles per hour, as it was prior to the implementation of Whatcom County Ordinance 2018-022; and

WHEREAS, the County Engineer has determined that it is necessary to formally establish this speed limit; and

WHEREAS, RCW 46.08.175 authorizes Golf cart zones; and

WHEREAS, Golf cart zones are only authorized upon streets having a speed limit of twenty-five miles per hour or less; and

WHEREAS, the residents of Bay Crest North can access the Golf Cart Zone via local access roads within their development.

NOW, THEREFOR, BE IT ORDAINED by the Whatcom County Council that the speed limit be established as follows:

35 mph on Bay Road, from 500 feet east of Jackson Road to Halibut Drive, located in Section 6, Township 39 North, Range 1 East, W.M. and Section 31, Township 40 North, Range 1 East, W.M.; and

BE IT FURTHER ORDAINED, by the Whatcom County Council that Whatcom County Code Section 10.04.050 and 10.04.030 are amended as follows:

10.04.050 Thirty-five miles per hour.

BAY ROAD. Bay Road from 500 feet east of Jackson Road to Halibut Drive, located in Section 6, Township 39 North, Range 1 East, W.M. and Section 31, Township 40 North, Range 1 East, W.M.

10.04.030 Twenty-five miles per hour.

BIRCH BAY AREA ROADS

~~2. Bay Road, from 500 feet east of Jackson Road to Halibut Drive.~~

1 **BE IT FURTHER ORDAINED**, that the County Engineer is hereby directed to install the
2 appropriate signs and the Whatcom County Sheriff and State Patrol be notified by a copy of this
3 ordinance.
4

5 **ADOPTED** this ____ day of _____, 2021.
6

7
8 ATTEST:
9

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

10
11
12 _____
Dana Brown-Davis, Clerk of the Council

Barry Buchanan, Council Chair

13
14
15 APPROVED AS TO FORM:
16

WHATCOM COUNTY EXECUTIVE
WHATCOM COUNTY, WASHINGTON

17
18 _____
Approved Via Email CQ/RM 7/15/21
19 Sr. Deputy Prosecuting Attorney,
20 Civil Division

Satpal Singh Sidhu, Executive

() Approved () Denied

21
22 Date: _____
23



Whatcom County

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

Agenda Bill Master Report

File Number: AB2021-424

File ID:	AB2021-424	Version:	1	Status:	Introduced for Public Hearing
File Created:	07/15/2021	Entered by:	CStrong@co.whatcom.wa.us		
Department:	Planning and Development Services Department	File Type:	Ordinance Requiring a Public Hearing		
Assigned to:	Council	Final Action:			
Agenda Date:	08/10/2021	Enactment #:			

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

TITLE FOR AGENDA ITEM:

Ordinance adopting amendments to the Whatcom County Code Title 20, Zoning to allow and regulate Battery Energy Storage Systems

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

Proposed amendments to WCC Title 20 (Zoning) amendments to the Whatcom County Code Title 20 (Zoning) to allow and regulate Battery Energy Storage Systems in Whatcom County

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
07/27/2021	Council	INTRODUCED FOR PUBLIC HEARING	Council

Attachments: Staff Memo, Draft Ordinance, Exhibit A, Application

Whatcom County Planning & Development Services Staff Report

Battery Energy Storage Systems Zoning Amendment

I. FILE INFORMATION

File #: PLN2021-00001

File Name: Title 20 Zoning Code Amendments – Battery Energy Storage Systems

Applicants: NextEra Resources Development, LLC, attn: Keleigh Wright

Summary of Request: Amend Whatcom County Code (WCC) Title 20 to allow Battery Energy Storage Systems (BESS).

Location: Countywide.

II. BACKGROUND

Battery energy storage systems (BESS) are rechargeable battery systems that store energy from the electrical grid and then sell energy back to the energy provider when needed or provide energy directly to a home or business. Excess energy from the grid is stored in the BESS during times of low usage and is discharged from the system at times of high usage. BESS can also increase the resiliency of the energy grid in the nearby communities by providing backup power during outages. Energy storage fills in the gaps resulting from intermittent resources like wind and solar generation. That means operators can more easily bring on and off renewable energy, reducing the need for load balancing services and rapid generation ramping.

As this is a new technology not anticipated when our code was written, Battery Energy Storage Systems are not a specified use in Title 20. Since the WCC is structured such that any use not identified as permissible is prohibited¹, a code amendment is necessary in order to allow the use in Whatcom County.

III. CODE AMENDMENTS

NextEra Resources Development, LLC, requests that WCC Title 20 (Zoning) be amended to allow Battery Energy Storage Systems (BESS) as a conditional use in the Rural zone (see Attachment C).

However, after consideration, and in order to accommodate future anticipated BESS facilities, PDS has expanded on NextEra's request and proposes to allow BESS in several zoning districts, along with adding some standards so as to minimize impacts on surrounding residences and other adjacent uses. Because BESS is a new technology that staff believes will become more and more prevalent, we propose that:

- BESS of any storage capacity be a permitted use in the Light Impact Industrial (LII) and Heavy Impact Industrial (HII) districts.

¹ Each district has a "Prohibited Uses" section reading "All uses not listed as permitted, accessory, administrative approval, or conditional uses are prohibited" (e.g., WCC 20.36.200).

- BESS of less than 5 MWs of storage capacity be allowed with an Administrative Approval Use Permit in the Residential Rural (RR), Residential Rural Island (RRI), and Rural (R) zoning districts, with setback, screening, lighting, and noise standards.
- BESS of 5 MW or more of storage capacity and within one (1) mile of an existing electrical substation be allowed in the Rural (R) district as a Conditional Use, with setback, screening, lighting, and noise standards. Proposed BESS of 5 MW or more storage capacity that are more than one (1) mile of an existing electrical substation will be prohibited.
- A definition of BESS be added in WCC 20.97 to clarify the use.

Please note that any project that requires an administrative use permit approval is required to send a notice of application to surrounding property owners within 300 (if within a UGA) or 1,000 feet (outside of a UGA) so that they may comment on the project. Similarly, any project that requires a conditional use permit is required to send notice to surrounding property owners within the same distances, and must also have a public hearing before the Hearing Examiner. Such projects must also meet the approval criteria for Conditional Use Permits found in WCC 22.05.026(3). Under either process an application could be approved subject to conditions or denied.

Also note that the lot coverage limit in the Rural zone (WCC 20.36.450) is 5,000 square feet or 20% of the total lot area, whichever is greater, not to exceed 25,000 square feet (unless specified otherwise). Staff proposes that the maximum lot coverage for BESS with more than 5 MW of storage capacity be up to 40% of the total lot area, with no limit on structure (or combination of structures) size. Amending the lot coverage limit in the Rural zone for BESS will allow larger facilities near existing substations in the Rural zone with conditional use permit approval. BESS of 5 MW or less of storage capacity are smaller in size and should not exceed the existing lot coverage limit in any of the zones where it would be allowed with administrative use permit approval.

NextEra has reviewed staff's expanded proposal and is in agreement with this approach.

Realize that approval of this code amendment does not permit NextEra (or any other BESS developer) to install their BESS project; it only allows them to submit a permit to do so. Such permits would be processed and evaluated for consistency with this and all other relevant codes before approval.

IV. COMPREHENSIVE PLAN EVALUATION

The Comprehensive Plan contains four policies that support the development and use of new utility and information technologies.

- Policy 5B-1: Facilitate the use of new technologies by allowing flexibility in regulations and policies affecting utility facilities when it can be shown that a net benefit to the public is likely to result.
- Policy 5B-2: Support development and use of new technologies.
- Policy 5F-1: Periodically review existing regulations to identify and eliminate unintended or unreasonable constraints on the provision of necessary utilities as defined in this section.

Policy 7C-3: Work with service providers for a dependable electric power supply, alternative energy sources, communications, and evolving technology to support existing and future business development.

Staff found no policies with which the proposed amendments would be inconsistent.

V. PROPOSED FINDINGS OF FACT AND REASONS FOR ACTION

Staff recommends the County Council adopt the following findings of fact and reasons for action:

1. NextEra Resources Development, LLC, has submitted an application for amendments to WCC Title 20 Zoning to allow Battery Energy Storage Systems.
2. A determination of non-significance (DNS) was issued under the State Environmental Policy Act (SEPA) on May 27, 2021.
3. Notice of the subject amendment was submitted to the Washington State Department of Commerce on June 2, 2021, for their 60-day review.
4. The Planning Commission held a public hearing on the proposed amendments on July 8, 2021, notice of which was published in the Bellingham Herald on June 25, 2021.
5. The County Council held a duly noticed public hearing on the proposed amendments on August 10, 2021.
6. The amendments are consistent with Comprehensive Plan Policy 5B-1, which supports the facilitation of the use of new technologies by allowing flexibility in regulations and policies affecting utility facilities when it can be shown that a net benefit to the public is likely to result.
7. The amendments are consistent with Comprehensive Plan Policy 5B-2, which supports development and use of new technologies
8. The amendments are consistent with Comprehensive Plan Policy 5F-1, which supports periodically reviewing existing regulations to identify and eliminate unintended or unreasonable constraints on the provision of necessary utilities as defined in this section.
9. The amendments are consistent with Comprehensive Plan Policy 7C-3, which supports working with service providers for a dependable electric power supply, alternative energy sources, communications, and evolving technology to support existing and future business development.

VI. PROPOSED CONCLUSIONS

1. The amendments to the zoning code are in the public interest.
2. The amendments are consistent with the Whatcom County Comprehensive Plan.

VII. RECOMMENDATION

Planning and Development Services recommends that the County Council approve the proposed amendments as shown in Exhibit A, based on the Findings of Fact and Conclusions provided in this staff report.

ATTACHMENTS

- A. Draft Code Amendments
- B. Draft Ordinance
- C. Code Amendment Application

PROPOSED BY: _____
INTRODUCTION DATE: _____

ORDINANCE NO. _____

**ADOPTING AMENDMENTS TO WHATCOM COUNTY CODE TITLE 20 ZONING TO ALLOW AND REGULATE
BATTERY ENERGY STORAGE SYSTEMS**

WHEREAS, NextEra Resources Development, LLC, has submitted an application for amendments to WCC Title 20 Zoning to allow Battery Energy Storage Systems (BESS).

WHEREAS, as BESS is a new technology not anticipated when our code was written, BESS are not a specified use in Title 20 and thus prohibited and a code amendment is necessary to allow such use; and,

WHEREAS, The Whatcom County Council reviewed and considered Planning Commission recommendations, staff recommendations, and public comments on the proposed amendments; and,

WHEREAS, The County Council hereby adopts the following findings of fact:

FINDINGS OF FACT

1. NextEra Resources Development, LLC, has submitted an application for amendments to WCC Title 20 Zoning to allow Battery Energy Storage Systems as a conditional use in the Rural district.
2. After consideration of the application, and in order to accommodate future anticipated BESS facilities, PDS, has expanded on NextEra's request and proposes to allow BESS in several zoning districts, along with adding some standards so as to minimize impacts on surrounding residences and other adjacent uses, to which the applicant agrees.
3. A determination of non-significance (DNS) was issued under the State Environmental Policy Act (SEPA) on May 27, 2021.
4. Notice of the subject amendment was submitted to the Washington State Department of Commerce on June 02, 2021, for their 60-day review.
5. The Planning Commission held a public hearing on the proposed amendments on July 8, 2021, notice of which was published in the Bellingham Herald on June 25, 2021.
6. The County Council held a duly noticed public hearing on the proposed amendments on August 10, 2021.
7. The amendments are consistent with Comprehensive Plan Policy 5B-1, which supports the facilitation of the use of new technologies by allowing flexibility in regulations and policies affecting utility facilities when it can be shown that a net benefit to the public is likely to result.
8. The amendments are consistent with Comprehensive Plan Policy 5B-2, which supports development and use of new technologies
9. The amendments are consistent with Comprehensive Plan Policy 5F-1, which supports periodically reviewing existing regulations to identify and eliminate unintended or unreasonable constraints on the provision of necessary utilities as defined in this section.

10. The amendments are consistent with Comprehensive Plan Policy 7C-3, which supports working with service providers for a dependable electric power supply, alternative energy sources, communications, and evolving technology to support existing and future business development.

CONCLUSIONS

1. The amendments to the zoning code are the public interest.
2. The amendments are consistent with the Whatcom County Comprehensive Plan.

NOW, THEREFORE, BE IT ORDAINED by the Whatcom County Council that:

Section 1. Amendments to the Whatcom County Code are hereby adopted as shown in Exhibit A.

Section 2. Staff is authorized to work with Code Publishing to correct and update any cross-references made ineffective by these amendments.

ADOPTED this _____ day of _____, 2021.

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

ATTEST:

Dana Brown-Davis, Council Clerk

Barry Buchanan, Council Chair

APPROVED as to form:

() Approved () Denied

/s/ Royce Buckingham, approved electronically
Civil Deputy Prosecutor

Satpal Sidhu, Executive

Date: _____

EXHIBIT A

Proposed Battery Energy Storage Systems (BESS)

Amendments to the Whatcom County Code

WCC Title 20 Zoning

Chapter 20.32 RESIDENTIAL RURAL (RR) DISTRICT

.....

20.32.130 Administrative approval uses.

.....

.136 Battery energy storage systems with up to 5 MW of storage capacity, provided:

- (1) The facility shall be no closer than 25 feet from any property line.
- (2) The proposed use shall be compatible with the general appearance and character of the surrounding area. Landscape screening shall be required pursuant to the requirements of WCC 20.80.345.
- (3) Any lights used to illuminate the facility shall be so arranged as to direct the light away from the adjoining properties and the public roads.
- (4) The facility shall comply with state noise level standards under Chapter 173-60 WAC, as amended. The applicant shall provide information detailing the expected noise level and any proposed abatement measures. This may require noise attenuation devices or other mitigation measures to minimize impacts.

.....

Chapter 20.34 RESIDENTIAL RURAL-ISLAND (RRI) DISTRICT

.....

20.34.130 Administrative approval uses.

.....

.135 Battery energy storage systems with up to 5 MW of storage capacity, provided:

- (1) The facility shall be no closer than 25 feet from any property line.
- (2) The proposed use shall be compatible with the general appearance and character of the surrounding area. Landscape screening shall be required pursuant to the requirements of WCC 20.80.345.
- (3) Any lights used to illuminate the facility shall be so arranged as to direct the light away from the adjoining properties and public roads.

(4) The facility shall comply with state noise level standards under Chapter 173-60 WAC, as amended. The applicant shall provide information detailing the expected noise level and any proposed abatement measures. This may require noise attenuation devices or other mitigation measures to minimize impacts.

.....

**Chapter 20.36
RURAL (R) DISTRICT**

.....

20.36.130 Administrative approval uses.

.....

.139 Battery energy storage systems with up to 5 MW of storage capacity, provided:

- (1) The facility shall be no closer than 25 feet from any property line.
- (2) The proposed use shall be compatible with the general appearance and character of the surrounding area. Landscape screening shall be required pursuant to the requirements of WCC 20.80.345.
- (3) Any lights used to illuminate the facility shall be so arranged as to direct the light away from the adjoining properties and public roads.
- (4) The facility shall comply with state noise level standards under Chapter 173-60 WAC, as amended. The applicant shall provide information detailing the expected noise level and any proposed abatement measures. This may require noise attenuation devices or other mitigation measures to minimize impacts.

.....

20.36.150 Conditional Uses.

.....

.198 Battery energy storage systems with more than 5 MW of storage capacity, provided:

- (1) The facility is located within one mile of an existing electrical substation.
- (2) The facility shall be no closer than 25 feet from any property line.
- (3) The proposed use shall be compatible with the general appearance and character of the surrounding area. Landscape screening shall be required pursuant to the requirements of WCC 20.80.345.
- (4) Any lights used to illuminate the facility shall be so arranged as to direct the light away from the adjoining properties and the public roads.
- (5) The facility shall comply with state noise level standards under Chapter 173-60 WAC, as amended. The applicant shall provide information detailing the expected noise level and any proposed abatement measures. This may require noise attenuation devices or other mitigation measures to minimize impacts.

.....

20.36.450 Lot coverage (Adopted by reference in WCCP Chapter 2.)

~~Except as follows, n~~o structure or combination of structures shall occupy or cover more than 5,000 square feet or 20% of the total lot area, whichever is greater, ~~of the total lot area~~, not to exceed 25,000 square feet, ~~except as follows:-~~

1. Public community facilities that serve a predominantly rural area shall occupy or cover no more than 35% of a lot, with no limitation on structure (or combination of structures) size.
2. Battery energy storage systems with more than 5 MW of storage capacity approved pursuant to WCC 20.36.198 shall occupy or cover no more than 40% of the total lot area, with no limitation on structure (or combination of structures) size.
- ~~1-3.~~ Buildings used for livestock or agricultural products shall be exempt from this lot coverage requirement.

.....

Chapter 20.66
LIGHT IMPACT INDUSTRIAL (LII) DISTRICT

.....

20.66.050 Permitted uses.

.....

.095 Battery energy storage systems of any storage capacity.

.....

Chapter 20.68
HEAVY IMPACT INDUSTRIAL (HII) DISTRICT

.....

20.68.050 Permitted uses.

.....

.109 Battery energy storage systems of any storage capacity.

.....

Chapter 20.82
PUBLIC UTILITIES

20.82.040 Other applicable regulations

- (1) Solid waste facilities and large scale electrical generating plants are not conditional uses under the name “public utilities” but are restricted to where they have been named as uses.
- (2) The provisions of this chapter shall not apply to wireless communications services and facilities which are regulated under Chapter 20.13 WCC.
- (3) The provisions of this chapter shall not apply to Battery Energy Storage Systems (BESS), which are regulated under the applicable zoning district.

Chapter 20.97
DEFINITIONS

.....

20.97.026 Battery Energy Storage System (BESS).

“Battery energy storage system” (BESS) means an energy storage system that can store and deploy generated energy, typically a group of batteries that charge (i.e., collect energy) and store electrical energy from the grid or energy generation facility and then discharge that energy at a later time to provide electricity or other grid services when needed. BESS generally consist of batteries, battery storage containers, on-site switchyard, inverters, associated interconnection transmission line, and supervisory control and data acquisition system.

Our **Energy Storage** Business



A Promising Future For Energy Storage

Technology offers flexibility, value in today's energy market

Meeting today's energy challenges is complicated. The power infrastructure must be able to balance supply and demand instantaneously while taking into account the impacts of intermittent renewable energy. Consumers are also looking for energy services and products that provide flexibility and value in the areas of renewable energy, grid reliability and peaking power.

NextEra Energy Resources is helping meet these needs through battery energy storage technology, which is providing a promising way to store electrical energy so it can be available to meet demand whenever needed. While there are many energy storage technologies, NextEra Energy Resources has focused on the use of batteries as costs have declined, but is continuing to evaluate other storage technologies.

“(Our) company expects to invest more than \$1 billion in storage in 2021, which would be the largest-ever annual battery storage investment by any power company in history.”

*Jim Robo, Chairman and CEO, NextEra Energy,
April 22, 2020*

Energy storage delivers advantages to the power grid and our customers

What makes energy storage attractive is that it allows energy to be delivered instantly, in the required amount. By doing this, energy storage provides many advantages, such as improving the operation of the electrical grid, integrating renewable resources and helping investment decisions.

- » **Grid enhancement.** Energy storage can balance load on the power system grid by moving energy when demands are low to times when demands are high. The technology also allows for a seamless switch between power sources and protects equipment by controlling voltage and frequency.
- » **Renewable resources.** Energy storage fills in the gaps resulting from intermittent resources like wind and solar generation. That means operators can more easily bring on and off renewable energy, reducing the need for load balancing services and rapid generation ramping.
- » **Electrical system investments.** By reducing the load on congested transmission and distribution systems, energy storage may defer expensive upgrades. In some cases, storage may also reduce new investment in conventional resources, such as adding generating plants to meet systemwide peak load.



In 2018, NextEra Energy Resources' 20-megawatt (MW) Pinal Central Solar Energy Center in Arizona became the company's first project to pair solar energy with an on-site, state-of-the-art 10-MW battery storage system (shown in cover photo, lower right, February 2020). More than 50% of the company's new solar projects in 2019 also included a storage component. Renewable energy projects, coupled with battery storage, provide power to customers long after the sun goes down and demand for electricity goes up.



NextEra Energy Resources employees at the 16.2-MW Casco Bay Energy Storage Facility in Maine (April 2017). The company is developing additional energy storage facilities across North America.

Projects require little land, provide many benefits

Energy storage projects do not require a large area for development, are scalable in size and can be located in many places. NextEra Energy Resources generally seeks to site a project as close as possible to existing electrical transmission or distribution infrastructure and often, close to an existing renewable project.

Other benefits of energy storage include no greenhouse gases or other air pollutants, no use of water to generate electricity, and a renewable supply of energy.

Interest in energy storage is growing

The growing interest in energy storage is being driven by a number of factors, including:

- » Reductions in technology costs.
- » The rapid development of intermittent renewable energy resources.
- » The evaluation of new policy initiatives by states.
- » Regulatory changes.

For example, the Federal Energy Regulatory Commission has mandated policy changes in the frequency regulation market that have helped spur the use of energy storage for this purpose. Certain markets are now encouraging utilities to use energy storage to manage the intermittent energy that flows into the grid and to supply the grid with energy during times of peak use.

Costs are expected to decline

While emerging technology costs tend to be higher and therefore less competitive during the early evolution phase, technological efficiencies, improved manufacturing productivity and economies of scale help lower cost over time. As batteries gain wider industry adoption, prices are expected to decrease further.

Energy storage is safe, reliable

Safety is always a top priority in NextEra Energy Resources' operations, and energy storage systems are no exception.

Our energy storage systems are safe and reliable. Overall, energy storage has been a part of the U.S. electric system since the 1930s. Today, it makes up approximately 2% of the nation's generation capacity, according to the Energy Storage Association. The safety record of the industry is similar to or better than other forms of power generation or distribution.

NextEra Energy Resources is experienced in energy storage

Our team of specialists has spent years researching energy storage technologies, applications and use cases, leading to two demonstration projects in 2012 and 2013.

Today, NextEra Energy Resources has more than 145 MW of operational energy storage, including the Lee DeKalb Energy Storage Facility in Illinois and the Blue Summit Energy Storage Facility in Texas. These facilities are being used for frequency regulation. Traditionally, fossil and hydroelectric power plants have been used for frequency regulation. Now, batteries can also accomplish this task more efficiently.

In addition to the growth of operational facilities, the company has a robust pipeline of development projects across the U.S. and Canada.



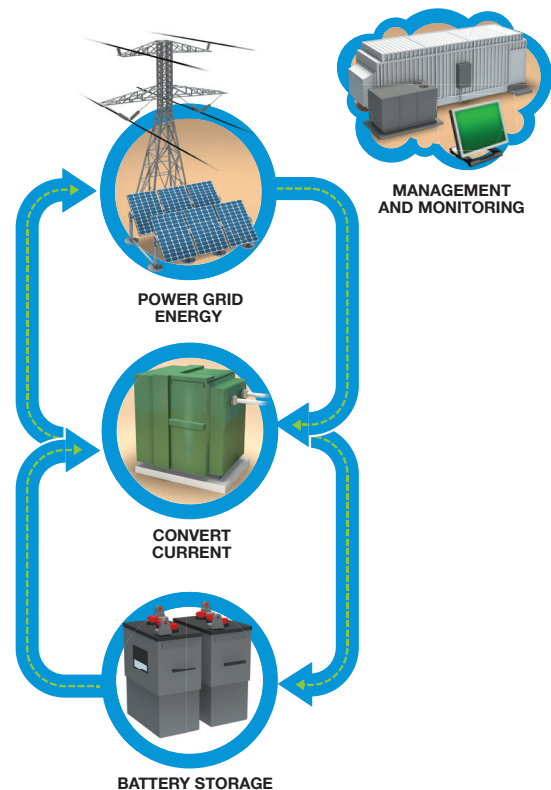
Batteries are placed into removable racks similar to a computer server. There are also monitoring, control and power conversion systems, as well as cooling and fire suppression systems.



NextEra Energy Resources' Minuteman Energy Storage Facility in Massachusetts went into service in 2019. It provides 5 MW of energy storage.

How energy storage systems work

- » A battery management system monitors the individual cells and controls the voltage, temperature and current for safe, reliable transfer of energy. The system automatically shuts off if the batteries are operating outside of predefined parameters.
- » A computerized monitoring system provides up-to-date weather forecasts, power prices, historical electrical use, the amount of charge remaining in the batteries and when to use the energy storage system.
- » Energy from the power grid or from renewable energy sources is delivered via a bidirectional inverter, which converts the energy from alternating current (AC) into direct current (DC). Today's batteries can only store DC. This energy goes into an array of batteries that is typically housed within a battery container or a building structure.
- » When the energy is needed on the power system, the inverters are then used again, but this time to convert the DC from the batteries into AC. Once the power has been transformed, it is stepped up in voltage and subsequently sent to an on-site substation or directly to a distribution or transmission line.
- » The electricity is then distributed to homes, schools, businesses and other consumers.



NextEra Energy Resources has a proven reputation for excellence

As the world's largest generator of renewable energy from the wind and the sun, NextEra Energy Resources has earned a reputation for excellence. Our scale, size and scope of services allow us to offer innovative energy solutions to customers, and energy storage is a natural extension of our development business.

By working with NextEra Energy Resources, customers can realize the monetary benefits of energy storage while mitigating technology complexity and vendor risk. With our significant purchasing power, we can buy energy storage equipment at the lowest possible costs. With our best-in-class development skills, we can also build customized storage solutions to meet customers' unique requirements.

Energy storage has the potential to be a game changer for the energy industry, and NextEra Energy Resources is a leader in the market.

NextEraEnergyResources.com

NextEra Energy Resources, LLC | 700 Universe Boulevard | Juno Beach, Florida 33408



December 28, 2020

Mr. Mark Personius
Director, Planning and Development Services
Whatcom County
5280 Northwest Drive
Bellingham, WA 98226

Subject: **NextEra Resources Development, LLC
Development Regulation Amendment Application
Battery Energy Storage Systems**

Mr. Personius:

On behalf of NextEra Resources Development, LLC, we respectfully submit the attached Development Regulation Amendment Application to request the County consider text amendments to the Whatcom County Code Title 20 (Zoning) including the Rural Zoning District WCC Chapter 20.36 for the creation of a land use permitting pathway for battery energy storage systems. The proposed text amendments are described in the attached materials, along with a demonstration of compliance with the Countywide Planning Policies and Comprehensive Plan.

We look forward to working with you and the Whatcom County Planning and Development Services on this text amendment request. If you have any initial questions, please do not hesitate to contact me at 503.200.0005 or Paul.Seilo@Jacobs.com.

Sincerely,



Paul Seilo, AICP
Senior Project Manager

Cc: Chris Powers/NextEra
Keleigh Wright/NextEra
Tim McMahan/NextEra
David Lawlor/NextEra
Erika Sawyer/Jacobs

WHATCOM COUNTY
Planning & Development Services
5280 Northwest Drive
Bellingham, WA 98226-9097
360-778-5900, TTY 800-833-6384
360-778-5901 Fax
PDS@whatcomcounty.us



Mark Personius, AICP
Director

**Comprehensive Plan and/or
Development Regulation
Amendment Application**

Whatcom County Planning and Development Services	
Received	
Received by:	nsmith
12/29/2020	

REVISED 01/26/2021

Date Received: 12/29/2020 File #: PLN2021-00001

Please check one or more of the following amendment types:

- ☐ Comprehensive Plan Map
- ☐ Comprehensive Plan Text
- ☐ Development Regulation Map
- ☐ Development Regulation Text

This form should be used for proposed amendments to the following development regulations in the Whatcom County Code:

- Title 16 - Environment,
- Title 20 - Zoning,
- Title 21 - Land Division Regulations, and
- Title 23 - Shoreline Management Program.

Topic of Proposed Amendment:

A. General Information – All applicants must complete this section.

Applicant Name _____

Mailing Address: _____ City _____

State _____ Zip Code _____ Phone # () _____

Email _____

Agent/Contact Name: _____

Mailing Address: _____ City _____

State _____ Zip Code _____ Phone # () _____

Email _____

Please complete the questions below. Attach additional pages as needed

B. For Map Amendments

Parcel Information

Tax Parcel Number(s) (APN) _____

Total Acreage - Gross _____ Net: _____

Site Address _____

Township: _____ Range: _____ Section: _____ ¼ Section: _____

Owner Name _____

Mailing Address: _____ City _____

State _____ Zip Code _____ Phone # () _____

Email _____

1. Existing Comprehensive Plan Designation: _____

2. Existing Zoning Designation: _____

3. Proposed Comprehensive Plan Designation: _____

4. Proposed Zoning Designation: _____

5. The Present Use of the Property is:

6. The Intended Future Use of the Property is:

7. Surrounding Land Use:

8. Services:

Please provide the following information regarding the availability of services:

The site is currently served by: ☐ Sewer ☐ Septic

If sewer the purveyor is: _____

The site is currently served by: ☐ Public Water System ☐ Well

If public water the purveyor is: _____

The site is located on a: ☐ Public Road ☐ Private Road

Name of Road: _____

Fire District #: _____ Name: _____

School District #: _____ Name: _____

9. Transfer of Development Rights (TDRs):

Are TDRs required under section 20.89.050 of the Whatcom County Code?

☐ Yes ☐ No

If so, please explain how your proposal complies with the TDR requirements and/or how you qualify for modification/exceptions from the TDR requirements

C. For Text Amendments:

Identify the sections of the Comprehensive Plan and/or development regulation that you are proposing to change and provide the proposed wording.

D. For All Amendments:

1. Why is the amendment needed and being proposed?
2. How does the proposed amendment conform to the requirements of the Growth Management Act?
3. How is the proposed amendment consistent with the County-Wide Planning Policies for Whatcom County?

4. How is the proposed amendment consistent with the Whatcom County Comprehensive Plan?
5. If within an Urban Growth Area, how is the proposed amendment consistent with interlocal agreements between the County and the City?
6. What changed conditions or further studies indicate a need for the amendment?
7. How will the public interest be served by the amendment? Please address the factors identified below.
 - The anticipated effect upon the rate or distribution of population growth, employment growth, development, and conversion of land as envisioned in the Comprehensive Plan.
 - The anticipated effect upon the ability of the County and/or other service providers, such as cities, schools, water and/or sewer purveyors, fire districts, and others as applicable, to provide adequate services and public facilities including transportation facilities.

- Anticipated impact upon designated agricultural, forest and mineral resource lands.

8. Does the amendment include or facilitate illegal spot zoning? ☐ Yes ☐ No
Please explain.

E. Supporting Information – Attach the Following:

- A. A vicinity map showing property lines, roads, existing and proposed Comprehensive Plan and Zoning designations. (This information is required for map amendments only).
- B. Mailing labels with names and mailing addresses of the owners of all property included within the area proposed for re-designation and:
 - For a map amendment within an existing urban growth area, mailing labels with the typed address of each property owner within 300 feet of the external boundaries of the subject property as shown by the records of the county assessor.
 - For a map amendment outside existing urban growth areas, mailing

labels with the typed address of each property owner within 1,000 feet of the external boundaries of the subject property as shown by the records of the county assessor.

- For map amendments that involve rezoning property to an Airport Operations District, mailing labels with the typed address of each property owner within 1,500 feet of the external boundaries of the subject property as shown by the records of the county assessor.
- For map amendments that involve rezoning property to a Mineral Resource Land (MRL) designation, mailing labels with the typed address of each property owner within 2,000 feet of the external boundaries of the subject property as shown by the records of the county assessor.

C. State Environmental Policy Act (SEPA) Checklist

- D. For Comprehensive Plan map amendments that propose to re-designate property to a MRL designation, a Comprehensive Plan MRL Application Supplement form is required.

F. Fees

Applicants pay a docketing fee when submitting an application and additional amendment application fees if the County Council decides to docket the application. The Whatcom County Code 22.10.020(3)(b) states that, when docketing an application, the county council may waive the application fees if it finds the proposed amendment would clearly benefit the community as a whole.

- A. Are you requesting that the County Council waive the application fees?
☐ Yes ☐ No

If so, please describe how the proposed amendment clearly benefits the community as a whole.

E. Authorization:

Signature of Applicant(s) or Agent:

Keleigh Wright Date: January 21, 2021

_____ Date: _____

_____ Date: _____

Attachment 1. Whatcom County Development Regulation Amendment Application Battery Energy Storage System

Parts A, E, F and G of the application are included on the preceding Whatcom County Development Regulation Amendment Application form. Part B does not apply as it is only applicable when a Map Amendment is proposed. This document includes information for Parts C and D of the application.

Part C. For Text Amendments:

Identify the sections of the Comprehensive Plan and/or development regulation that you are proposing to change and provide the proposed wording.

The proposal seeks to amend the Whatcom County Code (WCC) Definitions Chapter 20.97 by adding a definition for Battery Energy Storage System (BESS) and modifying the existing definition of a Public Utility; to amend the Rural (R) District zoning district (WCC Chapter 20.36) to add BESS as a conditional use and to increase the lot coverage allowance in the R district for BESS; and to add BESS as a conditional use in WCC Chapter 20.82 Public Utilities.

The underlined statements below indicate a proposed amendment to the WCC section to include this verbiage.

Chapter 20.97 Definitions

20.97.025 Battery Energy Storage System (BESS)

"Battery energy storage system" (BESS) means an energy storage system that can store and deploy generated energy, typically a group of batteries that charge (i.e., collect energy) and store electrical energy from the grid or energy generation facility and then discharge that energy at a later time to provide electricity or other grid services when needed. BESS generally consist of batteries, battery storage containers, on-site switchyard, inverters, associated interconnection transmission line, and supervisory control and data acquisition system.

20.97.329.1 Public utility.

"Public utility" means a use owned or operated by a public or publicly licensed or franchised agency including energy uses proposed by an independent energy facility developer which provides vital public services such as telephone exchanges, electric generation and storage,

energy substations, radio and television stations, wireless communications services, gas and water regulation stations and other facilities of this nature. (Ord. 2004-014 § 2, 2004; Ord. 2000-006 § 2, 2000).

Chapter 20.36 Rural (R) District

20.36.150 Conditional uses.

.166 Battery energy storage systems.

20.36.450 Lot coverage (Adopted by reference in WCCP Chapter 2.)

Except as follows, no structure or combination of structures shall occupy or cover more than 5,000 square feet or 20 percent, whichever is greater, of the total lot area, not to exceed 25,000 square feet. Public community facilities that serve a predominantly rural area shall occupy or cover no more than 35 percent of a lot, with no limitation on structure (or combination of structures) size. **Battery energy storage system shall occupy or cover no more than 40 percent of a lot, with no limitation on structure (or combination of structures) size.** Buildings used for livestock or agricultural products shall be exempt from this lot coverage requirement. (Ord. 2019-033 Exh. A, 2019; Ord. 2013-057 § 1 (Exh. A), 2013; Ord. 2012-032 § 2 Exh. B, 2012; Ord. 88-29, 1988).

Chapter 20.82 Public Utilities

20.82.030 Conditional uses.

(11) Battery energy storage systems operating at voltages greater than 55 kV (55,000 volts).

Part D. For All Amendments

1. Why is the amendment needed and being proposed?

Response: The text amendments are proposed to:

- (1) To promote the siting of battery energy storage systems (BESS) in a manner that is compatible with existing zoning districts, land uses, character of the surrounding area, and where BESS can be located adjacent to existing energy and utility infrastructure;
- (2) To increase the resiliency of the energy grid in the nearby communities of Bellingham, Ferndale, and the greater Whatcom County area; and
- (3) To provide alternatives to store and deploy energy in an efficient manner.

A Promising Future For Battery Energy Storage Systems

Technology offers flexibility and value in today's energy market. Meeting today's energy challenges is complicated. Energy infrastructure must be able to balance supply and demand instantaneously while taking into account the impacts of intermittent renewable energy. Consumers are also looking for energy services and products that provide flexibility and value in the areas of renewable energy, grid reliability and peaking power. Battery energy storage system technology is providing a promising way to store electrical energy so it can be available to meet demand whenever needed.

Energy storage delivers advantages to the power grid. What makes energy storage attractive is that it allows energy to be delivered instantly, in the required amount. By doing this, energy storage provides many advantages, such as improving the operation of the electrical grid, integrating renewable resources and helping investment decisions.

- Grid enhancement. Energy storage can balance load on the power system grid by moving energy when demands are low to times when demands are high. The technology also allows for a seamless switch between power sources and protects equipment by controlling voltage and frequency.
- Renewable resources. Energy storage fills in the gaps resulting from intermittent resources like wind and solar generation. That means operators can more easily bring on and off renewable energy, reducing the need for load balancing services and rapid generation ramping.

- Electrical system investments. By reducing the load on congested transmission and distribution systems, energy storage may defer expensive upgrades. In some cases, storage may also reduce new investment in conventional resources, such as adding generating plants to meet systemwide peak load.

Projects require little land, provide many benefits. Energy storage projects do not require a large area for development, are scalable in size and can be located in many places. The optimum BESS siting is as close as possible to existing electrical transmission or distribution infrastructure and often, close to an existing renewable project. Other benefits of energy storage include no greenhouse gases or other air pollutants, no use of water to generate electricity, and a renewable supply of energy.

Interest in energy storage is growing. The growing interest in energy storage is being driven by a number of factors, including:

- Reductions in technology costs.
- The rapid development of intermittent renewable energy resources.
- The evaluation of new policy initiatives by states.
- Regulatory changes.

For example, the Federal Energy Regulatory Commission has mandated policy changes in the frequency regulation market that have helped spur the use of energy storage for this purpose. Certain markets are now encouraging utilities to use energy storage to manage the intermittent energy that flows into the grid and to supply the grid with energy during times of peak use.

Costs are expected to decline. While emerging technology costs tend to be higher and therefore less competitive during the early evolution phase, technological efficiencies, improved manufacturing productivity and economies of scale help lower cost over time. As batteries gain wider industry adoption, prices are expected to decrease further.

Energy storage is safe, reliable. Overall, energy storage has been a part of the U.S. electric system since the 1930s. Today, it makes up approximately 2% of the nation's generation capacity, according to the Energy Storage Association. The safety record of the industry is similar to or better than other forms of power generation or distribution.

2. How does the proposed amendment conform to the requirements of the Growth Management Act?

The proposed text amendments will help Whatcom County comply with Goal 12 of the Growth Management Act which is as follows under Revised Code of Washington (RCW) 36.70A.020:

(12) Public facilities and services. Ensure that those public facilities and services necessary to support development shall be adequate to serve the development at the time the development is available for occupancy and use without decreasing current service levels below locally established minimum standards.

Response: Battery energy storage systems allow energy to be delivered instantly to the grid, in the required amount. By doing this, energy storage provides many advantages, such as improving the operation of the electrical grid, so it remains adequate to support development. Battery energy storage systems balance load on the power system grid by storing energy when demands are low and then moving it to the grid when demands are high. Battery storage also reduces the load on congested transmission and distribution systems, and energy storage may defer expensive upgrades.

3. How is the proposed amendment consistent with the County-Wide Planning Policies for Whatcom County?

Response: The proposed text amendments to provide a land use permitting pathway for battery energy storage systems are consistent with the following Whatcom County Countywide Planning Policies (Whatcom County, 2016):

B. Urban Versus Rural Distinctions

3. Whatcom County shall promote appropriate land uses and allow for infill within rural settlements characterized by existing commercial, industrial and intensive residential development greater than a rural development density. These areas should be clearly delineated, and not expanded beyond logical outer boundaries in accordance with RCW 36.70.070(5). Impacts on rural character, critical areas and other economic considerations as well as the availability of capital facilities and rural levels of service must be considered before allowing infill in these areas.

Response: The proposed text amendments are consistent with the Countywide Planning Policy B.3 for Urban Versus Rural Distinctions as infill battery energy storage systems in the rural zoning district may allow for the clustering of public utilities in manner that enhances energy efficiency and electrical grid stability, while still maintaining a rural character in surrounding areas.

I. Economic Development and Employment

8. Economic development should be encouraged that:

a. Does not adversely impact the environment;

b. Is consistent with community values stated in local comprehensive plans;

- c. Encourages development that provides jobs to county residents;*
- d. Addresses unemployment problems in the county and seeks innovative techniques to attract different industries for a more diversified economic base;*
- e. Promotes reinvestment in the local economy;*
- f. Supports retention and expansion of existing businesses.***

Response: The proposed text amendments are consistent with several of these economic development-related policies [8(a)(b) and (f)]. Battery energy storage systems provide energy efficiency and electrical grid stability on a relatively small footprint. Furthermore, battery energy storage systems do not generate greenhouse gases or other air pollutants, nor use water to generate electricity. The proposed amendments are consistent with the community values, to support electric energy supply for future economic growth within the County that is resilient to the impacts of climate change. Battery energy storage systems are a new technology for the County to store energy in a safe and reliable method that increases the resiliency of the energy grid. The emergence of battery energy storage systems supports the County's efforts to increase its energy options which supports current businesses and could be considered important for locational decisions by industries seeking to relocate or expand in the County.

11. Whatcom County encourages siting of industrial uses in proximity to and to further utilization of our access to deep water and port facilities for shipping, rail, airports, roadways, utility corridors and the international border.

Response: The text amendments allow for siting battery energy storage systems near existing energy generation facilities, electrical substations, and transmission line corridors. The clustering of energy generation facilities creates an orderly use of the land, establishes the infrastructure needed to support similar uses, and minimizes the potential for development in greenfield or environmentally sensitive areas that may be suitable for the preservation of land or other uses.

K. Siting of Public Facilities

1. As part of the comprehensive planning process, the county and the cities shall identify appropriate land for public facilities which meets the needs of the community, such as schools, recreation, transportation and utility corridors, human service facilities, and airport and other port facilities. In order to reduce land use conflicts, policies related to a design component shall be incorporated in the comprehensive plans.

Response: The Comprehensive Plan supports the identification of suitable lands within zoning designations that may support public facilities and utilities. The text amendments will allow for siting battery energy storage systems near existing energy generation facilities, electrical substations, and transmission line corridors. This is an efficient use of land as these clusters may create more orderly development and minimize environmental impacts by not clustering these uses. Energy efficiency and reliability are important considerations for locational decisions by industries seeking to relocate or expand in the County, thus supporting future growth and employment opportunities for the County.

5. Sharing of corridors for major utilities, trails and other transportation rights-of-way is encouraged when not in conflict with goals to protect wildlife, public health and safety.

Response: The text amendments allow for siting battery energy storage systems near existing energy generation facilities, electrical substations, and transmission line corridors. The sharing of corridors for public utilities leads to uniform development and decreases the potential for land use conflicts. The text amendments allow for flexibility in siting battery energy storage systems in a manner that avoids and may preserve critical areas and protects wildlife. Battery energy storage systems have minimal conflict with public health as the technology does not release greenhouse gases or other air pollutants, and no water is required.

4. How is the proposed amendment consistent with the Whatcom County Comprehensive Plan?

Response: The proposed text amendments are consistent with the following Whatcom County Comprehensive Plan provisions:

Comprehensive Plan, Chapter Five. Utilities

Goal 5B: Support the Development and use of new utility and information technologies.

Response: Battery energy storage systems are consistent with this policy as the new and evolving technology fills in the energy generation gaps resulting from intermittent resources like wind and solar generation and can balance load on the power system grid by storing energy when demands are low and then moving it to the grid when demands are high.

Goal 5F: Identify and remove impediments to effective siting of necessary utility facilities.

Response: The proposed text amendments provide a land use permitting pathway for siting battery energy storage systems. The proposed text amendments provide a definition for this type of use and establish a process under which it can be approved as a conditional use. The proposed text amendments will provide for the orderly, safe and efficient siting of battery energy storage systems in Whatcom County.

Comprehensive Plan, Chapter Seven. Economics

Goal 7C: Ensure adequate infrastructure to support existing and future business development and evolving technology.

Response: Adequate infrastructure is a basic necessity for the reliable operation and expansion of existing and future businesses and the movement of goods and services. The emergence of battery energy storage systems supports the County's efforts to increase its energy options, and the use of battery storage technology will increase the resiliency of the local grid. This enhancement and reliability of the County's infrastructure is considered important for locational decisions by industries seeking to relocate or expand in the County, thereby supporting both existing and future business development.

5. If within an Urban Growth Area, how is the proposed amendment consistent with interlocal agreements between the County and the City?

Response: No specific project location is proposed.

6. What changed conditions or further studies indicate a need for the amendment?

Response: None.

7. How will the public interest be served by the amendment? Please address the factors identified below.

- *The anticipated effect upon the rate or distribution of population growth, employment growth, development, and conversion of land as envisioned in the Comprehensive Plan.*

Response: The proposed text amendments will not have a direct impact on population growth, although battery energy storage systems may indirectly lead to population, employment, and economic growth by enhancing the electrical grid, a basic necessity for the reliable operation and expansion of existing and future businesses. The emergence of battery energy storage systems supports the County's efforts to increase its energy options, and the use of battery storage technology will increase the resiliency of the local grid. The proposed text amendments allow for siting battery energy storage systems near existing energy generation facilities, electrical substations, and transmission line corridors. The sharing of corridors for public utilities leads to uniform development and decreases the potential for land use conflicts. The text amendments allow for flexibility in siting battery energy storage systems in a manner that avoids and may preserve critical areas and protects wildlife.

- *The anticipated effect upon the ability of the County and/or other service providers, such as cities, schools, water and/or sewer purveyors, fire districts, and others as applicable, to provide adequate services and public facilities including transportation facilities.*

Response: The proposed text amendments will not affect the ability of service providers to provide adequate services and public facilities. Battery energy storage systems will actually enhance local energy efficiency and electrical grid. Battery energy storage systems allow energy to be delivered instantly to the grid, in the required amount. By doing this, energy storage provides many advantages, such as improving the operation of the electrical grid, so it remains adequate to support development. Battery energy storage systems balance load on the power system grid by storing energy when demands are low and then moving it to the grid when demands are high. Battery storage also reduces the load on congested transmission and distribution systems, and energy storage may defer expensive upgrades.

- *Anticipated impact upon designated agricultural, forest and mineral resource lands.*

Response: The proposed text amendments will have minimal direct impacts on designated agricultural, forest or mineral resource lands. The text amendments will allow for siting battery

energy storage systems near existing energy generation facilities, electrical substations, and transmission line corridors. This is an efficient use of land as these clusters may create more orderly development and minimize environmental impacts by not clustering these uses.



Whatcom County

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

Agenda Bill Master Report

File Number: AB2021-433

File ID:	AB2021-433	Version:	1	Status:	Introduced for Public Hearing
File Created:	07/19/2021	Entered by:	THelms@co.whatcom.wa.us		
Department:	County Executive's Office	File Type:	Resolution Requiring a Public Hearing		
Assigned to:	Council	Final Action:			
Agenda Date:	08/10/2021	Enactment #:			

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

TITLE FOR AGENDA ITEM:

Resolution declaring Whatcom County real property as surplus

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

Resolution declaring Whatcom County real property as surplus

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
07/27/2021	Council	INTRODUCED FOR PUBLIC HEARING	Council

Attachments: Memo, Resolution



MEMORANDUM

TO: Whatcom County Council
FROM: Tyler Schroeder, Deputy Executive
DATE: July 16, 2021
SUBJECT: Resolution Declaring Whatcom County Real Property Surplus

Attached is a resolution requesting to declare Whatcom County real property surplus.

Requested Action

The County Executive respectfully requests that the Whatcom County Council hold a public hearing and act on the proposed resolution to declare Whatcom County real property surplus.

Background and Purpose

Whatcom County has received letters of interest to purchase Whatcom County real property known as 1661 Baker Creek Place, tax parcel number 3803171904530000.

The property was obtained in 2006 for use as an animal control and shelter facility. In 2013, the County's contracted provider of animal control and shelter services relocated to a new facility. Since that time, the Baker Creek property has been utilized to house the county's surplus furniture and equipment.

The Property Management Committee (PMC) reviewed the property information and determined it is no longer needed for county purposes by any department and recommends that the property be considered surplus property. Facilities Management has also determined the property to be of no use to the county unless it went through a costly retrofit.

We are requesting approval to declare the property surplus as allowed through Whatcom County Code (WCC) Chapter 1.10.

Please contact me at tschroed@co.whatcom.wa.us if you have any questions regarding the proposed surplus of this property.

PROPOSED BY: Executive

INTRODUCTION DATE: July 27, 2021

RESOLUTION NO. _____

DECLARING WHATCOM COUNTY REAL PROPERTY AS SURPLUS

WHEREAS, RCW 36.34.005 authorizes counties to establish comprehensive procedures for the procedures for the management of county property, including the sale of surplus real estate where it is found to be in the best interest of a county to sell same; and

WHEREAS, in Whatcom county code (WCC), Chapter 1.10, Whatcom County has established those procedures; and

WHEREAS, the Whatcom County Property Management Committee has recommended the real property known as 1661 Baker Creek Place, tax parcel number 3803171904530000 be declared surplus for purposes of a sale that will benefit the public interest; and

WHEREAS, Whatcom County held a public hearing on this date to determine if it is in the best interest of the County to surplus the below described property for purposes of sale to a nonprofit organization; and

WHEREAS, following the public hearing the Council dose conclude that it is in the best interests of the County to declare this property surplus so that it may be sold to Lake Whatcom Treatment Center, a local nonprofit organization;

WHEREAS, the Council further finds that the sale of this surplus property to Lake Whatcom Treatment Center is in the public's interest;

NOW, THEREFORE, BE IT RESOLVED that it is in the best interest of the County to declare 1661 Baker Creek Place, tax parcel number 3803171904530000, and further described by its abbreviated legal description as: Parcel P-13 Iron Gate Park specific binding site Plan No 3 as Rec book 1 binding site plans PG 63-EXC PTN to City of Bellingham for Street Desc AF 1980600800, for purposes of sale to Lake Whatcom Treatment Center pursuant to Whatcom County Code 1.10.340(B).

APPROVED this _____ day of _____, 2021.

ATTEST:

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

Dana Brown-Davis, Council Clerk

Barry Buchanan, Council Chair

APPROVED as to form:

/s/ Christopher Quinn, approved electronically

Civil Deputy Prosecutor



Whatcom County

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

Agenda Bill Master Report

File Number: AB2021-420

File ID:	AB2021-420	Version:	1	Status:	Introduced for Public Hearing
File Created:	07/14/2021	Entered by:	JFleisch@co.whatcom.wa.us		
Department:	Planning and Development Services Department	File Type:	Ordinance Requiring a Public Hearing		
Assigned to:	Council	Final Action:			
Agenda Date:	08/10/2021	Enactment #:			

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

TITLE FOR AGENDA ITEM:

Ordinance amending the Whatcom County Comprehensive Plan Map and zoning code for the Nooksack Falls Exclave within the Mount Baker-Snoqualmie National Forest

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

A Comprehensive Plan Map amendment and zoning code amendment for the Nooksack Falls Exclave within the Mount Baker-Snoqualmie National Forest. The proposed map amendment will amend the Mineral Resource Lands Comprehensive Plan Designation to Rural Forestry, to match the zoning district. The zoning code amendment will include the Nooksack Falls Exclave as an area where a Conditional Use Permit application may be submitted for facilities intended to provide education related to forestry, natural resources and wildlife, and the purpose of the Rural Forestry zone. The proposal affects approximately 66 acres of privately held lands on/near Wells Creek Road, off of State Route 542 - Mt. Baker Hwy, Assessor's Parcel Numbers 400831580150, 400831450200, 390806550550.

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
07/27/2021	Council	INTRODUCED FOR PUBLIC HEARING	Council

Attachments: Staff Memo, Proposed Ordinance, Staff Report



Memorandum

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

FROM: Joshua Fleischmann, Planner

THROUGH: Mark Personius, Director

DATE: July 14, 2021

SUBJECT: PLN2020-00004 - Rural Forestry Designation and Text Amendment -
Nooksack Falls

This memo is intended to provide background on a docketed amendment for a Comprehensive Plan Map amendment and zoning code amendment for the Nooksack Falls Exclave within the Mount Baker Snoqualmie National Forest.

The subject properties totaling approximately 66 acres exist as privately held lands surrounded by the Mount Baker -Snoqualmie National Forest. These lands were part of an Interim Zoning Ordinance from 1972 which was extended repeatedly until Ordinance 99-013 established Comprehensive Plan Designations and Title 20 Zoning for these (and other) fee lands within the National Forest, Wilderness and Recreation areas. The subject exclave received a Comprehensive Plan Designation of Mineral Resource Lands (MRL) and the Rural Forestry zoning designation.

In the early 1900's, mining related activities and hydroelectric power were the primary uses of the subject property. However, mining activities in this area ceased over 50 years ago and there is no mining on or near the property, as the applicant states that mining is no longer feasible at the site due to economic, environmental, topographic and other factors. Meanwhile, Nooksack Falls has attracted increasing numbers of visitors given its proximity to other recreational destinations. The proposed Comprehensive Plan Map and zoning code text amendments are in response to these changed circumstances.

The Planning Commission held a public hearing on the proposal on July 8th. Upon conclusion of the public hearing, the Planning Commission moved to recommend this amendment to the County Council for approval along with the findings of fact. The motion carried by a vote of 7-0-1.

Final approval of Comprehensive Plan Map amendment would occur as part of concurrent review of comprehensive plan amendments from 2021.

I look forward to discussing the merits of this recommendation with you.

SPONSORED BY: _____
PROPOSED BY: _____
INTRODUCTION DATE: _____

ORDINANCE # _____

AN AMENDMENT TO THE OFFICIAL COMPREHENSIVE PLAN MAP FOR THE APPROXIMATELY 66-ACRE NOOKSACK FALLS EXCLAVE WITHIN THE MOUNT BAKER SNOQUALMIE NATIONAL FOREST, AND AMENDMENT TO THE RURAL FORESTRY ZONING CODE TO INCLUDE THE NOOKSACK FALLS EXCLAVE AS AN AREA WHERE CERTAIN CONDITIONAL USE PERMIT APPLICATIONS MAY BE SUBMITTED.

WHEREAS, an application has been submitted by AVT Consulting to amend the Comprehensive Plan Map to change the Mineral Resource Land (MRL) designation to Rural Forestry for the approximately 66-acre Nooksack Falls Exclave within the Mount Baker Snoqualmie National Forest, and to amend the Rural Forestry zoning code to include the Nooksack Falls Exclave as an area where a Conditional Use Permit application may be submitted for facilities intended to provide education related to forestry, natural resources and wildlife, and the purpose of the Rural Forestry zone.

WHEREAS, the site is located on Wells Creek Road, off Mt. Baker Highway (SR 542), roughly 7 miles east of the town of Glacier. The proposal is situated within portions of Section 31, T40N, R8E and Section 6, T39N R8E W.M. Assessor's Parcel #'s 400831580150, 400831450200, and 390806550550; and

WHEREAS, the proposed amendment has been reviewed under the State Environmental Policy Act (SEPA); and

WHEREAS, the proposed amendment meets the approval criteria for comprehensive plan amendments, as required by Whatcom County Code (WCC) 22.10.060; and

WHEREAS, notice of the Whatcom County Planning Commission hearing on the proposed amendment was published in the Bellingham Herald, mailed and posted; and

WHEREAS, the Whatcom County Planning Commission held a public hearing on the proposed amendment and considered all testimony, and recommended approval; and

WHEREAS, the Whatcom County Planning Commission forwarded its findings and reasons for action to the County Council; and

WHEREAS, the County Council held a public hearing on the proposed amendment and considered all testimony; and

WHEREAS, the County Council has adopted the following findings of fact and conclusions:

FINDINGS

1. An application for comprehensive plan map amendment and zoning code amendment was received by Whatcom County on December 31, 2019.
2. A determination of non-significance (DNS) was issued under the State Environmental Policy Act (SEPA) on April 23, 2021. The associated comment period ended May 7, 2021. The associated appeal period ended May 17, 2021
3. On April 26, 2021, a comment was submitted by the Lummi Nation, as an affected tribe, requesting that consultation be conducted. Consultation did not occur.
4. Notice of the Planning Commission hearing was posted at the subject site on June 22, 2021.
5. Notice of the Planning Commission hearing was mailed to surrounding property owners within 2,000' of the subject parcel on June 11, 2021.
6. Notice of the Planning Commission hearing was published in the Bellingham Herald on June 25, 2021.
7. Notice of the proposed amendment was sent to the Department of Commerce on May 25, 2021.
8. On May 25, 2011 the Department of Commerce acknowledged receipt of the notice, and that a copy of the notice had been forwarded to other state agencies.
9. The Whatcom County Comprehensive Plan does not contain specific criteria for de-designating Mineral Resource Lands.
10. The Whatcom County Comprehensive Plan contains specific criteria for designating Mineral Resource Lands.
11. The subject site does not meet Designation Criteria for Mineral Resource Lands of long term commercial significance.
12. Mineral resource designation criterion #1 states "Non-metallic deposits must contain at least one million cubic yards of proven and extractable sand, gravel, or rock material per new MRL Designation." The site is highly constrained by its parcel configuration, hydroelectric power-plant infrastructure, a single family residence, the Mt. Baker Highway, a national forest road, the North Fork of the Nooksack River (Shoreline Designation), and Wells Creek (Shoreline Designation). Staff estimates that roughly 15 acres, over multiple mining areas, might be able to be mined while avoiding these constraints. These 15 acres would require mining to a depth of 40-45 feet with sheer vertical walls in order to meet this volume threshold. It has not been demonstrated that the bedrock deposit contains one million cubic yards of proven and extractable material, therefore it has not been

demonstrated that this designation criterion has been met.

13. Mineral resource designation criterion #2 states "Minimum MRL Designation size is twenty acres." The present MRL is greater than twenty acres. Therefore, staff finds that this designation criterion has been met.
14. Mineral resource designation criterion #3 states "Expansion of an existing MRL does not need to meet criteria 1 or 2." The proposal is not for expansion of an existing MRL. This criterion is not applicable.
15. Mineral resource designation criterion # 4 states "MRL Designation status does not apply to surface mines permitted as an accessory or conditional use for the purpose of enhancing agriculture or facilitating forestry resource operations." The subject site does not contain a surface mine permitted for agricultural or forestry operations. This criterion is not applicable.
16. Mineral resource designation criterion #5 states "All pre-existing legal permitted sites meeting the above criteria (criteria 1-4) will be designated." The subject site does not contain a pre-existing legal permit for bedrock extraction. This criterion is not applicable.
17. Mineral resource designation criterion #6 states "The site shall have a proven resource that meets the following criteria:
 - Construction material must meet WSDOT Standard Specifications for common borrow criteria for road, bridge and municipal construction, or Whatcom County standards for other uses.
 - Sand and gravel deposits must have a net to gross ratio greater than 80% (1290 cy/acre/foot)."The subject proposal affects a bedrock unit that would be unlikely to meet either of these criteria, unless it was crushed and processed. This criterion appears to be written for a sand and gravel deposit that meets these requirements in-situ. A bedrock unit would not meet the requirements in-situ. Therefore staff finds that this designation criterion has not been met.
18. Mineral resource designation criterion #7 states "MRL Designations must not be within nor abut developed residential zones or subdivisions platted at urban densities." The subject site is zoned Rural Forestry and is surrounded by the Mount Baker Snoqualmie National Forest. Therefore, staff finds that this designation criterion has been met.
19. Mineral resource designation criterion #8 states "MRL Designations must not occur within the 10 year zone of contribution for designated wellhead protection areas, as approved by the State Department of Health for Group A systems, and by the Whatcom County Health Department for Group B systems, in accordance with source control provisions of the regulations on water system comprehensive planning. MRL designations may be modified if a wellhead protection area delineated subsequent to MRL designation encompasses areas within a designated MRL. If a fixed radii method is used to delineate a wellhead protection area, the applicant may elect to more precisely delineate the wellhead protection boundary using an analytical model; provided, that the delineated boundary proposed by the applicant is

prepared by a professional hydrogeologist; and further provided, that the delineated boundary has been reviewed and approved by the Washington State Department of Health for Group A systems, and by the Whatcom County Health Department for Group B systems. The hydrogeologist shall be selected by mutual agreement of the County, water purveyor, and applicant; provided, if agreement cannot be reached, the applicant shall select a consultant from a list of no less than three qualified consultants supplied by the County and water purveyor." The subject site is not located within a designated wellhead protection area of any public water system. Therefore, staff finds that this designation criterion has been met.

20. Mineral resource designation criterion #9 states "MRL Designation should not enclose by more than 50% non-designated parcels." There are no neighboring parcels. The property is surrounded by National Forest Land. Therefore, staff finds that this designation criterion has been met.
21. Mineral resource designation criterion #10 states: "Site-specific MRL designations shall only be approved after mineral extraction impacts have been anticipated and evaluated, and potential adverse environmental impacts have been addressed through appropriate mitigation and/or reasonable alternatives." Mineral extraction impacts have not been anticipated and evaluated, and potential adverse environmental impacts have not been addressed. Therefore, staff finds that this designation criterion has not been met.
22. Mineral resource designation criterion #11 states "MRL Designations must be reviewed for internal consistency with other parts of the comprehensive plan so that the MRL designation does not preclude achievement of other parts of the comprehensive plan." Consistent with RCW 36.70A.320(1), the present designation is presumed valid and does not preclude achievement of other parts of the comprehensive plan. Therefore, staff finds that this designation criterion has been met.
23. Mineral resource designation criterion #12 states "Expansion of MRL Designations to parcels contiguous to, and held by more than 1% common beneficial ownership or beneficial interest with an existing mine is allowed, but before extraction of the additional area may commence the existing mine must be in complete compliance with all operating permits and regulations." The proposed amendment is not an expansion of an MRL designation. This criterion is not applicable.
24. Mineral resource designation criterion #13 is specific to designated urban and rural areas, and therefore not applicable.
25. Mineral resource designation criterion #14 states "Must demonstrate higher value as mineral resource than forestry resource based upon.
 - soil conditions
 - quality of mineral resource
 - sustainable productivity of forest resourceIt has not been demonstrated that the site has a higher value as a mineral resource than a forestry resource. Soil data for the site is not available

through the NRCS Web Soil Survey. Therefore, staff finds that this designation criterion has not been met.

26. Mineral resource designation criterion #15 is specific to designated agricultural areas, and therefore is not applicable.
27. Mineral resource designation criterion #16 is specific to river and stream gravel, and therefore is not applicable.
28. Mineral resource designation criterion #17 is specific to river and stream gravel, and therefore is not applicable.
29. Mineral resource designation criterion #18 states "For metallic and rare minerals, mineral designation status extends to all patented mining claims." The site was designated MRL as a result of patented mining claims. Therefore, staff finds that this designation criterion has been met.
30. Mineral resource designation criterion #19 states "Mineral Resource Designation status extends to all currently permitted industrial mineral deposits of long-term commercial significance." The site does not contain industrial minerals, therefore this criterion is not applicable.
31. Mineral resource designation criterion #20 states "All other non-patented mineral deposits must meet the non-metallic MRL Designation criteria numbers 6 through 15, as applicable." The site was designated MRL as a result of patented mining claims, therefore this criterion is not applicable.
32. In addition to the criteria for designating MRLs, the Whatcom County Comprehensive Plan contains goals and policies that are applicable to the proposal.
33. Policy 8G-2: Provide appropriate land use regulations for the diverse forest resource lands within the county through the designation of Rural Forestry and Commercial Forestry zones.

Land use regulations for the property are administered by the Whatcom County Zoning Code, specifically the Rural Forestry Zoning District. Presently the comprehensive Plan designation of Mineral Resource Lands (MRL) is not consistent with the zoning designation of Rural Forestry (RF), leading to unpredictability and inconsistency during review of discretionary permits. Amending the Comprehensive Plan designation from MRL to RF to match the zoning district is appropriate. Consideration of changing the MRL designation to RF appears to be supported by this policy.

CONCLUSIONS

1. The proposed amendment is consistent with the approval criteria of WCC 22.10.060.

NOW, THEREFORE, BE IT ORDAINED by the Whatcom County Council that the Whatcom County Comprehensive Plan map is hereby amended from Mineral

Resource Lands (MRL) to Rural Forestry as shown in Exhibit A.

NOW, THEREFORE, BE IT ORDAINED by the Whatcom County Council that the Whatcom County Zoning Code is hereby amended as shown in Exhibit B.

BE IT FURTHER ORDAINED that if any section, subsection, sentence, clause, or phrase of this ordinance is for any reason held to be invalid or unconstitutional; such decision shall not affect the validity of the remaining portions of this ordinance. The Council hereby declares that it would have passed this code and each section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases has been declared invalid or unconstitutional, then the original ordinance or ordinances shall be in full force and effect.

ADOPTED this _____ day of _____, 2021

ATTEST:

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

Dana Brown-Davis, Clerk of the Council

Barry Buchanan, Council Chair

APPROVED AS TO FORM:

WHATCOM COUNTY EXECUTIVE
WHATCOM COUNTY, WASHINGTON

/s/ Royce Buckingham, approved electronically

Royce Buckingham
Executive Civil Deputy Prosecutor

Satpal Sidhu, County

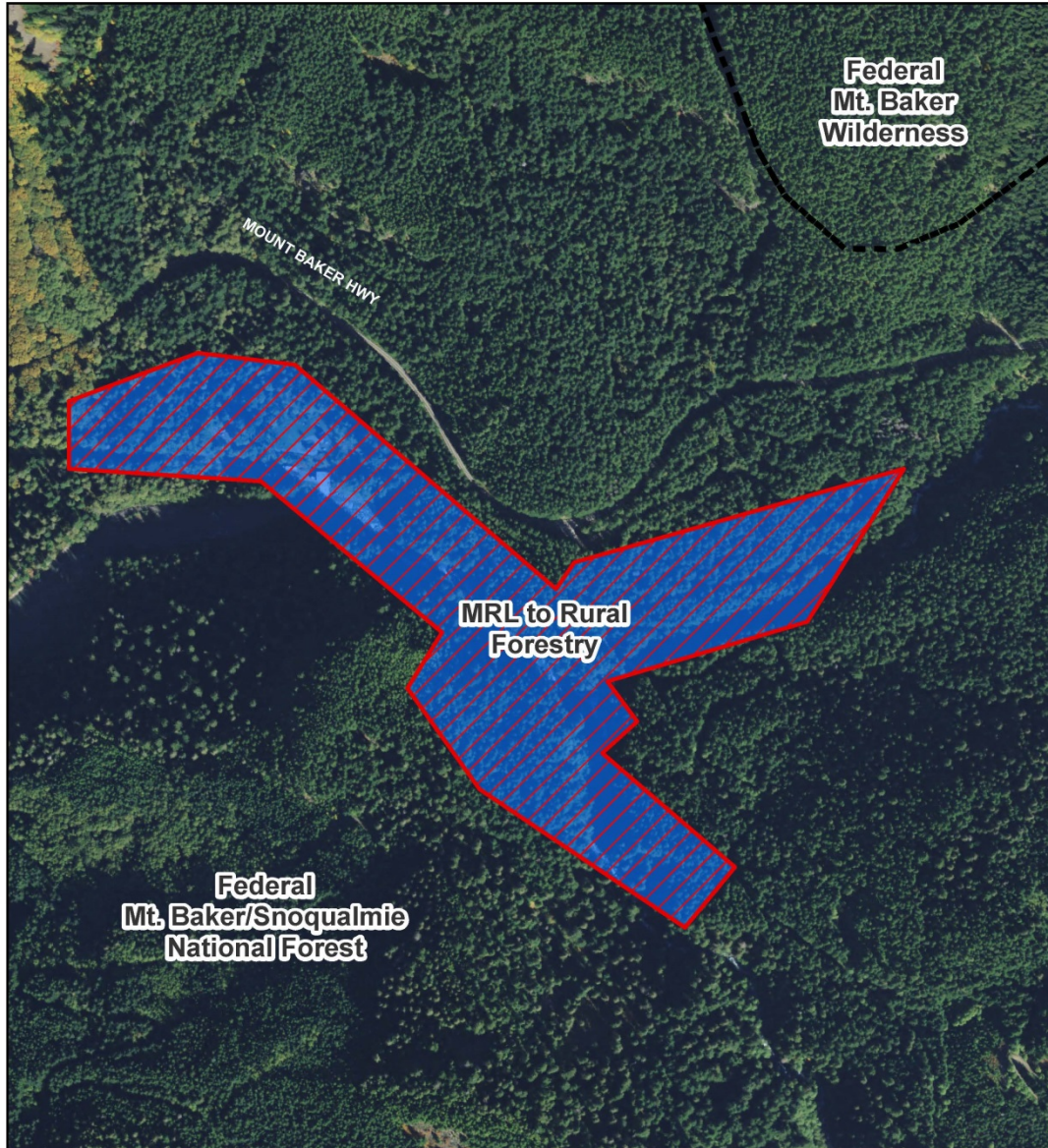
() Approved () Denied

Date Signed: _____

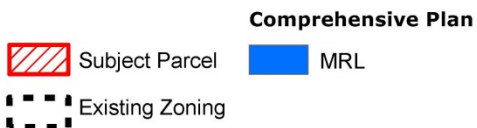
Exhibit A

Comprehensive Plan Map Amendment

Comprehensive Plan/Zoning



PLN2020-00004 - Rural Forestry Designation and Text Amendment
Comprehensive Plan Designation - Mineral Resource Lands (MRL)
to Rural Forestry for approximately 66 acres in the Nooksack Falls
exclave



USE OF WHATCOM COUNTY'S GIS DATA IMPLIES THE USER'S AGREEMENT WITH THE FOLLOWING STATEMENT:
 Whatcom County disclaims any warranty of merchantability or warranty of fitness of this map for any particular purpose, other express or implied. No representation or warranty is made concerning the accuracy, correctness, completeness or quality of data depicted on this map. Any use of this map constitutes full responsibility for use thereof, and further agrees to hold Whatcom County harmless from and against any damages, loss, or liability suffered from use of this map.

0 100 200 400 600 800 Feet

Exhibit B

Title 20 Zoning Amendments

Chapter 20.42 RURAL FORESTRY (RF) DISTRICT

20.42.150 Conditional Uses

.155 The operation of facilities intended to provide education related to forestry, natural resource and wildlife and the purpose of this district, including but not limited to demonstration forests and conservation laboratories, educational meeting facilities and related uses including rental cabins or other lodging structures, cooking and dining facilities, retail sales or meeting supplies and gifts, in the Foothills Subarea, South Fork Valley, the Newhalem Exclave, ~~and~~ the Baker Lake Exclave, and the Nooksack Falls Exclave, provided the following standards are met:

- (1) Density shall not exceed one sleeping unit per one gross acre or a maximum for 50 beds for the entire development.
- (2) Each cabin shall have a maximum of three sleeping units.
- (3) Must be located with vehicular access fronting on paved county roads or private roads improved to county standards.
- (4) Front yard setback shall be 75 feet, with 100-foot side and rear yard setbacks to adjacent properties.
- (5) Lot coverage for all facilities, including the rental cabins, shall not exceed 20 percent, clustered on no more than 50 percent of the property.

Exhibit C

SEPA Threshold Determination
SEPA Distribution List

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

SEPA Determination of Nonsignificance (DNS)

File: SEP2021-00038

Project Description: Amend Whatcom County Comprehensive Plan Map designation from Mineral Resource Land to Rural Forestry, to match the zoning district. Amend Whatcom County Code WCC 20.42.155 to include the Nooksack Falls Area Exclave.

Proponent: Excelsior Properties LLC & Excelsior Properties II LLC

Address and Parcel #: 12251 Mt Baker Highway / 400831580150, 400831450200 & 390806550550

Lead Agency: Whatcom County Planning & Development Services

Zoning: RF

Comp Plan: MRL

Shoreline Jurisdiction: Conservation

The lead agency for this proposal has determined that no significant adverse environmental impacts are likely. This proposal will also be reviewed for compliance with all applicable Whatcom County Codes (WCC) which regulates development activities, including but not limited to: WCC 15 – Buildings and Construction, WCC 16.16 – Critical Areas, WCC 17 – Flood Damage Prevention, WCC 20 – Zoning, WCC 21 – Land Division Regulations, WCC 23 – Shoreline Management Program, the Whatcom County Development Standards and/or the Washington State Stormwater Manual. Mitigation may be a requirement of Whatcom County Code. Pursuant to RCW 43.21C.030(2)(c), an environmental impact statement (EIS) is not required. This decision was made following review of a completed SEPA environmental checklist and other information on file with the lead agency. This information is available to the public on request.

☒ Pursuant to WAC 197-11-340(2), the lead agency will not act on this proposal for 14 days from the date of issuance indicated below. Comments must be received by 4:00 p.m. on May 7, 2021 and should be sent to: Josh Fleischmann via email at JFleisch@co.whatcom.wa.us

Responsible Official: Mark Personius, mpersoni@co.whatcom.wa.us

Title: Director

Telephone: 360-778-5937

Address: 5280 Northwest Drive
Bellingham, WA 98226

Date of Issuance: April 23, 2021

Signature:  _____

An aggrieved agency or person may appeal this determination to the Whatcom County Hearing Examiner. Application for appeal must be filed on a form provided by and submitted to the Whatcom County Current Planning Division located at 5280 Northwest Drive, Bellingham, WA 98226, during the ten days following the comment period, concluding May 17, 2021.

You should be prepared to make a specific factual objection. Contact Whatcom County Current Planning Division for information about the procedures for SEPA appeals.

SEPA Determination of Nonsignificance (DNS)
PL4-83-005E

Page 1 of 1
REV February 2021



SEPA Distribution List
SEP2021-00038
Date of Issuance: April 23, 2021

Please review this determination. If you have further comments or questions, phone the responsible official at (360) 778-5900. Please submit your response by the comment date noted on the attached notice of determination.

WA State Department of Archaeology and Historic Preservation via email
Stephanie Jolivet, stephanie.jolivet@dahp.wa.gov
SEPA@dahp.wa.gov

SEPA Unit, WA State Department of Ecology, Olympia via email
sepaunit@ecy.wa.gov

WA State Department of Fish and Wildlife
Wendy D. Cole via email wendy.cole@dfw.wa.gov

WA State Department of Natural Resources via email
Rochelle Goss, sepacenter@dnr.wa.gov
Brenda Werden, Brenda.werden@dnr.wa.gov

SEPA Unit, WA State Department of Transportation, Burlington via email
Roland Storme, stormer@wsdot.wa.gov
Judy Johnson, JohnsJu@wsdot.wa.gov

Lummi Nation Natural Resources
Merle Jefferson, Sr. via email - merlej@lummi-nsn.gov
Tamela Smart - tamelas@lummi-nsn.gov

Nooksack Indian Tribe
George Swanaset, JR via email - george.swanasetjr@nooksack-nsn.gov
Trevor Delgado via email - tdelgado@nooksack-nsn.gov

Skagit River System Cooperative
Nora Kammer via email - nkammer@skagitcoop.org

WCFD #19 - Glacier
Fire Chief Ben Thompson via email - ben@morewoohoo.org

Applicant
Ali Taysi via email - ali@avtplanning.com
Arch@westford.co

Other and/or Parties of Record
National Forest Service, Mt. Baker Snoqualmie National Forest c/o Greta Smith via email - gretchen.v.smith@usda.gov

WHATCOM COUNTY PLANNING & DEVELOPMENT SERVICES STAFF REPORT

I. OVERVIEW

File # PLN2020-00004

File Name: RF - Nooksack Falls.

Applicant: Ali Taysi/ AVT Consulting

Owner: Excelsior Properties LLC & Excelsior Properties II LLC

Summary of Request: Remove the Nooksack Falls Area Exclave properties (3 tax parcels) from their current Mineral Resource Land (MRL) Comprehensive Plan designation, retaining the underlying Rural Forestry (RF) zoning designation. Add language to WCC 20.42.155 (RF conditional uses) to include the Nooksack Falls Area Exclave

Location: The site is located on Wells Creek Road, off Mt Baker Highway (SR 542), roughly 7 miles east of the town of Glacier. Assessor's Parcel #'s 400831580150, 400831450200, 390806550550

Use of Subject Site: Presently used for recreation activities, including visiting Nooksack Falls, hiking, picnicking, wildlife viewing, etc. The property is also developed with a power generation facility, associated outbuildings and infrastructure, and a single-family residence.

Use of Surrounding Properties: Rural Forestry and Mount Baker-Snoqualmie National Forest

II. BACKGROUND

The subject property exists as an exclave within the M. Baker-Snoqualmie National Forest. Pursuant to the Planning Enabling Act (RCW 36.70.790) Whatcom County adopted an Interim Zoning Ordinance in July 1972 which included this exclave, as well as other fee lands within the National Forest, Wilderness and Recreation areas. The Interim Zoning Ordinance was extended repeatedly until Ordinance 99-013 established Comprehensive Plan Designations and Title 20 Zoning for these fee lands within the Mt. Baker Snoqualmie National Forest. The subject exclave received a Comprehensive Plan Designation of Mineral Resource Lands (MRL) and an underlying Rural Forestry (RF) zoning designation.

In the early 1900's, mining and hydroelectric power were the primary uses of the subject property. However, mining activities in this area ceased over 50 years ago and there is no mining on or near the property, as the applicant states that mining is no longer feasible at the site due to economic, environmental, topographic and other factors. Meanwhile, Nooksack Falls has attracted increasing numbers of visitors given its proximity to other recreational destinations. The proposed Comprehensive Plan and Zoning Code text amendments are in response to these changed circumstances.

III. ANALYSIS OF THE PROPOSED COMPREHENSIVE PLAN AMENDMENT

Pursuant to Whatcom County Code (WCC) 22.10.060, the Planning Commission and County Council must find that all of the following criteria are satisfied in order to approve the proposed Comprehensive Plan amendments.

- A. That the amendment conforms to the requirements of the Growth Management Act, is internally consistent with the county-wide planning policies and is consistent with any interlocal planning agreements.**

Growth Management Act

The Growth Management Act (GMA) includes a planning goal to “Maintain and enhance natural resource-based industries, including productive timber, agricultural, and fisheries industries. Encourage the conservation of productive forest lands and productive agricultural lands, and discourage incompatible uses” (RCW 36.70A.020(8)). Additionally, the GMA required counties to designate mineral resource lands that have long-term significance for extraction of minerals and adopt regulations to assure conservation of these mineral resource lands (RCW 36.70A.170 and 36.70A.060).

Staff Comment: Consistent with WAC 365-190-070, Mineral Resource Land designation criteria were adopted as part of the Whatcom County Comprehensive Plan. As detailed below through review for consistency with the Whatcom County Comprehensive Plan, the subject site does not meet the designation criteria necessary for designation as mineral resource lands of long-term commercial significance.

Furthermore, WAC 365-190-040(5)(e) states: "Mineral resource lands especially should be designated as close as possible to their likely end use areas, to avoid losing access to those valuable minerals by development , and to minimize the costs of production and transport. It is expected that Mineral Resource Lands will be depleted of minerals over time, and that subsequent land uses may occur on these lands after mining is complete." Mining on the site has not occurred within the past 50 years, as it is not economically feasible. Consistent with WAC 365-190-040(5)(e), a change of designation from Mineral Resource Lands to Rural Forestry is appropriate.

Whatcom County Comprehensive Plan

The Comprehensive Plan contains twenty specific criteria for designating MRLs (17 applicable to non-metallic mineral deposits and 3 applicable to metallic and industrial mineral deposits). These designation criteria, along with other applicable goals and policies, are set forth in italics and addressed below.

This application is a request to de-designate Mineral Resource Lands. While Whatcom County has designation criteria, there are not de-designation criteria. Without de-designation criteria, the County took the position that just as a proposal must meet all the criteria for designation as mineral resource lands of long-term commercial significance, if the proposal does not meet all the criteria, it is appropriate for de-designation.

1. *Non-metallic deposits must contain at least one million cubic yards of proven and extractable sand, gravel, or rock material per new MRL Designation.*

Staff Comment: It has not been demonstrated that the bedrock deposit contains one million cubic yards of proven and extractable material. The site is highly constrained by its parcel configuration, hydroelectric power-plant infrastructure, a single family residence, the Mt. Baker Highway, a national forest road, the North Fork of the Nooksack River (Shoreline Designation), and Wells Creek (Shoreline Designation). Staff estimates that ~ 15 acres (over multiple mining areas) might be able to be mined while avoiding these constraints. These 15 acres would require mining to a depth of ~40-45 feet with shear vertical walls in order to meet this volume threshold. Staff does not believe this designation criteria could feasibly be met given the known and unknown constraints.

2. *Minimum MRL Designation size is twenty acres.*

Staff Comment: The present MRL is greater than 20 acres. Therefore, staff finds that this designation criterion has been met.

3. *Expansion of an existing MRL does not need to meet criteria 1 or 2.*

Staff Comment: The proposal is not for expansion of an existing MRL. This criterion is not applicable.

4. *MRL Designation status does not apply to surface mines permitted as an accessory or conditional use for the purpose of enhancing agriculture or facilitating forestry resource operations.*

Staff Comment: The subject site does not contain a surface mine permitted for agricultural or forestry operations. This criterion is not applicable.

5. *All pre-existing legal permitted sites meeting the above criteria will be designated.*

Staff Comment: The subject site does not contain a pre-existing legal permit for bedrock extraction. This criterion is not applicable.

6. *The site shall have a proven resource that meets the following criteria:*

- *Construction material must meet WSDOT Standard Specifications for common borrow criteria for road, bridge and municipal construction, or Whatcom County standards for other uses.*
- *Sand and gravel deposits must have a net to gross ratio greater than 80% (1290 cy/acre/foot).*

Staff Comment: The subject proposal affects a bedrock unit that would be unlikely to meet either of these criteria, unless it was crushed and processed. This criterion appears to be written for a sand and gravel deposit that meets these requirements in-situ. A bedrock unit would not meet the requirements in-situ. Therefore staff finds that this designation criterion has not been met.

7. *MRL Designations must not be within nor abut developed residential zones or subdivisions platted at urban densities.*

Staff Comment: The subject site is zoned Rural Forestry and is surrounded by Mt. Baker-Snoqualmie Nation Forest. Therefore, staff finds that this designation criterion has been met.

8. *MRL Designations must not occur within the 10 year zone of contribution for designated wellhead protection areas, as approved by the State Department of Health for Group A systems, and by the Whatcom County Health Department for Group B systems, in accordance with source control provisions of the regulations on water system comprehensive planning. MRL designations may be modified if a wellhead protection area delineated subsequent to MRL designation encompasses areas within a designated MRL. If a fixed radii method is used to delineate a wellhead protection area, the applicant may elect to more precisely delineate the wellhead protection boundary using an analytical model; provided, that the delineated boundary proposed by the applicant is prepared by a professional hydrogeologist; and further provided, that the delineated boundary has been reviewed and approved by the Washington State Department of Health for Group A systems, and by the Whatcom County Health Department for Group B systems. The hydrogeologist shall be selected by mutual agreement of the county, water purveyor, and applicant; provided, if agreement cannot be reached the applicant shall select a consultant from a list of no less than three qualified consultants supplied by the county and water purveyor.*

Staff Comment: The subject site is not located within a designated wellhead protection area

of any public water system. Therefore, staff finds that this designation criterion has been met.

9. *MRL Designation should not enclose by more than 50% non-designated parcels.*

Staff Comment: There are no neighboring parcels. The property is surrounded by National Forest Land. Therefore, staff finds that this designation criterion has been met.

10. *Site-specific MRL designations shall only be approved after mineral extraction impacts have been anticipated and evaluated, and potential adverse environmental impacts have been addressed through appropriate mitigation and/or reasonable alternatives.*

Staff Comment: Mineral extraction impacts have not been anticipated and evaluated, and potential adverse environmental impacts have not been addressed. Therefore, staff finds that this designation criterion has not been met.

11. *MRL Designations must be reviewed for internal consistency with other parts of the comprehensive plan so that the MRL designation does not preclude achievement of other parts of the comprehensive plan.*

Staff Comment: Consistent with RCW 36.70A.320(1), the present designation is presumed valid and does not preclude achievement of other parts of the comprehensive plan. Therefore, staff finds that this designation criterion has been met.

12. *Expansion of MRL Designations to parcels contiguous to, and held by more than 1% common beneficial ownership or beneficial interest with an existing mine is allowed, but before extraction of the additional area may commence the existing mine must be in complete compliance with all operating permits and regulations.*

Staff Comment: The proposed amendment is not an expansion of an MRL designation. This criterion is not applicable.

13. *Criterion 13 is specific to designated urban and rural areas, and therefore not applicable.*

The Comprehensive Plan contains an additional criterion for designated forestry areas.

14. *Must demonstrate higher value as mineral resource than forestry resource based upon:*
- *soil conditions*
 - *quality of mineral resource*
 - *sustainable productivity of forest resource*

Staff Comment: It has not been demonstrated that the site has a higher value as a mineral resource than a forestry resource. Soil data for the site is not available through the NRCS Web Soil Survey. Therefore, staff finds that this designation criterion has not been met.

- 15 *Criterion 15 is specific to designated agricultural areas, and therefore does not apply.*
- 16 *Criterion 16 is specific to river and stream gravel, and therefore does not apply.*
- 17 *Criterion 17 is specific to river and stream gravel, and therefore does not apply.*
18. *For metallic and rare minerals, mineral designation status extends to all patented mining claims.*

Staff Comment: The site was designated MRL as a result of patented mining claims. Therefore, staff finds that this designation criterion has been met.

19. *Mineral Resource Designation status extends to all currently permitted industrial mineral deposits of long-term commercial significance.*

Staff Comment: The site does not contain industrial minerals. This criterion is not applicable.

20. *All other non-patented mineral deposits must meet the non-metallic MRL Designation criteria, numbers 6 through 15, as applicable.*

Staff Comment: The site was designated MRL as a result of patented mining claims. This criterion is not applicable.

In addition to the designation criteria, there are Comprehensive Plan policies and goals within Chapter 8 – Natural Resources that apply to the subject application:

Policy 8G-2: Provide appropriate land use regulation for the diverse forest resource lands within the county through the designation of Rural Forestry and Commercial Forestry zones.

Staff Report: Land use regulations for the property are administered by the Whatcom County Zoning Code, specifically the Rural Forestry Zoning District. Presently the Comprehensive Plan designation of Mineral Resource Lands (MRL) is not consistent with the zoning designation of Rural Forestry (RF), leading to unpredictability and inconsistency during review of discretionary permits. Amending the Comprehensive Plan designation from MRL to RF to match the zoning district is appropriate. Consideration of changing the MRL designation to RF appears to be supported by this policy.

Policy 8R-6: Consider removal of land from Mineral Resource Designation after mining and subsequent reclamation is completed.

Staff Comment: Mining has not occurred on the site in more than 50 years, as it is no longer feasible due to economic, environmental, topographic and other factors. Mining predates adoption of the Washington State Surface Mining Act, therefore reclamation of the site is not

required and is likely infeasible to require beyond what may have been required through the Federal regulatory process. Consideration of removal of the MRL designation appears to be supported by this policy.

County-Wide Planning Policies

Staff Comment: Staff did not identify County-Wide Planning Policies that would be applicable to a change in Comprehensive Plan Designation from MRL to RF.

Interlocal Agreement

Staff Comment: Staff is not aware of any interlocal agreements affecting the subject site.

B. That further studies made or accepted by the department of planning and development services indicate changed conditions that show the need for the amendment.

The subject site was identified for designation as Mineral Resource Lands through a 1972 Interim Zoning Ordinance due to historic mining operations. This Interim Zoning Ordinance was extended repeatedly until Ordinance 99-013 established the Comprehensive Plan Designations and Title 20 Zoning of the site. Today, mining is no longer feasible within the designated Nooksack Falls Mineral Resource Land Exclave due to economic, environmental, topographic and other factors. This proposed amendment is in response to these changed conditions.

C. That the public interest will be served by approving the amendment. In determining whether the public interest will be served, factors including but not limited to the following shall be considered:

1. The anticipated effect upon the rate or distribution of population growth, employment growth, development, and conversion of land as envisioned in the Comprehensive Plan.

Staff Comment: If approved, there would be no effect upon the rate or distribution of population growth beyond what is presently allowed. If approved, the zoning code would provide the opportunity for future uses such as an educational center, cafe, lodging structures, and other improvements related to access and safety to Nooksack Falls

2. The anticipated effect upon the ability of the County and/or other service providers, such as cities, schools, water and/or sewer purveyors, fire districts, and others as applicable, to provide adequate services and public facilities including transportation facilities.

Staff Comment: The subject site is an exclave within the Mt. Baker-Snoqualmie National Forest. There is no anticipated effect upon the ability of the county and/or other service providers, such as cities, schools, water purveyors, sewer purveyors, fire districts, and

others as applicable, to provide adequate services and public facilities including transportation facilities.

3. Anticipated impact upon designated agricultural, forest and mineral resource lands.

Staff Comment: There is no anticipated impact upon designated forestlands or mineral resource lands as a result of the change in designation from MRL to RF. The site is presently, and would continue to be, regulated through the Rural Forestry section of the Whatcom County Zoning Code. The site is presently designated as Mineral Resource Lands of long-term commercial significance, however due to site constraints, the site does not appear to have proven and extractable mineral resources of long-term commercial significance.

D. That the amendment does not include nor facilitate illegal spot zoning.

According to the Official Whatcom County Zoning Ordinance:

“Illegal spot zoning” means a zoning action by which a smaller area is singled out of a larger area or district and specially zoned for a use classification totally different from, and inconsistent with, the classification of surrounding land and not in accordance with the Comprehensive Plan. Spot zoning is zoning for private gain designed to favor or benefit a particular individual or group and not the welfare of the community as a whole (WCC 20.97.186).

In 1997, the Washington Supreme Court, in the case of *Citizens for Mount Vernon v. The City of Mount Vernon* (133 Wn.2d 861) indicated “. . . Spot zoning is a zoning action by which a smaller area is singled out of a larger area or district and specially zoned for a use classification totally different from, and inconsistent with, the classification of surrounding land and not in accordance with the Comprehensive Plan . . .”

Staff Comment: The proposal does not appear to include nor facilitate illegal spot zoning. Rather than singling out a smaller area from a larger area for designation that is different from, and inconsistent with, the classification of surrounding land, the proposal appears to correct a previous designation that was inconsistent with surrounding land uses. The result of the proposal would be a Rural Forestry designation that is surrounded by the Mount Baker Snoqualmie National Forest (MBSNF), rather than the present Mineral Resource Land designation surrounded by the MBSNF.

IV. ANALYSIS OF THE PROPOSED ZONING CODE AMENDMENT

Pursuant to Whatcom County Code (WCC) 22.10.060, the Planning Commission and County Council must find that the amendment is consistent with the Comprehensive Plan in order to approve the proposed amendment to the development regulations

Policy 8G-8: Review Title 20.42 (Rural Forestry) and 20.43 (Commercial Forestry) for

opportunities to provide compatible non-forest uses that encourage forest landowners to keep their land in productive forest uses.

Staff Comment: The proposed amendment to Whatcom County Zoning Code would allow the landowners to apply for a conditional use permit for "The operation of facilities intended to provide education related to forestry, natural resources and wildlife and the purpose..." of the Rural Forestry zone.

Policy 2L-4: Support the rural economic base by permitting natural resource based industries, cottage industries, forestry, fishing and agriculture in rural areas, as well as commercial and industrial activity contained within designated Rural Communities.

Staff Comment: The proposed amendment to the Whatcom County Zoning Code would allow the landowners to apply for a conditional use permit for "The operation of facilities intended to provide education related to forestry, natural resources and wildlife and the purpose..." of the Rural Forestry zone. These facilities would add to the economic base of eastern Whatcom County, through initial development and ongoing operations.

Policy 2FF-4: Allow home-based occupations, cottage industries and small-scale tourist and recreational uses throughout the rural area provided they do not adversely affect the surrounding residential uses, agricultural uses, forestry uses, or rural character.

Staff Comment: The proposed amendment to the Whatcom County Zoning Code would allow the landowners to apply for an educational center, cafe, lodging structures and other improvement related to access and safety of a popular tourist attraction.

V. PROPOSED FINDINGS OF FACT AND REASONS FOR ACTION

1. An application for comprehensive plan map amendment and zoning code amendment was received by Whatcom County on December 31, 2019.
2. A determination of non-significance (DNS) was issued under the State Environmental Policy Act (SEPA) on April 23, 2021. The associated comment period ended May 7, 2021. The associated appeal period ended May 17, 2021
3. On April 26, 2021, a comment was submitted by the Lummi Nation, as an affected tribe, requesting that consultation be conducted. Consultation did not occur.
4. Notice of the Planning Commission hearing was posted at the subject site on June 22, 2021.
5. Notice of the Planning Commission hearing was mailed to surrounding property owners within 2,000' of the subject parcel on June 11, 2021.

6. Notice of the Planning Commission hearing was published in the Bellingham Herald on June 25, 2021.
7. Notice of the proposed amendment was sent to the Department of Commerce on May 25, 2021.
8. On May 25, 2011 the Department of Commerce acknowledged receipt of the notice, and that a copy of the notice had been forwarded to other state agencies.
9. The Whatcom County Comprehensive Plan does not contain specific criteria for designating Mineral Resource Lands.
10. The Whatcom County Comprehensive Plan contains specific criteria for designating Mineral Resource Lands.
11. The subject site does not meet Designation Criteria for Mineral Resource Lands of long term commercial significance.
12. Mineral resource designation criterion #1 states "Non-metallic deposits must contain at least one million cubic yards of proven and extractable sand, gravel, or rock material per new MRL Designation." The site is highly constrained by its parcel configuration, hydroelectric power-plant infrastructure, a single family residence, the Mt. Baker Highway, a national forest road, the North Fork of the Nooksack River (Shoreline Designation), and Wells Creek (Shoreline Designation). Staff estimates that roughly 15 acres, over multiple mining areas, might be able to be mined while avoiding these constraints. These 15 acres would require mining to a depth of 40-45 feet with sheer vertical walls in order to meet this volume threshold. It has not been demonstrated that the bedrock deposit contains one million cubic yards of proven and extractable material, therefore it has not been demonstrated that this designation criterion has been met.
13. Mineral resource designation criterion #2 states "Minimum MRL Designation size is twenty acres." The present MRL is greater than twenty acres. Therefore, staff finds that this designation criterion has been met.
14. Mineral resource designation criterion #3 states "Expansion of an existing MRL does not need to meet criteria 1 or 2." The proposal is not for expansion of an existing MRL. This criterion is not applicable.
15. Mineral resource designation criterion # 4 states "MRL Designation status does not apply to surface mines permitted as an accessory or conditional use for the purpose of enhancing agriculture or facilitating forestry resource operations." The subject site does not contain a surface mine permitted for agricultural or forestry operations. This criterion is not applicable.
16. Mineral resource designation criterion #5 states "All pre-existing legal permitted sites

meeting the above criteria (criteria 1-4) will be designated.” The subject site does not contain a pre-existing legal permit for bedrock extraction. This criterion is not applicable.

17. Mineral resource designation criterion #6 states “The site shall have a proven resource that meets the following criteria:
- Construction material must meet WSDOT Standard Specifications for common borrow criteria for road, bridge and municipal construction, or Whatcom County standards for other uses.
 - Sand and gravel deposits must have a net to gross ratio greater than 80% (1290 cy/acre/foot).”

The subject proposal affects a bedrock unit that would be unlikely to meet either of these criteria, unless it was crushed and processed. This criterion appears to be written for a sand and gravel deposit that meets these requirements in-situ. A bedrock unit would not meet the requirements in-situ. Therefore staff finds that this designation criterion has not been met.

18. Mineral resource designation criterion #7 states “MRL Designations must not be within nor abut developed residential zones or subdivisions platted at urban densities.” The subject site is zoned Rural Forestry and is surrounded by the Mount Baker Snoqualmie National Forest. Therefore, staff finds that this designation criterion has been met.

19. Mineral resource designation criterion #8 states “MRL Designations must not occur within the 10 year zone of contribution for designated wellhead protection areas, as approved by the State Department of Health for Group A systems, and by the Whatcom County Health Department for Group B systems, in accordance with source control provisions of the regulations on water system comprehensive planning. MRL designations may be modified if a wellhead protection area delineated subsequent to MRL designation encompasses areas within a designated MRL. If a fixed radii method is used to delineate a wellhead protection area, the applicant may elect to more precisely delineate the wellhead protection boundary using an analytical model; provided, that the delineated boundary proposed by the applicant is prepared by a professional hydrogeologist; and further provided, that the delineated boundary has been reviewed and approved by the Washington State Department of Health for Group A systems, and by the Whatcom County Health Department for Group B systems. The hydrogeologist shall be selected by mutual agreement of the County, water purveyor, and applicant; provided, if agreement cannot be reached, the applicant shall select a consultant from a list of no less than three qualified consultants supplied by the County and water purveyor.” The subject site is not located within a designated wellhead protection area of any public water system. Therefore, staff finds that this designation criterion has been met.

20. Mineral resource designation criterion #9 states “MRL Designation should not enclose by more than 50% non-designated parcels.” There are no neighboring parcels. The property is surrounded by National Forest Land. Therefore, staff finds that this designation criterion has been met.

21. Mineral resource designation criterion #10 states: "Site-specific MRL designations shall only be approved after mineral extraction impacts have been anticipated and evaluated, and potential adverse environmental impacts have been addressed through appropriate mitigation and/or reasonable alternatives." Mineral extraction impacts have not been anticipated and evaluated, and potential adverse environmental impacts have not been addressed. Therefore, staff finds that this designation criterion has not been met.
22. Mineral resource designation criterion #11 states "MRL Designations must be reviewed for internal consistency with other parts of the comprehensive plan so that the MRL designation does not preclude achievement of other parts of the comprehensive plan." Consistent with RCW 36.70A.320(1), the present designation is presumed valid and does not preclude achievement of other parts of the comprehensive plan. Therefore, staff finds that this designation criterion has been met.
23. Mineral resource designation criterion #12 states "Expansion of MRL Designations to parcels contiguous to, and held by more than 1% common beneficial ownership or beneficial interest with an existing mine is allowed, but before extraction of the additional area may commence the existing mine must be in complete compliance with all operating permits and regulations." The proposed amendment is not an expansion of an MRL designation. This criterion is not applicable.
24. Mineral resource designation criterion #13 is specific to designated urban and rural areas, and therefore not applicable.
25. Mineral resource designation criterion #14 states "Must demonstrate higher value as mineral resource than forestry resource based upon.
 - soil conditions
 - quality of mineral resource
 - sustainable productivity of forest resourceIt has not been demonstrated that the site has a higher value as a mineral resource than a forestry resource. Soil data for the site is not available through the NRCS Web Soil Survey. Therefore, staff finds that this designation criterion has not been met.
26. Mineral resource designation criterion #15 is specific to designated agricultural areas, and therefore is not applicable.
27. Mineral resource designation criterion #16 is specific to river and stream gravel, and therefore is not applicable.
28. Mineral resource designation criterion #17 is specific to river and stream gravel, and therefore is not applicable.
29. Mineral resource designation criterion #18 states "For metallic and rare minerals, mineral designation status extends to all patented mining claims." The site was designated MRL as a result of patented mining claims. Therefore, staff finds that this designation criterion

has been met.

30. Mineral resource designation criterion #19 states "Mineral Resource Designation status extends to all currently permitted industrial mineral deposits of long-term commercial significance." The site does not contain industrial minerals, therefore this criterion is not applicable.
31. Mineral resource designation criterion #20 states "All other non-patented mineral deposits must meet the non-metallic MRL Designation criteria numbers 6 through 15, as applicable." The site was designated MRL as a result of patented mining claims, therefore this criterion is not applicable.
32. In addition to the criteria for designating MRLs, the Whatcom County Comprehensive Plan contains goals and policies that are applicable to the proposal.
33. Policy 8G-2: Provide appropriate land use regulations for the diverse forest resource lands within the county through the designation of Rural Forestry and Commercial Forestry zones.

Land use regulations for the property are administered by the Whatcom County Zoning Code, specifically the Rural Forestry Zoning District. Presently the comprehensive Plan designation of Mineral Resource Lands (MRL) is not consistent with the zoning designation of Rural Forestry (RF), leading to unpredictability and inconsistency during review of discretionary permits. Amending the Comprehensive Plan designation from MRL to RF to match the zoning district is appropriate. Consideration of changing the MRL designation to RF appears to be supported by this policy.

VI. PROPOSED CONCLUSION

The subject amendment is consistent with the approval criteria of WCC 22.10.060.

VII. RECOMMENDATION

Staff recommends approval of the proposed comprehensive plan map amendment and zoning text amendment.

ATTACHMENTS:

- Draft Ordinance
- Exhibit A - Proposed Comprehensive Plan Map Amendment
- Exhibit B - Proposed Zoning Code Amendment
- Exhibit C - Determination of Non-Significance (DNS) issued April 23, 2021 and Distribution List



Whatcom County

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

Agenda Bill Master Report

File Number: AB2021-469

File ID:	AB2021-469	Version:	1	Status:	Agenda Ready
File Created:	07/28/2021	Entered by:	LBruner@co.whatcom.wa.us		
Department:	Council Office	File Type:	Request for Motion		
Assigned to:	Council			Final Action:	
Agenda Date:	08/10/2021			Enactment #:	

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

TITLE FOR AGENDA ITEM:

Request to authorize Karen Frakes, Chief Civil Deputy Prosecuting Attorney, to vote on behalf of Whatcom County in favor of the Joint Plan of Reorganization of Mallinckrodt PLC and its debtor affiliates under Chapter 11 of the Bankruptcy Code in Case No. 20-12522 (JTD) in the US Bankruptcy Court for the District of Delaware

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

See Attachment

HISTORY OF LEGISLATIVE FILE

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

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re:)	Chapter 11
)	
MALLINCKRODT PLC, <i>et al.</i> ,)	Case No. 20-12522 (JTD)
)	
Debtors. ¹)	(Jointly Administered)
)	
)	

**BALLOT FOR VOTING ON THE
ABOVE-CAPTIONED DEBTORS' CHAPTER 11 PLAN**

CLASS 8(b) – MUNICIPAL OPIOID CLAIMS

**PLEASE READ AND FOLLOW THE ENCLOSED INSTRUCTIONS CAREFULLY
BEFORE COMPLETING THIS BALLOT.**

IF YOU BELIEVE YOU ARE A HOLDER OF A CLASS 8(b) MUNICIPAL OPIOID CLAIM, PLEASE COMPLETE, DATE, AND SIGN THIS BALLOT AND RETURN IT TO THE NOTICE AND CLAIMS AGENT IN ACCORDANCE WITH THE BELOW INSTRUCTIONS. THIS BALLOT MUST BE ACTUALLY RECEIVED BY THE NOTICE AND CLAIMS AGENT ON OR BEFORE SEPTEMBER 3, 2021, AT 4:00 P.M. (PREVAILING EASTERN TIME) (THE “*VOTING DEADLINE*”). DO NOT RETURN THIS BALLOT TO THE DEBTORS.

The above-captioned debtors and debtors in possession (collectively, the “**Debtors**”) are soliciting votes with respect to the *Joint Plan of Reorganization of Mallinckrodt plc and Its Debtor Affiliates Under Chapter 11 of the Bankruptcy Code* [Docket No. 2916] (together with all schedules and exhibits thereto, and as may be modified, amended, or supplemented from time to time, the “**Plan**”) as set forth in the *Disclosure Statement for Joint Chapter 11 Plan of Reorganization of Mallinckrodt plc and Its Debtor Affiliates Under Chapter 11 of the Bankruptcy Code* [Docket No. 2917] (together with all schedules and exhibits thereto, and as may be modified, amended, or supplemented from time to time, the “**Disclosure Statement**”).² The Bankruptcy Court has approved the Disclosure Statement as containing adequate information pursuant to section 1125 of the Bankruptcy Code, by entry of an order on June 17, 2021 [Docket No. 2911] (the “**Disclosure Statement Order**”). Bankruptcy Court approval of the Disclosure Statement does not indicate approval of the Plan by the Bankruptcy Court.

¹ A complete list of the Debtors in these chapter 11 cases may be obtained on the website of the Debtors' claims and noticing agent at <http://restructuring.primeclerk.com/Mallinckrodt>. The Debtors' mailing address is 675 McDonnell Blvd., Hazelwood, Missouri 63042.

² Capitalized terms used but not otherwise defined herein shall have the meanings set forth in the Plan or Disclosure Statement Order, as applicable.



You are receiving this Ballot because our records indicate that you are a direct Holder of a Class 8(b) Municipal Opioid Claim or you requested a Ballot to vote on the Plan in accordance with the procedures approved in the Disclosure Statement Order. Accordingly, you have a right to vote to accept or reject the Plan as provided in Item 2 below on account of your Class 8(b) Municipal Opioid Claims.

For the avoidance of doubt, you do NOT need to file (or to have previously filed) a Proof of Claim in the Debtors' bankruptcy cases in order to vote on the Debtors' Plan with respect to your Opioid Claim.³ If the Plan is approved by the Bankruptcy Court and you hold an Opioid Claim, you will be entitled to assert your Claim directly against the applicable opioid trust at a later time. There is nothing you need to do at this time to assert your Opioid Claim. You will be notified of how to assert your Opioid Claim against the applicable opioid trust at a later date.

IMPORTANT NOTICE REGARDING TREATMENT FOR CLASS 8(b)

As described in more detail in the Disclosure Statement and the Plan, if the Plan is confirmed, and the Effective Date occurs, each Holder of a Class 8(b) Municipal Opioid Claim shall receive the following treatment:

As of the Effective Date, all Municipal Opioid Claims shall automatically, and without further act, deed, or court order, be channeled exclusively to, and all of Mallinckrodt's liability for Municipal Opioid Claims shall be assumed by, the NOAT II. Each Municipal Opioid Claim shall be resolved solely in accordance with the terms, provisions, and procedures of the NOAT II Documents and shall receive a recovery, if any, from the State and Municipal Government Opioid Claims Share. The NOAT II shall be funded in accordance with the provisions of this Plan. The sole recourse of any Municipal Opioid Claimant on account of its Municipal Opioid Claim shall be to the NOAT II, and each such Municipal Opioid Claimant shall have no right whatsoever at any time to assert its Municipal Opioid Claim against any Protected Party, shall be enjoined from filing against any Protected Party any future litigation, Claims or Causes of Action arising out of or related to such Municipal Opioid Claims, and may not proceed in any manner against any Protected Party on account of such Municipal Opioid Claims in any forum whatsoever, including any state, federal, or non-U.S. court or administrative or arbitral forum. Distributions made by the NOAT II in respect of Municipal Opioid Claims shall be used solely for Approved Uses, in accordance with the NOAT II Documents.

³ As set forth in the Plan, "Opioid Claim" means "a Claim or Cause of Action (other than Claims or Causes of Action arising from violations of the Voluntary Injunction or Opioid Operating Injunction), whether existing now or arising in the future, based in whole or in part on any conduct or circumstance occurring or existing on or before the Effective Date and arising out of, relating to, or in connection with any opioid product or substance, and any and all Opioid Demands related thereto, including, for the avoidance of doubt, claims for indemnification, contribution, or reimbursement on account of payments or losses in any way arising out of, relating to, or in connection with any such conduct or circumstances and Co-Defendant Claims. For the avoidance of doubt, Opioid Claims do not include any liability premised on wrongful conduct undertaken by the Reorganized Debtors after the Effective Date."





ITEM 1. Amount of Claim.

Please note that, except as otherwise set forth in the Disclosure Statement and Disclosure Statement Order, each Class 8(b) Municipal Opioid Claim has been allowed in the amount of \$1.00 for voting purposes only, and not for distribution, allowance, or any other purpose.

\$ <u>1.00</u>
Voting Debtor: <u>All Applicable Debtors</u>

ITEM 2. Vote on Plan.

The Holder of the Class 8(b) Municipal Opioid Claims against the Debtors set forth in Item 1, above, votes to (please check one box below):

<input type="checkbox"/> <u>ACCEPT</u> (vote FOR) the Plan	<input type="checkbox"/> <u>REJECT</u> (vote AGAINST) the Plan
---	---

Any Ballot that is executed by the Holder of a Claim, but that indicates both an acceptance and a rejection of the Plan, or does not indicate either an acceptance or rejection of the Plan, will not be counted.

THE DEBTORS RECOMMEND THAT YOU VOTE TO ACCEPT THE PLAN.

**IMPORTANT INFORMATION REGARDING CERTAIN RELEASE,
EXCULPATION, AND INJUNCTION PROVISIONS IN THE PLAN**

ARTICLE IX OF THE PLAN CONTAINS RELEASE, EXCULPATION, AND INJUNCTION PROVISIONS, WHICH ARE SET FORTH AT THE END OF THIS BALLOT. YOU SHOULD REVIEW THESE PROVISIONS CAREFULLY.

ITEM 3. Certifications.

By signing this Ballot, you certify to the Bankruptcy Court and the Debtors that

- (a) either (i) you are, or you believe you are, the Holder of the Class 8(b) Municipal Opioid Claims being voted; or (ii) you are an authorized signatory for a Holder of the Class 8(b) Municipal Opioid Claims being voted, and, in either case, have the full power and authority to vote to accept or reject the Plan with respect to the Claims identified in Item 1, above;
- (b) you have received a copy of the Disclosure Statement and the Solicitation Package and acknowledge that the solicitation is being made pursuant to the terms and conditions set forth therein;
- (c) you have cast the same vote with respect to all Class 8(b) Municipal Opioid Claims held by the same Holder; and



- (d) no other Ballots with respect to the amount of the Class 8(b) Municipal Opioid Claims identified in Item 1, above, have been cast or, if any other Ballots have been cast with respect to such Claims, then any such earlier Ballots are hereby revoked and superseded by this Ballot.

Name of Holder:	<u>Whatcom County</u>
	(Print or Type)
Social Security or Federal Tax Identification Number:	_____
Signature:	_____
Name of Signatory:	_____
	(If other than Holder)
Title:	_____
Address:	_____

Date Completed:	_____

No fees, commissions or other remuneration will be payable to any person for soliciting votes on the Plan.

YOUR RECEIPT OF THIS BALLOT DOES NOT SIGNIFY THAT YOUR CLAIM HAS BEEN OR WILL BE ALLOWED.

**PLEASE COMPLETE, SIGN, AND DATE THIS BALLOT
AND PROMPTLY SUBMIT IT:**

- (1) BY REGULAR MAIL, OVERNIGHT COURIER, OR HAND DELIVERY, IN THE RETURN ENVELOPE PROVIDED, TO THE FOLLOWING ADDRESS:**

Mallinckrodt plc Ballot Processing
c/o Prime Clerk LLC
One Grand Central Place
60 East 42nd Street, Suite 1440
New York, NY 10165

OR

- (2) VIA THE NOTICE AND CLAIMS AGENT'S ONLINE PORTAL, BY VISITING MNKVOTE.COM, CLICKING ON THE "SUBMIT E-BALLOT" SECTION OF THE WEBPAGE, AND FOLLOWING THE INSTRUCTIONS TO SUBMIT YOUR BALLOT.**

THIS BALLOT MUST BE **ACTUALLY RECEIVED**
BY THE NOTICE AND CLAIMS AGENT ON OR BEFORE:

SEPTEMBER 3, 2021, AT 4:00 P.M. (PREVAILING EASTERN TIME).

**BALLOTS SENT BY FACSIMILE, TELECOPY, EMAIL, OR OTHER
ELECTRONIC MEANS (OTHER THAN THROUGH THE NOTICE
AND CLAIMS AGENT'S ONLINE PORTAL IN ACCORDANCE
WITH THE BALLOT INSTRUCTIONS) WILL NOT BE ACCEPTED**

IMPORTANT NOTE: If you are submitting an electronic Ballot via the Notice and Claims Agent's online portal, you will need the following information to retrieve and submit your customized electronic Ballot:

Unique E-Ballot ID#: _____

The Notice and Claims Agent's online portal is the sole manner in which Ballots will be accepted via electronic or online transmission. Ballots submitted by facsimile, email or other means of electronic transmission will not be counted.

Each E-Ballot ID# is to be used solely for voting only those Claims described in Item 1 of your electronic Ballot. Please complete and submit an electronic Ballot for each E-Ballot ID# you receive, as applicable.

Holders of Claims that cast a Ballot using the Notice and Claims Agent's online portal should NOT also submit a hard copy Ballot.



Class 8(b) – Municipal Opioid Claims

INSTRUCTIONS FOR COMPLETING THIS BALLOT

1. The Debtors are soliciting the votes of Holders of Claims with respect to the Plan attached as Exhibit A to the Disclosure Statement. Capitalized terms used in this Ballot or in these instructions (the “**Ballot Instructions**”) but not otherwise defined therein or herein shall have the meaning set forth in the Plan or Disclosure Statement Order, as applicable, copies of which also accompany this Ballot.
2. To ensure that your Ballot is counted, you **must either**: (a) complete and submit this hard copy Ballot or (b) complete and submit an electronic Ballot through the Debtors’ online balloting portal accessible at MNKvote.com. Ballots will not be accepted by facsimile or other electronic means (other than through the online portal).
3. **Use of Hard Copy Ballot.** To ensure that your vote is counted, you must complete this Ballot by taking the following steps: (a) clearly indicate your decision either to accept or reject the Plan in the applicable box provided in Item 2; (b) provide the information required by Item 3; and (c) sign, date and return an original of your Ballot to the address set forth on the enclosed pre-addressed envelope.
4. **Use of Online Ballot Portal.** To ensure that your electronic Ballot is counted, please follow the instructions at MNKvote.com. You will need to enter your unique E-Ballot identification number indicated on your Ballot. The online balloting portal is the sole manner in which Ballots will be accepted via electronic or online transmission. **Ballots will not be accepted by facsimile or other electronic means (other than through the online portal).**
5. If a Ballot is received by the Notice and Claims Agent after the Voting Deadline, it will not be counted, unless the Debtors have granted an extension of the Voting Deadline in writing with respect to such Ballot. Additionally, the following Ballots will **NOT** be counted:
 - any Ballot that is illegible or contains insufficient information to permit the identification of the claimant;
 - any Ballot that is properly completed, executed and timely filed, but (a) does not indicate an acceptance or rejection of the Plan, (b) indicates both an acceptance and rejection of the Plan, or (c) partially accepts and partially rejects the Plan;
 - any Ballot submitted by facsimile, telecopy or electronic mail (other than through the Notice and Claims Agent’s online portal);
 - any unsigned Ballot;

- any Ballot sent to the Debtors, the Debtors' agents/representatives (other than the Notice and Claims Agent), any indenture trustee, or the Debtors' financial or legal advisors; and/or
 - any Ballot not cast in accordance with the procedures approved in the Disclosure Statement Order.
6. The method of delivery of Ballots to the Notice and Claims Agent is at the election and risk of each Holder of a Claim. Except as otherwise provided herein, such delivery will be deemed made only when the Notice and Claims Agent actually receives the executed Ballot. Instead of effecting delivery by first-class mail, it is recommended, though not required, that Holders use an overnight or hand delivery service. In all cases, Holders should allow sufficient time to assure timely delivery.
 7. If multiple Ballots are received from the same Holder of a Claim with respect to the same Claim prior to the Voting Deadline, the last Ballot timely received will supersede and revoke any earlier received Ballots.
 8. You must vote all Claims within a particular Class held by the same Holder either to accept or reject the Plan and may not split such vote. Further, if a Holder has multiple Claims within the same Class, the Debtors may, in their discretion, aggregate the Claims of any particular Holder within a Class for the purpose of counting votes.
 9. This Ballot is not a letter of transmittal and may not be used for any purpose other than to vote to accept or reject the Plan on account of your Class 8(b) Municipal Opioid Claim.
 10. This Ballot does not constitute, and shall not be deemed to be, (a) a Proof of Claim or (b) an assertion or admission of a Claim. You do **NOT** need to file (or to have previously filed) a Proof of Claim in the Debtors' bankruptcy cases in order to vote on the Debtors' Plan with respect to your Opioid Claim. If the Plan is approved by the Bankruptcy Court and you hold an Opioid Claim, you will be entitled to assert your Claim directly against the applicable opioid trust at a later time. **There is nothing you need to do at this time to assert your Opioid Claim. You will be notified of how to assert your Opioid Claim against the applicable opioid trust at a later date.**
 11. **Please be sure to sign and date your Ballot.** If you are signing a Ballot in your capacity as a trustee, executor, administrator, guardian, attorney in fact, officer of a corporation, or otherwise acting in a fiduciary or representative capacity, you must indicate such capacity when signing such Ballot and, if required or requested by the Notice and Claims Agent, the Debtors or the Bankruptcy Court, must submit proper evidence to the requesting party to so act on behalf of such Holder. In addition, please provide your name and mailing address if it is different from that set forth on the attached mailing label or if no such mailing label is attached to this Ballot.
 12. If you hold Claims in more than one Class under the Plan you may receive more than one Ballot coded for each different Class. Each Ballot votes only your Claims indicated on that Ballot, so please complete and return each Ballot you received.



PLEASE SUBMIT YOUR BALLOT PROMPTLY!

**IF YOU HAVE ANY QUESTIONS REGARDING THIS BALLOT,
THESE VOTING INSTRUCTIONS OR THE PROCEDURES FOR VOTING, PLEASE
CALL THE NOTICE AND CLAIMS AGENT AT:**

877-467-1570 (US/Canada); 347-817-4093 (International)

**YOU MAY ALSO CONTACT THE OFFICIAL COMMITTEE OF OPIOID
RELATED CLAIMANTS WITH ANY QUESTIONS AT
MALLINCKRODPIOIDCLAIMANTINFO@AKINGUMP.COM.**

**IF THE NOTICE AND CLAIMS AGENT DOES NOT ACTUALLY RECEIVE
THIS BALLOT ON OR BEFORE THE VOTING DEADLINE, WHICH IS 4:00 P.M.
(PREVAILING EASTERN TIME) ON SEPTEMBER 3, 2021, THEN YOUR VOTE
TRANSMITTED HEREBY WILL NOT BE COUNTED.**

NO PERSON HAS BEEN AUTHORIZED BY THE DEBTORS TO GIVE ANY INFORMATION OR ADVICE, OR TO MAKE ANY REPRESENTATION, ON BEHALF OF THE DEBTORS, REGARDING THE DEBTORS OR THE PLAN, OTHER THAN WHAT IS CONTAINED IN THE SOLICITATION PACKAGE MAILED HEREWITH.

**RELEASE, EXCULPATION, AND INJUNCTION
PROVISIONS CONTAINED IN THE PLAN**

ARTICLE I DEFINED TERMS AND RULES OF INTERPRETATION

A. *Defined Terms*

“Exculpated Party” means, in each case, in its capacity as such: (a) the Debtors (and their Representatives); (b) the Reorganized Debtors (and their Representatives); (c) the Official Committee of Unsecured Creditors (and its Representatives and the members thereto and their Representatives); (d) the Official Committee of Opioid-Related Claimants (and its Representatives and the members thereto and their Representatives); (e) the Future Claimants Representative (and its Representatives); and (f) the Guaranteed Unsecured Notes Indenture Trustee and the Legacy Unsecured Notes Indenture Trustee, each solely in its capacity and to the extent it serves as a Distribution Agent.

“Protected Party” means (a) the Debtors, (b) the Reorganized Debtors, (c) the Non-Debtor Affiliates, (d) with respect to each of the foregoing Persons in clauses (a) through (c), such Persons’ predecessors, successors, permitted assigns, subsidiaries, and controlled Affiliates, respective heirs, executors, Estates, and nominees, in each case solely in their capacity as such, and (e) with respect to each of the foregoing Persons in clauses (a) through (d), such Person’s respective current and former officers and directors, managers, principals, members, partners, employees, agents, advisors (including financial advisors), attorneys (including attorneys retained by any director in his or her capacity as a director or manager of a Person), accountants, investment bankers (including investment bankers retained by any director in his or her capacity as a director or manager of a Person), consultants, experts and other professionals (including any professional



advisor retained by any director in his or her capacity as a director or manager of a Person) or other representatives of the Persons described in clauses (a) through (d), solely in their capacity as such, *provided* that consultants and experts in this clause (e) shall not include those retained to provide strategic advice for sales and marketing of opioid products who have received a civil investigative demand or other subpoena related to sales and marketing of opioid products from any State Attorney General on or after January 1, 2019 through the Petition Date. “Protected Party” shall also include each Settling Opioid Insurer. Notwithstanding anything to the contrary herein, none of the following Persons, in their respective following capacities, shall be Protected Parties: (1) Medtronic plc or Covidien plc, (2) any subsidiaries or Affiliates of Medtronic plc or Covidien plc that existed as a subsidiary or Affiliate of Medtronic plc or Covidien plc after July 1, 2013, (3) any successors or assigns of any Entity described in clause (1) or clause (2) that became such a successor or assign after July 1, 2013 (excluding, for the avoidance of doubt, the Debtors, the Reorganized Debtors, and the Non-Debtor Affiliates), (4) any former subsidiaries or Affiliates of Covidien plc that ceased being such a subsidiary or Affiliate before July 1, 2013, and any successor or assign to such subsidiary or Affiliate of Covidien plc, and (5) any Representative of any Entity described in the foregoing clauses (1) through (4) except to the extent such Representative is described in clause (d) and (e) of this definition of “Protected Party.”

“**Released Party**” means (a) the Debtors, (b) the Reorganized Debtors, (c) the Non-Debtor Affiliates, (d) with respect to each of the foregoing Persons in clauses (a) through (c), such Persons’ predecessors, successors, permitted assigns, subsidiaries, and controlled Affiliates, respective heirs, executors, Estates, and nominees, in each case solely in their capacity as such; (e) with respect to each of the foregoing Persons in clauses (a) through (d), such Person’s respective current and former officers and directors, managers, principals, members, partners, employees, agents, advisors (including financial advisors), attorneys (including attorneys retained by any director in his or her capacity as a director or manager of a Person), accountants, investment bankers (including investment bankers retained by any director in his or her capacity as a director or manager of a Person), consultants, experts and other professionals (including any professional advisor retained by any director in his or her capacity as a director or manager of a Person) or other representatives of the Persons described in clauses (a) through (d), solely in their capacity as such; (f) each member of the Guaranteed Unsecured Notes Ad Hoc Group in their capacity as such, (g) each Supporting Unsecured Noteholder in their capacity as such, (h) the Opioid MDT II and the Opioid Creditor Trusts, (i) each member of the Governmental Plaintiff Ad Hoc Committee in their capacity as such, (j) each Supporting Governmental Opioid Claimant in their capacity as such; (k) each member of the MSGE Group in their capacity as such; (l) each Supporting Term Lender in its capacity as such; (m) each member of the Ad Hoc First Lien Term Lender Group in its capacity as such; (n) each Prepetition Secured Party (as defined in the Cash Collateral Order); (o) the Guaranteed Unsecured Notes Indenture Trustee; (p) the Legacy Unsecured Notes Indenture Trustee solely in its capacity and to the extent it serves as a Distribution Agent; (q) the Future Claimants Representative; (r) the Official Committee of Opioid-Related Claimants; (s) the Official Committee of Unsecured Creditors; and (t) with respect to each of the foregoing Persons in clauses (f) through (s), each such Person’s Representatives, solely in their capacity as such. Notwithstanding anything to the contrary herein, none of the following Persons, in their respective following capacities, shall be Released Parties: (1) Medtronic plc or Covidien plc, (2) any subsidiaries or Affiliates of Medtronic plc or Covidien plc that existed as a subsidiary or Affiliate of Medtronic plc or Covidien plc after July 1, 2013, (3) any successors or assigns of any Entity described in clause (1) or clause (2) that became such a successor or assign after July 1, 2013



(excluding, for the avoidance of doubt, the Debtors, the Reorganized Debtors, and the Non-Debtor Affiliates), (4) any former subsidiaries or Affiliates of Covidien plc that ceased being such a subsidiary or Affiliate before July 1, 2013, and any successor or assign to such subsidiary or Affiliate of Covidien plc, and (5) any Representative of any Entity described in the foregoing clauses (1) through (4) except to the extent such Representative is described in clause (d) and (e) of this definition of "Released Party."

ARTICLE IX RELEASE, INJUNCTION AND RELATED PROVISIONS

A. *Discharge of Claims, Opioid Demands, and Interests; Compromise and Settlement of Claims, Opioid Demands, and Interests.*

Pursuant to and to the fullest extent permitted by section 1141(d) of the Bankruptcy Code, and except as otherwise specifically provided in the Plan, the distributions, rights, and treatment that are provided in the Plan shall be in full and final satisfaction, settlement, release, and discharge, effective as of the Effective Date, of all Claims, Opioid Claims, Opioid Demands, and Interests of any nature whatsoever, whether known or unknown, against, liabilities of, demands against, Liens on, obligations of, or rights against the Debtors, the Reorganized Debtors, or any of their assets or properties, regardless of whether any property shall have been distributed or retained pursuant to the Plan on account of such Claims, Opioid Claims, Opioid Demands, or Interests, including demands, liabilities, and Causes of Action that arose before the Effective Date, any contingent or non-contingent liability on account of representations or warranties issued on or before the Effective Date, and all debts of the kind specified in sections 502(g), 502(h), or 502(i) of the Bankruptcy Code, in each case whether or not: (1) a Proof of Claim is Filed or deemed Filed pursuant to section 501 of the Bankruptcy Code; (2) a Claim, Opioid Claim, Opioid Demand, or Interest is Allowed; or (3) the Holder of such Claim, Opioid Claim, Opioid Demand, or Interest has accepted the Plan. Except as otherwise provided herein, any default by the Debtors with respect to any Claim, Opioid Claim, or Interest that existed immediately prior to or on account of the filing of the Chapter 11 Cases shall be deemed cured on the Effective Date. The Confirmation Order shall be a judicial determination of the discharge of all Claims, Opioid Demands, and Interests subject to the Effective Date occurring, except as otherwise expressly provided in the Plan. For the avoidance of doubt, nothing in this Article IX.A shall affect the rights of Holders of Claims and Interests to seek to enforce the Plan, including the distributions to which Holders of Allowed Claims and Interests may be entitled to under the Plan.

In consideration for the distributions and other benefits provided pursuant to the Plan, the provisions of the Plan shall constitute a good faith compromise of all Claims, Opioid Demands, Interests and controversies relating to the contractual, legal, and subordination rights that a Holder of a Claim or Interest may have with respect to any Allowed Claim or Interest, or any distribution to be made on account of such Allowed Claim or Interest. The entry of the Confirmation Order shall constitute the Bankruptcy Court's approval of the compromise or settlement of all such Claims, Opioid Demands, Interests and controversies, as well as a finding by the Bankruptcy Court that such compromises or settlements are in the best interests of the Debtors, their Estates, and Holders of Claims and Interests and are fair, equitable, and reasonable.

B. *Releases by the Debtors*

Pursuant to section 1123(b) of the Bankruptcy Code (and any other applicable provisions of the Bankruptcy Code), as of the Effective Date, for good and valuable consideration, the adequacy of which is hereby confirmed, including, without limitation, the service of the Released Parties before and during the Chapter 11 Cases to facilitate the Opioid Settlement (as defined in the Restructuring Support Agreement) and the restructuring, and except as otherwise explicitly provided in the Plan or in the Confirmation Order, the Released Parties shall be deemed conclusively, absolutely, unconditionally, irrevocably and forever released and discharged, to the maximum extent permitted by law, as such law may be extended subsequent to the Effective Date, by the Debtors and the Estates from any and all Claims, counterclaims, disputes, obligations, suits, judgments, damages, demands, debts, rights, Causes of Action, liens, remedies, losses, contributions, indemnities, costs, liabilities, attorneys' fees and expenses whatsoever, including any derivative claims, asserted or assertable on behalf of the Debtors or their Estates, whether liquidated or unliquidated, fixed or contingent, matured or unmatured, known or unknown, foreseen or unforeseen, asserted or unasserted, accrued or unaccrued, existing or hereinafter arising, whether in law or equity, whether sounding in tort or contract, whether arising under federal or state statutory or common law, or any other applicable international, foreign, or domestic law, rule, statute, regulation, treaty, right, duty, requirement or otherwise, that the Debtors or their Estates would have been legally entitled to assert in their own right (whether individually or collectively) or on behalf of the Holder of any Claim or Equity Interest or other person, based on or relating to, or in any manner arising from, in whole or in part, the Debtors (including the management, ownership, or operation thereof and as such Entities existed prior to or after the Petition Date), their Estates, the Debtors' in- or out-of-court restructuring efforts (including the Chapter 11 Cases), the purchase, sale, or rescission of the purchase or sale of any security or indebtedness of the debtors, the subject matter of, or the transactions or events giving rise to, any Claim or Equity Interest that is treated in the Plan, litigation claims arising from historical intercompany transactions between or among a Debtor and another Debtor, the business or contractual arrangements between any Debtor and any Released Party (including the exercise of any common law or contractual rights of setoff or recoupment by any Released Party at any time on or prior to the Effective Date), the restructuring of any Claim or Equity Interest before or during the Chapter 11 Cases, any Avoidance Actions, the negotiation, formulation, preparation, dissemination, filing, or implementation of, prior to the Effective Date, the Definitive Documents, the Opioid MDT II, Opioid MDT II Documents, the Opioid Creditor Trusts, the Opioid Creditor Trust Documents, the "agreement in principle for global opioid settlement and associated debt refinancing activities" announced by the Parent on February 25, 2020 and all matters and potential transactions described therein, the Restructuring Support Agreement (including any amendments and/or joinders thereto) and related prepetition and postpetition transactions, the Disclosure Statement, the Plan, the Plan Supplement, any Restructuring Transaction, any agreement, instrument, release, and other documents (including providing any legal opinion requested by any Entity regarding any transaction, contract, instrument, document, or other agreement contemplated by the Plan or the reliance by any Released Party on the Plan or the Confirmation Order in lieu of such legal opinion) created or entered into prior to the Effective Date in connection with the creation of the Opioid MDT II, the Opioid Creditor Trusts, the "agreement in principle for global opioid settlement and



associated debt refinancing activities” announced by the Parent on February 25, 2020, the Restructuring Support Agreement and related prepetition transactions, the Disclosure Statement, the Plan, the Plan Supplement, the Chapter 11 Cases, the filing of the Chapter 11 Cases, the pursuit of confirmation (including the solicitation of votes on the Plan), the pursuit of consummation, the administration and implementation of the Plan, including the issuance or distribution of Securities pursuant to the Plan, or the distribution of property under the Plan or any other related agreement, or upon the business or contractual arrangements between any Debtor and any Released Party, and any other act or omission, transaction, agreement, event, or other occurrence or circumstance taking place on or before the Effective Date related or relating to any of the foregoing; *provided, however*, that the Debtors do not release, and the Opioid MDT II shall retain, all Assigned Third-Party Claims and Assigned Insurance Rights; *provided, further*, that the Debtors do not release, Claims or Causes of Action arising out of, or related to, any act or omission of a Released Party that is determined by Final Order of the Bankruptcy Court or any other court of competent jurisdiction to have constituted actual fraud, gross negligence, or willful misconduct. The foregoing release will be effective as of the Effective Date without further notice to or order of the Bankruptcy Court, act or action under applicable law, regulation, order, or rule or the vote, consent, authorization or approval of any person and the Confirmation Order shall permanently enjoin the commencement or prosecution by any person, whether directly, derivatively or otherwise, of any Claims, obligations, suits, judgments, damages, demands, debts, rights, Causes of Action, or liabilities released pursuant to this Debtor Release. Notwithstanding anything to the contrary in the foregoing, the releases by the Debtors set forth above do not release any post-Effective Date obligations of any party or Entity under the Plan, any restructuring, any document, instrument, or agreement (including those set forth in the Plan Supplement) executed to implement the Plan, or any Claims which are reinstated pursuant to the Plan. The foregoing release will be effective as of the Effective Date without further notice to or order of the Bankruptcy Court, act or action under applicable law, regulation, order, or rule or the vote, consent, authorization, or approval of any person, and the Confirmation Order shall permanently enjoin the commencement or prosecution by any person, whether directly, derivatively, or otherwise, of any Claims, obligations, suits, judgments, damages, demands, debts, rights, Causes of Action, or liabilities released pursuant to the foregoing release.

The Reorganized Debtors, the Opioid MDT II, and the Opioid Creditor Trusts shall be bound, to the same extent the Debtors are bound, by the releases set forth in Article IX.B of the Plan. For the avoidance of doubt, Claims or Causes of Action arising out of, or related to, any act or omission of a Released Party prior to the Effective Date that is determined by Final Order of the Bankruptcy Court or any other court of competent jurisdiction to have constituted actual fraud, gross negligence, or willful misconduct, including findings after the Effective Date, are not released pursuant to Article IX.B of the Plan.

Entry of the Confirmation Order shall constitute the Bankruptcy Court’s approval, pursuant to Bankruptcy Rule 9019, of the releases by the Debtors set forth in Article IX.B of the Plan, which includes by reference each of the related provisions and definitions contained herein, and further shall constitute the Bankruptcy Court’s finding that such release is: (a) in exchange for the good and valuable consideration provided by the Released Parties; (b) a good faith settlement and compromise of the Claims released by the Debtor Release; (c) in

the best interests of the Debtors, their Estates and all Holders of Claims and Equity Interests; (d) fair, equitable and reasonable; (e) given and made after due notice and opportunity for hearing; and (f) a bar to any Entity or person asserting any Claim or Cause of Action released by Article IX.B of the Plan.

C. *[Intentionally Omitted from this Ballot]*

D. *Releases by Holders of Opioid Claims*

Notwithstanding anything contained in the Plan to the contrary, pursuant to section 1123(b) of the Bankruptcy Code (and any other applicable provisions of the Bankruptcy Code), as of the Effective Date, for good and valuable consideration, the adequacy of which is hereby confirmed, including, without limitation, the service of the Protected Parties before and during the Chapter 11 Cases to facilitate the Opioid Settlement (as defined in the Restructuring Support Agreement) and restructuring, each Opioid Claimant (in its capacity as such) is deemed to have released and discharged, to the maximum extent permitted by law, as such law may be extended subsequent to the Effective Date, each Debtor, Reorganized Debtor, and Protected Party from any and all Claims (including Opioid Claims and Opioid Demands), counterclaims, disputes, obligations, suits, judgments, damages, demands, debts, rights, Causes of Action, liens, remedies, losses, contributions, indemnities, costs, liabilities, or attorneys' fees and expenses whatsoever, including any derivative claims asserted, or assertable on behalf of the Debtors, or their Estates, whether liquidated or unliquidated, fixed or contingent, matured or unmatured, known or unknown, foreseen or unforeseen, asserted or unasserted, accrued or unaccrued, existing or hereinafter arising, whether in law or equity, whether sounding in tort or contract, whether arising under federal or state statutory or common law, or any other applicable international, foreign, or domestic law, rule, statute, regulation, treaty, right, duty, requirement or otherwise, that such entity would have been legally entitled to assert in their own right (whether individually or collectively) or on behalf of any other person, based on or relating to, or in any manner arising from, in whole or in part, the Debtors (including the management, ownership, or operation thereof and as such Entities existed prior to or after the Petition Date), their Estates, the Opioid Claims (including Opioid Demands), the Debtors' in- or out-of-court restructuring efforts (including the Chapter 11 Cases), intercompany transactions between or among a Debtor and another Debtor, the restructuring of any Claim or Equity Interest before or during the Chapter 11 Cases, any Avoidance Actions, the negotiation, formulation, preparation, dissemination, filing, or implementation of, prior to the Effective Date, the Opioid MDT II, the Opioid MDT II Documents, the Opioid Creditor Trusts, the Opioid Creditor Trust Documents, the "agreement in principle for global opioid settlement and associated debt refinancing activities" announced by the Parent on February 25, 2020 and all matters and potential transactions described therein, the Restructuring Support Agreement (including any amendments and/or joinders thereto) and related prepetition transactions, the Disclosure Statement, the Plan, the Plan Supplement, any Restructuring Transaction, or any contract, instrument, release, or other agreement or document (including providing any legal opinion requested by any Entity regarding any transaction, contract, instrument, document, or other agreement contemplated by the Plan or the reliance by any Protected Party on the Plan or the Confirmation Order in lieu of such legal opinion) created or entered into prior to the Effective Date in connection with the creation of the Opioid MDT II, the Opioid



Creditor Trusts, the “agreement in principle for global opioid settlement and associated debt refinancing activities” announced by the Parent on February 25, 2020, the Restructuring Support Agreement (including any amendments and/or joinders thereto) and related prepetition transactions, the Disclosure Statement, the Plan, the Plan Supplement, the Chapter 11 Cases, the filing of the Chapter 11 Cases, the pursuit of confirmation (including the solicitation of votes on the Plan), the pursuit of consummation, the administration and implementation of the Plan, including the issuance or distribution of securities pursuant to the Plan, or the distribution of property under the Plan or any other related agreement, or upon the business or contractual arrangements between any Debtor and any Protected Party, or upon any other act or omission, transaction, agreement, event, or other occurrence or circumstance taking place on or before the Effective Date related or relating to any of the foregoing. Notwithstanding anything to the contrary in the foregoing, the releases by the Opioid Claimants set forth above do not release any post-Effective Date obligations of any party or Entity under the Plan, any post-Effective Date transaction contemplated by the restructuring, or any document, instrument, or agreement (including those set forth in the Plan Supplement) executed to implement the Plan, or any claims or causes of actions against any co-defendant of the Debtors (other than any Protected Party) in any opioid-related litigation. The foregoing release will be effective as of the Effective Date without further notice to or order of the Bankruptcy Court, act or action under applicable law, regulation, order, or rule or the vote, consent, authorization, or approval of any person, and the Confirmation Order shall permanently enjoin the commencement or prosecution by any person, whether directly, derivatively, or otherwise, of any Claims, obligations, suits, judgments, damages, demands, debts, rights, Causes of Action, or liabilities released pursuant to the foregoing release by Opioid Claimants.

Entry of the Confirmation Order shall constitute the Bankruptcy Court’s approval, pursuant to Bankruptcy Rule 9019, of this release by Opioid Claimants, which includes by reference each of the related provisions and definitions contained herein, and, further, shall constitute the Bankruptcy Court’s finding that this release is: (1) essential to the confirmation of the Plan; (2) given in exchange for the good and valuable consideration provided by the Protected Parties; (3) a good-faith settlement and compromise of the Claims released by Article IX.D of the Plan; (4) in the best interests of the Debtors, their Estates, and all Opioid Claimants; (5) fair, equitable, and reasonable; (6) given and made after due notice and opportunity for hearing; and (7) a bar to any Opioid Claimant asserting any Claim or Cause of Action released pursuant to Article IX.D of the Plan.

For the avoidance of doubt, Claims or Causes of Action arising out of, or related to, any act or omission of a Protected Party prior to the Effective Date that is determined by Final Order of the Bankruptcy Court or any other court of competent jurisdiction to have constituted actual fraud, gross negligence, or willful misconduct, including findings after the Effective Date, are not released pursuant to article IX.D of the Plan. Notwithstanding anything to the contrary in the foregoing, the releases by the Opioid Claimants set forth above do not release any post-Effective Date obligations of any party or Entity under the Plan, any restructuring, any document, instrument, or agreement (including those set forth in the Plan Supplement) executed to implement the Plan, or any Claims which are reinstated pursuant to the Plan.

Notwithstanding anything to the contrary herein, nothing in the Plan or Confirmation Order shall (x) release, discharge, or preclude the enforcement of any liability of a Protected Party to a Governmental Unit arising out of, or relating to, any act or omission of a Protected Party prior to the Effective Date that is determined by Final Order of the Bankruptcy Court or any other court of competent jurisdiction to have constituted a criminal act perpetrated by the applicable Protected Party or (y) release or discharge a consultant or expert having been retained to provide strategic advice for sales and marketing of opioid products who has received a civil investigative demand or other subpoena related to sales and marketing of opioid products from any state attorney general on or after January 1, 2019 through the Petition Date.

E. *Exculpation*

Effective as of the Effective Date, to the fullest extent permitted by law, the Exculpated Parties shall neither have nor incur any liability to any person for any Claims or Causes of Action arising on or after the Petition Date and prior to or on the Effective Date for any act taken or omitted to be taken in connection with, related to, or arising out of, the Chapter 11 Cases, formulating, negotiating, preparing, disseminating, implementing, filing, administering, confirming or effecting the confirmation or consummation of the Plan, the Disclosure Statement, the Opioid Settlement (as defined in the Restructuring Support Agreement), the Opioid MDT II Documents, the Opioid Creditor Trust Documents, the “agreement in principle for global opioid settlement and associated debt refinancing activities” announced by the Parent on February 25, 2020, the Restructuring Support Agreement (including any amendments and/or joinders thereto) and related prepetition transactions, or any contract, instrument, release or other agreement or document created or entered into in connection with any of the foregoing, or any other prepetition or postpetition act taken or omitted to be taken in connection with or in contemplation of the restructuring of the Debtors, the Disclosure Statement or confirmation or consummation of the Plan, the Opioid Settlement (as defined in the Restructuring Support Agreement), the Opioid MDT II Documents, or the Opioid Creditor Trust Documents, including the issuance of Securities pursuant to the Plan, or the distribution of property under the Plan or any other related agreement; *provided, however*, that the foregoing provisions of this exculpation shall not operate to waive or release: (a) any Causes of Action arising from actual fraud, gross negligence, or willful misconduct of such applicable Exculpated Party as determined by Final Order of the Bankruptcy Court or any other court of competent jurisdiction; and/or (b) the rights of any person or Entity to enforce the Plan and the contracts, instruments, releases, indentures, and other agreements and documents delivered under or in connection with the Plan or assumed pursuant to the Plan or Final Order of the Bankruptcy Court; *provided, further*, that each Exculpated Party shall be entitled to rely upon the advice of counsel concerning its respective duties pursuant to, or in connection with, the above referenced documents, actions or inactions.

The Exculpated Parties have, and upon consummation of the Plan shall be deemed to have, participated in good faith and in compliance with the applicable laws with regard to the solicitation of votes and distribution of consideration pursuant to the Plan and, therefore, are not, and on account of such distributions shall not be, liable at any time for the violation



of any applicable law, rule, or regulation governing the solicitation of acceptances or rejections of the Plan or such distributions made pursuant to the Plan.

The foregoing exculpation shall be effective as of the Effective Date without further notice to or order of the Bankruptcy Court, act or action under applicable law, regulation, order, or rule or the vote, consent, authorization, or approval of any person or Entity.

F. *[Intentionally Omitted from this Ballot]*

G. *Opioid Permanent Channeling Injunction*

TERMS. Pursuant to section 105(a) of the Bankruptcy Code, from and after the Effective Date, the sole recourse of any Opioid Claimant on account of its Opioid Claims (including Opioid Demands) based upon or arising from the Debtors' pre-confirmation conduct or activities shall be to the Opioid MDT II or the Opioid Creditor Trusts, as applicable, pursuant to this Article IX.G of the Plan and the Opioid MDT II Documents or the Opioid Creditor Trust Documents, as applicable, and such Opioid Claimant shall have no right whatsoever at any time to assert its Opioid Claims (including Opioid Demands) against any Protected Party or any property or interest in property of any Protected Party. On and after the Effective Date, all Opioid Claimants, including Future Opioid PI Claimants, shall be permanently and forever stayed, restrained, barred, and enjoined from taking any of the following actions for the purpose of, directly or indirectly or derivatively collecting, recovering, or receiving payment of, on, or with respect to any Opioid Claim (including Opioid Demand) based upon or arising from the Debtors' pre-confirmation conduct or activities other than from the Opioid MDT II or the Opioid Creditor Trusts pursuant to the Opioid MDT II Documents or the Opioid Creditor Trust Documents, as applicable:

- Commencing, conducting, or continuing in any manner, directly, indirectly or derivatively, any suit, action, or other proceeding of any kind (including a judicial, arbitration, administrative, or other proceeding) in any forum in any jurisdiction around the world against or affecting any Protected Party or any property or interests in property of any Protected Party;
- Enforcing, levying, attaching (including any prejudgment attachment), collecting, or otherwise recovering by any means or in any manner, whether directly or indirectly, any judgment, award, decree, or other order against any Protected Party or any property or interests in property of any Protected Party;
- Creating, perfecting, or otherwise enforcing in any manner, directly or indirectly, any encumbrance against any Protected Party or any property or interests in property of any Protected Party;
- Setting off, seeking reimbursement of, contribution from, or subrogation against, or otherwise recouping in any manner, directly or indirectly, any amount against any liability owed to any Protected Party or any property or interests in property of any Protected Party; or
- Proceeding in any manner in any place with regard to any matter that is within

the scope of the matters designated by the Plan to be subject to resolution by the Opioid MDT II or the Opioid Creditor Trusts, as applicable, except in conformity and compliance with the applicable Opioid MDT II Documents and Opioid Creditor Trust Documents.

RESERVATIONS. The foregoing injunction shall not stay, restrain, bar, or enjoin (a) the rights of Opioid Claimants to assert Opioid Claims (including Opioid Demands) against the Opioid MDT II or the Opioid Creditor Trusts, as applicable, solely in accordance with the Plan, the Opioid MDT II Documents, and the Opioid Creditor Trust Documents, as applicable; and (b) the rights of Entities to assert any Claim, debt, obligation, or liability for payment of Trust Expenses against the Opioid MDT II.

MODIFICATIONS. There can be no modification, dissolution, or terminations of this Opioid Permanent Channeling Injunction, which shall be a permanent injunction.

NON-LIMITATION OF CHANNELING INJUNCTION. Nothing in the Plan, the Opioid MDT II Documents, or the Opioid Creditor Trust Documents shall be construed in any way to limit the scope, enforceability, or effectiveness of the Opioid Permanent Channeling Injunction issued in connection with the Plan.

BANKRUPTCY RULE 3016 COMPLIANCE. The Debtors' compliance with the requirements of Bankruptcy Rule 3016 shall not constitute an admission that the Plan provides for an injunction against conduct not otherwise enjoined under the Bankruptcy Code.

ARTICLE XII. MISCELLANEOUS PROVISIONS

A. *Immediate Binding Effect*

Notwithstanding Bankruptcy Rules 3020(e), 6004(g), or 7062 or otherwise, upon the occurrence of the Effective Date, the terms of the Plan and the documents and instruments contained in the Plan Supplement shall be immediately effective and enforceable and deemed binding upon the Debtors, the Reorganized Debtors, and any and all Holders of Claims and Interests (irrespective of whether Holders of such Claims or Interests are deemed to have accepted the Plan), all Entities that are parties to or are subject to the settlements, compromises, releases, discharges, and injunctions described in the Plan, each Entity acquiring property under the Plan and any and all non-Debtor parties to Executory Contracts and Unexpired Leases, and notwithstanding whether or not such Person or Entity (i) will receive or retain any property, or interest in property, under this Plan, (ii) has filed a Proof of Claim in the Chapter 11 Cases or (iii) failed to vote to accept or reject this Plan, affirmatively voted to reject this Plan, or is conclusively presumed to reject this Plan. The Confirmation Order shall contain a waiver of any stay of enforcement otherwise applicable, including pursuant to Bankruptcy Rule 3020(e) and 7062.





CREED 2810 SRF 55238 MMLID: 12062778 PackID: 8B-074
Whatcom County
c/o Karen Frakes
311 Grand Avenue
Suite 201
Bellingham, WA 98225

ERIC J. RICHEY
Prosecuting Attorney

JUL 26 2021

Whatcom County
Bellingham, WA 98225





Whatcom County

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

Agenda Bill Master Report

File Number: AB2021-461

File ID:	AB2021-461	Version:	1	Status:	Agenda Ready
File Created:	07/27/2021	Entered by:	SMildner@co.whatcom.wa.us		
Department:	County Executive's Office	File Type:	Executive Appointment		
Assigned to:	Council			Final Action:	
Agenda Date:	08/10/2021			Enactment #:	

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

TITLE FOR AGENDA ITEM:

Request confirmation of the County Executive's appointment of Jagwinder Gill to the Agricultural Advisory Committee

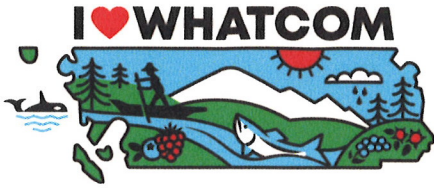
SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

See attached memorandum and application

HISTORY OF LEGISLATIVE FILE

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



Satpal Singh Sidhu
Whatcom County Executive



MEMORANDUM

To: Whatcom County Councilmembers
From: Satpal Sidhu, County Executive *Satpal*
Subject: Agricultural Advisory Committee – membership update
Date: July 27, 2021

For your information, at a recent Whatcom Conservation District (CD) Board of Supervisors meeting, Alan Chapman was appointed to represent the CD on the Agricultural Advisory Committee. As this is a designated position no further action is required by the County Executive or County Council.

However we also have received an application to fill an open voting position on this committee. I am pleased to be appointing Jagwinder Gill to this position and request confirmation for this appointment. Mr. Gill's application is attached for your review.

Thank you.



Application for Appointment to Whatcom County Boards and Commissions

Public Statement

THIS IS A PUBLIC DOCUMENT: As a candidate for a public board or commission, the information provided will be available to the County Council, County Executive, and the public. All board and commission members are expected to be fair, impartial, and respectful of the public, County staff, and each other. Failure to abide by these expectations may result in revocation of appointment and removal from the appointive position.

Title	Mr.
First Name	Jagwinder
Last Name	Gill
Today's Date	7/19/2021
Street Address	4768 Spring Brook St
City	Bellingham
Zip	98226
Do you live in & are you registered to vote in Whatcom County?	Yes
Do you have a different mailing address?	Field not completed.
Primary Telephone	3603054407
Secondary Telephone	Field not completed.
Email Address	mr.gill13@hotmail.com
1. Name of Board or Committee	Agricultural Advisory Committee
Agricultural Advisory Committee Position:	Agricultural Producer
2. Do you meet the residency, employment, and/or affiliation requirements of the position for which you're applying?	Yes
3. Which Council district do you live in?	District 4
4. Are you a US citizen?	Yes

5. Are you registered to vote in Whatcom County?	Yes
6. Have you declared candidacy (as defined by RCW 42.17A.055) for a paid elected office in any jurisdiction within the county?	No
7. Have you ever been a member of this Board/Commission?	No
8. Do you or your spouse have a financial interest in or are you an employee or officer of any business or agency that does business with Whatcom County?	No
You may attach a resume or detailed summary of experience, qualifications, & interest in response to the following questions	<i>Field not completed.</i>
9. Please describe your occupation (or former occupation if retired), qualifications, professional and/or community activities, and education	I'm in transportation business and doing blueberry farming as well. My qualifications are some college in business administration in Philippines. I speak Punjabi, Hindi, English and Tagalog (Filipino Language). I've done all my schooling in Philippines I grew up in Philippines I born in india and currently residing in Whatcom County.
10. Please describe why you're interested in serving on this board or commission	I want to do more for our community regarding farming and not agriculture as well. I want to do something better for our agriculture people regarding everything I can do
References (please include daytime telephone number):	Satpal Sidhu 3603054948
Signature of applicant:	Jagwinder S Gill
Place Signed / Submitted	Bellingham, WA



Whatcom County

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

Agenda Bill Master Report

File Number: AB2021-451

File ID:	AB2021-451	Version:	1	Status:	Agenda Ready
File Created:	07/22/2021	Entered by:	MCaldwel@co.whatcom.wa.us		
Department:	Finance Division	File Type:	Ordinance		
Assigned to:	Council			Final Action:	
Agenda Date:	08/10/2021			Enactment #:	

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

TITLE FOR AGENDA ITEM:

Ordinance amending the 2021 Whatcom County Budget, request no. 13, in the amount of \$1,615,450

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

Supplemental #13 requests funding from the General Fund:

1. To appropriate \$18,611 in County Clerk to fund additional court clerk position due to COVID-related court backlog.
2. To appropriate \$88,178 in District Court to fund additional staff and pro tem services due to COVID-related court backlog.
3. To appropriate \$99,419 in Prosecuting Attorney to fund four additional staff positions due to COVID-related court backlog.
4. To appropriate \$262,506 in Public Defender to fund nine additional staff positions due to COVID-related court backlog.
5. To appropriate \$129,605 in Superior Court to fund additional commissioner and judicial assistant positions due to COVID-related court backlog.
6. To appropriate \$129,400 in Non Departmental to fund CDBG Public Services Program pass-through grant to the Opportunity Council.

From the Election Reserve Fund:

7. To appropriate \$32,200 to fund elections' security improvements from grant proceeds.

From the Behavioral Health Programs Fund:

8. To appropriate \$27,000 in Health to fund training for first responders and social service providers from grant proceeds.

9. To appropriate \$39,000 in Health to fund building maintenance fees for the original triage center facility.

From the American Rescue Plan Act Fund:

10. To appropriate \$132,024 in Non-Departmental to fund grants manager and grant consultant.
11. To appropriate \$598,319 in Non-Departmental to fund transfers in support of COVID-related court backlog positions and services.
12. To appropriate \$29,594 in Non-Departmental to fund transfer to Administrative Services in support of grant and contract specialist position.

From the Administrative Services Fund:

13. To appropriate \$29,594 in AS-Finance to fund grant and contract specialist position.

HISTORY OF LEGISLATIVE FILE

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

Attachments: Proposed Ordinance, Supplemental #13 Summary, Supplemental #13 Requests

**ORDINANCE NO.
AMENDMENT NO. 13 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			
County Clerk	18,611	(18,611)	-
District Court	88,178	(88,178)	-
Prosecuting Attorney	99,419	(99,419)	-
Public Defender	262,506	(262,506)	-
Superior Court	129,605	(129,605)	-
Non Departmental	129,400	(129,400)	-
Total General Fund	727,719	(727,719)	-
Election Reserve Fund	32,200	(32,200)	-
Behavioral Health Programs Fund	66,000	(27,000)	39,000
American Rescue Plan Act Fund	759,937	-	759,937
Administrative Services Fund	29,594	(29,594)	-
Total Supplemental	1,615,450	(816,513)	798,937

BE IT FURTHER ORDAINED by the Whatcom County Council that Exhibit C – Position Control
Changes in the 2021-2022 Budget Ordinance should also be amended to provide for the FTE
changes listed in Exhibit A.

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: _____

EXHIBIT A		
Supplemental #13 - FTE CHANGES		
Department/Position	FTEs	Totals
County Clerk		
Specialty Court Clerk	1	1
District Court		
Clerk	1	
Receptionist	1	2
Prosecuting Attorney		
Deputy	2	
Victim-Witness Coordinator	1	
Legal Assistant	1	4
Public Defender		
Deputy	4	
Investigator	2	
Behavioral Health Specialist	1	
Legal Assistant	2	9
Superior Court		
Commissioner	1	
Judicial Assistant	1	2
Executive - Non Departmental		
Grants Manager	1	1
AS Finance		
Grant & Contract Specialist	1	1
Total FTEs		20

WHATCOM COUNTY				
Summary of the 2021 Supplemental Budget Ordinance No. 13				
Department/Fund	Description	Increased (Decreased) Expenditure	(Increased) Decreased Revenue	Net Effect to Fund Balance (Increase) Decrease
General Fund				
County Clerk	To fund additional court clerk position due to COVID-related court backlog.	18,611	(18,611)	-
District Court	To fund additional staff and pro tem services due to COVID-related court backlog.	88,178	(88,178)	-
Prosecuting Attorney	To fund four additional staff positions due to COVID-related court backlog.	99,419	(99,419)	-
Public Defender	To fund nine additional staff positions due to COVID-related court backlog.	262,506	(262,506)	-
Superior Court	To fund additional commissioner and judicial assistant positions due to COVID-related court backlog.	129,605	(129,605)	-
Non Departmental	To fund CDBG Public Services Program pass-through grant to the Opportunity Council.	<u>129,400</u>	<u>(129,400)</u>	<u>-</u>
Total General Fund		727,719	(727,719)	-
Election Reserve Fund	To fund elections' security improvements from grant proceeds.	32,200	(32,200)	-
Behavioral Health Programs Fund				
Health	To fund training for first responders and social service providers from grant proceeds.	27,000	(27,000)	-
Health	To fund building maintenance fees for the original triage center facility.	<u>39,000</u>	<u>-</u>	<u>39,000</u>
Total Behavioral Health Programs Fund		66,000	(27,000)	39,000
American Rescue Plan Act Fund				
Non Departmental	To fund grants manager and grant consultant.	132,024	-	132,024
Non Departmental	To fund transfers in support of COVID-related court backlog positions and services.	598,319	-	598,319
Non Departmental	To fund transfer in support of grant and contract specialist position.	<u>29,594</u>	<u>-</u>	<u>29,594</u>
Total American Rescue Plan Act Fund		759,937	-	759,937
Administrative Services Fund	To fund grant and contract specialist position in AS - Finance.	<u>29,594</u>	<u>(29,594)</u>	<u>-</u>
Total Supplemental		<u>1,615,450</u>	<u>(816,513)</u>	<u>798,937</u>

Supplemental Budget Request

Status: Pending

County Clerk

Suppl ID # 3278

Fund 1

Cost Center 3152

Originator: David Reynolds

Expenditure Type: Ongoing

Year 1 2021

Add'l FTE ☐

Add'l Space ☒

Priority 1

Name of Request: American Rescue Plan Act- Request for Clerk

X

Department Head Signature (Required on Hard Copy Submission)

7/19/21
Date

Costs:	Object	Object Description	Amount Requested
	6110	Regular Salaries & Wages	\$10,539
	6210	Retirement	\$1,080
	6230	Social Security	\$806
	6245	Medical Insurance	\$3,907
	6255	Other H&W Benefits	\$455
	6259	Worker's Comp-Interfund	\$182
	6269	Unemployment-Interfund	\$28
	6320	Office & Op Supplies	\$250
	6510	Tools & Equip	\$1,364
	8301	Operating Transfer In	(\$18,611)
	Request Total		\$0

1a. Description of request:

Whatcom County Superior Court has a large number of cases backlogged in all of our case types. These can only be resolved by court hearings which require the support of a dedicated clerk who can work with the wide variety of cases and hearings

1b. Primary customers:

Whatcom County Superior Court, justice partners, and consumers of Superior Court services.

2. Problem to be solved:

We have a significant backlog of cases due to the COVID-19 pandemic. Unlike our criminal justice partners, we have a back log on all case types, not just criminal justice cases. The only way to resolve in to increase the access to justice through additional court resources and hearings. The clerk is a mandated participant in all Superior Court Judicial proceedings.

3a. Options / Advantages:

This is the only option to resolve this backlog.

3b. Cost savings:

On the criminal side additional court resources will greatly assist in providing an outlet to resolve these stalled cases, and should in turn free up more jail space and defendants are processed. It should assist the Public Defenders' Office in moving cases and allow their a relief to the caseload standards they are up against and refer less cases to the office of assigned counsel which will provide a cost savings to the County.

4a. Outcomes:

More cases resolving in all Superior Court case types.

4b. Measures:

Caseload backlog will decrease to pre-pandemic levels.

Monday, July 19, 2021

Rpt: Rpt Suppl Regular

Supplemental Budget Request

Status: Pending

County Clerk

Suppl ID # 3278

Fund 1

Cost Center 3152

Originator: David Reynolds

5a. Other Departments/Agencies:

The Whatcom County legal community will be impacted by this.

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

6. Funding Source:

American Rescue Plan Act funds to Whatcom County.

Supplemental Budget Request

Status: Pending

District Court

Suppl ID # 3280

Fund 1

Cost Center 1304

Originator: Bruce Van Glubt

Expenditure Type: One-Time

Year 1 2021

Add'l FTE ☒

Add'l Space ☐

Priority 1

Name of Request: District Court Covid-19 backlog

X

Department Head Signature (Required on Hard Copy Submission)

Date

Costs:	Object	Object Description	Amount Requested
	6110	Regular Salaries & Wages	\$19,842
	6210	Retirement	\$2,034
	6230	Social Security	\$1,518
	6245	Medical Insurance	\$7,814
	6255	Other H&W Benefits	\$905
	6259	Worker's Comp-Interfund	\$312
	6269	Unemployment-Interfund	\$53
	6510	Tools & Equip	\$5,700
	6650	Ct Eval/Investigations	\$50,000
	8301	Operating Transfer In	(\$88,178)
	Request Total		\$0

1a. Description of request:

Management of the backlog of cases created by pandemic related cancelation and rescheduling of court hearings. In addition, these funds will be used to maintain ongoing workload increases created by new processes created to keep the court in operation during the pandemic. This can be achieved by hiring an additional receptionist and court clerk position, along with using the services of pro tem judicial officers.

1b. Primary customers:

The public, prosecutors, public defenders, civil attorneys, and others court users.

2. Problem to be solved:

Management of caseload backlog and ongoing support of new pandemic related processes in District Court:

1. Remote hearings

a. Pre-pandemic, the court did not conduct any remote hearings

b. Takes significantly longer for court clerks to prepare for and coordinate remote hearings. This includes processing remote hearing requests, adding the request and entering the email address into the record, preparing the technology in the courtroom, sending zoom links, processing additional log sheets, and downloading the zoom recordings, in addition to having to hand address and mail court documents to those that attended the hearing remotely.

c. Takes longer for the Judicial Officer to conduct remote hearings. Infraction calendars now take approximately 4 times as long when compared to pre-pandemic.

d. Creates a significant increase in phone call and email traffic over what was experienced pre-COVID.

e. Remote hearings will continue to be offered as the pandemic appears to resolve.

2. Email acceptance of court documents

a. Pre-pandemic emailed documents were not accepted by District Court. The emails are more time consuming and create additional workload as they need to be printed and responded to.

b. Email acceptance of court documents will continue to be offered as the pandemic appears to resolve.

Supplemental Budget Request

Status: Pending

District Court

Suppl ID # 3280

Fund 1

Cost Center 1304

Originator: Bruce Van Glubt

c. Pre-pandemic email inquiries (in addition to court documents) were not an available option. Staff now respond to 30-50 emails each day.

3. Backlog of criminal cases.

a. During the pandemic, criminal hearings were being canceled and rescheduled at the rate of approximately 900-1100 a month. Cause was found to delay speedy trial timelines.

b. Criminal cases are backlogged due to the fact that District Court did not conduct any jury trials from April, 2020 through June, 2021.

c. The backlog continues to grow as District Court is now only able to conduct one jury trial per week.

4. Backlog of civil case processing

a. Due to Gubernatorial directives, garnishments were suspended for many months which in turn created a backlog of delayed data entry, judicial review and case processing.

b. The suspension of civil trials have created a backlog.

5. Backlog of infraction cases

a. During the pandemic, infraction hearings were canceled and rescheduled. Cause was found to delay speedy trial timelines.

b. During the pandemic, the number of cases per calendar were reduced because of the amount of processing time the remote hearings require.

6. Jury Coordination

a. Jury coordination during the pandemic has continued.

b. Pre-pandemic Jury check in/orientations took one staff member. This process now takes a minimum of five staff members to assure safe social distancing.

7. Online infraction program

a. Although this option was available pre-pandemic, the use of this program has increased significantly during the pandemic. Processing cases with this program are more time consuming than in person hearings.

3a. Options / Advantages:

Eliminating improved customer service options for the public and continue to be unable to adequately process backlogged cases.

3b. Cost savings:

None.

4a. Outcomes:

Successful management of backlogged cases and maintenance of pandemic related customer service improvements.

4b. Measures:

5a. Other Departments/Agencies:

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

6. Funding Source:

ARPA

Supplemental Budget Request

Status: Pending

Prosecuting Attorney

Suppl ID # 3287

Fund 1

Cost Center 2619

Originator: Louise Trapp

Expenditure Type: One-Time Year 1 2021 Add'l FTE ☐ Add'l Space ☐ Priority 1

Name of Request: Prosecuting Attorney ARPA Funding

X

Department Head Signature (Required on Hard Copy Submission)

Date

7/22/2021

Costs:	Object	Object Description	Amount Requested
	6110	Regular Salaries & Wages	\$62,148
	6210	Retirement	\$7,117
	6230	Social Security	\$4,754
	6245	Medical Insurance	\$15,629
	6255	Other H&W Benefits	\$2,017
	6259	Worker's Comp-Interfund	\$624
	6269	Unemployment-Interfund	\$162
	6340	Books-Publications-Supsc	\$4,800
	6780	Travel-Educ/Training	\$1,168
	7115	Membership & Assoc Dues	\$1,000
	8301	Operating Transfer In	(\$99,419)
	Request Total		\$0

1a. Description of request:

The Prosecuting Attorney's Office is seeking approval to hire two attorneys, a legal assistant, and a victim/witness coordinator to address the backlog of cases due to the pandemic.

In order to properly investigate and litigate the most serious cases, to pursue the speedy resolution of criminal filings, and to safeguard the rights of victims of crime, the Prosecutor's Office needs these additional attorney and support staff positions.

1b. Primary customers:

The primary customers of this request are the citizens of Whatcom County and the victims of crime.

2. Problem to be solved:

The pandemic has drastically interfered with the functioning of our criminal courts. We were unable to hold a criminal jury trial for over a year, causing cases to be continued over and over again while prosecutors had no ability to force a resolution through trial. The pandemic led to fewer resolutions, which in turn caused an increase in our attorney's caseloads.

3a. Options / Advantages:

N/A

3b. Cost savings:

N/A

4a. Outcomes:

Increasing the number of attorneys and support staff will allow us to meet the obligation of providing quality prosecutorial services to the people of Whatcom County. We will be able to more effectively prosecute cases and we will be of benefit to our criminal justice system and the county as a whole.

Supplemental Budget Request

Status: Pending

Prosecuting Attorney

Suppl ID # 3287

Fund 1

Cost Center 2619

Originator: Louise Trapp

4b. Measures:

Indicators of successful outcomes will be measured by the number of resolved cases and the reduction of our attorneys current caseloads.

5a. Other Departments/Agencies:

There is an expected positive impact on the courts, the Public Defender's Office, and the law enforcement agencies of Whatcom County.

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

N/A

6. Funding Source:

American Rescue Plan Act funds.

Supplemental Budget Request

Status: Pending

Public Defender

Suppl ID # 3279 Fund 1 Cost Center 2662 Originator: Julie Wiles

Expenditure Type: One-Time Year 1 2021 Add'l FTE ☐ Add'l Space ☐ Priority 1

Name of Request: ARPA Funding for 9 temp positions

X



7-19-21

Department Head Signature (Required on Hard Copy Submission)

Date

Costs:	Object	Object Description	Amount Requested
	6110	Regular Salaries & Wages	\$156,508
	6210	Retirement	\$17,807
	6230	Social Security	\$11,973
	6245	Medical Insurance	\$35,165
	6255	Other H&W Benefits	\$4,609
	6259	Worker's Comp-Interfund	\$1,534
	6269	Unemployment-Interfund	\$410
	6320	Office & Op Supplies	\$3,000
	6510	Tools & Equip	\$28,500
	6780	Travel-Educ/Training	\$3,000
	8301	Operating Transfer In	(\$262,506)
	Request Total		\$0

1a. Description of request:

The Whatcom County Public Defender's Office requests funding to hire nine temporary staff positions: four attorneys, two investigators, two legal assistants, and one behavioral health specialist. This increase in staff is necessary to address the backlog of cases by Covid-19 and to allow us to practice within the Standards of Indigent Defense.

1b. Primary customers:

Indigent defendants in the Whatcom County Superior and District Courts and respondents in the Whatcom County Juvenile Court and Involuntary Treatment Act Proceedings.

2. Problem to be solved:

Current pending caseloads have soared due to the Covid-19 pandemic. For more than a year, no jury trials were held in the Whatcom County courts and case resolutions came to a near standstill. Additional impediments to case resolutions included the inability to conduct in-person meetings with clients, victim/witnesses, and opposing counsel, increases in the seriousness of the cases pending, and higher recidivism rates due to restrictions on booking standards. As a result of the pandemic, the Public Defender's Office has seen open caseloads rise to intolerable levels and experienced lawyers have departed the office, in part due to those heavy caseloads.

3a. Options / Advantages:

The necessary reassignment of cases from attorneys who have departed the office, absences due to FMLA, and exceedingly high open caseloads have caused the Public Defender to send unprecedented numbers of cases back to the Office of Assigned Counsel. The result is a far less cost-effective defense. The Office of Assigned Counsel's budget for contracted private lawyers will be exceeded in 2021 by a large amount.

Supplemental Budget Request

Status: Pending

Public Defender

Suppl ID # 3279

Fund 1

Cost Center 2662

Originator: Julie Wiles

3b. Cost savings:

This request should be fulfilled with ARPA funds.

4a. Outcomes:

With additional staffing, the Public Defender's Office will be able to accept more cases, subject to the limitations of Standards of Indigent Defense, and the Office of Assigned Counsel will require fewer contract attorneys. Adding staff will also allow us to reduce assignments to attorneys who are carrying excessive open caseloads, which is critical to retaining our current employees.

4b. Measures:

Granting this supplemental request will allow our department to stay within State Standards for Public Defense and therefore allow us to continue to receive other grant funding that requires us to be within standards along with better staff retention and morale.

5a. Other Departments/Agencies:

Granting this request will have a positive impact on the Courts and the P.A.'s office. Having more legal staff to process and adjudicate cases will help to alleviate the backlog of cases as a result of the pandemic. In addition, the additional staff will be able to better communicate with the P.A.'s office on cases in order to resolve matters as efficiently as possible for clientele.

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

6. Funding Source:

The funding source is the ARPA federal funding.

Supplemental Budget Request

Status: Pending

Superior Court

Suppl ID # 3277

Fund 1

Cost Center 3113

Originator: David Reynolds

Expenditure Type: Ongoing

Year 1 2021

Add'l FTE ☒

Add'l Space ☒

Priority 1

Name of Request: American Rescue Plan Act request - Superior Court

X

Department Head Signature (Required on Hard Copy Submission)

Date

7/19/21

Costs:	Object	Object Description	Amount Requested
	6110	Regular Salaries & Wages	\$60,072
	6120	Extra Help	\$38,155
	6210	Retirement	\$7,359
	6230	Social Security	\$4,596
	6245	Medical Insurance	\$7,814
	6255	Other H&W Benefits	\$1,251
	6259	Worker's Comp-Interfund	\$364
	6269	Unemployment-Interfund	\$157
	6320	Office & Op Supplies	\$750
	6510	Tools & Equip	\$7,087
	6860	Equipment Rental	\$2,000
	8301	Operating Transfer In	(\$129,605)
	Request Total		\$0

1a. Description of request:

The COVID 19 pandemic has resulted in a significant backlog of cases Whatcom County Superior Court. This is true of all case types. An additional judicial officer and justice support for all of our commissioners is needed to help resolve this backlog.

1b. Primary customers:

Individuals involved in the Whatcom County Superior Court system who's cases remain unresolved due to shortage of judicial resources

2. Problem to be solved:

There is no way to resolve the back log of cases absent an additional judicial officer. Our Court Commissioners have long worked without support staff and the result being they spend time performing those functions and limiting their time on the bench. A judicial assistant who can take care of these tasks for them will go a great way in providing more court time and less judicial prep time. More court time and resources is the only way to provide a vehicle to resolve this backlog.

3a. Options / Advantages:

The only solution to reducing court backlog is the increased access to justice, and support to the judicial officers to assist in adequately processing these cases.

3b. Cost savings:

More cases being resolved more quickly, and inmates awaiting access to trial will be reduced. In addition, it is hoped at the back log of cases are reduced, the Public Defenders office will be able to reduce their caseloads and in turn reduce the number of cases being sent to the Office of Assigned Counsel.

Supplemental Budget Request

Status: Pending

Superior Court

Suppl ID # 3277

Fund 1

Cost Center 3113

Originator: David Reynolds

4a. Outcomes:

Reducing the back log of Superior Court cases created by the COVID-19 Pandemic.

4b. Measures:

Backlog will be significantly decreased in a case types to pre COVID -19 Pandemic levels.

5a. Other Departments/Agencies:

Besides the criminal backlog, Superior Court has a back log of cases in all case types. An additional Court Commissioner is needed to help clear up cases and allow more trials to be scheduled before as Superior Court Judge. While a Commissioner can't do trials, there are many other hearings they can oversee to assist reducing the backlog. In addition, our current Commissioners have no support staff, and therefore must spent their valuable time gathering various documents, etc. for each of their calendars. A judicial assist can perform this function allowing the Commissioners time to be freed up to be available for hearings and less time in preparation for the hearings.

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

6. Funding Source:

American Rescue Plan Act Funding.

Supplemental Budget Request

Status: Pending

Non-Departmental

Suppl ID # 3290

Fund 1

Cost Center 4298

Originator: Suzanne Mildner

Expenditure Type: One-Time

Year 1 2021

Add'l FTE ☐

Add'l Space ☐

Priority 1

Name of Request: OppCo Public Services CDBG Grant 2021-22

X

Satpal Singh

7/26/21

Department Head Signature (Required on Hard Copy Submission)

Date

Costs:	Object	Object Description	Amount Requested
	4333.1422	HUD-CDBG	(\$129,400)
	6610	Contractual Services	\$129,400
	Request Total		\$0

1a. Description of request:

This request is for grant revenue from Washington State Department of Commerce for pass through funding to Opportunity Council as Subrecipient. This is an annual formula grant for direct public services, delivering housing services to low- and moderate-income residents in Whatcom, Island and San Juan counties.

1b. Primary customers:

Low- and moderate-income residents of Whatcom, Island and San Juan Counties

2. Problem to be solved:

This grant may be accessed through the local government, in partnership with our local community action agency Opportunity Council. It provides support for public services such as community outreach, resource referral, client housing education, energy conservation education and other housing services.

3a. Options / Advantages:

N/A

3b. Cost savings:

N/A

4a. Outcomes:

Accomplish HUD's objective of increasing the availability and accessibility of housing public services. The grant contract period is July 1, 2021 to June 30, 2022.

4b. Measures:

Opportunity Council submits ongoing reports regarding service delivery and numbers of persons served. A final report will be issued at grant closeout.

5a. Other Departments/Agencies:

Opportunity Council and 3 community resource centers in San Juan County.

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

Sheri Emerson, Associate Director of Opportunity Council is responsible for overseeing the program services.

6. Funding Source:

Federal grant from HUD through the Washington State Department of Commerce's CDBG Program.

Supplemental Budget Request

Status: Pending

Auditor

Suppl ID # 3180

Fund 109

Cost Center 10925

Originator: Stacy Henthorn

Expenditure Type: One-Time

Year 1 2021

Add'l FTE ☐

Add'l Space ☐

Priority 1

Name of Request: Election/IT Courthouse Network Closet

X

Diana Bradrick

7/23/21

Department Head Signature (Required on Hard Copy Submission)

Date

Costs:	Object	Object Description	Amount Requested
	4333.9041	HAVA Election Security	(\$32,200)
	7070	Minor Remodeling	\$32,200
	Request Total		\$0

1a. Description of request:

County Council approved an Intergovernmental Grant Agreement in 2020 with the Secretary of State's office to address security concerns around elections for \$232,737.70.

We are requesting a minor remodel around exposed data cables/wires in the front election vault in the Auditor's office creating a new Election/IT Courthouse network closet. This new closet will hold the exposed data cables/wires limiting access and preventing accidental damage.

Two new prox locks are needed in the elections center to monitor security in and out of rooms.

1b. Primary customers:

Auditor staff and voters.

2. Problem to be solved:

Whatcom County received this HAVA Election Security Grant to address security concerns identified by the Secretary of State's office. There are exposed cables/wires in the front election vault with risk of damage. Getting these exposed data cables/wires enclosed in a closet will enhance security overall limiting risk of damage.

In addition, two new prox locks are needed for enhanced security control in the elections center. The prox locks will give us greater ability to monitor access in this area.

3a. Options / Advantages:

There are no other options.

3b. Cost savings:

N/A

4a. Outcomes:

Prior to the November General Election, the Election/IT Courthouse network closet will hold the data cable/wires and the two additional Prox Locks will be installed and working.

4b. Measures:

Installation of items identified will be installed and operational.

5a. Other Departments/Agencies:

All installations will be coordinated with County Facilities and Information Technology department.

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

Rob Ney and Perry Rice will assist to coordinate installations.

Supplemental Budget Request

Status: Pending

Auditor

Suppl ID # 3180

Fund 109

Cost Center 10925

Originator: Stacy Henthorn

6. Funding Source:

2020 HAVA Election Security Grant.

Supplemental Budget Request

Status: Pending

Health

Human Services

Suppl ID # 3288

Fund 124

Cost Center 124121

Originator: Anne Deacon

Expenditure Type: One-Time

Year 1 2021

Add'l FTE ☐

Add'l Space ☐

Priority 1

Name of Request: Training for First Responders & Social Svs Prov

X

E. Kuntz

7/22/21

Department Head Signature (Required on Hard Copy Submission)

Date

Costs:	Object	Object Description	Amount Requested
	4367.1000	Donations	(\$27,000)
	6610	Contractual Services	\$27,000
	Request Total		\$0

1a. Description of request:

The Health Department is requesting expenditure authority to utilize dedicated grant funding to create a training program for community professionals who respond to people experiencing episodes of behavioral health distress.

1b. Primary customers:

Training recipients will include First Responders from Law Enforcement and EMS as well as community social service providers.

2. Problem to be solved:

Whatcom County Health Department is working closely with community partners to expand and develop new programs that will respond and provide support to residents who are experiencing behavioral health distress or crises, or medical issues that don't require emergency services. First Responders and other professionals have identified the need for specialized training to enhance their knowledge, skills and abilities as they work in these new programs.

3a. Options / Advantages:

Training videos and other forms of training will provide responders and community professionals with the tools they need to be effective in their interventions and support of people in need. Curriculum will be available online and accessible.

3b. Cost savings:

Grant funding will provide the support for this training project, saving taxpayer dollars.

4a. Outcomes:

Training materials, websites, and curriculum will be available to professionals for use as needed. First responders and social services providers will be better equipped to manage the people they are working with and will be more familiar with resources in the community.

4b. Measures:

Number of professionals accessing and receiving training from all law enforcement agencies, all EMS districts, and social service providers. Since much of the training will be via video, community professionals will access to the trainings for many years into the future.

5a. Other Departments/Agencies:

The County will work with a consultant to accomplish the project, with input from EMS and Law Enforcement personnel, and GRACE leadership.

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

N/A

Supplemental Budget Request

Status: Pending

Health

Human Services

Suppl ID # 3288

Fund 124

Cost Center 124121

Originator: Anne Deacon

6. Funding Source:

Whatcom Community Foundation

Supplemental Budget Request

Status: Pending

Health

Human Services

Suppl ID # 3289 Fund 124 Cost Center 124116 Originator: Anne Deacon

Expenditure Type: One-Time Year 1 2021 Add'l FTE ☐ Add'l Space ☐ Priority 1

Name of Request: Triage Facility Maintenance

X  7/22/21
Department Head Signature (Required on Hard Copy Submission) Date

Costs:	Object	Object Description	Amount Requested
	6659.002	Building Maintenance Fee	\$39,000
	Request Total		\$39,000

1a. Description of request:

The purpose of this request is to request expenditure authority to cover annual maintenance expenses for the original crisis stabilization center located at 2030 Division Street, Bellingham WA. The facility is owned by the County and provides office space for mental health service providers who provide outreach services for the new Crisis Stabilization Center. When completing the current 21-22 budget, the maintenance expenses for the original facility were unintentionally omitted.

1b. Primary customers:

The facility currently provides a home base for behavioral health agency personnel who provide crisis outreach and recovery support. The professionals who use this space also provide back-up support to the services provided at the newly-constructed Crisis Stabilization Center.

2. Problem to be solved:

The County owned building requires ongoing annual maintenance service. Personnel who provide crisis services need a location close to the Crisis Stabilization Center to provide back-up services.

3a. Options / Advantages:

Use of the facility by behavioral health crisis outreach staff supports the community in services and increases behavioral health crisis support in a location that includes the recently completed Crisis Stabilization Center.

3b. Cost savings:

N/A

4a. Outcomes:

Necessary building maintenance will be completed to ensure the building is available for occupancy.

4b. Measures:

Ongoing maintenance will ensure the location is available for tenants.

5a. Other Departments/Agencies:

The Facilities Department manages the building maintenance needs of this County building.

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

Robert Ney, Facilities Manager

6. Funding Source:

Behavioral Health Program Fund. The Behavioral Health Fund anticipates a balance of \$5.5 M at the end of 2021.

Supplemental Budget Request

Status: Pending

Executive

Suppl ID # 3276

Fund 138

Cost Center 138100

Originator: Tawni Helms

Expenditure Type: One-Time

Year 1 2021

Add'l FTE ☐

Add'l Space ☐

Priority 1

Name of Request: Grants Manager and Grant Consultant

X

Salpal Sah

7/20/2021

Department Head Signature (Required on Hard Copy Submission)

Date

Costs:	Object	Object Description	Amount Requested
	6110	Regular Salaries & Wages	\$20,286
	6210	Retirement	\$2,485
	6230	Social Security	\$1,552
	6245	Medical Insurance	\$3,907
	6255	Other H&W Benefits	\$559
	6259	Worker's Comp-Interfund	\$182
	6269	Unemployment-Interfund	\$53
	6320	Office & Op Supplies	\$500
	6510	Tools & Equip	\$3,500
	6630	Professional Services	\$100,000
	Request Total		\$133,024

1a. Description of request:

Whatcom County has been allocated \$44,528, 542 of the Coronavirus State and Local Fiscal Recovery Funds authorized under the American Rescue Plan Act (ARPA). To help fulfill the Economic Relief & Recovery priority and pursue the additional funding that is available through ARPA and the new infrastructure package, Whatcom County will use ARPA funds to hire a Grant Manager and a grant consultant to respond to the innumerable and unprecedented grant opportunities before us.

This work will be accomplished through a small Economic Relief & Recovery team working under Administrative Services and tasked with identifying opportunities, preparing and managing grant applications using ARPA funds. The goal of this team will be to improve efficacy of programs that help address negative economic impacts.

1b. Primary customers:

Whatcom County residents and the community at large.

2. Problem to be solved:

An unprecedented amount of money has been allocated through ARPA in addition to the funds which the County received directly. For perspective, allocations to county governments represented less than 3.5% of the American Rescue Plan. Access to these additional funds will be contingent on our ability to identify opportunities, align projects with funding eligibility requirements, and submit well-written and timely applications.

To accomplish this, Whatcom County needs both grant writing and grant administration capacity. Additionally, this will impact the Finance Division as grant compliance and auditing requirements must also be ensured. Finance is submitting a separate supplemental for that purpose.

3a. Options / Advantages:

Tuesday, July 20, 2021

Rpt: Rpt Suppl Regular

Supplemental Budget Request

Status: Pending

Executive

Suppl ID # 3276

Fund 138

Cost Center 138100

Originator: Tawni Helms

Without adequate personnel to pursue grant funding opportunities and ensure proper grant monitoring and compliance, Whatcom County will not be able to take advantage of the unprecedented funding opportunities being made available.

3b. Cost savings:

n/a

4a. Outcomes:

Whatcom County will be prepared to identify new funding opportunities and prepare and manage grant applications using ARPA funds. These grants will bring economic relief and recovery to our broader community.

4b. Measures:

Grants will be secured and managed in compliance with Federal, State and local requirements. Funds will be used to improve efficacy of programs that help address negative economic impacts through: use of data analysis, consumer outreach, improvements to data or technology infrastructure and impact evaluations as well as other funding eligible projects.

5a. Other Departments/Agencies:

Departments seeking grant information and support will have access to this new resource. The influx of new grant opportunities will also impact the Finance Division related to grant compliance. Finance will be seeking ARPA funds for a grant compliance officer to perform grant monitoring and ensuring grant compliance for Federal, State and local grants.

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

6. Funding Source:

American Rescue Act Fund

Supplemental Budget Request

Status: Pending

Non-Departmental

Suppl ID # 3284

Fund 138

Cost Center 138100

Originator: Marianne Caldwell

Year 1 2021

Add'l FTE ☐

Priority 1

Name of Request: Transfers to fund COVID court backlog positions

X

Department Head Signature (Required on Hard Copy Submission)

Date

Costs:	Object	Object Description	Amount Requested
	8351	Operating Transfer Out	\$598,319
	Request Total		\$598,319

1a. Description of request:

Companion supplemental for transfers to support COVID related court backlog positions and services:

To County Clerk \$18,611, Supplemental # 3278
To District Court \$88,178, Supplemental # 3280
To Prosecuting Attorney \$99,419, Supplemental #
To Public Defender \$262,506, Supplemental # 3279
To Superior Court \$129,605, Supplemental # 3277

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:

ARPA Fund

Supplemental Budget Request

Status: Pending

Non-Departmental

Suppl ID # 3285

Fund 138

Cost Center 138100

Originator: M Caldwell

Year 1 2021

Add'l FTE ☐

Priority 1

Name of Request: Transfer to support Grant & Contract Specialist

X

Department Head Signature (Required on Hard Copy Submission)

Date

Costs:	Object	Object Description	Amount Requested
	8351	Operating Transfer Out	\$29,594
	Request Total		\$29,594

1a. Description of request:

Companion supplemental to fund transfer to AS-Finance in support of a Grant & Contract Specialist position, Supplemental # 3283

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:

ARPA Fund

Supplemental Budget Request

Status: Pending

Administrative Services

Finance

Suppl ID # 3283 Fund 507 Cost Center 507130 Originator: Brad Bennett

Expenditure Type: One-Time Year 1 2021 Add'l FTE ☒ Add'l Space ☐ Priority 1

Name of Request: Grant and Contract Specialist

X

Satpal Sidhu

7/21/21

Department Head Signature (Required on Hard Copy Submission)

Date

Costs:	Object	Object Description	Amount Requested
	6110	Regular Salaries & Wages	\$17,904
	6210	Retirement	\$2,193
	6230	Social Security	\$1,370
	6245	Medical Insurance	\$3,907
	6255	Other H&W Benefits	\$543
	6259	Worker's Comp-Interfund	\$130
	6269	Unemployment-Interfund	\$47
	6510	Tools & Equip	\$3,000
	7110	Registration/Tuition	\$500
	8301	Operating Transfer In	(\$29,594)
	Request Total		\$0

1a. Description of request:

The Grant and Contract specialist will assist departments with research and compliance with state and federal grant requirements. Internal controls insuring grant contract compliance are required. The current Finance office staffing is inadequate to provide the required support to departments to ensure that complex grant requirements are adequately researched, communicated and addressed on a timely basis.

1b. Primary customers:

2. Problem to be solved:

Whatcom County does not have the capacity and dedicated expertise necessary to properly manage all aspects of federal and state grants. The number, dollar value and complexity of state and federal grants has increased over the last 5 years. The ARPA funding is subject to the complex federal requirements and will overwhelm our ability to address the issues inherent in federal grants.

3a. Options / Advantages:

Staffing of Administrative Services in lean. If the County wants to take advantage of grants it is necessary to provide staffing to properly administer the grants. If the county has inadequate internal controls over grants it will result in expanded scope of the state audit and increase audit costs.

3b. Cost savings:

4a. Outcomes:

The position will be filled in the 4th quarter of 2021. Beginning in late 2021 grant support will be available to departments.

4b. Measures:

Wednesday, July 21, 2021

Rpt: Rpt Suppl Regular

Supplemental Budget Request

Status: Pending

Administrative Services

Finance

Suppl ID # 3283

Fund 507

Cost Center 507130

Originator: Brad Bennett

5a. Other Departments/Agencies:

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

6. Funding Source:



Whatcom County

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

Agenda Bill Master Report

File Number: AB2021-408

File ID:	AB2021-408	Version:	1	Status:	Agenda Ready
File Created:	07/12/2021	Entered by:	LCumming@co.whatcom.wa.us		
Department:	Public Works Department	File Type:	Ordinance Requiring a Public Hearing		
Assigned to:	Council			Final Action:	
Agenda Date:	08/10/2021			Enactment #:	

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

TITLE FOR AGENDA ITEM:

Ordinance adopting amendments to Whatcom County Code Title 17 Flood Damage Prevention

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

The proposed ordinance adopts minor amendments to the Whatcom County Flood Damage Prevention Code (Title 17) that include the following:

Amendments necessary to comply with updated Community Rating System (CRS) Class prerequisites for freeboard

Amendments necessary to comply with updated FEMA policy document # 104-008-03 for Agricultural and Accessory Structures

Revisions to the variance process

The deadline to have Title 17 amendments adopted is 9/30/21

HISTORY OF LEGISLATIVE FILE

Date:

Acting Body:

Action:

Sent To:

Attachments: Staff Memo, Proposed Ordinance, Title 17 Clean, Title 17 with Comments



MEMORANDUM

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

THROUGH: Jon Hutchings, Public Works Director

FROM: Paula J. Harris, River and Flood Manager *PJH*
Gary Stoyka, Natural Resources Manager *GS*

RE: Proposed Amendments to Whatcom County Code Title 17 Flood Damage
Prevention

DATE: July 1, 2021

Enclosed is an ordinance adopting amendments to Whatcom County Code Title 17 Flood Damage Prevention for your consideration.

▪ **Requested Action**

Public Works respectfully requests that the Whatcom County Council consider the proposed minor amendments to Title 17 and approve the ordinance adopting the amended code, subject to a public hearing. Proposed amendments are categorically exempt from SEPA per WAC 197-11-800(19).

▪ **Background and Purpose**

In January 2021 FEMA's National Flood Insurance Program (NFIP) Community Rating System (CRS) began implementing new minimum requirements or Class prerequisites for freeboard for all participating CRS communities.

The CRS is a voluntary incentive program that recognizes and encourages community floodplain management practices that exceed the minimum requirements of the National Flood Insurance Program (NFIP). In CRS communities, flood insurance premium rates are discounted to reflect the reduced flood risk resulting from the community's efforts that address the three goals of the program:

- Reduce and avoid flood damage to insurable property
- Strengthen and support the insurance aspects of the National Flood Insurance Program
- Foster comprehensive floodplain management

Whatcom County is a participating community in the CRS program and must have an adopted floodplain management ordinance that meets the new CRS Class prerequisites prior to the scheduled cycle verification visit on October 12, 2021.

Whatcom County is a CRS Class 6 rated community which provides a 20% reduction on flood insurance premiums in unincorporated Whatcom County. Failure to adopt these amendments prior to the date of cycle verification visit would reduce Whatcom County's CRS rating to a Class 9 which only provides for a 5% reduction on flood insurance premiums to the community.

The CRS Floodplain Management Specialist for FEMA and Public Works staff identified minor revisions that are necessary to ensure consistency with the updated CRS Class prerequisites. The State NFIP Coordinator and Public Works staff also identified minor amendments necessary to comply with FEMA's recent policy update on Agricultural and Accessory Structures (#104-008-03) including associated local variance process.

The CRS Floodplain Management Specialist and State NFIP Coordinator have reviewed and approved these amendments to code for compliance with the NFIP and CRS manual. The revised code was presented to the Flood Control Zone District Advisory Committee at their meeting held on May 13, 2021. The committee voted in unanimous support of these amendments.

A final staff report is enclosed which provides a detailed analysis of each section of code proposed for revision.

Encl.

PROPOSED BY: _____
SPONSORED BY: _____
INTRODUCTION DATE: August 10, 2021

ORDINANCE NO. _____

ADOPTING AMENDMENTS TO WHATCOM COUNTY CODE TITLE 17 FLOOD DAMAGE PREVENTION

WHEREAS, in January 2021 FEMA's National Flood Insurance Program (NFIP) Community Rating System (CRS) began implementing new minimum requirements or Class prerequisites for freeboard for all participating CRS communities; and

WHEREAS, Whatcom County is a participating community in the CRS program and is required to adopt a floodplain management ordinance that meets the new CRS Class prerequisites prior to the scheduled cycle verification visit on October 12, 2021; and

WHEREAS, the CRS Floodplain Management Specialist and State NFIP coordinator have reviewed Whatcom County Code Title 17 for compliance with the new CRS Class prerequisites and found that minor revisions are required; and

WHEREAS, staff has revised Whatcom County Code Title 17 to include the amendments required for compliance to maintain current CRS Class 6 rating, which provides a 20% reduction on flood insurance premiums to the community; and

WHEREAS, failure to adopt these amendments prior to the date of cycle verification visit would reduce Whatcom County's CRS rating to a Class 9, which only provides for a 5% reduction on flood insurance premiums to the community; and

WHEREAS, staff included additional amendments to Whatcom County Code Title 17 for compliance with FEMA's recent policy update on agricultural and accessory structures including associated local variance process; and

WHEREAS, a public hearing on the amended Title 17 was held on September 14, 2021;

NOW, THEREFORE, BE IT ORDAINED by the Whatcom County Council that Whatcom County Code Title 17 is hereby amended as indicated in Exhibit A to this ordinance.

ADOPTED this ____ day of _____, 2021.

**WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON**

ATTEST:

Dana Brown-Davis, County Clerk

APPROVED AS TO FORM:

Christopher Quinn
Senior Civil Deputy Prosecuting Attorney

Council Chair

() Approved () Denied

Satpal Singh Sidhu, County Executive

Date: _____

Title 17

FLOOD DAMAGE PREVENTION¹

Chapters:

- 17.04 General Provisions**
- 17.08 Definitions**
- 17.10 Regulatory Data**
- 17.12 Administration**
- 17.16 Flood Hazard Reduction Standards**
- 17.20 *Repealed***
- 17.24 Unauthorized Use of Motorized Vehicles Upon Flood Control Structures**

¹ Prior legislation: Ord. dated 9/23/77.

Chapter 17.04

GENERAL PROVISIONS

Sections:

- 17.04.010 Findings of fact.
- 17.04.020 Statement of purpose and liability disclaimer.
- 17.04.030 Methods of reducing flood losses.
- 17.04.040 Application of title.
- 17.04.050 Repealed.
- 17.04.060 Abrogation and greater restrictions.
- 17.04.070 Interpretation.
- 17.04.080 Compliance required.
- 17.04.090 Repealed.
- 17.04.100 Severability.

17.04.010 Findings of fact.

The findings of fact are the following:

A. The flood hazard areas of Whatcom County are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.

B. Without taking appropriate care and precautions, development in floodplains and watersheds may increase flood heights, frequencies, and velocities, and may result in a greater threat to humans, damage to property, destruction of natural floodplain functions, and adverse impacts to water quantity, quality, and habitat. (Ord. 2019-005 Exh. A; Ord. 2017-056 Exh. A; Ord. 96-050 Exh. A; Ord. 87-25 (part)).

17.04.020 Statement of purpose and liability disclaimer.

This title is enacted as an exercise of the police power of the county for the benefit of the public at large. It is not intended to create a special relationship with any individual, or individuals, nor to identify and protect any particular class of persons. The purpose of this title is to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas in a manner that does not adversely affect endangered species or their habitats. The degree of property and habitat protection required by this title is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on occasion. Flood heights may be increased by manmade or natural causes. This title does not imply that land outside of the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This title shall not create liability on the part of Whatcom County, any officer or employee thereof, or the Federal Insurance Administration, for any damages to property or habitat that result from reliance on this title or any administrative decision lawfully made thereunder. Nor shall the county or any officer, agent, or employee thereof incur or be held as assuming any liability by reason or in consequence of any permission, certificate of inspection, inspection or approval authorized herein, or issued or given as herein provided, or by reasons or consequence of any things done or acts performed pursuant to the provisions of this title. (Ord. 2019-005 Exh. A; Ord. 2017-056 Exh. A; Ord. 96-050 Exh. A; Ord. 87-25 (part)).

17.04.030 Methods of reducing flood losses.

In order to accomplish its purposes, this title includes methods and provisions for:

A. Restricting or prohibiting uses which are dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;

B. Requiring that uses vulnerable to floods, including facilities which serve such uses, shall be protected against flood damage at the time of initial construction;

C. Controlling the alteration of natural floodplains, stream channels, and natural protective barriers, which help accommodate or channel flood waters;

D. Controlling filling, grading, dredging, and other development which may increase flood damage; and

E. Preventing or regulating the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards in other areas. (Ord. 2019-005 Exh. A; Ord. 2017-056 Exh. A; Ord. 96-050 Exh. A; Ord. 87-25 (part)).

17.04.040 Application of title.

This title shall apply to all special flood hazard areas, as defined in WCC 17.08.040, within the jurisdiction of Whatcom County. (Ord. 2019-005 Exh. A; Ord. 2017-056 Exh. A; Ord. 96-050 Exh. A; Ord. 87-25 (part)).

17.04.050 Basis for establishing areas of special flood hazard.

Repealed by Ord. 2017-056. (Ord. 96-050 Exh. A; Ord. 90-94; Ord. 87-25 (part)).

17.04.060 Abrogation and greater restrictions.

This title is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this title and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail. (Ord. 2019-005 Exh. A; Ord. 2017-056 Exh. A; Ord. 96-050 Exh. A; Ord. 87-25 (part)).

17.04.070 Interpretation.

In the interpretation and application of this title, all provisions shall be:

A. Considered as minimum requirements;

B. Liberally construed in favor of the governing body; and

C. Deemed neither to limit nor repeal any other powers granted under state statutes. (Ord. 2019-005 Exh. A; Ord. 2017-056 Exh. A; Ord. 96-050 Exh. A; Ord. 87-25 (part)).

17.04.080 Compliance required.

No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this title and other applicable regulations. (Ord. 2019-005 Exh. A; Ord. 2017-056 Exh. A; Ord. 96-050 Exh. A; Ord. 87-25 (part)).

17.04.090 Penalty for noncompliance.

Repealed by Ord. 2017-056. (Ord. 96-050 Exh. A; Ord. 87-25 (part)).

17.04.100 Severability.

The provisions and sections of this title shall be deemed separable and the invalidity of any portion of this title shall not affect the validity of the remainder. (Ord. 2019-005 Exh. A; Ord. 2017-056 Exh. A).

Chapter 17.08

DEFINITIONS

Sections:

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17.08.010 Generally.

Unless specifically defined below, words or phrases used in this title shall be interpreted so as to give them the meaning they have in common usage or to give this title its most reasonable application. (Ord. 2019-005 Exh. A; Ord. 2017-056 Exh. A; Ord. 96-050 Exh. A; Ord. 87-25 (part)).

17.08.013 Accessory structure.

“Accessory structure” means a structure which is on the same parcel of property as the principal structure to be insured and the use of which is incidental to the use of the principal structure. (Ord. 2019-005 Exh. A; Ord. 2017-056 Exh. A).

17.08.015 Administrator.

Whenever the term “administrator” is used it means the director of public works or his designee. (Ord. 2019-005 Exh. A; Ord. 2017-056 Exh. A; Ord. 96-050 Exh. A; Ord. 87-25 (part)).

17.08.020 Appeal.

“Appeal” means a request for a review of the administrator’s interpretation of any provision of this title or a request for a variance. (Ord. 2019-005 Exh. A; Ord. 2017-056 Exh. A; Ord. 96-050 Exh. A; Ord. 87-25 (part)).

17.08.030 Area of shallow flooding.

“Area of shallow flooding” means a designated AO or AH Zone on the flood insurance rate map (FIRM). The base flood depths range from one to three feet; a clearly defined channel does not exist; the path of flooding is unpredictable and indeterminate; and velocity flow may be evident. AO is characterized as sheet flow and AH indicates ponding. (Ord. 2019-005 Exh. A; Ord. 2017-056 Exh. A; Ord. 96-050 Exh. A; Ord. 87-25 (part)).

17.08.040 Area of special flood hazard.

“Area of special flood hazard” means the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. Areas of special flood hazard are designated on flood insurance rate maps with the letter A or V, including AE, AO, AH, A1-99 and VE. The area of special flood hazard is also referred to as the special flood hazard area or SFHA. (Ord. 2019-005 Exh. A; Ord. 2017-056 Exh. A; Ord. 96-050 Exh. A; Ord. 87-25 (part)).

17.08.050 Base flood.

“Base flood” means the flood having a one percent chance of being equaled or exceeded in any given year. Also referred to as “100-year flood.” Designation on maps always includes the letter A or V. (Ord. 2019-005 Exh. A; Ord. 2017-056 Exh. A; Ord. 96-050 Exh. A; Ord. 87-25 (part)).

17.08.051 Base flood elevation.

“Base flood elevation” is the elevation of the base flood above the datum of the effective FIRM. (Ord. 2019-005 Exh. A; Ord. 2017-056 Exh. A).

17.08.053 Basement.

“Basement” is any area of the structure having its floor subgrade (below ground level) on all sides, including a subgrade crawlspace. (Ord. 2019-005 Exh. A; Ord. 2017-056 Exh. A).

17.08.055 Breakaway wall.

“Breakaway wall” means a wall that is not a part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces, without causing damages to the elevated portion of the building or supporting foundation system. (Ord. 2019-005 Exh. A; Ord. 2017-056 Exh. A; Ord. 96-050 Exh. A; Ord. 87-25 (part)).

17.08.057 Coastal high hazard area.

“Coastal high hazard area” means the area subject to high velocity waters, including, but not limited to, storm surge or tsunamis. The area is designated on the FIRM as Zone V1-V30, VE or V. (Ord. 2019-005 Exh. A; Ord. 2017-056 Exh. A; Ord. 96-050 Exh. A; Ord. 87-25 (part)).

17.08.058 Critical facility.

“Critical facility” means a facility necessary to protect the public health, safety, and welfare during a flood. Critical facilities include, but are not limited to: schools; nursing homes; hospitals; police, fire, and emergency operations installations; water and wastewater treatment plants; electric power stations; and installations which produce, use, or store hazardous materials or hazardous waste (other than consumer products containing hazardous substances or hazardous waste intended for household use). (Ord. 2019-005 Exh. A; Ord. 2017-056 Exh. A).

17.08.060 Development.

“Development” means any manmade change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, storage of equipment or materials, subdivision of land, removal of substantial amounts (greater than five percent) of vegetation, or alteration of natural site characteristics located within the area of special flood hazard. (Ord. 2019-005 Exh. A; Ord. 2017-056 Exh. A; Ord. 96-050 Exh. A; Ord. 87-25 (part)).

17.08.062 Dry floodproofing.

“Dry floodproofing” means any combination of structural and nonstructural measures that prevent flood waters from entering a structure. (Ord. 2019-005 Exh. A; Ord. 2017-056 Exh. A).

17.08.064 Elevation certificate.

“Elevation certificate” means the official form from FEMA used to provide elevation information necessary to ensure compliance with provisions of this title and determine the proper flood insurance premium rate. (Ord. 2019-005 Exh. A; Ord. 2017-056 Exh. A).

17.08.066 FEMA.

“FEMA” means the Federal Emergency Management Agency, the agency responsible for administering the National Flood Insurance Program. (Ord. 2019-005 Exh. A; Ord. 2017-056 Exh. A).

17.08.070 Flood or flooding.

“Flood or flooding” means a general and temporary condition of partial or complete inundation of normally dry land areas from:

A. The overflow of inland or tidal waters; and/or

B. The unusual and rapid accumulation or runoff of surface waters from any source. (Ord. 2019-005 Exh. A; Ord. 2017-056 Exh. A; Ord. 96-050 Exh. A; Ord. 87-25 (part)).

17.08.080 Flood insurance rate map (FIRM).

“Flood insurance rate map (FIRM)” means the official map on which the Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community. (Ord. 2019-005 Exh. A; Ord. 2017-056 Exh. A; Ord. 96-050 Exh. A; Ord. 87-25 (part)).

17.08.090 Flood insurance study.

“Flood insurance study” means the official report provided by the Federal Insurance Administration that includes flood profiles, the flood boundary map, and the water surface elevation of the base flood. (Ord. 2019-005 Exh. A; Ord. 2017-056 Exh. A; Ord. 96-050 Exh. A; Ord. 87-25 (part)).

17.08.092 Flood protection elevation (FPE).

“Flood protection elevation” means the elevation above the datum of the effective FIRM to which new and substantially improved structures including associated machinery or equipment and other service facilities must be protected from flood damage. (Ord. 2019-005 Exh. A; Ord. 2017-056 Exh. A).

17.08.095 Floodway.

“Floodway” means the channel of a river or other watercourse and adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot. (Ord. 2019-005 Exh. A; Ord. 2017-056 Exh. A; Ord. 96-050 Exh. A; Ord. 87-25 (part)).

17.08.097 Historic structure.

“Historic structure” means any structure that is:

A. Listed individually in the National Register of Historic Places (a listing maintained by the Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register; or

B. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district; or

C. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or

D. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:

1. By an approved state program as determined by the Secretary of the Interior; or
2. Directly by the Secretary of the Interior in states without approved programs. (Ord. 2019-005 Exh. A; Ord. 2017-056 Exh. A).

17.08.100 Lowest floor.

“Lowest floor” means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building’s lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable nonelevation design requirements of this title found at WCC 17.16.080(B). (Ord. 2019-005 Exh. A; Ord. 2017-056 Exh. A; Ord. 96-050 Exh. A; Ord. 87-25 (part)).

17.08.110 Manufactured home.

“Manufactured home” means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes, the term “manufactured home” also includes park trailers, travel trailers and other similar vehicles placed on a site for greater than 120 consecutive days. For insurance purposes, the term “manufactured home” does not include park trailers, travel trailers, recreational vehicles and other similar vehicles. (Ord. 2019-005 Exh. A; Ord. 2017-056 Exh. A; Ord. 96-050 Exh. A; Ord. 87-25 (part)).

17.08.120 Manufactured home park or subdivision.

“Manufactured home park or subdivision” means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale. (Ord. 2019-005 Exh. A; Ord. 2017-056 Exh. A; Ord. 96-050 Exh. A; Ord. 87-25 (part)).

17.08.130 New construction.

“New construction” means structures for which the start of construction commenced on or after the effective date of the ordinance codified in this title. (Ord. 2019-005 Exh. A; Ord. 2017-056 Exh. A; Ord. 96-050 Exh. A; Ord. 87-25 (part). Formerly 17.08.140).

17.08.140 Recreational vehicle.

“Recreational vehicle” is a vehicle which is:

- A. Built on a single chassis; and
- B. Four hundred square feet or less when measured at the largest horizontal projection; and
- C. Designed to be self-propelled or permanently towable by a light duty truck; and
- D. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use. (Ord. 2019-005 Exh. A; Ord. 2017-056 Exh. A; Ord. 96-050 Exh. A. Formerly 17.08.130).

17.08.155 Special flood hazard area (SFHA).

See WCC 17.08.040, Area of special flood hazard. (Ord. 2019-005 Exh. A; Ord. 2017-056 Exh. A).

17.08.160 Start of construction.

“Start of construction” (for other than new construction or substantial improvements under the Coastal Barrier Resources Act (Pub. L. 97–348)), includes substantial improvement and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial

improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building. (Ord. 2019-005 Exh. A; Ord. 2017-056 Exh. A; Ord. 96-050 Exh. A; Ord. 87-25 (part)).

17.08.170 Structure.

“Structure” means a walled and roofed building, including a gas or liquid storage tank that is principally above ground. (Ord. 2019-005 Exh. A; Ord. 2017-056 Exh. A; Ord. 96-050 Exh. A; Ord. 87-25 (part)).

17.08.178 Substantial damage.

“Substantial damage” means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred. Substantial damage also means flood-related damage sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of each such flood event, on the average, equals or exceeds 25 percent of the market value of the structure before the damage occurred. (Ord. 2019-005 Exh. A; Ord. 2017-056 Exh. A).

17.08.180 Substantial improvement.

“Substantial improvement” means any repair, reconstruction, rehabilitation, addition or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either:

- A. Before the start of construction of the improvement or repair; or
- B. Before the damage occurred, if the structure has been damaged and is being restored.

For the purpose of this definition, “substantial improvement” is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.

The term does not, however, include either:

- C. Any project for improvement of a structure to correct pre-cited existing violations of state or local health, sanitary, or safety code specifications which have been previously identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or
- D. Any alteration of a historic structure; provided, that the alteration will not preclude the structure’s continued designation as a historic structure. (Ord. 2019-005 Exh. A; Ord. 2017-056 Exh. A; Ord. 2017-056 Exh. A; Ord. 96-050 Exh. A; Ord. 87-25 (part)).

17.08.190 Variance.

“Variance” means a grant of relief from the requirements of this title which permits construction in a manner that would otherwise be prohibited by this title. (Ord. 2019-005 Exh. A; Ord. 2017-056 Exh. A; Ord. 96-050 Exh. A; Ord. 87-25 (part)).

17.08.193 Watercourse.

“Watercourse” means only the channel and banks of an identifiable watercourse, and not the adjoining floodplain areas. The flood-carrying capacity of a watercourse refers to the flood-carrying capacity of the channel (except in the case of alluvial fans, where a channel is not typically defined). (Ord. 2019-005 Exh. A; Ord. 2017-056 Exh. A).

17.08.195 Wet floodproofing.

“Wet floodproofing” means permanent or contingent measures applied to a structure and/or its contents that prevent or provide resistance to damage from flooding by using flood-resistant materials and by allowing water to enter and exit the structure. (Ord. 2019-005 Exh. A; Ord. 2017-056 Exh. A).

17.08.200 Zone.

“Zone” means one or more areas delineated on the FIRM. The following zones may be used on the adopted FIRM. The special flood hazard area is comprised of the A and V Zones.

- A: SFHA where no base flood elevation is provided.

- A#: numbered A Zones (e.g., A7 or A14), SFHA with a base flood elevation.
- AE: SFHA with a base flood elevation.
- AO: SFHA subject to inundation by shallow flooding, usually resulting from sheet flow on sloping terrain, with average depths between one and three feet. Average flood depths are shown.
- AH: SFHA subject to inundation by shallow flooding (usually areas of ponding) with average depths between one and three feet. Base flood elevations are shown.
- D: area of undetermined but possible flood hazard.
- V: the SFHA subject to coastal high hazard flooding including waves of three feet or greater in height. There are three types of V Zones: V, V#, and VE, and they correspond to the A Zone designations.
- Shaded X: areas of two-tenths of one percent annual chance flood; areas of one percent annual chance flood with average depths of less than one foot or with drainage areas less than one square mile; and areas protected by levees from one percent annual chance flood.
- Unshaded X: areas determined to be outside the two-tenths of one percent annual chance floodplain. (Ord. 2019-005 Exh. A; Ord. 2017-056 Exh. A).

Chapter 17.10

REGULATORY DATA

Sections:

- 17.10.010 Basis for establishing special flood hazard area.
- 17.10.020 Flood hazard data.
- 17.10.030 New regulatory data.

17.10.010 Basis for establishing special flood hazard area.

A. The areas of special flood hazard identified by the Federal Insurance Administration in a scientific and engineering report entitled “The Flood Insurance Study for Whatcom County, Washington and Incorporated Areas,” dated January 18, 2019, and any revisions thereto, with an accompanying flood insurance rate map (FIRM), and any revisions thereto, are hereby adopted by reference and declared to be a part of this title. The flood insurance study and the FIRM are on file at the department of public works.

B. The administrator shall make interpretations where needed as to the exact location of the boundaries of the SFHA where there appears to be a conflict between the mapped SFHA boundary and actual field conditions, as determined by the base flood elevation and ground elevations. The applicant may appeal the administrator’s interpretation of the location of the boundary in accordance with WCC 17.12.060.

C. The applicant may officially have a structure or property removed from the SFHA by obtaining a letter of map amendment (LOMA) with FEMA. A LOMA establishes a structure or property’s location in relation to the SFHA. LOMAs are usually issued because a property has been inadvertently mapped as being in the floodplain, but is actually on natural high ground above the base flood elevation. (Ord. 2019-005 Exh. A; Ord. 2017-056 Exh. A).

17.10.020 Flood hazard data.

A. The base flood elevation for the SFHAs delineated as Zone AE of Whatcom County, Washington, shall be as delineated on the 100-year flood profiles in “The Flood Insurance Study for Whatcom County, Washington and Incorporated Areas.”

B. The base flood elevation for each SFHA delineated as a Zone AH or Zone AO shall be that elevation (or depth) delineated on the flood insurance rate map. Where base flood depths are not available in Zone AO, the base flood elevation shall be considered to be two feet above the highest grade adjacent to the structure.

C. The base flood elevation for all other SFHAs delineated as Zone A shall be as defined in subsection F of this section and WCC 17.10.030(C).

D. The flood protection elevation shall be the base flood elevation plus one foot.

E. The floodway shall be as delineated on the flood insurance rate map or in accordance with subsection F of this section and WCC 17.10.030(C).

F. Where base flood elevation and floodway data have not been provided in special flood hazard areas, the administrator shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a federal, state, local, or other source. In cases where the administrator is unable to obtain any base flood elevation, the flood protection elevation shall be two feet above the highest adjacent grade.

G. The base flood elevation for the SFHAs delineated as coastal Zone VE and AE of Whatcom County, Washington, shall be as delineated on the flood insurance rate maps and as found in “The Flood Insurance Study for Whatcom County, Washington and Incorporated Areas.” (Ord. 2019-005 Exh. A; Ord. 2017-056 Exh. A).

17.10.030 New regulatory data.

A. All requests to revise or change the flood hazard data, including requests for a letter of map revision and a conditional letter of map revision, shall be reviewed by the administrator.

1. The administrator shall not sign the community acknowledgment form for any requests based on filling or other development, unless the applicant for the letter documents that such filling or development is in compliance with this title.

2. The administrator shall not approve a request to revise or change a floodway delineation until FEMA has issued a conditional letter of map revision (CLOMR) that approves the change.

B. If an applicant disagrees with the regulatory data prescribed by this title, he/she may submit a detailed technical study needed to replace existing data with better data in accordance with FEMA mapping guidelines. If the data in question are shown on the published FIRM, the submittal must also include a request to FEMA for a conditional letter of map revision.

C. Where base flood elevation or floodway delineation is not available in accordance with WCC 17.10.020, applicants for approval of new subdivisions and other proposed developments (including proposals for manufactured home parks and subdivisions) greater than 50 lots or five acres, whichever is the lesser, shall include such data with their permit applications, unless waived by the administrator. This provision does not apply to applications for permits for small projects on large lots, such as constructing a single-family home; in these situations, the administrator shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a federal, state, local or other authoritative source. (Ord. 2019-005 Exh. A; Ord. 2017-056 Exh. A).

Chapter 17.12

ADMINISTRATION

Sections:

- 17.12.010 Establishment of floodplain development permit.
- 17.12.012 Requirements for floodplain development permit application within a SFHA.
- 17.12.020 Administrative department – Designated.
- 17.12.030 Administrative department – Duties and responsibilities.
- 17.12.040 Variances – Process.
- 17.12.050 Variances – Conditions for issuance.
- 17.12.060 Appeals.
- 17.12.070 Enforcement.

17.12.010 Establishment of floodplain development permit.

A floodplain development permit shall be obtained before construction or development begins within any area of special flood hazard established in WCC 17.10.010. The permit shall be for all development as set forth in WCC 17.08.060. In situations where another county permit is required for development, the floodplain development permit may be issued in the form of conditions within the other county permit. (Ord. 2019-005 Exh. A; Ord. 2017-056 Exh. A; Ord. 96-050 Exh. A; Ord. 87-25 (part)).

17.12.012 Requirements for floodplain development permit application within a SFHA.

Application for a floodplain development permit within a SFHA shall be made through the development application process administered by the department of planning and development services or on forms furnished by the department of public works if other local permits are not required, and may include, but not be limited to:

A. One or more site plans drawn to scale showing:

1. The nature, location, dimensions, and elevations of the property;
2. Names and locations of all water bodies, waterways, and drainage facilities within 200 feet of the site;
3. Existing and proposed structures, fill, pavement and other impervious surfaces, and sites for storage of materials;
4. Existing and proposed drainage facilities including, but not limited to, swales, storm sewers, overland flow paths, and detention facilities;
5. The elevation of the 100-year floods, where the data are available;
6. Existing and proposed contours at intervals sufficient to accurately determine the extent of proposed changes if the proposed project involves grading, excavation, or filling;
7. Existing vegetation and proposed vegetation removal and revegetation.

B. If the proposed project will be elevated, including a new structure, substantial improvement, or repairs to a substantially damaged structure, the application shall include the flood protection elevation for the building site and the proposed elevations of the following:

1. The top of lowest floor (including basement, crawlspace, or enclosure floor).
2. The top of the next higher floor.
3. The bottom of the lowest horizontal structural member (in V Zones only).
4. The top of the slab of an attached garage.

5. The lowest elevation of machinery or equipment servicing the structure.
6. The lowest adjacent (finished) grade next to structure.
7. The highest adjacent (finished) grade next to structure.
8. The lowest adjacent grade at the lowest elevation of a deck or stairs, including structural support.

C. If the proposed project will be wet or dry floodproofed, including a new structure, substantial improvement, or repairs to a substantially damaged nonresidential structure, the application shall include the flood protection elevation for the building site and the elevation in relation to the datum of the effective FIRM to which the structure will be floodproofed and a certification by a registered professional engineer or licensed architect that the floodproofing methods meet the floodproofing criteria in WCC 17.16.090 or 17.16.110.

D. The application shall include a description of the extent to which any watercourse will be altered or relocated as a result of proposed development, and shall also submit a request for a conditional letter of map revision (CLOMR), where required by FEMA. The project will not be approved unless FEMA issues the CLOMR and the provisions of the letter are made part of the permit requirements.

E. The applicant shall submit a finished construction elevation certificate completed and certified by a licensed professional surveyor prior to occupancy.

F. Compliance with FEMA's National Flood Insurance Program, including the protection standards for critical habitats for listed species, shall be demonstrated through a habitat assessment, and, if necessary, a mitigation plan done in accordance with the FEMA Regional Guidance for the Puget Sound Basin. (Ord. 2019-005 Exh. A; Ord. 2017-056 Exh. A).

17.12.020 Administrative department – Designated.

The department of public works will administer and implement this title by granting or denying floodplain development permit applications in accordance with its provisions. (Ord. 2019-005 Exh. A; Ord. 2017-056 Exh. A; Ord. 96-050 Exh. A; Ord. 87-25 (part)).

17.12.030 Administrative department – Duties and responsibilities.

The duties of the department of public works shall include, but not be limited to:

A. Permit Review. The department of public works shall:

1. Review all floodplain development permit applications to determine that the permit requirements of this title have been satisfied;
2. Review all floodplain development permit applications to determine that all necessary permits have been obtained from those federal, state or local governmental agencies from which prior approval is required;
3. Review all floodplain development permit applications to determine if the proposed development adversely affects the flood-carrying capacity of the area of special flood hazard, and prohibit those developments that are determined to adversely affect the flood-carrying capacity. For purposes of this section, "adversely affects flood-carrying capacity" means that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will increase the water surface elevation of the base flood more than one foot at any point;
4. Review and approve all elevation certificates to determine if the structure is in compliance with this title;
5. Review all development permit applications within the SFHA to ensure the proposed development is compliant with FEMA's National Flood Insurance Program protection standards for critical habitats of species listed under the Endangered Species Act;
6. Notify the department of planning and development services of the review and decision results of the above in a timely manner.

B. Use of Other Base Flood Data. When base flood elevation data has not been provided in accordance with Chapter 17.10 WCC, the department of public works shall obtain, review, and reasonably use any base flood elevation and floodway data available from a federal, state, or other source in order to administer Chapter 17.16 WCC.

C. Information to Be Obtained and Maintained. The department of public works shall:

1. When base flood elevation data is provided through the flood insurance study or required as in subsection B of this section, obtain and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures and whether or not the structure contains a basement;
2. For all new or substantially improved nonresidential structures that are floodproofed:
 - a. Verify and record the actual elevation to which the structure has been floodproofed (in relation to datum specified on the FIRM); and
 - b. Maintain certification by a registered professional engineer that the floodproofing methods for any structure meet the criteria as provided in WCC 17.16.090;
3. Maintain for public inspection all records pertaining to the provisions of this title;
4. Submit reports as required by FEMA for the National Flood Insurance Program.

D. Alteration of Watercourse.

1. Prior to any alteration or relocation of a watercourse, the department of planning and development services shall provide notification to adjacent communities and the Washington State Department of Ecology in accordance with Chapter 16.08 WCC.
2. The department of public works shall:
 - a. Provide evidence of such notification to FEMA;
 - b. Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished.

E. Required Submission of Additional Information. The administrator shall have authority to require the applicant to submit information certified by licensed professional land surveyors, architects, or engineers as may be reasonably necessary to assure conformance with the standards of this title. (Ord. 2019-005 Exh. A; Ord. 2017-056 Exh. A; Ord. 96-050 Exh. A; Ord. 87-25 (part)).

17.12.040 Variances – Process.

A. The administrator shall review and decide requests for variances from the requirements of this title.

B. In deciding variance requests, the administrator shall consider WCC 17.12.050, all technical evaluations, relevant factors, and standards specified in other sections of this title; and:

1. The danger that materials may be swept onto other land to the injury of others;
2. The danger to life and property due to flooding or erosion damage;
3. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
4. The importance of the services provided by the proposed facility to the community;
5. The necessity to the facility of a waterfront location, where applicable;

6. The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
7. The compatibility of the proposed use with existing and anticipated development;
8. The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
9. The safety of access to the property in times of flood for ordinary and emergency vehicles;
10. The expected heights, velocity, duration, rate of rise, the sediment transport of the flood waters, and the effects of wave action, if applicable, expected at the site;
11. The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, water systems, and streets and bridges; and
12. The potential of the proposed development to adversely affect endangered species and proposed mitigation measures to ensure compliance with the Endangered Species Act.

C. Upon consideration of the factors of subsection B of this section and the purposes of this title, the administrator may attach such conditions to the granting of variances as deemed necessary to further the purposes of this title.

D. The administrator shall maintain the records of all actions and report any variances to the Federal Insurance Administration upon request. (Ord. 2019-005 Exh. A; Ord. 2017-056 Exh. A; Ord. 96-050 Exh. A; Ord. 87-25 (part)).

17.12.050 Variances – Conditions for issuance.

A. Generally, the only condition under which a variance from the elevation standard may be issued is for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, provided WCC 17.12.040(B)(1) through (12) have been fully considered. As the lot size increases, the technical justification required for issuing the variance increases.

B. Variances may be issued for the reconstruction, rehabilitation, or restoration of historic structures without regard to the procedures set forth in the remainder of this section.

C. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

D. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

E. Variances shall only be issued upon:

1. A showing of good and sufficient cause;
2. A determination that failure to grant the variance would result in exceptional hardship to the applicant;
3. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public as identified in WCC 17.12.040(B), or conflict with existing local laws or ordinances; and
4. A determination that the proposed development is compliant with the Endangered Species Act.

F. Variances as interpreted in the National Flood Insurance Program are based on the general zoning law principle that they pertain to a physical piece of property; they are not personal in nature and do not pertain to the structure, its inhabitants, economic or financial circumstances. They primarily address small lots in densely populated residential neighborhoods. As such, variances from the flood elevations should be quite rare.

G. Variances may be issued for nonresidential buildings in very limited circumstances to allow a lesser degree of floodproofing than watertight or dry floodproofing, where it can be determined that such action will have low damage potential, complies with all other variance criteria except subsection A of this section, and otherwise complies with WCC 17.16.020 and 17.16.030.

H. Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor elevation below the base flood elevation and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation. (Ord. 2019-005 Exh. A; Ord. 2017-056 Exh. A; Ord. 96-050 Exh. A; Ord. 87-25 (part)).

17.12.060 Appeals.

A. Any aggrieved party may appeal any order, variance, condition of approval, or alleged error made by the administrator in the administration or enforcement of this chapter to the hearing examiner as established by Whatcom County, who shall have the authority to hear and decide such appeals.

B. An appeal shall be filed within 14 days of the issuance of a final permit decision. For decisions associated with a project permit, as defined in Chapter 20.97 WCC, the final permit decision is when the project permit is issued. For decisions not associated with a project permit, the final permit decision is when the floodplain development permit is issued by the administrator.

C. Appeals shall be processed in accordance with Chapter 22.05 WCC and accompanied by a fee as specified in the unified fee schedule.

D. The applicant, any party of record, or any county department may appeal any final decision of the hearing examiner to superior court within 10 business days of the final decision of the hearing examiner. (Ord. 2019-005 Exh. A; Ord. 2017-056 Exh. A).

17.12.070 Enforcement.

A. Any person, firm, or corporation violating any of the provisions of this title may be subject to enforcement actions and penalties allowed by county code, as amended, for the applicable development permit, approval, or license required for the floodplain development or action. The administrator is hereby authorized to enforce the provisions of this chapter.

B. The enforcement process and penalties contained in Chapter 20.94 WCC are hereby adopted in full for enforcement of this chapter, except for WCC 20.94.010 (Purpose) and WCC 20.94.060 (Appeals); provided, that each occurrence of the term “zoning administrator” shall be substituted with “administrator.” (Ord. 2019-005 Exh. A; Ord. 2017-056 Exh. A).

Chapter 17.16

FLOOD HAZARD REDUCTION STANDARDS

Sections:

- 17.16.010 Standards.
- 17.16.020 Anchoring.
- 17.16.030 Construction materials and methods.
- 17.16.040 Utilities.
- 17.16.050 Subdivision proposals.
- 17.16.060 Review of building permits.
- 17.16.070 *Repealed.*
- 17.16.080 Residential construction.
- 17.16.090 Nonresidential construction.
- 17.16.095 Critical facilities.
- 17.16.100 Manufactured homes.
- 17.16.110 Wet floodproofing.
- 17.16.115 Recreational vehicles.
- 17.16.120 Floodways.
- 17.16.125 Standards for AE and A1-30 Zones with base flood elevations but no floodways.
- 17.16.130 Standards for shallow flooding areas (AO Zones).
- 17.16.140 Coastal high hazard areas.

17.16.010 Standards.

The standards set forth in WCC 17.16.020 through 17.16.140 are required in all areas of special flood hazards. (Ord. 2019-005 Exh. A; Ord. 2017-056 Exh. A; Ord. 96-050 Exh. A; Ord. 87-25 (part)).

17.16.020 Anchoring.

A. All new construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure.

B. All manufactured homes must likewise be anchored to prevent flotation, collapse or lateral movement, and shall be installed using methods and practices that minimize flood damage. Anchoring methods may include, but are not limited to, use of over-the-top or frame ties to ground anchors (reference FEMA's "Manufactured Home Installation in Flood Hazard Areas" guidebook for additional techniques). (Ord. 2019-005 Exh. A; Ord. 2017-056 Exh. A; Ord. 96-050 Exh. A; Ord. 87-25 (part)).

17.16.030 Construction materials and methods.

A. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.

B. All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

C. Electrical, heating, ventilation, plumbing and air-conditioning equipment and other service facilities shall be designed and/or otherwise elevated to or above the flood protection elevation so as to prevent water from entering or accumulating within the components during conditions of flooding. (Ord. 2019-005 Exh. A; Ord. 2017-056 Exh. A; Ord. 96-050 Exh. A; Ord. 87-25 (part)).

17.16.040 Utilities.

A. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.

B. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters.

C. On-site waste storage and disposal systems shall be located to avoid impairment to them, or contamination from them, during flooding.

D. Water supply wells associated with new development shall be located where they are not subject to ponding and are not in the floodway. (Ord. 2019-005 Exh. A; Ord. 2017-056 Exh. A; Ord. 96-050 Exh. A; Ord. 87-25 (part)).

17.16.050 Subdivision proposals.

A. All subdivision proposals shall:

1. Be consistent with the need to minimize flood damage.
2. Have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.
3. Have adequate drainage provided to reduce exposure to flood damage.

B. Where base flood elevation data has not been provided or is not available from another authoritative source, it shall be developed in accordance with WCC 17.10.030(C). (Ord. 2019-005 Exh. A; Ord. 2017-056 Exh. A; Ord. 96-050 Exh. A; Ord. 87-25 (part)).

17.16.060 Review of building permits.

Where elevation data is not available, either through the flood insurance study or from another authoritative source (WCC 17.10.010 and 17.12.030(B)), applications for building permits shall be reviewed to assure that proposed construction will be reasonably safe from flooding. The test of reasonableness is a local judgment and includes use of historical data, high water marks, photographs of past flooding, etc., where available. Failure to elevate at least two feet above the highest adjacent grade in these zones may result in higher insurance rates. (Ord. 2019-005 Exh. A; Ord. 2017-056 Exh. A; Ord. 96-050 Exh. A; Ord. 87-25 (part)).

17.16.070 Specific standards.

Repealed by Ord. 2017-056. (Ord. 96-050 Exh. A; Ord. 87-25 (part)).

17.16.080 Residential construction.

A. New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated to or above the flood protection elevation, as determined in accordance with WCC 17.10.020(D).

B. Fully enclosed areas below the lowest floor that are subject to flooding are prohibited, or shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of flood waters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria:

1. A minimum of two openings on different sides of each enclosed area having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided;
2. The bottom of all openings shall be no higher than one foot above grade either inside or outside of the opening in the crawlspace;
3. Openings may be equipped with screens, louvers, or other coverings or devices; provided, that they permit the automatic entry and exit of flood waters.

C. Subgrade crawlspaces are prohibited unless the following conditions are met:

1. The interior grade of a crawlspace below the base flood elevation must not be more than two feet below the lowest adjacent exterior grade;
2. The height of the subgrade crawlspace, measured from the interior grade of the crawlspace to the top of the crawlspace foundation wall, must not exceed four feet at any point;

3. A drainage system designed to adequately drain the subgrade crawlspace area (e.g., subsurface drains or sump pump system) once flood waters have receded must be provided; and
4. The crawlspace must comply with applicable FEMA guidance (FEMA Technical Bulletin 11, Crawlspace Construction for Buildings Located in Special Flood Hazard Areas, or updated guidance).

The administrator will notify the applicant that construction of a subgrade crawlspace will likely impact flood insurance premiums. (Ord. 2019-005 Exh. A; Ord. 2017-056 Exh. A; Ord. 96-050 Exh. A; Ord. 87-25 (part)).

17.16.090 Nonresidential construction.

New construction and substantial improvement of any commercial, accessory, agricultural, industrial or other nonresidential structure, together with attendant utility and sanitary facilities, shall:

A. Have the lowest floor, including basement, elevated to the level of the flood protection elevation. The space below the lowest floor must meet the standards in WCC 17.16.080(B) and (C); or

B. Be dry floodproofed so that:

1. Below the flood protection elevation the structure is watertight with walls substantially impermeable to the passage of water; and
2. Structural components are capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and
3. The design and methods of construction are certified by a registered professional engineer in accordance with accepted standards of practice for meeting provisions of this subsection based on their development and/or review of the structural design, specifications and plans. Such certifications shall be as set forth in WCC 17.12.030(E) and shall be provided by the applicant as required by the department of public works; or

C. Be wet floodproofed in compliance with the requirements of WCC 17.16.110.

Applicants floodproofing nonresidential buildings shall be notified that flood insurance premiums will be based on rates that are one foot below the floodproofed level (e.g., a building constructed to the base flood level will be rated as one foot below that level). (Ord. 2019-005 Exh. A; Ord. 2017-056 Exh. A; Ord. 96-050 Exh. A; Ord. 87-25 (part)).

17.16.095 Critical facilities.

Construction of new critical facilities shall be, to the extent possible, located outside the limits of the SFHA (100-year floodplain). Construction of new critical facilities shall be permissible within the floodplain if no feasible alternative site is available. Critical facilities constructed within the floodplain shall have the lowest floor elevated two feet above the base flood elevation. Floodproofing and sealing measures must be taken to ensure that toxic substances will not be displaced by or released into flood waters. Access routes elevated to or above the level of the base flood elevation shall be provided to all critical facilities to the extent possible without adversely affecting the flood-carrying capacity of the SFHA. (Ord. 2019-005 Exh. A; Ord. 2017-056 Exh. A).

17.16.100 Manufactured homes.

All manufactured homes to be placed or substantially improved shall be:

A. Elevated on a permanent foundation in accordance with WCC 17.16.080 if within Zones A, AE, AH, and AO, and subject to WCC Title 15.

B. Elevated on a permanent foundation in accordance with WCC 17.16.140 if within Zone V or VE.

C. Securely anchored to an adequately anchored foundation system in accordance with the provisions of WCC 17.16.020(B). (Ord. 2019-005 Exh. A; Ord. 2017-056 Exh. A; Ord. 96-050 Exh. A; Ord. 87-25 (part)).

17.16.110 Wet floodproofing.

A. Wet floodproofing is allowed for the following types of nonresidential construction:

1. Wet floodproofing is allowed without a variance for enclosed areas below the flood protection elevation that are used solely for parking, access, or limited storage, including attached and detached garages.
2. Wet floodproofing is allowed with a variance for the types of structures listed below; provided the proposal meets the conditions of subsection B of this section and applicable FEMA guidance (FEMA Technical Bulletin 7, Wet Floodproofing Requirements, or updated guidance).

- a. Structures functionally dependent on close proximity to water.
- b. Historic structures.
- c. Accessory structures that do not exceed a maximum value of \$25,000 for the cost of construction and are designed to have a low potential for structural damage. The market value of construction shall be determined by the administrator in accordance with the valuation procedure used when setting building permit fees.
- d. Agricultural structures used exclusively in connection with the production, harvesting, storage, drying, or raising of agricultural commodities, including livestock, if they are designed to have a low potential for structural damage.

B. Each structure that is wet floodproofed shall meet the following standards:

1. It shall comply with the floodway encroachment provisions of WCC 17.16.120.
2. It shall be anchored to prevent flotation, collapse, and lateral movement.
3. All portions of the structure below the flood protection elevation shall be constructed of flood-resistant materials.
4. Service utilities such as mechanical, electrical, and heating equipment shall meet the standards of WCC 17.16.030(C) and 17.16.040.
5. It shall have openings to allow free flowage of water that meet the criteria in WCC 17.16.080(B).
6. It shall be designed to have a low potential for structural damage from flood inundation, scouring, velocities, and debris impact.
7. The intended use of the structure shall have a low damage potential for content damage or an emergency operation plan to remove the contents.
8. The project shall meet all other requirements of this title. (Ord. 2019-005 Exh. A; Ord. 2017-056 Exh. A).

17.16.115 Recreational vehicles.

Recreational vehicles placed on sites within Zones A, AE, AH, AO, V, and VE shall either:

- A. Be on the site for fewer than 120 consecutive days; and
- B. Be fully licensed and ready for highway use, on its wheels or jacking system, attached to the site only by quick disconnect type utilities and security devices, and having no permanently attached additions; or
- C. Meet the requirements of WCC 17.16.100 and anchoring requirements for manufactured homes. (Ord. 2019-005 Exh. A; Ord. 2017-056 Exh. A; Ord. 96-050 Exh. A).

17.16.120 Floodways.

Located within areas of special flood hazard established in WCC 17.10.010 are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles, and erosion potential, the following provisions apply:

A. Prohibit encroachments, including fill, new construction, substantial improvements, and other development unless certification by a registered professional engineer is provided demonstrating through hydrologic and hydraulic analysis performed in accordance with standard engineering practice that the proposed encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.

B. Construction or reconstruction of residential structures is prohibited within designated floodways, except for the following:

1. Repairs, reconstruction, or improvements to a structure which do not increase the ground floor area; provided, that the cost of which does not exceed 50 percent of the market value of the structure either (a) before the repair, reconstruction, or improvement is started; or (b) before the damage occurred, if the structure has been damaged and is being restored. Work done on structures to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions shall not be included in the 50 percent;
2. Repairs, replacement, reconstruction, or improvements to existing farmhouses located in designated floodways and located on designated agricultural lands that do not increase the building's total square footage of encroachment and are consistent with all requirements of WAC 173-158-075;
3. Repairs, replacement, reconstruction, or improvements to substantially damaged residential dwellings other than farmhouses that do not increase the building's total square footage of encroachment and are consistent with all requirements of WAC 173-158-076; or
4. Repairs, reconstruction, or improvements to residential structures identified as historic structures that do not increase the building's dimensions.

C. If the provisions of subsections A and B of this section are met, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of this chapter. (Ord. 2019-005 Exh. A; Ord. 2017-056 Exh. A; Ord. 96-050 Exh. A; Ord. 87-25 (part)).

17.16.125 Standards for AE and A1-30 Zones with base flood elevations but no floodways.

In areas with base flood elevations (but a regulatory floodway has not been designated), no new construction, substantial improvements, or other development (including fill) shall be permitted within Zones A1-30 and AE on the community's FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community. (Ord. 2019-005 Exh. A).

17.16.130 Standards for shallow flooding areas (AO Zones).

Shallow flooding areas appear on FIRMs as AO Zones with depth designations. The base flood depths in these zones range from one to three feet where a clearly defined channel does not exist, or where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is usually characterized as sheet flow. In these areas, the following provisions apply:

A. New construction and substantial improvements of residential structures within AO Zones shall have the lowest floor (including basement) elevated above the highest adjacent grade of the building site, one foot above the depth number specified on the FIRM (at least two feet above the highest adjacent grade if no depth number is specified).

B. New construction and substantial improvements of nonresidential structures within AO Zones shall either:

1. Have the lowest floor (including basement) elevated above the highest adjacent grade of the building site, to one foot above the depth number specified on the FIRM (at least two feet if no depth number is specified); or
2. Together with attendant utility and sanitary facilities, be completely floodproofed to or above that level so that any space below that level is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. If this method is used, compliance shall be certified by a registered professional engineer as in WCC 17.16.090(B)(3).

C. Adequate drainage paths around structures on slopes to guide flood waters around and away from proposed structures shall be provided. (Ord. 2019-005 Exh. A; Ord. 2017-056 Exh. A; Ord. 96-050 Exh. A; Ord. 87-25 (part)).

17.16.140 Coastal high hazard areas.

Located within areas of special flood hazard established in WCC 17.10.020 are coastal high hazard areas, designated as Zones V and VE. These areas have special flood hazards associated with high velocity waters from tidal surges and, therefore, in addition to meeting all applicable provisions in this title, the following provisions shall also apply:

A. All new construction and substantial improvements in Zones V and VE shall be elevated on pilings and columns so that:

1. The bottom of the lowest horizontal structural member of the lowest floor (excluding the pilings or columns) is elevated to or above the flood protection elevation; and
2. The pile or column foundation and structure attached thereto is anchored to resist flotation, collapse and lateral movement due to the effects of wind and water loads acting simultaneously on all building components. Wind and water loading values shall each have a one percent chance of being equaled or exceeded in any given year (100-year mean recurrence interval). A registered professional engineer or architect shall develop or review the structural design, specifications and plans for the construction and shall certify that the design and methods of construction to be used are in accordance with accepted standards of practice for meeting the provisions of subsections (A)(1) and (2) of this section.

B. Obtain the elevation (in relation to mean sea level) of the bottom of the lowest structural member of the lowest floor (excluding pilings and columns) of all new and substantially improved structures in Zones V and VE, and whether or not such structures contain a basement. The local administrator shall maintain a record of all such information.

C. All new construction shall be located landward of the reach of mean high tide.

D. Provide that all new construction and substantial improvements have the space below the lowest floor either free of obstruction or constructed with nonsupporting breakaway walls, open wood latticework, or insect screening intended to collapse under wind and water loads without causing collapse, displacement, or other structural damage to the elevated portion of the building or supporting foundation system. For the purpose of this section, a breakaway wall shall have a design safe loading resistance of not less than 10 and no more than 20 pounds per square foot. Use of breakaway walls which exceed a design safe loading resistance of 20 pounds per square foot (either by design or when so required by local or state codes) may be permitted only if a registered professional engineer or architect certifies that the designs proposed meet the following conditions:

1. Breakaway wall collapse shall result from a water load less than that which would occur during the base flood; and
2. The elevated portion of the building and supporting foundation system shall not be subject to collapse, displacement, or other structural damage due to the effects of wind and water loads acting simultaneously on all building components (structural and nonstructural). Maximum wind and water loading values to be used in this determination shall each have a one percent chance of being equaled or exceeded in any given year (100-year mean recurrence interval).

E. If breakaway walls are utilized, such enclosed space shall be usable solely for parking of vehicles, building access, or storage. Such space shall not be used for human habitation.

F. Prohibit the use of fill for structural support of buildings.

G. Prohibit manmade alteration of sand dunes which would increase potential flood damage. (Ord. 2019-005 Exh. A; Ord. 2017-056 Exh. A; Ord. 96-050 Exh. A; Ord. 87-25 (part)).

Chapter 17.20

FLOOD CONTROL

MAINTENANCE PROGRAM

(Repealed by Ord. 2008-047)

Chapter 17.24

UNAUTHORIZED USE OF

MOTORIZED VEHICLES UPON FLOOD CONTROL STRUCTURES

Sections:

- 17.24.010 Definitions.
- 17.24.020 Unauthorized use of motorized vehicle.
- 17.24.030 Violation – Penalty.

17.24.010 Definitions.

The definitions set forth in this section shall apply throughout this chapter.

- A. “County” means Whatcom County, unless otherwise noted.
- B. “Flood control structure” means any structure, whether natural or manmade in origin, that operates, or is intended, to contain, channelize, direct or otherwise control the flow of water along or near the banks of the Nooksack River.
- C. “Motorized vehicle” means any vehicle that is motor-driven, whether by internal combustion engine or electric motor, and any attachments thereto.
- D. “Nooksack River” means the river commonly known as the Nooksack River, along with its North, Middle, and South Forks, as more precisely defined in WAC 173-18-410, as now written or hereinafter amended, and the channels within which this river and its forks flow, within Whatcom County.
- E. “Proper authorization” means use of a motorized vehicle for purposes of inspection, maintenance, improvement, or construction of flood control structures, or for access for legitimate agricultural purposes:
 - 1. By immediate family members or current employees of the owner or tenant of the land upon which the flood control structure is located, under the authority and direction of that owner or tenant; or
 - 2. Under the authority and with the current permission of the public agencies responsible for flood control activities within the county.

The claim of proper authorization is an affirmative defense which must be pled prior to hearing or trial, and which the defendant must prove by a preponderance of the evidence. (Ord. 2019-005 Exh. A; Ord. 2017-056 Exh. A; Ord. 2003-002).

17.24.020 Unauthorized use of motorized vehicle.

It is unlawful for any person to operate, or to ride upon, a motorized vehicle on any flood control structure within 3,000 feet of the Nooksack River, unless done with proper authorization. (Ord. 2019-005 Exh. A; Ord. 2017-056 Exh. A; Ord. 2003-002).

17.24.030 Violation – Penalty.

Violation of this chapter shall constitute a Class 1 civil infraction under the authority granted the county in Chapter 7.80 RCW. Each violation hereof shall be punishable by a maximum penalty or default amount as set forth in RCW 7.80.120, or any successor statute thereto. All violations shall be charged, heard, and determined in accordance with the procedures set forth in Chapter 7.80 RCW. Employees of the Whatcom County public works department, river and flood division, or its successor agency, if any there be, as well as all others who are otherwise authorized to enforce ordinances of this county, are hereby authorized to enforce the provisions of this title, consistent with the provisions of Chapter 7.80 RCW.

After having been found to have committed two infractions for violations of the provisions of this chapter, any person who further violates the provisions of this chapter shall be guilty of a misdemeanor, and shall be subject to

criminal penalties including a fine of not more than \$1,000, together with statutory assessments and any costs of action, and imprisonment in the county jail for a period of not more than 90 days.

In addition to the civil and criminal remedies provided for above, the county or the owner(s) of the land affected by the violation of the provisions of this chapter may bring such injunctive, declaratory or other actions as deemed necessary, and as otherwise allowed by law, to ensure that violations are prevented or cease, and to otherwise enforce the provisions of this chapter. (Ord. 2019-005 Exh. A; Ord. 2017-056 Exh. A; Ord. 2003-002).

Title 17

FLOOD DAMAGE PREVENTION¹

Chapters:

- 17.04 General Provisions**
- 17.08 Definitions**
- 17.10 Regulatory Data**
- 17.12 Administration**
- 17.16 Flood Hazard Reduction Standards**
- 17.20 *Repealed***
- 17.24 Unauthorized Use of Motorized Vehicles Upon Flood Control Structures**

¹ Prior legislation: Ord. dated 9/23/77.

Chapter 17.04

GENERAL PROVISIONS

Sections:

- 17.04.010 Findings of fact.
- 17.04.020 Statement of purpose and liability disclaimer.
- 17.04.030 Methods of reducing flood losses.
- 17.04.040 Application of title.
- 17.04.050 Repealed.
- 17.04.060 Abrogation and greater restrictions.
- 17.04.070 Interpretation.
- 17.04.080 Compliance required.
- 17.04.090 Repealed.
- 17.04.100 Severability.

17.04.010 Findings of fact.

The findings of fact are the following:

A. The flood hazard areas of Whatcom County are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.

B. Without taking appropriate care and precautions, development in floodplains and watersheds may increase flood heights, frequencies, and velocities, and may result in a greater threat to humans, damage to property, destruction of natural floodplain functions, and adverse impacts to water quantity, quality, and habitat. (Ord. 2019-005 Exh. A; Ord. 2017-056 Exh. A; Ord. 96-050 Exh. A; Ord. 87-25 (part)).

17.04.020 Statement of purpose and liability disclaimer.

This title is enacted as an exercise of the police power of the county for the benefit of the public at large. It is not intended to create a special relationship with any individual, or individuals, nor to identify and protect any particular class of persons. The purpose of this title is to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas in a manner that does not adversely affect endangered species or their habitats. The degree of property and habitat protection required by this title is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on occasion. Flood heights may be increased by manmade or natural causes. This title does not imply that land outside of the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This title shall not create liability on the part of Whatcom County, any officer or employee thereof, or the Federal Insurance Administration, for any damages to property or habitat that result from reliance on this title or any administrative decision lawfully made thereunder. Nor shall the county or any officer, agent, or employee thereof incur or be held as assuming any liability by reason or in consequence of any permission, certificate of inspection, inspection or approval authorized herein, or issued or given as herein provided, or by reasons or consequence of any things done or acts performed pursuant to the provisions of this title. (Ord. 2019-005 Exh. A; Ord. 2017-056 Exh. A; Ord. 96-050 Exh. A; Ord. 87-25 (part)).

17.04.030 Methods of reducing flood losses.

In order to accomplish its purposes, this title includes methods and provisions for:

A. Restricting or prohibiting uses which are dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;

B. Requiring that uses vulnerable to floods, including facilities which serve such uses, shall be protected against flood damage at the time of initial construction;

C. Controlling the alteration of natural floodplains, stream channels, and natural protective barriers, which help accommodate or channel flood waters;

D. Controlling filling, grading, dredging, and other development which may increase flood damage; and

E. Preventing or regulating the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards in other areas. (Ord. 2019-005 Exh. A; Ord. 2017-056 Exh. A; Ord. 96-050 Exh. A; Ord. 87-25 (part)).

17.04.040 Application of title.

This title shall apply to all special flood hazard areas, as defined in WCC 17.08.040, within the jurisdiction of Whatcom County. (Ord. 2019-005 Exh. A; Ord. 2017-056 Exh. A; Ord. 96-050 Exh. A; Ord. 87-25 (part)).

17.04.050 Basis for establishing areas of special flood hazard.

Repealed by Ord. 2017-056. (Ord. 96-050 Exh. A; Ord. 90-94; Ord. 87-25 (part)).

17.04.060 Abrogation and greater restrictions.

This title is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this title and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail. (Ord. 2019-005 Exh. A; Ord. 2017-056 Exh. A; Ord. 96-050 Exh. A; Ord. 87-25 (part)).

17.04.070 Interpretation.

In the interpretation and application of this title, all provisions shall be:

A. Considered as minimum requirements;

B. Liberally construed in favor of the governing body; and

C. Deemed neither to limit nor repeal any other powers granted under state statutes. (Ord. 2019-005 Exh. A; Ord. 2017-056 Exh. A; Ord. 96-050 Exh. A; Ord. 87-25 (part)).

17.04.080 Compliance required.

No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this title and other applicable regulations. (Ord. 2019-005 Exh. A; Ord. 2017-056 Exh. A; Ord. 96-050 Exh. A; Ord. 87-25 (part)).

17.04.090 Penalty for noncompliance.

Repealed by Ord. 2017-056. (Ord. 96-050 Exh. A; Ord. 87-25 (part)).

17.04.100 Severability.

The provisions and sections of this title shall be deemed separable and the invalidity of any portion of this title shall not affect the validity of the remainder. (Ord. 2019-005 Exh. A; Ord. 2017-056 Exh. A).

Chapter 17.08

DEFINITIONS

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17.08.010 Generally.

Unless specifically defined below, words or phrases used in this title shall be interpreted so as to give them the meaning they have in common usage or to give this title its most reasonable application. (Ord. 2019-005 Exh. A; Ord. 2017-056 Exh. A; Ord. 96-050 Exh. A; Ord. 87-25 (part)).

17.08.013 Accessory structure.

“Accessory structure” means a structure which is on the same parcel of property as the principal structure to be insured and the use of which is incidental to the use of the principal structure. (Ord. 2019-005 Exh. A; Ord. 2017-056 Exh. A).

17.08.015 Administrator.

Whenever the term “administrator” is used it means the director of public works or his designee. (Ord. 2019-005 Exh. A; Ord. 2017-056 Exh. A; Ord. 96-050 Exh. A; Ord. 87-25 (part)).

17.08.020 Appeal.

“Appeal” means a request for a review of the administrator’s interpretation of any provision of this title or a request for a variance. (Ord. 2019-005 Exh. A; Ord. 2017-056 Exh. A; Ord. 96-050 Exh. A; Ord. 87-25 (part)).

17.08.030 Area of shallow flooding.

“Area of shallow flooding” means a designated AO or AH Zone on the flood insurance rate map (FIRM). The base flood depths range from one to three feet; a clearly defined channel does not exist; the path of flooding is unpredictable and indeterminate; and velocity flow may be evident. AO is characterized as sheet flow and AH indicates ponding. (Ord. 2019-005 Exh. A; Ord. 2017-056 Exh. A; Ord. 96-050 Exh. A; Ord. 87-25 (part)).

17.08.040 Area of special flood hazard.

“Area of special flood hazard” means the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. Areas of special flood hazard are designated on flood insurance rate maps with the letter A or V, including AE, AO, AH, A1-99 and VE. The area of special flood hazard is also referred to as the special flood hazard area or SFHA. (Ord. 2019-005 Exh. A; Ord. 2017-056 Exh. A; Ord. 96-050 Exh. A; Ord. 87-25 (part)).

17.08.050 Base flood.

“Base flood” means the flood having a one percent chance of being equaled or exceeded in any given year. Also referred to as “100-year flood.” Designation on maps always includes the letter A or V. (Ord. 2019-005 Exh. A; Ord. 2017-056 Exh. A; Ord. 96-050 Exh. A; Ord. 87-25 (part)).

17.08.051 Base flood elevation.

“Base flood elevation” is the elevation of the base flood above the datum of the effective FIRM. (Ord. 2019-005 Exh. A; Ord. 2017-056 Exh. A).

17.08.053 Basement.

“Basement” is any area of the structure having its floor subgrade (below ground level) on all sides, including a subgrade crawlspace. (Ord. 2019-005 Exh. A; Ord. 2017-056 Exh. A).

17.08.055 Breakaway wall.

“Breakaway wall” means a wall that is not a part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces, without causing damages to the elevated portion of the building or supporting foundation system. (Ord. 2019-005 Exh. A; Ord. 2017-056 Exh. A; Ord. 96-050 Exh. A; Ord. 87-25 (part)).

17.08.057 Coastal high hazard area.

“Coastal high hazard area” means the area subject to high velocity waters, including, but not limited to, storm surge or tsunamis. The area is designated on the FIRM as Zone VI-V30, VE or V. (Ord. 2019-005 Exh. A; Ord. 2017-056 Exh. A; Ord. 96-050 Exh. A; Ord. 87-25 (part)).

17.08.058 Critical facility.

“Critical facility” means a facility necessary to protect the public health, safety, and welfare during a flood. Critical facilities include, but are not limited to: schools; nursing homes; hospitals; police, fire, and emergency operations installations; water and wastewater treatment plants; electric power stations; and installations which produce, use, or store hazardous materials or hazardous waste (other than consumer products containing hazardous substances or hazardous waste intended for household use). (Ord. 2019-005 Exh. A; Ord. 2017-056 Exh. A).

17.08.060 Development.

“Development” means any manmade change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, storage of equipment or materials, subdivision of land, removal of substantial amounts (greater than five percent) of vegetation, or alteration of natural site characteristics located within the area of special flood hazard. (Ord. 2019-005 Exh. A; Ord. 2017-056 Exh. A; Ord. 96-050 Exh. A; Ord. 87-25 (part)).

17.08.062 Dry floodproofing.

“Dry floodproofing” means any combination of structural and nonstructural measures that prevent flood waters from entering a structure. (Ord. 2019-005 Exh. A; Ord. 2017-056 Exh. A).

17.08.064 Elevation certificate.

“Elevation certificate” means the official form from FEMA used to provide elevation information necessary to ensure compliance with provisions of this title and determine the proper flood insurance premium rate. (Ord. 2019-005 Exh. A; Ord. 2017-056 Exh. A).

17.08.066 FEMA.

“FEMA” means the Federal Emergency Management Agency, the agency responsible for administering the National Flood Insurance Program. (Ord. 2019-005 Exh. A; Ord. 2017-056 Exh. A).

17.08.070 Flood or flooding.

“Flood or flooding” means a general and temporary condition of partial or complete inundation of normally dry land areas from:

A. The overflow of inland or tidal waters; and/or

B. The unusual and rapid accumulation or runoff of surface waters from any source. (Ord. 2019-005 Exh. A; Ord. 2017-056 Exh. A; Ord. 96-050 Exh. A; Ord. 87-25 (part)).

17.08.080 Flood insurance rate map (FIRM).

“Flood insurance rate map (FIRM)” means the official map on which the Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community. (Ord. 2019-005 Exh. A; Ord. 2017-056 Exh. A; Ord. 96-050 Exh. A; Ord. 87-25 (part)).

17.08.090 Flood insurance study.

“Flood insurance study” means the official report provided by the Federal Insurance Administration that includes flood profiles, the flood boundary map, and the water surface elevation of the base flood. (Ord. 2019-005 Exh. A; Ord. 2017-056 Exh. A; Ord. 96-050 Exh. A; Ord. 87-25 (part)).

17.08.092 Flood protection elevation (FPE).

“Flood protection elevation” means the elevation above the datum of the effective FIRM to which new and substantially improved structures including associated machinery or equipment and other service facilities must be protected from flood damage. (Ord. 2019-005 Exh. A; Ord. 2017-056 Exh. A).

Comment [TB1]: Required to maintain FEMA CRS Class 6 rating

17.08.095 Floodway.

“Floodway” means the channel of a river or other watercourse and adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot. (Ord. 2019-005 Exh. A; Ord. 2017-056 Exh. A; Ord. 96-050 Exh. A; Ord. 87-25 (part)).

17.08.097 Historic structure.

“Historic structure” means any structure that is:

A. Listed individually in the National Register of Historic Places (a listing maintained by the Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register; or

B. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district; or

C. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or

D. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:

The Whatcom County Code is current through Ordinance 2019-031, passed April 9, 2019, and Resolution 2019-022, passed April 9, 2019.

1. By an approved state program as determined by the Secretary of the Interior; or
2. Directly by the Secretary of the Interior in states without approved programs. (Ord. 2019-005 Exh. A; Ord. 2017-056 Exh. A).

17.08.100 Lowest floor.

“Lowest floor” means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building’s lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable nonelevation design requirements of this title found at WCC 17.16.080(B). (Ord. 2019-005 Exh. A; Ord. 2017-056 Exh. A; Ord. 96-050 Exh. A; Ord. 87-25 (part)).

17.08.110 Manufactured home.

“Manufactured home” means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes, the term “manufactured home” also includes park trailers, travel trailers and other similar vehicles placed on a site for greater than 120 consecutive days. For insurance purposes, the term “manufactured home” does not include park trailers, travel trailers, recreational vehicles and other similar vehicles. (Ord. 2019-005 Exh. A; Ord. 2017-056 Exh. A; Ord. 96-050 Exh. A; Ord. 87-25 (part)).

17.08.120 Manufactured home park or subdivision.

“Manufactured home park or subdivision” means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale. (Ord. 2019-005 Exh. A; Ord. 2017-056 Exh. A; Ord. 96-050 Exh. A; Ord. 87-25 (part)).

17.08.130 New construction.

“New construction” means structures for which the start of construction commenced on or after the effective date of the ordinance codified in this title. (Ord. 2019-005 Exh. A; Ord. 2017-056 Exh. A; Ord. 96-050 Exh. A; Ord. 87-25 (part). Formerly 17.08.140).

17.08.140 Recreational vehicle.

“Recreational vehicle” is a vehicle which is:

- A. Built on a single chassis; and
- B. Four hundred square feet or less when measured at the largest horizontal projection; and
- C. Designed to be self-propelled or permanently towable by a light duty truck; and
- D. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use. (Ord. 2019-005 Exh. A; Ord. 2017-056 Exh. A; Ord. 96-050 Exh. A. Formerly 17.08.130).

17.08.155 Special flood hazard area (SFHA).

See WCC 17.08.040, Area of special flood hazard. (Ord. 2019-005 Exh. A; Ord. 2017-056 Exh. A).

17.08.160 Start of construction.

“Start of construction” (for other than new construction or substantial improvements under the Coastal Barrier Resources Act (Pub. L. 97-348)), includes substantial improvement and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial

improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building. (Ord. 2019-005 Exh. A; Ord. 2017-056 Exh. A; Ord. 96-050 Exh. A; Ord. 87-25 (part)).

17.08.170 Structure.

“Structure” means a walled and roofed building, including a gas or liquid storage tank that is principally above ground. (Ord. 2019-005 Exh. A; Ord. 2017-056 Exh. A; Ord. 96-050 Exh. A; Ord. 87-25 (part)).

17.08.178 Substantial damage.

“Substantial damage” means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred. Substantial damage also means flood-related damage sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of each such flood event, on the average, equals or exceeds 25 percent of the market value of the structure before the damage occurred. (Ord. 2019-005 Exh. A; Ord. 2017-056 Exh. A).

17.08.180 Substantial improvement.

“Substantial improvement” means any repair, reconstruction, rehabilitation, addition or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either:

- A. Before the start of construction of the improvement or repair; or
- B. Before the damage occurred, if the structure has been damaged and is being restored.

For the purpose of this definition, “substantial improvement” is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.

The term does not, however, include either:

- C. Any project for improvement of a structure to correct pre-cited existing violations of state or local health, sanitary, or safety code specifications which have been previously identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or
- D. Any alteration of a historic structure; provided, that the alteration will not preclude the structure’s continued designation as a historic structure. (Ord. 2019-005 Exh. A; Ord. 2017-056 Exh. A; Ord. 2017-056 Exh. A; Ord. 96-050 Exh. A; Ord. 87-25 (part)).

17.08.190 Variance.

“Variance” means a grant of relief from the requirements of this title which permits construction in a manner that would otherwise be prohibited by this title. (Ord. 2019-005 Exh. A; Ord. 2017-056 Exh. A; Ord. 96-050 Exh. A; Ord. 87-25 (part)).

17.08.193 Watercourse.

“Watercourse” means only the channel and banks of an identifiable watercourse, and not the adjoining floodplain areas. The flood-carrying capacity of a watercourse refers to the flood-carrying capacity of the channel (except in the case of alluvial fans, where a channel is not typically defined). (Ord. 2019-005 Exh. A; Ord. 2017-056 Exh. A).

17.08.195 Wet floodproofing.

“Wet floodproofing” means permanent or contingent measures applied to a structure and/or its contents that prevent or provide resistance to damage from flooding by using flood-resistant materials and by allowing water to enter and exit the structure. (Ord. 2019-005 Exh. A; Ord. 2017-056 Exh. A).

17.08.200 Zone.

“Zone” means one or more areas delineated on the FIRM. The following zones may be used on the adopted FIRM. The special flood hazard area is comprised of the A and V Zones.

- A: SFHA where no base flood elevation is provided.

The Whatcom County Code is current through Ordinance 2019-031, passed April 9, 2019, and Resolution 2019-022, passed April 9, 2019.

- A#: numbered A Zones (e.g., A7 or A14), SFHA with a base flood elevation.
- AE: SFHA with a base flood elevation.
- AO: SFHA subject to inundation by shallow flooding, usually resulting from sheet flow on sloping terrain, with average depths between one and three feet. Average flood depths are shown.
- AH: SFHA subject to inundation by shallow flooding (usually areas of ponding) with average depths between one and three feet. Base flood elevations are shown.
- D: area of undetermined but possible flood hazard.
- V: the SFHA subject to coastal high hazard flooding including waves of three feet or greater in height. There are three types of V Zones: V, V#, and VE, and they correspond to the A Zone designations.
- Shaded X: areas of two-tenths of one percent annual chance flood; areas of one percent annual chance flood with average depths of less than one foot or with drainage areas less than one square mile; and areas protected by levees from one percent annual chance flood.
- Unshaded X: areas determined to be outside the two-tenths of one percent annual chance floodplain. (Ord. 2019-005 Exh. A; Ord. 2017-056 Exh. A).

Chapter 17.10

REGULATORY DATA

Sections:

- 17.10.010 Basis for establishing special flood hazard area.
- 17.10.020 Flood hazard data.
- 17.10.030 New regulatory data.

17.10.010 Basis for establishing special flood hazard area.

A. The areas of special flood hazard identified by the Federal Insurance Administration in a scientific and engineering report entitled “The Flood Insurance Study for Whatcom County, Washington and Incorporated Areas,” dated January 18, 2019, and any revisions thereto, with an accompanying flood insurance rate map (FIRM), and any revisions thereto, are hereby adopted by reference and declared to be a part of this title. The flood insurance study and the FIRM are on file at the department of public works.

B. The administrator shall make interpretations where needed as to the exact location of the boundaries of the SFHA where there appears to be a conflict between the mapped SFHA boundary and actual field conditions, as determined by the base flood elevation and ground elevations. The applicant may appeal the administrator’s interpretation of the location of the boundary in accordance with WCC 17.12.060.

C. The applicant may officially have a structure or property removed from the SFHA by obtaining a letter of map amendment (LOMA) with FEMA. A LOMA establishes a structure or property’s location in relation to the SFHA. LOMAs are usually issued because a property has been inadvertently mapped as being in the floodplain, but is actually on natural high ground above the base flood elevation. (Ord. 2019-005 Exh. A; Ord. 2017-056 Exh. A).

17.10.020 Flood hazard data.

A. The base flood elevation for the SFHAs delineated as Zone AE of Whatcom County, Washington, shall be as delineated on the 100-year flood profiles in “The Flood Insurance Study for Whatcom County, Washington and Incorporated Areas.”

B. The base flood elevation for each SFHA delineated as a Zone AH or Zone AO shall be that elevation (or depth) delineated on the flood insurance rate map. Where base flood depths are not available in Zone AO, the base flood elevation shall be considered to be two feet above the highest grade adjacent to the structure.

C. The base flood elevation for all other SFHAs delineated as Zone A shall be as defined in subsection F of this section and WCC 17.10.030(C).

D. The flood protection elevation shall be the base flood elevation plus one foot.

E. The floodway shall be as delineated on the flood insurance rate map or in accordance with subsection F of this section and WCC 17.10.030(C).

F. Where base flood elevation and floodway data have not been provided in special flood hazard areas, the administrator shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a federal, state, local, or other source. In cases where the administrator is unable to obtain any base flood elevation, the flood protection elevation shall be two feet above the highest adjacent grade.

G. The base flood elevation for the SFHAs delineated as coastal Zone VE and AE of Whatcom County, Washington, shall be as delineated on the flood insurance rate maps and as found in “The Flood Insurance Study for Whatcom County, Washington and Incorporated Areas.” (Ord. 2019-005 Exh. A; Ord. 2017-056 Exh. A).

17.10.030 New regulatory data.

A. All requests to revise or change the flood hazard data, including requests for a letter of map revision and a conditional letter of map revision, shall be reviewed by the administrator.

1. The administrator shall not sign the community acknowledgment form for any requests based on filling or other development, unless the applicant for the letter documents that such filling or development is in compliance with this title.

2. The administrator shall not approve a request to revise or change a floodway delineation until FEMA has issued a conditional letter of map revision (CLOMR) that approves the change.

B. If an applicant disagrees with the regulatory data prescribed by this title, he/she may submit a detailed technical study needed to replace existing data with better data in accordance with FEMA mapping guidelines. If the data in question are shown on the published FIRM, the submittal must also include a request to FEMA for a conditional letter of map revision.

C. Where base flood elevation or floodway delineation is not available in accordance with WCC 17.10.020, applicants for approval of new subdivisions and other proposed developments (including proposals for manufactured home parks and subdivisions) greater than 50 lots or five acres, whichever is the lesser, shall include such data with their permit applications, unless waived by the administrator. This provision does not apply to applications for permits for small projects on large lots, such as constructing a single-family home; in these situations, the administrator shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a federal, state, local or other authoritative source. (Ord. 2019-005 Exh. A; Ord. 2017-056 Exh. A).

Chapter 17.12

ADMINISTRATION

Sections:

- 17.12.010 Establishment of floodplain development permit.
- 17.12.012 Requirements for floodplain development permit application within a SFHA.
- 17.12.020 Administrative department – Designated.
- 17.12.030 Administrative department – Duties and responsibilities.
- 17.12.040 Variances – Process.
- 17.12.050 Variances – Conditions for issuance.
- 17.12.060 Appeals.
- 17.12.070 Enforcement.

17.12.010 Establishment of floodplain development permit.

A floodplain development permit shall be obtained before construction or development begins within any area of special flood hazard established in WCC 17.10.010. The permit shall be for all development as set forth in WCC 17.08.060. In situations where another county permit is required for development, the floodplain development permit may be issued in the form of conditions within the other county permit. (Ord. 2019-005 Exh. A; Ord. 2017-056 Exh. A; Ord. 96-050 Exh. A; Ord. 87-25 (part)).

17.12.012 Requirements for floodplain development permit application within a SFHA.

Application for a floodplain development permit within a SFHA shall be made through the development application process administered by the department of planning and development services or on forms furnished by the department of public works if other local permits are not required, and may include, but not be limited to:

A. One or more site plans drawn to scale showing:

1. The nature, location, dimensions, and elevations of the property;
2. Names and locations of all water bodies, waterways, and drainage facilities within 200 feet of the site;
3. Existing and proposed structures, fill, pavement and other impervious surfaces, and sites for storage of materials;
4. Existing and proposed drainage facilities including, but not limited to, swales, storm sewers, overland flow paths, and detention facilities;
5. The elevation of the 100-year floods, where the data are available;
6. Existing and proposed contours at intervals sufficient to accurately determine the extent of proposed changes if the proposed project involves grading, excavation, or filling;
7. Existing vegetation and proposed vegetation removal and revegetation.

B. If the proposed project will be elevated, including a new structure, substantial improvement, or repairs to a substantially damaged structure, the application shall include the flood protection elevation for the building site and the proposed elevations of the following:

1. The top of lowest floor (including basement, crawlspace, or enclosure floor).
2. The top of the next higher floor.
3. The bottom of the lowest horizontal structural member (in V Zones only).
4. The top of the slab of an attached garage.

5. The lowest elevation of machinery or equipment servicing the structure.
6. The lowest adjacent (finished) grade next to structure.
7. The highest adjacent (finished) grade next to structure.
8. The lowest adjacent grade at the lowest elevation of a deck or stairs, including structural support.

C. If the proposed project will be wet or dry floodproofed, including a new structure, substantial improvement, or repairs to a substantially damaged nonresidential structure, the application shall include the flood protection elevation for the building site and the elevation in relation to the datum of the effective FIRM to which the structure will be floodproofed and a certification by a registered professional engineer or licensed architect that the floodproofing methods meet the floodproofing criteria in WCC 17.16.090 or 17.16.110.

D. The application shall include a description of the extent to which any watercourse will be altered or relocated as a result of proposed development, and shall also submit a request for a conditional letter of map revision (CLOMR), where required by FEMA. The project will not be approved unless FEMA issues the CLOMR and the provisions of the letter are made part of the permit requirements.

E. The applicant shall submit a finished construction elevation certificate completed and certified by a licensed professional surveyor prior to occupancy.

F. Compliance with FEMA's National Flood Insurance Program, including the protection standards for critical habitats for listed species, shall be demonstrated through a habitat assessment, and, if necessary, a mitigation plan done in accordance with the FEMA Regional Guidance for the Puget Sound Basin. (Ord. 2019-005 Exh. A; Ord. 2017-056 Exh. A).

17.12.020 Administrative department – Designated.

The department of public works will administer and implement this title by granting or denying floodplain development permit applications in accordance with its provisions. (Ord. 2019-005 Exh. A; Ord. 2017-056 Exh. A; Ord. 96-050 Exh. A; Ord. 87-25 (part)).

17.12.030 Administrative department – Duties and responsibilities.

The duties of the department of public works shall include, but not be limited to:

A. Permit Review. The department of public works shall:

1. Review all floodplain development permit applications to determine that the permit requirements of this title have been satisfied;
2. Review all floodplain development permit applications to determine that all necessary permits have been obtained from those federal, state or local governmental agencies from which prior approval is required;
3. Review all floodplain development permit applications to determine if the proposed development adversely affects the flood-carrying capacity of the area of special flood hazard, and prohibit those developments that are determined to adversely affect the flood-carrying capacity. For purposes of this section, "adversely affects flood-carrying capacity" means that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will increase the water surface elevation of the base flood more than one foot at any point;
4. Review and approve all elevation certificates to determine if the structure is in compliance with this title;
5. Review all development permit applications within the SFHA to ensure the proposed development is compliant with FEMA's National Flood Insurance Program protection standards for critical habitats of species listed under the Endangered Species Act;
6. Notify the department of planning and development services of the review and decision results of the above in a timely manner.

The Whatcom County Code is current through Ordinance 2019-031, passed April 9, 2019, and Resolution 2019-022, passed April 9, 2019.

B. Use of Other Base Flood Data. When base flood elevation data has not been provided in accordance with Chapter 17.10 WCC, the department of public works shall obtain, review, and reasonably use any base flood elevation and floodway data available from a federal, state, or other source in order to administer Chapter 17.16 WCC.

C. Information to Be Obtained and Maintained. The department of public works shall:

1. When base flood elevation data is provided through the flood insurance study or required as in subsection B of this section, obtain and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures and whether or not the structure contains a basement;
2. For all new or substantially improved nonresidential structures that are floodproofed:
 - a. Verify and record the actual elevation to which the structure has been floodproofed (in relation to datum specified on the FIRM); and
 - b. Maintain certification by a registered professional engineer that the floodproofing methods for any structure meet the criteria as provided in WCC 17.16.090;
3. Maintain for public inspection all records pertaining to the provisions of this title;
4. Submit reports as required by FEMA for the National Flood Insurance Program.

D. Alteration of Watercourse.

1. Prior to any alteration or relocation of a watercourse, the department of planning and development services shall provide notification to adjacent communities and the Washington State Department of Ecology in accordance with Chapter 16.08 WCC.
2. The department of public works shall:
 - a. Provide evidence of such notification to FEMA;
 - b. Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished.

E. Required Submission of Additional Information. The administrator shall have authority to require the applicant to submit information certified by licensed professional land surveyors, architects, or engineers as may be reasonably necessary to assure conformance with the standards of this title. (Ord. 2019-005 Exh. A; Ord. 2017-056 Exh. A; Ord. 96-050 Exh. A; Ord. 87-25 (part)).

17.12.040 Variances – Process.

A. ~~The hearing examiner/administrator as established by Whatcom County~~ shall ~~hear-review~~ and decide requests for variances from the requirements of this title.

B. In deciding variance requests, the ~~hearing examiner/administrator~~ shall consider WCC 17.12.050, all technical evaluations, relevant factors, and standards specified in other sections of this title; and:

1. The danger that materials may be swept onto other land to the injury of others;
2. The danger to life and property due to flooding or erosion damage;
3. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
4. The importance of the services provided by the proposed facility to the community;
5. The necessity to the facility of a waterfront location, where applicable;

Comment [TB2]: Variances to flood code do not require hearings examiner decision or public notice, this amendment is being proposed to reduce burden to applicant and staff when processing variances for Ag. Structures per updated FEMA policy #104-008-03

Comment [TB3]: Same as above

6. The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
7. The compatibility of the proposed use with existing and anticipated development;
8. The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
9. The safety of access to the property in times of flood for ordinary and emergency vehicles;
10. The expected heights, velocity, duration, rate of rise, the sediment transport of the flood waters, and the effects of wave action, if applicable, expected at the site;
11. The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, water systems, and streets and bridges; and
12. The potential of the proposed development to adversely affect endangered species and proposed mitigation measures to ensure compliance with the Endangered Species Act.

C. Upon consideration of the factors of subsection B of this section and the purposes of this title, the ~~hearing examiner~~ **administrator** may attach such conditions to the granting of variances as deemed necessary to further the purposes of this title.

D. The ~~hearing examiner~~ **administrator** shall maintain the records of all actions and report any variances to the Federal Insurance Administration upon request. (Ord. 2019-005 Exh. A; Ord. 2017-056 Exh. A; Ord. 96-050 Exh. A; Ord. 87-25 (part)).

Comment [TB4]: Variances to flood code do not require hearings examiner decision or public notice, this amendment is being proposed to reduce burden to applicant and staff when processing variances for Ag. Structures per updated FEMA policy #104-008-03

Comment [TB5]: Same as above

17.12.050 Variances – Conditions for issuance.

A. Generally, the only condition under which a variance from the elevation standard may be issued is for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, provided WCC 17.12.040(B)(1) through (12) have been fully considered. As the lot size increases, the technical justification required for issuing the variance increases.

B. Variances may be issued for the reconstruction, rehabilitation, or restoration of historic structures without regard to the procedures set forth in the remainder of this section.

C. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

D. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

E. Variances shall only be issued upon:

1. A showing of good and sufficient cause;
2. A determination that failure to grant the variance would result in exceptional hardship to the applicant;
3. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public as identified in WCC 17.12.040(B), or conflict with existing local laws or ordinances; and
4. A determination that the proposed development is compliant with the Endangered Species Act.

F. Variances as interpreted in the National Flood Insurance Program are based on the general zoning law principle that they pertain to a physical piece of property; they are not personal in nature and do not pertain to the structure, its

inhabitants, economic or financial circumstances. They primarily address small lots in densely populated residential neighborhoods. As such, variances from the flood elevations should be quite rare.

G. Variances may be issued for nonresidential buildings in very limited circumstances to allow a lesser degree of floodproofing than watertight or dry floodproofing, where it can be determined that such action will have low damage potential, complies with all other variance criteria except subsection A of this section, and otherwise complies with WCC 17.16.020 and 17.16.030.

H. Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor elevation below the base flood elevation and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation. (Ord. 2019-005 Exh. A; Ord. 2017-056 Exh. A; Ord. 96-050 Exh. A; Ord. 87-25 (part)).

17.12.060 Appeals.

A. Any aggrieved party may appeal any order, variance, condition of approval, or alleged error made by the administrator in the administration or enforcement of this chapter to the hearing examiner as established by Whatcom County, who shall have the authority to hear and decide such appeals.

Comment [TB6]: "Hearings examiner as established by Whatcom County" was removed from section 17.12.040 (variances) but is needed for appeals.

B. An appeal shall be filed within 14 days of the issuance of a final permit decision. For decisions associated with a project permit, as defined in Chapter 20.97 WCC, the final permit decision is when the project permit is issued. For decisions not associated with a project permit, the final permit decision is when the floodplain development permit is issued by the administrator.

C. Appeals shall be processed in accordance with Chapter 22.05 WCC and accompanied by a fee as specified in the unified fee schedule.

D. The applicant, any party of record, or any county department may appeal any final decision of the hearing examiner to superior court within 10 business days of the final decision of the hearing examiner. (Ord. 2019-005 Exh. A; Ord. 2017-056 Exh. A).

17.12.070 Enforcement.

A. Any person, firm, or corporation violating any of the provisions of this title may be subject to enforcement actions and penalties allowed by county code, as amended, for the applicable development permit, approval, or license required for the floodplain development or action. The administrator is hereby authorized to enforce the provisions of this chapter.

B. The enforcement process and penalties contained in Chapter 20.94 WCC are hereby adopted in full for enforcement of this chapter, except for WCC 20.94.010 (Purpose) and WCC 20.94.060 (Appeals); provided, that each occurrence of the term "zoning administrator" shall be substituted with "administrator." (Ord. 2019-005 Exh. A; Ord. 2017-056 Exh. A).

Chapter 17.16

FLOOD HAZARD REDUCTION STANDARDS

Sections:

- 17.16.010 Standards.
- 17.16.020 Anchoring.
- 17.16.030 Construction materials and methods.
- 17.16.040 Utilities.
- 17.16.050 Subdivision proposals.
- 17.16.060 Review of building permits.
- 17.16.070 *Repealed.*
- 17.16.080 Residential construction.
- 17.16.090 Nonresidential construction.
- 17.16.095 Critical facilities.
- 17.16.100 Manufactured homes.
- 17.16.110 Wet floodproofing.
- 17.16.115 Recreational vehicles.
- 17.16.120 Floodways.
- 17.16.125 Standards for AE and A1-30 Zones with base flood elevations but no floodways.
- 17.16.130 Standards for shallow flooding areas (AO Zones).
- 17.16.140 Coastal high hazard areas.

17.16.010 Standards.

The standards set forth in WCC 17.16.020 through 17.16.140 are required in all areas of special flood hazards. (Ord. 2019-005 Exh. A; Ord. 2017-056 Exh. A; Ord. 96-050 Exh. A; Ord. 87-25 (part)).

17.16.020 Anchoring.

A. All new construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure.

B. All manufactured homes must likewise be anchored to prevent flotation, collapse or lateral movement, and shall be installed using methods and practices that minimize flood damage. Anchoring methods may include, but are not limited to, use of over-the-top or frame ties to ground anchors (reference FEMA's "Manufactured Home Installation in Flood Hazard Areas" guidebook for additional techniques). (Ord. 2019-005 Exh. A; Ord. 2017-056 Exh. A; Ord. 96-050 Exh. A; Ord. 87-25 (part)).

17.16.030 Construction materials and methods.

A. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.

B. All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

C. Electrical, heating, ventilation, plumbing and air-conditioning equipment and other service facilities shall be designed and/or otherwise elevated ~~to or above the flood protection elevation or located~~ so as to prevent water from entering or accumulating within the components during conditions of flooding. ~~Locating such equipment below the base flood elevation may cause flood insurance premiums to be increased.~~ (Ord. 2019-005 Exh. A; Ord. 2017-056 Exh. A; Ord. 96-050 Exh. A; Ord. 87-25 (part)).

Comment [TB7]: Required to maintain FEMA CRS Class 6 rating

Comment [TB8]: Not necessary as equipment below the BFE/FPE is not allowed

17.16.040 Utilities.

A. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.

B. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters.

The Whatcom County Code is current through Ordinance 2019-031, passed April 9, 2019, and Resolution 2019-022, passed April 9, 2019.

C. On-site waste storage and disposal systems shall be located to avoid impairment to them, or contamination from them, during flooding.

D. Water supply wells associated with new development shall be located where they are not subject to ponding and are not in the floodway. (Ord. 2019-005 Exh. A; Ord. 2017-056 Exh. A; Ord. 96-050 Exh. A; Ord. 87-25 (part)).

17.16.050 Subdivision proposals.

A. All subdivision proposals shall:

1. Be consistent with the need to minimize flood damage.
2. Have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.
3. Have adequate drainage provided to reduce exposure to flood damage.

B. Where base flood elevation data has not been provided or is not available from another authoritative source, it shall be developed in accordance with WCC 17.10.030(C). (Ord. 2019-005 Exh. A; Ord. 2017-056 Exh. A; Ord. 96-050 Exh. A; Ord. 87-25 (part)).

17.16.060 Review of building permits.

Where elevation data is not available, either through the flood insurance study or from another authoritative source (WCC 17.10.010 and 17.12.030(B)), applications for building permits shall be reviewed to assure that proposed construction will be reasonably safe from flooding. The test of reasonableness is a local judgment and includes use of historical data, high water marks, photographs of past flooding, etc., where available. Failure to elevate at least two feet above the highest adjacent grade in these zones may result in higher insurance rates. (Ord. 2019-005 Exh. A; Ord. 2017-056 Exh. A; Ord. 96-050 Exh. A; Ord. 87-25 (part)).

17.16.070 Specific standards.

Repealed by Ord. 2017-056. (Ord. 96-050 Exh. A; Ord. 87-25 (part)).

17.16.080 Residential construction.

A. New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated to or above the flood protection elevation, as determined in accordance with WCC 17.10.020(D).

B. Fully enclosed areas below the lowest floor that are subject to flooding are prohibited, or shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of flood waters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria:

1. A minimum of two openings on different sides of each enclosed area having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided;
2. The bottom of all openings shall be no higher than one foot above grade either inside or outside of the opening in the crawlspace;
3. Openings may be equipped with screens, louvers, or other coverings or devices; provided, that they permit the automatic entry and exit of flood waters.

C. Subgrade crawlspaces are prohibited unless the following conditions are met:

1. The interior grade of a crawlspace below the base flood elevation must not be more than two feet below the lowest adjacent exterior grade;
2. The height of the subgrade crawlspace, measured from the interior grade of the crawlspace to the top of the crawlspace foundation wall, must not exceed four feet at any point;

3. A drainage system designed to adequately drain the subgrade crawlspace area (e.g., subsurface drains or sump pump system) once flood waters have receded must be provided; and
4. The crawlspace must comply with applicable FEMA guidance (FEMA Technical Bulletin 11, Crawlspace Construction for Buildings Located in Special Flood Hazard Areas, or updated guidance).

The administrator will notify the applicant that construction of a subgrade crawlspace will likely impact flood insurance premiums. (Ord. 2019-005 Exh. A; Ord. 2017-056 Exh. A; Ord. 96-050 Exh. A; Ord. 87-25 (part)).

17.16.090 Nonresidential construction.

New construction and substantial improvement of any commercial, accessory, agricultural, industrial or other nonresidential structure, together with attendant utility and sanitary facilities, shall:

A. Have the lowest floor, including basement, elevated to the level of the flood protection elevation. The space below the lowest floor must meet the standards in WCC 17.16.080(B) and (C); or

B. Be dry floodproofed so that:

1. Below the flood protection elevation the structure is watertight with walls substantially impermeable to the passage of water; and
2. Structural components are capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and
3. The design and methods of construction are certified by a registered professional engineer in accordance with accepted standards of practice for meeting provisions of this subsection based on their development and/or review of the structural design, specifications and plans. Such certifications shall be as set forth in WCC 17.12.030(E) and shall be provided by the applicant as required by the department of public works; or

C. Be wet floodproofed in compliance with the requirements of WCC 17.16.110.

Applicants floodproofing nonresidential buildings shall be notified that flood insurance premiums will be based on rates that are one foot below the floodproofed level (e.g., a building constructed to the base flood level will be rated as one foot below that level). (Ord. 2019-005 Exh. A; Ord. 2017-056 Exh. A; Ord. 96-050 Exh. A; Ord. 87-25 (part)).

17.16.095 Critical facilities.

Construction of new critical facilities shall be, to the extent possible, located outside the limits of the SFHA (100-year floodplain). Construction of new critical facilities shall be permissible within the floodplain if no feasible alternative site is available. Critical facilities constructed within the floodplain shall have the lowest floor elevated two feet above the base flood elevation. Floodproofing and sealing measures must be taken to ensure that toxic substances will not be displaced by or released into flood waters. Access routes elevated to or above the level of the base flood elevation shall be provided to all critical facilities to the extent possible without adversely affecting the flood-carrying capacity of the SFHA. (Ord. 2019-005 Exh. A; Ord. 2017-056 Exh. A).

17.16.100 Manufactured homes.

All manufactured homes to be placed or substantially improved shall be:

A. Elevated on a permanent foundation in accordance with WCC 17.16.080 if within Zones A, AE, AH, and AO, and subject to WCC Title 15.

B. Elevated on a permanent foundation in accordance with WCC 17.16.140 if within Zone V or VE.

C. Securely anchored to an adequately anchored foundation system in accordance with the provisions of WCC 17.16.020(B). (Ord. 2019-005 Exh. A; Ord. 2017-056 Exh. A; Ord. 96-050 Exh. A; Ord. 87-25 (part)).

17.16.110 Wet floodproofing.

A. Wet floodproofing is allowed for the following types of nonresidential construction:

The Whatcom County Code is current through Ordinance 2019-031, passed April 9, 2019, and Resolution 2019-022, passed April 9, 2019.

1. Wet floodproofing is allowed without a variance for enclosed areas below the flood protection elevation that are used solely for parking, access, or limited storage, including attached and detached garages.

2. Wet floodproofing is allowed with a variance for the types of structures listed below; ~~however, the administrator may waive the requirement for a formal variance,~~ provided the proposal meets the conditions of subsection B of this section and applicable FEMA guidance (FEMA Technical Bulletin 7, Wet Floodproofing Requirements, or updated guidance).

Comment [TB9]: A Variance for Ag. structures is required per updated FEMA policy document #104-008-03

a. Structures functionally dependent on close proximity to water.

b. Historic structures.

c. Accessory structures that do not exceed a maximum value of \$25,000 for the cost of construction and are designed to have a low potential for structural damage. The market value of construction shall be determined by the administrator in accordance with the valuation procedure used when setting building permit fees.

d. Agricultural structures used exclusively in connection with the production, harvesting, storage, drying, or raising of agricultural commodities, including livestock, if they are designed to have a low potential for structural damage.

B. Each structure that is wet floodproofed shall meet the following standards:

1. It shall comply with the floodway encroachment provisions of WCC 17.16.120.

2. It shall be anchored to prevent flotation, collapse, and lateral movement.

3. All portions of the structure below the flood protection elevation shall be constructed of flood-resistant materials.

4. Service utilities such as mechanical, electrical, and heating equipment shall meet the standards of WCC 17.16.030(C) and 17.16.040.

5. It shall have openings to allow free flowage of water that meet the criteria in WCC 17.16.080(B).

6. It shall be designed to have a low potential for structural damage from flood inundation, scouring, velocities, and debris impact.

7. The intended use of the structure shall have a low damage potential for content damage or an emergency operation plan to remove the contents.

8. The project shall meet all other requirements of this title. (Ord. 2019-005 Exh. A; Ord. 2017-056 Exh. A).

17.16.115 Recreational vehicles.

Recreational vehicles placed on sites within Zones A, AE, AH, AO, V, and VE shall either:

A. Be on the site for fewer than 120 consecutive days; and

B. Be fully licensed and ready for highway use, on its wheels or jacking system, attached to the site only by quick disconnect type utilities and security devices, and having no permanently attached additions; or

C. Meet the requirements of WCC 17.16.100 and anchoring requirements for manufactured homes. (Ord. 2019-005 Exh. A; Ord. 2017-056 Exh. A; Ord. 96-050 Exh. A).

17.16.120 Floodways.

Located within areas of special flood hazard established in WCC 17.10.010 are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles, and erosion potential, the following provisions apply:

The Whatcom County Code is current through Ordinance 2019-031, passed April 9, 2019, and Resolution 2019-022, passed April 9, 2019.

A. Prohibit encroachments, including fill, new construction, substantial improvements, and other development unless certification by a registered professional engineer is provided demonstrating through hydrologic and hydraulic analysis performed in accordance with standard engineering practice that the proposed encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.

B. Construction or reconstruction of residential structures is prohibited within designated floodways, except for the following:

1. Repairs, reconstruction, or improvements to a structure which do not increase the ground floor area; provided, that the cost of which does not exceed 50 percent of the market value of the structure either (a) before the repair, reconstruction, or improvement is started; or (b) before the damage occurred, if the structure has been damaged and is being restored. Work done on structures to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions shall not be included in the 50 percent;
2. Repairs, replacement, reconstruction, or improvements to existing farmhouses located in designated floodways and located on designated agricultural lands that do not increase the building's total square footage of encroachment and are consistent with all requirements of WAC 173-158-075;
3. Repairs, replacement, reconstruction, or improvements to substantially damaged residential dwellings other than farmhouses that do not increase the building's total square footage of encroachment and are consistent with all requirements of WAC 173-158-076; or
4. Repairs, reconstruction, or improvements to residential structures identified as historic structures that do not increase the building's dimensions.

C. If the provisions of subsections A and B of this section are met, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of this chapter. (Ord. 2019-005 Exh. A; Ord. 2017-056 Exh. A; Ord. 96-050 Exh. A; Ord. 87-25 (part)).

17.16.125 Standards for AE and A1-30 Zones with base flood elevations but no floodways.

In areas with base flood elevations (but a regulatory floodway has not been designated), no new construction, substantial improvements, or other development (including fill) shall be permitted within Zones A1-30 and AE on the community's FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community. (Ord. 2019-005 Exh. A).

17.16.130 Standards for shallow flooding areas (AO Zones).

Shallow flooding areas appear on FIRMs as AO Zones with depth designations. The base flood depths in these zones range from one to three feet where a clearly defined channel does not exist, or where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is usually characterized as sheet flow. In these areas, the following provisions apply:

A. New construction and substantial improvements of residential structures within AO Zones shall have the lowest floor (including basement) elevated above the highest adjacent grade of the building site, one foot above the depth number specified on the FIRM (at least two feet above the highest adjacent grade if no depth number is specified).

B. New construction and substantial improvements of nonresidential structures within AO Zones shall either:

1. Have the lowest floor (including basement) elevated above the highest adjacent grade of the building site, to one foot above the depth number specified on the FIRM (at least two feet if no depth number is specified); or
2. Together with attendant utility and sanitary facilities, be completely floodproofed to or above that level so that any space below that level is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. If this method is used, compliance shall be certified by a registered professional engineer as in WCC 17.16.090(B)(3).

C. Adequate drainage paths around structures on slopes to guide flood waters around and away from proposed structures shall be provided. (Ord. 2019-005 Exh. A; Ord. 2017-056 Exh. A; Ord. 96-050 Exh. A; Ord. 87-25 (part)).

17.16.140 Coastal high hazard areas.

Located within areas of special flood hazard established in WCC 17.10.020 are coastal high hazard areas, designated as Zones V and VE. These areas have special flood hazards associated with high velocity waters from tidal surges and, therefore, in addition to meeting all applicable provisions in this title, the following provisions shall also apply:

A. All new construction and substantial improvements in Zones V and VE shall be elevated on pilings and columns so that:

1. The bottom of the lowest horizontal structural member of the lowest floor (excluding the pilings or columns) is elevated to or above the flood protection elevation; and
2. The pile or column foundation and structure attached thereto is anchored to resist flotation, collapse and lateral movement due to the effects of wind and water loads acting simultaneously on all building components. Wind and water loading values shall each have a one percent chance of being equaled or exceeded in any given year (100-year mean recurrence interval). A registered professional engineer or architect shall develop or review the structural design, specifications and plans for the construction and shall certify that the design and methods of construction to be used are in accordance with accepted standards of practice for meeting the provisions of subsections (A)(1) and (2) of this section.

B. Obtain the elevation (in relation to mean sea level) of the bottom of the lowest structural member of the lowest floor (excluding pilings and columns) of all new and substantially improved structures in Zones V and VE, and whether or not such structures contain a basement. The local administrator shall maintain a record of all such information.

C. All new construction shall be located landward of the reach of mean high tide.

D. Provide that all new construction and substantial improvements have the space below the lowest floor either free of obstruction or constructed with nonsupporting breakaway walls, open wood latticework, or insect screening intended to collapse under wind and water loads without causing collapse, displacement, or other structural damage to the elevated portion of the building or supporting foundation system. For the purpose of this section, a breakaway wall shall have a design safe loading resistance of not less than 10 and no more than 20 pounds per square foot. Use of breakaway walls which exceed a design safe loading resistance of 20 pounds per square foot (either by design or when so required by local or state codes) may be permitted only if a registered professional engineer or architect certifies that the designs proposed meet the following conditions:

1. Breakaway wall collapse shall result from a water load less than that which would occur during the base flood; and
2. The elevated portion of the building and supporting foundation system shall not be subject to collapse, displacement, or other structural damage due to the effects of wind and water loads acting simultaneously on all building components (structural and nonstructural). Maximum wind and water loading values to be used in this determination shall each have a one percent chance of being equaled or exceeded in any given year (100-year mean recurrence interval).

E. If breakaway walls are utilized, such enclosed space shall be usable solely for parking of vehicles, building access, or storage. Such space shall not be used for human habitation.

F. Prohibit the use of fill for structural support of buildings.

G. Prohibit manmade alteration of sand dunes which would increase potential flood damage. (Ord. 2019-005 Exh. A; Ord. 2017-056 Exh. A; Ord. 96-050 Exh. A; Ord. 87-25 (part)).

Chapter 17.20
FLOOD CONTROL
MAINTENANCE PROGRAM

(Repealed by Ord. 2008-047)

Chapter 17.24

UNAUTHORIZED USE OF

MOTORIZED VEHICLES UPON FLOOD CONTROL STRUCTURES

Sections:

- 17.24.010 Definitions.
- 17.24.020 Unauthorized use of motorized vehicle.
- 17.24.030 Violation – Penalty.

17.24.010 Definitions.

The definitions set forth in this section shall apply throughout this chapter.

A. “County” means Whatcom County, unless otherwise noted.

B. “Flood control structure” means any structure, whether natural or manmade in origin, that operates, or is intended, to contain, channelize, direct or otherwise control the flow of water along or near the banks of the Nooksack River.

C. “Motorized vehicle” means any vehicle that is motor-driven, whether by internal combustion engine or electric motor, and any attachments thereto.

D. “Nooksack River” means the river commonly known as the Nooksack River, along with its North, Middle, and South Forks, as more precisely defined in WAC 173-18-410, as now written or hereinafter amended, and the channels within which this river and its forks flow, within Whatcom County.

E. “Proper authorization” means use of a motorized vehicle for purposes of inspection, maintenance, improvement, or construction of flood control structures, or for access for legitimate agricultural purposes:

1. By immediate family members or current employees of the owner or tenant of the land upon which the flood control structure is located, under the authority and direction of that owner or tenant; or
2. Under the authority and with the current permission of the public agencies responsible for flood control activities within the county.

The claim of proper authorization is an affirmative defense which must be pled prior to hearing or trial, and which the defendant must prove by a preponderance of the evidence. (Ord. 2019-005 Exh. A; Ord. 2017-056 Exh. A; Ord. 2003-002).

17.24.020 Unauthorized use of motorized vehicle.

It is unlawful for any person to operate, or to ride upon, a motorized vehicle on any flood control structure within 3,000 feet of the Nooksack River, unless done with proper authorization. (Ord. 2019-005 Exh. A; Ord. 2017-056 Exh. A; Ord. 2003-002).

17.24.030 Violation – Penalty.

Violation of this chapter shall constitute a Class 1 civil infraction under the authority granted the county in Chapter 7.80 RCW. Each violation hereof shall be punishable by a maximum penalty or default amount as set forth in RCW 7.80.120, or any successor statute thereto. All violations shall be charged, heard, and determined in accordance with the procedures set forth in Chapter 7.80 RCW. Employees of the Whatcom County public works department, river and flood division, or its successor agency, if any there be, as well as all others who are otherwise authorized to enforce ordinances of this county, are hereby authorized to enforce the provisions of this title, consistent with the provisions of Chapter 7.80 RCW.

After having been found to have committed two infractions for violations of the provisions of this chapter, any person who further violates the provisions of this chapter shall be guilty of a misdemeanor, and shall be subject to

The Whatcom County Code is current through Ordinance 2019-031, passed April 9, 2019, and Resolution 2019-022, passed April 9, 2019.

criminal penalties including a fine of not more than \$1,000, together with statutory assessments and any costs of action, and imprisonment in the county jail for a period of not more than 90 days.

In addition to the civil and criminal remedies provided for above, the county or the owner(s) of the land affected by the violation of the provisions of this chapter may bring such injunctive, declaratory or other actions as deemed necessary, and as otherwise allowed by law, to ensure that violations are prevented or cease, and to otherwise enforce the provisions of this chapter. (Ord. 2019-005 Exh. A; Ord. 2017-056 Exh. A; Ord. 2003-002).



Whatcom County

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

Agenda Bill Master Report

File Number: AB2021-450

File ID:	AB2021-450	Version:	1	Status:	Agenda Ready
File Created:	07/22/2021	Entered by:	MCaldwel@co.whatcom.wa.us		
Department:	Finance Division	File Type:	Resolution (FCZDBS)		
Assigned to:	Council			Final Action:	
Agenda Date:	08/10/2021			Enactment #:	

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

TITLE FOR AGENDA ITEM:

Resolution amending the Flood Control Zone District 2021 budget, request no. 2, in the amount of \$1,142,000 (Council acting as the Whatcom County Flood Control Zone District Board of Supervisors)

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

Supplemental #2 requests from the Flood Control Zone District Fund:

1. To appropriate \$1,142,000 in Public Works - Flood to provide additional funding for land acquisition and associated costs for the Jones Creek deflection berm.

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
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Attachments: Proposed Resolution, Jones Creek Supplemental Request

PROPOSED BY: Public Works
INTRODUCTION DATE: 8/10/21

RESOLUTION NO. _____

(A resolution of the Whatcom County Flood Control Zone District Board of Supervisors)

AMENDMENT NO. 2 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	1,142,000	(913,600)	228,400
Total Supplemental	<u>1,142,000</u>	<u>(913,600)</u>	<u>228,400</u>

BE IT FURTHER RESOLVED by the Whatcom County Flood Control Zone District Board of Supervisors that Exhibit B – Flood Capital Program of Resolution 2020-050 be amended to add \$1,142,000 to the Jones Creek Debris Flow Protection line item for a total of \$2,052,000.

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

Supplemental Budget Request

Status: Pending

Public Works

Flood Control Zone District

Suppl ID # 3282

Fund 169

Cost Center 712004

Originator: Paula Harris

Expenditure Type: One-Time

Year 1 2021

Add'l FTE ☐

Add'l Space ☐

Priority 1

Name of Request: Jones Creek Deflection Berm

X

Department Head Signature (Required on Hard Copy Submission)

Date

7/20/21

Costs:	Object	Object Description	Amount Requested
	4334.0310	DOE Grants	(\$913,600)
	6630	Professional Services	\$75,000
	6670	Construction Contracts	\$155,000
	7320	Land	\$912,000
	Request Total		\$228,400

1a. Description of request:

The town of Acme is located on the Jones Creek alluvial fan and is prone to damaging debris flows. The FCZD conducted a risk assessment for the Jones Creek fan and identified mitigation measures to reduce the risk to life and infrastructure. The preferred alternative includes acquisition of high risk properties and construction of a deflection berm to dissipate the debris flow energy and a setback berm to route the flow around the town of Acme.

This supplemental budget request includes funding for land acquisition and associated costs for the remaining properties needed to construct the project and demolition costs for the structures on the acquired property.

1b. Primary customers:

Residents of the town of Acme

2. Problem to be solved:

Residents and public and private infrastructure in the town of Acme are subject to potentially damaging debris flows. Several landslides in the upper watershed are actively moving, increasing the risk to the town and its residents. Numerous residences and the Acme Elementary School are located on the Jones Creek alluvial fan and both Galbraith and Turkington Roads are subject to debris flows. The impacts of debris flows are much greater than overland flooding as three foot diameter boulders can be entrained in flow depths as great as twelve feet deep in the highest risk areas of the fan.

The property acquisition that will occur using the requested budget was initially expected to occur next year. The property owner is willing to sell but wants the transaction to occur before the end of this year.

3a. Options / Advantages:

The FCZD conducted a risk assessment and evaluation of alternatives to mitigate the debris flow risk. The following structural alternatives were evaluated:

- Debris basin on the upper fan
- Debris basin with debris barrier
- Deflection and setback berms

The deflection and setback berm option was selected as the preferred alternative for several reasons. The other two alternatives include a debris basin sized for a specific storage volume; events generating larger

Tuesday, July 20, 2021

Rpt: Rpt Suppl Regular

Supplemental Budget Request

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Public Works

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volumes could result in damage to or failure of the structure. The berm option is less prone to failure for events exceeding the design event. In addition, the debris basin alternatives would involve significant instream construction and potentially create a barrier to fish passage, making them difficult or impossible to permit.

3b. Cost savings:

N/A - project is intended to reduce the risk to life and property

4a. Outcomes:

The property acquisition will be complete by the end of this year.

Construction of the berm is scheduled for 2023-24.

4b. Measures:

Closing of the property and construction of the berm project

5a. Other Departments/Agencies:

As part of the project an emergency access route will be provided lower on the fan to provide an alternate access for local residents when Turkington Road is closed due to debris flows/flooding. The alternate access will reduce the urgency to reopen Turkington Road after an event, reducing the risk to the M&O staff who respond.

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

Bridge crew typically removes sediment from the roadway and bridge and reopens the roadway

6. Funding Source:

Jones Creek land acquisition is included in the current Floodplains by Design grant awarded to the Flood Control Zone District. The grant provides for 80% reimbursement with the remaining 20% being funded by the FCZD.