

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

Barry Buchanan
Tyler Byrd
Todd Donovan
Ben Elenbaas
Carol Frazey
Kaylee Galloway
Kathy Kershner

WHATCOM COUNTY COUNCIL

**COMBINED
AGENDA PACKET FOR
NOVEMBER 9, 2022**

**INCLUDES INFORMATION
FOR THE FOLLOWING MEETINGS:**

**10:40 A.M. – CLIMATE ACTION AND NATURAL RESOURCES COMMITTEE
(ADJOURNS BY 11 A.M.)**

**11:05 A.M. - FINANCE AND ADMINISTRATIVE SERVICES COMMITTEE
(ADJOURNS BY NOON)**

**1 P.M. - PUBLIC WORKS AND HEALTH COMMITTEE
(ADJOURNS BY 2 P.M.)**

**2:05 P.M. – CRIMINAL JUSTICE AND PUBLIC SAFETY COMMITTEE
(ADJOURNS BY 2:45 P.M.; MAY BEGIN EARLY)**

**2:50 P.M. - COMMITTEE OF THE WHOLE
(ADJOURNS BY 3:15 P.M.; MAY BEGIN EARLY)**

**3:20 P.M. – PLANNING AND DEVELOPMENT COMMITTEE
(ADJOURNS BY 4:30 P.M.; MAY BEGIN EARLY)**

6 P.M. - COUNCIL

PARTICIPATE IN COUNCIL HYBRID MEETINGS

**THE COUNCIL IS CURRENTLY HOLDING MEETINGS IN HYBRID FORMAT WITH
OPTIONS FOR IN-PERSON OR REMOTE VIEWING AND PARTICIPATION. FOR
INSTRUCTIONS ON HOW TO WATCH OR PARTICIPATE IN THE COUNCIL'S
MEETINGS, VISIT [WHATCOMCOUNTY.US/JOINVIRTUALCOUNCIL](https://www.whatcomcounty.us/joinvirtualcouncil) OR CONTACT
THE COUNCIL OFFICE AT 360.778.5010**

COMMITTEE AGENDAS

COUNCIL CLIMATE ACTION AND NATURAL RESOURCES COMMITTEE
10:40 A.M. WEDNESDAY, NOVEMBER 09, 2022 – ADJOURNS BY 11:00 A.M.
Hybrid 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. AB2022-630 Report from Washington State University Extension
Page 11

Items Added by Revision

Other Business

Adjournment

COUNCIL FINANCE AND ADMINISTRATIVE SERVICES COMMITTEE
11:05 A.M. WEDNESDAY, NOVEMBER 09, 2022 – ADJOURNS BY NOON
Hybrid 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. AB2022-624 Discussion of a resolution to declare Whatcom County real property as surplus and approve sale
Pages 12 – 16

Council "Consent Agenda" Items

1. AB2022-595 Request authorization for the County Executive to enter into a contract between Whatcom County and Washington State Military Department to purchase portable radios, in the amount of \$35,682
Pages 17 – 28
2. AB2022-603 Request authorization for the County Executive to enter into an interlocal agreement between Whatcom County and the State of Washington Puget Sound Partnership for water resources programs in the Whatcom County region, in the amount of \$375,000 (Council acting as the Whatcom County Flood Control Zone District Board of Supervisors)
Pages 29 – 68

3. AB2022-605 Request authorization for the County Executive to enter into a contract between Whatcom County and Geneva Consulting Services to coordinate the Whatcom Local Integrating Organization (LIO), in the amount of \$247,587.46 (Council acting as the Whatcom County Flood Control Zone District Board of Supervisors)
Pages 69 – 98
4. AB2022-619 Request authorization for the County Executive to enter into an interlocal agreement between Whatcom County and the Whatcom Conservation District for agriculture best management practices outreach and financial assistance, in the amount of \$66,000 (Council acting as the Whatcom County Flood Control Zone District Board of Supervisors)
Pages 99 – 109
5. AB2022-623 Request authorization for the County Executive to enter into a contract amendment between Whatcom County and PeaceHealth to provide access to Epic in the amount of \$10,068 annually for a total amended contract amount of \$59,264
Pages 110 – 114
6. AB2022-626 Request authorization for the County Executive to enter into an Interlocal Agreement modification between Whatcom County and the City of Bellingham for What-Comm Communications Center operations
Pages 115 – 120
7. AB2022-628 Request authorization for the County Executive to enter into an Interlocal Agreement amendment between Whatcom County and Basic Life Support First Responder agencies in the amount of \$5,951,262.55
Pages 121 – 144
8. AB2022-629 Request authorization for the County Executive to enter into a contract amendment between Whatcom County and Hunt Forensics, LLC in the amount of \$89,028
Pages 145 – 149
9. AB2022-631 Resolution approving a salary schedule and policies for Unrepresented Whatcom County employees effective January 1, 2023 through December 31, 2023
Pages 150 – 168
10. AB2022-635 Request authorization for the County Executive to enter into a contract between Code Publishing, LLC and Whatcom County for legal code publishing services
Pages 169 – 184

Items Added by Revision

Other Business

Adjournment

COUNCIL PUBLIC WORKS AND HEALTH COMMITTEE
1:00 P.M. WEDNESDAY, NOVEMBER 09, 2022 – ADJOURNS BY 2:00 P.M.
Hybrid 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. AB2022-621 Discussion regarding proposed ordinance amending Whatcom County Code Title 3, requiring that public funds used for construction projects also provide apprentices with job training hours to meet the requirements necessary to become the next generation of skilled trades persons
Pages 185 – 195

Items Added by Revision

Other Business

Adjournment

COUNCIL CRIMINAL JUSTICE AND PUBLIC SAFETY COMMITTEE
2:05 P.M. WEDNESDAY, NOVEMBER 09, 2022 – ADJOURNS BY 2:45 P.M.; MAY BEGIN EARLY
Hybrid 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. AB2022-625 Report from the Prosecuting Attorney’s Office
Page 196

COMMITTEE DISCUSSION

1. AB2022-566 Discussion on progress and next steps of the Justice Project (Public Health, Safety, and Justice Facility Needs Assessment)
Page 197

Items Added by Revision

Other Business

Adjournment

COUNCIL COMMITTEE OF WHOLE
2:50 P.M. WEDNESDAY, NOVEMBER 09, 2022 – ADJOURNS BY 3:15 P.M.; MAY BEGIN EARLY
Hybrid 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. AB2022-594 Discuss a draft interlocal agreement between the City of Ferndale and Whatcom County concerning planning, annexation, and development within the Ferndale UGA
Pages 198 – 222

Items Added by Revision

Other Business

Adjournment

COUNCIL PLANNING AND DEVELOPMENT COMMITTEE
3:20 P.M. WEDNESDAY, NOVEMBER 09, 2022 – ADJOURNS BY 4:30 P.M.; MAY BEGIN EARLY
Hybrid 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. AB2022-597 Discussion of the Buildable Lands Report
Pages 223 – 391

COMMITTEE DISCUSSION AND RECOMMENDATION TO COUNCIL

1. AB2022-586 Discussion and motion to approve the Public Participation Plan for Whatcom County Comprehensive Plan and Development Regulation Amendments
Pages 392 – 419

Items Added by Revision

Other Business

Adjournment

COUNTY COUNCIL

REGULAR COUNCIL MEETING
6:00 P.M. WEDNESDAY, NOVEMBER 09, 2022
Hybrid Meeting

CALL TO ORDER

ROLL CALL

FLAG SALUTE

ANNOUNCEMENTS

The Council is currently holding all meetings in a hybrid format with options for in-person or remote viewing and participation. For instructions on how to watch or participate in the Council's meetings, visit whatcomcounty.us/joinvirtualcouncil or contact the Council Office at 360.778.5010.

Individuals who require special assistance to participate in the Council's meetings are asked to contact the Council Office at 360.778.5010 at least 96 hours in advance.

The County is accepting applications from county residents to fill vacancies on several boards, commissions, and 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

MINUTES CONSENT

1. MIN2022-067 Committee of the Whole Executive Session for October 25, 2022
Pages 420 – 423
2. MIN2022-068 Committee of the Whole for October 25, 2022
Pages 424 – 429
3. MIN2022-070 Regular County Council for October 25, 2022
Pages 430 – 445

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. AB2022-581 Resolution to declare Whatcom County Real Property as Surplus and Approve Sale
Pages 446 – 451
2. AB2022-601 Ordinance amending the project based budget for the Courthouse Improvement Fund, request no. 2
Pages 452 – 457
3. AB2022-604 Ordinance amending the Whatcom County Budget, request no. 15, in the amount of \$153,395
Pages 458 – 466
4. AB2022-606 Ordinance Authorizing the Levy of Taxes for Conservation Futures Purposes for 2023
Pages 467 – 468
5. AB2022-607 Ordinance Authorizing the Levy of Taxes for County Road Purposes for 2023
Pages 469 – 470

6. [AB2022-608](#) Ordinance Authorizing the Levy of Taxes for County and State Purposes in Whatcom County, Washington, for the Year of 2023
Pages 471 – 474
7. [AB2022-609](#) Ordinance amending the project based budget for the Courthouse Building Envelope Fund, request no. 5
Pages 475 – 478
8. [AB2022-610](#) Ordinance adopting the Six-Year Capital Improvement Program for Whatcom County Facilities 2023-2028
Pages 479 – 537
9. [AB2022-611](#) Resolution adopting the 2023-2024 budget for the Point Roberts Transportation Benefit District (Council acting as the governing body of the Point Roberts Transportation Benefit District)
Pages 538 – 540
10. [AB2022-612](#) Ordinance amending the project budget for the Courthouse Improvement Fund, request no. 3
Pages 541 – 545
11. [AB2022-613](#) Ordinance amending the project budget for the Criminal Justice Integrated Case Management Systems Fund, request no. 1
Pages 546 – 549
12. [AB2022-614](#) Ordinance amending the project budget for the Finance System Software Fund, request no. 1
Pages 550 – 554
13. [AB2022-615](#) Ordinance amending the project budget for the Silver Lake Park Improvement Fund, request no. 4
Pages 555 – 559
14. [AB2022-616](#) Ordinance establishing the Bellingham Senior Center HVAC Replacement Fund and establishing a project based budget for the Bellingham Senior Center HVAC Replacement project
Pages 560 – 565
15. [AB2022-617](#) Ordinance establishing the Plantation Rifle Range Lead Reclamation & Capital Improvements Fund and establishing a project based budget for the Plantation Rifle Range Lead Reclamation & Capital Improvements project
Pages 566 – 571
16. [AB2022-618](#) Ordinance in the matter of the adoption of the final budget of Whatcom County for the Biennium 2023-2024
Pages 572 – 591
17. [AB2022-620](#) Resolution adopting the 2023 budget for the Whatcom County Flood Control Zone District and Subzones (Council acting as the Flood Control Zone District Board of Supervisors)
Pages 592 – 609
18. [AB2022-622](#) Resolution authorizing the levy of taxes for the Whatcom County Flood Control Zone District for 2023
Pages 610 – 611
19. [AB2022-632](#) Ordinance Authorizing the Levy of Taxes for Countywide Emergency Medical Purposes for 2023
Pages 612 – 614
20. [AB2022-637](#) Ordinance closing COVID-19 Emergency Response (CARES Act) Fund 134
Pages 615 – 616

21. AB2022-638 Ordinance establishing a Capital Facilities Reserve Fund
Pages 617 – 618

PUBLIC HEARINGS

To participate, please see instructions at www.whatcomcounty.us/joinvirtualcouncil or contact the Council Office at 360.778.5010. All speakers are asked to state their name for the record and optionally include city of residence. When a large group of individuals supports the same position on an issue, we encourage the selection of one or two representatives to speak on behalf of the entire group. Speakers will be given three minutes to address the Council and will be notified when their three minutes are up. Speakers participating on-site in the Council Chambers will speak first, followed by those participating remotely.

1. AB2022-571 Ordinance amending the Whatcom County Code relating to Personal Wireless Service Facilities
Pages 619 – 784

OPEN SESSION (20 MINUTES)

During open session, audience members may speak to the council on issues not scheduled for public hearing. To participate, please see instructions at www.whatcomcounty.us/joinvirtualcouncil or contact the Council Office at 360.778.5010. All speakers are asked to state their name for the record and optionally include city of residence. When a large group of individuals supports the same position on an issue, we encourage the selection of one or two representatives to speak on behalf of the entire group. Speakers will be given three minutes to address the Council and will be notified when their three minutes are up. Speakers participating on-site in the Council Chambers will speak first, followed by those participating remotely.

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. AB2022-595 Request authorization for the County Executive to enter into a contract between Whatcom County and Washington State Military Department to purchase portable radios, in the amount of \$35,682
Pages 17 – 28
2. AB2022-603 Request authorization for the County Executive to enter into an interlocal agreement between Whatcom County and the State of Washington Puget Sound Partnership for water resources programs in the Whatcom County region, in the amount of \$375,000 (Council acting as the Whatcom County Flood Control Zone District Board of Supervisors)
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Pages 150 – 168
10. AB2022-635 Request authorization for the County Executive to enter into a contract between Code Publishing, LLC and Whatcom County for legal code publishing services
Pages 169 – 184

OTHER ITEMS

(From Council Planning and Development Committee)

1. AB2022-586 Discussion and motion to approve the Public Participation Plan for Whatcom County Comprehensive Plan and Development Regulation Amendments
Pages 392 – 419

(No Committee Assignment)

2. AB2022-639 Approval of Special Standing Meetings for 2023
Pages 785 – 786

COUNCIL APPOINTMENTS TO BOARDS, COMMISSIONS, AND COMMITTEES

1. AB2022-538 Appointment to fill a vacancy on the Criminal Justice Treatment Account Panel, Substance Use Disorder Treatment Agency Position, Applicant(s): Julie Grendon
Pages 787 – 792
2. AB2022-592 Appointment to fill a vacancy on the Forestry Advisory Committee, Small Forest Landowner Position, Applicant(s): Holly Koon
Pages 793 – 800
3. AB2022-593 Appointment to fill a vacancy on Drainage District 3, Commissioner Position #3, Applicant(s): Paul Sangha
Pages 801 – 803

**CONFIRMATION OF 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. AB2022-602 Request confirmation of the County Executive’s appointment of Jackie Dexter to the Marine Resources Committee
Pages 804 – 807

ITEMS ADDED BY REVISION

COMMITTEE REPORTS, OTHER ITEMS, AND COUNCILMEMBER UPDATES

ADJOURN



Whatcom County

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

Agenda Bill Master Report

File Number: **AB2022-630**

File ID:	AB2022-630	Version:	1	Status:	Agenda Ready
File Created:	10/28/2022	Entered by:	AReynold@co.whatcom.wa.us		
Department:	County Executive's Office	File Type:	Report		
Assigned to:	Council Climate Action and Natural Resources Committee			Final Action:	
Agenda Date:	11/09/2022	Enactment #:			

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

TITLE FOR AGENDA ITEM:

Report from Washington State University Extension

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

WSU Extension Annual report to Council

HISTORY OF LEGISLATIVE FILE

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



Whatcom County

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

Agenda Bill Master Report

File Number: AB2022-624

File ID:	AB2022-624	Version:	1	Status:	Agenda Ready
File Created:	10/27/2022	Entered by:	AHester@co.whatcom.wa.us		
Department:	Public Works Department	File Type:	Discussion		
Assigned to:	Council Finance and Administrative Services Committee			Final Action:	
Agenda Date:	11/09/2022			Enactment #:	

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

TITLE FOR AGENDA ITEM:

Discussion of a resolution to declare Whatcom County real property as surplus and approve sale

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

Per RCW 36.34.005 and Whatcom County Code 1.10, the Whatcom County Property Management Committee has recommended to surplus and sell Whatcom County real property, tax parcel 390225 443267 0000, subject to a covenant to bind, to the highest bidder who could legally purchase the property, by sealed bid with the minimum sale price of \$890.00 (eight hundred ninety 00/100 dollars)

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
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Attachments: Memo, Resolution, Assessor Map, Aerial Map



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

Date: October 27, 2022

Re: Resolution to Declare Whatcom County Real Property as Surplus and Approve Sale

Enclosed is a resolution requesting the approval of the surplus and sale of Whatcom County real property.

Requested Action

Public Works respectfully requests that the Whatcom County Council hold a public hearing and take action on the proposed resolution to approve the surplus and sale of Whatcom County real property.

Background and Purpose

Per RCW and Whatcom County Code, the Whatcom County Property Management Committee has recommended the sale of Whatcom County real property, tax parcel number 390225 434267 0000, subject to a covenant to bind, as surplus property. The property is a 15 foot strip less than 1 acre in total area. It has been evaluated by Public Works and it has been determined that it is useless to Public Works operations. It is recommended that it be sold by sealed bid with the minimum sale price of \$890.00 (eight hundred ninety 00/100 dollars).

Funding Amount and Source

The successful bidder is responsible for paying all costs associated with the sale of property.

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. _____

RESOLUTION TO SET HEARING AND NOTICE OF HEARING TO DECLARE WHATCOM COUNTY REAL PROPERTY AS SURPLUS

WHEREAS, RCW 36.34.005 authorizes counties to establish comprehensive procedures for the management of county property, including the declaration of Whatcom real property as surplus when it is in the best interest of the county; and 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, having met and considered Whatcom County's best interest, recommends that the County Council declare Whatcom County real property, tax parcel number 390225 434267 0000, to be surplus property, and further, that the property be transferred, sold or disposed of consistent with the provisions of the Whatcom County Code; and

NOW, THEREFORE, BE IT RESOLVED by the Whatcom County Council that a public hearing on the matter of whether to declare such real property surplus be scheduled in the Whatcom County Council Chambers at 311 Grand Avenue, Whatcom County, Bellingham, WA or via Zoom (online meeting access) for the purposes of admitting testimony for or against declaring such real property as surplus;

BE IT FURTHER RESOLVED that the Clerk of the Whatcom County Council shall give notice of such hearing in the manner prescribed by law under RCW 36.34.030.

APPROVED this _____ day of _____, 2022

ATTEST:

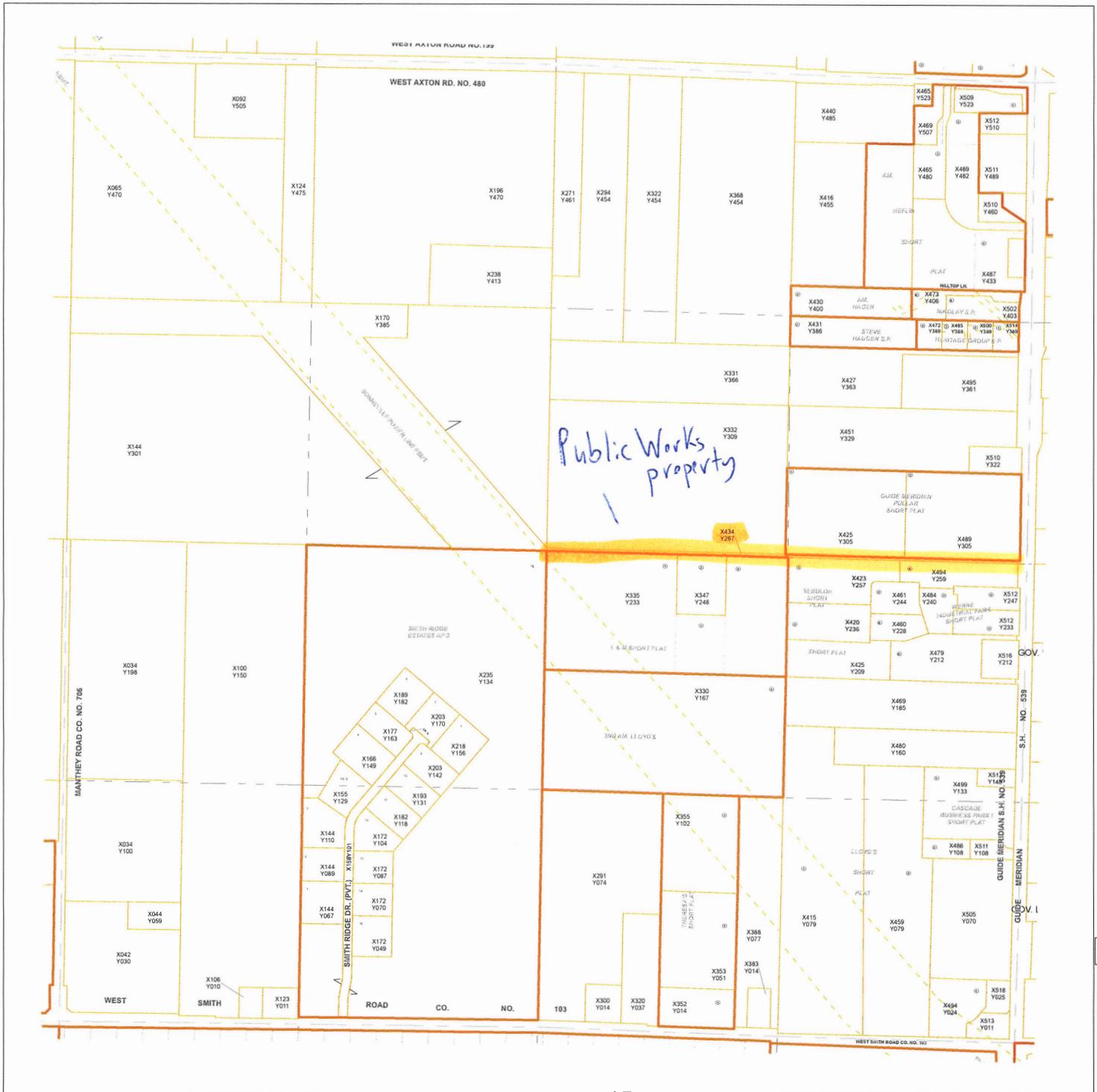
WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

Dana Brown-Davis, County Clerk

Todd Donovan, Council Chair

APPROVED AS TO FORM:

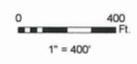
Christopher Quinn
Civil Deputy Prosecutor
(authorized via email ??/??/2022)



TOWNSHIP:
39
RANGE:
02
SECTION:
25
MAP NO.:
01

KEY MAP:

23	24	19
26	25	30
35	36	31



- Tax Parcels
- Plats
- Lots
- Section Lines
- Qtr. Section Lines
- City Limits
- Annexations
- Railroads
- Pipelines
- Waterlines
- Waterbodies*

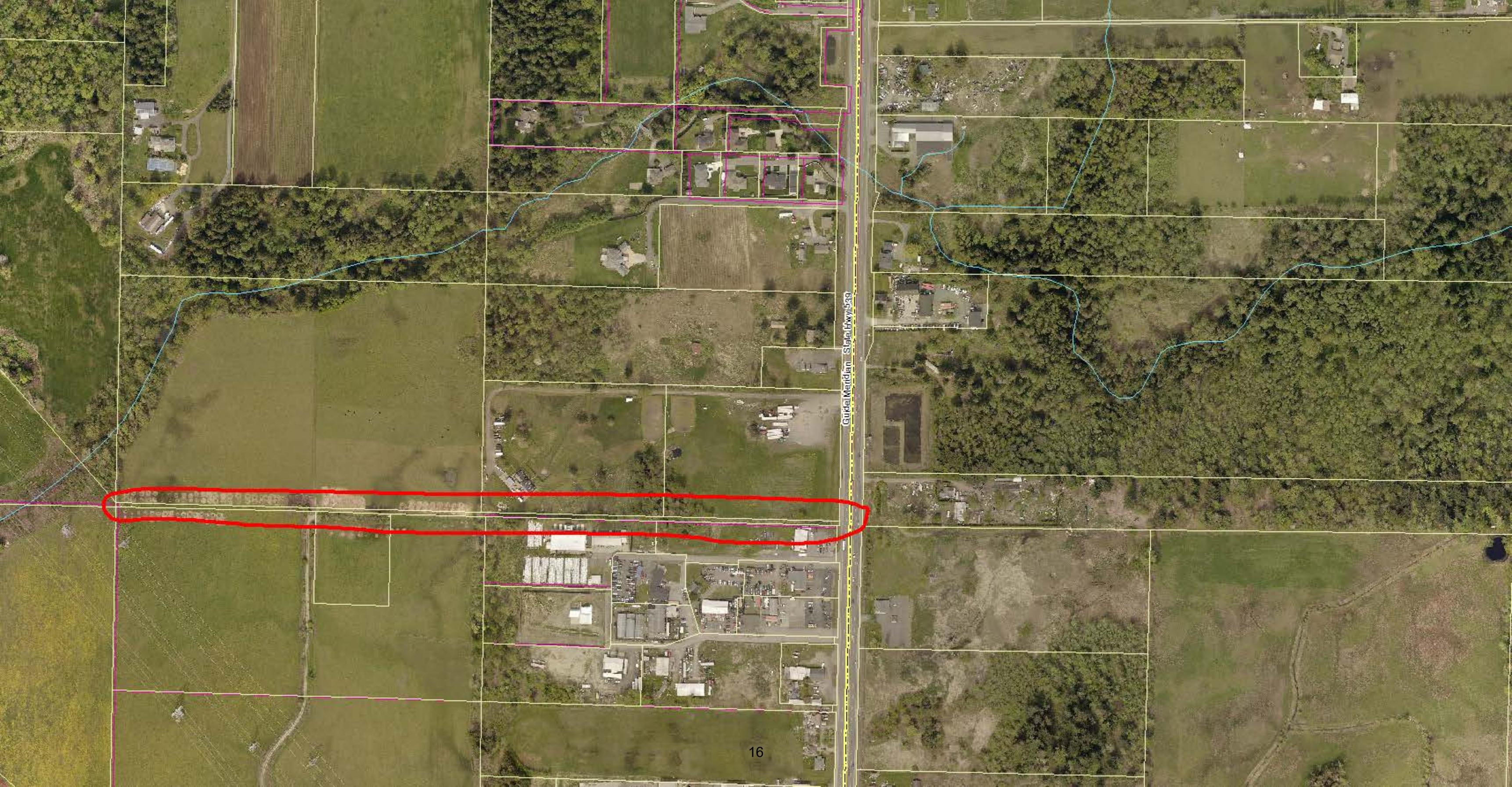
Whatcom County Assessor's Office

Sep. 30, 2022

This map is for assistance in property location and not guaranteed for accurate measurements.

Geographic Tax Parcel Numbers (GITD) are a 10-digit number derived from a combination of the Township, Range and Section, plus the XY coordinates of the theoretical center of the parcel, plus four trailing zeroes. The trailing zeroes are used where an auxiliary tax parcel exists at the same location as the primary parcel, such as a condo unit or a mobile home.

*Waterbodies provided for reference only; has not been verified by Assessor.
For information on reading maps visit our website: whatcomcounty.us/177/Assessor



Carpenter Meridian State Hwy 539



Whatcom County

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

Agenda Bill Master Report

File Number: **AB2022-595**

File ID:	AB2022-595	Version:	1	Status:	Agenda Ready
File Created:	10/20/2022	Entered by:	FBurkhar@co.whatcom.wa.us		
Department:	Sheriff's Office	File Type:	Contract		
Assigned to:	Council Finance and Administrative Services Committee			Final Action:	
Agenda Date:	11/09/2022			Enactment #:	

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

TITLE FOR AGENDA ITEM:

Request authorization for the County Executive to enter into a contract between Whatcom County and Washington State Military Department to purchase portable radios, in the amount of \$35,682

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

See Staff Memo

HISTORY OF LEGISLATIVE FILE

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

**WHATCOM COUNTY
SHERIFF'S OFFICE**

**BILL ELFO
SHERIFF**



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

MEMO

To: Satpal Singh Sidhu, Whatcom County Executive

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

Subject: 2021 Emergency Management Performance Grant American Rescue Plan Act (21EMPG-ARPA) – Amendment 1

Date: October 18, 2022

Enclosed is Amendment 1 to the US Dept of Homeland Security (DHS)/Federal Emergency Management Agency (FEMA) Federal Fiscal Year 2021 Emergency Management Performance Grant American Rescue Plan Act (21EMPG-ARPA) contract between Whatcom County Sheriff's Office Division of Emergency Management (WCSO-DEM) and the Washington State Military Department (WA-EMD) for your review.

• Background and Purpose

DHS/FEMA, through its 21EMPG-ARPA program, provides funds to assist local jurisdictions in preparing for all hazards through the sustainment and enhancement of local Emergency Management programs. This is a supplemental grant, separate from the annual EMPG grant Whatcom County receives.

Whatcom County initially received a 21EMPG-ARPA award for \$25,325. WA-EMD has awarded Whatcom County an additional \$35,682 to purchase multi-band portable radios for the Sheriff's Office.

This amendment will:

- Increase the award by \$35,682, from the original \$25,325 to the amended total of \$61,007.
- Extend the performance period by six months, changing the End Date from 12/31/2022 to 06/30/2023.
- Associated changes were made to the Work Plan (pp6-7), Timeline (p8), and Budget (p9).
- Also, the WA-EMD grant contacts have changed (p2).

The additional \$35,682 local match will be met with WUECC rental costs.

• Funding Amount and Source

\$35,682 from the federal DHS/FEMA 21EMPG-ARPA grant, CFDA # 97.042 (21EMPG), which is passed through WA-EMD.

Please contact John Gargett (360-778-7160) or Frances Burkhart (360-778-7161) if you have any questions.

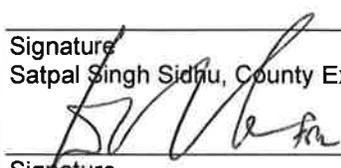
**WHATCOM COUNTY CONTRACT
INFORMATION SHEET**

Whatcom County Contract No.
202201019-1

Originating Department:	Sheriff's Office 35
Division/Program: <i>(i.e. Dept. Division and Program)</i>	Emergency Management 3580
Contract or Grant Administrator:	John Gargett
Contractor's / Agency Name:	Washington State Military Department
Is this a New Contract? If not, is this an Amendment or Renewal to an Existing Contract? Yes <input checked="" type="radio"/> No <input type="radio"/> Yes <input type="radio"/> No <input checked="" type="radio"/> If Amendment or Renewal, (per WCC 3.08.100 (a)) Original Contract #: <u>202201019</u>	
Does contract require Council Approval? Yes <input checked="" type="radio"/> No <input type="radio"/> If No, include WCC: _____ Already approved? Council Approved Date: _____ (Exclusions see: Whatcom County Codes 3.06.010, 3.08.090 and 3.08.100)	
Is this a grant agreement? Yes <input checked="" type="radio"/> No <input type="radio"/> If yes, grantor agency contract number(s): <u>E22-247-1</u> CFDA#: <u>97.042</u>	
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? Contract _____ Yes <input type="radio"/> No <input checked="" type="radio"/> If yes, RFP and Bid number(s): _____ Cost Center: <u>1673521003</u>	
Is this agreement excluded from E-Verify? No <input type="radio"/> Yes <input checked="" type="radio"/> If no, include Attachment D Contractor Declaration form.	
If YES, indicate exclusion(s) below: <input type="checkbox"/> Professional services agreement for certified/licensed professional. <input type="checkbox"/> Goods and services provided due to an emergency <input 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): \$ <u>25,325</u> This Amendment Amount: \$ <u>35,682</u> Total Amended Amount: \$ <u>61,007</u>	Council approval required for; all property leases, contracts or bid awards exceeding \$40,000 , and professional service contract amendments that have an increase greater than \$10,000 or 10% of contract amount, whichever is greater, except when: 1. Exercising an option contained in a contract previously approved by the council. 2. Contract is for design, construction, r-o-w acquisition, prof. services, or other capital costs approved by council in a capital budget appropriation ordinance. 3. Bid or award is for supplies. 4. Equipment is included in Exhibit "B" of the Budget Ordinance. 5. Contract is for manufacturer's technical support and hardware maintenance of electronic systems and/or technical support and software maintenance from the developer of proprietary software currently used by Whatcom County.
Summary of Scope: _____	
Increase the award by \$35,682, from \$25,325 to \$61,007. Extend the performance period by six months, changing the End Date from 12/31/2022 to 06/30/2023. Related changes to Work Plan, Timeline, and Budget as described in Amendment 1.	
Term of Contract: 25 months	Expiration Date: 06/30/2023

Contract Routing:	1. Prepared by: <u>Frances Burkhart</u>	Date: <u>10/18/2022</u>
	2. Attorney signoff: <u>Brandon Waldron (via email)</u>	Date: <u>10/18/2022</u>
	3. AS Finance reviewed: <u>Marianne Caldwell (via email)</u>	Date: <u>10/18/2022</u>
	4. IT reviewed (if IT related): _____	Date: _____
	5. Contractor signed: _____	Date: _____
	6. Submitted to Exec.: _____	Date: _____
	7. Council approved (if necessary): <u>AB2022-595</u>	Date: _____
	8. Executive signed: _____	Date: _____
	9. Original to Council: _____	Date: _____

**Washington State Military Department
AMENDMENT**

1. SUBRECIPIENT NAME/ADDRESS: Whatcom County Sheriff's Office Division of Emergency Management (DEM) 311 Grant Avenue Bellingham, WA 98255-4048		2. GRANT NUMBER: E22-247	3. AMENDMENT NUMBER: 1
4. SUBRECIPIENT CONTACT, PHONE/EMAIL: Frances Burkhart, 360-778-7161 fburkhar@co.whatcom.wa.us		5. DEPARTMENT CONTACT, PHONE/EMAIL: Joshua Castillo, 253-316-6432 joshua.castillo@mil.wa.gov	
6. EIN: 91-6001383	7. ASSISTANCE LISTINGS # & TITLE: 97.042 (21EMPG-ARPA)	8. FEDERAL AWARD ID # (FAIN): EMS-2021-EP-00008-S01	
9. FUNDING AUTHORITY: The Washington State Military Department (Department) and the US Department of Homeland Security (DHS)			
10. DESCRIPTION/JUSTIFICATION OF AMENDMENT: Additional funding is added to the award from unaccepted EMO awards. The Workplan, Attachment D, and Budget, Attachment F, are revised accordingly. To allow enough time for project completion, the End Date is extended by six months as well. Changes are noted in red font, strikethrough, and grey highlight.			
11. AMENDMENT TERMS AND CONDITIONS: <ol style="list-style-type: none"> Change the Grant Agreement <u>and</u> Total Match Amount from \$25,325 to \$61,007; an increase of \$35,682 as described on Page 2 of this Amendment. Change the Grant Agreement End Date from December 31, 2022 to June 30, 2023, as described on Page 2 of this Amendment. Change the Department Contact, Phone/Email, as described on Page 2 of this Amendment. Change Attachment A, SPECIAL TERMS AND CONDITIONS, Article I-Key Personnel, as described on Page 2 of this Amendment. Change the original Work Plan, Attachment D, as described on Page 2 of this Amendment. Change the original Timeline, Attachment E, as described on Page 2 of this Amendment. Change the original Budget, Attachment F, as described on Page 2 of this Amendment. 			
This Amendment is incorporated in and made a part of the Grant Agreement. Except as amended herein, all other terms and conditions of the Grant Agreement remain in full force and effect. Any reference in the original Grant Agreement or an Amendment to the "Grant Agreement" shall mean "Grant Agreement as amended". The Department and Sub-Recipient acknowledge and accept the terms of this Amendment as identified above, effective on the final date of execution below. By signing this Amendment, the signatories warrant they have the authority to execute this Amendment.			
IN WITNESS WHEREOF, the parties have executed this Amendment:			
FOR THE DEPARTMENT:		FOR THE SUBRECIPIENT:	
Signature Regan Anne Hesse, Chief Financial Officer Washington State Military Department	Date	Signature Satpal Singh Sidhu, County Executive Whatcom County	Date
BOILERPLATE APPROVED AS TO FORM: _____/Signature on file/_____ David B. Merchant, Assistant Attorney General	10/11/2021	 Signature Bill Elfo, Sheriff, Whatcom County	10/20/22 Date
		APPROVED AS TO FORM (if applicable):	
		Brandon Waldron (via email/fb)	10/18/2022
		Applicant's Legal Review	Date

Washington State Military Department Amendments to Agreement E22-247

1. **Change the Grant Agreement and Total Match Amount from \$25,325 to \$61,007, an increase of \$35,682.**
 - a. Agreement Face Sheet, Box 2. ~~\$25,325~~ \$61,007.
 - b. Original Budget, Attachment E, with Revision 1 Budget, Attachment E.
2. **Change the Grant Agreement End Date from December 31, 2022 to June 30, 2023.**
 - a. Agreement Face Sheet, Box 6. ~~December 31, 2022~~ June 30, 2023.
3. **Change Department Contact from Tirzah Kincheloe to Joshua Castillo.**
 - a. Agreement Face Sheet Box 7. ~~Tirzah Kincheloe, 253-512-7456, tirzah.kincheloe@mil.wa.gov~~
Joshua Castillo, 253-316-6432, joshua.castillo@mil.wa.gov.
4. **Change Attachment A, Article I-Key Personnel.**
 - a. Attachment A, SPECIAL TERMS AND CONDITIONS, Article 1-Key Personnel, under SUBRECIPIENT/DEPARTMENT:
 - i. Replace Tirzah Kincheloe with Joshua Castillo (see below).
 - ii. Add Sierra Wardell (see below).

SUBRECIPIENT		DEPARTMENT	
Name	Frances Burkhart	Name	Tirzah Kincheloe Joshua Castillo
Title	Program Specialist	Title	Program Manager Coordinator
E-Mail	fburkhar@co.whatcom.wa.us	E-Mail	tirzah.kincheloe@mil.wa.gov joshua.castillo@mil.wa.gov
Phone	360-778-7161	Phone	253-512-7456 253-316-6432
Name	Bill Elfo	Name	Courtney Bemus
Title	Sheriff/EM Director	Title	Program Assistant
E-Mail	belfo@co.whatcom.wa.us	E-Mail	courtney.bemus@mil.wa.gov
Phone	360-778-6600	Phone	253-316-6438
Name	John Gargett	Name	Sierra Wardell
Title	Deputy Director	Title	Financial Operations Section Manager
E-Mail	jgargett@co.whatcom.wa.us	E-Mail	sierra.wardell@mil.wa.gov
Phone	360-778-7160	Phone	253-273-8477
Name	Chalice Dew-Johnson		
Title	Coordinator		
E-Mail	cdjohnso@co.whatcom.wa.us		
Phone	360-778-7162		

5. **Change the original Work Plan, Attachment D.**
 - a. Original Work Plan, Attachment D, with Revision 1 Work Plan, Attachment D.
6. **Change the original Timeline, Attachment E.**
 - a. Original Timeline, Attachment E, with Revision 1 Timeline, Attachment E.
7. **Change the original Budget, Attachment F.**
 - a. Original Budget, Attachment E, with Revision 1 Budget, Attachment F.
 - i. Grant Agreement Amount from \$25,325 to \$61,007, an increase of \$35,682

Revision 1 WORK PLAN

FY 2021 Emergency Management Performance Grant - American Rescue Plan Act

Emergency Management Organization:	Whatcom County Sheriff's Office Division of Emergency Management (WCSO-DEM)
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The purpose of EMPG-ARPA is to assist with the enhancement, sustainment and improvement of state, local, and tribal emergency management programs. Activities conducted using EMPG-ARPA funding should relate directly to the five elements of emergency management: prevention, protection, response, recovery, and mitigation. Washington State does not require a specific number of activities to receive EMPG-ARPA funding. However, there are required capabilities that must be sustained in order to remain eligible for EMPG-ARPA funding, including but not limited to the ability to communicate and warn, educate the public, plan, train, exercise, and be NIMS compliant. The Work Plan delineates the Emergency Management Organization's emergency management program planning and priority focus for this grant cycle (to include EMPG grant and local funds).

Priority Area-Sustainment

Rent: Whatcom Unified Emergency Coordination Center (WUECC)

Priority Area #1	4.4 Operational Planning and Procedures	
Primary Core Capability	Planning	
Secondary Core Capability	Operational Coordination	
Build or Sustain	Sustaining/Maintaining	
WORK PLANNED	IDENTIFIED GAP/NEED	ANTICIPATED PROJECT IMPACT
Develop a Wildland Fire/Urban Interface Plan.	Wildland fire is a serious and growing hazard in Whatcom County and threatens life, property, economy, and the environment. Wildfire is one of the seven major hazards addressed in the Whatcom County Natural Hazards Mitigation Plan, Section 2.1 Hazard Summaries. Approximately 30,000 Whatcom County residents live in areas/communities at risk. Currently, Whatcom County has no plan specifically addressing Wildland Fire/Urban Interface multi-agency coordination.	Stakeholders from local, county, state, provincial, federal response agencies, and the private sector community will be prepared to take specific actions before, during, and after wildland fires allowing for a more efficient response.
Participate in WA-EMD's annual Threats and Hazards Identification Risk Assessment (THIRA) and Stakeholders Preparedness Review (SPR).	It is important that the County complete the THIRA/SPR on a multi-year cycle, as it enables the ability to assess year-over-year trends in changes to capabilities while still periodically reviewing capability targets. This is also a 21EMPG grant requirement.	By participating in the THIRA/SPR process, Whatcom County and Washington State will have a better understanding of its risks, capabilities, and gaps which will help prioritize planning, organization, equipment, training, exercises, and preparedness projects at both the local and state levels.

Participate in WA-EMD's annual Integrated Preparedness Planning Workshop (IPPW).	It is important that the County have a process for documenting overall preparedness priorities and activities, allowing for maximum efficiency of resources, time, and funding. This is also a 21EMPG grant requirement	By participating in the IPPW, Whatcom County will work collaboratively with others State-wide to identify preparedness gaps and goals and to prioritize planning, training, and exercise projects in order to best utilize available local, state, tribal, and federal resources.
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Priority Area #2	4.9 Training	
Primary Core Capability	Operational Coordination	
Secondary Core Capability	Operational Communications	
Build or Sustain	Sustaining/Maintaining	
WORK PLANNED	IDENTIFIED GAP/NEED	ANTICIPATED PROJECT IMPACT
Conduct training for the Whatcom Unified Incident Management Team (IMT).	Recent exercises and activations, including the 1.5-year COVID-19 activation, confirm the need for continual training on ICS and ICS positions, in general, and on specific processes and procedures within the Whatcom Unified Emergency Coordination Center, as well as for operations in the field.	These trainings ensure that the IMT know how to perform required tasks and understand work flow procedures in the EOC and in the field in order to perform more efficiently during exercises and activations.
Conduct two Duty Officer trainings.	The need for Duty Officers to provide consistent responses to incidents throughout Whatcom County is essential for effective emergency management and maintains partner agencies' and the public's trust in the professionalism of the discipline.	All Duty Officers, regardless of home agency or department, will respond to incidents using standard procedures, thus responding more consistently and effectively during incident response.
Facilitate the annual Winter Storm/Flood Outlook and Planning Briefing.	Floods and winter storms occur annually in Whatcom County. Their impact is relatively minor in some years. In other years, their impact reaches the level of a Presidential Disaster Declaration, as it did in December 2018 (FEMA 4418-DR-WA) and February 2020 (FEMA 4539-DR-WA). It is important for the partner agencies in the community to come together as one group to hear what the upcoming winter forecast will be, what mitigation work has been done, what potential trouble spots exist, what resources/strategies each agency can bring to the response, and review plans and responsibilities to help mitigate flood and winter storm impacts.	Agency partners will have a realistic prediction based on the latest science modeling provided by NOAA/National Weather Service and a better understanding of the available resources and newest response plans of other agencies.

Priority Area #3	4.10 Exercises, Evaluations, and Corrective Actions	
Primary Core Capability	Operational Coordination	

Secondary Core Capability	Operational Communications	
Build or Sustain	Sustaining/Maintaining	
WORK PLANNED	IDENTIFIED GAP/NEED	ANTICIPATED PROJECT IMPACT
Conduct exercises, using a variety of formats (e.g., table-top, functional, full-scale, drill, workshop) and scenarios (e.g., volcano, communications, wildland fire, flood, etc.), and develop AAR/IPs.	Exercising provides a realistic learning environment that affords the opportunity for improvement. Post-incident critiques often confirm that experience gained during exercises was the best way to prepare teams to respond effectively to an emergency. Exercises are designed to engage team members and get them working together to manage the response to a hypothetical incident. Exercises enhance knowledge of plans, allow members to improve their own performance, and identify opportunities to improve capabilities to respond to real events.	By participating in these exercises, WCSO-DEM staff will strengthen relationships with partners and gain an understanding of their roles during an emergency response that may be coordinated by a different organization. WCSO-DEM staff will be better able to integrate into and support another agency's response.
Participate in partner agency exercises, drills, workshops, and the hot wash/AAR process of the partner agency conducting the exercise.	Exercising provides a realistic learning environment that affords the opportunity for improvement. Post-incident critiques often confirm that experience gained during exercises was the best way to prepare teams to respond effectively to an emergency. Exercises are designed to engage team members and get them working together to manage the response to a hypothetical incident. Exercises enhance knowledge of plans, allow members to improve their own performance, and identify opportunities to improve capabilities to respond to real events.	By participating in these exercises, WCSO-DEM staff will strengthen relationships with partners and gain an understanding of their roles during an emergency response that may be coordinated by a different organization. WCSO-DEM staff will be better able to integrate into and support another agency's response.

Priority Area #4	4.11 Emergency Public Information and Education	
Primary Core Capability	Community Resilience	
Secondary Core Capability	Long-term Vulnerability Reduction	
Build or Sustain	Building	
WORK PLANNED	IDENTIFIED GAP/NEED	ANTICIPATED PROJECT IMPACT
Conduct community education and outreach presentations.	These presentations are designed to increase public awareness of Whatcom County risks and hazards and to provide actions individuals, families, and businesses can take to lessen the impact of emergencies and disasters.	Individuals will be better aware of local hazards, steps they can take to be better prepared, and become trained in community assets before, during, and after the emergency response. Empowering citizens to take care of themselves is a key component to community resilience, particularly during large-scale incidents, and decreases citizen reliance on first responder organizations.

Priority Area #5	3.4 Administration and Finance	
Primary Core Capability	Operational Coordination	
Secondary Core Capability	Community Resilience	
Build or Sustain	Sustaining/Maintaining	
WORK PLANNED	IDENTIFIED GAP/NEED	ANTICIPATED PROJECT IMPACT
Manage the Whatcom County Emergency Worker Program.	Traditional first responders (law enforcement, fire, public works, etc.) do not have skills or staffing necessary to meet all the needs of their communities and, in emergencies and disasters, are often overwhelmed and unable to provide services they normally would. Volunteers fill many of these gaps, giving of their time and expertise to help their neighbors and wider community. WAC 118-04 Emergency Worker Program defines the classes of emergency workers and regulates emergency worker registration, training, activation, and compensation.	Whatcom County's volunteer groups (e.g., Search and Rescue, CERT, Auxiliary Communications Service, Support Officers, Volunteer Mobilization Center, etc.) will be in compliance with WAC 118-04 and the approximately 1,000 volunteers will be covered under the protection that the Emergency Worker Program provides.
Manage the fiscal and administrative policies and procedures that support both day-to-day and disaster operations.	Policies and procedures are established to support the efficiency, consistency, responsibility, and accountability of all employees in support of their agency's mission, vision, and objectives.	Delivery of emergency management programs that are efficient, consistent, show good custodianship of public funds, and are in compliance with federal, state, and local codes and regulations.

Priority Area #6	4.7 Communications and Warning	
Primary Core Capability	Operational Communications	
Secondary Core Capability	Operational Communications	
Build or Sustain	Building	
WORK PLANNED	IDENTIFIED GAP/NEED	ANTICIPATED PROJECT IMPACT
Purchase multi-band portable radios.	The Whatcom County Sheriff's Office utilizes both mobile and portable radio communications as the primary method to dispatch, coordinate, and communicate all calls for service. The Sheriff's Offices' primary method of field communication for the Patrol Division and Division of Emergency Management is the multi-band portable radio, providing connectivity and electrical interoperability between local, regional, state, tribal, and national agencies and organizations. Multi-band portable radios provide the capability to ensure a safe, efficient, effective, and timely coordinated response to routine calls for service, in-progress, and high-risk law	Whatcom County Sheriff's Office will have the tools necessary to coordinate safe, efficient, effective, and timely response to incidents, emergencies, and disasters, enhancing the safety of both community members and responders.

	<p>enforcement incidents, rescue and recovery missions, CBRNE operations, and natural disasters occurring within Whatcom County. The Whatcom County Sheriff's Office is in need of multi-band portable radios to ensure emergency response capabilities are maintained at the level of service needed and expected.</p>	
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Revision 1 TIMELINE

FY 2021 Emergency Management Performance Grant - American Rescue Plan Act

DATE	TASK
June 1, 2021	Grant Agreement Start Date
January 31, 2022	Submit reimbursement request
July 31, 2022	Submit reimbursement request
December 31, 2022 June 30, 2023	Grant Agreement End Date
February 15, 2023 August 14, 2023	Submit final reimbursement request, final report, training requirement report, and/or other deliverables.

The Subrecipient must request prior written approval from Department Key Personnel to waive or extend a due date in the above timeline.

For waived or extended reimbursements, all allowable costs should be submitted on the next scheduled reimbursement due date contained in the timeline.

Revision 1 BUDGET

FY 2021 Emergency Management Performance Grant - American Rescue Plan Act

21EMPG-ARPA Award	\$	25,325.00
Modification	\$	35,682.00
Amended 21EMPG-ARPA Award	\$	61,007.00

SOLUTION AREA	BUDGET CATEGORY	EMPG-ARPA AMOUNT	MODIFICATION	AMENDED EMPG-ARPA AMOUNT	MATCH AMOUNT
PLANNING	Personnel & Fringe Benefits	\$ -	\$ -	\$ -	\$ -
	Travel/Per Diem	\$ -	\$ -	\$ -	\$ -
	Supplies	\$ -	\$ -	\$ -	\$ -
	Consultants/Contracts	\$ 7,000	\$ (1,000)	\$ 6,000	\$ -
	Other	\$ -	\$ -	\$ -	\$ -
	Subtotal	\$ 7,000	\$ (1,000)	\$ 6,000	\$ -
ORGANIZATION	Personnel & Fringe Benefits	\$ 15,325	\$ (1,000)	\$ 14,325	\$ -
	Travel/Per Diem	\$ -	\$ -	\$ -	\$ -
	Supplies	\$ 500	\$ 38,182	\$ 38,682	\$ -
	Consultants/Contracts	\$ -	\$ -	\$ -	\$ -
	Other - Building Rent (WUECC/EOC)	\$ -	\$ -	\$ -	\$ 61,007
	Subtotal	\$ 15,825	\$ 37,182	\$ 53,007	\$ 61,007
EXERCISE	Personnel & Fringe Benefits	\$ -	\$ -	\$ -	\$ -
	Travel/Per Diem	\$ -	\$ -	\$ -	\$ -
	Supplies	\$ 2,000	\$ (1,000)	\$ 1,000	\$ -
	Consultants/Contracts	\$ -	\$ -	\$ -	\$ -
	Other	\$ -	\$ -	\$ -	\$ -
	Subtotal	\$ 2,000	\$ (1,000)	\$ 1,000	\$ -
TRAINING	Personnel & Fringe Benefits	\$ -	\$ -	\$ -	\$ -
	Travel/Per Diem	\$ -	\$ -	\$ -	\$ -
	Supplies	\$ 500	\$ 500	\$ 1,000	\$ -
	Consultants/Contracts	\$ -	\$ -	\$ -	\$ -
	Other	\$ -	\$ -	\$ -	\$ -
	Subtotal	\$ 500	\$ 500	\$ 1,000	\$ -
EQUIP	Equipment	\$ -	\$ -	\$ -	\$ -
	Subtotal	\$ -	\$ -	\$ -	\$ -
M&A	Personnel & Fringe Benefits	\$ -	\$ -	\$ -	\$ -
	Travel/Per Diem	\$ -	\$ -	\$ -	\$ -
	Supplies	\$ -	\$ -	\$ -	\$ -
	Consultants/Contracts	\$ -	\$ -	\$ -	\$ -
	Other	\$ -	\$ -	\$ -	\$ -
	Subtotal	\$ -	\$ -	\$ -	\$ -
	Indirect	\$ -	\$ -	\$ -	\$ -
<i>Indirect Cost Rate on file</i>		<i>0.00%</i>			
TOTAL Grant Agreement AMOUNT:		\$ 25,325	\$ 35,682	\$ 61,007	\$ 61,007

The Subrecipient will provide a match of ~~\$25,325~~ **\$61,007** of non-federal origin, 50% of the total project cost (local budget plus EMPG-ARPA award).

Cumulative transfers to budget categories in excess of ten percent (10%) of the Grant Agreement Amount will not be reimbursed without prior written authorization from the Department.

Funding Source: U.S. Department of Homeland Security - PI# 713PA – EMPG-ARPA



Whatcom County

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

Agenda Bill Master Report

File Number: **AB2022-603**

File ID:	AB2022-603	Version:	1	Status:	Agenda Ready
File Created:	10/25/2022	Entered by:	jsmiley@co.whatcom.wa.us		
Department:	Council Office	File Type:	Contract (FCZDBS)		
Assigned to:	Council Finance and Administrative Services Committee			Final Action:	
Agenda Date:	11/09/2022			Enactment #:	

Primary Contact Email: Sdraper@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 State of Washington Puget Sound Partnership for water resources programs in the Whatcom County region, in the amount of \$375,000 (Council acting as the Whatcom County Flood Control Zone District Board of Supervisors)

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

This grant agreement provides funds for the coordination of the Whatcom Local Integrating Organization from October 1, 2022 to September 30, 2025

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
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Attachments: Memo, Grant Agreement

**Jon Hutchings
Director**



322 N. Commercial, Suite 110
Bellingham, WA 98225
Telephone: (360) 778-6230
FAX: (360) 778-6231
www.whatcomcounty.us

MEMORANDUM

TO: The Honorable Satpal Singh Sidhu, Whatcom County Executive, and The Honorable Members of the Whatcom County Council, collectively serving in their capacity as the Whatcom County Flood Control Zone District Board of Supervisors.

THROUGH: Jon Hutchings, Public Works Director

FROM: Gary Stoyka, Natural Resources Manager 
Austin Rose, Planner I

DATE: October 19, 2022

RE: Interagency Agreement #2023-18: Whatcom County LIO – FFY 2022-2025 Funding

Public Works respectfully requests that the County Executive, and the County Council, acting as the Flood Control Zone District Board of Supervisors, enter into an interagency agreement between the State of Washington Puget Sound Partnership (PSP) and the Whatcom County Flood Control Zone District, acting as the fiscal agent for the Whatcom County Local Integrating Organization (LIO), to coordinate the Whatcom County LIO.

Background and Purpose

The WRIA 1 Watershed Management Board acts as Local Integrating Organization (LIO) for water resources programs in the Whatcom County region. The WRIA 1 Management Team met on August 3, 2022 and approved the draft FFY 2022-2025 LIO Coordination Scope of Work for the Whatcom County Flood Control Zone District as fiscal agent, acting on behalf of the WRIA 1 Watershed Management Board, for negotiating a contract with the Puget Sound Partnership. This agreement provides funds for tasks related to 1) organize, support, administer, facilitate, and coordinate a Local Integrating Organization, 2) advance implementation of the 2022-2026 action agenda and support development of the 2026-2030 action agenda 3) performance management, 4) support adaptive management of LIO Ecosystem Recovery Plans, and 5) tailor LIO Coordination to implement the Action Agenda and support unique vision and goals of LIO.

This agreement is a 3-year contract (FFY 2022-2025), providing \$125,000 per year. It is anticipated that annual amendments will be needed. Tasks 1-4 are required and very similar to the past four LIO coordination grants. Funding in Task 5 provides capacity for the LIO to support local outreach networking, and continued development of an integrated funding strategy to support priority Near Team Actions (NTAs).

Funding Amount and Source

This grant agreement with the Puget Sound Partnership provides \$375,000 to complete tasks as outlined in the scope of work. Please contact Gary Stoyka at extension 6218 or Austin Rose at 6286 if you have any questions or concerns regarding the terms of this agreement.

Encl.

WHATCOM COUNTY CONTRACT INFORMATION SHEET

Whatcom County Contract No. _____

Originating Department:		Public Works	
Division/Program: <i>(i.e. Dept. Division and Program)</i>		Natural Resources/Whatcom LIO 907010	
Contract or Grant Administrator:		Gary Stoyka/Austin Rose	
Contractor's / Agency Name:		Puget Sound Partnership	
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 checked="" 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 checked="" type="checkbox"/> No <input type="checkbox"/>		If yes, grantor agency contract number(s): <u>2023-18</u> CFDA#: <u>66.456</u>	
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: <u>169121</u>	
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):		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:	
\$ <u>375,000</u>			
This Amendment Amount: \$ _____			
Total Amended Amount: \$ _____		<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: This grant agreement provides funds for the coordination of the Whatcom Local Integrating Organization from October 1, 2022 to September 30, 2025.			
Term of Contract: <u>Three years</u>		Expiration Date: <u>September 30, 2025</u>	

Contract Routing:	1. Prepared by: <u>Austin Rose</u>	Date: <u>10/19/2022</u>
	2. Attorney signoff: <u>Christopher Quinn</u>	Date: <u>10/24/2022</u>
	3. AS Finance reviewed: <u>M Caldwell</u>	Date: <u>10/21/2022</u>
	4. IT reviewed (if IT related): _____	Date: _____
	5. Contractor signed: _____	Date: _____
	6. Submitted to Exec.: _____	Date: _____
	7. Council approved (if necessary): <u>AB 2022-603</u>	Date: <u>11/09/2022</u>
	8. Executive signed: _____	Date: _____
	9. Original to Council: _____	Date: _____



Interagency Agreement

Agreement Number: 2023-18

Title: Whatcom County LIO – FFY 2022-2025 Funding

This agreement is made and entered into pursuant to the Interlocal Cooperation Act, RCW 39.34, by and between the state of Washington, Puget Sound Partnership (PSP), and the below named agency, hereinafter referred to as "CONTRACTOR."

CONTRACTOR INFORMATION	Project Manager	
Whatcom County Flood Control Zone District 322 N. Commercial St., Suite 110 Bellingham, WA 98225	Gary Stoyka gstoyka@co.whatcom.wa.us (360) 676-6876	UBI: 600358208 EIN: 91-6001383 UEI: NT6RMN8THTN7 Type: County
	Fiscal: Randy Rydel rrydel@co.whatcom.wa.us	

PSP INFORMATION	Project Manager	
PUGET SOUND PARTNERSHIP PO Box 40900 Olympia, WA 98504	Kristin Hayman Kristin.hayman@psp.wa.gov (360) 480-0475	

PURPOSE

The purpose of this agreement is to provide financial support for the coordination of the Whatcom County Local Integrating Organization (LIO).

STATEMENT OF WORK

The CONTRACTOR 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 Exhibit B attached and incorporated herein.

In the event that the CONTRACTOR is a Sub-Recipient (grantee), Exhibit B shall describe the activities of the Sub-Recipient that are eligible for reimbursement under the award or sub-award.

PERIOD OF PERFORMANCE

The period of performance under this agreement will be from **October 1, 2022, regardless of both parties signing date, through September 30, 2025. No work shall commence under this agreement until it has been fully executed by both parties.**

COMPENSATION AND PAYMENT

Compensation for the work provided in accordance with this agreement has been established under the terms of RCW 39.34.130. The parties have estimated that the cost of accomplishing the work herein will not exceed **Three hundred seventy-five thousand dollars (\$375,000)**. Payment for satisfactory performance of the work shall not exceed this amount unless the parties mutually agree to a higher amount prior to the commencement of any work which will cause the maximum payment to be exceeded. CONTRACTOR'S compensation for services rendered shall be in accordance with the Budget & Billing Procedures attached as Exhibit C.

In the event that the CONTRACTOR is a Sub-Recipient, the total amount of the award or sub-award for reimbursable activities shall not exceed the above amount, also in accordance with the Budget & Billing Procedures attached as Exhibit C.

FEDERAL FUNDING INFORMATION

This Contract includes federal funding Yes No
CONTRACTOR is a Sub-Recipient for purposes of this agreement Yes No

CFDA #	CFDA Title	Federal Grant Award Number	Federal Grant Award Name	Federal Agency Name
66.456	National Estuary Program Base and IS/SCI	CE-01J97401-0	Puget Sound Partnership National Estuary Program, Base and IS/SCI	Environmental Protection Agency

TERMS AND CONDITIONS

All rights and obligations of the parties to this contract shall be subject to and governed by the Terms and Conditions contained in the following exhibits, herein incorporated by reference. The contents of this Agreement include:

1. This contract cover sheet
2. Exhibit A – General Terms and Conditions
3. Exhibit B – Statement of Work
4. Exhibit C – Budget & Billing Procedures
5. Exhibit D - Lobbying Certification
6. Exhibit E – Sub-Recipient Federal Requirements (only if this is a Sub-Recipient contract)
 - Attachment 1- Federal Assurances Form 424B (Rev 4-2012)
 - Attachment 2- Federal Funding Accountability and Transparency Act Data Collection (FFATA form)

ORDER OF PRECEDENCE

In the event of an inconsistency in this agreement, the inconsistency shall be resolved by giving precedence in the following order:

1. Applicable Federal and State of Washington Statutes and regulations
2. This Agreement/Contract, including Exhibit A, General Terms and Conditions
3. Exhibit B, Statement of Work and Exhibit C, Budget & Billing Procedures
4. Any other Exhibit or provision, term or material incorporated herein by reference or otherwise incorporated

ENTIRE AGREEMENT

This agreement, including referenced exhibits and any other provision, term or material expressly incorporated by reference, represents all the terms and conditions agreed upon by the parties. No other statements or representations, written or oral, shall be deemed a part hereof.

APPROVAL

This agreement shall be subject to the written approval of the AGENCY'S authorized representative and shall not be binding until so approved. The agreement may be altered, amended, or waived only by a written amendment executed by both parties.

This agreement is executed by the persons signing below, who warrant they have the authority to execute the agreement.

Whatcom County Flood Control Zone District

Puget Sound Partnership

_____	Date	_____	Date
		Laura Blackmore Executive Director	

APPROVED AS TO FORM:

/s Jonathan Thompson
Assistant Attorney General

December 5, 2013
Date

**EXHIBIT A -
GENERAL TERMS AND CONDITIONS**

Title: Whatcom County LIO – FFY 2023-2025 Funding

1. DEFINITIONS

As used throughout this contract, the following terms shall have the meaning set forth below:

- A. "AGENCY" means the Puget Sound Partnership (PSP) of the State of Washington, any division, section, office, unit or other entity of the AGENCY, or any of the officers or other officials lawfully representing that AGENCY.
- B. "AGENT" means the Director, and/or the delegate authorized in writing to act on the Director's behalf.
- C. "CONTRACTOR" means that firm, provider, organization, individual or other entity performing service(s) under this contract, and shall include all employees of the CONTRACTOR.
- D. "DEBARMENT" means an action taken by a Federal agency or official to exclude a person or business entity from participating in transactions involving certain federal funds.
- E. "EPA" means U.S. Environmental Protection Agency.
- F. "SUBCONTRACTOR" means one not in the employment of the CONTRACTOR, who is performing all or part of those services under this contract under a separate contract with the CONTRACTOR. The terms "SUBCONTRACTOR" and "SUBCONTRACTORS" means SUBCONTRACTOR(s) in any tier.
- G. "SUB-RECIPIENT" means a non-Federal entity that receives a subaward from a pass-through entity to carry out part of a Federal program; but does not include an individual that is a beneficiary of such program. A subrecipient may also be a recipient of other Federal awards directly from a Federal awarding agency. Guidance on distinguishing between a subrecipient and a contractor is provided in 2 CFR §200.330. Subrecipient and contractor determinations.

2. AMERICANS WITH DISABILITIES ACT (ADA)

If the contract includes federal funding, the CONTRACTOR must comply with Section 504 of the Rehabilitation Act of 1973, which prohibits discrimination against persons with disabilities by entities receiving Federal financial assistance. The CONTRACTOR may also be required to comply with the ADA, which provides comprehensive civil rights protection to individuals with disabilities in the areas of employment, public accommodations, state and local government services, and telecommunications.

3. ADVANCE PAYMENTS PROHIBITED

No payments in advance of or in anticipation of goods or services to be provided under this contract shall be made by the AGENCY.

4. AMENDMENT

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.

5. ASSIGNMENT

The work to be provided under this Agreement, and any claim arising under this Agreement, 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.

6. ASSURANCES

The parties agree that all activity pursuant to this Agreement shall be in accordance with all applicable federal, state and local laws, rules, and regulations as they currently exist or as amended.

7. CONFIDENTIALITY

Confidential information: The CONTRACTOR shall not use or disclose any information that is identified as such, for any purpose not directly connected with the administration of this contract, except with prior written consent of the AGENCY, or as may be required by law. Each party will utilize reasonable security procedures and protections to assure that records and documents provided by the other party are not erroneously disclosed to third parties. However, the parties acknowledge that state and local agencies are subject to chapter 42.56 RCW, the Public Records Act.

Personal Information (one form of confidential information): Personal information including, but not limited to, "Protected Health Information," collected, used, or acquired in connection with this contract shall be protected against unauthorized use, disclosure, modification or loss. CONTRACTOR shall ensure its directors, officers, employees, subcontractors or agents use personal information solely for the purposes of accomplishing the services set forth herein. CONTRACTOR and its subcontractors agree not to release, divulge, publish, transfer, sell or otherwise make known to unauthorized persons personal information without the express written consent of the agency or as otherwise required by law. Any breach of this provision may result in termination of the contract and the demand for return of all personal information. The CONTRACTOR agrees to indemnify and hold harmless the AGENCY for any damages related to the CONTRACTOR'S unauthorized use of personal information.

8. CREDIT AND ACKNOWLEDGEMENT

Reports, documents, signage, videos, or other media, developed as part of projects funded by EPA funded Agreements shall display both the EPA and Puget Sound Partnership logos and the following credit line: "This project has been funded wholly or in part by the United States Environmental Protection Agency under Assistance Agreement [CE-01J97401-0]. The contents of this document do not necessarily reflect the views and policies of the Environmental Protection Agency, nor does mention of trade names or commercial products constitute endorsement or recommendation for use."

9. DEBARMENT AND SUSPENSION

CONTRACTOR, by signature to this Contract, certifies that CONTRACTOR is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any Federal department or agency from participating in transactions (Debarred). CONTRACTOR shall comply with applicable federal agency debarment and suspension rules adopted pursuant to Office of Management and Budget guidance at 2 CFR Part 180, such as 2 CFR Part 1532 for the Environmental Protection Agency, which implement Executive Order 12549. CONTRACTOR acknowledges that failing to disclose the information required at 2 CFR 180.335 may result in the delay or negation of this contract, or pursuance of legal remedies, including suspension and debarment.

CONTRACTOR shall not award subcontracts or subawards to persons (individuals or organizations) listed on the Excluded Parties List located at www.sam.gov/. CONTRACTOR agrees to include the above requirements in all subcontracts into which it enters. The CONTRACTOR shall immediately notify AGENCY if, during the term of this Contract, CONTRACTOR becomes Debarred. AGENCY may immediately terminate this Contract by providing CONTRACTOR written notice if CONTRACTOR becomes Debarred during the term hereof.

10. DISALLOWED COSTS

CONTRACTOR is responsible for any audit exceptions or disallowed costs incurred by its own organization or that of its Subcontractors.

11. DISPUTES

In the event that CONTRACTOR is a state agency and a dispute arises under this Agreement, either of the parties may request intervention by the Governor, as provided by chapter 43.17.330 RCW, in which event the Governor's process will control.

In the event that a dispute arises under this Agreement, and the CONTRACTOR is not a state agency, 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 evaluate the facts, Agreement terms, applicable

statutes and rules, and make a determination of the dispute. The determination of the Dispute Board shall be final and binding on both parties.

The cost of resolution will be borne as allocated by the Dispute Board or the Governor.

12. DUPLICATION OF BILLED COSTS

The CONTRACTOR shall not bill the Agency for services performed under this contract, and the Agency shall not pay the CONTRACTOR if the CONTRACTOR is entitled to payment or has been or will be paid by any other source, including grants, for that service.

13. GEOSPATIAL DATA STANDARDS

All geospatial data created must be consistent with Federal Geographic Data Committee (FGDC) endorsed standards. Information on these standards may be found at <https://www.fgdc.gov/>

14. GOVERNING LAW AND VENUE

This Agreement shall be construed and interpreted in accordance with the laws of the State of Washington and the venue of any action brought under this Agreement shall be in Superior Court for Thurston County.

15. HOTEL MOTEL FIRE SAFETY ACT

The Hotel and Motel Fire Safety Act of 1990 (Public Law 101-391) establishes a number of fire safety standards which must be met for hotels and motels. Pursuant to 40 CFR 30.18, if applicable, and 15 USC 2225a if any portion of this contract will be paid with federal funds, CONTRACTOR agrees to ensure that all space for conferences, meetings, conventions, or training seminars funded in whole or in part with federal funds complies with the protection and control guidelines of the Hotel and Motel Fire Safety Act (PL 101-391, as amended. CONTRACTOR may search the Hotel-Motel National Master List at: <http://www.usfa.dhs.gov/applications/hotel> to see if a property is in compliance (FEMA ID is currently not required), or to find other information about the Act.

If necessary, the head of the Federal agency may waive this prohibition in the public interest.

16. 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.

17. INTELLECTUAL PROPERTY RIGHTS

Unless otherwise provided, all materials produced under this contract shall be considered "works for hire" as defined by the U.S. Copyright Act 17 U.S.C. § 101, et seq., and shall be owned by the AGENCY. Where federal funding is involved, the awarding federal agency may have a proprietary interest in patent rights to any inventions that are developed by the CONTRACTOR as provided in 35 U.S.C. §§ 200-212 and 37 CFR part 401 and retains a royalty-free, nonexclusive, and irrevocable right to reproduce, publish, or otherwise use the work for Federal purposes, and to authorize others to do so.

CONTRACTOR acknowledges that in accordance with 40 CFR 30.36 and 31.34, EPA has the rights to reproduce, publish, use, and authorize others to use copyrighted works or other data developed under this assistance agreement for Federal purposes.

Examples of a Federal purpose include but are not limited to: (1) Use by EPA and other Federal employees for official Government purposes; (2) Use by Federal contractors performing specific tasks for the Government; (3) Publication in EPA documents provided the document does not disclose trade secrets (e.g. software codes) and the work is properly attributed to the recipient through citation or otherwise; (4) Reproduction of documents for inclusion in Federal depositories; (5) Use by State, tribal and local governments that carry out delegated Federal environmental programs as "co-regulators" or act

as official partners with EPA to carry out a national environmental program within their jurisdiction and; (6) Limited use by other grantees to carry out Federal grants provided the use is consistent with the terms of EPA's authorization to the other grantee to use the copyrighted works or other data.

Under Item 6, the grantee acknowledges that EPA may authorize another grantee(s) to use the copyrighted works or other data developed under this grant as a result of:

- the selection of another grantee by EPA to perform a project that will involve the use of the copyrighted works or other data or:
- termination or expiration of this agreement.

In addition, EPA may authorize another grantee to use copyrighted works or other data developed with Agency funds provided under this grant to perform another grant when such use promotes efficient and effective use of Federal grant funds.

Materials means all items in any format and includes, but is not limited to, data, reports, documents, pamphlets, advertisements, books, magazines, surveys, studies, computer programs, films, tapes, and/or sound reproductions. Ownership includes the right to copyright, patent, register and the ability to transfer these rights.

In the event the materials are not considered "works for hire" under the U.S. Copyright laws CONTRACTOR shall grant AGENCY, and any federal entity which provided federal funds used in this contract, retain 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.

Material which CONTRACTOR uses to perform the contract but is not created for or paid for by AGENCY is not "work made for hire"; however, CONTRACTOR grant the AGENCY a nonexclusive, royalty-free, irrevocable license to translate, reproduce, distribute, prepare derivative works, publicly perform, and publicly display, provided that such license shall be limited to the extent which CONTRACTOR has a right to grant such a license to use this material for AGENCY internal purposes at no charge to AGENCY.

18. INTERNATIONAL TRAVEL (including Canada) – FOR FEDERAL FUNDED AGREEMENTS ONLY

All International Travel must be approved by the Office of International and Tribal Affairs (OITA) BEFORE travel occurs. Even a brief trip to a foreign country, for example to attend a conference, requires OITA approval. Please contact your EPA Project Officer as soon as possible if travel is planned out of the country, including Canada and/or Mexico, so that they can obtain appropriate approvals from EPA Headquarters. If you have questions, please contact your EPA Project Officer listed on the front page of the Award Document

19. LIGHT REFRESHMENTS and/or MEALS

Unless the event(s) and all of its components are described in the approved workplan, the recipient agrees to obtain prior approval from EPA for the use of grant funds for light refreshments and/or meals served at meetings, conferences, training workshops, and outreach activities (events). The recipient must send requests for approval to the EPA Project Officer and include:

- 1) An estimated budget and description for the light refreshments, meals, and/or beverages to be served at the event(s);
- 2) A description of the purpose, agenda, location, length and timing for the event; and,
- 3) An estimated number of participants in the event and a description of their roles.

Cost for light refreshments and meals for recipient staff meetings and similar day-to-day activities are not allowable under EPA assistance agreements.

20. LOBBYING PROHIBITED

- a. By signing this contract, CONTRACTOR agrees to comply with Title 40 CFR Part 34, New Restrictions on Lobbying, 31 U.S.C. § 1352, and 40 CFR Part 30 if applicable. CONTRACTOR shall include the language of this provision in subcontracts that exceed \$100,000 of federal funds and require all subcontractors to certify and disclose accordingly.

- b. No Federal appropriated funds shall be paid by or on behalf of the CONTRACTOR 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 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.
- c. If this contract includes federal funds exceeding \$100,000, CONTRACTOR shall sign and submit to AGENCY Exhibit D, Attachment 2, PSP Certification Regarding Lobbying (based on EPA Form 6600-06 (Rev. 06/2008). If CONTRACTOR signed and submitted the PSP Certification Regarding Lobbying form during the procurement process for this contract it is not necessary to resubmit the certification.
- d. If CONTRACTOR expends non-federal funds in any amount to lobby as detailed in a., above, CONTRACTOR shall complete and submit to Standard Form LLL (Rev. 4/2012), Disclosure of Lobbying Activity. The form can be found at:
http://www.epa.gov/ogd/AppKit/form/sflllin_sec.pdf.

21. LOBBYING AND LITIGATION

a. All recipients

- i. The chief executive officer of this recipient agency shall ensure that no grant funds awarded under this assistance agreement are used to engage in lobbying of the Federal Government or in litigation against the U.S. unless authorized under existing law. The recipient shall abide by the Cost Principles available at 2 CFR 200 which generally prohibits the use of federal grant funds for litigation against the U.S. or for lobbying or other political activities.
- ii. The recipient agrees to comply with Title 40 CFR Part 34, New Restrictions on Lobbying. The recipient shall include the language of this provision in award documents for all subawards exceeding \$100,000, and require that subrecipients submit certification and disclosure forms accordingly.
- iii. In accordance with the Byrd Anti-Lobbying Amendment, any recipient who makes a prohibited expenditure under Title 40 CFR Part 34 or fails to file the required certification or lobbying forms shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such expenditure.
- iv. Contracts awarded by a recipient shall contain, when applicable, the anti-lobbying provision as stipulated in the Appendix II to Part 200—Contract Provisions for Non-Federal Entity Contracts Under Federal Awards.
- v. Pursuant to Section 18 of the Lobbying Disclosure Act, the recipient affirms that it is not a nonprofit organization described in Section 501(c)(4) of the Internal Revenue Code of 1986; or that it is a nonprofit organization described in Section 501(c)(4) of the Code but does not and will not engage in lobbying activities as defined in Section 3 of the Lobbying Disclosure Act. Nonprofit organizations exempt from taxation under section 501(c)(4) of the Internal Revenue Code that engage in lobbying activities are ineligible for EPA subawards.

22. NONDISCRIMINATION and DISADVANTAGED BUSINESS ENTERPRISES

In accordance with 40 CFR 33.106 and its Appendix A, the CONTRACTOR shall not discriminate on the basis of race, color, national origin or sex in the performance of this contract. The contractor shall carry out applicable requirements of 40 CFR part 33 in the award and administration of contracts awarded under EPA financial assistance agreements. Failure by the contractor to carry out these requirements is a material breach of this contract which may result in the termination of this contract or other legally available remedies.

23. PAYMENT TO CONSULTANTS

EPA will limit its participation in salary rate (excluding overhead) paid to individual consultants retained by recipients or by a recipients' contractors or subcontractors shall be limited to the maximum daily rate for Level IV of the Executive Schedule (formerly GS-18), to be adjusted annually. This limit applies to consultation services of designated individuals with specialized skills who are paid at a daily or hourly

rate. This rate does not include transportation and subsistence costs for travel performed (the recipient will pay these in accordance with their normal travel reimbursement practices).

Subagreements with firms for services which are awarded using the procurement requirements in 40 CFR Parts 30 or 31, are not affected by this limitation unless the terms of the contract provide the recipient with responsibility for the selection, direction and control of the individual who will be providing services under the contract at an hourly or daily rate of compensation. See 40 CFR 30.27(b) or 40 CFR 31.369j), as applicable, for additional information.

As of January 1, 2022, the limit is \$675.84 per day \$84.48 per hour.
(Calculations: 2022 Level IV Executive Schedule annual pay = \$176,300 / 2087 = \$84.48 per hour or \$675.84 per day).

24. PROJECT APPROVAL

The quality, extent and character of any and all work, deliverables and/or services to be performed under this agreement by the CONTRACTOR shall be subject to the review and approval of the AGENCY through the Project Manager or other designated official. In the event that the AGENCY determines, that any work, deliverable, and/or service performed by the CONTRACTOR is unsatisfactory, the AGENCY may withhold reimbursement for the unsatisfactory work performed by the CONTRACTOR or require that the CONTRACTOR remediate their work product to get it to the satisfaction of the AGENCY. Such approval and satisfaction not be unreasonably withheld. The Parties may agree in the Statement of Work to specific approval, acceptance, and/or remediation terms. If the Statement of Work is silent on this topic, the Disputes provision, above, will govern the resolution process.

25. 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. CONTRACTOR shall retain such records for a period of six years following the date of final payment.

At no additional cost, these records, including materials generated under the contract, shall be subject at all reasonable times to inspection, review or audit by the AGENCY, personnel duly authorized by the AGENCY, the Office of the State Auditor, and federal and state officials so authorized by law, regulation or agreement. If this contract exceeds \$100,000 and any portion of the funding source is federal, the federal funding agency, the Comptroller General of the United States, or any duly authorized representatives shall have access to books documents, papers, and records of CONTRACTOR directly pertinent to this contract for purpose of making audits, examination, excerpts and transcriptions (40 CFR 30.48(d)).

If any litigation, claim or audit is started before the expiration of the six (6) year period, the records shall be retained until all litigation, claims, or audit findings involving the records have been resolved.

26. RECYCLED PAPER

In accordance with Section 6002 of the Resource Conservation and Recovery Act (RCRA) (42 U.S.C. 6962) any State agency or agency of a political subdivision of a State which is using appropriated Federal funds shall comply with the requirements set forth. Regulations issued under RCRA Section 6002 apply to any acquisition of an item where the purchase price exceeds \$10,000 or where the quantity of such items acquired in the course of the preceding fiscal year was \$10,000 or more. RCRA Section 6002 requires that preference be given in procurement programs to the purchases of specific products containing recycled materials identified in guidelines developed by EPA. These guidelines are listed in 40 CFR 247.

In accordance with the policies set forth in EPA Order 1000.25 and Executive Order 13423, Strengthening Federal Environmental, Energy and Transportation Management (January 24, 2007), Sub-Recipient agrees to use recycled paper and double sided printing for all reports which are prepared as part of this Agreement and delivered to EPA. This requirement does not apply to reports prepared on

forms supplied by EPA, or to Standard Forms, which are printed on recycled paper and are available through the General Services Administration.

27. RESPONSIBILITIES OF THE PARTIES

Each party to this Agreement hereby assumes responsibility for claims and/or damages to persons and/or property resulting from any negligent act or omissions on the part of itself, its employees, its officers, and its agents. Neither party assumes any responsibility to the other party for the consequences of any claim, act, or omission of any person, agency, firm, or corporation not a part to this Agreement.

28. SEVERABILITY

If any term or condition of this Agreement is held invalid, such invalidity shall not affect the validity of the other terms or conditions of this Agreement.

29. STATE GRANT CYBERSECURITY

(a) The recipient agrees that when collecting and managing environmental data under this assistance agreement, it will protect the data by following all applicable State law cybersecurity requirements.

(b) (1) EPA must ensure that any connections between the recipient's network or information system and EPA networks used by the recipient to transfer data under this agreement, are secure.

(2) The recipient agrees that any subawards it makes under this agreement will require the subrecipient to comply with the requirements in (b)(1) if the subrecipient's network or information system is connected to EPA networks to transfer data to the Agency using systems other than the Environmental Information Exchange Network or EPA's Central Data Exchange.

30. SUBCONTRACTING

Neither the CONTRACTOR nor any SUBCONTRACTOR shall enter into subcontracts for any of the work contemplated under this contract without obtaining prior written approval of the AGENCY. In no event shall the existence of the subcontract operate to release or reduce the liability of the contractor to the agency for any breach in the performance of the contractor's duties. This clause does not include contracts of employment between the contractor and personnel assigned to work under this contract.

Additionally, the CONTRACTOR is responsible for ensuring that all terms, conditions, assurances and certifications set forth in this agreement are carried forward to any subcontracts

31. TERMINATION DUE TO FUNDING

In the event funding from state, federal, or other sources is withdrawn, reduced, or limited in any way after the effective date of this contract and prior to normal completion, the AGENCY may terminate the contract under the "Termination for Convenience" clause, without the ten-day notice requirement, subject to renegotiation at the AGENCY'S discretion under those new funding limitations and conditions. Agency will reimburse CONTRACTOR for all expenses incurred, including non-cancelable expenses, up until the date of termination.

32. 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 15 working days. If the failure or violation is not corrected, this Agreement may be terminated immediately by written notice of the aggrieved party to the other.

33. TERMINATION FOR CONVENIENCE

Either party may terminate this Agreement upon 30 calendar days' prior written notification to the other party. If this Agreement is so terminated, the parties shall be liable only for the performance rendered or costs incurred, including NON-CANCELABLE expenses, in accordance with the terms of this Agreement prior to the effective date of termination.

34. TREATMENT OF ASSETS

- a. Title to all property furnished by the AGENCY shall remain in the AGENCY. Title to all property furnished by the CONTRACTOR, for the cost of which the CONTRACTOR is entitled to be reimbursed as a direct item of cost under this contract, shall pass to and vest in the AGENCY upon delivery of such property by the CONTRACTOR. Title to other property, the cost of which is reimbursable to the CONTRACTOR under this contract, shall pass to and vest in the AGENCY upon (i) issuance for use of such property in the performance of this contract, or (ii) commencement of use of such property in the performance of this contract, or (iii) reimbursement of the cost thereof by the AGENCY in whole or in part, whichever first occurs.
- b. Any property of the AGENCY furnished to the CONTRACTOR shall, unless otherwise provided herein or approved by the AGENCY, be used only for the performance of this contract.
- c. The CONTRACTOR shall be responsible for any loss or damage to property of the AGENCY that results from the negligence of the CONTRACTOR or which results from the failure on the part of the CONTRACTOR to maintain and administer that property in accordance with sound management practices.
- d. If any AGENCY property is lost, destroyed or damaged, the CONTRACTOR shall immediately notify the AGENCY and shall take all reasonable steps to protect the property from further damage.
- e. The CONTRACTOR shall surrender to the AGENCY all property of the AGENCY prior to settlement upon completion, termination or cancellation of this contract.
- f. All reference to the CONTRACTOR under this clause shall also include CONTRACTOR'S employees, agents or SUBCONTRACTORS.

35. UTILIZATION OF DIVERSE BUSINESSES

The State of Washington works towards providing the maximum practicable opportunity for small and diverse businesses in the performance of all State contracts. Contractor shall use genuine efforts to utilize race- or gender-neutral means to allow opportunities for small and diverse businesses to participate in subcontracts, where participation opportunities are present. Contractor shall make genuine efforts to ensure all available business enterprises, including small and diverse businesses, have equal opportunity for participation which might be presented under this Agreement.

36. WAIVER

Waiver of any default or breach shall not be deemed to be a waiver of any subsequent default or breach. Any waiver shall not be construed to be a modification of the terms of this Agreement unless stated to be such in writing and signed by personnel authorized to bind each of the parties.

**EXHIBIT B -
STATEMENT OF WORK**

Title: Whatcom County LIO – FFY 2023-2025 Funding

The CONTRACTOR shall report in writing, delays, or adverse conditions that will materially affect their ability to meet project objectives or time schedules. This disclosure shall be accompanied by a statement of the action taken or proposed and any assistance needed by PSP to resolve the situation.

LIO Scope of Work FFY2023-2025

Task 1: Organize, Support, Administer, Facilitate, and Coordinate a Local Integrating Organization

The local integrating organization (LIO) is responsible for organizing and supporting a diverse¹ committee of representatives to discuss and make recommendations related to planning and implementing the Action Agenda, local ecosystem recovery planning, and LIO Plan implementation interests. The Partnership will support the LIO through Ecosystem Recovery Team liaison participation at LIO meetings as the Partnership budget allows. The LIO shall maintain sufficient administration, facilitation, and coordination capacity to support the ongoing goals and objectives of a LIO. (Recommended range \$20-40K/year)

- Subtask 1.01 Maintain a local point of contact for the LIO.
- Subtask 1.02 Serve as an agent for diverse local engagement and coordination in the LIO.
- Subtask 1.03 Arrange regular LIO meetings, prepare agendas, and facilitate meetings.
- Subtask 1.04 Maintain publicly available website with up-to-date information about the LIO, including notice of meetings, agendas, summary notes, and/or opportunities for content review, along with overarching mission and vision of LIO.
- Subtask 1.05 Participate in the following regional meetings, including:
 - Monthly, virtual meetings (1-2 hrs/month)(example caucus hour, forum etc)
 - Quarterly LIO coordinator meetings (3 virtual, 1 in-person). Quarterly meetings held in advance of Ecosystem Coordination Board.
 - October 18, 2022 (ECB scheduled for 11/3/2022)
 - 2023-25 Quarterly dates TBD (dependent on ECB calendar finalized in Dec)
 - Up to 12 hours (annually) of additional conference calls or web-based meetings requested by the Partnership.
 - Annual LIO Showcase (2 hours/year)
- Subtask 1.06 Coordinate with the salmon recovery Lead Entity(ies):
 - Integrate Lead Entity topics in the WRIA 1 Management Team and WRIA 1 Watershed Management Board meeting agendas, as appropriate, and incorporate in other integrated planning processes under the WRIA 1/Whatcom LIO.

¹ Diversity(noun): Describes the presence of differences within a given setting, collective or group. An individual is not diverse, but instead, a person can be considered unique. Diversity is about a collective or a group and exists in relationship to others. A team, an organization, a family, a neighborhood, and a community can be diverse. A person can bring diversity of thought, experience, and trait, seen and unseen, to a team –and the person is still an individual. (From Puget Sound Partnership DEI Policy Paper (2021)

- *Optional: Work in coordination with BIL-funded PSP Strategic Funding Team to tee up high priority salmon/ecosystem lines of work drawn from Action Agenda strategies*

Subtask 1.07 Rotating the Management Conference Local Forums:
Coordinate, plan, and co-host local forum as part of the Ecosystem Coordination Board and/or Leadership Council Rotating the Management Conference (only as [applicable](#)).

- The LC meets four times each year, with two (~June and ~Sept) of these meetings being two-day meetings. The LC will allocate a portion of one day to host a ‘local forum’ with local leadership, including LIO and LE leadership and committee members, to address the intersection of local and regional recovery priorities. Whatcom LIO is scheduled for LC in September 2024. Time will be allocated for planning and coordinating the local forum including collaborating with PSP Board staff, LC members and other LIO Coordinators where appropriate.
- Work with LIO Teams (Management Team, Staff Teams), PSP Board staff, and Partnership ERC to continue to support local forum outcomes.

Subtask 1.08 Engage ECB Representative
Prior to each Ecosystem Coordination Board meeting, engage the LIO ECB representative regarding issues and priorities of the LIO. Encourage ECB representative engagement in Action Agenda discussions held at ECB meetings. Review [ECB-LIO Expectations document](#) for details.

- Assist LIO in the process to nominate the LIO’s Ecosystem Coordination Board representative and alternate ECB representative.

Subtask 1.09 Work in coordination with BIL-funded PSP Strategic Funding Team to support ongoing goals and objectives of LIO. Coordinate with regional and other local partners. (*Expected 10-20hrs/month*)

Subtask 1.10 Tribal Nations and LIOs
Search out and support opportunities for non-tribal LIO staff and committee members to understand treaty and sovereign rights of tribal nations.

Task 1 Deliverables and Expected Activity Timeframes

Subtask	Deliverable	Year 1				Year 2				Year 3			
		Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4
1.01	▪ Meet regularly with assigned ERC to discuss issues of the LIO	X	X	X	X	X	X	X	X	X	X	X	X
1.02	▪ Update name, organizational affiliation, contact information, and committee(s) role of each LIO member in MiradiShare. Notify ERC when there is a change to participation.	As applicable				As applicable				As applicable			
1.03	▪ Develop and distribute summary	X	X	X	X	X	X	X	X	X	X	X	X

	<p>notes and materials to LIO committees</p> <ul style="list-style-type: none"> Submit LIO committee meeting materials including agendas and other meeting materials (via Box contract folder). 												
1.04	<ul style="list-style-type: none"> Provide link to LIO publicly-available website to the Partnership and describe updates to the website in quarterly progress reports. 	X	X	X	X	X	X	X	X	X	X	X	X
1.05	<ul style="list-style-type: none"> Attendance at meeting as reflected on the attendance sheets and summaries written by Partnership staff. Submit presentation for annual LIO Showcase to Partnership in advance of showcase and upload to Box deliverables folder 	X	X	X	X	X	X	X	X	X	X	X	X
1.06	<ul style="list-style-type: none"> Describe current state of coordination with salmon recovery lead entity in first quarterly progress report. Provide agendas and relevant materials associated with LE topics 	X				X				X			
1.07	<ul style="list-style-type: none"> Provide Partnership draft and final agenda topics and descriptions following the LC local forum. Provide meeting notes and agendas associated with LIO planning for Leadership Council forum. Attendance and outcome of LC Forum reflected on the attendance sheets and summaries written by PSP staff. In progress report, describe in detail how coordinator and/or LIO committees are supporting local forum outcomes and/or any challenges associated in pursuit of local forum outcomes 	As applicable				Scheduled to host Leadership Council in Fall 2024				As applicable			
1.08	<ul style="list-style-type: none"> Communicate to ERC the status of the ECB representative (ex-officio and/or action area rep) 	X	X	X	X	X	X	X	X	X	X	X	X

	communications. Describe successes and/or challenges in quarterly progress report. <ul style="list-style-type: none"> Communicate ECB nomination to Partnership via letter or email, and upload copy of such email or letter in Box contract folder 												
1.09	<ul style="list-style-type: none"> Attendance at meeting as reflected on the attendance sheets and summaries written by Partnership staff. In quarterly progress reports, report on work with LIO committees, BIL-funded PSP Strategic Funding Team, and/or others that identifies, develops lines of work, and targets BIL and other funding sources Upload to Box folder any final materials associated with this work 	X	X	X	X	X	X	X	X	X	X	X	X
1.10	<ul style="list-style-type: none"> Report any tribal engagement learning efforts or discussions for the LIO in quarterly progress reports 	As applicable			As applicable			As applicable					

Task 2: Advance Implementation of the 2022-2026 Action Agenda and support preliminary development of 2026-2030 Action Agenda.

LIOs serve an important role in coordinating the identification, prioritization, and implementation of local priorities identified in the Puget Sound Action Agenda. Work under this task is related to advancing Puget Sound recovery through local implementation of the current Action Agenda’s strategies and actions, local Ecosystem Recovery Plans, and preliminary concept scoping and process development for the 2026-2030 Action Agenda. (Recommended range \$25-45K/year)

- Subtask 2.01 Coordinate and catalyze implementation of the 2022-2026 Action Agenda. This includes activities such as:
- Educate committees and local partners about Action Agenda content, its importance, and what it means for local partners.
 - Support LIO committees and LIO members in advancing implementation of strategies in the Puget Sound Action Agenda.
 - Work with committees to determine role that individual committee members and the LIO as a collaborative forum can play to catalyze action toward the Action Agenda’s implementation
 - Facilitate updates, workshop-style agenda items, and/or presentations from committee members and other partners that serve to support or advance Action Agenda strategies and actions.

- Work in coordination with the ERCs and BIL-funded PSP Strategic Funding Team to identify and elevate lines of work (ex. programs, projects, initiatives) aligned with the Action Agenda and BIL funding goals. (See also Subtask 1.09)
- Subtask 2.02 Coordinate local contributions and content to adaptively manage the 2022-2026 Action Agenda. In coordination with the Partnership (*Maximum 40hrs/yr*)

- Participate in the After-Action Review for the 2022-2026 Action Agenda.
- Support the development and application of Action Agenda Progress Indicators, including: providing input on indicator design, indicator action plans, and/or target-setting; engaging in topical working groups for indicator development; connecting to local experts or local data; and participating in workshops or other adaptive management activities.
- Coordinate local committees and teams’ contributions to the adaptive management process for the 2022-2026 Action Agenda that may be identified in addition to the previous bullets.

Subtask 2.03 In coordination with the Partnership, support preliminary concept scoping and process development for 2026-2030 Action Agenda update. (*Oct 2024 -Sept 2025, max. 80 hrs*)

- Using the community engagement plan created in response to the Healthy Environments for All (HEAL) Act (SB 5141), use appropriate protocols for engaging the local community in this process, with Partnership support. The [HEAL Act](#) is Washington’s first environmental justice (EJ) legislation, and PSP is named one of the mandated agencies.
- Coordinate local committee input on preliminary concept scoping and development for the 2026-2030 Action Agenda update.

Subtask 2.04 Contribute to [LIO Coordinator Collective Project](#) (annually).

- Develop and/or review coordinator proposals and contribute to refinement and decision for annual coordinator project
- Support moving previous year(s)’ project outcomes forward through relevant work of LIO
- Participate in coordinator subcommittee for project development if/when applicable to priorities of the LIO.

Task 2 Deliverables and Expected Activity Timeframes

Subtask	Deliverable	Year 1				Year 2				Year 3			
		Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4
2.01	Upload all deliverables to Box contract folder with quarterly progress reports or monthly with invoices. <ul style="list-style-type: none"> ▪ Describe any education activities related to Action Agenda promotion (include any relevant materials) 	X	X	X	X	X	X	X	X	X	X	X	X

	<ul style="list-style-type: none"> ▪ Describe how LIO (as forum) and LIO committee members discussed role related to Action Agenda ▪ Upload presentation/workshop materials associated with this subtask 												
2.02	<ul style="list-style-type: none"> ▪ Participate in After Action Review and upload any LIO specific materials (TBD, may include comments, survey, or other mechanisms)) ▪ Describe any work with progress indicators, as relevant 	As relevant				As relevant				As relevant			
2.03	<ul style="list-style-type: none"> ▪ Describe Participation in Action Agenda 2026-2030 preliminary scoping efforts (Oct 2024 forward) ▪ Describe how HEAL guidelines were used to support local community in engagement process. ▪ Upload any relevant materials to Box and notify ERC 	n/a							X	X	X	X	X
2.04	<ul style="list-style-type: none"> ▪ Upload project proposal (if your LIO is proposing a project) ▪ Attendance and voting record as reflected on attendance and voting record written by Partnership staff ▪ Describe how LIO will move outcomes forward, if relevant to local priorities (progress report) ▪ Attendance at sub meetings as reflected on the attendance sheets and summaries written by Partnership staff (if relevant) 	X	X	tbd	tbd	X	X	tbd	tbd	X	X	tbd	tbd

Task 3: Performance Management

The LIO shall report on progress toward sub-tasks and deliverables through a quarterly progress report provided to the Partnership by the following dates:

YEAR	Q4	Q1	Q2	Q3
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2023	January 17 (Tues)	April 17 (Mon)	July 17 (Mon)	Sept 30 (Sat)
2024	January 16 (Tues)	April 15 (Mon)	July 15 (Mon)	Sept 30 (Mon)
2025	January 15 (Wed)	April 15 (Tues)	July 15 (Tues)	Sept 30 (Tues)

The LIO fiscal agent shall provide **monthly** invoices with brief explanations of activities. The final invoice and progress report due on September 30, 2025. These reports (progress reports and invoices) will be used by the Partnership for the Financial Ecosystem Assessment Tracking system (FEATs), NEPORT, NEP Atlas, other reporting needs, and to show how LIOs are advancing their plans locally and regionally. *(Recommended range \$10-20K/year)*

Subtask 3.01 Send completed contract progress reports by Task (1-5) on a **quarterly** basis (see table above) to the Partnership (contract manager and upload to Box contract folder) using the Partnership-provided reporting formats *(i.e. progress report template)*.

Subtask 3.02 Send billing summary by Task (1-5) and proof of expenditure for grant activities on a **monthly** basis (on or before the 15th of each month) to the Partnership’s pspfiscal@psp.wa.gov email address and contract manager, using the Partnership-provided reporting formats *(i.e. the “Paypack” document)*.

Subtask 3.03 General Contract Management and Support: Work with fiscal agent, contract manager and Partnership contract manager to make amendments, administrative memos, review future contract SOW’s (FFY 2025) and other contract management administrative tasks.

Task 3 Deliverables and Expected Activity Timeframes

Subtask	Deliverable	Year 1				Year 2				Year 3			
		Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4
3.01	<ul style="list-style-type: none"> Send progress reports by task and associated deliverables on a quarterly basis to the Partnership (via email to ERC and upload to Box Deliverables folder) using the Partnership-provided reporting formats <i>(i.e. progress report template)</i>. 	X	X	X	X	X	X	X	X	X	X	X	X
3.02	<ul style="list-style-type: none"> Send billing summary by task, and proof of expenditure for grant activities monthly to the Partnership using the Partnership – provided reporting formats <i>(i.e. the “Paypack” document)</i>. Work through June 30 must be invoiced by mid July. Final billing invoice for work through Sept 30 due by October 31. 	X	X	X	X	X	X	X	X	X	X	X	X
3.03	<ul style="list-style-type: none"> Support timely development and processing of subcontracts, 	As needed				As needed				As needed			

	amendments, and other contract support as needed			
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Task 4: Support Adaptive Management and Communication of LIO Ecosystem Recovery Plans

The LIO shall manage revisions and communicate LIO Plan content in coordination with local and regional partners. Adaptively managing and strategically communicating the LIO Plan engenders confidence in local and regional decision makers that there are well defined problems in Puget Sound at the LIO scale; that LIOs know what to do to address them; the LIO knows which partners to engage and for what purpose; and that LIO work is well integrated into an overall strategy for Puget Sound Recovery. The Plan serves as a longer-term strategic framework from which the Partnership and other partners can produce a variety of products associated with planning and communicating Puget Sound recovery goals, strategies, outcomes, barriers, and solutions. (Recommended range \$10-30K/year)

Subtask 4.01 Update and adaptively manage LIO Plan using Conservation Standards in mutually agreed upon tbd format (Miradi/AA Explorer/PS Info/other) (with support from Partnership & SIL staff)

- Participate in **up to 10-20 hours (annually)** of Partnership supported workshops, coaching, and/or trainings for Conservation Standards and/or Miradi trainings.
- Work with relevant committees or boards on LIO Plan updates and approvals as applicable. *(ongoing)*

Example activities for adaptive management include: It is anticipated that the areas highlighted in bold will be the LIO emphasis over the next three years.

- **Develop lines of work (projects, programs, initiatives) supporting LIO and AA strategies**
- **Update LIO Plan barriers and gaps**
- Incorporate new and revised Vital Sign Targets and indicators
- **Integrate updated Implementation Strategy components**
- Incorporate Action Agenda desired outcomes and their associated progress indicators and targets
- Incorporate consideration of Program Targets
- **Incorporate ongoing programs**
- **Track LIO Plan implementation progress**
- **Work with SIL(s) to integrate LIO Plan and IS content**
- Work with the relevant LE coordinator to incorporate updated priorities and/or strategies from adaptively managed or updated salmon recovery chapters into LIO Plan. *(ongoing)*
- Begin or continue integration of human wellbeing, climate change, equity and environmental justice into the LIO Plan. *(ongoing)*
- With Partnership support, begin to include alternative future scenarios into LIO planning. For example, consider how alternative trajectories of climate change and population growth (i.e. alternative scenarios) affect current day planning *(expected for late 2023 or 2024)*

Subtask 4.02 Develop and distribute a LIO Plan progress report to the LIO committees and the Partnership 1x a year.

Subtask 4.03 Review materials and provide feedback and/or input on needed materials for [Puget Sound Info platform](#) and/or Action Agenda Explorer, as requested by the Partnership.

(max. 25 hrs/yr)

- The Partnership will work closely with LIO coordinator to ensure that local pages (~1-3) are accurate and up to date.
- Review and provide feedback on new PS Info platform and AA Explorer elements

Task 4 Deliverables and Expected Activity Timeframes

Subtask	Deliverable	Year 1				Year 2				Year 3			
		Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4
4.01	<ul style="list-style-type: none"> ▪ Provide description of priority adaptive management activities for 2022-2025 in quarterly progress report ▪ Provide description of participation in workshops, coaching, etc. in progress report ▪ Track, update and report changes (including reason for change) to the Partnership on the LIO Ecosystem Recovery Plan and project file in Miradi (i.e. briefly note if changes were made in Miradi in quarterly progress report). 	X	X	X	X	X	X	X	X	X	X	X	X
4.02	<ul style="list-style-type: none"> ▪ Upload LIO Plan progress report to Box contract folder, distribute the progress report to committee/board via email or during meetings with the proposed discussion questions for future LIO meetings. 	1x/year				1x/year				1x/year			
4.03	<ul style="list-style-type: none"> ▪ In quarterly progress report, briefly describe if any PS Info, and/or Action Agenda Explorer online materials were reviewed. 	X	X	X	X	X	X	X	X	X	X	X	X

[Task 5: Tailor LIO coordination to Implement the Action Agenda and Support Unique Vision and Goals of LIO](#)

The Partnership is enthusiastic to invest and empower LIOs for the continued implementation and adaptive management of the Action Agenda and LIO Plans. Ultimately, ecosystem recovery goes beyond single actions and is addressed in ongoing programs and other avenues of local and regional influence in decision making. Sustainable ecosystem recovery and protection requires a socio-political and cultural shift that incorporates nature’s contributions to people. LIOs are powerful networks that recognize the local nuance of these elements and are the heart of driving the changes necessary to pursue them. This task enables LIOs to pursue the individual goals and vision that are unique to their LIO.

In addition to the required Tasks 1-4 described above, the LIO is asked to choose two or more additional “tailored enhanced” Task 5 subtasks for advancement of the LIO Plan and Action Agenda in their geography.

This section includes subtasks that fulfill the following objectives:

- Supports an individual LIO’s vision and effort for meaningful engagement in Puget Sound Recovery system including the Action Agenda and Implementation Strategies
- Supports greater coordination and efficiency to achieve real-world outcomes
- Supports the integration of salmon recovery priorities
- Aligns with Action Agenda and the Implementation Strategies

**LIOs will need to work with their Partnership contract manager to develop deliverables with associated outputs and outcomes with this portion of the coordination grant.
(Not to exceed \$70K/year)**

All travel reimbursements and stipends must adhere to Washington OFM policies on travel². They must also adhere to the EPA general terms and conditions of the grant³

Subtask 5.01 Regional Planning and Coordinating Group Participation

Support LIO participation in regional planning and coordinating groups to offer local expertise and build awareness and consideration of local priorities. This work should prioritize *but is not limited* to Action Agenda related external working groups for engagement.

- Provide coordination support to a designated LIO Committee Member participating in the regional Transboundary Ad Hoc Caucus. This coordination support is a follow-up to the actions presented to the ECB on the Transboundary Coordination topic presented at the May 2022 ECB Whatcom LIO Forum.

Subtask 5.03 Catalyze implementation of high priority public engagement, awareness raising, behavior change, incentive, and/or compliance projects and programs identified in the LIO Plan and/or Action Agenda.

- Support Whatcom Watersheds Information Network, which served as the Whatcom ECO Net, through funding capacity for LIO representatives to coordinate with WWIN on outreach, communication, and education actions that support implementation of LIO strategies including those identified in the LIO Plan, WRIA 1 Watershed Management Board (WMB) work plan, WRIA 1 Salmon Recovery Plan, and others as identified through the WRIA 1 WMB teams. WWIN work plan activities that provide opportunities to support LIO strategies include Whatcom Water Week planning and support and Speaker Series Events and Forums.
- Work with WRIA 1 WMB Staff and Management Teams to identify and implement outreach and education activities aligned with the LIO Plan, WRIA 1 WMB work plan, and/or WRIA 1 Salmon Recovery Plan **AND** 2022-2026 Action Agenda (consider Action Agenda institutional strategies D and E) and provide seed funds (not to exceed

² OFM travel policies and resources: <https://ofm.wa.gov/sites/default/files/public/legacy/policy/10.htm>
<https://ofm.wa.gov/accounting/administrative-accounting-resources/travel>

³ EPA General terms and conditions: https://www.epa.gov/sites/production/files/2019-05/documents/fy_2019_epa_general_terms_and_conditions_effective_october_1_2018_or_later.pdf

Title: Whatcom County LIO – FFY 2023-2025 Funding
\$20k/year). Considerations for this work include addressing salmon recovery outreach needs associated with recreation, land use, and other strategies, and a salmon summit that focuses on restoration activities and effectiveness.

Subtask 5.04 Contribute to Barriers Removal

Facilitate removal and/or reductions of LIO priority barriers to ecosystem recovery using coordination and capacity. *(LIOs can identify, further define, prioritize, and develop actions to address barriers and/or gaps through Task 4.01)*

1. In year one, Coordinator will work with LIO committees to identify, evaluate, and prioritize options for addressing and removing barriers to implementation. Evaluation and prioritization efforts should include thoroughly reviewing existing local and regional barriers (reference LIO synthesis 2.0, Continuous Improvement lists) and any associated efforts to address those barriers. The year one work will determine whether or how this subtask would be pursued in Years 2 and 3.
2. Participate in regional efforts (if available and relevant) targeting identified priority barrier (ex: MART, Align group, others)
3. If barrier is specific to only LIO geography, determine, alongside committees, how LIO would like to address the barrier using the following options:
 - allocate capacity funds to investigate and develop solutions to the barrier. This may include funding a workshop with relevant partners, hiring a subcontractor to thoroughly investigate the root of the barrier, feasible solutions, and necessary change makers
 - elevate and request support in regional forums to support barrier removal
 - removing barrier itself using capacity funds. Work in close coordination with your Partnership contract manager to determine limitations of barrier removal and capacity funds. Examples may include:
 - Complete feasibility and preliminary design
 - Complete inventories and/or assessments
 - Complete planning strategy
 - Secure partnership agreements or memorandums necessary

Subtask 5.05 Pursue Funding for 2022-2026 Action Agenda Implementation

Support Action Agenda implementation by building LIO capacity to compete for project funding efficiently and effectively.

Any bulleted item may occur independently without the others. If separate subcontract is required, copy should be provided to the Partnership by the LIO fiscal agent.

- Funding for staff and/or consultant to carry out activities that can include:
 - developing a sequenced list of projects for funding
 - cost-benefit-analysis of the projects to demonstrate the value to funders/the community or other related communications materials
 - leveraging opportunities analysis to identify and target funding gaps
 - strategic development of grant proposals and match the project with the appropriate funding source(s) to advance 2022-2026 Action Agenda implementation.
 - Support grant coordinator for LIO geography to ensure coordinated funding, match, and to create attractive bids for contractors

- Implement through adaptive management the WRIA 1 Integrated Funding Strategy developed under FFY2022 LIO Coordination Grant.
- Work in coordination with BIL-funded PSP Strategic Funding Team

Task 5 Deliverables and Expected Activity Timeframes

Subtask	Deliverable	Year 1				Year 2				Year 3			
		Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4
5.01	<p>Regional Planning and Coordinating Group Participation</p> <ul style="list-style-type: none"> ▪ In quarterly progress reports, briefly describe participation of the LIO and any challenges or successes as part of this participation. Briefly describe how participation is shared and discussed with LIO committees/Boards. ▪ Upload to deliverables folder on Box any finalized materials relevant to this subtask (this may include subcontracts, agendas, presentation materials, letters, among other items) 	x	x	x	x	x	x	x	x	As applicable			
5.03	<p>Support Behavior Change</p> <ul style="list-style-type: none"> ▪ In quarterly progress report, provide description of how local outreach network is aligning with LIO Plan ▪ Upload to deliverables folder on Box any finalized materials relevant to this subtask (this may include subcontracts, agendas, presentation materials, letters, among other items) 	x	x	x	x	x	x	x	x	x	x	x	x
5.04	<p>Contribute to Barriers Removal</p> <ul style="list-style-type: none"> ▪ In quarterly progress report, provide detailed description of work toward sub task ▪ Upload to deliverables folder on Box any finalized materials relevant to this subtask (this may include subcontracts, agendas, presentation materials, letters, 				x	x	x						

	among other items)												
5.05	Pursue Funding for 2022-2026 Action Agenda Implementation <ul style="list-style-type: none"> ▪ In quarterly progress report, provide detailed description of work toward sub task ▪ Upload to deliverables folder on Box any finalized materials relevant to this subtask (this may include subcontracts, agendas, presentation materials, letters, grant applications, among other items) 	x	x	x	x	x	x	x	x	x	x	x	x

PROGRAM SPECIFIC REQUIREMENTS/NARRATIVE

Staffing Requirements: The PSP Executive Director or designee must approve project personnel changes.

**EXHIBIT C -
Budget & Billing Procedures**

Title: Whatcom County LIO – FFY 2023-2025 Funding

CONTRACT: 2023-18 (Yr 1 Budget)															
PROJECT TITLE: WHATCOM COUNTY LIO - FFY 2023-2025															
	Job Classification	UNIT	RATE	TASK 1		TASK 2		TASK 3		TASK 4		TASK 5		TOTAL	
				UNITS	COST	UNITS	COST	UNITS	COST	UNITS	COST	UNITS	COST	UNITS	COST
SALARY COST	Planner I	HR	\$40.06	0	\$0	0	\$0	75	\$3,005	0	\$0	80	\$3,205	155	\$6,209
TOTAL SALARY					\$0		\$0	75	\$3,005		\$0	80	\$3,205	155	\$6,209
BENEFITS	Planner I	HR	74%		\$0		\$0		\$2,223		\$0		\$2,372		\$4,595
TOTAL BENEFITS					\$0		\$0		\$2,223		\$0		\$2,372	0	\$4,595
SUBCONTRACTS			\$ -		\$0		\$0		\$0		\$0		\$0		\$0
TBD SUBCONTRACTOR SUBTASK 5.03 OUTREACH (SEED MONEY)			\$ -		\$0		\$0		\$0		\$0		\$5,000		\$5,000
TBD SUBCONTRACTOR (IMPLEMENTING FUNDING STRATEGY (SUBTASK 5.05))			\$ -		\$0		\$0		\$0		\$0		\$30,000		\$30,000
Contracted Coordinator															
Salaries, Benefits					\$43,200		\$13,120		\$2,980		\$7,520		\$10,080		\$76,800
Travel	mileage R/T	MILE	\$0.63		\$113		\$0		\$0		\$0		\$2,283		\$113
Supplies			\$ -		\$0		\$0		\$0		\$0		\$2,283		\$2,283
TOTAL SUBCONTRACTORS					\$43,313		\$13,120		\$2,980		\$7,520		\$47,363		\$114,196
TOTAL COSTS					\$43,313		\$13,120		\$8,108		\$7,520		\$52,939		\$125,000

CONTRACT: 2023-18 (Yr 2 Budget)															
PROJECT TITLE: WHATCOM COUNTY LIO - FFY 2023-2025															
	Job Classification	UNIT	RATE	TASK 1		TASK 2		TASK 3		TASK 4		TASK 5		TOTAL	
				UNITS	COST	UNITS	COST	UNITS	COST	UNITS	COST	UNITS	COST	UNITS	COST
SALARY COST	Planner I	HR	\$40.06	0	\$0	0	\$0	75	\$3,005	0	\$0	80	\$3,205	155	\$6,209
TOTAL SALARY					\$0		\$0	75	\$3,005		\$0	80	\$3,205	155	\$6,209
BENEFITS	Planner I	HR	74%		\$0		\$0		\$2,223		\$0		\$2,372		\$4,595
TOTAL BENEFITS					\$0		\$0		\$2,223		\$0		\$2,372	0	\$4,595
SUBCONTRACTS			\$ -		\$0		\$0		\$0		\$0		\$0		\$0
TBD SUBCONTRACTOR FOR SUBTASK 5.03 OUTREACH			\$ -		\$0		\$0		\$0		\$0		\$5,000		\$5,000
TBD SUBCONTRACTOR FOR SUBTASK 5.04 (based on Year 1)													\$10,000		\$10,000
TBD SUBCONTRACTOR (IMPLEMENTING FUNDING STRATEGY (SUBTASK 5.05))			\$ -		\$0		\$0		\$0		\$0		\$15,000		\$15,000
Contracted Coordinator															
Salaries, Benefits					\$51,200		\$13,120		\$2,980		\$6,160		\$8,160		\$81,520
Travel	mileage R/T	MILE	\$0.63		\$113		\$0		\$0		\$0		\$2,563		\$113
Supplies			\$ -		\$0		\$0		\$0		\$0		\$2,563		\$2,563
TOTAL SUBCONTRACTORS					\$51,313		\$13,120		\$2,980		\$6,160		\$40,723		\$114,196
TOTAL COSTS					\$51,313		\$13,120		\$8,108		\$6,160		\$46,289		\$125,000

Exhibit C
Budget & Billing Procedures
Title: Whatcom County LIO – FFY 2023-2025 Funding

CONTRACT: 2023-18 (Yr 3 Budget)															
PROJECT TITLE: WHATCOM COUNTY LIO - FFY 2023-2025															
	Job Classification	UNIT	RATE	TASK 1 Organize, Support, Administer, Facilitate, and Coordinate a Local Integrating Organization		TASK 2 Advance Implementation of the 2023-2026 Action Agenda and support preliminary development of 2026-2030 Action Agenda.		TASK 3 Performance Management		TASK 4 Support Adaptive Management and Communication of LIO Ecosystem Recovery Plans		TASK 5 Tailor LIO coordination to Implement the Action Agenda and Support Unique Vision and Goals of LIO		TOTAL	
				UNITS	COST	UNITS	COST	UNITS	COST	UNITS	COST	UNITS	COST	UNITS	COST
SALARY COST	Planner I	HR	\$40.06	0	\$0	0	\$0	75	\$3,005	0	\$0	80	\$3,205	155	\$6,209
TOTAL SALARY					\$0		\$0	75	\$3,005		\$0	80	\$3,205	155	\$6,209
BENEFITS	Planner I	HR	74%		\$0		\$0		\$2,223		\$0		\$2,372		\$4,595
TOTAL BENEFITS					\$0		\$0		\$2,223		\$0		\$2,372	0	\$4,595
SUBCONTRACTS			\$ -		\$0		\$0		\$0		\$0		\$0		\$0
TBD SUBCONTRACTOR FOR SUBTASK 5 03 OUTREACH			\$ -		\$0		\$0		\$0		\$0		\$5,000		\$5,000
TBD SUBCONTRACTOR FOR SUBTASK 5 04 (based on Year 2)													\$10,000		\$10,000
TBD SUBCONTRACTOR IMPLEMENTING FUNDING STRATEGY (SUBTASK 5 05)			\$ -		\$0		\$0		\$0		\$0		\$15,000		\$15,000
Contracted Coordinator															\$0
Salaries, Benefits					\$44,820		\$19,754		\$2,988		\$6,391		\$7,968		\$81,921
Travel	mileage R/T	MILE	\$0.63		513										\$113
Supplies			\$ -		\$0		\$0		\$0		\$0		\$2,162		\$2,162
TOTAL SUBCONTRACTORS					\$44,933		\$19,754		\$2,988		\$6,391		\$40,130		\$114,196
TOTAL COSTS					\$44,933		\$19,754		\$8,216		\$6,391		\$45,706		\$125,000

BILLING PROCEDURES

The AGENCY shall reimburse the CONTRACTOR upon review and approval of work performed under the scope of this agreement and receipt of properly completed reimbursement requests.

THE AGENCY will pay for work and expenses that occurred within the period of performance. The AGENCY reserves the right to withhold 10% of the payment under each reimbursement request until satisfactory completion of the project. Such satisfaction is not unreasonably withheld.

Payment may be withheld if required work, services, progress reports and/or deliverables are not submitted to the satisfaction of the AGENCY. Such satisfaction not be unreasonably withheld.

The AGENCY may terminate the agreement if the CONTRACTOR fails to comply with any term or condition of this contract.

The AGENCY will pay indirect costs as approved in the budget. The CONTRACTOR may be required to submit a copy of their current federally approved indirect cost rate.

The CONTRACTOR shall receive reimbursement for travel and other expenses as identified below or as authorized in advance by the AGENCY as reimbursable. Such expenses may include airfare (economy or coach class only), other transportation expenses, lodging and subsistence necessary during periods of required travel at the current state reimbursement rates (<http://www.ofm.wa.gov/resources/travel.asp>).

If the CONTRACTOR expends more than the amount of the AGENCY funding in this agreement in anticipation of receiving additional funds from the AGENCY, it does so at its own risk. The AGENCY is not legally obligated to reimburse the CONTRACTOR for costs incurred in excess of the AGENCY’s approved budget.

The CONTRACTOR **must** submit a **monthly** invoice voucher or equivalent document to the AGENCY by the 20th of each month for the previous month’s billing (e.g. March invoice to be submitted by April 20th) **UNLESS** the agreement has been identified as a “deliverable-based” contract with specific due date or special conditions that has been approved by the PSP Project Manager. Contractors must submit invoices within 30 days after the month of completion of deliverables to the PSP Project Manager for “deliverable-based” contracts. Payment for approved goods and/or services will be made by check, warrant or electronic fund transfer (EFT) within 30 days of receipt of the invoice.. The CONTRACTOR must submit invoices for all work done within a fiscal year 30 days after the end of the fiscal year. Invoices shall be paid within 30 days after the final invoice has been submitted.

BILLING CONDITIONS:

All Contractors/LIOs must submit any budget changes to PSP for sufficient processing time of any amendment execution between PSP and the Contractor/LIO. If information provided does not allow for sufficient processing time, PSP will not adjust or pay for any invoices or billing over the 10% of the total amount listed for each task or subtask even if the added total amounts for those tasks/subtasks does not exceed the total budget.

BILLING DETAIL

Each invoice voucher or equivalent document submitted to the AGENCY by the CONTRACTOR must include all necessary information for the AGENCY to verify all expenditures. At a minimum, the CONTRACTOR shall specify the following:

1. The PSP contract/agreement number.
2. The time-period during which the services were performed.
3. A description of purchases, work and services performed.
4. Total invoice amount.
5. Expenditure detail based on the approved budget. Supporting documentation must include the same level of detail as the approved budget, such as:

- a. Task Number
 - b. Budget category (personnel, goods/services, subcontractors)
 - c. Number of hours billed, if applicable and
 - d. Hourly rate, if applicable.
6. A receipt must accompany any single expense in the amount of \$50.00 or more.
7. If match is required:
- a. match requirement met during the billing period, and
 - b. cumulative match requirement met
8. A progress report describing the deliverables completed during the reimbursement request period.

The AGENCY shall not process payments if the CONTRACTOR fails to submit the required documentation.

Submit reimbursement requests to:

*Puget Sound Partnership
Fiscal Unit
PO Box 40900
Olympia, WA 98504*

Submit all invoices electronically to pspfiscal@psp.wa.gov

Payment shall be considered timely if made by the AGENCY within thirty (30) calendar days after receipt of properly completed reimbursement request.



Exhibit D

PSP Agreement #2023-18

**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 any 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, 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 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 sub-awards at all tiers (including sub-contracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients 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.

Typed Name & Title of Authorized Representative

Signature and Date of Authorized Representative

PSP form (rev 8/2013) based on EPA form 5500-06 (Rev. 06/2008) Previous editions are obsolete.

EXHIBIT E

Puget Sound Partnership SUB-RECIPIENT FEDERAL REQUIREMENTS

Title: Whatcom County LIO – FFY 2023-2025 Funding

1. INTRODUCTION

This Exhibit E contains provisions that are not listed on OMB Standard Form 424B (Rev 4-2012). These provisions apply only to Sub-recipients.

2. AUDIT REQUIREMENTS

Sub-recipient CONTRACTOR shall meet the provisions in Office of Management and Budget (OMB) Guidance, Subpart F, §200.501 (Audit Requirements), if the CONTRACTOR expends \$750,000 or more in total Federal funds in a fiscal year. The \$750,000 threshold for each year is a cumulative total of all federal funding from all sources. The CONTRACTOR shall forward a copy of the audit along with the RECIPIENT'S response and the final corrective action plan to AGENCY within ninety (90) days of the date of the audit report. For complete information on how to accomplish the single audit submissions, visit the Federal Audit Clearinghouse Web site: <http://harvester.census.gov/facweb/>

3. COST PRINCIPLES/INDIRECT COSTS FOR STATE AGENCIES

GRANT RECIPIENT agrees to comply with the cost principles of 2 CFR 200 Subpart E as appropriate to the award.

In addition to the US Environmental Protection Agency's General Terms and Conditions "Indirect Cost Rate Agreements", if the recipient does not have a previously established indirect cost rate, it agrees to prepare and submit its indirect cost rate proposal in accordance with 2 CFR 200 Appendix VII.

4. CIVIL RIGHTS OBLIGATIONS

This term and condition incorporates by reference the signed assurance provided by the recipient's authorized representative on Standard Form 424B. These assurances and this term and condition obligate the recipient to comply fully with applicable civil rights statutes and implementing EPA regulations.

5. CYBERSECURITY CONDITION

The subrecipient(s) must comply with the recipient's requirements (section (b) (1) – EPA must ensure that any connections between the recipient' network or information system and EPA networks used by the recipient to transfer data under this agreement, are secure) if the subrecipients network or information system is connected to EPA networks to transfer data to the Agency using systems other than the Environmental Information Exchange Network or EPA's Central Data Exchange.

6. NON DISCRIMINATION AND DISADVANTAGED, MBE, WBE BUSINESS ENTERPRISES ADDITIONAL REQUIREMENTS

CONTRACTOR agrees to comply with the requirements of EPA's Program for Utilization of Small, Minority, and Women's Business Enterprises in procurement, contained in 40 CFR, Part

33. CONTRACTOR shall include the following provision in all subcontracts involving use of federal funds:

In accordance with 40 CFR 33.106 and its Appendix A, the CONTRACTOR shall not discriminate on the basis of race, color, national origin or sex in the performance of this contract. The contractor administration shall carry out applicable requirements of 40 CFR part 33 in the award of contracts awarded under EPA financial assistance agreements. Failure by the contractor to carry out these requirements is a material breach of this contract which may result in the termination of this contract or other legally available remedies.

7. DRUG FREE WORKPLACE

CONTRACTOR (Sub-Recipient) shall make an ongoing, good faith effort to maintain a drug-free workplace pursuant to the specific requirements set forth in Title 2 CFR Part 1536 Subpart B. Additionally, in accordance with these regulations, the recipient organization shall identify all known workplaces under its federal award and keep this information on file during the performance of the award.

CONTRACTORS who are individuals must comply with the drug-free provisions set forth in Title 2 CFR Part 1536 Subpart C.

The consequences for violating this condition are detailed under Title 2 CFR Part 1536 Subpart E. Recipient can access the Code of Federal Regulations (CFR) Title 2 Part 1536 at: <http://ecfr.gpoaccess.gov>.

8. FEDERAL FUNDING ACCOUNTABILITY AND TRANSPARENCY ACT (FFATA) REPORTING REQUIREMENTS

- a. In order to comply with the FFATA, the Sub-Recipient shall complete the FFATA Data Collection Form (FFATA Data Collection Form, Exhibit E, Attachment 2) and return it to the AGENCY. The AGENCY will report basic agreement information, including the required DUNS number, for all federally-funded agreements at www.fsr.gov. This information will be made available to the public at www.usaspending.gov. Sub-Recipients who do not have a DUNS number can find guidance at www.grants.gov. Please note that AGENCY will not pay any invoices until it has received the completed FFATA Data Collection Form.
- b. To comply with the act and be eligible to enter into this contract, your organization must have a Data Universal Numbering System (DUNS®) number. A DUNS® number provides a method to verify data about your organization. If you do not already have one, you may receive a DUNS® number free of charge by contacting Dun and Bradstreet at www.dnb.com.
- c. Any sub-recipient that meets each of the below criteria must also report compensation for its five top executives, using AGENCY's Federal Funding Accountability and Transparency Act (FFATA) Data Collection Form if the sub-recipient meets the following criteria:
 - 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.
 - The public does not have access to this information about the compensation of the senior executives of your organization through periodic reports filed under section 13(A) or 15(d) of the Securities and Exchange Act of 1934 (15 U.S.C. 78m(a), 78(d) or section 6104 of the Internal Revenue Code of 1986.

See www.fsr.gov for details of this requirement. If your organization falls into this above category, you must report the required information to AGENCY.

9. GEOSPATIAL DATA STANDARDS

All geospatial data created must be consistent with Federal Geographic Data Committee (FGDC) endorsed standards. Information on these standards may be found at <https://www.fgdc.gov/>

10. INTERNATIONAL TRAVEL (Including Canada)

All International Travel must be approved by the US Environmental Protection Agency's, Office of International and Tribal Affairs (OITA) BEFORE travel occurs. Even a brief trip to a foreign country, for example to attend a conference, requires OITA approval. Please contact your Partnership Project manager as soon as possible if travel is planned out of the country, including Canada and/or Mexico, so that they can submit a request to the EPA Project Officer if they approve of such travel.

11. LEP (Limited English Proficiency) Title VI

As a recipient of EPA financial assistance, you are required by Title VI of the Civil Rights Act to provide meaningful access to LEP individuals. In implementing that requirement, the Sub-recipient agrees to use as a guide the Office of Civil Rights (OCR) document entitled "*Guidance to Environmental Protection Agency Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons.*" The guidance can be found at

http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=2004_register&docid=fr25jn04-79.pdf.

In accepting this contract, the recipient acknowledges it has an affirmative obligation to implement effective Title VI compliance programs and ensure that its actions do not involve discriminatory treatment and do not have discriminatory effects even when facially neutral. The recipient must be prepared to demonstrate to EPA/PSP that such compliance programs exist and are being implemented or to otherwise demonstrate how it is meeting its Title VI obligations. For example, if CONTRACTOR's responsibilities under this contract include gathering public input on an environmental issue, CONTRACTOR's communication with the public should attempt to minimize barriers that interfere with the ability of LEP persons to meaningfully participate.

12. MANAGEMENT FEES

Management fees or similar charges in excess of the direct costs and approved indirect rates are not allowable. The term "management fees or similar charges" refers to expenses added to the direct costs in order to accumulate and reserve funds for ongoing business expenses, unforeseen liabilities, or for other similar costs which are not allowable under this CONTRACT. Management fees or similar charges may not be used to improve or expand the project funded under this Agreement, except to the extent authorized as a direct cost of carrying out the scope of work.

13. PEER REVIEW

The results of this project may affect management decisions relating to Puget Sound. Prior to finalizing any significant technical products the Principal Investigator (PI) of this project must solicit advice, review, and feedback from a technical review or advisory group consisting of relevant subject matter specialists. A record of comments and a brief description of how

respective comments are addressed by the PI will be provided to the Project Monitor prior to releasing any final reports or products resulting from the funded study.

14. REIMBURSEMENT LIMITATION

If CONTRACTOR expends more than the amount of the Environmental Protection Agency (EPA) funding in this agreement in anticipation of receiving additional funds from EPA, it does so at its own risk. EPA is not legally obligated to reimburse PSP, nor its sub-recipients, for costs incurred in excess of the EPA approved budget.

15. SEMI-ANNUAL AND ANNUAL PERFORMANCE REPORTS

The Sub-recipient shall submit performance reports during the life of the project, as specified in the statement of work or work plan developed under this contract.

In addition to the periodic performance reports, the recipient shall submit a final performance report, which is due 90 calendar days after the expiration or termination of the award, or as specified in the work plan or statement of work. The report shall be submitted to the PSP Project Officer and may be provided electronically. The report shall generally contain the same information as in the periodic reports, but should cover the entire project period. After completion of the project, the PSP Project Officer may waive the requirement for a final performance report if the PSP Project Officer deems such a report is inappropriate or unnecessary.

16. SIX GOOD FAITH EFFORTS, 40 CFR, PART 33, SUBPART C

Pursuant to 40 CFR, Section 33.301, the recipient agrees to make the following good faith efforts whenever procuring construction, equipment, service and supplies under an EPA financial assistance agreement, and to require that subrecipients, loan recipients, and prime contractors also comply. Records documenting compliance with the six good faith efforts shall be retained:

- a) Ensure DBEs are made aware of contracting opportunities to the fullest extent practicable through outreach and recruitment activities. For Indian Tribal, State and Local Government recipients, this will include placing DBEs on solicitation lists and soliciting whenever they are potential sources.
- b) Make information on forthcoming opportunities available to DBEs and arrange time frames for contracts and establish delivery schedules, where the requirements permit, in a way that encourages and facilitates participation by DBEs in the competitive process. This includes, whenever possible, posting solicitations for bids or proposals for a minimum of 30 calendar days before the bid or proposal closing date.
- c) Consider in the contracting process whether firms competing for large contracts could subcontract with DBEs. For Indian Tribal, State and local Government recipients, this will include dividing total requirements when economically feasible into smaller tasks or quantities to permit maximum participation by DBEs in the competitive process.
- d) Encourage contracting with a consortium of DBEs when a contract is too large for one of these firms to handle individually.
- e) Use the services and assistance of the SBA and the Minority Business Development Agency of the Department of Commerce.
- f) If the prime contractor awards subcontracts, require the prime contractor to take the steps in paragraph (a) through (e) of this section.

17. SUB-AWARDS

If CONTRACTOR (Sub-Recipient) makes sub-awards under this contract, CONTRACTOR is responsible for selecting its sub-awardees and, if applicable, for conducting sub-award competitions. CONTRACTOR agrees to:

- a. Establish all sub-award agreements in writing;
- b. Maintain primary responsibility for ensuring successful completion of the approved project (Sub-Recipient cannot delegate or transfer this responsibility to a sub-awardee);
- c. Ensure that any sub-awards comply with the standards in Section 210(a)-(d) of OMB Circular A-133, and are not used to acquire commercial goods or services for the sub-awardee;
- d. Ensure that any sub-awards to 501(c)(4) organizations do not involve lobbying activities;
- e. Monitor the performance of sub-awardees, and ensure sub-awardees comply with all applicable regulations, statutes, and terms and conditions which flow down in the sub-award;
- f. Obtain AGENCY's consent before making a sub-award to a foreign or international organization, or a sub-award to be performed in a foreign country; and
- g. Obtain approval from AGENCY for any new sub-award work that is not outlined in the approved work plan in accordance with 40 CFR Parts 30.25 and 31.30, as applicable.

18. TRAFFICKING IN PERSONS AND TRAFFICKING VICTIM PROTECTION ACT OF 2000 (TVPA) AS AMENDED IN 22 U.S.C. 7104(g)

This provision applies only to a Sub-Recipient, and all sub-awardees of Sub-Recipient, if any. See page one (1) of this contract for determination of whether CONTRACTOR is a sub-recipient. Sub-Recipient shall include the following statement in all sub-awards made to any private entity under this Agreement.

"You as the Sub-Recipient, your employees, sub-awardees under this award, and sub-awardees' employees may not engage in severe forms of trafficking in persons during the period of time that the award is in effect; procure a commercial sex act during the period of time that the award is in effect; or use forced labor in the performance of the award or sub-awards under this Award."

Sub-Recipient, and all sub-awardees of Sub-Recipient must inform AGENCY immediately of any information you receive from any source alleging a violation of this prohibition during the award term.

Federal agency funding this agreement may unilaterally terminate, without penalty, the funding award if this prohibition is violated, Section 106 of the Trafficking Victims Protection Act of 2000, as amended.

19. UNLIQUIDATED OBLIGATIONS (ULO)

Sub-recipients, and all sub-awardees of Sub-Recipients, if any, should manage their agreement and subaward funding in ways that reduce the length of time that federal funds obligated and committed to subaward projects are unspent (not yet drawn down through disbursements to sub-recipients and sub-awardees).

ASSURANCES - NON-CONSTRUCTION PROGRAMS

Public reporting burden for this collection of information is estimated to average 15 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0040), Washington, DC 20503.

PLEASE DO NOT RETURN YOUR COMPLETED FORM TO THE OFFICE OF MANAGEMENT AND BUDGET. SEND IT TO THE ADDRESS PROVIDED BY THE SPONSORING AGENCY.

NOTE: Certain of these assurances may not be applicable to your project or program. If you have questions, please contact the awarding agency. Further, certain Federal awarding agencies may require applicants to certify to additional assurances. If such is the case, you will be notified.

As the duly authorized representative of the applicant, I certify that the applicant:

1. Has the legal authority to apply for Federal assistance and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project cost) to ensure proper planning, management and completion of the project described in this application.
2. Will give the awarding agency, the Comptroller General of the United States and, if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.
3. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.
4. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.
5. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§4728-4763) relating to prescribed standards for merit systems for programs funded under one of the 19 statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).
6. Will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§1681- 1683, and 1685-1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. §794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. §§6101-6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. §§290 dd-3 and 290 ee- 3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and, (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.
7. Will comply, or has already complied, with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally-assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.
8. Will comply, as applicable, with provisions of the Hatch Act (5 U.S.C. §§1501-1508 and 7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.

9. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. §§276a to 276a-7), the Copeland Act (40 U.S.C. §276c and 18 U.S.C. §874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§327-333), regarding labor standards for federally-assisted construction subagreements.
10. Will comply, if applicable, with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is \$10,000 or more.
11. Will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§1451 et seq.); (f) conformity of Federal actions to State (Clean Air) Implementation Plans under Section 176(c) of the Clean Air Act of 1955, as amended (42 U.S.C. §§7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended (P.L. 93-523); and, (h) protection of endangered species under the Endangered Species Act of 1973, as amended (P.L. 93-205).
12. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.
13. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. §470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. §§469a-1 et seq.).
14. Will comply with P.L. 93-348 regarding the protection of human subjects involved in research, development, and related activities supported by this award of assistance.
15. Will comply with the Laboratory Animal Welfare Act of 1966 (P.L. 89-544, as amended, 7 U.S.C. §§2131 et seq.) pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by this award of assistance.
16. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§4801 et seq.) which prohibits the use of lead-based paint in construction or rehabilitation of residence structures.
17. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act Amendments of 1996 and OMB Circular No. A-133, "Audits of States, Local Governments, and Non-Profit Organizations."
18. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations, and policies governing this program.
19. Will comply with the requirements of Section 106(g) of the Trafficking Victims Protection Act (TVPA) of 2000, as amended (22 U.S.C. 7104) which prohibits grant award recipients or a sub-recipient from (1) Engaging in severe forms of trafficking in persons during the period of time that the award is in effect (2) Procuring a commercial sex act during the period of time that the award is in effect or (3) Using forced labor in the performance of the award or subawards under the award.

SIGNATURE OF AUTHORIZED CERTIFYING OFFICIAL	TITLE <div style="background-color: yellow; height: 15px; width: 100%;"></div>
APPLICANT ORGANIZATION <div style="background-color: yellow; height: 15px; width: 100%;"></div>	DATE SUBMITTED <div style="background-color: yellow; height: 15px; width: 100%;"></div>

Standard Form 424B (Rev. 7-97) Back



424B (Rev 4-2012) Federal Funding Accountability and Transparency Act Data Collection Form

This award is supported by Federal Funds that require compliance with the Federal Funding Accountability and Transparency Act. The purpose of the Transparency Act is to make information available online so the public can see how Federal Funds are spent. To comply with the act and be eligible to receive this award, your organization must have a Data Universal Numbering System (DUNS®) number. If you do not already have one, you may receive a DUNS ® number free of charge by contacting Dun and Bradstreet at www.dnb.com. The Puget Sound Partnership (PSP) also encourages registration with the System for Award Management (SAM) to reduce data entry by both PSP and your organization. You may register with SAM Free of Charge at www.sam.gov. Information about your organization and this grant will be reported by PSP to the Federal government as required by P.L 109-282. This information will then be made available to the public by the Federal Government on www.USASpending.gov.

Subrecipient

1. Legal Name	2. UEI Number
3. Principle Place of Performance	
3a. City	3b. State
3c. Zip +4	3d. Country
4. Are you registered in SAM? <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, skip to signature block. Sign, Date & Return	
5. In the preceding fiscal year, did your organization:	
<input type="checkbox"/> a. Receive 80% or more of annual gross revenue from Federal contracts, subcontracts, grants, loans, subgrants, loans and/or cooperative agreements, AND	
<input type="checkbox"/> b. \$25,000 or more in annual gross revenues from Federal contracts, subcontracts, grants, loans, subgrants, loans and/or cooperative agreements, AND	
<input type="checkbox"/> c. Receives more than \$25,000,000 in annual federal funds.	
<input type="checkbox"/> d. The public does not have access to this information about the compensation of the senior executives of your organization through periodic reports filed under section 13(A) or 15(d) of the Securities and Exchange Act of 1934 (15 U.S.C. 78m(a), 78(d) or section 6104 of the Internal Revenue Code of 1986.	
<input type="checkbox"/> No – skip to signature block. Sign, Date, & Return	
<input type="checkbox"/> Yes – you must report the names and total compensation of the top 5 highly compensated officials of your organization	
Name of Official	Total Compensation
1.	\$ Annually
2.	\$ Annually
3.	\$ Annually
4.	\$ Annually
5.	\$ Annually
NOTE: Total compensation for the purposes of this requirement generally means the cash and non-cash value earned by the executive during the past fiscal year and includes salary and bonus; awards of stock; stock options and stock appreciation rights; and other compensation such as severance and termination payments, and value of life insurance paid on behalf of the employee, and as otherwise provided by FFATA and applicable OMB guidance.	
By signing this document, the Authorized Representative attests to this information	
Signature of Authorized Representative	Printed Name of Authorized Representative
Date	



Whatcom County

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

Agenda Bill Master Report

File Number: AB2022-605

File ID:	AB2022-605	Version:	1	Status:	Agenda Ready
File Created:	10/25/2022	Entered by:	jsmiley@co.whatcom.wa.us		
Department:	Council Office	File Type:	Contract (FCZDBS)		
Assigned to:	Council Finance and Administrative Services Committee			Final Action:	
Agenda Date:	11/09/2022			Enactment #:	

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

TITLE FOR AGENDA ITEM:

Request authorization for the County Executive to enter into a contract between Whatcom County and Geneva Consulting Services to coordinate the Whatcom Local Integrating Organization (LIO), in the amount of \$247,587.46 (Council acting as the Whatcom County Flood Control Zone District Board of Supervisors)

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

The purpose of this contract is to implement the scope of work in the LIO grant agreement to coordinate the Whatcom County LIO

HISTORY OF LEGISLATIVE FILE

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



MEMORANDUM

TO: The Honorable Satpal Singh Sidhu, Whatcom County Executive, and The Honorable Members of the Whatcom County Council, collectively serving in their capacity as the Whatcom County Flood Control Zone District Board of Supervisors.

THROUGH: Jon Hutchings, Public Works Director

FROM: Gary Stoyka, Natural Resources Manager 
Austin Rose, Planner I

RE: Contract between Whatcom County Flood Control Zone District and Geneva Consulting Services for Coordination of the Whatcom County LIO

DATE: October 19, 2022

Public Works respectfully requests that the County Executive, and the County Council, acting as the Flood Control Zone District Board of Supervisors, enter into an agreement for the sum of \$247,587.46 with Geneva Consulting Services for coordination of the Whatcom Local Integrating Organization (LIO).

▪ **Background and Purpose**

The WRIA 1 Watershed Management Board acts as the Local Integrating Organization (LIO) for protection and recovery of the WRIA in coordination with the Puget Sound Partnership. The WRIA 1 Management Team met on August 3, 2022 and approved the draft FFY 2022-2025 LIO Coordination Scope of Work for the Whatcom County Flood Control Zone District (FCZD) as fiscal agent, acting on behalf of the WRIA 1 Watershed Management Board, for negotiating a contract with the Puget Sound Partnership. The FCZD received a grant agreement from the Puget Sound Partnership (Agreement Number: 2023-18) to provide funding for LIO Coordination.

The purpose of this contract is to implement the scope of work in the LIO grant agreement to coordinate the Whatcom County LIO including the following tasks: 1) organize, support, administer, facilitate, and coordinate a Local Integrating Organization, 2) advance implementation of the 2022-2026 action agenda and support development of the 2026-2030 action agenda 3) performance management, 4) support adaptive management of LIO Ecosystem Recovery Plans, and 5) tailor LIO Coordination to implement the Action Agenda and support unique vision and goals of LIO. Geneva Consulting Services was chosen for this contract through a competitive selection process using the MRSC Consultant Roster.

▪ **Funding Amount and Source**

This three-year contract, for the amount of \$247,587.46, is fully funded through a grant from the Puget Sound Partnership. The FCZD has adequate budget authority in the 2022 budget and in the proposed 2023 budget for this contract. Funding will be included in the 2024 and 2025 budgets when those are prepared.

Please contact Gary Stoyka at extension 6218 or Austin Rose at extension 6286, if you have any questions or concerns regarding the terms of this agreement.

Enclosures

**WHATCOM COUNTY CONTRACT
INFORMATION SHEET**

Whatcom County Contract No.
202210019

Originating Department:	Public Works
Division/Program: (i.e. Dept. Division and Program)	Natural Resources/Whatcom LIO 907010
Contract or Grant Administrator:	Gary Stoyka/Austin Rose
Contractor's / Agency Name:	Geneva Consulting Services

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

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): pending

Is this contract the result of a RFP or Bid process? Yes No If yes, RFP and Bid number(s): MRSC Consultant Roster Contract Cost Center: 169121

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 type="checkbox"/> Interlocal Agreement (between Governments).	

Contract Amount:(sum of original contract amount and any prior amendments): \$ <u>247,587.46</u> This Amendment Amount: \$ _____ Total Amended Amount: \$ _____	Council approval required for; all property leases, contracts or bid awards exceeding \$40,000 , and professional service contract amendments that have an increase greater than \$10,000 or 10% of contract amount, whichever is greater, except when: <ol style="list-style-type: none"> 1. Exercising an option contained in a contract previously approved by the council. 2. Contract is for design, construction, r-o-w acquisition, prof. services, or other capital costs approved by council in a capital budget appropriation ordinance. 3. Bid or award is for supplies. 4. Equipment is included in Exhibit "B" of the Budget Ordinance 5. Contract is for manufacturer's technical support and hardware maintenance of electronic systems and/or technical support and software maintenance from the developer of proprietary software currently used by Whatcom County.
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Summary of Scope: The purpose of this contract is to implement the scope of work in the LIO grant agreement to coordinate the Whatcom County LIO including the following tasks: 1) organize, support, administer, facilitate, and coordinate a Local Integrating Organization, 2) advance implementation of the 2022-2026 action agenda and support development of the 2026-2030 action agenda 3) performance management, 4) support adaptive management of LIO Ecosystem Recovery Plans, and 5) tailor LIO Coordination to implement the Action Agenda and support unique vision and goals of LIO.

Term of Contract:	Three years	Expiration Date:	September 30, 2025
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Contract Routing:	1. Prepared by: <u>Austin Rose</u>	Date: <u>10/19/2022</u>
	2. Attorney signoff: <u>Christopher Quinn</u>	Date: <u>10/24/2022</u>
	3. AS Finance reviewed: <u>M Caldwell</u>	Date: <u>10/24/22</u>
	4. IT reviewed (if IT related): _____	Date: _____
	5. Contractor signed: _____	Date: _____
	6. Submitted to Exec.: _____	Date: _____
	7. Council approved (if necessary): <u>AB 2022-605</u>	Date: <u>11/09/2022</u>
	8. Executive signed: _____	Date: _____
	9. Original to Council: _____	Date: _____

CONTRACT FOR SERVICES
Between Whatcom County Flood Control Zone District and Geneva Consulting Services

Geneva Consulting Services, hereinafter called **Contractor** and Whatcom County Flood Control Zone District, 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 14,
- Exhibit B (Compensation), pp. 15
- Exhibit C (Certificate of Insurance), pp. 16
- Exhibit D (Grant Terms and Conditions), pp. 17 to 27

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 October, 2022, and shall, unless terminated or renewed as elsewhere provided in the Agreement, terminate on the 30th day of September, 2025.

The general purpose or objective of this Agreement is to: support coordination of the Whatcom Local Integrating Organization (LIO), 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 \$ 247,587.46. 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 _____, 20 ____.

CONTRACTOR:

GENEVA CONSULTING SERVICES

Becky Peterson, Sole Proprietor

CONTRACTOR INFORMATION:

Geneva Consulting Services

Becky Peterson
Sole Proprietor

Address:
1020 Austin St.
Bellingham, WA 98229

Mailing Address:
1020 Austin St.
Bellingham, WA 98229

**WHATCOM COUNTY:
Recommended for Approval:**

Department Director 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 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. 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.

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:

Contract for Services

[Geneva Consulting Services](#)

Page 3

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 to the County's cost, which shall not be included in the maximum compensation amount described to Exhibit B. 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.

Professional Liability

Professional Liability - \$1,000,000 per occurrence

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.

Additional Insurance Requirements and Provisions

- a. All insurance policies shall provide coverage on an occurrence basis.
- b. 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.
- c. 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.

- e. 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.
- f. 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.

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, excluding sickness, disease or death, and for any damage that is attributable to COVID-19. 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.

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.

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:

Austin Rose, Planner I, 322 N. Commercial St. Second Floor, Bellingham, WA 98225

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: Contractor, Geneva Consulting Services

1020 Austin St.
Bellingham, WA 98229

Attention: Becky Peterson

Telephone: (360) 392-1301

Email: genevaconsulting@comcast.net

To: Whatcom County Public Works

322 N. Commercial St. Second Floor
Bellingham, WA 98225

Attention: Austin Rose

Telephone: (360) 778-6286

Email: arose@co.whatcom.wa.us

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)

Task 1: Organize, Support, Administer, Facilitate, and Coordinate a Local Integrating Organization

Project Approach:

- Maintain a public e-mail list for notification of WRIA1 Management Team and WRIA 1 Watershed Management Board meetings and other activities or events the community may have an interest in. Direct general inquiries to appropriate entity or individual as needed.
- Coordinate meeting logistics and facilitation for up to 9 work group or LIO staff team meetings, 12 Steering Committee, 24 WRIA1 Management Team, and 15 WRIA 1 Watershed Management Board meetings. This includes agenda preparation, meeting summaries, and preparation of other supporting materials.
- Maintain the Whatcom LIO webpage to provide information on process and status of LIO work. This will include meeting agenda, summaries, and progress on near-term actions.
- Ensure cross-posting and distribution of Whatcom LIO relevant information with the WRIA1 Watershed Project, WRIA1 Salmon Recovery Program, and as appropriate, WWIN/ Whatcom ECONet.
- Maintain communication links to Puget Sound Partnership including with the Ecosystem Recovery Coordinator assigned to Whatcom LIO and report and distribute regional information from the Puget Sound Partnership to the Whatcom LIO participants as applicable.
- Attend monthly Partnership meetings for LIO Coordinators for Action Agenda updates, 12 regional LIO Coordinator meetings, and other coordination meetings, regional meetings, or conference calls required by PSP for purposes of information gathering and reporting back to the appropriate WRIA1 Team.
- Coordinate with salmon recovery Lead Entity (ies). As needed, adaptively manage LIO structure to better reflect integration.
- Provide support, as requested, to Whatcom LIO Ecosystem Coordination Board representative and alternate in the form of coordinating local positions and/or briefing papers with or for the WRIA 1 Watershed Management Board, Watershed Management Team, and/or other groups as directed.

Assumptions:

- Operational communication is considered correspondence and information that is received from PSP, other LIOs, and other entities, will be distributed to the appropriate LIO Team or the Policy Boards.
- The consultant works with the LIO Staff Team and fiscal agent staff- depending on the information received- to frame up topics for discussion by the Management Team and/or Policy Boards, as needed.
- External communication that is considered outside of typical process-coordination communication will be referred to the fiscal agent staff and/or Management Team as applicable.
- Participation in regional meetings will be prioritized given budget considerations.

Work Products:

- Progress reports describing general communication and distribution of LIO-related materials to WRIA 1 Boards, Management Team, Steering Committee, Watershed Work Group, LIO Staff Team, and interested community members. January 16, 2023; January 15, 2024; January 15, 2025; April 17, 2023; April 15, 2024; April 15, 2025; July 17, 2023; July 15, 2024; July 15, 2025; September 30, 2023; September 30, 2024; September 30, 2025.
- Agendas, supporting materials, and meeting summaries for Whatcom County LIO Staff Team, Watershed Work Group, Steering Committee, WRIA 1 Management Team, and WRIA 1 Boards. January 16, 2023; January 15, 2024; January 15, 2025; April 17, 2023; April 15, 2024; April 15, 2025; July 17, 2023; July 15, 2024; July 15, 2025; September 30, 2023; September 30, 2024; September 30, 2025.
- Agendas from regional meetings and trainings attended. January 16, 2023; January 15, 2024; January 15, 2025; April 17, 2023; April 15, 2024; April 15, 2025; July 17, 2023; July 15, 2024; July 15, 2025; September 30, 2023; September 30, 2024; September 30, 2025.
- Briefing papers or other material prepared in support of Whatcom LIO Ecosystem Coordination Board representative and alternate. January 16, 2023; January 15, 2024; January 15, 2025; April 17, 2023; April 15, 2024; April 15, 2025; July 17, 2023; July 15, 2024; July 15, 2025; September 30, 2023; September 30, 2024; September 30, 2025.

Budget Estimate: \$139,559.00

Labor: \$ 139,220.00

Mileage: \$339.00

Contract for Services

Geneva Consulting Services

Page 12

Task 2: Advance Implementation of the 2022-2026 Action Agenda and Development of the 2026-2030 Action Agenda

Project Approach:

- Coordinate and catalyze implementation of the 2022-2026 Action Agenda. This will include:
 - Educate committees and local partners about Action Agenda content, its importance, and what it means for local partners.
 - Support LIO committees and LIO members in advancing implementation of strategies in the Puget Sound Action Agenda.
 - Work with committees to determine role that individual committee members and the LIO as a collaborative forum can play to catalyze action toward the Action Agenda's implementation
 - Facilitate updates, workshop-style agenda items, and/or presentations from committee members and other partners that serve to support or advance Action Agenda strategies and actions.
- Coordinate local contributions and content to adaptively manage the 2022-2026 Action Agenda. In coordination with the Partnership (Maximum 40hrs/yr)
- In coordination with the Partnership, support preliminary concept scoping and process development for 2026-2030 Action Agenda update. (Oct 2024 -Sept 2025, max. 80 hrs)
- Contribute to LIO Coordinator Collective Project (annually)

Assumptions:

- The LIO Staff Team, Steering Committee, and Management Team have a critical role in the tasks and approaches listed for Task 2. Process for receiving input occurs within the framework established for WRIA 1 processes involving staff and Management Team.

Work Products:

- Share a description of education activities related to Action Agenda promotion, how the LIO and LIO committee members discussed role related to Action Agenda, and presentation/workshop materials associated with this subtask.
- Show participation in the After Action Review and share any LIO specific materials.
- Describe participation in Action Agenda 2026-2030 preliminary scoping efforts and how HEAL guidelines were used to support local community engagement.

Budget Estimate: \$45,994.00

Labor: \$45,994.00

Task 3: Performance Management

Project Approach:

- Support Whatcom County Public Works- Natural Resources staff with invoicing and reporting to Puget Sound Partnership. Provide support for other grant agreement tasks as needed.

Work Products:

- Completed contract progress report by Task (1-5) on a quarterly basis.
- Billing summary and proof of expenditure for grant activities on a monthly basis.

Budget Estimate: \$8,748.00

Labor: \$8,748.00

Task 4: Support Adaptive Management of LIO Ecosystem Recovery Plans

Project Approach:

- Coordinate adaptive management of the LIO plan and strategies and supporting advancement of priority tasks.
- Coordinate with LIO teams on strategies and actions from Task 2 coordination of input to the PSP on development of the 2026-2030 Action Agenda to identify changes, inclusions, and other updates to the Whatcom LIO plan, and coordinate the recommended changes through the Management Team process.
- Communicate and provide changes and updates to the Whatcom LIO plan to PSP and prepare or coordinate updates to the Miradi files to reflect adaptive management of the plan.

Contract for Services

[Geneva Consulting Services](#)

Page 13

- Maintain and Update LIO Plan Miradi files with WRIA 1 Watershed Management Board strategies that are a subset of the LIO plan.
- Adaptively manage the WRIA 1 Watershed Management Board five-year plan to reflect changes, if applicable, to the strategies and actions in the LIO plan.

Assumptions:

- The WRIA 1 Management Team and Steering Committee will have critical roles in providing information on Task 4 coordination.
- The WRIA 1 Management Team, Steering Committee, and LIO Staff Team have critical roles in adaptive management of the LIO plan.

Work Products:

- Presentations
- Summary of Changes to the Ecosystem Recovery Plan via Adaptive Management.
- Updated Miradi files.

Budget Estimate: \$20,031.00

Labor: \$20,031.00

Task 5: Tailor LIO coordination to Support Unique Vision and Goals of LIO

Project Approach:

- Provide capacity support to Whatcom Watershed Information Network for to coordinate and collaborate on outreach topics associated with the LIO Plan, WRIA 1 Watershed Management Board work plan and other WRIA 1 efforts through:
 - Regular updates to Management Team,
 - Input on WWIN annual work plan
 - Support updating and upgrading the WWIN website
 - Support and expand community participation in Whatcom Water Week
 - Other tasks as funding allows.

Assumptions:

- Outreach information related to the WRIA 1 programs will be vetted through the WRIA 1 process (e.g., Management Team, Staff Teams, Work Groups)

Work Products:

- Efforts on coordination support will be summarized in monthly progress reports.

Budget Estimate: \$26,208.00

Labor: \$7,007.46

EXHIBIT "B"
(COMPENSATION)

As consideration for the services provided pursuant to Exhibit A, "Scope of Work", the County agrees to compensate the Contractor according to the hourly rates provided (below). Mileage incurred in the course of performing the duties herein shall be reimbursed at the current IRS rate.

Contractor will invoice monthly. Invoices will include hours worked by employee by day together with tasks accomplished. Requests for mileage reimbursement must be accompanied by mileage logs containing date of travel, start & end point and purpose. **Compensation shall not exceed \$247,587.46.** Any work performed prior to the effective date of this contract or continuing after the completion date of the same unless otherwise agreed upon in writing, will be at the contractor's expense.

Budget Summary

	Year 1	Year 2	Year 3	Total
Hourly Rate ¹	\$80.00	\$80.00	\$82.00	
Task 1	\$43,200.00	\$51,200.00	\$44,820.00	\$139,220.00
Travel	\$113.00	\$113.00	\$113.00	\$339.00
Task 2	\$13,120.00	\$13,120.00	\$19,754.00	\$45,994.00
Task 3	\$2,880	\$2,880.00	\$2,988.00	\$8,748.00
Task 4	\$7,520.00	\$6,160.00	\$6,639.00	\$20,071.00
Task 5	\$10,080.00	\$81,60.00	\$7,968.00	\$26,208.00
Supplies	\$2,282.82	\$2,562.82	\$2,161.82	\$7,007.46
Total	\$79,195.00	\$84,195.00	\$84,195.00	\$247,587.46

EXHIBIT "C"
(CERTIFICATE OF INSURANCE)



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
06/08/2022

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 Rice Insurance LLC 1400 Broadway Bellingham WA 98227		CONTACT NAME: Kendra Hem PHONE (A/C, No, Ext): (360) 734-1161 FAX (A/C, No): (360) 734-1173 E-MAIL ADDRESS: KendraH@riceinsurance.com																						
INSURED Rebecca Peterson 1020 Austin St Bellingham WA 98229		<table border="1"> <tr> <th colspan="2">INSURER(S) AFFORDING COVERAGE</th> <th>NAIC #</th> </tr> <tr> <td>INSURER A:</td> <td>Ohio Security Insurance Co.</td> <td>24082</td> </tr> <tr> <td>INSURER B:</td> <td></td> <td></td> </tr> <tr> <td>INSURER C:</td> <td></td> <td></td> </tr> <tr> <td>INSURER D:</td> <td></td> <td></td> </tr> <tr> <td>INSURER E:</td> <td></td> <td></td> </tr> <tr> <td>INSURER F:</td> <td></td> <td></td> </tr> </table>		INSURER(S) AFFORDING COVERAGE		NAIC #	INSURER A:	Ohio Security Insurance Co.	24082	INSURER B:			INSURER C:			INSURER D:			INSURER E:			INSURER F:		
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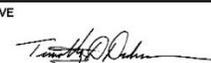
COVERAGES **CERTIFICATE NUMBER:** CL228894686 **REVISION NUMBER:**

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								
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO. JECT <input type="checkbox"/> LOC OTHER:	Y	Y	BLS56214770	07/09/2022	07/09/2023	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 1,000,000 MED EXP (Any one person) \$ 15,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000								
	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> NON-OWNED AUTOS ONLY <input type="checkbox"/> AUTOS ONLY						COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$								
	<input type="checkbox"/> UMBRELLA LIAB <input type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED RETENTION \$						EACH OCCURRENCE \$ AGGREGATE \$								
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below		N/A				<table border="1"> <tr> <td>PER STATUTE</td> <td>OTHER</td> </tr> <tr> <td>E.L. EACH ACCIDENT</td> <td>\$</td> </tr> <tr> <td>E.L. DISEASE - EA EMPLOYEE</td> <td>\$</td> </tr> <tr> <td>E.L. DISEASE - POLICY LIMIT</td> <td>\$</td> </tr> </table>	PER STATUTE	OTHER	E.L. EACH ACCIDENT	\$	E.L. DISEASE - EA EMPLOYEE	\$	E.L. DISEASE - POLICY LIMIT	\$
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E.L. EACH ACCIDENT	\$														
E.L. DISEASE - EA EMPLOYEE	\$														
E.L. DISEASE - POLICY LIMIT	\$														

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Whatcom County is included as an additional insured for the above-noted insurance per form CG8810 0413. This Commercial General Liability insurance shall be considered as primary and non-contributory, and shall waive all rights of subrogation as per attached from CG8810 0413. The County insurance shall not serve as a source of contribution.

CERTIFICATE HOLDER Whatcom County Public Works 322 N. Commercial St Suite 210 Bellingham WA 98225	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 
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ACORD 25 (2016/03)

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Exhibit "D"

Title: Whatcom County LIO – FFY 2023-2025 Funding

1. DEFINITIONS

As used throughout this contract, the following terms shall have the meaning set forth below:

- A. "AGENCY" means the Puget Sound Partnership (PSP) of the State of Washington, any division, section, office, unit or other entity of the AGENCY, or any of the officers or other officials lawfully representing that AGENCY.
- B. "AGENT" means the Director, and/or the delegate authorized in writing to act on the Director's behalf.
- C. "CONTRACTOR" means that firm, provider, organization, individual or other entity performing service(s) under this contract, and shall include all employees of the CONTRACTOR.
- D. "DEBARMENT" means an action taken by a Federal agency or official to exclude a person or business entity from participating in transactions involving certain federal funds.
- E. "EPA" means U.S. Environmental Protection Agency.
- F. "SUBCONTRACTOR" means one not in the employment of the CONTRACTOR, who is performing all or part of those services under this contract under a separate contract with the CONTRACTOR. The terms "SUBCONTRACTOR" and "SUBCONTRACTORS" means SUBCONTRACTOR(s) in any tier.
- G. "SUB-RECIPIENT" means a non-Federal entity that receives a subaward from a pass-through entity to carry out part of a Federal program; but does not include an individual that is a beneficiary of such program. A subrecipient may also be a recipient of other Federal awards directly from a Federal awarding agency. Guidance on distinguishing between a subrecipient and a contractor is provided in 2 CFR §200.330. Subrecipient and contractor determinations.

2. AMERICANS WITH DISABILITIES ACT (ADA)

If the contract includes federal funding, the CONTRACTOR must comply with Section 504 of the Rehabilitation Act of 1973, which prohibits discrimination against persons with disabilities by entities receiving Federal financial assistance. The CONTRACTOR may also be required to comply with the ADA, which provides comprehensive civil rights protection to individuals with disabilities in the areas of employment, public accommodations, state and local government services, and telecommunications.

3. ADVANCE PAYMENTS PROHIBITED

No payments in advance of or in anticipation of goods or services to be provided under this contract shall be made by the AGENCY.

4. AMENDMENT

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.

5. ASSIGNMENT

The work to be provided under this Agreement, and any claim arising under this Agreement, 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.

6. ASSURANCES

The parties agree that all activity pursuant to this Agreement shall be in accordance with all applicable federal, state and local laws, rules, and regulations as they currently exist or as amended.

7. CONFIDENTIALITY

Confidential information: The CONTRACTOR shall not use or disclose any information that is identified as such, for any purpose not directly connected with the administration of this contract, except with prior written consent of the AGENCY, or as may be required by law. Each party will utilize reasonable security procedures and protections to assure that records and documents provided by the other party are not erroneously disclosed to third parties. However, the parties acknowledge that state and local agencies are subject to chapter 42.56 RCW, the Public Records Act.

Personal Information (one form of confidential information): Personal information including, but not limited to, "Protected Health Information," collected, used, or acquired in connection with this contract shall be protected against unauthorized use, disclosure, modification or loss. CONTRACTOR shall ensure its directors, officers, employees, subcontractors or agents use personal information solely for the purposes of accomplishing the services set forth herein. CONTRACTOR and its subcontractors agree not to release, divulge, publish, transfer, sell or otherwise make known to unauthorized persons personal information without the express written consent of the agency or as otherwise required by law. Any breach of this provision may result in termination of the contract and the demand for return of all personal information. The CONTRACTOR agrees to indemnify and hold harmless the AGENCY for any damages related to the CONTRACTOR'S unauthorized use of personal information.

8. CREDIT AND ACKNOWLEDGEMENT

Reports, documents, signage, videos, or other media, developed as part of projects funded by EPA funded Agreements shall display both the EPA and Puget Sound Partnership logos and the following credit line: "This project has been funded wholly or in part by the United States Environmental Protection Agency under Assistance Agreement [CE-01J97401-0]. The contents of this document do not necessarily reflect the views and policies of the Environmental Protection Agency, nor does mention of trade names or commercial products constitute endorsement or recommendation for use."

9. DEBARMENT AND SUSPENSION

CONTRACTOR, by signature to this Contract, certifies that CONTRACTOR is not presently debarred, suspended, proposed for debarment, declared

ineligible, or voluntarily excluded by any Federal department or agency from participating in transactions (Debarred). CONTRACTOR shall comply with applicable federal agency debarment and suspension rules adopted pursuant to Office of Management and Budget guidance at 2 CFR Part 180, such as 2 CFR Part 1532 for the Environmental Protection Agency, which implement Executive Order 12549. CONTRACTOR acknowledges that failing to disclose the information required at 2 CFR 180.335 may result in the delay or negation of this contract, or pursuance of legal remedies, including suspension and debarment.

CONTRACTOR shall not award subcontracts or subawards to persons (individuals or organizations) listed on the Excluded Parties List located at www.sam.gov/. CONTRACTOR agrees to include the above requirements in all subcontracts into which it enters. The CONTRACTOR shall immediately notify AGENCY if, during the term of this Contract, CONTRACTOR becomes Debarred. AGENCY may immediately terminate this Contract by providing CONTRACTOR written notice if CONTRACTOR becomes Debarred during the term hereof.

10. *DISALLOWED COSTS*

CONTRACTOR is responsible for any audit exceptions or disallowed costs incurred by its own organization or that of its Subcontractors.

11. *DISPUTES*

In the event that CONTRACTOR is a state agency and a dispute arises under this Agreement, either of the parties may request intervention by the Governor, as provided by chapter 43.17.330 RCW, in which event the Governor's process will control.

In the event that a dispute arises under this Agreement, and the CONTRACTOR is not a state agency, 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 evaluate the facts, Agreement terms, applicable statutes and rules, and make a determination of the dispute. The determination of the Dispute Board shall be final and binding on both parties.

The cost of resolution will be borne as allocated by the Dispute Board or the Governor.

12. *DUPLICATION OF BILLED COSTS*

The CONTRACTOR shall not bill the Agency for services performed under this contract, and the Agency shall not pay the CONTRACTOR if the CONTRACTOR is entitled to payment or has been or will be paid by any other source, including grants, for that service.

13. *GEOSPATIAL DATA STANDARDS*

All geospatial data created must be consistent with Federal Geographic Data Committee (FGDC) endorsed standards. Information on these standards may be found at <https://www.fgdc.gov/>

14. GOVERNING LAW AND VENUE

This Agreement shall be construed and interpreted in accordance with the laws of the State of Washington and the venue of any action brought under this Agreement shall be in Superior Court for Thurston County.

15. HOTEL MOTEL FIRE SAFETY ACT

The Hotel and Motel Fire Safety Act of 1990 (Public Law 101-391) establishes a number of fire safety standards which must be met for hotels and motels. Pursuant to 40 CFR 30.18, if applicable, and 15 USC 2225a if any portion of this contract will be paid with federal funds, CONTRACTOR agrees to ensure that all space for conferences, meetings, conventions, or training seminars funded in whole or in part with federal funds complies with the protection and control guidelines of the Hotel and Motel Fire Safety Act (PL 101-391, as amended). CONTRACTOR may search the Hotel-Motel National Master List at: <http://www.usfa.dhs.gov/applications/hotel> to see if a property is in compliance (FEMA ID is currently not required), or to find other information about the Act.

If necessary, the head of the Federal agency may waive this prohibition in the public interest.

16. 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.

17. INTELLECTUAL PROPERTY RIGHTS

Unless otherwise provided, all materials produced under this contract shall be considered "works for hire" as defined by the U.S. Copyright Act 17 U.S.C. § 101, et seq., and shall be owned by the AGENCY. Where federal funding is involved, the awarding federal agency may have a proprietary interest in patent rights to any inventions that are developed by the CONTRACTOR as provided in 35 U.S.C. §§ 200-212 and 37 CFR part 401 and retains a royalty-free, nonexclusive, and irrevocable right to reproduce, publish, or otherwise use the work for Federal purposes, and to authorize others to do so.

CONTRACTOR acknowledges that in accordance with 40 CFR 30.36 and 31.34, EPA has the rights to reproduce, publish, use, and authorize others to use copyrighted works or other data developed under this assistance agreement for Federal purposes.

Examples of a Federal purpose include but are not limited to: (1) Use by EPA and other Federal employees for official Government purposes; (2) Use by Federal contractors performing specific tasks for the Government; (3) Publication in EPA documents provided the document does not disclose trade

secrets (e.g. software codes) and the work is properly attributed to the recipient through citation or otherwise; (4) Reproduction of documents for inclusion in Federal depositories; (5) Use by State, tribal and local governments that carry out delegated Federal environmental programs as “co-regulators” or act as official partners with EPA to carry out a national environmental program within their jurisdiction and; (6) Limited use by other grantees to carry out Federal grants provided the use is consistent with the terms of EPA’s authorization to the other grantee to use the copyrighted works or other data.

Under Item 6, the grantee acknowledges that EPA may authorize another grantee(s) to use the copyrighted works or other data developed under this grant as a result of:

- the selection of another grantee by EPA to perform a project that will involve the use of the copyrighted works or other data or:
- termination or expiration of this agreement.

In addition, EPA may authorize another grantee to use copyrighted works or other data developed with Agency funds provided under this grant to perform another grant when such use promotes efficient and effective use of Federal grant funds.

Materials means all items in any format and includes, but is not limited to, data, reports, documents, pamphlets, advertisements, books, magazines, surveys, studies, computer programs, films, tapes, and/or sound reproductions. Ownership includes the right to copyright, patent, register and the ability to transfer these rights.

In the event the materials are not considered “works for hire” under the U.S. Copyright laws CONTRACTOR shall grant AGENCY, and any federal entity which provided federal funds used in this contract, retain 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.

Material which CONTRACTOR uses to perform the contract but is not created for or paid for by AGENCY is not “work made for hire”; however, CONTRACTOR grant the AGENCY a nonexclusive, royalty-free, irrevocable license to translate, reproduce, distribute, prepare derivative works, publicly perform, and publicly display, provided that such license shall be limited to the extent which CONTRACTOR has a right to grant such a license to use this material for AGENCY internal purposes at no charge to AGENCY.

18. INTERNATIONAL TRAVEL (including Canada) – FOR FEDERAL FUNDED AGREEMENTS ONLY

All International Travel must be approved by the Office of International and Tribal Affairs (OITA) BEFORE travel occurs. Even a brief trip to a foreign country, for example to attend a conference, requires OITA approval. Please contact your EPA Project Officer as soon as possible if travel is planned out of the country, including Canada and/or Mexico, so that they can obtain appropriate approvals from EPA Headquarters. If you have questions, please

contact your EPA Project Officer listed on the front page of the Award Document

19. LIGHT REFRESHMENTS and/or MEALS

Unless the event(s) and all of its components are described in the approved workplan, the recipient agrees to obtain prior approval from EPA for the use of grant funds for light refreshments and/or meals served at meetings, conferences, training workshops, and outreach activities (events). The recipient must send requests for approval to the EPA Project Officer and include:

- 1) An estimated budget and description for the light refreshments, meals, and/or beverages to be served at the event(s);
- 2) A description of the purpose, agenda, location, length and timing for the event; and,
- 3) An estimated number of participants in the event and a description of their roles.

Cost for light refreshments and meals for recipient staff meetings and similar day-to-day activities are not allowable under EPA assistance agreements.

20. LOBBYING PROHIBITED

- a. By signing this contract, CONTRACTOR agrees to comply with Title 40 CFR Part 34, New Restrictions on Lobbying, 31 U.S.C. § 1352, and 40 CFR Part 30 if applicable. CONTRACTOR shall include the language of this provision in subcontracts that exceed \$100,000 of federal funds and require all subcontractors to certify and disclose accordingly.
- b. No Federal appropriated funds shall be paid by or on behalf of the CONTRACTOR 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 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.
- c. If this contract includes federal funds exceeding \$100,000, CONTRACTOR shall sign and submit to AGENCY Exhibit D, Attachment 2, PSP Certification Regarding Lobbying (based on EPA Form 6600-06 (Rev. 06/2008)). If CONTRACTOR signed and submitted the PSP Certification Regarding Lobbying form during the procurement process for this contract it is not necessary to resubmit the certification.
- d. If CONTRACTOR expends non-federal funds in any amount to lobby as detailed in a., above, CONTRACTOR shall complete and submit to Standard Form LLL (Rev. 4/2012), Disclosure of Lobbying Activity. The form can be found at:
http://www.epa.gov/ogd/AppKit/form/sflllin_sec.pdf.

21. LOBBYING AND LITIGATION

a. All recipients

- i. The chief executive officer of this recipient agency shall ensure that no grant funds awarded under this assistance agreement are used to engage in lobbying of the Federal Government or in litigation against the U.S. unless authorized under existing law. The recipient shall abide by the Cost Principles available at 2 CFR 200 which generally prohibits the use of federal grant funds for litigation against the U.S. or for lobbying or other political activities.
- ii. The recipient agrees to comply with Title 40 CFR Part 34, New Restrictions on Lobbying. The recipient shall include the language of this provision in award documents for all

subawards exceeding \$100,000, and require that subrecipients submit certification and disclosure forms accordingly.

iii. In accordance with the Byrd Anti-Lobbying Amendment, any recipient who makes a prohibited expenditure under Title 40 CFR Part 34 or fails to file the required certification or lobbying forms shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such expenditure.

iv. Contracts awarded by a recipient shall contain, when applicable, the anti-lobbying provision as stipulated in the Appendix II to Part 200—Contract Provisions for Non-Federal Entity Contracts Under Federal Awards.

v. Pursuant to Section 18 of the Lobbying Disclosure Act, the recipient affirms that it is not a nonprofit organization described in Section 501(c)(4) of the Internal Revenue Code of 1986; or that it is a nonprofit organization described in Section 501(c)(4) of the Code but does not and will not engage in lobbying activities as defined in Section 3 of the Lobbying Disclosure Act. Nonprofit organizations exempt from taxation under section 501(c)(4) of the Internal Revenue Code that engage in lobbying activities are ineligible for EPA subawards.

22. NONDISCRIMINATION and DISADVANTAGED BUSINESS ENTERPRISES

In accordance with 40 CFR 33.106 and its Appendix A, the CONTRACTOR shall not discriminate on the basis of race, color, national origin or sex in the performance of this contract. The contractor shall carry out applicable requirements of 40 CFR part 33 in the award and administration of contracts awarded under EPA financial assistance agreements. Failure by the contractor to carry out these requirements is a material breach of this contract which may result in the termination of this contract or other legally available remedies.

23. PAYMENT TO CONSULTANTS

EPA will limit its participation in salary rate (excluding overhead) paid to individual consultants retained by recipients or by a recipients' contractors or subcontractors shall be limited to the maximum daily rate for Level IV of the Executive Schedule (formerly GS-18), to be adjusted annually. This limit applies to consultation services of designated individuals with specialized skills who are paid at a daily or hourly rate. This rate does not include transportation and subsistence costs for travel performed (the recipient will pay these in accordance with their normal travel reimbursement practices).

Subagreements with firms for services which are awarded using the procurement requirements in 40 CFR Parts 30 or 31, are not affected by this limitation unless the terms of the contract provide the recipient with responsibility for the selection, direction and control of the individual who will be providing services under the contract at an hourly or daily rate of compensation. See 40 CFR 30.27(b) or 40 CFR 31.369j), as applicable, for additional information.

As of January 1, 2022, the limit is \$675.84 per day \$84.48 per hour.
(Calculations: 2022 Level IV Executive Schedule annual pay = \$176,300 / 2087 = \$84.48 per hour or \$675.84 per day).

24. PROJECT APPROVAL

The quality, extent and character of any and all work, deliverables and/or services to be performed under this agreement by the CONTRACTOR shall be

subject to the review and approval of the AGENCY through the Project Manager or other designated official. In the event that the AGENCY determines, that any work, deliverable, and/or service performed by the CONTRACTOR is unsatisfactory, the AGENCY may withhold reimbursement for the unsatisfactory work performed by the CONTRACTOR or require that the CONTRACTOR remediate their work product to get it to the satisfaction of the AGENCY. Such approval and satisfaction not be unreasonably withheld. The Parties may agree in the Statement of Work to specific approval, acceptance, and/or remediation terms. If the Statement of Work is silent on this topic, the Disputes provision, above, will govern the resolution process.

25. 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. CONTRACTOR shall retain such records for a period of six years following the date of final payment.

At no additional cost, these records, including materials generated under the contract, shall be subject at all reasonable times to inspection, review or audit by the AGENCY, personnel duly authorized by the AGENCY, the Office of the State Auditor, and federal and state officials so authorized by law, regulation or agreement. If this contract exceeds \$100,000 and any portion of the funding source is federal, the federal funding agency, the Comptroller General of the United States, or any duly authorized representatives shall have access to books documents, papers, and records of CONTRACTOR directly pertinent to this contract for purpose of making audits, examination, excerpts and transcriptions (40 CFR 30.48(d)).

If any litigation, claim or audit is started before the expiration of the six (6) year period, the records shall be retained until all litigation, claims, or audit findings involving the records have been resolved.

26. RECYCLED PAPER

In accordance with Section 6002 of the Resource Conservation and Recovery Act (RCRA) (42 U.S.C. 6962) any State agency or agency of a political subdivision of a State which is using appropriated Federal funds shall comply with the requirements set forth. Regulations issued under RCRA Section 6002 apply to any acquisition of an item where the purchase price exceeds \$10,000 or where the quantity of such items acquired in the course of the preceding fiscal year was \$10,000 or more. RCRA Section 6002 requires that preference be given in procurement programs to the purchases of specific products containing recycled materials identified in guidelines developed by EPA. These guidelines are listed in 40 CFR 247.

In accordance with the policies set forth in EPA Order 1000.25 and Executive Order 13423, Strengthening Federal Environmental, Energy and Transportation Management (January 24, 2007), Sub- Recipient agrees to use recycled paper and double sided printing for all reports which are prepared as

part of this Agreement and delivered to EPA. This requirement does not apply to reports prepared on forms supplied by EPA, or to Standard Forms, which are printed on recycled paper and are available through the General Services Administration.

27. RESPONSIBILITIES OF THE PARTIES

Each party to this Agreement hereby assumes responsibility for claims and/or damages to persons and/or property resulting from any negligent act or omissions on the part of itself, its employees, its officers, and its agents. Neither party assumes any responsibility to the other party for the consequences of any claim, act, or omission of any person, agency, firm, or corporation not a part to this Agreement.

28. SEVERABILITY

If any term or condition of this Agreement is held invalid, such invalidity shall not affect the validity of the other terms or conditions of this Agreement.

29. STATE GRANT CYBERSECURITY

- (a) The recipient agrees that when collecting and managing environmental data under this assistance agreement, it will protect the data by following all applicable State law cybersecurity requirements.
- (b) (1) EPA must ensure that any connections between the recipient's network or information system and EPA networks used by the recipient to transfer data under this agreement, are secure.

(2) The recipient agrees that any subawards it makes under this agreement will require the subrecipient to comply with the requirements in (b)(1) if the subrecipient's network or information system is connected to EPA networks to transfer data to the Agency using systems other than the Environmental Information Exchange Network or EPA's Central Data Exchange.

30. SUBCONTRACTING

Neither the CONTRACTOR nor any SUBCONTRACTOR shall enter into subcontracts for any of the work contemplated under this contract without obtaining prior written approval of the AGENCY. In no event shall the existence of the subcontract operate to release or reduce the liability of the contractor to the agency for any breach in the performance of the contractor's duties. This clause does not include contracts of employment between the contractor and personnel assigned to work under this contract.

Additionally, the CONTRACTOR is responsible for ensuring that all terms, conditions, assurances and certifications set forth in this agreement are carried forward to any subcontracts

31. TERMINATION DUE TO FUNDING

In the event funding from state, federal, or other sources is withdrawn, reduced, or limited in any way after the effective date of this contract and prior to normal completion, the AGENCY may terminate the contract under the "Termination for Convenience" clause, without the ten-day notice requirement, subject to renegotiation at the AGENCY'S discretion under those new funding

limitations and conditions. Agency will reimburse CONTRACTOR for all expenses incurred, including non-cancelable expenses, up until the date of termination.

32. 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 15 working days. If the failure or violation is not corrected, this Agreement may be terminated immediately by written notice of the aggrieved party to the other.

33. TERMINATION FOR CONVENIENCE

Either party may terminate this Agreement upon 30 calendar days' prior written notification to the other party. If this Agreement is so terminated, the parties shall be liable only for the performance rendered or costs incurred, including NON-CANCELABLE expenses, in accordance with the terms of this Agreement prior to the effective date of termination.

34. TREATMENT OF ASSETS

- a. Title to all property furnished by the AGENCY shall remain in the AGENCY. Title to all property furnished by the CONTRACTOR, for the cost of which the CONTRACTOR is entitled to be reimbursed as a direct item of cost under this contract, shall pass to and vest in the AGENCY upon delivery of such property by the CONTRACTOR. Title to other property, the cost of which is reimbursable to the CONTRACTOR under this contract, shall pass to and vest in the AGENCY upon (i) issuance for use of such property in the performance of this contract, or (ii) commencement of use of such property in the performance of this contract, or (iii) reimbursement of the cost thereof by the AGENCY in whole or in part, whichever first occurs.
- b. Any property of the AGENCY furnished to the CONTRACTOR shall, unless otherwise provided herein or approved by the AGENCY, be used only for the performance of this contract.
- c. The CONTRACTOR shall be responsible for any loss or damage to property of the AGENCY that results from the negligence of the CONTRACTOR or which results from the failure on the part of the CONTRACTOR to maintain and administer that property in accordance with sound management practices.
- d. If any AGENCY property is lost, destroyed or damaged, the CONTRACTOR shall immediately notify the AGENCY and shall take all reasonable steps to protect the property from further damage.
- e. The CONTRACTOR shall surrender to the AGENCY all property of the AGENCY prior to settlement upon completion, termination or cancellation of this contract.
- f. All reference to the CONTRACTOR under this clause shall also include CONTRACTOR'S employees, agents or SUBCONTRACTORS.

35. UTILIZATION OF DIVERSE BUSINESSES

The State of Washington works towards providing the maximum practicable opportunity for small and diverse businesses in the performance of all State

contracts. Contractor shall use genuine efforts to utilize race- or gender-neutral means to allow opportunities for small and diverse businesses to participate in subcontracts, where participation opportunities are present. Contractor shall make genuine efforts to ensure all available business enterprises, including small and diverse businesses, have equal opportunity for participation which might be presented under this Agreement.

36. WAIVER

Waiver of any default or breach shall not be deemed to be a waiver of any subsequent default or breach. Any waiver shall not be construed to be a modification of the terms of this Agreement unless stated to be such in writing and signed by personnel authorized to bind each of the parties.



Whatcom County

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

Agenda Bill Master Report

File Number: **AB2022-619**

File ID:	AB2022-619	Version:	1	Status:	Agenda Ready
File Created:	10/26/2022	Entered by:	jsmiley@co.whatcom.wa.us		
Department:	Council Office	File Type:	Contract (FCZDBS)		
Assigned to:	Council Finance and Administrative Services Committee			Final Action:	
Agenda Date:	11/09/2022			Enactment #:	

Primary Contact Email: SDraper@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 Whatcom Conservation District for agriculture best management practices outreach and financial assistance, in the amount of \$66,000 (Council acting as the Whatcom County Flood Control Zone District Board of Supervisors)

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

The purpose of this interlocal agreement is to provide funding for the Whatcom Conservation District to implement community outreach activities and manage the financial assistance and incentives program for landowners/operators with agricultural operations in Whatcom County to support water quality improvement and protection

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
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Attachments: Memo, Interlocal agreement

**Jon Hutchings
Director**



322 N. Commercial, Suite 110
Bellingham, WA 98225
Telephone: (360) 778-6230
FAX: (360) 778-6231
www.whatcomcounty.us

MEMORANDUM

TO: The Honorable Satpal Singh Sidhu, Whatcom County Executive, and The Honorable Members of the Whatcom County Council, collectively serving in their capacity as the Whatcom County Flood Control Zone District Board of Supervisors

THROUGH: Jon Hutchings, Public Works Director

FROM: Gary Stoyka, Natural Resources Manager 

DATE: October 24, 2022

RE: Interlocal Agreement with the Whatcom Conservation District for Pollution Identification and Correction (PIC) Program Non-Dairy Agriculture Outreach and Financial Assistance

Please find enclosed for your review a copy of the interlocal agreement between the Whatcom Conservation District (WCD) and Whatcom County Flood Control Zone District to provide agriculture Best Management Practices (BMP) outreach and financial assistance to support the Pollution Identification and Correction (PIC) Program. The authorized interlocal agreement will be signed electronically through DocuSign.

Requested Action

Public Works respectfully requests that the Flood Control Zone District Board of Supervisors authorize the County Executive to sign the interlocal agreement to support agriculture BMP outreach and financial assistance programs.

Background and Purpose

The purpose of this interlocal agreement is to provide funding for the WCD to implement community outreach activities and manage the financial assistance and incentives program for landowners/operators with agricultural operations in Whatcom County to support water quality improvement and protection. These activities will be in coordination with the Whatcom County Pollution Identifications and Correction (PIC) Program.

Funding Amount and Source

This interlocal agreement with the Whatcom Conservation District will provide \$66,000 to support agriculture outreach and financial assistance programs for water quality improvement and protection. This agreement will be funded through the 2023 FCZD budget for Public Works- Natural Resources programs.

Differences from Previous Contract

This agreement does not include \$50,000 for farm planning services for landowners/operators outside coastal watersheds as in 2022. Additionally, this contract does not include cost share funds to support emergency manure storage transfers that were added to the 2022 agreement in response to flood impacts.

Please contact Erika Douglas at extension 6294 or Gary Stoyka at extension 6218, if you have any questions or concerns regarding the terms of this agreement.

Encl.

**WHATCOM COUNTY CONTRACT
INFORMATION SHEET**

Whatcom County Contract No. _____

Originating Department:	
Division/Program: <i>(i.e. Dept. Division and Program)</i>	
Contract or Grant Administrator:	
Contractor's / Agency Name:	

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

Does contract require Council Approval? Yes No If No, include WCC: _____
 Already approved? Council Approved Date: _____ (Exclusions see: Whatcom County Codes 3.06.010, 3.08.090 and 3.08.100)

Is this a grant agreement?
 Yes No If yes, grantor agency contract number(s): _____ CFDA#: _____

Is this contract grant funded?
 Yes No If yes, Whatcom County grant contract number(s): _____

Is this contract the result of a RFP or Bid process? Contract
 Yes No If yes, RFP and Bid number(s): _____ Cost Center: _____

Is this agreement excluded from E-Verify? No Yes If no, include Attachment D Contractor Declaration form.

If YES, indicate exclusion(s) below:

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

Contract Amount:(sum of original contract amount and any prior amendments): \$ _____ 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: <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. 		
<table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td style="width:20%; padding: 2px;">Summary of Scope:</td> <td style="height: 40px;"></td> </tr> </table>		Summary of Scope:	
Summary of Scope:			

--	--

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

2023 INTERLOCAL AGREEMENT
WHATCOM COUNTY FLOOD CONTROL ZONE DISTRICT- WHATCOM CONSERVATION DISTRICT
Agricultural Best Management Practices Outreach and Cost-Share

WHEREAS, Whatcom County Flood Control Zone District, hereinafter referred to as the “County” and the Whatcom Conservation District, hereinafter referred to as the “WCD”, desire to establish an arrangement wherein the County will provide funding to the WCD to provide community outreach, farm planning services, and financial assistance programs for agriculture best management practices to the mutual advantage of each jurisdiction; and,

WHEREAS, the Drayton Harbor Shellfish Recovery Plan identified a coordinated water quality monitoring program to identify pollution sources and increased capacity for following up on monitoring findings as high priorities; and,

WHEREAS, the Portage Bay Shellfish Recovery Plan identified a Whatcom County (Pollution Identification and Correction) PIC program as the highest priority recommendation; and,

WHEREAS, the Whatcom County PIC program is a data-driven program guiding pollution-tracking activities to areas in coastal watersheds with the greatest water quality problems, followed by technical and financial assistance offered to landowners to implement fixes to improve and protect water quality; and,

WHEREAS, agricultural activities have been identified as one priority source of fecal bacteria in the Drayton Harbor, Portage Bay, and Birch Bay Shellfish Protection Districts and other coastal watersheds; and,

WHEREAS, the WCD provides local expertise and technical assistance to landowners with agricultural operations to support the development and implementation of farm plans that are designed to protect water quality in drainages to coastal waters; and,

WHEREAS, the WCD also administers landowner incentive and cost-share programs including CREP and Washington State Conservation Commission (WSCC) Livestock Cost-share Program for Whatcom County; and

WHEREAS, a more flexible cost-share option is needed to provide financial assistance to landowners with small farms that do not meet the requirements of existing federal and state cost-share programs; and

WHEREAS, the most efficient use of resources is to have the WCD supplement its outreach and cost-share programs consistent with the specific needs of the Whatcom County PIC Program as described in Exhibit A to help improve and protect water quality in the Drayton Harbor, Portage Bay, and Birch Bay Shellfish Protection Districts, as well as other county coastal watersheds; and

WHEREAS, it is in the best interest of each party to enter into this Interlocal Agreement;

NOW THEREFORE, the WCD and County agree as follows:

- I. *Purpose:* The purpose of this agreement is to set the terms whereby the County will make funds available to the WCD to implement an outreach and cost-share program for landowners/operators with non-dairy agricultural operations in PIC program focus areas as described in Exhibit A attached hereto.
- II. *Administration:* No new or separate legal or administrative entity is created to administer the provisions of this agreement.
- III. *Whatcom Conservation District Responsibilities:* The WCD hereby agrees to implement the non-dairy agriculture outreach and cost-share program as described in Exhibit A attached hereto.
- IV. *Whatcom County Responsibilities:* The County hereby agrees to reimburse the WCD, not to exceed the total budget amount allocated to the WCD as shown in Exhibit B attached hereto, for the costs of providing and performing the services stated.
- V. *Payment:* WCD shall submit itemized invoices in a format approved by the County. Each request for payment shall include invoices that detail work performed and supplies or materials purchased. Each request for reimbursement of payments to landowners will include copies of equipment, supply or vendor receipts and substantiation for equipment and labor hours paid. The County will compensate the WCD for services rendered within thirty (30) days following receipt of an approved invoice, provided all other terms and conditions of the contract have been met and are certified as such by the Contract Administrator.
- VI. *Term:* This Agreement shall be effective for services performed from January 1, 2023 through December 31, 2023.
- VII. *Responsible Persons:* The persons responsible for administration of this Agreement shall be the Whatcom County Public Works (WCPW) Department Director and the WCD District Manager or their respective designees.
- VIII. *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.
- IX. *Indemnification:* Each party agrees to be responsible and assume liability for its own 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 agrees to save, indemnify, defend, and hold the other party harmless from any such liability. It is further provided that no liability shall attach to the Parties by reason of entering into this Agreement except as expressly provided herein.
- X. *Modifications:* 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.
- XI. *Applicable Law:* In the performance of this Agreement, it is mutually understood and agreed upon by the Parties hereto that this Agreement shall be governed by the laws and regulations of the State of Washington and the federal government, both as to interpretation and performance. The venue of any action arising herefrom shall be in the Superior Court of the State of Washington in and for Whatcom County.

- XII. *Severability:* In the event any term or condition of this Agreement or application thereof to any person or circumstance is held invalid, such invalidity shall not affect other terms, conditions, or applications of this Agreement that can be given effect without the invalid term, condition, or application. To this end, the terms and conditions of this Agreement are declared severable.
- XIII. *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.
- XIV. *Recordation:* Upon execution of this Agreement, and prior to its entry into force, Whatcom County shall file a copy of it with the office of its County Auditor or alternatively list it by subject on its website or other electronically retrievable public source, pursuant to the requirements of RCW 39.34.040.

IN WITNESS WHEREOF, the parties have signed this Agreement this _____ day of _____, 2022.

WHATCOM CONSERVATION DISTRICT

By _____
Brandy Reed, WCD District Manager

WHATCOM COUNTY FLOOD CONTROL ZONE DISTRICT

By _____
Satpal Singh Sidhu, County Executive

Approved as to form:

Whatcom County Senior Prosecuting Attorney

Director of Public Works

EXHIBIT A- SCOPE OF WORK

Agriculture Best Management Practices Outreach and Cost-Share

PROJECT DESCRIPTION

The purpose of this interlocal agreement is to identify the activities that will be conducted by the WCD to provide outreach and financial assistance to landowners/operators with agricultural operations in support of and in coordination with Whatcom County water quality programs.

Task 1: Community Outreach (\$45,000)

WCD will develop and implement a community outreach program for landowners/operators with non-dairy agricultural operations in Whatcom County Pollution Identification and Correction (PIC) focus areas. This will include:

- Developing and implementing educational strategies and frameworks in coordination with WCPW to support the PIC.
- Organizing and hosting non-dairy agriculture workshops/trainings. These may include virtual workshops and small group farm tours.
- Developing and distributing educational materials (including social media posts), hosting displays and providing presentations at other community events (in person or virtual).
- Offering incentives for technical assistance programs such as tarps for covering manure storage or soil tests. Other incentives may be jointly agreed upon by WCD and WCPW.

Deliverables and Timelines:

- Activities will be tracked through progress reports.
 - Monthly reports will be submitted with invoices and include a list of events, materials, and social media posts.
 - Quarterly reports will include the type and location of outreach events, number of participants, and a description of educational materials, social media posts, and programs developed and coordinated.
- Electronic files of advertisements, educational materials, social media screenshots, and workshop evaluations will be provided.

Task 2: Non-Dairy Agricultural Operations Cost-Share (\$21,000)

- WCD and WCPW staff will develop an agreed upon list of eligible cost-share projects. Guidance and application documents created for the 2014 non-dairy agriculture cost-share program have been adapted for this program. WCD and WCPW staff will develop an agreed-upon phased approach for advertising, receiving applications, and selecting priority projects for funding.
- WCD will direct landowners/operators to the most appropriate sources of cost-share funding including funding provided by the County under this agreement, funding provided to the WCD from other sources, and other options through the Whatcom Clean Water program (WCWP).
- WCD staff will assist landowners/operators in completing cost-share applications and provide copies to WCPW for approval of cost-share funding prior to submission to the WCD Director. WCD Director will approve cost-share applications awarded funding by WCPW. No reimbursement will be made where the implementation of BMPs has begun before WCPW and WCD approval. WCD will assist landowners with BMP installation and recordkeeping according to the cost-share program requirements. WCD will receive notification of project completion from landowner/operator and schedule a site visit to verify that BMPs have been installed according to plan specifications. Following the site visit, WCD will approve or deny reimbursement of funds. If reimbursement is denied, the WCD will provide the landowner with information on what is required to improve the BMP to meet specifications needed to sign off as complete and to be approved for reimbursement. The County will reimburse WCD for eligible

cost-share expenses as specified in Exhibit B of this Agreement and landowner/operator cost-share agreement contract.

Deliverables:

- Progress will be tracked through quarterly reports summarizing the location, type of pollution sources identified, and type and number of BMPs installed. These statistics will be summarized on a quarterly basis by PIC focus area.
- Final cost-share report including approved applications, installed BMPs, date and findings of site visit, and cost-share reimbursement (with background invoices) by December 31, 2023. Requests from the WCD to the County for reimbursement for cost-share on qualified projects must be submitted with all necessary documentation no later than December 17, 2023.

EXHIBIT B- BUDGET
Agriculture Best Management Practices Outreach and Cost-Share

As consideration for services provided in Exhibit A, Scope of Work, the County agrees to compensate the contractor according to the actual composite hourly rates of personnel working on this project. *Composite rates are based on actual taxes and benefits, which may vary by month. Estimated hourly composite rates are provided below. Revised Composite Rate forms will be provided to the County for any rate changes upon adjustment. The total budget is not to exceed **\$66,000**. Other reasonable expenses incurred in the course of performing the duties herein shall be reimbursed including mileage at the current IRS rate. For mileage reimbursement submit: copies of mileage records, including the name of staff member, date of travel, and number of miles traveled. Lodging and per diem for training shall not exceed the GSA rate for the location where training is provided. Other expenditures such as supplies, postage, and rentals shall be reimbursed at actual cost. Expense reimbursement requests must be accompanied by copies of paid invoices. Contractor certifies that all personnel charging to this contract are program personnel and are not also included in the Contractor's overhead rate. Any work performed prior to the effective date or continuing after the completion date of the contract, unless otherwise agreed upon in writing, will be at the contractor's expense.

Employee Title	Max 2023 Hourly Rate	Estimated 2023 Comp Rate	Est Task 1 Hours	Total cost per employee
Planner	\$ 30.06	45.58	10	\$ 456
Admin	\$ 36.55	56.64	24	\$ 1,359
Habitat Planner	\$ 36.55	63.61		\$ -
Farm Planning Coordinator	\$ 38.23	64.14		\$ -
Habitat Coordinator	\$ 43.59	77.61		\$ -
Planner	\$ 28.64	47.97	10	\$ 480
Ed Assistant	\$ 27.27	39.58	280	\$ 11,081
Wetland Specialist	\$ 36.55	61.93		\$ -
Wildfire Specialist	\$ 30.06	45.58	8	\$ 365
Data Coordinator	\$ 31.57	48.55		\$ -
HIP Coordinator	\$ 36.55	56.35		\$ -
GIS Tech	\$ 44.33	67.15	10	\$ 672
District Manager	\$ 54.59	83.27		\$ -
Ed Coordinator	\$ 40.53	70.62	251	\$ 17,703
Scientist	\$ 30.06	44.94		\$ -
sub-total				\$ 32,115
Overhead 30%				\$ 9,635
total salary/benefit plus overhead				\$ 41,750
Supplies/postage/venue rental				\$ 3,000
Mileage				\$ 250
Task 2: Cost Share				\$ 21,000
Total				\$ 66,000

Task 2: Non-Dairy Livestock Cost-Share Reimbursement Description:

Eligible landowners with applications that are approved by the WCD and WCPW will receive the designated percentage cost-share towards a maximum project cost of \$4,000 (maximum \$3,000 reimbursement). Approved BMPs will be reimbursed through the cost-share program utilizing actual

costs and the established rate table. Landowners have the option to do labor themselves. The reimbursable rate for owner/operator services are based upon the established rate sheet (below). Whatcom Conservation District will submit invoices to the County which for each project shall include the landowner cost-share approval form, field inspection sign-off / maintenance agreement, landowner reimbursement form (including landowner timesheet), and copies of all receipts.

Reimbursement Rates for Producer Labor and Producer Owned Machinery/Equipment

Description	Rate
Individual labor/operator labor	\$22.00/hr
Equipment only, without operator:	
Small tractor, 20Hp-59Hp	\$17.00/hr
Medium Tractor, 60Hp-99Hp	\$28.00/hr
Large Tractor, 100+Hp	\$55.00/hr
Front end loading	\$17.00/hr
Excavator, Light	\$50.00/hr
Excavator, Med	\$88.00/hr
Excavator, heavy	\$132.00/hr
Chain saw	\$11.00/day

Landowners eligible for cost-share assistance through the PIC Non-Dairy Livestock BMP cost-share program can utilize this rate sheet if they choose to do their own labor. Rates will be reimbursed at 75%. Landowner pays 25% of the project costs (labor and materials). An invoice with hours, description of work, and rate must be submitted with cost-share.



Whatcom County

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

Agenda Bill Master Report

File Number: AB2022-623

File ID:	AB2022-623	Version:	1	Status:	Agenda Ready
File Created:	10/27/2022	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:	11/09/2022			Enactment #:	

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

TITLE FOR AGENDA ITEM:

Request authorization for the County Executive to enter into a contract amendment between Whatcom County and PeaceHealth to provide access to Epic in the amount of \$10,068 annually for a total amended contract amount of \$59,264

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: PeaceHealth – Community Connect Electronic Health Record Access & Use Agreement
DATE: October 27, 2022

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

▪ **Background and Purpose**

Community access to electronic health records (EHRs) extends technology to improve the continuity of care for a patient-centered approach to care and services with community healthcare partners. This contract extends access to PeaceHealth’s Community Connect EHR technology system, EPIC, to the Health Department at an 81% subsidized rate compared to purchasing access directly through a vendor.

The Health Department’s Communicable Disease & Epidemiology (CDE) Division maintains a small clinic to support disease control in Whatcom County residents. This includes treatment of both active (infectious) and high-risk latent Tuberculosis, sexually transmitted infections, hepatitis, and immunization access for adults and children who do not have access through a provider. For the CDE Division, access to and use of EPIC will help Health Department providers and public health nurses better manage care for patients.

The Health Department’s Ground-Level Response and Coordinated Engagement (GRACE) Program focuses on high utilizers of health care services who are often engaged in multiple health organizations. For the GRACE Program, access to and use of EPIC will improve the continuity of care through communication of a patient’s clinical picture.

This amendment updates the language in Section 3.1 of the original agreement to indicate that licensed medical providers will comply with applicable identification standards, necessary to provide system access to authorized users.

There was an oversight by the Health Department and the term of the contract and expiration date indicated in the County’s Contract Information Sheet is incorrect in the original contract; total funding described in the paragraph below and the Contract Information Sheet to follow in this amendment, have been updated to reflect the correct term and expiration date.

▪ **Funding Amount and Source**

Funding for this contract in 2022 may not exceed \$29,060 (\$24,026 one-time implementation + \$839/month from July-Dec). Thereafter, funding may not exceed \$10,068 annually (\$839/month). Funding is provided by the Behavioral Health Program GRACE fund and general funds. These funds are included in the 2022 and will be included in subsequent budgets. Council approval is required as funding for the entire term of this contract will exceed \$40,000.

Please contact Malora Christensen, Response Systems Manager at 360-778-6131 (MChriste@co.whatcom.wa.us), or Kathleen Roy, Finance & Administrative Services Manager 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. <u>202204006 – 1</u>	
Originating Department:		85 Health	
Division/Program: <i>(i.e. Dept. Division and Program)</i>		Response Systems Division	
Contract or Grant Administrator:		Malora Christensen	
Contractor's / Agency Name:		PeaceHealth	
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 checked="" type="checkbox"/> No <input type="checkbox"/>	202204006
Does contract require Council Approval?	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>		
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:	124119 / 660200
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 checked="" 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): In 2022 – Funding may not exceed \$29,060 (\$24,026 one-time implementation + \$839/month July-Dec) 2023-2025 – Funding may not exceed \$10,068 annually (\$839 monthly)		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 contract provides funding for the access to and use of PeaceHealth's Community Connect Electronic Health Records technology system.			
Term of Contract:	3 Years	Expiration Date:	04/13/2025
Contract Routing:	1. Prepared by:	JT	Date: 10/13/2022
	2. Health Budget Approval:	KR/JG	Date: 10/20/2022
	3. Attorney signoff:	RB	Date: 10/18/2022
	4. AS Finance reviewed:	Bbennett	Date: 10/27/2022
	5. IT reviewed (if IT related):		Date:
	6. Contractor approved:		Date:
	7. Submitted to Exec.:		Date:
	8. Council approved (if necessary):	AB2022-623	Date:
	9. Executive signed:		Date:
	10. Original to Council:		Date:

First Amendment to EHR Access and Use Agreement

This First Amendment (this "Amendment") to the System Access and Use Agreement (the "Agreement") effective as of the date of the last party's signature below ("Effective Date"), between PeaceHealth, a Washington public benefit corporation with its principal place of business at 1115 SE 164th Avenue, Vancouver, Washington 98683, and Whatcom County, a Washington government entity with its principal place of business at 509 Girard Street, Bellingham, WA 98225 ("Recipient").

RECITALS

- A. PeaceHealth and Recipient are parties to that certain Agreement dated or about _____.
- B. PeaceHealth and Recipient desire to amend the Agreement as set forth herein.

NOW, THEREFORE, in consideration of the foregoing and the mutual representations and covenants of the parties, the parties hereby agree as follows:

1. **Identity Proofing.** Section 3.1 of the Agreement is hereby deleted in its entirety and replaced with the foregoing:

"Medical Staff Licensure & Identity Proofing. Recipient will assure that each Authorized User who is a licensed medical provider maintains, at all times, all applicable licenses and registrations and comply with applicable identity proofing standards required under applicable laws, rules and regulations. For each Authorized User, Recipient will provide PeaceHealth with a copy of the applicable Drug Enforcement Agency license and such other identify proofing material as PeaceHealth may request (the "Identifying Information"). Upon providing the Identifying Information to PeaceHealth, Recipient represents and warrants to PeaceHealth that such information is accurate. Recipient acknowledges and agrees that PeaceHealth will not provide System access to any Authorized User until Recipient provides the applicable Identifying Information."

2. **Miscellaneous.** Except as expressly modified by this Amendment, all terms and conditions of the Agreement shall remain in full force and effect.

IN WITNESS WHEREOF, and in acknowledgment that the parties hereto have read and understood each and every provision hereof, the parties have executed this Amendment on the dates set forth below.

PEACEHEALTH

Whatcom County

Signature: _____

Signature: _____

Printed Name: _____

Printed Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

WHATCOM COUNTY:

PROGRAM APPROVAL: Approved by email CH/JT
Cindy Hollinsworth, Communicable Disease Manager Date

DEPARTMENT APPROVAL: _____
Erika Lautenbach, Director Date

APPROVAL AS TO FORM: Approved by email RB/JT 10/18/2022
Royce Buckingham, Senior Civil Deputy Prosecutor Date

CONTRACTOR INFORMATION:

PeaceHealth
1115 SE 164th Avenue
Vancouver, WA 98683



Whatcom County

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

Agenda Bill Master Report

File Number: **AB2022-626**

File ID:	AB2022-626	Version:	1	Status:	Agenda Ready
File Created:	10/27/2022	Entered by:	SMildner@co.whatcom.wa.us		
Department:	County Executive's Office	File Type:	Interlocal		
Assigned to:	Council Finance and Administrative Services Committee			Final Action:	
Agenda Date:	11/09/2022			Enactment #:	

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

TITLE FOR AGENDA ITEM:

Request authorization for the County Executive to enter into an Interlocal Agreement modification between Whatcom County and the City of Bellingham for What-Comm Communications Center operations

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

The Interlocal Modification removes outdated language and establishes an equipment replacement fund - memorandum provides further details

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
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Attachments: Staff memo, Interlocal Agreement Modification, Contract Information Sheet



MEMORANDUM

TO: Whatcom County Executive Satpal Sidhu and
Whatcom County Councilmembers

FROM: Tyler Schroeder, Deputy Executive

RE: Modification to Interlocal Agreement for WHAT-COMM Communications
Center

DATE: October 25, 2022

Enclosed is an interlocal agreement modification #3 between Whatcom County and the City of Bellingham for your review and signature by the Executive.

▪ **Background and Purpose**

It is the purpose of this agreement to provide a mechanism whereby all Whatcom County Public Safety Agencies may share in the cost of supplemental dispatch technologies administered by What-Comm. See more background details in the attached memorandum from City of Bellingham. This agreement has been reviewed and approved by the What-Comm Board at their most recent meeting.

▪ **Funding Amount and Source**

This is a no-cost amendment to the interlocal agreement.

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



WHAT-COMM Communications Center City of Bellingham

CITY COUNCIL MEETING

TOPIC: What-Comm Interlocal Agreement Amendment - 2022

Purpose

To remove outdated language and establish an equipment replacement fund.

Background

The What-Comm Interlocal agreement covers such things as the make-up of our What-Comm Administrative Board, how agencies may be added to What-Comm, how user fees are determined, and the responsibilities of Bellingham Police Department and Bellingham Fire Department to manage the operations and budget of What-Comm and Prospect, respectively.

Amendments to the Interlocal are first approved by the Administrative Board, then by the City of Bellingham and Whatcom County before being consolidated into our previously existing Interlocal agreement.

The current Interlocal Agreement dictates that all fees associated with What-Comm law dispatching be shared by user agencies based on their percentage of use, as determined by population served, the number of commissioned personnel, and their annual call volume. There is no mechanism for agencies who wish to pay for supplemental technologies to do so, without all agencies sharing in these additional costs.

Amendments

The What-Comm Administrative Board approved two amendments to the Interlocal Agreement:

1. Removal of outdated language which referenced transferring 911 calls for police services in the City of Sumas to US Border Patrol. This has not been the practice since Sumas Police joined What-Comm as a user agency in 2019.
2. Addition of language establishing an equipment replacement fund which will be used to purchase critical equipment known to require replacement or refreshment on a set schedule. This fund will provide financial stability and resilience for What-Comm and Prospect dispatch centers.

**THIRD MODIFICATION TO
WHAT-COMM COMMUNICATIONS CENTER INTERLOCAL AGREEMENT
CITY CONTRACT # 2019-0510 -- COUNTY CONTRACT# 201908010**

This Modification ("Modification") is entered into by and between the **COUNTY OF WHATCOM**, a political subdivision of the State of Washington (hereinafter the "County"), and the **CITY OF BELLINGHAM**, a first class municipal corporation of the State of Washington (hereinafter the "City"), and in consideration of the mutual covenants herein, the parties agree as follows:

- 1. MODIFICATION TO EXISTING AGREEMENT:** The agreement is modified in the following respect:

Section V of the agreement is hereby modified to remove the following subsection:

E. The City shall provide call transfer service to the U.S. Border Patrol Dispatch Center in Blaine through which all emergency calls for police service within the corporate boundaries of Sumas shall be directed for dispatching.

The subsection previously identified as F will now be identified as subsection E.

Section VIII of the agreement is hereby modified to add the following subsection:

J. To avoid budget shortages and keep pace with evolving technology, user agencies will be assessed additional fees annually to support an Equipment Replacement Fund (ERF) in an amount agreed upon by the Administrative Board.

The subsection previously identified as J will now be identified as subsection K.

- 2. TERMS AND CONDITIONS OF EXISTING AGREEMENT REMAIN THE SAME:** The parties agree that, except as specifically provided in this modification, the terms and conditions of the Agreement continue in full force and effect.

EXECUTED, this the _____ day of _____, 2022, for **COUNTY OF WHATCOM :**

Satpal Singh Sidhu, County Executive

Approved as to Form:

Approved by email 10/26/22 C. Quinn/SM
Civil Deputy Prosecuting Attorney

EXECUTED, this the _____ day of _____, 2022, for the **CITY OF BELLINGHAM:**

Departmental Approval:

Seth Fleetwood, Mayor

Department Head

Attest:

Approved as to Form:

Finance Director

Office of the City Attorney

**WHATCOM COUNTY CONTRACT
INFORMATION SHEET**

Whatcom County Contract No. _____

Originating Department:	
Division/Program: (i.e. Dept. Division and Program)	
Contract or Grant Administrator:	
Contractor's / Agency Name:	

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

Does contract require Council Approval? Yes No If No, include WCC: _____
 Already approved? Council Approved Date: _____ (Exclusions see: Whatcom County Codes 3.06.010, 3.08.090 and 3.08.100)

Is this a grant agreement?
 Yes No If yes, grantor agency contract number(s): _____ CFDA#: _____

Is this contract grant funded?
 Yes No If yes, Whatcom County grant contract number(s): _____

Is this contract the result of a RFP or Bid process? Contract
 Yes No If yes, RFP and Bid number(s): _____ Cost Center: _____

Is this agreement excluded from E-Verify? No Yes If no, include Attachment D Contractor Declaration form.

If YES, indicate exclusion(s) below:

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

Contract Amount:(sum of original contract amount and any prior amendments): \$ _____ 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: <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: _____	Date: _____
	2. Attorney signoff: _____	Date: _____
	3. AS Finance reviewed: <u>bbennett</u>	Date: <u>10/27/22</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: _____



Whatcom County

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

Agenda Bill Master Report

File Number: **AB2022-628**

File ID:	AB2022-628	Version:	1	Status:	Agenda Ready
File Created:	10/28/2022	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:	11/09/2022	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 and Basic Life Support First Responder agencies in the amount of \$5,951,262.55

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

Request authorization for the County Executive to enter into an Interlocal Agreement amendment between Whatcom County and the Basic Life Support First Responder agencies in the amount of \$5,951,262.55

HISTORY OF LEGISLATIVE FILE

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

Attachments: Memo, Interlocal Amendment, Routing Form

WHATCOM COUNTY
Emergency Medical Services
800 E Chestnut, Suite 3C
Bellingham, WA 98225



Mike Hilley
WCEMS Manger

MEMORANDUM

To: Satpal Sidhu, County Executive
From: Mike Hilley, EMS Manager
Re: BLS/Equipment Allocations
Date: October 25, 2022

Enclosed is the First Amendment to the Interlocal Agreement (known as the First Response Contracts) between Whatcom County and the Basic Life Support Agencies dated January 18, 2018.

- **Background and Purpose**

This Amendment to the First Response Contracts; subject to the terms and conditions (Whatcom County Basic Life Support Agencies) is to provide a one-time allocation that offsets qualifying expenditures incurred between May 24, 2022 and December 1, 2022.

- **Funding Amount and Source**

The funding source is the EMS Levy Fund, not to exceed \$5,951,262.55 .

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

FIRST AMENDMENT TO THE INTERLOCAL AGREEMENT FOR FIRST RESPONSE EMERGENCY MEDICAL SERVICES

This First Amendment (“First Amendment”) to the Interlocal Agreement between Whatcom County and the Agencies (collectively the “Parties”) dated January 18, 2018 provides for the one-time distribution of EMS levy funds (the “Funds”) to the Agencies for reimbursement of qualifying expenses incurred between May 24, 2022 and December 1, 2022 associated with the provision of Basic Life Support (“BLS”) services in Whatcom County and subject to the terms and conditions contained in this First Amendment. The effective date of this First Amendment shall be May 24, 2022.

RECITALS

WHEREAS, the Parties entered into an Interlocal Agreement for First Response Emergency Medical Services (“Interlocal Agreement”) in Whatcom County, including the provision of Advance Life Support (“ALS”) and Basic Life Support (“BLS”) service;

WHEREAS, the Whatcom County EMS Levy fund was approved by County voters to support the provision of responsive and effective emergency medical services throughout Whatcom County;

WHEREAS, RCW 84.52.069 provides that funds collected under an EMS levy may be used only for the provision of emergency medical care or emergency medical services, including related personnel costs, training for such personnel, and related equipment, supplies, vehicles and structures needed for the provision of emergency medical care or emergency medical services;

WHEREAS, on May 24, 2022 the Whatcom County Council allocated up to 6.4 million dollars of the EMS Levy funds to the Agencies, which allocation is used to help offset costs of providing EMS service in 2022;

WHEREAS, the Agencies have incurred costs and expenses related to the provision of EMS in Whatcom County that are not otherwise funded and that qualify for reimbursement from the County EMS fund;

WHEREAS, it is in Whatcom County’s citizenry’s best interest to have fully funded, trained, and equipped EMS providers to ensure ongoing high-level EMS service in Whatcom County;

WHEREAS, it is necessary to adopt procedures by which the Agencies providing EMS services under the Interlocal Agreement may be reimbursed for 2022 qualifying expenses from the County EMS fund;

WHEREAS, it is the intent of the Parties amend the Interlocal Agreement to provide for a one-time reimbursement of qualifying EMS service expenses incurred between May 24, 2022 and December 1st, 2022;

WHEREAS, the Interlocal Agreement may be amended by a written instrument of the Parties;

NOW THEREFORE, in consideration of the mutual benefits herein contained, the Parties agree to amend the Agreement as follows:

1. A new paragraph (2.5) shall be added to Section 2 (Consideration) of the Interlocal Agreement as follows:

2.5 Whatcom County EMS Levy funds shall be used to reimburse the Agencies for a portion of those qualifying costs under RCW 84.52.069 incurred between May 24, 2022 and December 1, 2022 arising from the provision of BLS service delivery in Whatcom under this Agreement and subject to the following provisions:

- a. Agencies may only seek reimbursement for those costs: i) incurred between May 24, 2022 and December 1, 2022 and ii) that are considered a qualifying expense under RCW 84.52.069 (Exhibit A);*
 - b. Agencies seeking reimbursement for qualifying expenses must submit to the County a completed and signed 2022 BLS Invoice Form (Exhibit C);*
 - c. The County shall not reimburse Agencies for costs and expenses funded or paid for by any other designated source, including but not limited to Ground Emergency Transport (GEMT), user charges and fees, dedicated emergency medical levies or grants;*
 - d. Reimbursed amounts shall not exceed that amount allocated for each providing Agency (Exhibit B);*
 - e. Qualifying goods and services should be ordered by the Agency no later than November 1, 2022 and must be received by December 31, 2022;*
 - f. BLS Invoice Forms shall be received by the County no later than December 15, 2022.*
2. The Parties agree that the effective date of this Amendment shall be May 24, 2022.
 3. All other terms of the Interlocal Agreement shall remain in full force and effect except as amended by this Amendment. If a conflict arises between the terms of this Amendment and the Interlocal Agreement, the terms of this Amendment shall control.

IN WITNESS WHEREOF, the Parties have executed this Amendment as of the day and year written below.

EXECUTED this _____ day of _____, 2022.

WHATCOM COUNTY

Approved as to form:

Christopher Quinn per email 10/28/2022
Prosecuting Attorney Date

Approved:
Accepted for Whatcom County:

By: _____
Satpal Sidhu, Whatcom County Executive

STATE OF WASHINGTON
COUNTY OF WHATCOM

On this _____ day of _____, 2022, before me personally appeared Satpal 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 _____.

WHATCOM COUNTY FIRE PROTECTION
DISTRICT NO. 1

For Qualified Expenditures up to a maximum of **\$288,818.99**

ATTEST:

By: _____

APPROVED:

By: _____
Chief

By: _____
Commissioner

By: _____
Commissioner

By: _____
Commissioner

DATED this ____ day of _____, 2022.

WHATCOM COUNTY FIRE PROTECTION
DISTRICT NO. 5

For Qualified Expenditures up to a maximum of **\$61,755.39**

ATTEST:

By: _____

APPROVED:

By: _____
Chief

By: _____
Commissioner

By: _____
Commissioner

By: _____
Commissioner

DATED this ____ day of _____, 2022.

WHATCOM COUNTY FIRE PROTECTION
DISTRICT NO. 7

For Qualified Expenditures up to a maximum of **\$787,937.33**

ATTEST:

By: _____

APPROVED:

By: _____
Chief

By: _____
Commissioner

By: _____
Commissioner

By: _____
Commissioner

DATED this ____ day of _____, 2022.

WHATCOM COUNTY FIRE PROTECTION
DISTRICT NO. 11

For Qualified Expenditures up to a maximum of **\$77,906.89**

ATTEST:

By: _____

APPROVED:

By: _____
Chief

By: _____
Commissioner

By: _____
Commissioner

By: _____
Commissioner

DATED this ____ day of _____, 2022.

WHATCOM COUNTY FIRE PROTECTION
DISTRICT NO. 14

For Qualified Expenditures up to a maximum of **\$404,692.57**

ATTEST:

By: _____

APPROVED:

By: _____
Chief

By: _____
Commissioner

By: _____
Commissioner

By: _____
Commissioner

DATED this ____ day of _____, 2022.

WHATCOM COUNTY FIRE PROTECTION
DISTRICT NO. 16

For Qualified Expenditures up to a maximum of **\$56,427.33**

ATTEST:

By: _____

APPROVED:

By: _____
Chief

By: _____
Commissioner

By: _____
Commissioner

By: _____
Commissioner

DATED this ____ day of _____, 2022.

WHATCOM COUNTY FIRE PROTECTION
DISTRICT NO. 17

For Qualified Expenditures up to a maximum of **\$97,701.34**

ATTEST:

By: _____

APPROVED:

By: _____
Chief

By: _____
Commissioner

By: _____
Commissioner

By: _____
Commissioner

DATED this ____ day of _____, 2022.

WHATCOM COUNTY FIRE PROTECTION
DISTRICT NO. 18

For Qualified Expenditures up to a maximum of **\$74,439.24**

ATTEST:

By: _____

APPROVED:

By: _____
Chief

By: _____
Commissioner

By: _____
Commissioner

By: _____
Commissioner

DATED this ____ day of _____, 2022.

WHATCOM COUNTY FIRE PROTECTION
DISTRICT NO. 19

For Qualified Expenditures up to a maximum of **\$9,692.86**

ATTEST:

By: _____

APPROVED:

By: _____
Chief

By: _____
Commissioner

By: _____
Commissioner

By: _____
Commissioner

DATED this ____ day of _____, 2022.

WHATCOM COUNTY FIRE PROTECTION
DISTRICT NO. 21

For Qualified Expenditures up to a maximum of **\$833,994.29**

ATTEST:

By: _____

APPROVED:

By: _____
Chief

By: _____
Commissioner

By: _____
Commissioner

By: _____
Commissioner

DATED this ____ day of _____, 2022.

WHATCOM COUNTY FIRE PROTECTION
DISTRICT NO. 4

For Qualified Expenditures up to a maximum of **\$187,714.86**

ATTEST:

By: _____

APPROVED:

By: _____
Chief

By: _____
Commissioner

By: _____
Commissioner

By: _____
Commissioner

DATED this ____ day of _____, 2022.

CITY OF BELLINGHAM

For Qualified Expenditures up to a maximum of **\$2,090,509.67**

Mayor

Attest:

Departmental Approval:

Finance Director

Approved as to form:

Office of the City Attorney

DATED this ____ day of _____, 2022.

WHATCOM COUNTY FIRE PROTECTION
DISTRICT NO. 8

For Qualified Expenditures up to a maximum of **\$212,780.26**

Mayor

Attest:

Departmental Approval:

Finance Director

Approved as to form:

Office of the City Attorney

DATED this _____ day of _____, 2022.

LYNDEN FIRE DEPARTMENT

For Qualified Expenditures up to a maximum of **\$402,644.53**

APPROVED AS TO FORM:

By: _____
City Attorney

APPROVED:

By: _____
Chief

By: _____
Mayor

DATED this _____ day of _____, 2022.

SOUTH WHATCOM FIRE AUTHORITY

For Qualified Expenditures up to a maximum of **\$364,247.10**

ATTEST:

By: _____

APPROVED:

By: _____
Chief

By: _____
Commissioner

By: _____
Commissioner

By: _____
Commissioner

DATED this ____ day of _____, 2022.

EXHIBIT "A"
Scope of Services

Whatcom County EMS Levy funds shall be used to reimburse the Agencies for a portion of those qualifying costs identified under **RCW 84.52.069**, and as allowable pursuant to this Amendment, incurred between May 24, 2022 and December 1, 2022 arising from the provision of BLS service delivery in Whatcom under this Agreement and subject to the following provisions:

(5) Any tax imposed under this section may be used only for the provision of emergency medical care or emergency medical services, including related personnel costs, training for such personnel, and related equipment, supplies, vehicles and structures needed for the provision of emergency medical care or emergency medical services.

Exhibit "B"
Allotment Amounts

Allocation Detail Totals

	Equipment Allocation		BLS Allocation	Total Allocation
Fire District 1	99,504.00		189,314.99	288,818.99
Fire District 5	30,884.72		30,870.67	61,755.39
Fire District 7	109,652.54		678,284.79	787,937.33
Fire District 11	26,504.27		51,402.62	77,906.89
Fire District 14	83,663.24		321,029.33	404,692.57
Fire District 16	26,476.00		29,951.33	56,427.33
Fire District 17	26,553.13		71,148.21	97,701.24
Fire District 18	26,504.27		47,934.97	74,439.24
Fire District 19	0.00		9,692.86	9,692.86
Lynden FD	49,891.11		370,753.42	402,644.53
NWFR/FD4	136,035.36	FD4: 187,714.86	NWFR: 697,958.93	1,021,709.15
SWFA	70,977.30		293,269.80	364,247.10
BFD/FD8	282,616.70	FD8: 212,780.26	BFD: 1,807,892.97	2,303,289.93
TOTAL				5,951,262.55

Exhibit "C"
2022 Allocation Invoice

2022 Allocation Invoice

Invoice for services rendered during the period of:
MAY 24th, 2022 - DECEMBER 31st, 2022

Contract
Contract Period: 2022

Agency Name:
Address:

Contact Person:
Phone:
Email:

Invoice Number	Date

Submit invoices to:
Whatcom County Emergency
Medical Services
800 E Chestnut, Suite 3C
Bellingham, WA, 98225
mhillley@co.whatcom.wa.us



Note: Please use the invoice naming convention
[Agency Acronym]-[Invoice #]-2022
E.g.: WCFD7-1-2022

Allocation Total \$ -

Qualified Expenditure Categories	Qualified Expenditures Amount	Total Payments	Allocation Balance
<i>Personnel</i>	\$ -	\$ -	\$ -
<i>Training</i>	\$ -	\$ -	\$ -
<i>Equipment</i>	\$ -	\$ -	\$ -
<i>Supplies</i>	\$ -	\$ -	\$ -
<i>Vehicles</i>	\$ -	\$ -	\$ -
<i>Structures</i>	\$ -	\$ -	\$ -

Invoice Total: \$ -

I, the undersigned, do hereby certify under the laws of the State of Washington penalty of perjury, that this is a true and correct claim for reimbursement services rendered. I further certify that the costs and expenses contained herein have not been paid for by any other designated source, including but not limited to Ground Emergency Transport (GMET) funding, user charges and fees, or dedicated emergency medical levies or grants. I understand that any false claims, statements, documents, or concealment of material fact may be prosecuted under applicable Federal and State laws. This certification includes any attachments which serve as supporting documentation to this reimbursement request. I certify that the costs submitted in this claim meet requirements specified in RCW 84.52.069.

Fire Chief Date

Print Name

**WHATCOM COUNTY CONTRACT
INFORMATION SHEET**

Whatcom County Contract No. _____

Originating Department:	
Division/Program: <i>(i.e. Dept. Division and Program)</i>	
Contract or Grant Administrator:	
Contractor's / Agency Name:	

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

Does contract require Council Approval? Yes No If No, include WCC: _____
 Already approved? Council Approved Date: _____ (Exclusions see: Whatcom County Codes 3.06.010, 3.08.090 and 3.08.100)

Is this a grant agreement?
 Yes No If yes, grantor agency contract number(s): _____ CFDA#: _____

Is this contract grant funded?
 Yes No If yes, Whatcom County grant contract number(s): _____

Is this contract the result of a RFP or Bid process? Contract
 Yes No If yes, RFP and Bid number(s): _____ Cost Center: _____

Is this agreement excluded from E-Verify? No Yes If no, include Attachment D Contractor Declaration form.

If YES, indicate exclusion(s) below:

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

Contract Amount:(sum of original contract amount and any prior amendments): \$ _____ This Amendment Amount: \$ _____ Total Amended Amount: \$ _____	Council approval required for; all property leases, contracts or bid awards exceeding \$40,000 , and professional service contract amendments that have an increase greater than \$10,000 or 10% of contract amount, whichever is greater, except when: 1. Exercising an option contained in a contract previously approved by the council. 2. Contract is for design, construction, r-o-w acquisition, prof. services, or other capital costs approved by council in a capital budget appropriation ordinance. 3. Bid or award is for supplies. 4. Equipment is included in Exhibit "B" of the Budget Ordinance. 5. Contract is for manufacturer's technical support and hardware maintenance of electronic systems and/or technical support and software maintenance from the developer of proprietary software currently used by Whatcom County.
Summary of Scope:	

--	--

Term of Contract:	Expiration Date:
-------------------	------------------

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



Whatcom County

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

Agenda Bill Master Report

File Number: **AB2022-629**

File ID:	AB2022-629	Version:	1	Status:	Agenda Ready
File Created:	10/28/2022	Entered by:	THelms@co.whatcom.wa.us		
Department:	County Executive's Office	File Type:	Contract		
Assigned to:	Council Finance and Administrative Services Committee			Final Action:	
Agenda Date:	11/09/2022	Enactment #:			

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

TITLE FOR AGENDA ITEM:

Request authorization for the County Executive to enter into a contract amendment between Whatcom County and Hunt Forensics, LLC in the amount of \$89,028

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

Request authorization for the County Executive to enter into a contract amendment between Whatcom County and Hunt Forensics, LLC in the amount of \$89,028

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
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Attachments: Memo, Contract Amendment, Routing Form

WHATCOM COUNTY
WCEMS Office
800 E Chestnut, Suite 3C
Bellingham, WA 98225



Mike Hilley
WCEMS Manager

MEMORANDUM

To: Satpal Sidhu, County Executive
From: Tawni Helms, Administrative Coordinator
Re: Medical Examiner amendment
Date: October 27, 2022

Enclosed for your review and approval is a contract amendment between Whatcom County and Hunt Forensics, LLC for the provision of Medical Examiner Services.

- **Background and Purpose**

This contract amendment is a result of increased costs and expenditures for the Medical Examiner Office. Due to significant increases the number of deaths and autopsies under the Medical Examiner's jurisdiction.

In 2022 Whatcom County contracted with new Medical Examiner/Forensic Pathologist for the first time in 30 years. In negotiating the contract, a budget was developed in accordance with the number of cases and autopsies document in the previous year. That included 168 death investigations that involved forensic autopsies, toxicological examinations, viewing and summary reporting.

The first 6 months of 2022 the number of cases increased significantly with 372 deaths reported to the Medical Examiner's Office and 200 of those cases were fully investigated with 122 requiring a form of postmortem examination. With the significant increase in autopsies the Medical Examiner requested additional funds to continue the level of services required under the jurisdiction of the Medical Examiner Office.

- **Funding Amount and Source**

Funding in the amount of \$89,028 was approved through Ordinance 2022-068. The funding source is the General Fund.

Please contact Tawni Helms at X5208 if you have any questions or concerns regarding the terms of this agreement.

Amendment No. 2
 Whatcom County Contract No. 202111028
 CONTRACT BETWEEN WHATCOM COUNTY AND
Hunt Forensics

THIS AMENDMENT is to the Contract between Whatcom County and Hunt Forensics, dated October 26, 2022 and designated "Whatcom County Contract No.202111028-2". In consideration of the mutual benefits to be derived, the parties agree to the following:

This Amendment increases the maximum consideration by \$89,208 to a total consideration of \$2,552,361

This Amendment also adds the following to the Scope of Work, Exhibit A:

Cost increases due to the significant increase in the number of cases resulting from lawful jurisdiction have required additional staff hours and supplies. Cases have increased by more than double necessitating the need to increase staff hours.

Transportation	\$17,500
Professional Services	\$24,200
Operating Supplies	\$12,000
Office Supply	\$ 3,358
Investigator hours	\$15,000
Autopsy Tech	\$11,150
Direct Billing (Facilities)	<u>\$ 6,000</u>
TOTAL	\$89,208

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: July 1, 2022, regardless of the date of signature.

IN WITNESS WHEREOF, Whatcom County and Hunt Forensics have executed this Amendment on the date and year below written.

DATED this _____ day of _____, 20____.

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.

CONTRACTOR:

Hunt Forensics, PLLC

 By Allison Hunt, M.D., sole member

HUNT FORENSICS

1500 N. State Street,
Suite No. 200
Bellingham, WA 98225

Contact Name: Allison Hunt, M.D.
Contact Phone: (360) 738-4557
Contact Cell: (951) 212-4869
Contact Email: Ahunt@co.whatcom.wa.us

WHATCOM COUNTY:

Approved as to form:

Christopher Quinn per email 10/28/2022
Prosecuting Attorney Date

Approved:

Accepted for Whatcom County:

By: _____
Satpal Singh Sidhu, Whatcom County Executive

**WHATCOM COUNTY CONTRACT
INFORMATION SHEET**

Whatcom County Contract No. _____

Originating Department:	_____
Division/Program: (i.e. Dept. Division and Program)	_____
Contract or Grant Administrator:	_____
Contractor's / Agency Name:	_____

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

Does contract require Council Approval? Yes No If No, include WCC: _____
 Already approved? Council Approved Date: _____ (Exclusions see: Whatcom County Codes 3.06.010, 3.08.090 and 3.08.100)

Is this a grant agreement?
 Yes No If yes, grantor agency contract number(s): _____ CFDA#: _____

Is this contract grant funded?
 Yes No If yes, Whatcom County grant contract number(s): _____

Is this contract the result of a RFP or Bid process? Contract
 Yes No If yes, RFP and Bid number(s): _____ Cost Center: _____

Is this agreement excluded from E-Verify? No Yes If no, include Attachment D Contractor Declaration form.

If YES, indicate exclusion(s) below:

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

Contract Amount:(sum of original contract amount and any prior amendments): \$ _____ 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: <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: _____	Date: _____
	2. Attorney signoff: _____	Date: _____
	3. AS Finance reviewed: _____	Date: _____
	4. IT reviewed (if IT related): _____	Date: _____
	5. Contractor signed: _____	Date: _____
	6. Submitted to Exec.: _____	Date: _____
	7. Council approved (if necessary): _____	Date: _____
	8. Executive signed: _____	Date: _____
	9. Original to Council: _____	Date: _____



Whatcom County

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

Agenda Bill Master Report

File Number: **AB2022-631**

File ID:	AB2022-631	Version:	1	Status:	Agenda Ready
File Created:	10/28/2022	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:	11/09/2022			Enactment #:	

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

TITLE FOR AGENDA ITEM:

Resolution approving a salary schedule and policies for Unrepresented Whatcom County employees effective January 1, 2023 through December 31, 2023

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:
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Attachments: Memo, Resolution



MEMO TO: Satpal Sidhu, County Executive
Tyler Schroeder, Deputy Executive *TS Satpal*

FROM: Melissa Keeley, Human Resources Manager *MK*

DATE: October 31, 2022

SUBJECT: 2023 Unrepresented Resolution Recommendations

Following input from the unrepresented compensation study committee as well as key County leaders, Human Resources provides these final recommendations for your consideration for the 2023 Unrepresented Resolution.

Unrepresented Employee Salaries

- One table with 20 ranges and 11 annual steps;
- Maintain current 3.8% between steps;
- Eliminate 36-month longevity steps;
- Drop entry step and add new top step 11; and
- 5.9% average increase (4% across the board COLA plus an average of 1.9% for one-time implementation)

This new structure will be implemented by HR and Finance using the following guidelines:

- Place employees in their new range at the step closest but not below their current pay;
- Employees at the top wage step in the old matrix for 12 or more months will move to the new top step January 1, 2023;
- If employees' 2023 wages calculated using the new matrix would increase over 9.8% compared to their 2023 wages under the old matrix, their step date will be delayed to bring their annual increase under 9.8%;
- If employees' 2023 wages calculated using the new matrix would increase less than 6% compared to their 2023 wages under the old matrix, their step date was moved earlier in 2023 to bring their ~~annual increase as close to 6% as possible.~~
- HR will notify each employee in writing of their new range and step placement

Undersheriff Salary

- Separate table with five steps
- Drop Steps 1 – 4
- 6% COLA

Court Reporter & Health Officer Salaries

- Pay at flat rates based on top longevity steps of existing ranges
- 5% COLA

Combined Paid Time Off (PTO) Benefit for All

In 2008, Department Heads and Managers were offered a combined paid time off benefit to help recruitment/retention while other unrepresented employees continued to accrue traditional vacation and sick leave. Time off is a recognized and valued recruitment and retention tool. Grandfather current PTO eligible employees at the current rates. Grandfather current sick leave balances and allow FLSA overtime exempt employees access for qualifying reasons after using 3 consecutive days of PTO. For FLSA overtime eligible employees, comply with WA State Paid Sick Leave. Cash out sick leave upon separation per current policy.

CURRENT PTO				PROPOSED PTO			
	Employment Years	Hrs./Month	Weeks/Yr.		Employment Years	Hrs./Month	Weeks/Yr.
Department Heads	Upon Hire	26	7.8	All Unreps	1 st – 4 th yr.	18	5.4
Managers	1 st – 4 th yr.	21.33	6.4		5 th + 9 th yr.	21.33	6.4
	5 th + yr.	24.67	7.4		10 th + yr.	24.67	7.4
CURRENT VACATION + SICK LEAVE							
Prof/ Supervisor/ Support	1 st – 4 th yr.	10 +8	5.4				
	5 th – 9 th yr.	13.34 + 8	6.4				
	10 th + yr.	16.67 +8	7.4				

Paid Time Off Cash Out for Long Term Employees

In addition to current policy allowing cash out of 100% of 40 hours over the carryover maximum (330 hours), allow employees with 15 + years of service the option to cash out annually an additional 40 hours regardless of PTO balance.

Paid Time Off Accruals for New Hires

Allow prior related public service employment to be considered to establish the starting PTO accrual rate for new hires. Discretionary and subject to Executive approval.

Emergency Response Stipend Increase

The emergency response stipend was created in 1999 to compensate employees required to respond in person to after-hours (9:00 p.m. – 6:00 a.m.) emergencies. The initial stipend was \$50. It increased to \$100 in 2007 and to \$150 in 2017. An increase to \$225 will provide better internal equity with other positions who respond after hours and receive a similar premium.

Cell Phone Stipend

Provide a \$30 monthly stipend to compensate employees who use their personal cell phones for work-related tasks in support of County operations.

Merit Step Eligibility

Limit nomination for merit step to one time per position.

Realignment

Base on top wage step unless demonstrated recruitment difficulty. Current policy is silent.

Personal Holiday

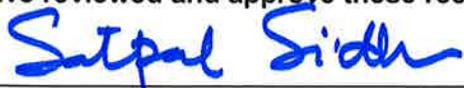
Eliminate with transition to PTO accruals.

480 Hour Short-Term Disability Bank

Discontinue; no longer needed with WA State Paid Family Medical Leave. Grandfather current employees under current policy.

These changes should contribute towards improved recruitment and retention of unrepresented employees. Overall, the results should create a competitive and attractive compensation package.

I have reviewed and approve these recommendations for the 2023 Unrepresented Resolution.



 Satpal Sidhu, Whatcom County Executive



 Date

PROPOSED BY: Executive

INTRODUCTION DATE: November 9, 2022

RESOLUTION NO. 2022 – _____

A RESOLUTION IN THE MATTER OF ADOPTING A SALARY SCHEDULE AND POLICIES FOR UNREPRESENTED WHATCOM COUNTY EMPLOYEES EFFECTIVE JANUARY 1, 2023 through DECEMBER 31, 2023

WHEREAS, employees in certain County job classifications are unrepresented and do not engage in collective bargaining on matters relating to wages, benefits and other terms and conditions of employment; and

WHEREAS, unrepresented employees should be compensated, based on the concept of a salary matrix, within the proper range and step for authorized positions within the adopted biennial budget;

WHEREAS, the Administration studied current compensation and structure and recommends changes to the salary plan to enhance retention and recruitment;

WHEREAS, future studies are recommended to re-evaluate overall structure and ensure competitive salaries;

WHEREAS, it is intended that Administration will follow the policies set forth below; and

WHEREAS, it is nonetheless understood that state law may override certain stipulations set forth herein;

THEREFORE, BE IT RESOLVED by the Whatcom County Council the following personnel policies, conditions of employment, and salary matrices are hereby adopted.

Section 1: APPLICABILITY

This Resolution applies to Unrepresented Employees and Elected Officials within the following groups:

- Group A FLSA Non-Exempt (Overtime Eligible)
- Group B FLSA Exempt
- Group C Flat Rate Positions (Court Reporter & Health Officer)
- Group D Court Commissioners
- Group E Undersheriff
- Elected Officials County Executive, Treasurer, Assessor, Auditor, Prosecuting Attorney, County Council, District Court Judge, Sheriff

References to “employees” herein are addressed to the persons within the groups listed above unless the context clearly indicates otherwise.

Section 2: SALARY PLAN

Positions Eligible for Step Increases (Groups A, B, and E)

Effective the first full pay period in 2023 (January 8, 2023), salaries shall be established within the ranges and steps provided in Addendum A.

Monthly salary amounts indicated are for one (1.0) FTE (full-time equivalent). On an annual basis, full-time equivalency is considered to be 2,080 hours, calculated as eight hours a day times five work days per week. Compensation for employees working less than full time is pro-rated based on a 40-hour work week. Monthly amounts may be converted to an hourly rate by dividing the monthly amount by 173.33.

Employees in Groups A, B and E are eligible to move up one step per year based on successful job performance. A performance evaluation must have been completed within the last year and the most recent evaluation rating must “exceed job requirements” overall to advance to the next step. Step movement will occur on the first day of the month of hire or the appropriate adjusted month.

Flat Rate Positions (Group C)

The monthly salaries are flat rate as established in Addendum A and are prorated as follows:

	<u>FTE</u>	<u>Range</u>
Court Reporter	.875	801
Health Officer	.60	802

Court Commissioners (Group D)

Court Commissioners are paid at a rate equivalent to a percentage of the comparable state judiciary level salary set by the Washington Citizens’ Commission on Salaries for Elected Officials to be effective July 1 of each year. If there is a change to the state judiciary salary level, salaries may be updated during the term of this Resolution.

	<u>% of Comp. Judge</u>	<u>Range</u>
Superior Court Commissioner	90%	903
District Court Commissioner	85%	904

Elected Officials

The Whatcom County Commission on Salaries for Elected Officials sets the salaries for the elected positions of Assessor, Auditor, Treasurer, Sheriff, Prosecuting Attorney, County Executive, and County Council. The District Court Judge salary is set by the Washington Citizens’ Commission on Salaries for Elected Officials.

Posting

The most current salary Addendum A to this Resolution will be posted on the County’s website.

Section 3: COMPENSATION

Overtime and Compensatory Time Pay (Group A)

This section applies only to employees in Group A: FLSA Non-Exempt Employees. Such employees shall be paid overtime at the rate of time and one-half for any hours worked over 40 in one work week. Such employees may request compensatory time in lieu of overtime

pay, up to a maximum of twenty-four (24) hours per calendar year. Additional compensatory time may be mutually agreed to, but an employee may accrue no more than a maximum of 80 hours of compensatory time at any time. All compensatory time earned under this section shall be cashed out each year in December in the last paycheck of the calendar year.

Promotion or Reclassification

When an employee moves to a higher-level position through promotion or reclassification, they shall move to the step in the new range generally providing at least a 5% wage increase. Reclassification must comply with the County policy on reclassifications (Policy [AD140150Z](#)).

Position Movement to Lower Range

Employees moving to a position in a lower range may have a salary adjustment up or down depending upon individual qualifications for the position, the nature of the work performed, and internal equity, with no change to the next step increase date.

Realignment

If funding is available within the authorized budget, department heads can request realignment of positions which are paid at least three percent (3.00%) below the average of at least four (4) of the six (6) comparable counties (Benton, Cowlitz, Kitsap, Skagit, Thurston, Yakima). All comparable counties where matches exist must be used. Comparisons will be based on the top step hourly wage step. The realignment will occur in January following approval by the County Executive or designee of the written realignment request. Employees moving to a new range because of position or range realignment shall be placed in their current step (but no higher than the top step) one range above their current range. The effective date of the realignment shall become the step increase date.

Realignment Additional Considerations

In the event the County identifies a position as one with documented recruitment and/or retention difficulties, realignment may be considered during the year if funding is available within the current year's budget for the department. Secondary comparables based on close geographical location may be considered and comparisons may be based on the entry step.

Interim Assignment Pay

Employees may be asked to cover all or part of the duties of a higher-level position during periods of extended absence, vacancy, or for special assignments. In these instances, interim assignment pay may be awarded. Department heads must complete an "Interim Assignment Pay Authorization Form" and submit to Human Resources prior to making the assignment.

Cell Phone Stipend

Department Heads may authorize a \$30 monthly stipend to compensate employees who use their personal cell phones for work-related tasks in support of County operations. This does not apply to those who have a County issued cell phone. Authorization must be submitted to Finance on a Cell Phone Stipend Agreement form.

Emergency Response Stipend

FLSA overtime exempt employees authorized in advance and required to respond in person to extraordinary emergencies, working anytime between the hours of 9:00 p.m. and 6:00

a.m., Monday through Friday and any time on Saturday or Sunday, shall receive a \$225 stipend per incident. If an employee is not on a pre-approved absence, and response to an incident is during normal hours but extends to hours or days noted above, no stipend is awarded. If the incident extends beyond 24 hours from the first response by employee and additional responses are required during times or days noted above, depending upon circumstances or the ability to flex time, an additional stipend may be awarded. Employees are not eligible for an Emergency Response Stipend for work on a holiday.

Approval of an incident is provided by the department head or designee ([Policy AD140325Z "Authorization for Emergency Response Stipend or Compensatory Time"](#)). In the case of department heads, approval of an incident is provided by the County Executive or designee.

Paid Administrative Leave (Groups B and E)

In recognition of the contributions unrepresented employees sometimes make in working far beyond the hours required in a regular work week, and the fact that FLSA-exempt employees do not get overtime or compensatory time, the County Executive or designee has authority to award deserving FLSA exempt employees up to five (5) days of paid administrative leave per year. These days must be used in the year awarded unless County business prevents this occurring, in which case they can be carried over one year. Administrative leave may only be cashed out upon separation.

Additional Compensation

The County Executive or designee is empowered to authorize extra pay for unrepresented employees during a period of extraordinary circumstances (such as emergency conditions, a strike, etc.).

Merit Step Nomination

Department Heads may nominate employees to the Executive or designee for a one-step adjustment in recognition of documented exemplary performance. This applies to employees who are not at the top wage step of their assigned range. Employees may be nominated one time per position held. A step adjustment for merit does not impact the step date.

Merit Step Documentation

Documented exemplary performance for a merit step shall include a performance evaluation within the last year with an overall rating of at least "4.00" with no individual elements or sub-elements at or below the "needs improvement" level. Additional documentation must be in writing and shall include specific information as to the employee's contribution:

- to achievement of some element or elements of the strategic plan;
- that has organization- or community-wide impact;
- to the completion of a specific, significant department project; or
- to a similar type of accomplishment.

Documentation shall include the funding available within the authorized department budget to support the request. Requests are submitted to Human Resources and require approval of the County Executive.

Attorney Probable Cause Compensation

Any attorney in the Prosecuting Attorney's Office required to appear on a weekend or holiday at a scheduled Probable Cause hearing shall receive \$250 for their appearance.

Attorney After-Hours Weekly Rotation

Deputy Prosecuting Attorneys are assigned, on a rotating basis, to be accessible after work hours for a seven-day period of time to respond to and be available for time-sensitive court-related matters. After-hours weekly rotations are mandatory and assigned in advance; there is no lapse in after-hours coverage at any time. The weekly rotations are shared and each attorney will not work more than eight (8) weekly rotations in any one year.

To recognize the disruption caused by working weekly after-hour rotations, and the fact that attorneys are exempt from overtime and not compensated for overtime work, attorneys completing each weekly rotation shall be granted the choice of **EITHER** twelve (12) hours of compensatory time off at the straight time rate **OR** a \$400 stipend as outlined below. Attorney positions eligible for compensatory time or stipend pay include:

- Deputy I
- Deputy II
- Senior Deputy
- Senior Deputy II

The Director and Chief Deputy in the Public Defender's Office and the Chief Deputy and Assistant Chief Deputy in the Prosecuting Attorney's Office may be included in the rotations as needed and will be eligible for the stipend or compensatory time off.

Attorney Compensatory Time

Attorneys earn twelve (12) hours of compensatory time following each weekly rotation. Time is recorded as "compensatory time earned."

Attorneys may request compensatory time to use in increments of not less than one hour whenever desired; however, approval will be subject to the same department process as used for vacation requests. Compensatory time is recorded as "compensatory time used."

A maximum of 36 hours of compensatory time may accrue at any one time. Unused compensatory time may be carried forward at the end of the year.

Unused compensatory time will not be compensated, considered compensable, or credited for any purpose with the exception that it will be cashed out upon separation of employment.

Attorney Stipend

Attorneys may elect to receive a \$400 stipend in lieu of compensatory time. The stipend election will be recorded on their time record following the weekly after-hours assignment.

Undersheriff Duty Staff Officer Stipend (Group E)

The Undersheriff is assigned, on a rotating basis, to be available to respond at any time to significant events including but not limited to: homicides, serious injury or death of Sheriff's Office personnel, shooting incidents involving Sheriff's Office personnel, major fires, civil disturbances, and/or other significant incidents. The Duty Staff Officer acts on behalf of the

Sheriff and has commensurate authority as well as responsibility for law enforcement operations during their assigned rotation.

To recognize the disruption caused when assigned Duty Staff Officer, and the fact that the Undersheriff is exempt from overtime and not compensated for overtime work, following the completion of each weekly rotation, the Duty Staff Officer shall be granted the choice of either a \$400 stipend or ten (10) hours of compensatory time at the straight time rate. Compensatory time earned during the Duty Staff Officer rotation must be used within the calendar year earned. Unused compensatory time cannot be cashed out. There is no eligibility for an Emergency Response Pay Stipend during the Duty Staff Officer rotation.

Undersheriff Binding Arbitration Adjustment

In recognition of the fact that four bargaining units within the Sheriff's Office have access to binding interest arbitration, the Undersheriff shall receive or be eligible for, on approximately the same basis as employees directly reporting to them, the following:

- Pay increases.
- The same basis for calculating longevity. Performance evaluation within last year must "exceed requirements" overall in order to be eligible for the Premium.
- The same annual clothing allowance if they must maintain a dress uniform.
- Medical coverage to the extent available.

If there is a collective bargaining agreement settlement, salary may change during the term of this Resolution.

Section 4: EMPLOYMENT

Employment at Will

Employment is at will, which means either the employee or the County can end the employment relationship without being legally required to give notice or a reason except as stipulated herein, by County policy, or by law.

Provisional Appointments

The County may make provisional appointments for a candidate or employee who does not fully meet all requirements and qualifications of a position. Such appointments will be to a range lower than the posted position. Current employees promoting into a position on a provisional basis shall receive at least a 5% promotional increase and will not receive another promotional increase upon fully meeting posted requirements. When moved to the range of the posted position, they will be placed in the step closest to but not less than their then-current rate of pay and will maintain their step increase date.

Direct Deposit

All newly hired regular employees shall authorize payment by Direct Deposit within thirty (30) days of employment. Employees may temporarily stop Direct Deposit in emergency situations with at least seven (7) day's notice before a scheduled payday, but must restart within three months.

Ability to Cross Border

Employees must maintain the ability to cross the Canadian border if they are assigned to a position which may at any time require crossing between the United States and Canada. The consequence for employees who become ineligible to cross the border will be determined on a case-by-case basis.

Disciplinary Suspensions

If a FLSA-exempt employee is subject to unpaid disciplinary suspension, it shall be in increments of full work-weeks, unless the infraction leading to the suspension is for a violation of a safety rule of major significance.

Section 5: SCHEDULING (Groups A and B)**Work Schedule**

The basic workweek shall consist of seven consecutive days beginning on Sunday at 12:00 a.m. and ending on Saturday at midnight. The normal work schedule shall customarily be eight (8) hours per day and five (5) consecutive days per week. Hours of operation may vary between departments and divisions in order to better serve the public.

Alternative Schedules

Either an employee or the County may request an alternative schedule which modifies the hours and the basic workday or workweek from the department standard to attend to County business or to accommodate a different schedule. Alternative scheduling requires the mutual agreement of the employee and the department head. FLSA non-exempt (overtime eligible) employees shall document their written agreement to vary the basic workweek (i.e. 9/80 schedule) and must not exceed 80 hours in a pay period. FLSA non-exempt employees may not accumulate or not take lunch and/or rest breaks in order to shorten the workday or work week.

Flex Time

By mutual agreement of the employee and the department head or designee, and prior approval, employees may flex their time in order to attend to personal matters. Flex time may also be used following an emergency response, to attend meetings, or otherwise perform work on behalf of the County. Approval of flex time for FLSA non-exempt employees shall not allow for greater than forty (40) hours of compensation in any one work week, shall provide for no reduction in service to the public, and must not increase the County's compensation costs. FLSA non-exempt employees may not accumulate or skip lunch or rest breaks in order to shorten the workday or work week.

Section 6: LEAVES**Paid Time Off (PTO) Bank (Groups A, B, E, Health Officer and District Court Commissioner)**

Recent developments in state paid leave law, and a desire to offer our employees more flexibility in how they utilize their accruals, have led us to make a change in our accrual system. Beginning January 2023, all eligible employees will, in lieu of accruing vacation, sick and personal holiday, accrue time into a Paid Time Off (PTO) bank.

PTO Accrual

Accruals for 1.0 FTEs are subject to meeting benefits eligibility as referenced in Section 7 and will be in accordance with the following schedule with the first employment year being the year hired and subsequent employment years being the first of the year.

<u>Employment Year</u>	<u>Accrual Rate/Month</u>
1 st – 4 th year	18.00 hours
5 th – 9 th year	21.33 hours
10 th + year	24.67 hours

Part-Time Employees

Part-time employees' PTO accrual rate will be pro-rated per currently assigned, but not more than their budgeted FTE.

PTO Accrual Grandfathering

Current PTO eligible employees, as of December 31, 2022, will continue to accrue PTO on the following schedule:

Department Heads	<u>Accrual Rate/month</u> 26.00 hours
Managers	<u>Accrual Rate/month</u>
During 1 st through 4 th employment year	21.33 hours
During 5 th and subsequent years	24.67 hours

PTO Accrual Exception

Prior regular County employment may be considered when determining employment year as well as prior related public service employment. Exceptions for prior related public service require submittal to Human Resources and Executive approval.

Paid Time Off Usage

PTO hours may be requested to be used as accrued and approved. In the event an employee needs PTO for an illness or to care for a family member, the employee should give their supervisor as much notice as possible.

Paid Time Off Bank Carryover/Cash Out

No more than 330 PTO hours at the end of the business day on December 31 can be carried over to the following calendar year; any additional hours are forfeited. If funds exist in the department's current budget, by mutual agreement among the impacted employee, the department head (if applicable) and the County Executive or designee, up to 40 hours of PTO anticipated to be above the 330 hours carry over maximum can be cashed out each calendar year. Requests for cash out must be submitted by November 30 and will be paid in December. Upon separation, hours in the PTO bank will be cashed out at 100%.

Paid Time Off Cash Out for 15+ Year Employees

Employees who have been employed by the County for 15 or more continuous years, may cash out up to 40 hours of PTO annually regardless of PTO balance. Requests for cash out must be submitted by November 30 and will be paid in December.

PTO Leave Sharing

Employees may donate any amount of Paid Time Off each year to employees eligible to receive leave donations. (Policy [AD1395000Z](#))

Sick Leave Bank

Employees hired before December 31, 2022 and transitioning to PTO leave will maintain their accrued and available sick leave hours in a bank. Per the County's Offering Paid Sick Leave policy, sick leave hours can be used to cover absences due to: Employee's illness (mental or physical), injury, or health condition, and for preventive care; Employee's care for a family member's illness (mental or physical), injury, or health condition, and for preventive care; Public health closures of County facilities or a dependent's school or care facility; Absences due to domestic violence, sexual assault, or stalking.

FLSA Exempt Employees can access their sick leave bank only after using three consecutive days of PTO for qualifying reasons. For a qualifying reason requiring intermittent absences, the employee needs only one period of three consecutive work days charged to PTO before gaining access to the sick leave bank. FLSA Non-Exempt Employees can access their sick leave bank without needing to use PTO first, and in compliance with RCW 49.46.210 Paid Sick Leave.

Employees with three (3) or more years of current continuous employment with the County shall be entitled to sick leave cash out upon voluntary separation, layoff or death, in the amount of twenty-five percent (25%), or fifty percent (50%) if hired before May 15, 1984. Employees must give at least two (2) weeks' notice prior to separation to be eligible for sick leave cash out.

District Court Judge, Superior Court Commissioner and Court Reporter Sick Leave

Refer to Addendum B.

Short-Term Disability Bank

With recent developments in state paid leave law, the short-term disability bank will be discontinued. Employees with a short-term disability bank as of December 31, 2022 will maintain this bank and may have access to it for qualifying reasons, including intermittent use, following three (3) consecutive days of PTO leave.

Holidays

Whatcom County follows the [State holiday schedule](#) (RCW 1.16.050) in addition to the day before Christmas. Paid holidays will be posted on an annual basis. To receive holiday pay, employees must be in paid status or on approved voluntary unpaid furlough, the entire scheduled work day before and after the holiday.

Part-Time Employee Holiday Pay

Part-time employees will receive holiday pay based on their currently assigned, but not more than their budgeted FTE.

Working on a Holiday

Employees who are required to work on a holiday shall receive compensatory time at the rate of two hours for each hour worked, in addition to holiday pay. Employees are not eligible for an Emergency Response Stipend for work on a holiday.

Compensatory time can be used at a mutually agreeable time. Unused compensatory time earned before December 31 shall be carried forward and must be used in the following year. Employees unable to use compensatory time by the end of the following year due to a County emergency are eligible to carry the hours forward for one additional year. Unused compensatory time earned under this provision will be cashed out upon separation of employment.

Family Leave

The County provides unpaid leave to any eligible employee covered by this Resolution, consistent with state and federal laws. Employees are not required to use accrued leave before commencing unpaid family leave. If leave pursuant to FMLA stipulations would also qualify as leave under any other County benefit, policy or type of leave, the period of the FMLA leave will run concurrently as permitted by law and will apply toward an employee's entitlement for each type of leave that may be applicable.

Maternity/Paternity Leave

The County provides leave consistent with WA State and Federal Leave laws.

Physician Certifications

The County may require physician certifications in accordance with state and federal guidelines.

WA State Paid Family and Medical Leave

The County participates in the Washington State Paid Family and Medical Leave insurance program. Employees shall coordinate leave under this program with Human Resources.

Bereavement Leave

Employees who suffer a death in the immediate family are entitled to paid bereavement leave as follows: up to five (5) days off (maximum of forty hours) for loss of a spouse, State registered domestic partner, child or parent (including step) of either the employee or the employee's spouse. Up to three (3) days off for loss of employee's or employee's spouse's sibling (including step), grandchild or grandparent. Up to eight (8) hours for loss of a sibling's spouse (including step). Additional days off without pay or using accrued leave may also be available upon written approval of the department head.

Jury Duty

Employees will be paid their normal wages if they are off work for jury duty.

Civil Leave

Civil leave with pay shall be allowed to permit an employee to testify in any federal, state or municipal court when a subpoena compels such testimony and such testimony is on behalf of Whatcom County or is in connection with a matter in which Whatcom County is a party.

Military Leave

In accordance with State law, employees are entitled to 21 workdays of paid military leave annually, measured from October 1 through September 30. For longer military leaves, employees may use PTO and/or compensatory time, and may take an unpaid leave of absence without first using paid leaves. In accordance with Federal Law, employees are entitled to up to five (5) years of unpaid military leave with specified return to work rights when called to active duty.

Domestic Violence Leave

The County provides reasonable leave to employees who are victims of, or who are family members of victims of domestic violence, sexual assault, or stalking, consistent with the requirements of the Washington Domestic Leave Law. Employees may choose to use accrued sick leave or other paid time off, compensatory time, or unpaid leave time.

Absence Due to Adverse Weather

An employee's absence due to severe inclement weather or other unusual emergency conditions will be charged to one of the following in sequential order: compensatory time, vacation leave, paid time off, personal holiday, or leave without pay. Employees who wish to take leave without pay must notify their payroll preparer before the department's payroll cut-off time (Policy [AD139010Z](#)).

Section 7: HEALTH AND WELFARE BENEFITS**Benefits Eligibility**

Employees must be compensated at least eighty (80) hours per calendar month and be in at least a .5 FTE position to be eligible for certain benefits (including, but not limited to, PTO bank, STD bank, sick leave, and health and welfare). Compensation is defined as payment of wages for work performed, vacation, accrued sick leave, PTO, STD, other paid leave, or income for industrial injury not to exceed twelve months. County payments of health and welfare premiums for benefits of unrepresented employees are made on behalf of employees. Compensation earned in one (1) calendar month provides health and welfare benefit coverage in the following month unless stipulated otherwise in plan documents. Lump sum cash out of accruals upon termination of employment is not considered compensable hours for any purpose of eligibility or contribution. Any elected official or newly hired unrepresented employee will be initially eligible for health and welfare benefits the calendar month following at least 80 hours of compensation in one (1) calendar month. Waiting period requirements on individual plans must be met for benefit reimbursement. Due to the nature of elected official positions, they will be eligible for health & welfare benefits on the same basis as a 1.0 FTE.

Health and Welfare Benefits

Elected officials set forth in Section 1 and eligible employees shall be granted the following health and welfare benefits. The benefits shall include full contribution by the County for the employee, spouse, and dependent children of the employee, unless otherwise noted.

- A) Medical – Washington Teamsters Welfare Trust Plan “B”.
- B) Dental – Washington Teamsters Welfare Trust Dental Plan “A”.
- C) Vision – NBN Vision Plan with Washington Teamsters Welfare Trust.
- D) Life insurance –employee only coverage with Standard Life Insurance in the face amount of \$50,000.
- E) Waiver of Contributions – Washington Teamsters Welfare Trust Disability Waiver of Contributions Extension.
- F) Plan D Time Loss – Washington Teamsters Welfare Trust Employee \$100 per week time loss.

G) Long-Term Disability – employee only coverage with Sunlife.

Part-Time Employee's Benefits Coverage

Employees will pay a pro-rated amount of the County's contribution, based on their FTE, for A. Medical, B. Dental, C. Vision, E. Waiver of Contributions, and F. Plan D Time Loss through payroll deduction utilizing the Flex 125 program. The County will pay the full contribution for D. Life Insurance and G. Long-Term Disability. The requirement for pro-rated contributions does not apply to Public Health Officers, Court Reporters, or Whatcom County Council members.

Section 8: RETIREMENT AND OTHER BENEFITS

Retirement Plans

The County provides payment to retirement plans through the Washington State Department of Retirement Systems (DRS), which also requires contributions from eligible employees. Elected officials may elect, but are not required, to participate in a DRS plan.

Deferred Compensation

The County provides the opportunity for voluntary employee participation in deferred compensation (457 plans) and 401(a) programs. The County matches these contributions fifty cents on the dollar, up to a maximum of 2% of base salary, with County contributions placed in a 401(a) Plan. New employees may, within sixty (60) days of hire, elect to contribute directly to the 401(a) Plan.

Flex 125

The County will pay set-up costs and ongoing maintenance costs to allow employees to utilize a Dependent and Health Care Reimbursement Plan.

Employee Assistance Program

The County provides confidential counseling assessment services through an Employee Assistance Program for employees and their immediate families.

Sheriff's Office Disability Plan (Group E Undersheriff)

The Undersheriff will be provided a substantially equivalent disability plan as that provided to employees directly reporting to them and is not eligible to participate in the Long-Term Disability Plan offered to other unrepresented employees.

Retirement Health Savings Plan. The County maintains a tax-free Retirement Health Savings Plan (RHS) in accordance with IRS regulations. The County administers the RHS plan consistent with the County's RHS plan documents. Contribution types, which are mandatory within identified employee groups, may include, but are not limited to: contribution of a percentage of base salary and PTO bank cash outs at voluntary separation from County employment. The County may at its discretion identify additional recognized groups of unrepresented employees to have one or more of the existing contribution types applied.

Section 9: POLICY OR PROVIDER CHANGES

The County may change provisions in this Resolution or select different providers of benefits, which may impact plans offered. Nothing in this document shall limit the County's ability to

change any provision in this Resolution or to search for the most cost-effective benefit packages, nor shall it commit the County to selecting any specific provider or plan.

Section 10: EFFECTIVE DATE

All changes in benefits under this Resolution shall become effective January 1, 2023 and salaries shall become effective the first full pay period in January 2023 (January 8). Salaries and benefits shall remain in effect until rescinded, except where noted otherwise, and except that any further changes may be retroactively applied as approved by the County Council.

AND FURTHER, THEREFORE, BE IT RESOLVED, that Resolution No. 2021-048 is hereby rescinded effective January 1, 2023 and this Resolution shall become effective that same date.

APPROVED this 9th day of November, 2022.

ATTEST:

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

Dana Brown-Davis, Council Clerk

Todd Donovan, Council Chair

APPROVED as to form:

DocuSigned by:
George Roche

659516898502445...
Senior Deputy Prosecuting Attorney

Addendum A 2023 Salary Matrix for Unrepresented Employees

Annual Step Increase Eligible (Effective January 8, 2023 +4% and implementation of new plan)											
GROUP A: FLSA Non-Exempt Overtime Eligible (Hourly)											
RANGE	1	2	3	4	5	6	7	8	9	10	11
1	\$23.69	\$24.59	\$25.52	\$26.49	\$27.50	\$28.54	\$29.63	\$30.75	\$31.92	\$33.14	\$34.40
2	\$25.11	\$26.06	\$27.05	\$28.08	\$29.15	\$30.26	\$31.41	\$32.60	\$33.84	\$35.12	\$36.46
3	\$26.62	\$27.63	\$28.68	\$29.77	\$30.90	\$32.07	\$33.29	\$34.56	\$35.87	\$37.23	\$38.65
4	\$28.21	\$29.28	\$30.40	\$31.55	\$32.75	\$34.00	\$35.29	\$36.63	\$38.02	\$39.47	\$40.97
5	\$29.91	\$31.04	\$32.22	\$33.45	\$34.72	\$36.04	\$37.41	\$38.83	\$40.30	\$41.83	\$43.42
6	\$31.70	\$32.90	\$34.15	\$35.45	\$36.80	\$38.20	\$39.65	\$41.16	\$42.72	\$44.34	\$46.03
GROUP B: FLSA Exempt from Overtime (Monthly)											
RANGE	1	2	3	4	5	6	7	8	9	10	11
7	\$5,824	\$6,045	\$6,275	\$6,514	\$6,761	\$7,018	\$7,285	\$7,562	\$7,849	\$8,147	\$8,457
8	\$6,174	\$6,408	\$6,652	\$6,904	\$7,167	\$7,439	\$7,722	\$8,015	\$8,320	\$8,636	\$8,964
9	\$6,544	\$6,793	\$7,051	\$7,319	\$7,597	\$7,885	\$8,185	\$8,496	\$8,819	\$9,154	\$9,502
10	\$6,937	\$7,200	\$7,474	\$7,758	\$8,053	\$8,359	\$8,676	\$9,006	\$9,348	\$9,703	\$10,072
11	\$7,353	\$7,632	\$7,922	\$8,223	\$8,536	\$8,860	\$9,197	\$9,546	\$9,909	\$10,286	\$10,676
12	\$7,794	\$8,090	\$8,398	\$8,717	\$9,048	\$9,392	\$9,749	\$10,119	\$10,504	\$10,903	\$11,317
13	\$8,262	\$8,576	\$8,901	\$9,240	\$9,591	\$9,955	\$10,334	\$10,726	\$11,134	\$11,557	\$11,996
14	\$8,757	\$9,090	\$9,436	\$9,794	\$10,166	\$10,553	\$10,954	\$11,370	\$11,802	\$12,250	\$12,716
15	\$9,283	\$9,636	\$10,002	\$10,382	\$10,776	\$11,186	\$11,611	\$12,052	\$12,510	\$12,985	\$13,479
16	\$9,840	\$10,214	\$10,602	\$11,005	\$11,423	\$11,857	\$12,307	\$12,775	\$13,261	\$13,764	\$14,288
17	\$10,430	\$10,826	\$11,238	\$11,665	\$12,108	\$12,568	\$13,046	\$13,542	\$14,056	\$14,590	\$15,145
18	\$11,056	\$11,476	\$11,912	\$12,365	\$12,835	\$13,322	\$13,829	\$14,354	\$14,900	\$15,466	\$16,053
19	\$11,719	\$12,165	\$12,627	\$13,107	\$13,605	\$14,122	\$14,658	\$15,215	\$15,794	\$16,394	\$17,017
20	\$12,422	\$12,894	\$13,384	\$13,893	\$14,421	\$14,969	\$15,538	\$16,128	\$16,741	\$17,377	\$18,038

GROUP C: Flat Rate Positions (Effective January 8, 2023 +5% and implementation to flat rate)			
Court Reporter		Health Officer	
801	\$7,623	802	\$9,492

GROUP D: Court Commissioner

Range	7/1/2022	7/1/2023	
903	\$15,238	TBD	(90% of Superior Court Judge Salary)
904	\$13,702	TBD	(85% of District Court Judge Salary)

Salaries are set by the WA Citizens' Commission on Salaries for Elected Officials

GROUP E: Undersheriff Annual Step Increase (Effective Jan. 8, 2023 +6%)									
Range	1	2	3	4	5	6	7	8	9
690					\$12,591	\$13,072	\$13,569	\$14,083	\$14,605

Undersheriff Longevity			
Yrs of Service	%	Hourly Rate	Longevity
6	2.00%	\$47.16	\$0.94
9	3.00%	\$47.16	\$1.41
12	3.50%	\$47.16	\$1.65
15	4.00%	\$47.16	\$1.89
18	4.50%	\$47.16	\$2.12
21	5.00%	\$47.16	\$2.36
24	6.00%	\$47.16	\$2.83
27	7.00%	\$47.16	\$3.30

Addendum B

Section 1:

Sick Leave: Superior Court Commissioner, Court Reporters and District Court Judge

Sick Leave Accruals

For the purpose of sick leave benefits, sick leave shall accrue to each 1.0 FTE employee from their date of hire in the amount of eight (8) hours for each month of employment, if benefits eligibility criteria are met, to a maximum of nine hundred and sixty (960) hours except as outlined below.

District Court Judge

Pursuant to RCW 3.34.100, District Court Judges shall accrue sick leave at the same rate as other county employees to a maximum of nine hundred and sixty (960) hours at the end of the business day on December 31 which shall be allowed to accrue up to one thousand and fifty-six (1,056) hours (960 + up to 96 hours annual accrual) of sick leave during the following year. The maximum reverts back to no more than nine hundred and sixty (960) hours at the end of the business day on December 31. Additionally, District Court Judges will receive thirty (30) days' annual leave each January 1. Annual leave cannot be carried forward to the next year. When a District Court Judge vacates office, the total remuneration for annual leave and sick leave shall be granted as allowed by [RCW 3.34.100](#), and shall not exceed the equivalent of thirty (30) days' monetary compensation.

Sick Leave Accrual Maximum

Employees who have accrued nine hundred and sixty (960) hours at the end of the business day on December 31 shall be allowed to accrue up to one thousand and fifty-six (1,056) hours (960 hours + up to 96 hours annual accrual) of sick leave during the following year. These additional hours of accrual may not be cashed out. The employee's total accrual reverts back to no more than nine hundred and sixty (960) hours at the end of the business day on December 31.

Excess Sick Leave Contributions

Employees who have at least 960 hours in their sick leave bank at the beginning and end of the calendar year (or at the beginning of a calendar year and upon termination in that same year) will receive a contribution into their 457 deferred compensation plan based upon a portion of the hours accrued but not used during the year. Sick leave hours accrued to a maximum of forty-eight (48) hours, minus hours used, multiplied by 25%, multiplied by the hourly rate at year-end, equals the 457 contribution. Employees eligible for a contribution must be enrolled in a 457 deferred compensation plan prior to February 1 of the following year (or at termination, if earlier) to receive the contribution, or the 457 contribution will be forfeited.

Sick Leave Usage

Eligible employees may request sick leave as accrued and may use it in increments of less than one scheduled workday for a covered purpose (Policy [AD139400Z](#)).

Sick Leave Verification

Following more than three consecutive days of absence, an employee may be requested to provide verification that the leave was for an eligible reason (Policy [AD139400Z](#)).

Sick Leave Cash Out

Employees with three (3) or more years of current, continuous employment with the County shall be entitled to sick leave cash out upon voluntary separation, layoff or death in the amount of twenty-five (25%) percent, or fifty (50%) percent if hired before May 15, 1984, of accrued hours up to a maximum of 960 hours. Employees must give at least two (2) weeks' notice prior to separation to be eligible for sick leave cash out.

Leave Sharing Program. Employees may donate any amount of accrued sick leave each year to employees eligible to receive leave donations (Policy [AD139500Z](#)).

**Section 2:
Paid Time Off District Court Commissioner**

The District Court Commissioner shall be eligible for the same combined PTO leave as other Unrepresented employees and as outlined in Section 6 Leaves of the Unrepresented Resolution.



Whatcom County

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

Agenda Bill Master Report

File Number: **AB2022-635**

File ID:	AB2022-635	Version:	2	Status:	Agenda Ready
File Created:	10/31/2022	Entered by:	CHalka@co.whatcom.wa.us		
Department:	Council Office	File Type:	Contract		
Assigned to:	Council Finance and Administrative Services Committee			Final Action:	
Agenda Date:	11/09/2022			Enactment #:	

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

TITLE FOR AGENDA ITEM:

Request authorization for the County Executive to enter into a contract between Code Publishing, LLC and Whatcom County for legal code publishing services

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

Request authorization for the County Executive to enter into a contract between Code Publishing, LLC and Whatcom County for legal code publishing services

HISTORY OF LEGISLATIVE FILE

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

Attachments: Memo, Contract



MEMORANDUM

TO: Satpal Sidhu, County Executive
FROM: Cathy Halka, Legislative Analyst
RE: 2023 Contract for Code Publishing Services
DATE: October 31, 2022

Enclosed is a contract between Whatcom County and Code Publishing, LLC for your review and signature.

- **Background and Purpose**

On August 10, 2022, the County issued a request for proposals for code publishing services (RFP#22-45) with a closing date of August 23rd. Code Publishing, LLC was the sole respondent to the RFP and has been providing code publishing services to Whatcom County since 1996.

- **Funding Amount and Source**

The proposed annual contract amount is \$15,000. The proposed Council Office budget includes \$18,000 (Account #1100.6630.901) in annual funding for this contract.

- **Differences from Previous Contract**

The contract is for services in the 2023 year (Jan. 1 – Dec. 31). The annual contract amount has been reduced from the previous contract amount of \$18,103. Should additional funding be required before the end of the contract term, a contract amendment will be brought forward.

Please contact Cathy Halka at extension 5019, if you have any questions.

Encl.

**CONTRACT FOR SERVICES
Between Whatcom County and Code Publishing, LLC**

Code Publishing, 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 9,
- Exhibit A (Scope of Work), pp. 10 to 10,
- Exhibit B (Compensation), pp. 11 to 13,

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 1 day of January, 2023, and shall, unless terminated or renewed as elsewhere provided in the Agreement, terminate on the 31 day of December, 2023.

The general purpose or objective of this Agreement is to: provide legal publishing services, including digital management of the Whatcom County Code, 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 \$ 15,000. The Contract Number, set forth above, shall be included on all billings or correspondence in connection therewith.

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

IN WITNESS WHEREOF, the parties have executed this Agreement this ____ day of _____, 2022.

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.

CONTRACTOR:

Code Publishing, LLC (A General Code Company)
781 Elmgrove Road
Rochester, NY 14624
mbustion@codepublishing.com
cpc@codepublishing.com

Margaret O. Bustion, President

CONTRACTOR INFORMATION:

Code Publishing, LLC
Margaret Bustion, President

Address:
781 Elmgrove Road
Rochester, NY 14625

Mailing Address:
781 Elmgrove Road
Rochester, NY 14625

**WHATCOM COUNTY:
Recommended for Approval:**

Department Director 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 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: Not Applicable

Series 30-39: Provisions Related to Administration of Agreement

30.1 Independent Contractor:

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

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

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

30.2 Assignment and Subcontracting:

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

30.3 No Guarantee of Employment:

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

31.1 Ownership of Items Produced and Public Records Act:

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

Ownership. Any and all data, writings, programs, public records, reports, analyses, documents, photographs, pamphlets, plans, specifications, surveys, films or any other materials created, prepared, produced, constructed, assembled, made, performed or otherwise produced by the Contractor or the Contractor's subcontractors or consultants for delivery to the County under this Contract shall be the sole and absolute property of the County. Such property shall constitute "work made for hire" as defined by the U.S. Copyright Act of 1976, 17 U.S.C. § 101, and the ownership of the copyright and any other intellectual property rights in such property shall vest in the County at the time of its creation. Ownership of the intellectual property includes the right to copyright, patent, and register, and the ability to transfer these rights. Material which the Contractor uses to perform this Contract but is not created, prepared, constructed, assembled, made, performed or otherwise produced for or paid for by the County is owned by the Contractor and is not "work made for hire" within the terms of this Agreement.

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

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

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

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

31.2 Patent/Copyright Infringement: Not Applicable

32.1 Confidentiality: Not Applicable

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: *(Must be included in every contract as per Ord. 2021-016)*

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 ensure 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: *(Must be included in every contract as per Ord. 2021-016)*

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: Not Applicable.

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:

Dana Brown-Davis, Clerk of the Council
Whatcom County Council Office
311 Grand Avenue, Suite 105
Bellingham, WA 98225
DBrown@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 such party as follows:

Margaret Bustion, President
Code Publishing, LLC (A General Code Company)
6558 19th Ave. NE
Seattle, WA 98115
mbustion@codepublishing.com
cpc@codepublishing.com

Cristina LoVerde
Code Publishing, LLC (A General Code Company)
781 Elmgrove Road
Rochester, NY 14624
cloverde@generalcode.com

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: Not Applicable

38.3 E-Verify: Not Applicable

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: Not Applicable

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: Not Applicable

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)

The following list outlines the services provided under this contract:

A. Updates

1. County staff will provide adopted ordinances and resolutions on a monthly or more frequent basis. Ordinances will be incorporated into the code. Non-codified ordinances and resolutions will be added to the ordinances and resolutions lists.
2. Provide a pdf of the entire code on a quarterly basis, giving the county a picture of the code at those periods in time, in the format specified in section C below (preferred). Or, alternatively, provide a means for county staff to download a pdf of the entire code.

B. History Notes/Legislative History

1. Provide a code that contains annotations referencing ordinance numbers and dates of adoption.

C. Publishing details for printable pdf code file, per page edits

1. Layout - two columns per page.
2. Typeface – Times New Roman size 11 font.
3. Duplex pages with title headings on one page per leaf, right-hand page.
4. All chapter headings beginning with a new column.
5. See item A.2. regarding providing pdf of updates on quarterly basis.

D. Electronic Copy

1. Provide code and updates in an electronic format that is fully searchable.

E. Contractor must also provide Internet hosting of the Code as described below.

1. Provide users with the ability to print or save as RTF any title, chapter, or selection of the Code with ease.
2. Post updates to the website, as soon as possible, after receiving the updates from the County.
3. Provide a notation automatically inserted into the Code when a new ordinance is adopted.
4. Provide links within the Code from one chapter or section to another related chapter or section for easier research and navigation of code content as well as links to State of Washington code citations.
5. Provide the capability for frequently requested or common searches to be marked and stored for quick retrieval at a later date.
6. Provide a simplified format for ADA and for use on a mobile device.
7. Provide a customized code interface that matches the County's website.

EXHIBIT "B"
(COMPENSATION)

TASK ITEMIZATION – PRICE PROPOSAL

OPTIONS	COST
Publication Service	
Editorial	22.95 per page
Graphics, tables, maps	15.00 per page
Update online code	Included
PDF file for in-house printing/archival	Included
Online Code	
Initial conversion of files to electronic format	Included (current format)
Online hosting fee - per year	650.00
Additional Products or Services	
Telephone support	Included
Subscription service	Included
Sample ordinances	Included
Additional Online Options	
Print selections by title, chapter, or section	Included
Save selections as RTF by title, chapter, or section	Included
Update online code as soon as ordinances are received	Included
Note sections of code amended by new ordinances	180.00 annually
Links to municipal code citations	Included
Links to state code citations	Included
Saved searches	Included
ADA-compatible version *	Included
Customized code interface	Included

Web Features and Enhancements

☒ Standard Web Hosting Package

650.00 annually

Ordinances are codified in the web-based code in 5 to 10 days. Save countless hours processing record requests and updating unwieldy codebooks. A great way to transition to a paperless code.

- **Smart Search** – Returns the most relevant results, understands Boolean terms and includes multiple documents (see *Additional Document Hosting*).
- **Search All Codes** – This is our “Explore Codes” option in the user portal. There is no extra charge to search all codes in our database. Search within specific states or all states.
- **Share** – Print, save or share sections. Save as Word, PDF, etc., share via email or social media.
- **Sticky Table Headers** – Headers remain fixed while scrolling through a long table.
- **Code Citations** - Links to **internal** (including subsections) and **state** code sections where cited. See the **Code Citation** table. See *Previews* below.
- **Custom Interface** – Customized look and feel, with banner, menus, fonts, colors and photos to match your website.

<https://telluride.municipal.codes> <https://bellevue.municipal.codes>

Additional Enhancements

Additional 45.00 per month

- ☐ **Versions** – View and search previous versions of the code, and compare sections with markup (redlining) of changes. **(75.00 per hour setup, 75.00 per year a la carte)**
- ☐ **Previews** – Includes Section Preview, Footnote Preview and Definition Preview (primarily for zoning). Hover over relevant citations or defined words to display pop-up text previews. **(75.00 per hour setup, 295.00 per year a la carte)**

Web Features and Enhancements (continued)

Tracking Updates

- Pending Updates** – Highlights sections affected by ordinances pending codification with a blue **Amended** tag in the table of contents and the code. Tags are linked to PDF files of new ordinances. Tags and PDF files are removed after the ordinances are codified. **15.00 per ordinance**
- Recent Updates** – Highlights sections containing recently codified ordinances with a green **Revised** tag in the table of contents and the code. Tags are removed after six months or on a custom schedule. **180.00 annually**

Hosting Other Documents

- Additional Document Hosting** – Ordinances, resolutions, policy documents, agreements, handbooks, planning documents, manuals, etc., hosted in searchable PDF or HTML** format on code site. **75.00 per hour setup;
100.00 per year hosting;
75.00 per hour updating**

***HTML format has additional conversion fees; ask for quote.*



Whatcom County

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

Agenda Bill Master Report

File Number: AB2022-621

File ID:	AB2022-621	Version:	1	Status:	Agenda Ready
File Created:	10/27/2022	Entered by:	SDraper@co.whatcom.wa.us		
Department:	Public Works Department	File Type:	Discussion		
Assigned to:	Council Public Works & Health Committee	Final Action:			
Agenda Date:	11/09/2022	Enactment #:			

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

TITLE FOR AGENDA ITEM:

Discussion regarding proposed ordinance amending Whatcom County Code Title 3, requiring that public funds used for construction projects also provide apprentices with job training hours to meet the requirements necessary to become the next generation of skilled trades persons

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

See memo

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
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Attachments: Memo, Ordinance, Exhibit A, Exhibit B



Jon Hutchings
Director

Memorandum

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

Through: Jon Hutchings, Public Works Director *caK*

From: James P. Karcher, P.E., County Engineer *gpk*

Date: November 9, 2022

Re: **Amending Whatcom County Code Chapter 3.72 (Construction Projects – Apprenticeship Requirements) to extend the timelines for implementation, rename the program to the Contractor Apprenticeship Program, and allow waivers at any time**

Requested Action

Public Works on behalf of multiple County Departments respectfully requests that the County Council adopt the proposed ordinance to modify the effective dates and clarify timing for exceptions and waivers of Whatcom County Code Title 3, Chapter 3.72: Construction Projects – Apprentice Requirements.

Background and Purpose

The ordinance ([AB2019-285](#)) passed Council on 11/19/2019.

The unexpected demands placed on the County by the pandemic and Nov/Dec 2021 flood events impeded the County from attending to the related issues of administration of the new ordinance, requiring more time for implementation.

Implementation of this ordinance requires the designation of existing personnel or hiring of a FTE for a Contractor Apprenticeship Program (CAP) coordinator who will facilitate creation of bid documents along with contract specifications and establishment of an ongoing system for monitoring and reporting which all need to be in place before beginning this program.

To date, all public work contracts remain compliant with these provisions. The County will be studying the impacts of this ordinance on the local contracting community, public work construction costs and internal project management effectiveness and expects to return to Council to discuss the findings.

A brief overview of the proposed schedule for implementation with regard to administering the program and estimating the fiscal impact follows:

- There will be an estimated 4 to 6 qualifying projects County wide that exceed \$1M during an average year.
- The Contractor Apprenticeship Program Utilization Plan will be created by the Executive appointed CAP coordinator and modeled after the Snohomish County Plan. The Snohomish County utilization plan template document is attached as 'Exhibit B'.
- The initial timing estimate to review a submitted plan, coordinate revisions and process a goal modification/waiver is an average of 36 staff-hours per contract.
- Submittal of bidder provided documentation of a need for an exception will be reviewed by staff and forwarded, with a recommendation of approval or denial, to the Executive or designee. This documentation would be verified by the Executive or designee which could be completed in an estimated 4 staff-hours. Disputes at the Executive review level would cause the need for additional staff time of varying degrees based on complications.
- Estimating a fully burdened wage of \$80/hour and assuming 40 staff hours per bid, the staff cost for the CAP totals \$3,200/bid and \$19,200/year. A total new work load of approximately 240 hours/year or ~0.20 FTE's is created.
- Depending on workload and scheduling, an additional 2 week delay is anticipated in the bid award process due to implementation of this program.

Please contact James P. Karcher, P.E., County Engineer at extension 6271 if you have any questions regarding this ordinance.

PROPOSED BY: Public Works - Engineering
INTRODUCTION DATE:___

ORDINANCE NO. _____

AMENDING WHATCOM COUNTY CODE CHAPTER 3.72 (CONSTRUCTION PROJECTS – APPRENTICESHIP REQUIREMENTS) TO EXTEND THE TIMELINES FOR IMPLEMENTATION, RENAME THE PROGRAM TO THE CONTRACTOR APPRENTICESHIP PROGRAM, AND ALLOW WAIVERS AT ANY TIME

WHEREAS, the Whatcom County Council is committed to training of the next generation of skilled workers; and

WHEREAS, the unexpected demands placed on the County by the pandemic and Nov/Dec 2021 flood events impeded Public Works from attending to the related issues of administration of the new ordinance, requiring more time for implementation.

NOW, THEREFORE, BE IT ORDAINED by the Whatcom County Council that Chapter 3.72 of the Whatcom County Code is hereby amended as provided for in Exhibit A attached hereto.

ADOPTED this ____ day of _____, 2022.

ATTEST:

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

Dana Brown-Davis, Clerk of the Council

Todd Donovan, Council Chair

APPROVED AS TO FORM:

WHATCOM COUNTY EXECUTIVE
WHATCOM COUNTY, WASHINGTON

Approved Via Email-CQ/DR

Christopher Quinn,
Sr. Deputy Prosecuting Attorney,
Civil Division

Satpal Singh Sidhu, County Executive

() Approved () Denied

Date Signed: _____

EXHIBIT A

WCC-Chapter 3.72
CONSTRUCTION PROJECTS – APPRENTICE REQUIREMENTS

3.72.010 Definitions.

Where used in this chapter, unless the context clearly requires otherwise, the following terms shall have the meaning and construction set forth herein:

- A. “Apprentice” means an apprentice registered in an approved apprenticeship program.
- B. “Approved apprenticeship program” means an apprenticeship training program which is approved or recognized by the Washington State Apprenticeship and Training Council.
- C. “Contractor” means a person, corporation, partnership, limited liability company, or joint venture entering into a contract with the County to construct a public work.
- D. “Labor hours” refers to the total number of hours worked by workers receiving an hourly wage who are employed directly and by subcontractors upon the public works project and who are subject to state or federal prevailing wage requirements, and shall include additional hours worked as a result of a contract or project adjustment or pursuant to an agreed-upon change order.
- E. “Minimum apprentice labor hours” refers to labor hours actually worked on a public works project by apprentices expressed as a percentage of total labor hours. The minimum percentage of apprentice labor hours by project shall be:
 - 1. For contracts less than \$1,000,000 there shall be no requirement;
 - 2. For contracts advertised for bid before January 1, 2024~~4~~, there shall be no requirement;
 - 3. For contracts advertised for bid on or after January 1, 2024~~4~~, estimated to cost \$3~~2~~,000,000 or more, no less than 10 percent of the labor hours shall be performed by apprentices;
 - 4. For contracts advertised for bid on or after January 1, 2025~~2~~, estimated to cost \$2,000,000 or more, no less than 12 percent of the labor hours shall be performed by apprentices;
 - 5. For contracts advertised for bid on or after January 1, 2026~~3~~, estimated to cost \$1,000,000 or more, no less than 15 percent of the labor hours shall be performed by apprentices.

F. "~~Employee-Contractor a~~pprenticeship ~~p~~Program (~~EC~~AP)" refers to the requirements of this chapter and any administrative regulations applicable thereto.

G. "~~EC~~AP coordinator" refers to the person designated by the ~~e~~County ~~e~~Executive to administer and coordinate the ~~employee apprenticeship program~~AP.

H. "~~EC~~AP ~~utilization p~~Plan" refers to the ~~plan for utilization~~description of how apprenticeship labor will be used in a public work project covered by the Chapter.

I. "Estimated cost" shall mean the anticipated pre-bid cost of a public work, as determined by the County, based upon the expected costs of materials, supplies, equipment, and labor, but excluding taxes and contingency funds. Estimated cost does not include post-bid contract change orders or amendments.

J. "Notice to proceed" refers to the written authorization to the contractor under the public work contract to commence work.

K. "Public work" refers to all County funded construction projects that constitute a public work pursuant to RCW 39.04.010 as now or hereafter amended and estimated to cost \$1,000,000 or more.

L. "Subcontractor" means a person, corporation, partnership, limited liability company, or joint venture that has contracted with the contractor to perform all or part of the work to construct a public work by a contractor. (Ord. 2019-079 Exh. A).

3.72.030 Administration.

A. Apprenticeship Program Goal. All contractors and subcontractors constructing or involved with the construction of public works, and all service providers involved with the construction of a public work, shall ensure that the combined minimum apprentice labor hours applicable for the size and bid date of the contract are performed by apprentices. The goal

B. Contract Requirements. Contracts for such construction projects shall include provisions detailing the apprentice labor requirements. The ~~EC~~AP coordinator shall develop the necessary bid documents and contract specification language to implement the requirements of this chapter.

C. Submission of ~~EC~~AP Utilization Plan. All contractors shall submit an ~~EC~~AP utilization plan and shall meet with the ~~EC~~AP coordinator to review said ~~EC~~AP utilization plan prior to being issued a notice to proceed. Failure to submit an ~~EC~~AP utilization plan may be grounds for the County to withhold remittance of a progress payment until such plan is received from the responsible contractor. A meeting with the

ECAP coordinator prior to issuance of a notice to proceed shall be excused only when the ECAP coordinator is unavailable to meet prior to the scheduled date for issuance of the notice to proceed and the contractor and the ECAP coordinator have otherwise scheduled a meeting for the coordinator to review the contractor's plan. The contractor shall be responsible for meeting the ECAP utilization goal requirements of the contract, including all amendments and change orders thereto, and shall be responsible for overall compliance for all hours worked by subcontractors. To the extent practical, the contractor shall recruit apprentices from multiple trades or crafts. (Ord. 2019-079 Exh. A).

3.72.040 ECAP utilization plan.

The ECAP utilization plan shall meet the following requirements:

- A. Shall be submitted on forms prepared or approved by the ECAP coordinator;
- B. Shall specify the planned labor hours for each trade or craft;
- C. Shall provide for quarterly reports, as well as a final report, indicating the total labor hours and the apprenticeship hours utilized by the contractor and all subcontractors on the project; and
- D. Shall include a description of how the contractor will satisfy the ECAP utilization goal on the particular public work project and include a summary of outreach and recruitment procedures to hire apprentices to work on the project. (Ord. 2019-079 Exh. A).

3.72.050 Exceptions and waivers.

At any time prior to a request for bids or proposals on construction projects covered by this chapter, or at any time during the term of a covered contract, During the term of a construction contract subject to this chapter, the eCounty may reduce or waive the apprentice labor hour goals upon determination by the CAP Coordinator that:

- A. The contractor has demonstrated that it has utilized best efforts to meet the established percentage requirement but remains unable to fulfill the goal;
- B. The contractor has demonstrated that insufficient apprentices are available to meet the ECAP utilization goals;
- C. The reasonable and necessary requirements of the contract render apprentice utilization infeasible at the required levels;

D. There exists a disproportionately high ratio of material costs to labor hours, which does not make feasible the required minimum level of apprentice participation;

E. There are no evening classes within 30 miles, or day classes within 100 miles, of the job site that the apprentice can attend to meet the school requirements of their apprenticeship;

F. To the extent that apprentice labor hour goals are in conflict with funding agreements in place, including federal aid projects, in connection with the public work; or

G. For reasons deemed appropriate by the County Executive and not inconsistent with the purpose and goals of this chapter. (Ord. 2019-079 Exh. A).

3.72.060 Monitoring.

The County shall implement a system for monitoring the actual use of apprentices in construction projects subject to this chapter. Such monitoring shall include identifying individual apprentices by name and Washington State apprenticeship registration number; reviewing documents provided by the contractor showing total apprentice labor hours; determining the apprentice hours worked by minorities, disadvantaged youth, and women, and, as available, persons with disabilities and economically disadvantaged youth; and assessing whether the contractor has complied with the apprenticeship requirement established in its contract. (Ord. 2019-079 Exh. A).

3.72.070 Reporting.

The County executive shall report to the County council annually upon the use of apprentices for public work projects. The report shall include, to the extent it is available:

A. The percentage of labor hours actually worked by apprentices on each project and the total number of labor hours on each project;

B. The number of apprentices by contractor broken down by trade and craft category;

C. The number and percentage of minorities, women, persons with disabilities and disadvantaged youth utilized as apprentices on each project;

D. The number of new apprentices indentured during the reporting year as a result of the County's apprenticeship requirements;

E. The percentage of apprentices in training on County projects who have graduated to journey level during the reporting year; and

F. All exemptions and waivers granted under WCC [3.72.050](#). (Ord. 2019-079 Exh. A).

3.72.080 Remedies.

Failure by a contractor to comply with established apprenticeship requirements, unless otherwise waived or excused in writing by the County executive pursuant to WCC [3.72.050](#), shall be deemed a breach of contract for which the County shall be entitled to all remedies allowed by law and under the contract. Failure to comply with the apprenticeship requirements may also be considered evidence bearing on a contractor's qualification for award of future contracts with the County. (Ord. 2019-079 Exh. A).

3.72.090 Emergencies.

This chapter shall not apply in the event of an emergency [or for public work related to a declared emergency](#). For the purposes of this section, "emergency" means unforeseen circumstances beyond the control of the County that either: (A) present an immediate threat to the proper performance of essential functions; or (B) will likely result in material loss or damage to property, bodily injury, or loss of life if immediate action is not taken. (Ord. 2019-079 Exh. A).



Apprentice Utilization Plan

Original (due prior to contract execution) Revised

Contract Title			Contract Number		Today's Date	
Prime Contractor					Apprentice Utilization Requirement %	
*Include labor hours and count for all trades, including those performed by Subcontractors. Use continuation sheet if needed.						
Start Date (mm/dd/yyyy)	Contractor or Subcontractor	Trade/Craft Description	Quantity	Estimated		
				Total Labor (Hours)	Apprentice (Hours)	
Total Hours				0	0	
Completed By			Email			
Title			Phone			

Apprentice Utilization Plan Form Instructions

Contract Title	Contract Title as it appears in the Award Letter
Contract Number	Contract Number as it appears in the Agreement
Today's Date	The date that the plan is submitted
Prime Contractor	The name of the Prime Contractor (Firm)
Apprentice Utilization Requirement	The required percentage of Apprentice Utilization from the contract provisions
Start Date	The estimated date that these apprentices will start work on the project
Contractor	The firm name of the contractor or subcontractor proposing to utilize these apprentices
Trade/Craft	Provide description of trade/craft
Total Labor (Hours)	Total number of labor hours (for this trade/craft and for the Prime Contractor and all subcontractor) estimated to complete the project
Apprentice Hours	Total number of proposed apprentice hours for this trade/craft
Completed By	Name of person submitting the plan
Email	Email address of person submitting the plan
Title	Title of person submitting the plan
Phone	Phone number of person submitting the plan



Whatcom County

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

Agenda Bill Master Report

File Number: **AB2022-625**

File ID:	AB2022-625	Version:	1	Status:	Agenda Ready
File Created:	10/27/2022	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:	11/09/2022	Enactment #:			

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

TITLE FOR AGENDA ITEM:

Report from the Prosecuting Attorney's Office

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

Prosecutor's Office Annual report to Council

HISTORY OF LEGISLATIVE FILE

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



Whatcom County

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

Agenda Bill Master Report

File Number: **AB2022-566**

File ID:	AB2022-566	Version:	1	Status:	Agenda Ready
File Created:	10/06/2022	Entered by:	CHalka@co.whatcom.wa.us		
Department:	Council Office	File Type:	Discussion		
Assigned to:	Council Criminal Justice and Public Safety Committee			Final Action:	
Agenda Date:	11/09/2022			Enactment #:	

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

TITLE FOR AGENDA ITEM:

Discussion on progress and next steps of the Justice Project (Public Health, Safety, and Justice Facility Needs Assessment)

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

Discussion on progress and next steps of the Justice Project (Public Health, Safety, and Justice Facility Needs Assessment)

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: AB2022-594

File ID:	AB2022-594	Version:	1	Status:	Agenda Ready
File Created:	10/19/2022	Entered by:	maamot@co.whatcom.wa.us		
Department:	Planning and Development Services Department	File Type:	Discussion		
Assigned to:	Council Committee of the Whole	Final Action:			
Agenda Date:	11/09/2022	Enactment #:			

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

TITLE FOR AGENDA ITEM:

Discuss a draft interlocal agreement between the City of Ferndale and Whatcom County concerning planning, annexation, and development within the Ferndale UGA

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

Discuss a draft interlocal agreement between the City of Ferndale and Whatcom County concerning planning, annexation, and development within the Ferndale UGA. The new interlocal agreement would replace an existing agreement that expires on December 31, 2022.

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
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Attachments: Staff Memo, Draft Interlocal Agreement



Memorandum

October 25, 2022

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

FROM: Matt Aamot, Senior Planner

THROUGH: Steve Roberge, Assistant Director

RE: Interlocal Agreement with Ferndale Relating to Urban Growth Area

Whatcom County Comprehensive Plan Goal 2R and related policies indicate that the County should have interlocal agreements with the Cities relating to planning, annexation, and development in urban growth areas (UGAs). The County had interlocal agreements with each City that were originally approved between 1997 and 2001. When these original interlocal agreements expired, new agreements were approved in 2012. However, the 2012 agreements have 10-year durations and expire in 2022. Therefore, the County and the Cities have worked together to develop new interlocal agreements.

The Cities and County developed a general interlocal agreement template as a starting point for further negotiation of individual City/County interlocal agreements. Differences between the existing 2012 interlocal agreements and the 2022 interlocal agreement template include:

- The 2022 template references the Review and Evaluation Program (Buildable Lands) in Section 2.A. Whatcom County was not subject to the Buildable Lands provisions of the Growth Management Act when the 2012 interlocal agreements were approved.
- The 2022 template indicates that the City agrees to reimburse the County for the depreciated value of capital road and stormwater construction projects completed during the fifteen-year period prior to annexation (Section 6.C). The 2012 agreements had a ten-year reimbursement period. County Public Works recommended a fifteen-year reimbursement period, as road and stormwater project have long useful lifespans.
- The 2022 interlocal agreement sales tax revenue sharing provisions contain the same amounts that the Cities would share with the County upon annexation as the 2012 agreements (Section 10). However, based upon past experience, four steps have been added to the 2022 interlocal agreement that set forth the responsibilities of the City and the County

Treasurer's Office to ensure that revenue sharing occurs as anticipated in the agreement.

- The 2022 template modifies the "Resource Lands and Rural Areas" provisions (Section 11), including replacing provisions relating to transfer of development rights with density credit language.

Since development of the interlocal agreement template, the Cities and the County have been working together to address issues that are unique to an individual City and/or issues raised by a City. The County approved interlocal agreements with 5 of the 7 cities this summer. Extensions to the existing Blaine and Ferndale Interlocal Agreements were approved to provide time for finalizing interlocal agreements with these two cities. The extensions expire December 31, 2022.

The County and the City of Ferndale now have a proposed Interlocal Agreement. The differences between this proposed Interlocal Agreement and the template are shown with underlines and strikethroughs in the attached Interlocal.

It should be noted that "whereas" statements are not terms of the agreement. The County's legal counsel, in an email of April 25, 2022, indicated that "whereas" statements operate as background. If there was a question regarding an ambiguity in the reading of the interlocal, the "whereas" statements could be consulted to help with interpretation.

We are asking the Council Committee of the Whole to initially review the proposed Interlocal Agreement on November 9 to identify any concerns. After City approval, we will request the County Council to hold a public hearing and approve a motion authorizing the County Executive to sign the agreement. Thank you for your consideration of this matter.

DRAFT
INTERLOCAL AGREEMENT
BETWEEN
THE CITY OF FERNDALE AND WHATCOM COUNTY
CONCERNING PLANNING, ANNEXATION AND DEVELOPMENT
WITHIN THE FERNDALE UGA

This agreement is made by and between the City of Ferndale (herein after referred to as the City) and Whatcom County (herein after referred to as the County), political subdivisions of the State of Washington, pursuant to the Interlocal Cooperation Act, RCW 39.34.

WHEREAS, cooperative relationships between the City and County benefit both organizations as well as residents and stakeholders of incorporated and unincorporated neighborhoods; and

WHEREAS, the Growth Management Act (GMA) adopted goals to guide the process of developing comprehensive plans and directed counties to adopt urban growth areas; and

WHEREAS, the *Whatcom County County-wide Planning Policies* direct each jurisdiction to acknowledge these policies and implement them through Interlocal Agreements; and

WHEREAS, review of development within the City's urban growth area (UGA) should anticipate future annexation into the City; and

WHEREAS, the Whatcom County Comprehensive Plan has identified a UGA that includes land within unincorporated Whatcom County which the City may annex in the future; and

WHEREAS, annexations proposed by the City are pursued in accordance with RCW 35A.14 and intended to be consistent with RCW 36.93.180; and

WHEREAS, the City and County recognize the need for, and commit to establishing a process that reflects, a transparent, timely, and predictable annexation process which reflects the understanding that unincorporated Urban Growth Areas that are associated with municipalities are intended for future annexation into incorporated areas; and

WHEREAS, the City and County recognize that there is a need to facilitate the proper transition of public services and capital projects from the County to the City at the time of annexation; and

WHEREAS, the City and County recognize that mutual coordination of land use densities and designations is necessary to reduce urban sprawl, allow for urbanization at higher densities, facilitate annexation from UGAs, support urban infrastructure and protect rural areas and resource lands within the County; and

WHEREAS, consistent regulations and cooperative development review facilitate creation of a vibrant, attractive and economically healthy urban area with distinct neighborhoods; and

WHEREAS, Whatcom County Comprehensive Plan Goal 2R is to establish interlocal agreements between the County and cities in order to accomplish a variety of growth-related goals; and

WHEREAS, the City and the County recognize the City's responsibility to annex lands needed for urban residential, commercial and industrial use; and

WHEREAS, the City and County recognize that as the City tax base grows, the County will share in that growth through revenue sharing mechanisms; and

WHEREAS, the City and County recognize that annexation of developed land may will reduce County tax revenues used to support County services; and

WHEREAS, the City and County ~~have~~ established a formula in the previous interlocal agreement to mitigate the impact on the County of revenue losses and to equitably compensate the County for certain capital facility expenditures in annexed areas. This formula is included in this interlocal agreement; and

WHEREAS, the City and County recognize that annexations can have extra-jurisdictional impacts and that intergovernmental cooperation is an effective manner to address those impacts; and

WHEREAS, it is in the best interest of the citizens of both jurisdictions to coordinate plans and manage growth in the UGA prior to annexation; and

WHEREAS, the City and County desire to develop a general interlocal agreement that will apply to UGA planning and all annexations; and

WHEREAS, the City desires to preserve large tracts of land within the UGA and retain UGA Reserve to allow for efficient and effective urbanization;

NOW, THEREFORE, in consideration of the terms and conditions contained herein, the City and County agree as follows:

Section 1. Applicability and Amendments to this Agreement

A. The City and the County agree that the contents of this interlocal agreement shall apply to growth management planning, development within the City’s UGA and UGA Reserve (when specifically referenced in the interlocal agreement), and annexations.

B. This interlocal agreement will be amended for individual annexations under the following circumstances:

- i. When the City is required by this agreement to reimburse the County for road or stormwater capital improvements pursuant to section 6 of this agreement. As part of the annexation review process, the County shall notify the City’s Community Development Director and Public Works Director when a proposed annexation area includes a capital project that is eligible for reimbursement, and the amount of the reimbursement per the formula set out in Section 6C of this agreement. Reimbursement shall only be required for road or stormwater capital projects that are done in coordination with the City and built to either City design and development standards in existence at the time of construction or an alternative standard agreed to by the County Road Engineer and the City Engineer.
- ii. When agreements relating to maintenance or ownership of stormwater or drainage facilities, parks, open space or recreational facilities are needed pursuant to sections 7 or 8 of this agreement; or
- iii. When the City and County mutually agree to the amendment to address issues of concern.

C. Whenever possible, annexation-related amendments should be executed by the City and County prior to expiration of the County’s 45-day annexation review period established pursuant to RCW 36.93.100. However, if the City and County cannot come to agreement concerning any annexation-related issues, ~~the County~~either party may request a Boundary Review Board hearing, and the City and County may continue to negotiate annexation amendment language.

D. Annexation-related amendments to this interlocal agreement should include the following:

- i. The annexation’s name and boundary review board number;
- ii. A map and legal description of the annexation area, with the map clearly labeling the annexation boundary area with supporting road names and associated infrastructure features (e.g. bridges, stormwater facilities, utilities, etc.);
- iii. The annexation method, resolution number and date of City acceptance of a petition or determination to pursue elections for the annexation area;
- iv. Compensation or reimbursement formulas for major capital improvements;
- v. Capital facilities and parks, open space, and recreational facility maintenance and ownership agreements;
- vi. Agreements regarding impact mitigation, including but not limited to traffic mitigation;
- vii. Agreements regarding balance between residential and commercial/industrial land;
- viii. Identification of the existing and intended service providers for the area (water, sewer, fire/EMS), including any interlocal agreements or contracts between the City and Special Purpose Districts; and
- ix. Signatures by the City’s Mayor and County Executive and effective date of the annexation-related amendment.

E. The City and County recognize that other amendments to this interlocal agreement may be necessary to clarify the requirements of particular sections or update the agreement. These amendments may be pursued as necessary by both parties.

Section 2. Growth Management Planning

A. Inter-jurisdictional Coordination.

The County and the City will coordinate the Review and Evaluation Program (Buildable Lands) review as required by RCW 36.70A.215 and the Countywide Planning Policies.

The County and the City will coordinate the comprehensive plan and UGA reviews required by RCW 36.70A.130(1) and (3) through the following:

- i. Approving, by resolution of the respective legislative bodies, a schedule for joint County and City review of the UGA.
- ii. City and County planners will coordinate and review issues associated with growth management planning.
- iii. If deemed necessary by the County Executive, convening a group of elected officials from the County and cities to discuss and review issues associated with growth management planning.

B. Periodic Review. During the periodic review of comprehensive plans undertaken pursuant to RCW 36.70A.130 (1), the County and City will coordinate and share proposals for comprehensive plan amendments relating to the UGA and/or adjacent areas.

C. Urban Growth Area. Whatcom County will review the UGA in accordance with the schedule in RCW 36.70A.130 to ensure that the UGA can accommodate the urban growth projected to occur in the 20-year planning period established by the Whatcom County Comprehensive Plan. The County will coordinate with the City through the UGA review process to ensure the UGA provides land area and densities sufficient to accommodate urban growth projections, including a reasonable market factor, in accordance with the GMA. The City will submit recommendations to the County in accordance with the schedule for joint County and City review of the UGA. In conjunction with the UGA review, the City and County agree to jointly review the densities permitted, achieved and assumed within the City and UGA, and the extent to which the urban growth has occurred within the City and unincorporated portions of the UGA.

D. Land Capacity for the Periodic Review.

- i. The City and County agree to review and jointly approve, in conjunction with the other cities, the Whatcom County Land Capacity Analysis Detailed Methodology.
- ii. The City and County agree to review land capacity and needs for the UGA in conjunction with the next UGA review.
- iii. In general, for property within the City limits, the comprehensive plan designations, planned densities adopted in the City's GMA-compliant comprehensive plan, city zoning classifications and/or achieved densities will be utilized in the land capacity

analysis unless mutually agreed by the parties or the County identifies clear and compelling rationale for deviating from these designations and densities.

- iv. For property within the UGA but outside the City limits, assumed densities will be determined through a collaborative process between the County and City, consistent with the Whatcom County Land Capacity Analysis Detailed Methodology, as now exists or hereafter may be amended.

E. Population and Employment. The County and City will work together to develop proposed population and employment projections and allocations that are within the range of the Washington State Office of Financial Management projections. The proposed projections and allocations should be developed in conjunction with the other cities. The proposed projections and allocations will be forwarded to the respective legislative bodies for consideration.

F. City Comprehensive Plan. The City will adopt comprehensive plan designations for annexation areas consistent with the GMA. This will occur when land is added to the UGA or converted from the UGA Reserve to the UGA.

G. Accommodation of Growth. The City and County agree, through a collaborative process, to accommodate and plan for population and employment growth allocated to the UGA in the Whatcom County Comprehensive Plan.

H. Residential Zoning Districts. The City and County recognize that urban densities must be achieved in order to meet the goals of the GMA. The City will consider adopting minimum urban densities in residential zoning districts. The City will retain the final authority to determine whether or not to adopt such minimum densities. The County will consider periodically assessing how the County Comprehensive Plan and Development Regulations preserve land for efficient urbanization when public water and sewer become available.

I. Capital Facility and Urban Service Planning. At a minimum, the City will utilize Whatcom County Comprehensive Plan population and employment projections, for the planning horizon year in the County Plan, when developing or updating capital facility and/or urban service plans. The City, at its discretion, may plan for growth above that contained in the Whatcom County Comprehensive Plan, provided that such growth is contained within the designated UGA, UGA Reserve or future study areas. City capital facility and/or urban service plans may also project and plan for growth beyond the 20-year planning period established in the Whatcom County Comprehensive Plan, but such additional growth projections do not obligate Whatcom County to modify its projections or Comprehensive Plan.

J. Water and Sewer. The City will develop and maintain capital facility plans, in compliance with the requirements of the GMA, to provide urban levels of water and sewer service within the UGA. The City agrees to consider the Coordinated Water System Plan when the City's System Plan is updated and the County agrees to consider the City's Water System Plan when the Coordinated Water System Plan is updated.

K. Stormwater Plans. The City will review, and if necessary, adopt a new or updated stormwater plan for the UGA. The County will consider adoption of City Stormwater Plans by reference, if the following conditions are met:

- i) The Ferndale Mayor submits a request to the County Planning Director specifically identifying the stormwater plan(s) the City is asking the County to consider adopting by reference for development in the UGA;
- ii) The City provides a comparison of City and County stormwater plans showing the difference between the plans and an analysis of what would be gained by implementing City plans in the UGA; and
- iii) The City explains how the stormwater plans would be applied to residential development in the UGA that is not served by public water and sewer and, therefore, would have a maximum density of one dwelling per 10 acres under County zoning; and
- iv) The City agrees to assist the County in administering the City's stormwater plans, if adopted by reference for the UGA.

L. Transportation Plan. The City will review and, if necessary, adopt a new or updated transportation plan or element for the UGA. The County will consider adoption of City Transportation Plans by reference, if the following conditions are met:

- i) The Ferndale Mayor submits a request to the County Planning Director specifically identifying the transportation plan(s) the City is asking the County to consider adopting by reference for development in the UGA;
- ii) The City provides a comparison of City and County transportation plans showing the difference between the plans and an analysis of what would be gained by implementing City plans in the UGA; and
- iii) The City explains how the transportation plans would be applied to development in the UGA, including but not limited to residential development that is not served by public water and sewer and, therefore, would have a

- [maximum density of one dwelling per 10 acres under County zoning; and](#)
- iv) [The City agrees to assist the County in administering the City's transportation plans, if adopted by reference for the UGA.](#)

M. County-Wide Planning Policies. When the County-wide Planning Policies are updated, the City and County agree to work together to develop a set of policies that are acceptable to, and adopted by, both jurisdictions.

Section 3. Annexations

A. Role of Boundary Review Board. The Boundary Review Board was established prior to adoption of the Growth Management Act, prior to the establishment of UGA boundaries, and prior to the adoption of a City/County interlocal agreement that addresses issues associated with the potential impacts of annexations and includes a process for resolving disputes. As a result, the City and County agree to jointly review with the other jurisdictions and service providers the potential for modifying the role of BRB in the annexation process.

B. Annexation Planning. Annexations may only take place for land within the UGA designated in the Whatcom County Comprehensive Plan. Annexations shall be based on policies adopted in the City's Comprehensive Plan, be consistent with adopted County-wide Planning Policies and Whatcom County Comprehensive Plan Goal 2P, and Policies 2P-1, and 2P-2. Annexations shall include logical boundaries and be timed in a way which allows for transition of services between the City and County (and Special Purpose District, if applicable). Considerations in defining logical physical boundaries shall include one or more of the following:

- i) Size and shape of the area to be annexed;
- ii) Preservation of neighborhoods and communities;
- iii) Use of physical boundaries, including but not limited to, bodies of water, roads, and land contours;
- iv) Creation and preservation of logical service areas;
- v) Prevention of abnormally irregular boundaries;
- vi) Dissolution of inactive Special Purpose Districts;
- vii) Adjustment of impractical boundaries;
- viii) Annexation of unincorporated areas which are urban in character;
- ix) Consistency with the City's Annexation Blueprint, if adopted;
- x) The City's ability to provide the full range of urban services.

In order to facilitate communication and review of annexations, the City will notify [or ensure the applicant notifies](#) the County Director of Planning and Development Services and County Director of Public Works, or their designees, prior to the City Council's acceptance of a Notice

of Intent to Commence Annexation. The City will ~~also~~ notify the County Director of Planning and Development Services and County Director of Public Works, or their designees, within 10 days of approving or denying a resolution or ordinance to accept the petition for annexation. The County Public Works Department will notify the City if compensation for road construction or stormwater facilities will be sought under section 6 of this Interlocal Agreement.

C. Balanced Annexations. The City agrees to employ its annexation authority in a manner that strives to maintain a balance of commercial, industrial and residential properties inside the City and within successive annexation plans and proposals, as reflected in the City's Annexation Blueprint/Phasing Plan. This section is not intended to preclude the ability to annex property into the City, rather to ensure that if there is a deviation from the anticipated zoning within the Annexation Blueprint that it is necessary to maintain a balance of land within the City.

D. City Zoning. The City agrees to identify appropriate city zoning at the time it accepts the initial annexation proposal. Zoning should be applied consistent with the City's Annexation Blueprint/Phasing Plan. The City will adopt the zoning to be applied to the area at the same time the annexation ordinance is adopted. ~~Zoning changes adopted within annexation areas shall be considered in evaluating the balance of residential, commercial and industrial properties.~~

E. Appropriate Urban Densities. For residential zoning districts in annexation areas, the City agrees to adopt appropriate urban densities consistent with the State GMA, City Comprehensive Plan, and the overall density goals of the County Comprehensive Plan.

F. Administration of Special Assessments. When annexations occur which encompass less than the entirety of a local improvement district (LID), utility local improvement district (ULID), local utility district (LUD), road improvement district (RID) or local road improvement district (LRID), the assessments for those parcels within the annexation area will continue to be administered by the County Treasurer. If an annexation includes the entirety of an LID, ULID, LUD, RID or LRID future administration will be mutually agreed upon by the City and County.

G. Developer Reimbursement Agreements. The City will assume administrative duties for any developer reimbursement agreement, including but not limited to latecomer agreements, for the portion of the affected area that the City annexes. For developer reimbursement agreements involving property located partially or wholly within the City's UGA, the County will include a provision in the agreement stating that upon annexation, the administrative functions under the agreement for the annexed area will transfer to the City with no additional action needed by the parties, and further stating that said transfer of

administrative responsibilities will include the authority to collect any associated administrative fees as established in the agreement. Upon execution of any developer reimbursement agreement where the affected area is located wholly or partially within the City's UGA, the County will provide to the City a copy of the agreement.

H. Records Transfer. The County agrees to make every effort to transfer all relevant records for properties in an annexation area within 60 days of receiving written notice from the City of an approved annexation.

I. Annexation Blueprint. The City intends to adopt and periodically update an Annexation Blueprint, or annexation phasing plan, to guide future annexations. The City agrees to transmit a copy of the draft Annexation blueprint or phasing plan to the County for comment prior to City adoption of the plan.

Section 4. Processing Applications Prior to Annexation

A. Zoning. Whatcom County zoning will apply within the City's unincorporated UGA until annexation.

B. Rezones within the UGA. The County will not approve rezone requests for property within the UGA without consideration of City input, which should include an evaluation of consistency with the City Comprehensive Plan. The County agrees to notify the City of any rezone applications received within the UGA within 30 calendar days of receiving a complete application. The County agrees to meet with City staff to share information and discuss issues regarding any proposed rezone. The County agrees to provide notice of the time, date and location of the public hearing at least ten days prior to the public hearing.

C. County and City Dockets. [The County will share the annual docket with the City prior to sending the Docket to the County Council. The City will share the annual docket with the County prior to sending the Docket to the City Council.](#)

DC. Notice for Land Use Permits, Subdivisions, and Binding Site Plans. The County agrees to notify the City of the following land use permit, subdivision, and binding site plan applications:

- i. Applications proposing to use or using city water or sewer; and
- ii. Applications located within the City's UGA [and UGA Reserve.](#)

Such notice will be provided concurrent with the notice of application: [The County shall notify the City of proposed preapplication meetings and allow City staff to attend.](#)

ED. Subdivisions and PUDs. The County agrees to invite the City to participate and respond in Technical Review Committee meetings regarding such projects. If adopted by the County, City subdivision standards shall be applied when appropriate. The City agrees to review subdivision plans for consistency with City design standards and development regulations and to participate in the TRC review process.

FE. Commercial/Industrial Building Permits. The County should notify the City within fifteen days of receipt of an application for a building permit for a commercial or industrial structure within the UGA or that is using city water or sewer. The County shall not approve commercial or industrial development that currently uses or plans to use City water without City approval of a water verification form. The County shall not approve commercial or industrial development that currently uses or plans to use City sewer without City approval of a sewer verification letter.

GF. Development Standards. The City may make specific recommendations to the County to adopt city development standards within the Urban Growth Area. The County will retain the final authority to determine whether or not to adopt City development standards.

If the County adopts City development standards, the City agrees to review development in the UGA and make recommendations to the County relating to whether the development complies with City development standards.

Section 5. Permit Processing After Annexation.

The City and County agree as follows:

A. Building Permits. As the agent of the City, the County shall continue to process under County codes and building permit requirements to completion any building permits and associated permits for which it received a fully complete permit application and accompanying fee prior to the effective date of the annexation. Associated permits shall be defined as clearing, grading, mechanical, plumbing, fire sprinkler, and occupancy permits related to those projects being processed by the County. Completion shall mean final administrative approvals.

Except as provided below for permit extensions, in the case of building permits issued prior to the date of an annexation, the applications and permits shall be processed through final inspection and/or issuance of an occupancy permit by the County. The final inspection for building permits should be a joint City/County inspection with the City in attendance for information purposes only. The County will transmit the permit records to the city after final inspection.

B. Land Use Permits and Subdivision. As the agent of the City, the County shall continue to process to completion any land use permit and subdivision proposals, including those for short plats, administrative approval use permits, shoreline permits, long plats, binding site plans and conditional use permits, for which it received a fully complete permit application and accompanying fee prior to the effective date of an annexation. The County will transmit the permit records to the city after processing to completion. Completion shall mean final administrative or quasi-judicial approvals or, for subdivisions, recording relevant documents. Such permit applications will be transferred to the City for processing if mutually agreed by the City and County. In the case of action required by the legislative body, the City Council shall take final action relating to property that has been annexed.

C. Permit Extensions. Any request for extension of a permit issued by the County which is received after the annexation date shall be made to and administered by the County. Prior to extending a permit, the County will notify the City.

D. Enforcement of Conditions. To the extent authorized by law, the City agrees to enforce any conditions imposed by the County unless waived or modified by the City. ~~The City should notify the County and provide the County with the opportunity to comment prior to waiving or modifying any conditions imposed by the County.~~ The County will make its employees available to provide assistance in any enforcement action relating to conditions originally prepared by County personnel.

E. Development Securities or Financial Guarantees. For permits that are transferred to the City for processing after annexation, performance and maintenance securities, landscape securities, critical area or shoreline mitigation sureties, and other associated securities received by the County prior to annexation will be assigned to the City, if such securities allow assignment. As of the effective date of this interlocal agreement, the County will ensure that all such securities allow assignment to the City without further approval by any party, if allowed by the security provider.

For permits that the County continues to process after annexation, the County will continue to hold the associated securities.

In the event that the securities are not assigned to the City, the City and the property owner will be notified that the County will continue to hold the securities until:

- i. The jurisdiction processing the permit under section 5A or 5B above confirms that the securities may be released; or
- ii. The jurisdiction processing the permit under section 5A or 5B above determines that

the developer has not complied with the condition of approval, at which time the County agrees to exercise the security and transfer the funds to the City to fulfill the condition of approval; or

iii. The securities automatically expire.

F. Permit Status Review. At the request of the City or County, the jurisdictions will meet to discuss the status of permits in an annexation area remaining under review by the County and determine whether or not responsibility for continued processing should be transferred to the City. Any change in permit processing responsibility shall be provided by written agreement, acceptable to both parties.

Section 6. Roads and Stormwater Facilities

A. Maintenance and Ownership Responsibilities. Unless the County agrees to retain a specific road in County jurisdiction, the City will annex the entire right-of-way of County roads adjacent to an annexation boundary and will assume full maintenance responsibility for those roads upon the effective date of the annexation. It may also be desirable to include in an annexation adjacent road sections to avoid dead-end segments or portions of roads that meander in and out of jurisdictions. Such situations may be negotiated on a case by case basis.

B. Unexpended Mitigation Payments. Funds for road related mitigation payments or impact fees received by the County for projects within an annexation area which remain unexpended as of the effective date of the annexation will be transferred to the City, if allowed by law, within six months of the effective date of the annexation.

C. Compensation for Capital Construction Projects. The City agrees to reimburse the County for the depreciated value of capital road and stormwater construction projects that are either built to City standards in existence at the time of construction or an alternative standard agreed to by the County Road Engineer and the City Engineer and completed during the fifteen-year period prior to annexation as shown on Exhibit A, which will be updated at the time of annexation if necessary.

The City agrees to reimburse the County for depreciated County costs incurred by the County in implementing the projects listed in Exhibit A based on a 15 year, straight line depreciation.

The City may reserve the right to inspect roadways and infrastructure in order to determine compliance with approved engineered civil construction plans, prior to payment.

This reimbursement will be for the value of the County's share of funds spent for the construction of major public facilities, excluding grant funding, including but not limited to

new roads and sidewalks or those roads which have undergone a major reconstruction. It shall not include routine maintenance expenditures for such facilities. A project that consists of a hot mix asphalt (HMA) overlay only is not eligible for reimbursement. However, a project including changes in surface type from bituminous surface treatments (BST) to HMA, reconstruction, American with Disabilities Act (ADA) improvements/upgrades, drainage upgrades, and/or safety upgrades will be reimbursed in accordance with this Interlocal Agreement.

Actual reimbursement amounts and timing of payments shall be negotiated between the City and County Public Works Department prior to annexation. The agreement shall be included as part of an amendment to this interlocal agreement. Exhibit A lists the County capital road and stormwater construction projects that have been completed within 15 years prior to the effective date of this agreement. Exhibit A will be updated as necessary to incorporate any new projects. These projects are to be included within the reimbursement mentioned in this section. Reimbursement shall not include routine maintenance expenditures. A project listed on Exhibit A shall be automatically removed from the list at the end of the fifteenth budget year following final acceptance of the project.

The County also agrees to consult with the City in planning for new capital road and stormwater construction projects within the City's UGA. At the time of consulting with the City, both parties will discuss the need for shared responsibilities in implementing a project, including the potential for grant funding, bonding or loans. Any agreements related to shared responsibilities for road projects within the City's UGA shall be added as amendments to Exhibit A of this interlocal agreement.

Section 7. Water Resource Management

A. Stormwater Management. The City and the County, and where appropriate, special purpose districts, will coordinate development of and funding for stormwater management and drainage plans and standards. The City and the County will also work together to develop and implement the Comprehensive Flood Hazard Management Plan.

B. Watershed Planning. The County and the City recognize that watershed management planning is ongoing. The County and City may develop and adopt interlocal agreements for joint watershed management planning, groundwater protection, capital construction and other related services.

C. Maintenance and Ownership of Drainage Facilities. If an annexed area includes stormwater or drainage improvements or facilities the County currently owns or maintains, the City and County shall agree to the maintenance and ownership responsibilities prior to annexation. County stormwater facilities that have not been maintained shall be maintained prior to

acceptance by the City, unless otherwise agreed to by both parties. The responsibilities resulting from such discussions shall be included as part of an annexation-related amendment to this agreement, except for facilities located in right-of-way annexed by the City that will be maintained by the City.

Section 8. Parks, Open Space and Recreational Facilities

A. Open Space and Parks. Open space and parks will be identified through advanced, joint planning and review of development projects within the City UGA and should be based upon the City's adopted park and/or trail plan and City standards. The City should consider mapped floodplain areas when identifying open space within the urban growth area.

B. Maintenance and Ownership Responsibilities. If an annexed area includes park, open space or recreational facilities the County currently owns listed in Exhibit B, the City and County shall agree to the maintenance, operation and ownership responsibilities prior to annexation. The responsibilities resulting from such discussions shall be included as part of an annexation-related amendment to this agreement.

Section 9. Provision of Services

A. Police Services. Law enforcement services shall transfer from the Sheriff's Department to the City Police Department upon annexation.

B. Special Purpose Districts. Prior to each annexation, the County and/or the City may negotiate interlocal agreements with Special Purpose Districts providing services inside and outside urban growth areas to address issues such as financial concerns and level of service.

C. Fire and Emergency Medical Services.

Upon annexation, the City shall assume responsibility for delivery of fire and emergency medical services (basic life support or BLS) within the annexed area unless the city is within or contracts with the appropriate fire district.

D. Urban Services. In general, cities are the units of local government most appropriate to provide urban governmental services. It is not appropriate that urban governmental services be extended to or expanded outside the UGA, except in those limited circumstances shown to be necessary to protect basic public health and safety and the environment and when such services are financially supportable at non-urban densities permitted by existing County zoning and do not permit urban development.

E. Impact Fee Review. The City and County agree to discuss the potential for a comprehensive, county-wide system of impact fee collection.

F. School Impact Fees. The County should consider adopting school impact fees if the School District requests impact fees and meets the requirements of Whatcom County Code 20.75.

Section 10. Sales Tax Revenue Sharing

City and County agree to share in the sales tax revenues for annexations of “significant developed commercial and/or industrial land” (as defined below). In those cases, sales tax revenues will be computed and shared on the following basis:

To determine Base Value for the local sales tax revenue, Base Value for the 1st, 2nd and 3rd years equals total sales tax revenue from the 1% local sales tax collected in the 12 full calendar months following the effective date of the annexation and following the first and second anniversaries, respectively, so that the Base Value is established on the actual sales tax collected during the time between payments.

1 st year County receives of Base Value	.80
2 nd year County receives of Base Value	.50
3 rd year County receives of Base Value	.20

The County shall receive .15 directly from the State. The City will reimburse the difference (.65 Base Value 1st year, .35 Base Value 2nd year, and .05 Base Value 3rd year) to the County.

The first payment from the City to the County shall be due and payable within ninety days of the first anniversary of the effective date of the annexation with subsequent payments due and payable within ninety days of the second and third anniversary dates of the effective date of the annexation. It is agreed that upon completion of payments as scheduled, each party will have been fairly, fully and adequately compensated for their respective annexation impacts under this section.

For the purposes of this interlocal agreement “significant developed commercial and/or industrial land” shall be those properties which together generated \$50,000 or more in annual sales tax revenue from the 1% local sales tax over the one year period prior to annexation. Said one year period shall include the 12 full calendar months preceding the effective date of the annexation. In these cases sales tax revenues will be computed and shared on the basis

described above.

The process for sales tax revenue sharing is set forth below:

Step 1 – Determine Whether Sales Tax Revenue Sharing is Required

- The City provides a specific list of businesses by State Department of Revenue (DOR) registered name (and Unified Business Identification or UBI number) within the annexation area. If the City does not have access to the DOR information, provide the common name and parcel number for each business.
- The County Treasurer’s Office looks up the sales tax revenue to determine if sales tax revenue sharing is required under the Interlocal Agreement. Specifically, City revenue sharing is required if developed commercial and/or industrial land in the annexation area together generated \$50,000 or more in annual sales tax revenue from the 1% local sales tax over the one year period prior to annexation.
- If developed commercial and/or industrial land in the annexation area together generated less than \$50,000 in annual sales tax revenue from the 1% local sales tax over the one year period prior to annexation, revenue sharing is not required.

Step 2 – City Makes 1st Year Payment (if applicable)

- If revenue sharing is required under Step 1, the City calculates the amount of local sales tax to be shared with the County under the Interlocal Agreement and pays this amount to the County within ninety days of the first anniversary of the effective date of the annexation.

Step 3 – City Makes 2nd Year Payment (if applicable)

- If revenue sharing is required under Step 1, the City calculates the amount of local sales tax to be shared with the County under the Interlocal Agreement and pays this amount to the County within ninety days of the second anniversary of the effective date of the annexation.

Step 4 – City Makes 3rd Year Payment (if applicable)

- If revenue sharing is required under Step 1, the City calculates the amount of local sales tax to be shared with the County under the Interlocal Agreement and pays this amount to the County within ninety days of the third anniversary of the effective date of the annexation.

Section 11. Resource Lands and Rural Areas

In order to implement the Growth Management Act and Whatcom County Comprehensive Plan, the County and City are outlining the respective roles of the County and City in protecting designated resource lands (agriculture, forestry, or mineral resource lands) and rural areas:

A. Density Credits. If the City is required to undertake “reasonable measures” under the Review and Evaluation (Buildable Lands) Program pursuant to RCW 36.70A.215, the City will consider adopting a density credit program in conjunction with the County. The density credit program may consist of granting density bonuses or other development incentives inside City limits if the developer contributes to the Whatcom County Conservation Easement Program fund.

B. Compatibility. The City will assure that the use of lands adjacent to designated resource lands will not interfere with the continued use, in the accustomed manner and in accordance with best management practices, of these designated lands for the production of food and other agricultural products, pursuant to RCW 36.70A.060(1)(a).

Section 12. Other Provisions

A. GIS Data Sharing. The City and the County will cooperate in data sharing.

B. Transfer of Land: The City and County will consult on the possibility of transfer of land from County to City ownership if included in an annexation.

C. Offsite Mitigation Improvements: The City and County should cooperate on establishing a program that would allow development activities within the City to transfer wetland mitigation to locations within the unincorporated County, in order to permit development sufficient to achieve urban densities within the City and accomplish the best ecological outcome, subject to the following:

- i. Whatcom County will not assume any new administrative responsibilities, such as approving and monitoring wetland mitigation, unless explicitly approved by the Whatcom County Council.
- ii. Prior to proposing a wetland mitigation program that includes areas designated as Agriculture on the Whatcom County Comprehensive Plan map, the City and the County will consider recommendations of the Agricultural Advisory Committee.

- iii. The County and City will consider any mutually agreeable changes to their respective development regulations addressing off-site wetland mitigation.
- iv. In some cases, such offsite mitigation may include the transfer or purchase of development rights.

D. UGA Expansions – The City and Whatcom County agree to consult with an adjacent city, if any, prior to expanding a UGA or UGA Reserve.

Section 13. Existing Agreements

The City and County mutually agree to identify and evaluate, as appropriate, existing mitigation agreements and interlocal agreements affecting an annexation area to which the City or County is a party.

Section 14. Relationship to Existing Laws and Studies

This agreement in no way modifies or supersedes existing State laws and statutes. In meeting the commitments encompassed in this agreement, all parties will comply with the requirements of the Open Public Meeting Act, State Environmental Policy Act, annexation statutes and other applicable State or local law. The ultimate authority for land use and development decisions is retained by the County and City within their respective jurisdictions. By executing this agreement, the County and City do not purport to abrogate the decision-making responsibility vested in them by law.

Section 15. Hold Harmless

The City shall protect, save harmless and indemnify at its own expense, the County, its elected and appointed officials, officers, employees and agents, from any loss or claim for damages of any nature whatsoever arising out of the City’s performance of this agreement. The County shall protect, save harmless and indemnify at its own expense, the City, its elected and appointed officials, officers, employees and agents from any loss or claim for damages of any nature whatsoever arising out of the County’s performance of this agreement.

Section 16. Dispute Resolution

In the event of an impasse relating to any provision of this interlocal agreement, the jurisdictions involved may mutually agree to use mediation for a minimum of 90 days. After the 90 day period, the parties may, by mutual agreement, elect to utilize binding arbitration. In the event that the parties agree to use arbitration, a three member arbitration panel will be

selected by mutual agreement. If the parties cannot agree on membership of the panel, each party will select one member and those two members will select the third member. The decision of the arbitration panel on the issue will be final.

Section 17. Implementation

Whatcom County and the City will strive to engage in collaborative discussions in order to implement this interlocal agreement. When these discussions lead to proposed legislative action, such as amendments to a comprehensive plan, the County Council and City Council are not bound to take any specific future action.

Section 18. Effective Date, Duration and Termination

This agreement shall be effective on July 1, 2022 if signed by both the Mayor of the City and Whatcom County Executive. This agreement shall remain in effect until June 30, 2032, unless modified or terminated by written agreement of both parties.

Section 19. Severability

If any provision of this agreement or its application to any person or circumstance is held invalid, the remainder of the provisions and/or the application of the provisions to other persons or circumstances shall not be affected.

Each signatory below to this agreement warrants that he/she is the authorized agent of the respective party; and that he/she has the authority to enter into the agreement and bind the party thereto.

CITY OF FERNDALE

WHATCOM COUNTY

By _____
Greg Hansen, Mayor

By _____
Satpal Sidhu, County Executive

Date _____

Date _____

Approved as to form:
Office of the City Attorney

Approved as to form:
Whatcom County Prosecutor

EXHIBIT A
COUNTY ROAD AND STORMWATER PROJECTS
REQUIRING POTENTIAL REIMBURSEMENT

No County road or stormwater projects, potentially requiring reimbursement under Section 6.C of this interlocal agreement, have been identified in the UGA.

EXHIBIT B
COUNTY OWNED PARK, OPEN SPACE AND RECREATIONAL FACILITIES
WITHIN THE UGA

There are no County owned facilities within the UGA at the time 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: AB2022-597

File ID:	AB2022-597	Version:	1	Status:	Agenda Ready
File Created:	10/21/2022	Entered by:	maamot@co.whatcom.wa.us		
Department:	Planning and Development Services Department	File Type:	Discussion		
Assigned to:	Council Planning and Development Committee	Final Action:			
Agenda Date:	11/09/2022	Enactment #:			

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

TITLE FOR AGENDA ITEM:

Discussion of the Buildable Lands Report

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

Discussion relating to the Buildable Lands Report 2022 Whatcom County Review and Evaluation Program (issued July 7, 2022). This Report contains an introduction to the Buildable Lands Program, policy framework, methods used in developing the Report, countywide findings, and jurisdiction profiles for each urban growth area.

HISTORY OF LEGISLATIVE FILE

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

Attachments: Staff Memo, Planning Commission Findings, Buildable Lands Report, Public Comments to Planning Commission



Memorandum

October 25, 2022

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

From: Matt Aamot, Senior Planner

Through: Steve Roberge, Assistant Director

RE: Buildable Lands Report 2022

The Washington State legislature amended the Growth Management Act (GMA) in 1997 to include a "review and evaluation program," also known as the buildable lands program (RCW 36.70A.215). At that time, the review and evaluation program applied to six counties: Clark, King, Kitsap, Pierce, Snohomish, and Thurston. The State legislature amended the GMA in 2017 to add Whatcom County to the list of counties required to undertake a review and evaluation program ([ESSSB 5254](#)).

The review and evaluation program has several main components, which are summarized below:

- Determining whether a county and its cities are achieving urban densities within urban growth areas by comparing growth and development assumptions contained in the county and city comprehensive plans with actual growth and development that has occurred;
- Determining whether there is sufficient land that is suitable for development in the future; and
- Identifying reasonable measures, if necessary, to reduce the differences between growth assumptions contained in comprehensive plans and actual development patterns ([RCW 36.70A.215](#)).

The County and the Cities, with the assistance of a consultant, developed the *Buildable Lands Report 2022* to address these state requirements. This Report, issued on July 7, 2022, contains countywide findings and jurisdiction profiles that address each individual urban growth area.

The Planning Commission held a public hearing on October 13, 2022 and recommended that the County Council adopt the *Buildable Lands Report 2022*. Main issues discussed at the Planning Commission included:

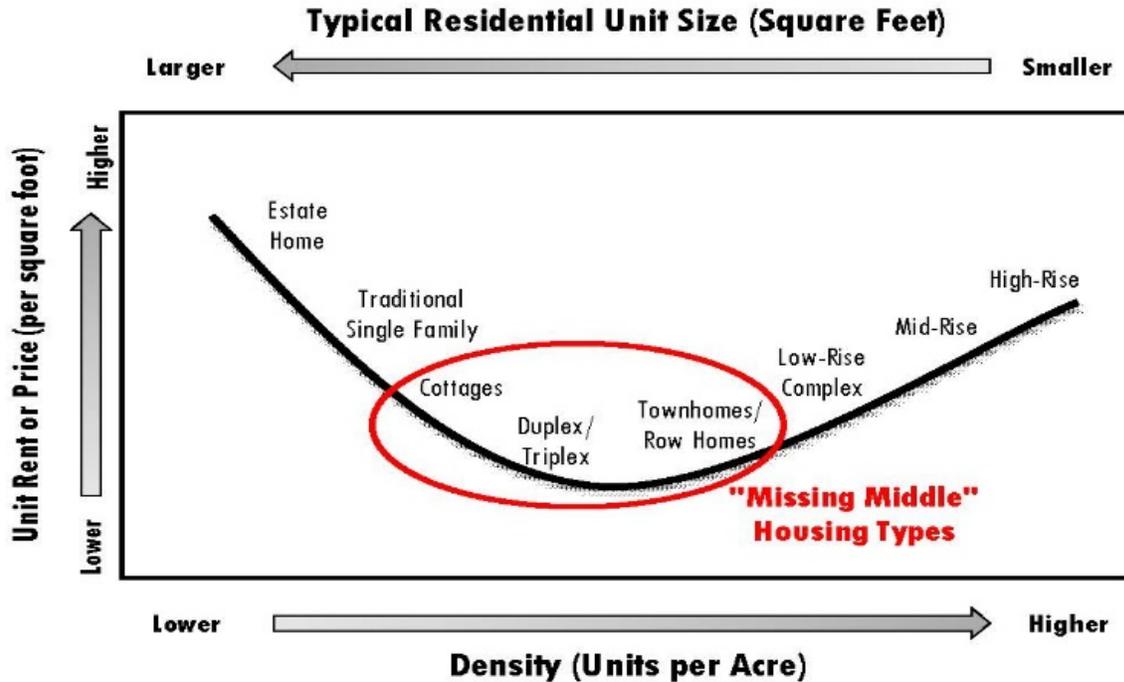
1. Housing affordability; and
2. Land supply for single family homes in Bellingham.

The Planning Commission approved "Findings of Fact and Reasons for Action" adding finding # 1:

Staff and the Planning Commission recognize that the Buildable Lands Report does not address the issue of housing affordability. Additional work that revisits the estimates of supply and demand that are feasible, realistic, and consistent with current regulatory requirements and infrastructure are needed and will be reviewed in the 2025 comprehensive plan updates.

The State legislature amended the GMA by adopting Engrossed Second Substitute House Bill (ESSHB) [1220](#) in 2021. This bill places a greater emphasis on housing affordability in local government planning. However, it relates to the 2025 County and city comprehensive plan updates rather than the Buildable Lands Report. It's anticipated that the State legislature will allocate funding to local governments to conduct the planning required by the bill in 2023. The City/County Planner Group is developing a consultant scope of work for the 2025 comprehensive plan updates and has included the new housing element requirements from ESSHB 1220 in this scope.

The *Buildable Lands Report 2022* finds that new residential construction in Bellingham between 2016 and 2021 occurred at an average 11.5 units per acre compared to the 7.2 units per acre forecast in the 2016 Comprehensive Plan. The Report also finds there is adequate land supply in the Bellingham Urban Growth Area to accommodate projected single family housing units through the end of the current planning period (2036). At the County Planning Commission meeting, the City of Bellingham's Long Range Planning Manager indicated that some of this land supply will be for attached single family residential development. This will include townhouse development where units are attached, but each residence is on its own residential lot. This form of development can provide ownership opportunities with housing units that are less expensive than traditional detached single family dwellings. Attached single family developments also allow realization of intended densities on properties impacted by environmental constraints by clustering smaller lots on buildable areas avoiding wetlands, buffers, and other critical areas. The State Department of Commerce *Housing Memorandum: Issues Affecting Housing Availability and Affordability* (June 2019) states that: ". . . 'missing middle' housing types . . . are moderate-density housing types that also sell or rent at moderate costs compared to detached single-family units and higher-density attached unit types. . ." (p. 84). The State's *Housing Memorandum* includes the following figure on p. 85 showing that townhomes are considered a "missing middle" housing type that tends to be less expensive than traditional single family homes.



The City of Bellingham’s Long Range Planning Manager indicated that Bellingham’s 2023 work program includes updates to the 2018 Accessory Dwelling Unit ordinance, a market study and feasibility report on inclusionary zoning for affordable housing, and updates to the Barkley Urban Village plan.

In the context of the 2025 update to the City of Bellingham Comprehensive Plan, the City will have a community discussion about the forms of housing development that the City will plan to accommodate in the new planning period through the year 2045. It is anticipated that this discussion, and ultimate decisions by the Bellingham City Council, will address the land supply needed to accommodate various forms of housing, including traditional single family detached dwellings and townhouse development. The County will also address housing needs in the 2025 update to the Whatcom County Comprehensive Plan. This will include consideration of land supply for housing and Bellingham’s recommendation on whether or not to expand the Urban Growth Area to accommodate additional housing. City/County coordination through the comprehensive plan updates will be critical to ensure that the housing needs of the larger community are addressed.

Staff will make a presentation on Buildable Lands at County Council’s Planning and Development Committee on November 9. At a later date, we will request Council to conduct a public hearing and adopt an ordinance approving the *Buildable Lands Report 2022*.

Thank you for your review of the Buildable Lands Report. We look forward to discussing it with you.

WHATCOM COUNTY PLANNING COMMISSION

BUILDABLE LANDS REPORT 2022

FINDINGS OF FACT AND REASONS FOR ACTION

1. Staff and the Planning Commission recognize that the Buildable Lands Report does not address the issue of housing affordability. Additional work that revisits the estimates of supply and demand that are feasible, realistic, and consistent with current regulatory requirements and infrastructure are needed and will be reviewed in the 2025 comprehensive plan updates.
2. The proposal is to adopt the *Buildable Lands Report 2022 – Whatcom County Review and Evaluation Program* (July 7, 2022).
3. The SEPA Official determined on July 19, 2022 that adoption of the *Buildable Lands Report 2022 – Whatcom County Review and Evaluation Program* is categorically exempt from SEPA review under WAC 197-11-800(17) as information collection and research.
4. Notice of the Planning Commission hearing was posted on the County website on September 30, 2022.
5. Notice of the Planning Commission hearing was published in the Bellingham Herald on September 30, 2022.
6. Notice of the Planning Commission hearing was sent to the County's email list on September 30, 2022.
7. The Planning Commission held a public hearing on the subject amendments on October 13, 2022.
8. The Growth Management Act (GMA) "Review and Evaluation Program" (buildable land) requirements became applicable to Whatcom County and the cities when the State Legislature adopted Engrossed Second Substitute Bill 5254 in 2017.

9. The GMA's Review and Evaluation Program requirements (RCW 36.70A.215) include updating county-wide planning policies, developing a buildable lands program methodology, data collection, reviewing achieved densities, evaluating land suitable for development, and issuing a Buildable Lands Report. The information contained in the Buildable Lands Report will inform the next update of the Whatcom County Comprehensive Plan, which is due by June 30, 2025.
10. The County's consultant held interviews with representatives of each jurisdiction and several key community stakeholders. This information was compiled in a *Stakeholder Interview Summary Whatcom County Review and Evaluation (Buildable Lands) Program* (CAI, May 2019).
11. The County's consultant conducted research on topics with important implications for the buildable lands report, including local regulations, infrastructure, housing affordability, and growth trends. This included reviewing relevant portions of the Revised Code of Washington and Washington Administrative Code. This information was compiled in a *Background Information and Key Issues Report* (CAI, June 2019).
12. Whatcom County and the cities, with the assistance of a consultant, developed the *Whatcom County Review and Evaluation Program Public Participation Plan* (April 2020) and have followed that Plan.
13. Whatcom County and the cities developed draft Countywide Planning Policies establishing the Review and Evaluation Program. The Whatcom County Planning Commission held a public hearing on these Countywide Planning Policies on September 10, 2020. The Whatcom County Council held a public hearing and adopted the Countywide Planning Policies on February 9, 2021 (Ordinance 2021-003).
14. Whatcom County and the cities, with the assistance of a consultant, drafted the *Whatcom County Review and Evaluation Program Methodology* to implement the 2017 state amendments to the GMA. Stakeholders reviewed and provided comments on preliminary draft versions of this Methodology in 2021. Modifications to the draft Methodology were made based upon stakeholder comments in 2021. The Whatcom County Planning Commission held a public hearing on the draft Methodology on October 28, 2021. The County Council and city councils were briefed on the draft Methodology in 2021-2022. The Whatcom County Planning Director approved the Methodology on February 10, 2022.
15. Whatcom County and the cities, with the assistance of a consultant, developed Data Reporting Tool templates for collection of data on development and local government ordinances over the review period. The templates are intended to facilitate uniform collection of data by the County and cities.

16. The County and cities entered information in the Data Reporting Tools, including information on building permits and plats issued between April 1, 2016 and March 31, 2021. The Data Reporting Tools calculate achieved densities over the five year review period.
17. Whatcom County and the cities, with the assistance of a consultant, developed Suitable Land Tool templates for estimating the amount of land available for development over the remaining portion of the planning period. The templates are intended to facilitate uniform evaluation of land supply by the County and cities.
18. The County and cities entered information in the Suitable Land Tools to estimate the capacity of land suitable for development to accommodate population and employment growth over the remaining portion of the existing planning period (2021-2036). The Suitable Land Tools compare the land capacity to the projected population and employment growth to estimate whether there will be a surplus or deficit of land to accommodate projected growth (2021-2036).
19. The City of Bellingham and the County shared draft Data Reporting Tool and Suitable Land Tool spreadsheets at a Buildable Lands - Virtual Stakeholder Workshop on February 9, 2022.
20. Whatcom County and the cities issued the *Buildable Lands Report 2022 – Whatcom County Review and Evaluation Program* on July 7, 2022. This Report summarizes and analyzes information from the Data Reporting Tools, Suitable Land Tools, and other sources to meet the requirements of the Growth Management Act.
21. The *Buildable Lands Report 2022 – Whatcom County Review and Evaluation Program* shows that there is sufficient suitable land to accommodate the countywide population projection contained in the *Whatcom County Comprehensive Plan* (Chapter 1).
22. The *Buildable Lands Report 2022 – Whatcom County Review and Evaluation Program* shows that each Urban Growth Area (UGA), with the exception of the Birch Bay UGA, has sufficient suitable land to accommodate the UGA population projections contained in the *Whatcom County Comprehensive Plan* (Chapter 1).
23. The *Buildable Lands Report 2022 – Whatcom County Review and Evaluation Program* shows that there is sufficient suitable land to accommodate the countywide employment projection contained in the *Whatcom County Comprehensive Plan* (Chapter 1).

24. The *Buildable Lands Report 2022 – Whatcom County Review and Evaluation Program* shows that each UGA has sufficient suitable land to accommodate the UGA employment projections contained in the *Whatcom County Comprehensive Plan* (Chapter 1).
25. The *Buildable Lands Report 2022 – Whatcom County Review and Evaluation Program* shows that reasonable measures are needed for the Birch Bay, Cherry Point, and Columbia Valley UGAs pursuant to RCW 36.70A.215.
26. For the Birch Bay UGA, reasonable measures are needed to address:
 - a. Achieved residential densities between 2016 and 2021 were below the planned densities in *Whatcom County Comprehensive Plan* Chapter 2 (Goal 2P);
 - b. Land capacity to accommodate the population projection adopted in *Whatcom County Comprehensive Plan* Chapter 1; and
 - c. Land capacity to accommodate single family housing needs as set forth in *Whatcom County Comprehensive Plan* Chapter 3.
27. For the Cherry Point UGA, reasonable measures are needed to address employment growth because growth that occurred between 2016 and 2021 was significantly below the planned growth projected in the *Whatcom County Comprehensive Plan* (Chapter 1). Employment growth would have exceeded the planned growth, except that a major employer shut down in 2020.
28. For the Columbia Valley UGA, reasonable measures are needed to address employment growth because growth that occurred between 2016 and 2021 was significantly below the planned growth projected in the *Whatcom County Comprehensive Plan* (Chapter 1).
29. Reasonable measures are not needed for any other lands in unincorporated Whatcom County.

CONCLUSION

The review and evaluation required by the Growth Management Act has occurred and *Buildable Lands Report 2022 – Whatcom County Review and Evaluation Program* has been issued in accordance with RCW 36.70A.215.

RECOMMENDATION

Based upon the above findings and conclusions, the Planning Commission recommends that the County Council adopt the *Buildable Lands Report 2022 – Whatcom County Review and Evaluation Program*.

WHATCOM COUNTY PLANNING COMMISSION



Kelvin Barton, Chair



Tammy Axlund, Secretary

10 - 13 - 22
Date

10/13/22
Date

Commissioners voted to recommend approval on October 13, 2022 (vote was 6-0, with 3 members absent). Members present at the meeting when the vote was taken: Robert Bartel, Kelvin Barton, Atul Deshmane, Julie Jefferson, Dominic Mocerri, and Scott Van Dalen.

Buildable Lands Report 2022

Whatcom County Review and Evaluation Program

July 7, 2022



ACKNOWLEDGEMENTS

Project Manager

- Matt Aamot, Whatcom County

Technical Committee

- Greg Aucutt, City of Bellingham
- Chris Behee, City of Bellingham
- Jori Burnett, City of Ferndale (former member)
- Michael, Cerbone, City of Ferndale
- Heidi Gudde, City of Lynden
- Eric Guida, Washington State Department of Commerce (former member)
- Rollin Harper, Cities of Everson, Nooksack, and Sumas
- Haylie Miller, City of Ferndale (former member)
- Mark Personius, Whatcom County
- Stacie Pratschner, City of Blaine
- Valerie Smith, Washington State Department of Commerce
- Dave Timmer, City of Lynden
- Jennifer Noveck, Port of Bellingham

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Community Attributes, Inc.

- Cassie Byerly
- Kristina Gallant, AICP
- Tyler Coyle
- Michaela Jellicoe
- Bryan Lobel
- Chris Mefford
- Ethan Schmidt
- Elliot Weiss, AICP

CONTENTS

Introduction	5
Background and Purpose	5
Methods	6
Organization of Report.....	6
Policy Framework.....	7
Countywide Planning Policies.....	7
Population and Employment Growth Allocations.....	7
Methods.....	9
Data Sources	9
Data Collection and Evaluation (2016-2021).....	9
Review and Evaluation of Land Suitable for Development (2021-2036).....	10
Countywide Findings.....	16
Population & Employment Growth	18
Development Activity.....	21
Planned and Achieved Densities	24
Land Suitable for Development.....	25
Inconsistencies and Reasonable Measures	27
Jurisdiction Profiles	28
1. Bellingham UGA	29
2. Birch Bay UGA.....	46
3. Blaine UGA	59
4. Cherry Point UGA	70
5. Columbia Valley UGA	76
6. Everson UGA.....	87
7. Ferndale UGA	97
8. Lynden UGA.....	107
9. Nooksack UGA	118
10. Sumas UGA.....	128
Appendix A: Annexations	137
Appendix B: Urban Growth Area Changes	138
Appendix C: Zoning Map Changes.....	139

EXECUTIVE SUMMARY

The *Whatcom County Buildable Lands Report 2022* is the first report completed by the County and cities consistent with the requirements of the Review and Evaluation Program within Washington State’s Growth Management Act (*RCW 36.70A.215*). The purpose of this report is to assess how recent development in the cities and urban growth areas (UGAs) has compared with planning assumptions, targets, and objectives in adopted Countywide Planning Policies and comprehensive plans, and whether there are inconsistencies for the County and cities to address. The report assesses how much land is available to serve future growth, and whether it is sufficient to accommodate expected growth. Finally, the report provides basic information relating to development on rural and resource lands (areas outside UGAs).

Population & Employment Growth

From 2016-2021, new residential construction in Whatcom County and the cities accommodated an estimated 24% of the projected 20-year population growth for the planning period (2016 through 2036). The County and cities will need to accommodate another 46,069 persons for the remaining period 2021 through 2036. From 2016 to 2021, new commercial and industrial construction in Whatcom County and the cities accommodated an estimated 17% of the projected employment growth for the 20-year planning period, and will need to accommodate another 26,640 jobs by 2036.

- Whatcom County contains 10 urban growth areas (UGAs). Seven UGAs represent future annexation areas for corresponding incorporated cities. Three are standalone UGAs, not associated with a city.
- Whatcom County is projected to have 275,450 residents and 120,284 employees by 2036 with projected growth allocations of 60,565 for population and 32,219 for employment between 2016 and 2036.
- New construction in Whatcom County and the cities accommodated an estimated 14,496 people (84% within UGAs) and 5,539 employees (94% within UGAs) from 2016-2021.
- Whatcom County has an estimated 46,069 population growth and 26,640 employment growth remaining to accommodate between 2021 and 2036.

Development Activity

From 2016-2021, Whatcom County and the cities permitted 6,729 new housing units, averaging 1,346 per year. This average will need to increase to accommodate remaining projected population growth. Achieved densities in incorporated city UGA areas are exceeding planned densities, while achieved

commercial and industrial densities are lagging in some areas. The Jurisdiction Profiles section of this report contains UGA-level details on achieved densities for the period 2016-2021.

- Whatcom County and the cities permitted a total of 6,729 housing units countywide between 2016 and 2021 (84% within the UGAs, 16% outside the UGAs).
- On average countywide, the number of net new housing units permitted and built was 1,346 per year from 2016-2021. The jurisdictions will need to increase the average annual housing production to 1,474 units per year from 2021-2036 to accommodate remaining projected population growth.
- Densities ranging from 4.4 to 11.5 dwelling units per acre were achieved for residential uses in incorporated areas and one dwelling unit per 3.7 acres for Non-UGA areas.
- Achieved residential densities in cities exceeded planned densities, while three unincorporated city UGAs had achieved densities that were lower than ultimate planned densities (as city water and sewer are typically not extended to new development outside city limits). Achieved commercial and industrial densities are lagging planned densities in several small cities.
- For non-city UGAs, residential development in the Columbia Valley UGA exceeded the planned density while residential development in the Birch Bay UGA did not.

Land Suitable for Development

For the inaugural Review and Evaluation Period, it is estimated that Whatcom County UGAs have over 6,102 acres of net developable (vacant, partially-used, and underutilized) land to accommodate remaining projected population and employment growth from 2021-2036. The Jurisdiction Profiles section of this report contains UGA-level details on developable land and deductions. Appendices A through C document annexations, UGA changes, and zoning map changes for the period 2016-2021.

- Whatcom County UGAs, which include cities, have estimated net land capacity for remaining population growth of 73,075 for the remainder of the 20-year planning period from 2021 to 2036, indicating an estimated population capacity surplus of 34,385.
- Whatcom County UGAs, which include cities, have estimated net land capacity for remaining employment growth of 41,057 for the remainder of the 20-year planning period from 2021 to 2036, indicating an estimated employment capacity surplus of 16,841.

Inconsistencies and Reasonable Measures

On a county-wide basis, surplus capacity exists to accommodate both remaining projected population and employment growth for the rest of the 20-year planning period through 2036. In addition, planned residential densities in the cities are being achieved.

When planned densities are not being achieved, there is not sufficient capacity to accommodate remaining projected population or employment growth, or development patterns are not occurring as planned, Whatcom County and the cities will work together to determine if reasonable measures are necessary to address the issue, with the jurisdiction making the final decision on reasonable measures.

A list of potential reasonable measures that jurisdictions may consider, if needed, are documented in the *Whatcom County Review and Evaluation Program Methodology (February 10, 2022), Appendix A*. The Jurisdiction Profiles address whether reasonable measures may be needed for individual UGAs.

INTRODUCTION

Background and Purpose

The Review and Evaluation Program, which is also known as the Buildable Lands program, is part of Washington State’s Growth Management Act (GMA). The program requires that certain counties and cities review the growth and development that has occurred within their jurisdictions since the last updates to their State mandated comprehensive plans. Past growth is compared with the growth and development assumptions, targets, and objectives that are contained in the current plans. Where actual growth diverges from growth and development assumptions, the State calls on the jurisdictions to implement “reasonable measures” in the next comprehensive plan updates to maintain consistency with GMA requirements (*RCW 36.70A.215(1)*). Under the GMA, the deadline for the next comprehensive plan updates is June 30, 2025.

The GMA’s Review and Evaluation Program was established in 1997 and originally applied to all jurisdictions within six counties. The first major revision to the program was completed in 2017, when the State Legislature passed Engrossed Second Substitute Bill (E2SSB) 5254. As part of this revision, Whatcom County was added as the seventh Buildable Lands county.

The *Buildable Lands Report 2022* is the County and cities first report responding to the review and evaluation requirements of GMA. The report reviews development data from 2016-2021, and evaluates capacity to serve remaining growth through 2036, the planning horizon from the most recently adopted comprehensive plan.

The report summarizes development data at the city, UGA and County level to answer the following questions:

- What is the actual density and type of housing (single family and multifamily) that has been built in Whatcom County’s UGAs? Approximately how much population does it support? Are urban densities being achieved?
- How much land has been developed for commercial and industrial uses? Approximately how much employment does it support?
- How does this development activity compare with growth and development assumptions, targets, and objectives in the comprehensive plans?
- How much population and employment growth remains to be accommodated by 2036? Is there sufficient land and densities in UGAs to accommodate planned growth?

Whatcom County and the cities have updated the inventory of vacant, partially-used, and underutilized land in accordance with the *Whatcom County Review and Evaluation Program Methodology*. This is the supply of land available to serve future growth. Using recent achieved densities and other data as a guide, the report estimates how much population and employment this land can support. This analysis is used to answer the following question: is there enough suitable land to accommodate population and employment growth through 2036?

Where inconsistencies are identified, the report will discuss whether “reasonable measures” may be needed to address inconsistencies in the upcoming comprehensive plan update cycle. Ultimately, the County and each city will individually determine whether reasonable measures are required for their jurisdiction.

Methods

The methods for this analysis were developed based on the Department of Commerce’s 2018 *Buildable Lands Guidelines* and the *Whatcom County Review and Evaluation Program Methodology*. A technical committee with representatives of the County and each city (City/County Planner Group) met regularly to discuss and establish key elements of the program. Program methods are summarized in the “Methods” section, with full detail provided in the *Whatcom County Review and Evaluation Program Methodology*.

Organization of Report

This report is organized into the following sections:

- **Policy Framework.** Explains key Whatcom County policies relevant to the program, including Countywide Planning Policies and growth allocations.
- **Methods.** Explains how data was gathered and analyzed for this report, key assumptions, and how these methods were developed.
- **Countywide Findings.** Summarizes the ability of UGAs and other areas to accommodate adopted population and employment allocations through 2036. Seven of the ten UGAs correspond to cities.
- **Jurisdiction Profiles.** Provides detailed findings for recent development activity and land suitable for development at the UGA and zoning designation level.

POLICY FRAMEWORK

Countywide Planning Policies

The County and cities worked together to develop Countywide Planning Policies to establish and guide the Review and Evaluation Program, as required by RCW 36.70A.215. In summary, Countywide Planning Policies Q.1 - Q.8:

- Indicate that the County and cities will cooperate to implement and maintain the Review and Evaluation Program;
- Set forth the purposes of the program;
- Address the Review and Evaluation Program Methodology; and
- Indicate that the County and cities will prepare a Buildable Lands Report, collect and analyze development data, and discuss potential reasonable measures if there are inconsistencies between actual development patterns and assumptions contained in the County or city comprehensive plans.

The County and cities also developed Countywide Planning Policies R.1 – R.4 relating to Dispute Resolution Procedures.

Population and Employment Growth Allocations

A key outcome of the Review and Evaluation Program is estimating population and employment growth and determining if population and employment capacity are consistent with adopted growth targets. Whatcom County has adopted population projections by UGA and for areas outside of UGAs (Non-UGAs) through 2036 in the *Whatcom County Comprehensive Plan, Chapter 1 (page 1-7)*. Total Whatcom County population is projected at 275,450 by 2036. The Comprehensive Plan also adopts employment projections for 2036 (page 1-8), totaling 120,284 by 2036.

For the purposes of the Review and Evaluation Program analysis, population and employment growth projections have been pro-rated to the 2016-2036 timeframe to fit the Review and Evaluation period (**Exhibit 1** and **Exhibit 2**).

Population and employment growth estimates for 2016-2021 are subtracted from total projected growth by UGA for 2016-2036 to estimate the remaining population and employment growth to be accommodated during the review period (2021-2036). This remaining growth to be accommodated is then compared to estimated population and employment capacity to understand if there are sufficient land and densities to accommodate planned growth.

**Exhibit 1. Whatcom County Comprehensive Plan Population (2013-2036)
and Pro-Rated Population Growth (2016-2036)**

UGA	2013 Population	2036 Population Allocation	2016-2036 Population Growth
Bellingham	92,660	123,710	27,000
Birch Bay	7,540	12,822	4,593
Blaine	5,171	9,585	3,838
Columbia Valley	3,103	4,448	1,170
Everson	2,665	3,907	1,080
Ferndale	12,758	19,591	5,942
Lynden	12,872	19,275	5,568
Nooksack	1,435	2,425	861
Sumas	1,449	2,323	760
UGA Total	139,696	198,129	50,811
Non-UGA	66,104	77,321	9,754
County Total	205,800	275,450	60,565

*Sources: Whatcom County Comprehensive Plan (Chapter 1, page 1-7); Whatcom County, 2021.
Notes: The Cherry Point UGA is excluded from this table as no population growth is projected for the UGA.*

**Exhibit 2. Whatcom County Comprehensive Plan Employment (2013-2036)
and Pro-Rated Employment Growth (2016-2036)**

UGA	2013 Employment	2036 Employment Allocation	2016-2036 Employment Growth
Bellingham	52,359	75,000	19,688
Birch Bay	595	1,140	474
Blaine	3,062	5,159	1,823
Cherry Point	1,993	2,883	774
Columbia Valley	85	444	312
Everson	710	1,312	523
Ferndale	5,372	9,372	3,478
Lynden	4,946	7,103	1,876
Nooksack	254	369	100
Sumas	700	1,145	387
UGA Total	70,076	103,927	29,436
Non-UGA	13,156	16,357	2,783
County Total	83,232	120,284	32,219

Sources: Whatcom County Comprehensive Plan (Chapter 1, page 1-8); Whatcom County, 2021.

METHODS

This section summarizes the principal methods, data sources, and key assumptions developed for Whatcom County's *Buildable Lands Report 2022*. The complete methodology is documented in the *Whatcom County Review and Evaluation Program Methodology*.

Data Sources

Whatcom County and the cities collected key data on development in their jurisdiction between 2016 and 2021. Each jurisdiction submitted data and analysis to Whatcom County, who facilitated the overall Buildable Lands process. Whatcom County gathered data for unincorporated UGAs and Non-UGAs (rural areas and resource lands). Jurisdictions collected the following data for this Review and Evaluation Program:

1. **Development activity**, sourced primarily from city and County building permitting and platting data.
2. **Land use and zoning changes**, from local ordinances relating to annexations, changes to UGAs and zoning map changes.
3. **Changes to development and environmental regulations**, from city and County ordinances relating to zoning, development codes and critical areas regulation.
4. **Parcel data**, from County Assessor's real property and parcel files and related extracts, to tabulate and classify types of land available for future development.
5. **Other documentation**, such as changes to planned capital facilities and any adopted reasonable measures that could impact land capacity.

Data Collection and Evaluation (2016-2021)

Data collection is only required to the extent necessary to determine compliance with RCW 36.70A.215 (including achieved densities and the remaining quantity and types of land available for development during the current planning period). The County and cities entered data into spreadsheet-based Data Reporting Tools for each jurisdiction to capture all required data between April 1, 2016 and March 31, 2021. City data is maintained separately from unincorporated UGA data as building permit records for unincorporated UGAs are maintained and administered by the County and urban development is not generally anticipated to occur in unincorporated city UGAs until they are annexed.

The Data Reporting Tools facilitate the collection, organization, and analysis of permitting, platting, and other data from each city and the County. The data are used to calculate and compare actual achieved densities for the reporting period (2016-2021) with planned densities. The Data Reporting

Tools estimate population and employment growth between 2016- 2021 and estimate population and employment growth for the remainder of the 20-year planning period of the current County Comprehensive Plan (2021-2036).

In looking forward to subsequent updates, additional information on planned future capital facilities, regulatory updates, and any previously adopted reasonable measures will be collected to facilitate tracking by the County and cities. Countywide annexations, UGA changes, and zoning map changes are also inventoried for the reporting period (**Appendix A through C**). Data should be collected annually for subsequent Review and Evaluation Periods.

Review and Evaluation of Land Suitable for Development (2021-2036)

The GMA requires Whatcom County and cities to identify land suitable for development or redevelopment and determine whether there is sufficient suitable land to accommodate future growth. This section outlines the steps and methods used to complete this Buildable Lands analysis. The basic steps for cities and UGAs are as follows:

1. **Review Assumptions and Achieved Densities**
2. **Assemble Net Developable Land Inventory**
3. **Estimate Population and Employment Capacity**
4. **Evaluate Land Capacity Sufficiency**

The County and cities entered data and assumptions into spreadsheet-based Suitable Land Tools for each UGA to estimate population and employment capacity, compare that capacity to growth allocations, and evaluate whether land capacity is sufficient to accommodate growth over the remaining portion of the planning period (2021-2036).

If the analysis identifies shortfalls in land capacity, or if recent development has diverged from planning assumptions, targets, and objectives there is an additional requirement to determine if **reasonable measures** are required to improve consistency.

Review Assumptions and Achieved Densities

Several key components of the Buildable Lands analysis rely on developing assumptions and calculating the achieved net density of new residential, commercial, and industrial development in cities and UGAs during the reporting period (2016-2021). Two primary steps in the process are:

- Developing assumptions for occupancy rates and average household sizes (for residential development) and occupancy and square feet per employee rates (for commercial / industrial development).

- Determining achieved densities for residential, commercial, and industrial development completed during the reporting period.

Three technical memos developed for Whatcom County’s Review and Evaluation Program document methods used to determine the assumptions used in the analysis. *Technical Memo Comparing Whatcom County Occupancy and Persons Per Household Rates by Housing Type and Owner/Renter Tenure* (City of Bellingham, February 2022) examines the differences between occupancy and persons per household rates for single family and multifamily housing types and for renter-occupied and owner-occupied households. *Whatcom County Review and Evaluation Program Birch Bay Occupancy & Persons per Household Rates* (CAI, June 29, 2021) provides alternative assumptions for the Birch Bay UGA. The City of Bellingham developed a *Technical Memo Estimating Square Feet Per Job for Commercial and Industrial Lands in Whatcom County* (October 20, 2020) that evaluates local space utilization patterns for all UGAs throughout the County. Resulting figures are used to translate built commercial and industrial building area into an estimate of the number of employees that can be accommodated in that area. Based on this analysis, each city and Whatcom County selected the appropriate assumed square feet per employee for commercial and industrial development types. **Exhibit 3** summarizes the assumptions by development type and jurisdiction.

Exhibit 3. Commercial and Industrial Employment Density Estimates in Square Feet per Employee

UGA	Commercial	Industrial
Bellingham	440	660
Birch Bay	532	812
Blaine	531	739
Cherry Point	205	1,779
Columbia Valley	532	812
Everson	800	1,501
Ferndale	580	1,129
Lynden	721	1,037
Nooksack	605	795
Sumas	669	890

Source: Technical Memo Estimating Square Feet Per Job for Commercial and Industrial Lands in Whatcom County, City of Bellingham, October 20, 2020. Whatcom County and cities’ Suitable Land Tools.

Once population and employment assumptions have been selected, the next step is to determine the actual density of residential and employment development that occurred during the reporting period (2016-2021) in terms of dwelling units per net acre for residential development and floor area ratios (FAR) for commercial and industrial development. Later, achieved net density data and other planning assumptions are used to convert developable land into future population and employment capacity for UGAs in the Suitable Land Tools.

Assemble Net Developable Land Inventory

The Net Developable Land Inventory for UGAs consists of all land which, as of April 1, 2021, was considered **vacant, partially-used, or underutilized** and which is expected to be available for development and served by infrastructure during the current planning period. **Exhibit 4** details the criteria underlying each of these categories.

Exhibit 4. Criteria for Classifying Developable Land

Category	Parcel Zoning	Criteria for Classification
Vacant	All Residential, Commercial, Industrial	Improvement value less than \$10,000
Partially Used	Single Family	Parcel size greater than three (3) times minimum allowed under zoning. ¹ This may be lowered to between two (2) and three (3) times the minimum allowed under zoning at the discretion of the jurisdiction. Jurisdictions may propose to exclude parcels with current assessed improvement value > 93 rd percentile ² of jurisdiction improvement values if the parcel size is less than five acres.
	Multifamily, Commercial, Industrial	Ratio between improvement value and land value less than 1.0. ³

¹ This threshold accounts for parcels less than three times the minimum size that due to parcel configuration, location of existing development on the site, or other factors are not likely to be divided to their maximum potential.

² The option to exclude parcels with high improvement values is meant to account for large single family parcels with high-end homes that are unlikely to be subdivided. The 93rd percentile threshold was determined by analyzing the distribution of housing values in the County and selecting a reasonable value that could be applied across all jurisdictions.

³ The Department of Commerce’s *Buildable Lands Guidelines* (2018) state “. . . When the value of the land is near or higher than the value of the improvement on the land, the property is generally going to be more favorable for redevelopment. . .” (page 34).

Category	Parcel Zoning	Criteria for Classification
		Jurisdictions can identify existing development, such as gas stations or uses that preclude significant development on the site, as fully developed when the ratio of improvement value to land value is less than 1.0. If identified as fully developed, the parcel will be subtracted from the inventory.
Under-Utilized	Single Family	N/A
	Multifamily	Parcels occupied by nonconforming single family residential uses.
	Commercial and Industrial	Parcels occupied by nonconforming residential uses or other nonconforming uses.

The net developable land inventory process for the Review and Evaluation Period included the following steps, described in greater detail in the *Whatcom County Review and Evaluation Program Methodology*:

- **Compile Gross Developable Land Inventory:** Identify parcels zoned for residential and employment development which are considered vacant, partially-used, or underutilized.
- **Deduct Critical Areas and Other Areas with Reduced Development Potential:** Remove the parcels and portions of parcels which are impacted by critical areas or other issues that, it is assumed, will not be developable during the planning period.
- **Deduct Land for Future Public Uses:** Remove any land already planned for future capital facilities and quasi-public uses.
- **Infrastructure Gaps:** Determine if there are infrastructure gaps that would reduce or prevent urban density development on vacant, partially-used, and underutilized lands over the remainder of the planning period. Remove land not likely to be served with the capital facilities needed to support urban density development.
- **Deduct Land for Future Infrastructure and Quasi-Public Uses:** Apply percentage reductions to deduct assumed portions of developable land that will be dedicated to future infrastructure and quasi-public

uses. Future infrastructure deductions are informed by the analysis of 2016-2021 permit data for each jurisdiction.

- **Deduct Market Factor:** Apply a reasonable market factor to account for lands that are not likely to be available for development because of landowner preferences or other reasons not accounted in the previous deduction steps. For the Review and Evaluation Period, Whatcom County and the cities have developed a framework, documented in the *Whatcom County Review and Evaluation Program Methodology* to guide development of suitable market factors specific to the UGAs and land uses by development status. Market factors applied by development type and parcel status, as well as the overall average market factor for each UGA are presented in **Exhibit 5**.

Exhibit 5. Market Factors by UGA, Land Use Category, and Development Status

UGA	Single Family			Multifamily			Commercial			Industrial			Combined
	Vacant	PU	UU	Vacant	PU	UU	Vacant	PU	UU	Vacant	PU	UU	
Bellingham	22%	26%	30%	20%	25%	30%	20%	25%	30%	20%	25%	30%	24%
Birch Bay	17%	27%	27%	15%	27%	27%	17%	27%	27%	N/A	N/A	N/A	20%
Blaine	15%	25%	25%	15%	25%	25%	15%	25%	25%	15%	25%	25%	19%
Cherry Point	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	23%	33%	33%	23%
Columbia Valley	24%	30%	N/A	24%	N/A	30%	24%	N/A	30%	24%	N/A	N/A	24%
Everson	15%	25%	N/A	15%	25%	N/A	15%	25%	25%	15%	25%	25%	19%
Ferndale	15%	25%	25%	15%	25%	25%	15%	25%	25%	15%	25%	25%	20%
Lynden	15%	25%	N/A	15%	25%	25%	15%	25%	25%	15%	25%	25%	20%
Nooksack	15%	25%	N/A	N/A	N/A	N/A	15%	25%	25%	15%	N/A	25%	21%
Sumas	15%	25%	N/A	15%	25%	N/A	15%	N/A	25%	15%	25%	25%	19%

Sources: *Whatcom County and Cities' Suitable Land Tools, 2022*.

Note: PU refers to partially-used land. UU refers to underutilized land. N/A's indicate a category that has no assumed future development or no developable land capacity within the jurisdiction.

After applying the market factor, the final acreage totals by zoning designation and UGA represent the updated net developable land inventory – the land expected to be available to accommodate future population and employment over the remaining planning period.

Estimate Population and Employment Capacity

In this step, net developable land inventory is converted into population and employment capacity. The final product is an estimate of the number of people and employees that can be accommodated in each UGA on developable land. This process includes the following steps, described in detail in the *Whatcom County Review and Evaluation Program Methodology*:

- **Determine Assumed Future Densities:** Use achieved densities, when available, as the baseline assumed densities for future

development in the UGA over the remaining portion of the current 20- year planning period.

- **Determine Population Capacity:** Apply residential development assumptions, including assumed density, occupancy rate and persons per household to the residential Net Developable Land Inventory to estimate current capacity for new residential development in UGAs.
- **Determine Employment Capacity:** Apply employment development assumptions, including assumed density (FAR), occupancy rate, and employees per square foot to the commercial and industrial net developable land inventory to estimate current capacity for new commercial and industrial development.

Evaluate Land Capacity Sufficiency

The final step is to evaluate whether there is currently enough land capacity in UGAs to accommodate projected growth through the remainder of the current 20-year planning period (2021-2036). This includes the following steps:

- **Compare Population Capacity to Remaining Projected Growth:** Compare the estimated population growth capacity to the remaining projected population growth. Identify any inconsistencies.
- **Compare Employment Capacity to Remaining Projected Growth:** Compare the estimated employment growth capacity to remaining projected employment growth. Identify any inconsistencies.

COUNTYWIDE FINDINGS

Whatcom County contains ten urban growth areas (UGAs). Seven UGAs represent future annexation areas for corresponding cities and three are standalone, non-city UGAs (Cherry Point, Columbia Valley, and Birch Bay). Whatcom County as a whole is projected to have 275,450 residents and 120,284 employees by 2036. Whatcom County UGAs have projected growth allocations of 50,811 for population and 29,436 for employment between 2016 and 2036 (**Exhibit 1** and **Exhibit 2**).

Based on data collected by the cities and the County in the Data Reporting Tools for building permits that received final approval between April 1, 2016 and April 1, 2021 and occupancy, persons per household and square feet per employee assumptions, new construction in Whatcom County and the cities accommodated an estimated 14,496 people (84% within UGAs) and 5,539 employees (94% within UGAs) in this five year period (**Exhibit 6** and **Exhibit 7**).

The Washington State Office of Financial Management (OFM) estimates that Whatcom County population grew by 13,631 between April 1, 2016 and April 1, 2021. This total would have been higher if not for the COVID 19 pandemic, which resulted in out-of-county higher education students returning home to engage in on-line classes. OFM estimates that changes in housing occupancy rates and household size in existing 2016 housing stock account for 14% of total growth in countywide household population between 2016 and 2021.

The *Buildable Lands Report 2022* uses the 2036 population projections that were adopted in the 2016 city and County comprehensive plans. The estimated growth from building permits, as compiled in the Data Reporting Tools by the cities and the County, is similar to the growth estimated by OFM (2016-2021) as shown below.

	County-wide Population Growth (2016-2021)	County-wide Pro-rated Population Growth (2016-2036)	Growth to Accommodate (2021-2036)
Based on information from the Data Reporting Tools	14,496	60,565	46,069

Based upon OFM estimates	13,631	60,565	46,934
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This Buildable Lands Report uses the population growth estimate (2016-2021) from the Data Reporting Tools, which means that Whatcom County and the cities have an estimated 46,069 more people and 26,640 more employees to accommodate between 2021 and 2036 (**Exhibit 6** and **Exhibit 7**).

For the Review and Evaluation Period of 2016-2021, Whatcom County and the cities permitted a total of 6,729 net new housing units (**Exhibit 8**). Of these, 84% were permitted within the UGAs, and 16% were outside the UGAs. On average, the number of net new housing units permitted and built was 1,346 per year for the County as a whole. With 22,1161 additional housing units needed to accommodate projected population growth from 2021 through 2036, and based on UGA-specific occupancy and density assumptions, the cities and County will need to increase the average annual housing production to 1,474 units per year from 2021-2036 (**Exhibit 9**). This represents an increase of around 9.5% over the 2016-2021 production rate.

From 2016-2021 Whatcom County and the cities also developed a total of 4.0 million square feet of built area on 1,303 commercial and industrial acres supporting an estimated 5,539 jobs (**Exhibit 7** and **Exhibit 10**). UGAs accommodated 95% of the built square footage and 94% of the estimated jobs on 39% of the developed acres. Non-UGA areas accommodated 5% of the built square footage and 6% of the estimated jobs on 61% of the developed acres. Commercial development comprised 84% of this developed acreage for the period 2016-2021, with industrial development comprising 16%. When considering these numbers, it should be noted that some commercial building in the Non-UGAs occurs on rather large parcels where large areas of the lot remain undeveloped. On a countywide basis, commercial development averaged 0.05 floor-area ratio (FAR - a ratio of built square footage to net parcel land area), while industrial development averaged 0.07 FAR.

Between 2016 and 2021, the cities and the Columbia Valley UGA have achieved densities greater than planned for residential uses, while the Birch Bay UGA has not (**Exhibit 11**). These achieved densities ranged from 4.4 to 11.5 dwelling units per net acre for residential uses in incorporated areas and averaged one dwelling unit per 3.7 acres for Non-UGA areas. The unincorporated portions of city UGAs generally lag planned urban densities for their corresponding cities or did not experience residential development during the five-year review period. This is likely due to these as-yet unannexed areas lacking urban zoning and/or infrastructure. These

unincorporated areas serve as urban growth potential for future growth after annexation, when city zoning is adopted and public water and sewer provided.

Four cities have planned densities for commercial development within their incorporated UGAs – Blaine, Everson, Nooksack, and Sumas (**Exhibit 11**). Blaine and Nooksack have achieved densities that are lagging the planned densities for the 2016-2021 period. Everson exceeded its planned commercial density, while Sumas did not have any commercial development in the five-year review period. Whatcom County has not adopted planned densities for commercial uses in its city UGAs, non-city UGAs, nor its Non-UGA areas.

The same four cities also have planned densities for industrial development within their incorporated UGAs (**Exhibit 11**). Blaine is lagging the planned densities for the 2016-2021 period. Sumas has exceeded its planned industrial density, while Everson and Nooksack did not have any industrial development in the five-year review period. Whatcom County has not adopted planned densities for industrial uses in its city-UGAs, non-city UGAs, nor its Non-UGA areas.

The UGAs in Whatcom County have estimated net land capacity for population growth of 73,075 for the remainder of the 20-year planning period from 2021 to 2036, indicating an estimated population capacity surplus of 34,385 (**Exhibit 12**).

The UGAs in Whatcom County have estimated net land capacity for employment growth of 41,057 for the remainder of the 20-year planning period from 2021 to 2036, indicating an estimated employment capacity surplus of 16,841 (**Exhibit 13**).

On a countywide basis, surplus capacity exists to accommodate both remaining projected population and employment growth for the rest of the 20-year planning period through 2036. In addition, planned residential densities in the cities are being achieved.

Population & Employment Growth

Data collected for the Review and Evaluation Period from 2016-2021 indicate that new construction in Whatcom County and the cities accommodated 14,496 people, or about 24% of its 2016-2036 growth projection of 60,565 for the 20-year planning period (**Exhibit 6**). About 43% of this growth occurred in the City of Bellingham and almost 84% occurred within the urban growth areas (UGAs) of the County.

The remaining projected population growth for the County from 2021-2036 is 46,069. Of this, the Bellingham UGA is allocated 45%, the Ferndale UGA,

8%, the Lynden UGA, 8%; and the Blaine UGA, 7%. Approximately 16% of remaining projected population growth is to be accommodated in non UGA-areas of the County for the remainder of the 20-year planning period.

Exhibit 6. Population Growth Estimates and Projected Growth, 2016-2036

UGA	2016-2021 Population Growth Estimate			2016-2036 Population Growth Projection	2021-2036 Remaining Population Growth to Accommodate
	City	County	Total		
Bellingham	6,202	78	6,280	27,000	20,720
Birch Bay	N/A	389	389	4,593	4,204
Blaine	501	50	551	3,838	3,287
Cherry Point	N/A	0	0	0	0
Columbia Valley	N/A	271	271	1,170	899
Everson	317	0	317	1,080	763
Ferndale	2,273	8	2,281	5,942	3,661
Lynden	1,665	3	1,668	5,568	3,900
Nooksack	174	0	174	861	687
Sumas	190	0	190	760	570
UGA Total	11,322	799	12,121	50,812	38,690
Non-UGA	N/A	2,375	2,375	9,754	7,379
Total	11,322	3,174	14,496	60,566	46,069

Sources: Whatcom County and Cities' Data Reporting Tools, 2022; Community Attributes, Inc., 2021.

Data collected for the 2016-2021 Review and Evaluation Period indicate that new construction in Whatcom County and the cities accommodated 5,539 jobs, or about 17% of its 2016-2036 growth projection of 32,179 for the 20-year planning period (**Exhibit 7**). Approximately 56% of this growth occurred within the Bellingham UGA, while most of the remaining employment growth occurred in the Ferndale, Lynden, and Blaine UGAs. Almost 94% occurred within the UGAs.

The remaining projected employment growth for the County from 2021-2036 is 26,640. Of this, the Bellingham UGA is allocated 62%; the Ferndale UGA, 9%, the Blaine UGA, 6%, and the Lynden UGA, 5%. Approximately 9% of remaining projected employment growth is to be accommodated in Non-UGA areas of the County for the remainder of the 20-year planning period.

Exhibit 7. Employment Growth Estimates and Projected Growth, 2016-2036

UGA	2016-2021 Employment Growth Estimate			2016-2036 Employment Growth Projection	2021-2036 Remaining Employment Growth to Accommodate
	City	County	Total		
Bellingham	2,613	495	3,108	19,688	16,580
Birch Bay	N/A	55	55	474	419
Blaine	245	0	245	1,823	1,578
Cherry Point*	N/A	(141)	(141)	735	876
Columbia Valley	N/A	11	11	312	301
Everson	13	3	16	523	507
Ferndale	1,132	59	1,191	3,478	2,287
Lynden	622	0	622	1,876	1,254
Nooksack	8	0	8	100	92
Sumas	65	0	65	387	322
UGA Total	4,698	482	5,180	29,396	24,216
Non-UGA	N/A	359	359	2,783	2,424
Total	4,698	841	5,539	32,179	26,640

Sources: Whatcom County and Cities' Data Reporting Tools, 2022; Community Attributes, Inc., 2021.

* Employment for Cherry Point is estimated through supplemental analysis provided to Whatcom County by Western Washington University (Employment at Cherry Point, June 2021), as permit data for this UGA do not accurately reflect employment growth trends. Cherry Point UGA employment declined between 2016 and 2021 because of job losses associated with the Alcoa (Intalco) shutdown.

Development Activity

The Review and Evaluation Program tracks both residential and nonresidential development, as well as the distribution of development between urban and rural areas. This analysis tracks housing production to compare against planned growth and the necessary growth rates in terms of housing units to achieve those targets. It also tracks commercial and industrial land developed, building square footage, and development expressed as a floor-to-area ratio (FAR - a ratio of built square footage to net parcel land area).

Residential Development

For the Review and Evaluation Period of April 1, 2016 through March 31, 2021, the cities and the County permitted a total of 6,729 housing units inside and outside its UGAs (**Exhibit 8**). Of these units, 84% were permitted within the UGAs, and 16% were permitted outside the UGAs.

Exhibit 8. Net Housing Units Permitted, Rural and Urban Areas Countywide, 2016-2021

	2016*	2017	2018	2019	2020	2021**	Total
UGAs	851	1,074	946	1,041	1,140	531	5,686
Area Outside UGAs	135	198	215	238	215	42	1,043
Total	986	1,272	1,161	1,279	1,355	573	6,729
UGA Share	86%	84%	81%	81%	84%	93%	84%
Outside UGAs Share	14%	16%	19%	19%	16%	7%	16%

Sources: Whatcom County and Cities, 2022; Community Attributes, Inc., 2021.

* 2016 captures net housing units permitted between April 1, 2016 and December 31, 2016.

** 2021 captures net housing units permitted between January 1, 2021 and March 31, 2021.

Of these new units, almost 48% were permitted and built in the Bellingham UGA (3,219 from 2016-2021), while almost 37% were permitted and built in all other UGAs combined (2,467 units from 2016-2021). The remaining 1,043 units were constructed outside UGAs (**Exhibit 9**).

On average, the number of net new housing units permitted and built was 1,346 per year for the County as a whole (UGA plus Non-UGA areas) for the 2016-2021 Review and Evaluation Period. With 22,116 additional housing units needed to accommodate projected population growth through 2036, and based on the current distribution of single family and multifamily development and UGA specific occupancy and density assumptions, the cities and the County will need to increase average annual housing production to 1,474 units per year from 2021-2036. This represents an increase of around 9.5% over the 2016-2021 production rate.

Relatively small increases in production rates will be needed for the Bellingham, Nooksack, and Columbia Valley UGAs. The Birch Bay and Blaine UGAs will have to substantially increase their housing production rates to meet their population allocation targets. Specifically, housing production in the Birch Bay UGA will need to increase from an average of 46 new units per year in 2016-2021 to 164 units per year for the remainder of the planning period 2021-2036. Housing production in the Blaine UGA will need to increase from 53 to 105 for the remainder of the planning period 2021-2036.

**Exhibit 9. Annual Housing Production Necessary to Accommodate Growth
Allocations by UGA and Non-UGA Areas, 2021-2036**

UGA	Net New Units (2016-2021)	Average Net New Units Per Year (2016-2021)	Additional Housing Units Needed by 2036	Average Net New Units per Year Needed (2021-2036)
Bellingham	3,219	644	10,620	708
Birch Bay	228	46	2,462	164
Blaine	263	53	1,569	105
Cherry Point	0	0	0	0
Columbia Valley	106	21	352	23
Everson	108	22	260	17
Ferndale	893	179	1,433	96
Lynden	730	146	1,707	114
Nooksack	58	12	230	15
Sumas	81	16	242	16
UGA Total	5,686	1,137	18,875	1,258
Non-UGA	1,043	209	3,241	216
County Total	6,729	1,346	22,116	1,474

Sources: Whatcom County and Cities, 2022; Community Attributes, Inc., 2022.

Commercial & Industrial Development

For the Review and Evaluation Period (April 1, 2016 through March 31, 2021), a total of 4.0 million square feet was constructed on 1,303 commercial and industrial acres supporting an estimated 5,539 jobs inside and outside its urban growth areas (**Exhibit 7** and **Exhibit 10**). UGAs accommodated almost 95%% of the built square footage and 94% of the estimated jobs on approximately 39% of the developed acres. Non-UGA areas accommodated approximately 5% of the built square footage and 6% of the jobs on 61% of the acres. When considering these numbers, it should be noted that some commercial building in the Non-UGAs occurred on rather large parcels where large areas of the lot remain undeveloped.

On a countywide basis, commercial development comprised 84% of this developed acreage for the period 2016-2021, with industrial development comprising 16%. Overall, commercial development averaged 0.05 FAR, while industrial development averaged 0.07 FAR. Within UGAs, commercial development averaged 0.16 FAR, while industrial development averaged 0.17 FAR.

Exhibit 10. Countywide Nonresidential Development by UGA, 2016-2021

UGA	Commercial			Industrial			Total		
	Net Acres	Building Sq Ft	FAR	Net Acres	Building Sq Ft	FAR	Net Acres	Building Sq Ft	FAR
Bellingham									
City	110.8	1,174,506	0.24	43.8	466,871	0.24	154.6	1,641,377	0.24
County	16.6	184,246	0.26	5.3	67,200	0.29	21.8	251,446	0.26
UGA Total	127.4	1,358,752	0.24	49.0	534,071	0.25	176.4	1,892,823	0.25
Birch Bay	11.9	30,628	0.06	0.0	0	0.00	11.9	30,628	0.06
Blaine									
City	6.6	116,580	0.41	0.0	0	0.00	6.6	116,580	0.41
County	0.0	0	0.00	0.0	0	0.00	0.0	0	0.00
UGA Total	6.6	116,580	0.41	0.0	0	0.00	6.6	116,580	0.41
Cherry Point	0.0	0	0.00	16.8	80,551	0.11	16.8	80,551	0.11
Columbia Valley	2.7	6,364	0.05	0.0	0	0.00	2.7	6,364	0.05
Everson									
City	0.9	10,825	0.26	0.0	0	0.00	0.9	10,825	0.26
County	0.0	0	0.00	16.1	5,400	0.01	16.1	5,400	0.01
UGA Total	0.9	10,825	0.26	16.1	5,400	0.01	17.0	16,225	0.02
Ferndale									
City	130.5	531,565	0.09	47.9	413,301	0.20	178.4	944,866	0.12
County	0.0	0	0.00	7.6	70,214	0.21	7.6	70,214	0.21
UGA Total	130.5	531,565	0.09	55.5	483,515	0.20	186.0	1,015,081	0.13
Lynden									
City	37.3	190,276	0.12	35.4	405,818	0.26	72.8	596,094	0.19
County	0.0	0	0.00	0.0	0	0.00	0.0	0	0.00
UGA Total	37.3	190,276	0.12	35.4	405,818	0.26	72.8	596,094	0.19
Nooksack									
City	0.8	4,925	0.14	0.0	0	0.00	0.8	4,925	0.14
County	0.0	0	0.00	0.0	0	0.00	0.0	0	0.00
UGA Total	0.8	4,925	0.14	0.0	0	0.00	0.8	4,925	0.14
Sumas									
City	0.0	0	0.00	11.2	60,549	0.12	11.2	60,549	0.12
County	0.0	0	0.00	0.0	0	0.00	0.0	0	0.00
UGA Total	0.0	0	0.00	11.2	60,549	0.12	11.2	60,549	0.12
UGA Total	318.2	2,249,915	0.16	183.9	1,569,904	0.20	502.1	3,819,820	0.17
Non-UGA*	777.9	201,601	0.01	23.1	16,920	0.02	801.0	218,521	0.01
County Total	1,096.1	2,451,517	0.05	207.0	1,586,824	0.18	1,303.1	4,038,341	0.07

Sources: Whatcom County and Cities' Data Reporting Tools, 2022; Community Attributes, Inc., 2021.

* Non-UGA acreage is gross acres, rather than net acres.

Planned and Achieved Densities

The jurisdictions entered permit information into their respective Data Reporting Tools, which calculated the achieved densities (2016-2021). The cities all achieved greater-than-planned residential densities as articulated in their planning and zoning policies and regulations. The cities of Bellingham, Ferndale, Lynden, and Sumas significantly outperformed their planned residential densities for the period.

In the corresponding unincorporated portions of UGAs of Bellingham, Ferndale and Lynden achieved residential densities generally lag planned densities. The unincorporated portions of the Everson, Nooksack, and Sumas UGAs did not experience any residential development between 2016 and 2021. This is largely because these as-yet unannexed areas lack urban zoning and/or infrastructure. The unincorporated areas serve as urban growth potential for future growth after annexation, when city zoning is adopted and public water and sewer provided. For non-city UGAs, residential development in the Columbia Valley UGA exceeded the planned density while residential development in the Birch Bay UGA did not.

Many cities in Whatcom County do not yet have planned commercial or industrial densities. However, several cities have such planned densities. Blaine and Nooksack achieved densities lagged planned densities. Development in Everson and Sumas exceeded planned densities between 2016 and 2021.

Exhibit 11. Planned and Achieved Densities by Jurisdiction

UGA	Residential			Commercial			Industrial		
	Planned Density (units/ac)	Achieved Density 2016-2021 (units/ac)	Difference	Planned Density (FAR)	Achieved Density 2016-2021 (FAR)	Difference	Planned Density (FAR)	Achieved Density 2016-2021 (FAR)	Difference
Bellingham									
City	7.2	11.5	4.3	N/A	0.22	N/A	N/A	0.24	N/A
County	6.0	1.3	(4.7)	N/A	0.26	N/A	N/A	0.29	N/A
Birch Bay	5.0	4.5	(0.5)	N/A	0.06	N/A	N/A	0.00	N/A
Blaine									
City	4.3	4.4	0.2	0.80	0.31	(0.49)	0.89	0.30	(0.59)
County	4.0	4.7	0.7	N/A	0.00	N/A	N/A	0.00	N/A
Cherry Point	N/A	0.0	N/A	N/A	0.00	N/A	N/A	0.11	N/A
Columbia Valley	4.0	4.9	0.9	N/A	0.05	N/A	N/A	0.00	N/A
Everson									
City	4.0	4.8	0.8	0.20	0.26	0.06	0.30	0.00	N/A
County	4.0	0.0	N/A	N/A	0.00	N/A	N/A	0.01	N/A
Ferndale									
City	4.0	6.4	2.4	N/A	0.09	N/A	N/A	0.20	N/A
County	6.0	0.3	(5.7)	N/A	0.00	N/A	N/A	0.21	N/A
Lynden									
City	5.0	7.1	2.1	NA	0.12	N/A	NA	0.26	N/A
County	6.0	1.7	(4.3)	N/A	0.00	N/A	N/A	0.00	N/A
Nooksack									
City	4.4	5.1	0.7	0.25	0.14	(0.11)	0.10	0.00	N/A
County	4.0	0.0	N/A	N/A	0.00	N/A	N/A	0.00	N/A
Sumas									
City	4.9	7.5	2.7	0.22	0.00	N/A	0.11	0.12	0.01
County	4.0	0.0	N/A	N/A	0.00	N/A	N/A	0.00	N/A
Non-UGA Areas	N/A	3.7	N/A	N/A	0.01	N/A	N/A	0.02	N/A

Sources: Whatcom County and Cities' Data Reporting Tools, 2022; Community Attributes, Inc., 2022.

Note: An N/A in the Planned Density columns indicates that the jurisdiction does not have an adopted planned density for the specific development type. An N/A in the Difference columns indicates that the difference between planned and achieved densities cannot be calculated because no planned density is available. The achieved density for the Non-UGA Areas is acres per dwelling unit.

Land Suitable for Development

An analysis of the developable lands inventory by UGA, deducting critical areas, future public uses, quasi-public uses, infrastructure gaps, and an assumed market factor, provides an estimate of land capacity for population and employment growth. Applying densities, occupancy rates, and other population and employment assumptions, the developable lands inventory results in an estimate of population and employment capacity to compare to the remaining population to accommodate.

Development data show that UGAs accommodated population growth of approximately 12,121 persons for the Review and Evaluation Period of 2016-

2021. The remaining forecast population growth to be accommodated for the rest of the 20-year planning period ending in 2036 is 38,690 for all UGAs (**Exhibit 6**). Based on an analysis of developable residential land capacity for the UGAs, additional population (housing) growth capacity exists to accommodate 73,075 for the period – a surplus of 34,385, or 17% beyond what is necessary (**Exhibit 12**).

While individual UGA population growth capacity surpluses range from 9% in Bellingham to 84% in Blaine, Birch Bay has a 10% deficit in capacity.

Exhibit 12. Whatcom County Population Growth Capacity and Allocations by UGA, 2021-2036

UGA	2016-2036 Population Growth Allocation	2036 Total Population Allocation	2036 Population Allocation Share	2016-2021 Population Growth Estimate	2021-2036 Remaining Population Growth	2021-2036 Population Capacity	Surplus (Deficit)	Surplus Percent
Bellingham	27,000	123,710	45%	6,280	20,720	31,392	10,672	9%
Birch Bay	4,593	12,822	5%	389	4,204	2,950	(1,254)	(10%)
Blaine	3,838	9,585	3%	551	3,287	11,324	8,037	84%
Cherry Point	0	43	0%	0	0	0	0	0%
Columbia Valley	1,170	4,448	2%	271	899	2,167	1,268	29%
Everson	1,080	3,907	1%	317	763	3,634	2,871	73%
Ferndale	5,942	19,591	7%	2,281	3,661	10,786	7,125	36%
Lynden	5,568	19,275	7%	1,668	3,900	8,467	4,567	24%
Nooksack	861	2,425	1%	174	687	1,283	596	25%
Sumas	760	2,323	1%	190	570	1,073	503	22%
UGA Total	50,812	198,129	72%	12,121	38,690	73,075	34,385	17%

Sources: Whatcom County and Cities, 2022; Community Attributes, Inc., 2021.

For Non-UGAs (areas outside UGAs), the *Whatcom County Comprehensive Plan's* pro-rated population growth allocation for 2016-2036 equates to 9,754 more people (**Exhibit 1**). Based upon building permits and assumptions in the Data Reporting Tool, it is estimated that new development in the Non-UGAs accommodated about 2,375 people between 2016 and 2021. Therefore, these areas would need to accommodate about 7,379 more people over the remainder of the planning period from 2021-2036 (**Exhibit 6**). The County estimates that land outside UGAs can accommodate in excess of 14,000 additional dwelling units. This is more than enough capacity to accommodate population growth in these areas.

Both UGAs, which include cities, and Non-UGAs have sufficient capacity to accommodate projected population growth over the remaining portion of the planning period through the year 2036. Therefore, there is sufficient suitable land capacity to accommodate the countywide population projection set forth in the *Whatcom County Comprehensive Plan*.

UGAs accommodated estimated employment growth of approximately 5,180 jobs from 2016-2021. The remaining forecast employment growth to be accommodated for the rest of the 20-year planning period ending in 2036 is 24,216 for all UGAs (**Exhibit 7**). Based on an analysis of developable commercial and industrial land capacity for UGAs, additional employment growth capacity exists to accommodate 41,057 more jobs for the period – a surplus of 16,841, or 16% beyond what is necessary (**Exhibit 13**).

Individual UGA employment growth surpluses ranged from 3% in Bellingham to 136% in Blaine. No UGA has a deficit in capacity to accommodate employment growth for the remainder of the planning period (2021-2036).

Exhibit 13. Whatcom County Employment Growth Capacity and Allocations by UGA, 2021-2036

UGA	2016-2036 Employment Growth Allocation	2036 Total Employment Allocation	2036 Employment Allocation Share	2016-2021 Employment Growth Estimate	2021-2036 Remaining Employment Growth	2021-2036 Employment Capacity	Surplus (Deficit)	Surplus Percent
Bellingham	19,688	75,000	62%	3,108	16,580	18,671	2,090	3%
Birch Bay	474	1,140	1%	55	419	573	154	13%
Blaine	1,823	5,159	4%	245	1,578	8,570	6,992	136%
Cherry Point*	735	2,883	2%	(141)	876	2,613	1,737	60%
Columbia Valley	312	444	0%	11	301	420	119	27%
Everson	523	1,312	1%	16	507	1,575	1,068	81%
Ferndale	3,478	9,372	8%	1,191	2,287	3,484	1,197	13%
Lynden	1,876	7,103	6%	622	1,254	4,038	2,785	39%
Nooksack	100	369	0%	8	92	355	263	71%
Sumas	387	1,145	1%	65	322	758	436	38%
UGA Total	29,396	103,927	86%	5,180	24,216	41,057	16,841	16%

Sources: Whatcom County and Cities, 2022; Community Attributes, Inc., 2021.

*Cherry Point UGA employment estimates were developed by Western Washington University (Employment at Cherry Point, June 2021). The timeframe for the estimated employment growth, and employment growth allocation for Cherry Point is 2017-2021 and 2017-2036 to coordinate with the timeframe for the employment growth estimate. Complete data was not available for 2016 for the Cherry Point UGA.

Inconsistencies and Reasonable Measures

On a countywide basis, **surplus capacity exists to accommodate both remaining projected population and employment growth for the rest of the 20-year planning period through 2036**. In addition, planned residential densities in the cities are being achieved.

When planned densities are not being achieved, there is not sufficient capacity to accommodate remaining projected population or employment growth, or development patterns are not occurring as planned, Whatcom County and the cities will need to determine if reasonable measures are necessary to address the issue.

Reasonable measures should, if necessary, be selected by the jurisdiction based on the nature of the inconsistency that has occurred. The measures should be reasonably likely to increase consistency during the succeeding review and evaluation period. Once selected, reasonable measures must be adopted, as applicable, into individual County and city comprehensive plans and/or implementing regulations.

A list of potential reasonable measures that jurisdictions may consider, if needed, are documented in the *Whatcom County Review and Evaluation Program Methodology, Appendix A*. The Jurisdiction Profiles address whether reasonable measures may be needed for individual UGAs.

JURISDICTION PROFILES

This section provides detailed data and analysis on achieved and assumed future densities, as well as summaries of developable land capacity and growth capacity, by jurisdiction. Whatcom County contains ten UGAs – seven city UGAs, and three non-City UGAs (Birch Bay, Cherry Point, and Columbia Valley) – that are described in this section.

In accordance with RCW 36.70A.215(3)(e) and the *Whatcom County Review and Evaluation Program Methodology*, the Buildable Lands Report will typically use achieved densities (as measured for the Review and Evaluation period, 2016-2021) as a basis for the assumed densities for future development in the UGA over the remaining portion of the current 20-year planning period (2021-2036). If there is little or no data on achieved densities, or the achieved densities are clearly not reflective of future development that is anticipated in the UGA then, based on a review of achieved densities in comparable areas and other analysis, the local jurisdiction has developed assumptions for future development densities in the UGA.

1. Bellingham UGA

The Bellingham Urban Growth Area is the largest in Whatcom County, projected to encompass 123,710 residents and 75,000 employees by 2036. The UGA has growth allocations of 27,000 new residents and 19,688 new jobs between 2016 and 2036 (**Exhibit 1** and **Exhibit 2**).

Achieved Growth 2016-2021

Based on permit data collected between 2016 and 2021 and occupancy, persons per household, and square feet per employee assumptions, new construction in the Bellingham UGA accommodated an estimated 6,278 new residents (99% within the City of Bellingham) and 3,108 new jobs (84% within the City of Bellingham) (**Exhibit 6** and **Exhibit 7**).

Bellingham's residential growth over the past five years has occurred at higher-than-expected densities achieving an overall density of 11.5 units per acre. The *Whatcom County Land Capacity Analysis Report* referenced in the *2016 City of Bellingham Comprehensive plan* (Land Use Chapter page 31) assumed future residential growth would average 7.2 units per acre. The achieved density within the incorporated portions of the UGA falls within the planned densities of 6.0 to 24.0

units per acre adopted in the *Whatcom County Comprehensive Plan* for the City of Bellingham (**Exhibit 11**).

Development in the unincorporated portions of the Bellingham UGA achieved a residential density of 1.3 units per acre (**Exhibit 11**). This density lags planned urban densities for the City of Bellingham and is likely due to these as-yet unannexed areas lacking city zoning and complete infrastructure; instead, the unincorporated areas serve as urban growth potential for future growth after annexation, when city zoning is adopted and public water and sewer provided.

Neither the City of Bellingham or Whatcom County have adopted planned densities for commercial or industrial uses. Between 2016 and 2021, incorporated areas of the UGA achieved a commercial Floor-Area-Ratio (FAR) of 0.22, and an industrial FAR of 0.24. The unincorporated areas within the Bellingham UGA achieved slightly higher FARs of 0.26 and 0.29 for commercial and industrial uses respectively (**Exhibit 11**).

Population Capacity 2021-2036

Based on achieved densities and regulatory changes adopted since 2016, the forward-looking evaluation of land suitable for development that estimates the growth capacity on remaining buildable lands is assuming an overall residential density of 11.2 units per acre on vacant, partially used, and underutilized lands. This aligns well with the 11.5 units per acre overall achieved density for residential development from 2016 to 2021.

City of Bellingham planners are assuming future densities ranging between 0.2 units per acre and 14.5 units per acre for single-family zones, depending on the specific zone (Zones in Bellingham's unincorporated UGA with a density of 0.2 units per acre or one dwelling per five acres are located within the Lake Whatcom Watershed and were adopted by Whatcom County for the purpose of water quality protection). Future density assumptions range between 4.0 and 69.7 units per acre for zones allowing multifamily uses (**Exhibit 14**).

The results of the analysis show the Bellingham UGA has estimated net land capacity for residential development (population growth) of 752.98 acres (**Exhibit 15**). When combined with pending projects in the development pipeline and in approved

master plans these buildable lands have a total estimated occupied unit capacity of 15,531 dwelling units. Based on persons per household assumptions, these dwelling units can accommodate an estimated 31,392 new residents indicating an estimated population capacity surplus of 10,672 people (**Exhibit 16**).

Housing Needs by Type

The Whatcom County Comprehensive Plan (Chapter 3- Housing, Chart 3 – Estimated Dwelling Units Needed, page 3-8) indicates Bellingham has a need for 5,171 single-family, 9,507 multi-family, and 1,410 other (group housing) new dwelling units during the 2013-2036 planning period.

- During the period April 1, 2013 to March 31, 2016 Bellingham completed final inspections on permits for 372 single-family and 797 multi-family housing units.
- During the period April 1, 2016 to March 31, 2021 Bellingham completed final inspections on permits for 794 new single-family and 2,393 new multi-family housing units (including 537 student housing and memory-care group housing units that would fall under the “other” category in the County housing needs chart).

- The forward-looking evaluation of land suitable for development component of Bellingham’s Buildable Lands Analysis shows that the City and unincorporated UGA have an estimated 2021-2036 capacity for an additional 4,200 single-family and 11,863 multi-family housing units (**Exhibit 16**).

Combining the 2013-2016 and 2016-2021 built totals with the estimated 2021-2036 capacity results in an overall capacity of 5,366 single-family and 15,053 multi-family housing units plus 537 completed units in the “other” category. The combined single-family totals exceed the estimated need by 4% or 195 housing units (5,366 – 5,171). The combined multi-family totals exceed the estimated need by 58% or 5,546 housing units (15,053 – 9,507). And the combined overall total (single-family, multi-family, and other) exceeds the estimated need by 30% or 4,868 housing units (20,956 – 16,088). These capacities are sufficient to accommodate the dwelling units needed in the planning period as established in the *Whatcom County Comprehensive Plan* (Chapter 3- Housing, Chart 3).

Employment Capacity 2021-2036

Based on achieved densities and regulatory changes adopted since 2016, City of Bellingham planners are assuming future commercial FARs ranging between 0.25 and 3.50, depending on the specific zone. Assumed future industrial FARs range between 0.25 and 0.40 (**Exhibit 17**).

The results of the evaluation of land suitable for development show the Bellingham UGA has estimated net land capacity for employment growth of 377.6 acres (**Exhibit 18**). When combined with pending projects in the development pipeline and in approved master plans these buildable lands have a total estimated occupied commercial and industrial capacity of 9.8 million square feet. Based on square feet per employee assumptions, this employment space can accommodate an estimated 18,671 jobs indicating an estimated employment capacity surplus of 2,091 jobs (**Exhibit 19**).

Analysis of Comprehensive Plan Objectives and Reasonable Measures

Over the past five years Bellingham has worked hard to implement the goals adopted in the 2016 Comprehensive Plan. As described below in the Regulatory Changes section, new development rules for land division, multi-family housing, and infill toolkit (middle) housing have expanded capacity significantly. And as documented in this report Bellingham is meeting or exceeding the development assumptions in the county-wide planning policies and the comprehensive plan. To that end, and as stated in section 5.2 of the *Whatcom County Review and Evaluation Program Methodology*, no reasonable measures are required. There is still much work to do though around housing. Like other communities in Washington and across the nation the supply of housing that is affordable to most households is small and getting smaller. Through the Home Fund Bellingham is investing over \$60 million to build new and preserve existing affordable housing (over 700 units 2012-2022). The City also spends over \$2 million annually in federal grant dollars to provide housing, services, and rental assistance to our community's most vulnerable members. Current work program initiatives like the manufactured home park overlay zone and funding to study inclusionary zoning also

aim to preserve and expand the supply of affordable housing. Work on the 2025 Comprehensive Plan will begin in 2023 and will include a community-wide conversation around housing affordability. These efforts will be guided by the Department of Commerce recommendations for compliance with House Bill 1220 instructing local governments to “plan and accommodate” housing affordable to all income levels. Through this plan update the City will work to further develop goals and policies for preserving existing affordable housing and to carefully manage the remaining buildable land supply to prioritize housing that is affordable to the full range of Bellingham’s residents.

Analysis by Zoning Category

The following section provides details for each of Bellingham’s general zoning categories of the residential densities assumed in 2016, those achieved 2016 to 2021, and those used in the forward-looking evaluation of land suitable for development that estimates the growth capacity on remaining buildable lands from 2021 to 2036.

Single family residential zones in Bellingham accommodated 566 single family and 321 multi family units for a total of 886 units and an overall achieved density of 5.3 units per acre compared to an assumed density of 4.7 units

per acre. There are 19 unique single family zones, of which 15 had growth over the past five years. Nine experienced higher than expected levels of development accommodating 160% of the growth assumed for them. Six zones fell short accommodating about 90% of assumed growth. Overall single family zones accommodated 114% of assumed growth.

Multi family residential zones accommodated 748 multi family and 149 single family units for a total of 897 units and an overall achieved density of 22.9 units per acre compared to an assumed density of 17.7 units per acre. There are 34 unique multi family zones, of which 17 had growth over the past five years. Nine experienced higher than expected levels of development accommodating 263% of the growth assumed for them. Eight zones fell short accommodating about 91% of assumed growth. Overall multi family zones accommodated 130% of assumed growth.

Commercial zones allowing and encouraging residential uses accommodated 671 multi family units for an achieved density of 20.7 units per acre compared to an assumed density of 17.8 units per acre. There are seven unique commercial zones, of which two had residential growth over the past five years. Both zones experienced higher than expected levels of development accommodating 116% of the growth assumed for them. For commercial

zones allowing and encouraging residential uses the analysis continues the use of 2,500 square feet per multi family unit (Municipal Code does not specify a density) as a realistic value given the densities achieved in recent projects in these zones.

Commercial/Industrial/Residential Multi zones accommodated 154 single family and 93 multi family units for an overall achieved density of 13.1 units per acre compared to an assumed density of 7.5 units per acre. There are two unique Com/Ind/RM zones, one of which experienced residential growth over the past five years. This zone experienced higher than expected levels of development accommodating 176% of the growth assumed for it.

Urban Village zones accommodated 5 single family and 524 multi family units for an overall achieved density of 58.9 units per acre compared to an assumed density of 41.4 units per acre. There are 13 unique urban village zones, 11 of which experienced residential growth over the past five years. Ten experienced higher than expected levels of development accommodating 175% of the growth assumed for them. One zone fell short accommodating 89% of assumed growth. Overall urban village zones accommodated 142% of assumed growth. For urban village zones the analysis uses density values keyed to the floor area ratios (FARs) specified in the

Municipal Code for each urban village land use area. A table included in the evaluation of land suitable for development worksheet documents the assumptions that model allocation of building square footage to non-residential uses, parking, hallway/mechanical spaces, and residential units to translate each FAR value into a specific units per acre density. These model assumptions are based on densities achieved by recent projects in each of the urban villages.

Background Details

The following section highlights details specific to Bellingham’s application of the *Whatcom County Review and Evaluation Program Methodology* in the analysis of buildable lands. It includes the rates used to estimate population and employment, discussions of regulatory changes since 2016 that affect development capacity, infrastructure and future public uses, environmental constraints, market factors, and lands in Washington State ownership excluded from the capacity analysis.

Population and Employment Assumptions

The housing occupancy rate and persons per household assumptions for the Bellingham UGA are based on current values from the Washington State Office of Financial

Management (OFM) and are specific to Bellingham. The employment occupancy rate and jobs per square foot assumptions are based on Washington State Employment Security and Whatcom County Assessor’s data as explained in Section 4.1 of the *Whatcom County Review and Evaluation Program Methodology*. The values are as follows:

- 97.5% Single Family occupancy rate
- 96.4% Multifamily occupancy rate
- 95.0% Commercial and Industrial occupancy rate
- 2.499 persons per Single Family household
- 1.850 persons per Multifamily household
- 440 and 660 respectively Commercial and Industrial square feet per employee

The Bellingham UGA has an estimated 20,720 population and 16,580 employment growth remaining to accommodate between 2021 and 2036 (**Exhibit 6** and **Exhibit 7**).

Regulatory Changes

Since adoption of the 2016 Comprehensive Plan Bellingham has approved many

regulatory changes that impact either the amount of land available for development, or the densities and mix of uses allowed on buildable lands. These changes are documented in detail in the Data Reporting Tool worksheet. The most significant changes include a rezone for Cordata Park removing 20 acres of mixed-use land from the buildable land supply (estimated capacity of 150 jobs and 100 housing units); approval of two annexations activating development of infrastructure and allowing development on 249 acres; approval of Title 23 (subdivision ordinance) streamlining the plat process and allowing a 50% density bonus for single-family cluster zones when at least 50% of units are Infill Toolkit forms; approval of an Accessory Dwelling Unit (ADU) ordinance allowing and encouraging ADUs in Bellingham's neighborhoods; approval of an updated residential multi-family (RM) development code establishing a simplified tiered density system and minimum densities (increasing Bellingham's overall development capacity by an estimated 20%); and Phase I of an update to the Infill Toolkit regulations streamlining and clarifying the development of missing-middle housing forms.

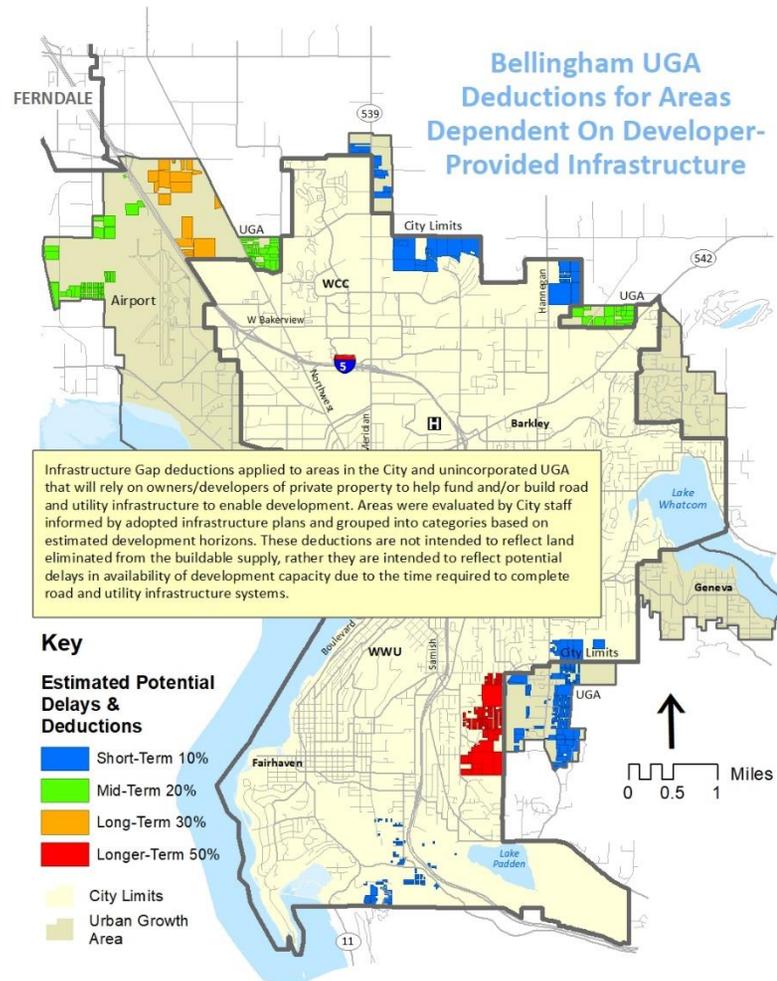
Infrastructure and Future Public Uses

Bellingham has identified areas within the City and unincorporated UGA that are within

the service area for urban sewer utilities but may not achieve full buildout until after 2036 due to reliance upon developer-provided portions of these future utility systems. The areas identified based on mapping from the 2016 Bellingham Wastewater Conveyance Plan were also determined to be areas where development of other related infrastructure like roads and municipal water would likely depend on some level of developer participation. These areas were assigned estimated near-term, mid-term, long-term, or longer-term time frames and received associated percentage deductions of their developable area. The deductions total approximately 112 acres and do not preclude all development but acknowledge that full buildout may not occur until after 2036. This jurisdiction profile includes a map of the Bellingham UGA illustrating the land areas associated with these deductions.

Deductions of buildable land related to roads, and water, sewer, and storm utilities are accounted for in the methodology through an infrastructure deduction on vacant, partially-used, and underutilized land of between 5% and 24%. The recent 17-acre land acquisition by the Bellingham School District for a future elementary school is also removed from the buildable land supply. Future development on the three college campuses in Bellingham is

accounted for in the “master planned” category of buildable land based on the adopted Institutional Master Plan (IMP) for each institution. Deductions for future public uses were made from the developable land supply based primarily on land acquisition needs identified in the Bellingham 2020 Park, Recreation, and Open Space (PRO) Plan. A total of 104 acres was deducted from developable vacant land for these purposes (see 2020 PRO Plan, Table 4.6.1 “Proposed Park System Additions – City & UGA”).



Environmental Constraints

Deductions for environmental constraints (critical areas) were made to all developable land including ALL residential, commercial, and industrial zones. Deductions were based on the best-available data in the City's GIS system following criteria set out in Bellingham Municipal Code (BMC) Chapter 16.55.

Wetlands were buffered with 150-foot buffers based on a composite of all mapped wetland delineations, and wetland reconnaissance inventories from 2015, 2003, and 1992 (NWI data from the 1980's was not used due to the relatively complete coverage by more recent/accurate studies). In addition, a staff-generated potential wetlands layer was created from color-infrared imagery and LiDAR data to fill gaps across properties where access limitations prevent on-the-ground mapping of wetland systems. Other critical areas layers used include steep slopes, FEMA floodways and floodplains (2019 data), and regulated shorelines and stream/riparian corridors. Shorelines were buffered using adopted Shoreline Master Program (SMP) development setbacks designated for each reach. Stream/riparian buffers were based on distances specified for each reach in BMC Table 16.55.500(A).

Market Factors

The Review and Evaluation Program Methodology includes a market factor deduction to account for land not likely to develop during the remainder of the 2021 to 2036 planning period. The criteria considered while developing the market factor(s) for Bellingham's buildable lands analysis include examination of improvement to total value ratios, transaction and conversion history, a property owner survey, targeted outreach to specific owners and developers, and comparative studies of market factors from other buildable lands jurisdictions. The market factors developed for Bellingham's analysis are arranged in a tiered system corresponding to the complexities involved in development and the relative return or benefit to property owners and developers. Vacant land usually presents the fewest challenges to development, partially-utilized land is typically more complex to develop due to existing ongoing uses on the property during development, and underutilized land is often the most-complex due to the requisite relocation or change of non-conforming uses accompanying redevelopment. The relative return or benefit to property owners and developers is closely related to the zoned density or intensity of developable land. Land zoned for higher density or intensity uses will

usually provide a bigger return or benefit to owners and developers making it more likely they will develop sooner. And land zoned for lower density or intensity uses will usually provide a lower return or benefit to owners making it less likely to develop sooner. The market factors assigned to each tier are as follows: vacant higher density/intensity = 20%, vacant lower density/intensity = 25%, partially-utilized higher density/intensity = 25%, partially-utilized lower density/intensity = 30%, underutilized higher density/intensity = 30%, underutilized lower density/intensity = 35%. A technical memo explaining the details of Bellingham's market factor analysis can be found here

https://maps.cob.org/resources/images/pcd/BellinghamMarketFactor_TechnicalMemo_Sept10th2021.pdf

State-Owned Lands

The 2016 Bellingham Comprehensive Plan Land Capacity Analysis included some development capacity on approximately 266 acres of land owned by Washington State. This land located in one block west of Bellingham International Airport, and in three blocks lying north of and parallel to the Mt Baker Highway has been excluded from the developable land supply in this analysis.

Residential Development

Exhibit 14. Residential Development, Achieved and Assumed Densities, City of Bellingham, 2016 -2021

Zoning Category	Development Type	Acres Developed	Dwelling Units	Achieved Density (Units/Acre)	Density Assumed (Units/Acre)	
					Min	Max
Single Family	Single Family	138.2	586	4.24	0.20	14.52
	Multifamily	29.9	321	10.74	7.26	7.26
Multifamily	Single Family	20.1	149	7.40	N/A	N/A
	Multifamily	32.2	748	23.25	4.04	43.56
Mixed-Use	Single Family	28.5	169	5.93	6.00	6.00
	Multifamily	3.3	93	28.24	6.00	17.42
Urban Village	Single Family	0.5	5	9.96	8.71	8.71
	Multifamily	8.7	524	59.93	8.71	69.70
Commercial	Multifamily	20.6	671	32.55	12.10	48.40
Institutional	Multifamily	1.5	76	50.97	N/A	N/A
Industrial	Multifamily	0.2	1	6.19	N/A	N/A

Sources: City of Bellingham, 2022; Community Attributes Inc., 2021.

Note: "Density Assumed" is the assumed density for evaluation of land suitable for development by zone. City of Bellingham zoning districts are grouped into seven collapsed, generalized categories.

Exhibit 15. Residential Land Supply, Bellingham UGA, 2021 -2036

	UGA Total	Single Family	Multifamily	Mixed-Use	Urban Village	Commercial	Institutional	Industrial	Public	Airport Operations
Vacant Land										
Gross Acres	1,291.19	802.97	322.52	119.16	2.94	41.41	2.19	0.00	0.00	0.00
Critical Areas	688.47	426.50	183.11	48.51	0.52	27.81	2.02	0.00	0.00	0.00
Future Public Uses	63.66	39.59	15.90	5.87	0.14	2.04	0.11	0.00	0.00	0.00
Infrastructure Gaps	55.48	41.84	8.74	4.89	0.00	0.00	0.00	0.00	0.00	0.00
Quasi-Public Use Deduction	24.18	14.75	5.74	2.99	0.11	0.58	0.00	0.00	0.00	0.00
Infrastructure Deduction	97.79	70.81	11.48	14.22	0.11	1.16	0.01	0.00	0.00	0.00
Market Factor	75.72	45.29	19.51	8.53	0.41	1.96	0.01	0.00	0.00	0.00
Net Acres	285.91	164.20	78.04	34.14	1.64	7.86	0.05	0.00	0.00	0.00
Partially-Used Land										
Gross Acres	1,378.76	845.05	141.46	321.62	53.25	17.39	0.00	0.00	0.00	0.00
Critical Areas	567.27	421.40	49.59	84.38	4.89	7.00	0.00	0.00	0.00	0.00
Future Public Uses	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Infrastructure Gaps	23.84	8.42	0.40	15.01	0.00	0.00	0.00	0.00	0.00	0.00
Quasi-Public Use Deduction	39.38	20.76	4.57	11.11	2.42	0.52	0.00	0.00	0.00	0.00
Infrastructure Deduction	165.59	99.65	9.15	53.34	2.42	1.04	0.00	0.00	0.00	0.00
Market Factor	149.18	77.22	19.44	39.45	10.88	2.21	0.00	0.00	0.00	0.00
Net Acres	433.50	217.59	58.31	118.34	32.64	6.62	0.00	0.00	0.00	0.00
Underutilized Land										
Gross Acres	69.84	0.00	25.64	1.15	29.40	9.92	3.72	0.00	0.00	0.00
Critical Areas	14.96	0.00	8.29	0.02	0.81	2.65	3.18	0.00	0.00	0.00
Future Public Uses	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Infrastructure Gaps	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Quasi-Public Use Deduction	2.72	0.00	0.87	0.06	1.43	0.36	0.00	0.00	0.00	0.00
Infrastructure Deduction	4.22	0.00	1.73	0.27	1.43	0.73	0.05	0.00	0.00	0.00
Market Factor	14.38	0.00	4.42	0.24	7.72	1.85	0.15	0.00	0.00	0.00
Net Acres	33.56	0.00	10.32	0.56	18.01	4.32	0.34	0.00	0.00	0.00

Sources: City of Bellingham, 2022; Whatcom County, 2021; Community Attributes Inc., 2021.

Note: City of Bellingham zoning districts are grouped into nine collapsed, generalized categories.

Exhibit 16. Developable Residential Land Capacity, Bellingham UGA, 2021-2036

	UGA	Multi-family	Single-family	Mixed-Use	Urban Village	Commercial	Institutional	Industrial	Public	Airport Operations
Net Developable Residential Acres (Vacant, PU, UU)	752.98	381.79	146.67	153.03	52.29	18.80	0.39	0.00	0.00	0.00
Single Family Developable Acres	485.56	374.47	-	110.00	1.09	-	-	-	-	-
Assumed Single Family Density (units/acre)										
Subtotal Single Family Unit Capacity	2,994	2,325	-	660	9	-	-	-	-	-
Existing Single Family Units	1,646	419	370	314	366	28	1	146	-	2
Pending Single Family Units	1,872	1,164	505	123	14	65	-	-	1	-
Master Planned Single Family Units	75	-	-	58	-	-	-	17	-	-
Subtotal: Net Single Family Unit Capacity	4,200	3,070	505	527	15	65	-	17	1	-
Potential Occupied Single Family Units	4,095	2,993	492	514	15	63	-	16	1	-
Single Family Population Capacity	10,233	7,480	1,230	1,285	37	158	-	41	2	-
Multifamily Developable Acres	267.42	7.32	146.67	43.03	51.20	18.80	0.39	-	-	-
Assumed Multifamily Density (units/acre)										
Subtotal Multifamily Unit Capacity	5,544	65	2,791	420	1,842	411	15	-	-	-
Existing Multifamily Units	122	27	25	20	20	10	-	20	-	-
Pending Multifamily Units	4,903	124	927	758	1,477	1,617	-	-	-	-
Master Planned Multifamily Units	1,492	-	-	413	760	-	200	119	-	-
Subtotal: Net Multifamily Unit Capacity	11,863	189	3,693	1,571	4,059	2,018	215	119	-	-
Potential Occupied Multifamily Units	11,436	182	3,560	1,514	3,913	1,945	207	115	-	-
Multifamily Population Capacity	21,159	338	6,586	2,801	7,239	3,599	384	212	-	-
Net Dwelling Unit Capacity	16,063	3,259	4,198	2,098	4,074	2,083	215	135	1	-
Potential Occupied Dwelling Units	15,531	3,175	4,052	2,028	3,928	2,009	207	131	1	-
Population Capacity	31,392	7,818	7,816	4,086	7,276	3,757	384	253	2	-
Remaining Population Growth to Accommodate (2021-2036)	20,720									
Population Capacity Surplus (Deficit)	10,672									

Sources: City of Bellingham, 2022; Whatcom County, 2021; Community Attributes Inc., 2021.

Note: Bellingham UGA zoning districts are grouped into nine collapsed, generalized categories.

Commercial and Industrial Development

Exhibit 17. Nonresidential Development, Achieved and Assumed Densities, City of Bellingham, 2016-2021

Zoning Designation	Development Type	Acres Developed	Built Square Feet	Achieved Density (FAR)	Assumed Density (FAR)	
					Min	Max
Single Family	Commercial	7.6	22,776	0.07	N/A	N/A
Multifamily	Commercial	1.4	17,966	0.28	N/A	N/A
Mixed-Use	Commercial	21.7	230,519	0.24	0.40	0.40
	Industrial	0.0	0	0.00	0.40	0.40
Urban Village	Commercial	3.1	81,619	0.61	0.40	3.50
	Industrial	2.4	58,710	0.57	0.40	0.40
Commercial	Commercial	10.8	189,313	0.40	0.40	2.50
Institutional	Commercial	12.3	188,774	0.35	0.40	0.40
Industrial	Commercial	12.0	155,697	0.30	N/A	N/A
	Industrial	45.2	466,052	0.24	0.25	0.25
Public	Commercial	50.2	323,042	0.15	0.40	0.40
	Industrial	1.4	9,309	0.15	N/A	N/A
Airport Operations	Commercial	8.2	149,046	0.42	0.25	0.25
	Industrial	0.0	0	0.00	0.25	0.25

Sources: City of Bellingham, 2022; Community Attributes Inc., 2021.

Note: Assumed Density is the assumed density for evaluation of land suitable for development by zone. Bellingham UGA zoning districts are grouped into nine collapsed, generalized categories.

Exhibit 18. Developable Nonresidential Land Supply, Bellingham UGA, 2021 -2036

	UGA Total	Single Family	Multifamily	Mixed-Use	Urban Village	Commercial	Institutional	Industrial	Public	Airport Operations
Vacant Land										
Gross Acres	819.40	0.00	0.07	24.40	3.38	41.61	6.58	743.27	0.08	0.00
Critical Areas	562.80	0.00	0.05	10.32	0.23	27.81	6.07	518.24	0.08	0.00
Future Public Uses	40.40	0.00	0.00	1.20	0.17	2.05	0.32	36.64	0.00	0.00
Infrastructure Gaps	22.55	0.00	0.00	0.54	0.00	0.00	0.00	22.01	0.00	0.00
Quasi-Public Use Deduction	1.35	0.00	0.00	0.62	0.15	0.59	0.00	0.00	0.00	0.00
Infrastructure Deduction	20.13	0.00	0.00	2.15	0.15	1.18	0.02	16.64	0.00	0.00
Market Factor	34.43	0.00	0.00	1.91	0.54	2.00	0.03	29.95	0.00	0.00
Net Acres	137.73	0.00	0.01	7.66	2.15	7.99	0.14	119.79	0.00	0.00
Partially-Used Land										
Gross Acres	359.15	0.00	0.24	35.74	25.13	17.52	0.00	279.05	0.00	1.48
Critical Areas	146.67	0.00	0.09	9.38	2.92	7.00	0.00	126.77	0.00	0.52
Future Public Uses	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Infrastructure Gaps	10.20	0.00	0.00	1.67	0.00	0.00	0.00	8.53	0.00	0.00
Quasi-Public Use Deduction	2.88	0.00	0.01	1.23	1.11	0.53	0.00	0.00	0.00	0.00
Infrastructure Deduction	22.57	0.00	0.02	5.93	1.11	1.05	0.00	14.38	0.00	0.10
Market Factor	44.21	0.00	0.03	4.38	5.00	2.23	0.00	32.34	0.00	0.22
Net Acres	132.62	0.00	0.10	13.15	14.99	6.70	0.00	97.03	0.00	0.65
Underutilized Land										
Gross Acres	444.57	0.00	0.03	0.13	3.74	10.70	3.72	426.24	0.00	0.00
Critical Areas	273.85	0.00	0.00	0.00	0.13	2.65	3.18	267.88	0.00	0.00
Future Public Uses	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Infrastructure Gaps	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Quasi-Public Use Deduction	0.59	0.00	0.00	0.01	0.18	0.40	0.00	0.00	0.00	0.00
Infrastructure Deduction	16.91	0.00	0.00	0.03	0.18	0.81	0.05	15.84	0.00	0.00
Market Factor	45.97	0.00	0.01	0.03	0.97	2.05	0.15	42.76	0.00	0.00
Net Acres	107.25	0.00	0.02	0.06	2.27	4.79	0.34	99.77	0.00	0.00

Sources: City of Bellingham, 2022; Whatcom County, 2021; Community Attributes Inc., 2021.

Note: Bellingham UGA zoning districts are grouped into nine collapsed, generalized categories.

Exhibit 19. Developable Nonresidential Land Capacity, Bellingham UGA, 2021-2036

	UGA	Multi-family	Single-family	Mixed-Use	Urban Village	Commercial	Institutional	Industrial	Public	Airport Operations
Net Developable Employment Acres (Vacant, PU, UU)	377.60	0.00	0.13	20.87	19.41	19.48	0.48	316.59	0.00	0.65
Commercial Developable Acres	54.06	-	0.13	18.89	14.75	19.48	0.48	-	-	0.32
Subtotal: Commercial Capacity (SF)	2,330,253	-	2,203	329,224	1,400,226	586,709	8,373	-	-	3,518
Existing Commercial Space (SF)	716,719	4,287	5,423	-	422,903	224,113	-	59,993	-	-
Pending Commercial Space (SF)	1,095,040	78,100	6,933	26,239	140,669	268,607	11,813	463,912	98,767	-
Master Planned Commercial Space (SF)	2,528,209	-	-	210,603	617,200	-	1,294,730	39,397	266,279	100,000
Subtotal: Net Commercial Capacity (SF)	5,346,344	78,100	9,136	566,066	1,775,050	631,203	1,314,916	503,309	365,046	103,518
Potential Occupied Commercial Space (SF)	5,079,027	74,195	8,679	537,763	1,686,297	599,643	1,249,170	478,144	346,793	98,342
Commercial Employment Capacity	11,542	168	20	1,222	3,832	1,362	2,839	1,087	788	224
Industrial Developable Acres	323.54	-	-	1.97	4.66	-	-	316.59	-	0.32
Subtotal: Industrial Capacity (SF)	3,566,662	-	-	34,347	81,132	-	-	3,447,665	-	3,518
Existing Industrial Space (SF)	871,274	79,196	26,762	5,496	135,082	81,437	-	543,301	-	-
Pending Industrial Space (SF)	1,016,738	-	-	-	28,382	45,000	-	912,841	30,515	-
Master Planned Industrial Space (SF)	981,055	-	-	77,213	376,000	-	-	172,841	-	355,000
Subtotal: Net Industrial Capacity (SF)	4,952,113	-	-	111,560	416,473	45,000	-	3,990,046	30,515	358,518
Potential Occupied Industrial Space (SF)	4,704,507	-	-	105,982	395,649	42,750	-	3,790,544	28,989	340,592
Industrial Employment Capacity	7,129	-	-	161	599	65	-	5,743	44	516
Net Commercial & Industrial Capacity (SF)	10,298,457	78,100	9,136	677,626	2,191,523	676,203	1,314,916	4,493,355	395,561	462,036
Potential Occupied Commercial & Industrial Capacity (SF)	9,783,534	74,195	8,679	643,745	2,081,947	642,393	1,249,170	4,268,688	375,783	438,934
Employment Capacity	18,671	168	20	1,383	4,431	1,427	2,839	6,830	832	740
Remaining Employment Growth to Accommodate (2021-2036)	16,580									
Employment Capacity Surplus (Deficit)	2,091									

*Sources: City of Bellingham, 2022; Whatcom County, 2021; Community Attributes Inc., 2021.
 Note: Bellingham UGA zoning districts are grouped into nine collapsed, generalized categories.*

2. Birch Bay UGA

The Birch Bay Urban Growth Area is one of three Non-City UGAs in Whatcom County. The UGA has a projected total allocation of 12,822 residents and 1,140 jobs by 2036. The UGA has a projected growth allocation of 4,593 new residents and 474 new jobs between 2016 and 2036 (**Exhibit 1** and **Exhibit 2**).

Achieved Growth 2016-2021

Based on permit data collected between 2016 and 2021, occupancy, persons per household and square feet per employee assumptions, new construction in the Birch Bay UGA accommodated an estimated 389 new residents and 55 new jobs over this five-year period (**Exhibit 6** and **Exhibit 7**).

The Birch Bay UGA achieved an overall residential density of 4.5 units per net acre between 2016 and 2021. This is below the 5.0 to 10.0 units per net acre planned in the *Whatcom County Comprehensive Plan* (**Exhibit 11**).

The *Whatcom County Comprehensive Plan* does not have adopted planned densities for commercial or industrial uses. Between 2016 and 2021, the UGA has achieved a commercial FAR of 0.06. The Commercial FAR is based upon a limited number of commercial building

permits (eight) issued between April 1, 2016 and March 31, 2021. Six of the eight building permits were in commercial zones (the other two were in residential zones). Five of the six permits in commercial zones were for commercial storage buildings (the other was for a covered patio). The UGA did not have industrial development between 2016 and 2021 (**Exhibit 11**).

Population and Employment Assumptions

Occupancy rate and population and employment assumptions for estimating future growth capacity in the Birch Bay UGA are:

- 75.0% Single Family occupancy rate
- 51.0% Multifamily occupancy rate
- 95.0% Commercial and Industrial occupancy rate
- 2.38 Single Family persons per household
- 2.22 Multifamily persons per household
- 532 Commercial square feet per employee

The Birch Bay UGA is characterized by a mix of single family and multifamily residences, as well as historically high seasonal housing. There are also a number of businesses in the UGA.

Population Capacity 2021-2036

The Birch Bay UGA will need to accommodate 4,204 more residents and 419 more jobs between 2021 and 2036 under current planning assumptions (**Exhibit 6** and **Exhibit 7**).

Based on achieved densities between 2016 and 2021 and other planning assumptions, Whatcom County is assuming future densities ranging between 4.4 units per acre and 10.0 units per acre for single family development, depending on the specific zone. Future density assumptions range between 5.9 and 17.0 units per acre for multifamily development (**Exhibit 20**). Density assumptions for the Suitable Land Tool, which estimates future development capacity, are further described below (achieved density is based on building permits issued between 2016 and 2021):

Urban Residential (UR4) – The achieved net density from the Data Reporting Tool for the UR4 zone is 4.4 units/acre for single family development. This net density is used in the Suitable Land Tool to estimate capacity to accommodate development in the future.

Urban Residential Medium Density (URM6) – For single family, the achieved net density from the Data Reporting Tool for the URM6 zone is 3.3 units/acre. However, this is likely

not reflective of future development. While there is currently not a minimum density in the URM6, the County Comp Plan encourages development at 5-10 units per acre in the Birch Bay UGA. For multi-family, the achieved net density from the Data Reporting Tool for the URM6 zone is 5.9 units/acre. This density is used in the Suitable Land Tool for both single family and multi-family land.

Urban Residential Medium Density (URM24) – The URM24 zone did not experience any residential development from 2016-2021 (see Data Reporting Tool). The URM24 zone has a minimum net density of 10 dwelling units/acre and a maximum gross density of 24 dwellings/acre (WCC 20.22.252). A density of 10 units per net acre is used for single family land and 17 units per net acre for multi-family land in the Suitable Land Tool.

Resort Commercial (RC) – For single family, the achieved net density from the Data Reporting Tool for the RC zone is 8.3 units/acre. This density is used in the Suitable Land Tool for future single family development. The RC zone did not experience any multi-family residential development from 2016-2021 (see Data Reporting Tool). The RC zone allows multi-family zoning at a maximum gross density of 22 units per acre (WCC 20.64.262). A density of 17 units per net acre

for multi-family development is used in the Suitable Land Tool (same as the URM24 zone).

General Commercial (GC) - The GC zone did not experience any residential development from 2016-2021 (see Data Reporting Tool). Therefore, the achieved density for the RC zone (8.3 units/net acre) is used in the Suitable Land Tool for single family land in the GC zone. The GC zone allows multi-family zoning at a maximum density of 18 units per acre (WCC 20.62.066). A density of 17 units per net acre is used for multi-family development in the Suitable Land Tool (same as URM24 and RC zones).

The Birch Bay UGA has estimated net land capacity for population growth of about 297 acres (**Exhibit 21**), with a total estimated potential occupied unit capacity of 1,257 dwelling units. Based on persons per household assumptions, the Birch Bay UGA has an estimated population capacity of 2,950, indicating an estimated population capacity deficit of 1,254 for the 2021-2036 time period (**Exhibit 22**).

Housing Needs by Type

The *Whatcom County Comprehensive Plan* (Chapter 3- Housing, Chart 3 – Estimated Dwelling Units Needed, page 3-8) indicates that the Birch Bay UGA has a need for 3,106

new single-family dwelling units during the 2013-2036 planning period (the Comprehensive Plan does not estimate multifamily housing needs for Birch Bay). The calculation for Chart 3 in the *Whatcom County Comprehensive Plan* included building activity from 2013. Therefore, the analysis below includes permit data from April 1, 2013, even though the planning period for this Buildable Lands Report is from 2016.

- Between April 1, 2013 and March 31, 2021, Whatcom County performed final inspections on 304 single-family and 39 multi-family units in the Birch Bay UGA. Comparing units built and the needs indicated on Chart 3, the Birch Bay UGA needs an additional 2,802 single-family units between 2021 and 2036.
- The Birch Bay UGA has an estimated 2021-2036 capacity for 1,333 single-family and 504 multi-family housing units (**Exhibit 22**).

The capacity to accommodate single family residential housing in the Birch Bay UGA is not sufficient to accommodate the single family dwelling units needed in the planning period as established in the *Whatcom County Comprehensive Plan* (Chapter 3- Housing, Chart 3).

Employment Capacity 2021-2036

Whatcom County is using an average of the small city FARs for future commercial development, since there are limited data on achieved densities in the Birch Bay UGA (**Exhibit 23**).

The Birch Bay UGA has estimated net land capacity for employment growth of 44.3 acres (**Exhibit 24**), with a total estimated potential occupied commercial capacity of 305,008 square feet. Based on square feet per employee assumptions, the Birch Bay UGA has an estimated employment capacity of 573, indicating an estimated employment capacity surplus of 154 for the 2021-2036 time period (**Exhibit 25**).

Regulatory Changes

The County has evaluated development regulations adopted in the review period (April 1, 2016 – March 31, 2021). Only Ordinance 2019-005 could prevent assigned densities from being achieved or impact the quantity of land suitable for development in the remainder of the 20-year planning period (2021-2036). In an e-mail of October 6, 2021, a representative of the Whatcom County Public Works River & Flood Division stated:

. . . the 2019 revisions were done mainly to reflect updated flood study and the most recent just adopted in 2021 was for compliance with building freeboard required for CRS [Community Rating System] credit, nothing to do with 'supply of land'. That being said, the flood study did change the Base Flood Elevations and floodplain boundaries in those areas and the FEMA Biological Opinion does restrict density in the floodplain. . ."

A September 30, 2021 River & Flood Division memo attached to the e-mail states that the Special Flood Hazard Area is:

. . . designated Critical Area and/or Habitat Conservation Area (HCA) per WCC Title-16. As such, creating additional 'buildable' lots within a Critical Area or HCA may be prohibited. For further information reference WCC 16.16.420 – Frequently Flooded Areas. . .

Pursuant to the *Whatcom County Review and Evaluation Program Methodology*, Whatcom County deducted floodplains from the buildable land supply.

Infrastructure Gaps

Whatcom County has reviewed capital facility plans and/or consulted with service providers. Based upon these actions, the County has not identified any infrastructure gaps that would prevent service providers from supplying planned capital facilities to developable land in the Birch Bay UGA within the planning period (2021-2036).

Analysis of Comprehensive Plan Objectives and Reasonable Measures

Residential development in the Birch Bay UGA between 2016 and 2021 has occurred at an overall net density less than anticipated in the *Whatcom County Comprehensive Plan*. Additionally, there is not enough capacity in the Birch Bay UGA, with current density assumptions, to accommodate the projected residential growth in the remaining portion of the planning period (between 2021 and 2036). The single family unit capacity in the Birch Bay UGA is insufficient to accommodate the estimated dwelling units needed between 2021 and 2036. Therefore, reasonable measures are appropriate.

Whatcom County Comprehensive Plan Goal 2P states:

. . . The County should approve new residential developments at overall average net densities as shown below, while respecting unique characteristics of each community:

- Birch Bay – five to ten units per net acre. . .

The overall achieved residential density in the Birch Bay UGA was 4.5 units per net acre during the review period (2016-2021). Lots in the Birch Bay UGA have historically been created at densities that the land owner or developer chose. The UR4 zone has a minimum net density of 4 dwelling units/acre, but this is below the Comprehensive Plan goal of five to ten units per net acre. Several other zones in the UGA do not have minimum density requirements. Increasing residential density, including density in zones that allow single family dwellings, would provide additional capacity for growth within the UGA. Therefore, adjustments to the zoning code are appropriate to better implement the Comprehensive Plan.

The Growth Management Act indicates that one of the purposes of the review and evaluation program is to:

Identify reasonable measures, other than adjusting urban growth areas, that will be taken to comply with the requirements of this chapter. Reasonable measures are those actions necessary to reduce the differences between growth and development assumptions and targets contained in the countywide planning policies and the county and city comprehensive plans with actual development patterns. . . (RCW 36.70A.215(1)(b)).

The Whatcom County Review and Evaluation Program Methodology (February 10, 2022) identifies minimum density requirements and maximum lot sizes as potential reasonable measures (Appendix A). Specifically, the Methodology states:

Zoning ordinances can establish minimum and maximum densities in each zone to ensure that development occurs as envisioned for the community (page 46).

The State Department of Commerce Housing Memorandum: Issues Affecting Housing Availability and Affordability (June 2019) identifies “Reasonable Measures as Tools for Increasing Housing Availability and Affordability” including:

Allow or require small lots (5,000 square feet or less) for single-family neighborhoods within UGAs. Small lots limit sprawl, contribute to the more efficient use of land, and promote densities that can support transit. Small lots also provide expanded housing ownership opportunities to broader income ranges and provide additional variety to available housing types (page 116).

In October 2021, Whatcom County adopted a reasonable measure increasing the allowed density in the UR4 zone in the Birch Bay UGA, if public water and sewer are available and density credits are purchased, from 4 dwellings/acre to 5 dwellings per acre (Ordinance 2021-059). This ordinance also reduced the conventional minimum lot size for residential development in the UR4 zone in the Birch Bay UGA from 8,000 square feet to 4,500 square feet when public water and sewer are available. In November 2017, Whatcom County adopted an ordinance allowing increased density for single family development in the RC zone through the planned unit development process, if density credits are purchased (Ordinance 2017-062). Other potential reasonable measures the County may consider for the Birch Bay UGA include:

- Increasing the minimum net residential density and/or adopting maximum lot size in the UR4 zone (WCC 20.20);
- Adopting minimum net residential density requirements and/or maximum lot size in the URM6 zone (WCC 20.22);
- Adopting minimum net residential density requirements and/or maximum lot size in the GC zone (WCC 20.62); and/or
- Adopting minimum net residential density requirements and/or maximum lot size in the RC zone (WCC 20.64).

The UR4, URM6, GC, and RC zones all allow single family dwelling units.

Residential Development

Exhibit 20. Residential Development, Achieved and Assumed Densities, Birch Bay UGA, 2016-2021

Zoning Designation	Development Type	Acres Developed	Dwelling Units	Achieved Density (Units/Acre)	Density Assumed (Units/Acre)
UR4	Single Family	38.3	168	4.39	4.39
URM6	Single Family	7.6	25	3.31	5.89
	Multifamily	4.6	27	5.89	5.89
URM24	Single Family	N/A	N/A	N/A	10.00
	Multifamily	N/A	N/A	N/A	17.00
RC	Single Family	1.4	12	8.32	8.32
	Multifamily	N/A	N/A	N/A	17.00
GC	Single Family	N/A	N/A	N/A	8.32
	Multifamily	N/A	N/A	N/A	17.00

Sources: Whatcom County, 2022; Community Attributes Inc., 2021.

Note: "Density Assumed" is the assumed density for evaluation of land suitable for development by zone.

Exhibit 21. Residential Land Supply, Birch Bay UGA, 2021-2036

	UGA Total	UR4	URM6	URM24	RC	GC	NC
Vacant Land							
Gross Acres	816.99	471.94	146.62	98.96	62.65	36.82	0.00
Critical Areas	450.86	277.61	43.69	69.51	37.86	22.19	0.00
Future Public Uses	15.80	14.00	0.00	0.00	0.00	1.80	0.00
Infrastructure Gaps	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Quasi-Public Use Deduction	17.52	9.02	5.15	1.47	1.24	0.64	0.00
Infrastructure Deduction	74.76	41.48	22.13	5.30	4.26	1.59	0.00
Market Factor	43.87	22.07	12.86	3.85	3.28	1.80	0.00
Net Acres	214.18	107.77	62.79	18.82	16.01	8.80	0.00
Partially-Used Land							
Gross Acres	232.69	109.12	64.66	0.00	52.63	6.28	0.00
Critical Areas	84.62	48.97	14.24	0.00	20.73	0.69	0.00
Future Public Uses	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Infrastructure Gaps	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Quasi-Public Use Deduction	7.40	3.01	2.52	0.00	1.59	0.28	0.00
Infrastructure Deduction	30.86	13.84	10.84	0.00	5.49	0.69	0.00
Market Factor	29.65	11.69	10.01	0.00	6.70	1.25	0.00
Net Acres	80.16	31.62	27.06	0.00	18.11	3.37	0.00
Underutilized Land							
Gross Acres	4.16	0.00	0.00	0.00	0.00	4.16	0.00
Critical Areas	0.28	0.00	0.00	0.00	0.00	0.28	0.00
Future Public Uses	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Infrastructure Gaps	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Quasi-Public Use Deduction	0.19	0.00	0.00	0.00	0.00	0.19	0.00
Infrastructure Deduction	0.48	0.00	0.00	0.00	0.00	0.48	0.00
Market Factor	0.87	0.00	0.00	0.00	0.00	0.87	0.00
Net Acres	2.34	0.00	0.00	0.00	0.00	2.34	0.00

Sources: Whatcom County, 2022; Community Attributes Inc., 2021.

Exhibit 22. Developable Residential Land Capacity, Birch Bay UGA, 2021-2036

	UGA	UR4	URM6	URM24	RC	GC	NC
Net Developable Residential Acres (Vacant, PU, UU)	296.68	139.39	89.85	18.82	34.12	14.51	0.00
Single Family Developable Acres	249.48	139.39	76.37	9.41	17.06	7.25	-
Assumed Single Family Density (units/acre)		4	6	10	8	8	
Subtotal Single Family Unit Capacity	1,358	612	450	94	142	60	-
Existing Single Family Units	188	67	95	-	4	4	18
Pending Single Family Units	145	-	145	-	-	-	-
Master Planned Single Family Units	-	-	-	-	-	-	-
Subtotal: Net Single Family Unit Capacity	1,333	545	500	94	138	56	-
Potential Occupied Single Family Units	1,000	409	375	71	104	42	-
Single Family Population Capacity	2,380	973	893	168	246	100	-
Multifamily Developable Acres	47.20	-	13.48	9.41	17.06	7.25	-
Assumed Multifamily Density (units/acre)			6	17	17	17	
Subtotal Multifamily Unit Capacity	652	-	79	160	290	123	-
Existing Multifamily Units	148	-	35	-	113	-	-
Pending Multifamily Units	-	-	-	-	-	-	-
Master Planned Multifamily Units	-	-	-	-	-	-	-
Subtotal: Net Multifamily Unit Capacity	504	-	44	160	177	123	-
Potential Occupied Multifamily Units	257	-	22	82	90	63	-
Multifamily Population Capacity	570	-	50	181	200	139	-
Net Dwelling Unit Capacity	1,837	545	544	254	315	179	-
Potential Occupied Dwelling Units	1,257	409	397	152	194	105	-
Population Capacity	2,950	973	943	349	446	239	-
Remaining Population Growth to Accommodate (2021-2036)	4,204						
Population Capacity Surplus (Deficit)	(1,254)						

Sources: Whatcom County, 2022; Community Attributes Inc., 2021.

Commercial and Industrial Development

Exhibit 23. Nonresidential Development, Achieved and Assumed Densities, Birch Bay UGA, 2016-2021

Zoning Designation	Development Type	Acres Developed	Built Square Feet	Achieved Density (FAR)	Assumed Density (FAR)
UR4	Commercial	7.1	3,780	0.01	N/A
RC	Commercial	0.6	368	0.01	0.18
GC	Commercial	4.1	26,480	0.15	0.18
NC	Commercial	N/A	N/A	N/A	0.18

Sources: Whatcom County, 2022; Community Attributes Inc., 2021.

Note: Assumed Density is the assumed density for evaluation of land suitable for development by zone.

Exhibit 24. Developable Nonresidential Land Supply, Birch Bay UGA, 2021-2036

	UGA Total	UR4	URM6	URM24	RC	GC	NC
Vacant Land							
Gross Acres	103.67	0.00	0.00	0.00	6.96	85.91	10.80
Critical Areas	64.19	0.00	0.00	0.00	4.21	51.77	8.21
Future Public Uses	4.20	0.00	0.00	0.00	0.00	4.20	0.00
Infrastructure Gaps	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Quasi-Public Use Deduction	1.76	0.00	0.00	0.00	0.14	1.50	0.13
Infrastructure Deduction	4.44	0.00	0.00	0.00	0.47	3.71	0.26
Market Factor	4.94	0.00	0.00	0.00	0.36	4.20	0.37
Net Acres	24.13	0.00	0.00	0.00	1.78	20.52	1.82
Partially-Used Land							
Gross Acres	20.50	0.00	0.00	0.00	5.85	14.65	0.00
Critical Areas	3.91	0.00	0.00	0.00	2.30	1.60	0.00
Future Public Uses	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Infrastructure Gaps	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Quasi-Public Use Deduction	0.83	0.00	0.00	0.00	0.18	0.65	0.00
Infrastructure Deduction	2.23	0.00	0.00	0.00	0.61	1.62	0.00
Market Factor	3.65	0.00	0.00	0.00	0.74	2.91	0.00
Net Acres	9.88	0.00	0.00	0.00	2.01	7.87	0.00
Underutilized Land							
Gross Acres	17.52	0.00	0.00	0.00	0.00	9.70	7.82
Critical Areas	0.64	0.00	0.00	0.00	0.00	0.64	0.00
Future Public Uses	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Infrastructure Gaps	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Quasi-Public Use Deduction	0.84	0.00	0.00	0.00	0.00	0.45	0.39
Infrastructure Deduction	1.91	0.00	0.00	0.00	0.00	1.12	0.78
Market Factor	3.81	0.00	0.00	0.00	0.00	2.02	1.79
Net Acres	10.31	0.00	0.00	0.00	0.00	5.46	4.85

Sources: Whatcom County, 2022; Community Attributes Inc., 2021.

Exhibit 25. Developable Nonresidential Land Capacity, Birch Bay UGA, 2021-2036

	UGA	UR4	URM6	URM24	RC	GC	NC
Net Developable Employment Acres (Vacant, PU, UU)	44.32	0.00	0.00	0.00	3.79	33.85	6.68
Commercial Developable Acres	44.32	-	-	-	3.79	33.85	6.68
Assumed Commercial Density (FAR)					0.2	0.2	0.2
Subtotal: Commercial Capacity (SF)	355,214	-	-	-	30,387	271,322	53,505
Existing Commercial Space (SF)	70,779	3,848	7,663	-	35,726	21,742	1,800
Pending Commercial Space (SF)	19,776	-	-	-	-	19,776	-
Master Planned Commercial Space (SF)	-	-	-	-	-	-	-
Subtotal: Net Commercial Capacity (SF)	321,061	-	-	-	-	269,356	51,705
Potential Occupied Commercial Space (SF)	305,008	-	-	-	-	255,888	49,120
Commercial Employment Capacity	573	-	-	-	-	481	92
Industrial Developable Acres	-	-	-	-	-	-	-
Assumed Industrial Density (FAR)							
Subtotal: Industrial Capacity (SF)	-	-	-	-	-	-	-
Existing Industrial Space (SF)	43,012	2,402	6,768	-	756	33,086	-
Pending Industrial Space (SF)	-	-	-	-	-	-	-
Master Planned Industrial Space (SF)	-	-	-	-	-	-	-
Subtotal: Net Industrial Capacity (SF)	-	-	-	-	-	-	-
Potential Occupied Industrial Space (SF)	-	-	-	-	-	-	-
Industrial Employment Capacity	-	-	-	-	-	-	-
Net Commercial & Industrial Capacity (SF)	321,061	-	-	-	-	269,356	51,705
Potential Occupied Commercial & Industrial Employment Capacity	305,008	-	-	-	-	255,888	49,120
	573	-	-	-	-	481	92
Remaining Employment Growth to Accommodate (2021-2036)	419						
Employment Capacity Surplus (Deficit)	154						

Sources: Whatcom County, 2022; Community Attributes Inc., 2021.

3. Blaine UGA

The Blaine Urban Growth Area is projected to encompass 9,585 residents and 5,159 employees by 2036. The UGA has a projected growth allocation of 3,838 population and 1,823 employment between 2016 and 2036 (**Exhibit 1** and **Exhibit 2**).

Achieved Growth 2016-2021

Based on permit data collected between 2016 and 2021 and occupancy and persons per household and square feet per employee assumptions, the Blaine UGA grew by an estimated 551 population (91% within the City of Blaine) and 245 employment (100% within the City of Blaine) (**Exhibit 6** and **Exhibit 7**).

Between 2016 and 2021, the City of Blaine achieved densities greater than planned for residential uses, 4.4 units per acre achieved compared to 4.25 average across single family residential zones adopted by the City of Blaine. The achieved density within the incorporated portions of the UGA also fall within the planned densities of 4.0 to 6.0 units per acre adopted in the *Whatcom County Comprehensive Plan* for the City of Blaine (**Exhibit 11**).

The unincorporated portions of the Blaine UGA have an achieved residential density of 4.7 units per acre, matching the densities achieved within incorporated portions of the UGA (**Exhibit 11**).

The City of Blaine has not adopted FARs. However, for purposes of the Data Reporting Tool, Blaine developed FARs based on the bulk, dimensional, and performance standards defined in municipal code for non-residential zones. The City of Blaine developed planned FARs for commercial zones averaging 0.80. Across all commercial development between 2016-2021, the achieved FAR is 0.31. No commercial development occurred during the period in unincorporated areas of the UGA. The average planned FAR for industrial zones is 0.89 for the City of Blaine. Between 2016 and 2021, the achieved FAR is 0.30. No industrial development occurred in the unincorporated portions of the UGA. Whatcom County has not adopted planned densities for commercial or industrial development (**Exhibit 11**).

Population and Employment Assumptions

Specific occupancy rate and population and employment density assumptions for the Blaine UGA are:

- 87.8% Single Family occupancy rate
- 86.9% Multifamily occupancy rate
- 95.0% Commercial and Industrial occupancy rate
- 2.479 Single Family persons per household
- 2.009 Multifamily persons per household
- 531 and 739 respectively Commercial and Industrial square feet per employee

The Blaine UGA has an estimated 3,287 population and 1,578 employment growth remaining to accommodate between 2021 and 2036 (**Exhibit 6** and **Exhibit 7**).

Population Capacity 2021-2036

Based on achieved densities between 2016 and 2021 and planning assumptions, City of Blaine planners are assuming future densities ranging between 3.0 units per acre and 20.0 units per acre for single family residential,

depending on the specific zone. Future density assumptions range between 4.0 and 24.0 units per acre for multifamily zones (**Exhibit 26**).

The Blaine UGA has estimated net land capacity for population growth of 684.97 acres (**Exhibit 27**), with a total estimated potential occupied unit capacity of 4,857 dwelling units. Based on persons per household assumptions, the Blaine UGA has an estimated population capacity of 11,324, indicating an estimated population capacity surplus of 8,037 (**Exhibit 28**).

Housing Needs by Type

The *Whatcom County Comprehensive Plan* (Chapter 3- Housing, Chart 3 – Estimated Dwelling Units Needed, page 3-8) indicates that Blaine has a need for 1,548 single-family and 678 multi-family new dwelling units during the 2013-2036 planning period. The calculation for Chart 3 in the *Whatcom County Comprehensive Plan* included building activity from 2013. Therefore, the analysis below includes permit data from April 1, 2013, even though the planning period for this Buildable Lands Report is from 2016.

- Between April 1, 2013 and March 31, 2021, Blaine issued building permits for 343 single-family/mobile home units, 5 accessory dwelling units, and multi-family

units 179 (this includes duplexes). Comparing units built and the needs indicated on Chart 3, Blaine needs an additional 1,205 single-family/mobile home units and 499 multi-family units between 2021 and 2036.

- The City and unincorporated UGA have an estimated 2021-2036 net capacity for 3,794 single-family and 1,756 multi-family housing units.

These capacities are sufficient to accommodate the dwelling unit types needed in the planning period as established in the Whatcom County Comprehensive Plan (Chapter 3- Housing, Chart 3).

Employment Capacity 2021-2036

Based on achieved densities between 2016 and 2021 and planning assumptions, City of Blaine planners are assuming future commercial FARs ranging between 0.60 and 1.00, depending on the specific zone. Assumed future industrial FARs range between 0.75 and 1.00 (**Exhibit 29**).

The Blaine UGA has estimated net land capacity for employment growth of 165.76 acres (**Exhibit 30**), with a total estimated potential occupied commercial and industrial capacity of 5.38 million square feet. Based on

square feet per employee assumptions, the Blaine UGA has an estimated employment capacity of 8,570, indicating an estimated employment capacity surplus of 6,992 (**Exhibit 31**).

Regulatory Changes

Subsequent to the adoption of the 2016 Comprehensive Plan and through April of 2021, the City of Blaine adopted regulatory changes that either impacted the amount of land available for development or modified the densities and mix of uses allowed on buildable lands. These changes are listed in the Data Reporting Tool worksheet. In summary, those updates include the following:

- Updates to the City's Central Business District zoning designation that allow it to function as an urban village. Examples include zero-lot line setbacks, multi-use and multi-family development, and higher allowable impervious surfaces.
- Adoption of a multi-family tax exemption (MFTE) to encourage the construction of affordable, multi-family housing.
- Updates to the Wharf District Master Plan to permit additional space for

marine commercial and industrial development.

As of the issuance of this report, the City has additionally adopted updates to allow work/live units in the Manufacturing zone, and modified the Highway Commercial “C” zone to permit a greater range of land uses.

The City in early 2022 also adopted legislation to identify the Hearing Examiner as the hearing body for quasi-judicial decisions, ensuring a more predictable and legally sound process for land use decisions. The City will be updating the Critical Areas Ordinance in 2023.

Infrastructure Gaps

Blaine has identified a lack of capacity for sewer service in East Blaine, however the City of Blaine Capital Improvement Plan for Wastewater Utility: 2022-2027 anticipates needed capacity being restored pursuant to the funded “G Street Sewer Improvement – East Blaine Pipe Capacity” project. Subsequent to the improvements being completed in 2022, the City will be able to supply this planned wastewater capital facilities to developable land in the eastern Blaine UGA within the planning period (2021-2036). Additional sewer upgrades under I-5 are identified in the 2022-2027 CIP. The City of Blaine has identified

potential constraints to water availability and capacity. The City has contracted with a consultant to both identify existing capacity and propose recommendations to increase that capacity. As of the writing of this report, the City has determined that if needed, it will consider updates to the 2021 Comprehensive Water System Plan and Capital Facilities Plan to plan and budget for the increased capacity, and therefore the planned densities in the City’s Comprehensive Plan will be realized.

Analysis of Comprehensive Plan Objectives and Reasonable Measures

The City of Blaine has determined that growth targets and assumptions for residential development are being met. Therefore, an analysis of comprehensive plan residential development targets, assumptions, and objectives is not deemed necessary during the reporting cycle.

No inconsistencies between planned and actual residential growth have been identified in the Blaine UGA. Therefore, reasonable measures are not required under RCW 36.70A.215.

The City of Blaine has identified that there are inconsistencies between planned and actual commercial, industrial, and manufacturing growth in the Blaine UGA.

Potential reasonable measures may include the following:

- Updates to the Binding Site Plans requirements. Blaine should consider adopting updates that require the installation of public and private infrastructure as a condition of final binding site plan approval. Binding site plan expiration dates should be modified to align with the timelines for plats.
- Updates the allowed uses in the Manufacturing zoning districts. Blaine should consider adopting updates that would expand allowed uses in the manufacturing zone, subject to appropriate performance standards.

Residential Development

Exhibit 26. Residential Development, Achieved and Assumed Densities, City of Blaine, 2016-2021

Zoning Designation	Development Type	Acres Developed	Dwelling Units	Achieved Density (Units/Acre)	Density Assumed (Units/Acre)
PR	Single Family	3.3	17	5.09	4.00
	Multifamily	N/A	N/A	N/A	4.00
RL	Single Family	9.6	54	5.62	6.00
SF-1	Single Family	1.0	4	4.09	6.00
SF-2	Single Family	2.3	14	6.19	6.00
PC	Single Family	0.2	1	5.42	N/A
RH	Single Family	N/A	N/A	N/A	20.00
	Multifamily	0.5	2	3.72	24.00
RM	Single Family	2.4	14	5.82	6.00
	Multifamily	2.6	28	10.61	12.00
R/O	Single Family	N/A	N/A	N/A	6.00
	Multifamily	N/A	N/A	N/A	24.00
RPR	Single Family	21.0	72	3.42	3.00
CB G-36	Multifamily	N/A	N/A	N/A	20.00
CB G-48	Multifamily	N/A	N/A	N/A	20.00
CB-M	Multifamily	N/A	N/A	N/A	20.00
CB M-48	Multifamily	N/A	N/A	N/A	20.00
CB M-60	Multifamily	N/A	N/A	N/A	20.00
CB-T	Multifamily	N/A	N/A	N/A	20.00
CB TP-60	Multifamily	N/A	N/A	N/A	20.00
CB WV-36	Multifamily	N/A	N/A	N/A	20.00
HCA	Multifamily	N/A	N/A	N/A	20.00
HCb	Multifamily	N/A	N/A	N/A	N/A
HCc	Multifamily	N/A	N/A	N/A	20.00
HCd	Multifamily	N/A	N/A	N/A	20.00
Mpr	Single Family	6.4	36	5.60	5.00
	Multifamily	3.3	18	5.40	12.00

Sources: City of Blaine, 2022; Community Attributes Inc., 2021.

Note: "Density Assumed" is the assumed density for evaluation of land suitable for development by zone. NOTE Assumed densities differ from achieved density

Exhibit 27. Residential Land Supply, Blaine UGA, 2021-2036

	UGA Total	CB-M	CB-T	HCA	Ma	Mb	Mpr	PC	PR	RL	RM	R/O	RPR	SF-1	SF-2	CB TP-60	CB M-60	CB M-48	CB G-36	CB WV-36	HCc	HCd	RH	CB G-48
Vacant Land																								
Gross Acres	818.01	0.00	0.00	0.00	0.00	0.00	0.00	7.74	368.53	109.17	38.43	54.74	216.18	5.18	3.77	2.21	0.31	0.97	2.13	6.00	1.43	0.63	0.52	0.07
Critical Areas	229.19	0.00	0.00	0.00	0.00	0.00	0.00	5.65	48.30	47.05	20.83	49.74	49.74	0.52	0.30	0.68	0.27	0.23	0.10	5.26	0.00	0.00	0.52	0.00
Future Public Uses	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Infrastructure Gaps	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Quasi-Public Use Deduction	29.44	0.00	0.00	0.00	0.00	0.00	0.00	0.10	16.01	3.11	0.88	0.25	8.32	0.23	0.17	0.08	0.00	0.04	0.10	0.04	0.07	0.03	0.00	0.00
Infrastructure Deduction	29.44	0.00	0.00	0.00	0.00	0.00	0.00	0.10	16.01	3.11	0.88	0.25	8.32	0.23	0.17	0.08	0.00	0.04	0.10	0.04	0.07	0.03	0.00	0.00
Market Factor	79.49	0.00	0.00	0.00	0.00	0.00	0.00	0.28	43.23	8.39	2.38	0.68	22.47	0.63	0.47	0.21	0.01	0.10	0.27	0.10	0.19	0.08	0.00	0.01
Net Acres	450.45	0.00	0.00	0.00	0.00	0.00	0.00	1.60	244.98	47.52	13.47	3.83	127.33	3.56	2.65	1.17	0.03	0.57	1.55	0.56	1.09	0.48	0.00	0.05
Partially-Used Land																								
Gross Acres	428.70	0.00	0.00	0.00	0.00	0.00	0.00	3.80	181.35	213.60	9.27	1.40	9.68	0.48	5.18	0.45	0.00	0.71	0.48	0.36	1.01	0.09	0.34	0.49
Critical Areas	86.61	0.00	0.00	0.00	0.00	0.00	0.00	0.58	14.41	68.67	2.33	0.00	0.03	0.00	0.00	0.31	0.00	0.03	0.00	0.01	0.00	0.00	0.24	0.00
Future Public Uses	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Infrastructure Gaps	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Quasi-Public Use Deduction	17.10	0.00	0.00	0.00	0.00	0.00	0.00	0.16	8.35	7.25	0.35	0.07	0.48	0.02	0.26	0.01	0.00	0.03	0.02	0.02	0.05	0.00	0.01	0.02
Infrastructure Deduction	17.10	0.00	0.00	0.00	0.00	0.00	0.00	0.16	8.35	7.25	0.35	0.07	0.48	0.02	0.26	0.01	0.00	0.03	0.02	0.02	0.05	0.00	0.01	0.02
Market Factor	76.97	0.00	0.00	0.00	0.00	0.00	0.00	0.72	37.56	32.61	1.56	0.32	2.17	0.11	1.16	0.03	0.00	0.15	0.11	0.08	0.23	0.02	0.02	0.11
Net Acres	230.91	0.00	0.00	0.00	0.00	0.00	0.00	2.17	112.68	97.83	4.69	0.95	6.51	0.33	3.49	0.09	0.00	0.46	0.32	0.23	0.68	0.06	0.07	0.33
Underutilized Land																								
Gross Acres	5.57	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.40	2.55	0.00	0.00	0.00	0.21	0.16	0.42	0.00	0.00	0.68	0.56	0.00	0.59
Critical Areas	0.21	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.16	0.00	0.00	0.00	0.06	0.00	0.00	0.00
Future Public Uses	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Infrastructure Gaps	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Quasi-Public Use Deduction	0.27	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.02	0.13	0.00	0.00	0.00	0.01	0.00	0.02	0.00	0.00	0.03	0.03	0.00	0.03
Infrastructure Deduction	0.27	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.02	0.13	0.00	0.00	0.00	0.01	0.00	0.02	0.00	0.00	0.03	0.03	0.00	0.03
Market Factor	1.20	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.09	0.57	0.00	0.00	0.00	0.05	0.00	0.09	0.00	0.00	0.14	0.13	0.00	0.13
Net Acres	3.61	0.00	0.00	0.27	1.72	0.00	0.00	0.00	0.14	0.00	0.28	0.00	0.00	0.42	0.38	0.00	0.40							

Sources: City of Blaine, 2022; Whatcom County, 2021; Community Attributes Inc., 2021.

Exhibit 28. Developable Residential Land Capacity, Blaine UGA, 2021 -2036

	UGA	CB-M	CB-T	HCA	Ma	Mb	Mpr	PC	PR	RL	RM	R/O	RPR	SF-1	SF-2	CB TP- 60	CB M- 60	CB M- 48	CB G- 36	CB WV- 36	HCc	HCd	RH	CB G- 48
Net Developable Residential Acres (Vacant, PU, UU)	684.97	0.00	0.00	0.00	0.00	0.00	0.00	3.77	357.66	145.36	18.42	6.49	133.84	3.89	6.15	1.41	0.04	1.31	1.87	0.80	2.19	0.92	0.07	0.79
Single Family Developable Acres	546.67	-	-	-	-	-	-	282.37	145.36	145.36	-	3.25	105.66	3.89	6.15	-	-	-	-	-	-	-	0.00	-
Assumed Single Family Density (units/acre)							5	4	6	6	6	6	3	6	6								20	
Subtotal Single Family Unit Capacity	2,397	-	-	-	-	-	-	1,129	872	-	19	317	23	37	-	-	-	-	-	-	-	-	-	-
Existing Single Family Units	232	-	-	28	2	11	-	58	74	11	5	-	5	13	1	-	-	3	-	8	3	2	4	
Pending Single Family Units	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
Master Planned Single Family Units	1,552	-	-	-	-	-	-	1,177	-	-	-	375	-	-	-	-	-	-	-	-	-	-	-	
Subtotal: Net Single Family Unit Capacity	3,794	-	-	-	-	-	-	2,248	798	-	14	692	18	24	-	-	-	-	-	-	-	-	-	
Potential Occupied Single Family Units	3,331	-	-	-	-	-	-	1,974	701	-	12	608	16	21	-	-	-	-	-	-	-	-	-	
Single Family Population Capacity	8,258	-	-	-	-	-	-	4,893	1,737	-	30	1,506	39	52	-	-	-	-	-	-	-	-	-	
Multifamily Developable Acres	138.30	-	-	-	-	-	-	3.77	75.30	-	18.42	3.25	28.18	-	-	1.41	0.04	1.31	1.87	0.80	2.19	0.92	0.07	0.79
Assumed Multifamily Density (units/acre)		20	20	20			12	18	4		12	24	12			20	20	20	20	20	20	20	24	20
Subtotal Multifamily Unit Capacity	1,194	-	-	-	-	-	-	68	301	-	221	78	338	-	-	28	1	26	37	16	44	18	2	16
Existing Multifamily Units	27	-	-	-	-	-	-	-	3	2	-	8	-	-	4	-	-	2	8	-	-	-	-	-
Pending Multifamily Units	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Master Planned Multifamily Units	583	-	-	-	-	-	220	-	212	-	-	-	151	-	-	-	-	-	-	-	-	-	-	-
Subtotal: Net Multifamily Unit Capacity	1,756	-	-	-	-	-	220	68	510	-	221	70	489	-	-	28	1	24	29	16	44	18	2	16
Potential Occupied Multifamily Units	1,526	-	-	-	-	-	191	59	443	-	192	61	425	-	-	24	1	21	25	14	38	16	2	14
Multifamily Population Capacity	3,066	-	-	-	-	-	384	119	890	-	386	122	854	-	-	49	2	42	51	28	77	31	3	28
Net Dwelling Unit Capacity	5,550	-	-	-	-	-	220	68	2,758	798	221	84	1,181	18	24	28	1	24	29	16	44	18	2	16
Potential Occupied Dwelling Units	4,857	-	-	-	-	-	191	59	2,417	701	192	73	1,033	16	21	24	1	21	25	14	38	16	2	14
Population Capacity	11,324	-	-	-	-	-	384	119	5,783	1,737	386	152	2,360	39	52	49	2	42	51	28	77	31	3	28
Remaining Population Growth to Accommodate (2021-2036)	3,287																							
Population Capacity Surplus (Deficit)	8,037																							

Sources: City of Blaine, 2022; Whatcom County, 2021; Community Attributes Inc., 2021.

Commercial and Industrial Development

Exhibit 29. Nonresidential Development, Achieved and Assumed Densities, City of Blaine, 2016-2021

Zoning Designation	Development Type	Acres Developed	Built Square Feet	Achieved Density (FAR)	Assumed Density (FAR)
PR	Commercial	N/A	N/A	N/A	0.60
PC	Commercial	N/A	N/A	N/A	0.80
R/O	Commercial	N/A	N/A	N/A	0.70
RPR	Commercial	0.5	6,955	0.31	0.70
CB G-36	Commercial	N/A	N/A	N/A	0.85
CB G-48	Commercial	N/A	N/A	N/A	0.85
CB-M	Commercial	0.9	19,644	0.51	1.00
CB M-48	Commercial	N/A	N/A	N/A	1.00
CB M-60	Commercial	N/A	N/A	N/A	1.00
CB-T	Commercial	N/A	N/A	N/A	1.00
CB TP-60	Commercial	N/A	N/A	N/A	1.00
CB WV-36	Commercial	N/A	N/A	N/A	1.00
CB-W	Commercial	3.7	62,296	0.39	1.00
	Industrial	N/A	N/A	N/A	1.00
GW	Commercial	N/A	N/A	N/A	0.90
	Industrial	2.3	22,873	0.23	0.90
HCA	Commercial	1.5	27,685	0.41	0.85
HCb	Commercial	N/A	N/A	N/A	0.85
HCc	Commercial	N/A	N/A	N/A	0.85
HCd	Commercial	N/A	N/A	N/A	0.85
M	Industrial	N/A	N/A	N/A	0.75
Ma	Commercial	N/A	N/A	N/A	0.75
	Industrial	N/A	N/A	N/A	0.75
Mb	Commercial	N/A	N/A	N/A	0.75
	Industrial	N/A	N/A	N/A	0.75
Mc	Commercial	N/A	N/A	N/A	0.75
	Industrial	2.9	43,600	0.35	0.75
Mpr	Commercial	N/A	N/A	N/A	0.70

Sources: City of Blaine, 2022; Community Attributes Inc., 2021.

Note: Assumed Density is the assumed density for evaluation of land suitable for development by zone.

Exhibit 30. Developable Nonresidential Land Supply, Blaine UGA, 2021-2036

	UGA Total	GW	HCA	Ma	Mb	Mc	Mpr	PC	PR	RL	R/O	RPR	CB TP- 60	CB M- 60	CB M- 48	CB G- 36	CB WV- 36	HCb	HCc	HCd	CB G- 48
Vacant Land																					
Gross Acres	262.01	9.05	41.03	15.07	122.02	9.23	0.00	2.58	19.40	0.00	13.69	11.38	0.25	0.08	0.32	0.53	3.01	2.59	1.43	0.63	0.02
Critical Areas	105.40	0.00	24.34	1.83	55.65	0.73	0.00	1.88	2.54	0.00	12.44	2.62	0.08	0.07	0.08	0.03	2.64	0.00	0.00	0.00	0.00
Future Public Uses	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Infrastructure Gaps	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Quasi-Public Use Deduction	7.83	0.45	0.83	0.66	3.32	0.43	0.00	0.03	0.84	0.00	0.06	0.44	0.01	0.00	0.01	0.03	0.02	0.13	0.07	0.03	0.00
Infrastructure Deduction	7.83	0.45	0.83	0.66	3.32	0.43	0.00	0.03	0.84	0.00	0.06	0.44	0.01	0.00	0.01	0.03	0.02	0.13	0.07	0.03	0.00
Market Factor	21.14	1.22	2.25	1.79	8.96	1.15	0.00	0.09	2.28	0.00	0.17	1.18	0.02	0.00	0.03	0.07	0.05	0.35	0.19	0.08	0.00
Net Acres	119.80	6.93	12.76	10.13	50.77	6.50	0.00	0.53	12.89	0.00	0.96	6.70	0.13	0.01	0.19	0.39	0.28	1.98	1.09	0.48	0.01
Partially-Used Land																					
Gross Acres	43.68	15.80	2.93	0.00	4.87	2.76	0.00	1.27	9.54	0.00	0.35	0.51	0.05	0.00	0.24	0.12	0.18	1.63	1.01	0.09	0.12
Critical Areas	10.97	4.58	1.59	0.00	0.71	0.15	0.00	0.19	0.76	0.00	0.00	0.00	0.03	0.00	0.01	0.00	0.01	0.71	0.00	0.00	0.00
Future Public Uses	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Infrastructure Gaps	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Quasi-Public Use Deduction	1.64	0.56	0.07	0.00	0.21	0.13	0.00	0.05	0.44	0.00	0.02	0.03	0.00	0.00	0.01	0.01	0.01	0.05	0.05	0.00	0.01
Infrastructure Deduction	1.64	0.56	0.07	0.00	0.21	0.13	0.00	0.05	0.44	0.00	0.02	0.03	0.00	0.00	0.01	0.01	0.01	0.05	0.05	0.00	0.01
Market Factor	7.36	2.52	0.30	0.00	0.94	0.59	0.00	0.24	1.98	0.00	0.08	0.11	0.00	0.00	0.05	0.03	0.04	0.21	0.23	0.02	0.03
Net Acres	22.08	7.57	0.90	0.00	2.81	1.76	0.00	0.72	5.93	0.00	0.24	0.34	0.01	0.00	0.15	0.08	0.12	0.62	0.68	0.06	0.08
Underutilized Land																					
Gross Acres	64.54	0.30	6.19	13.03	42.07	0.00	0.00	0.00	0.00	0.00	0.64	0.00	0.02	0.04	0.14	0.00	0.00	0.72	0.68	0.56	0.15
Critical Areas	29.17	0.00	2.10	4.45	22.52	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.04	0.00	0.00	0.00	0.00	0.06	0.00	0.00
Future Public Uses	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Infrastructure Gaps	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Quasi-Public Use Deduction	1.77	0.01	0.20	0.43	0.98	0.00	0.00	0.00	0.00	0.00	0.03	0.00	0.00	0.00	0.01	0.00	0.00	0.04	0.03	0.03	0.01
Infrastructure Deduction	1.77	0.01	0.20	0.43	0.98	0.00	0.00	0.00	0.00	0.00	0.03	0.00	0.00	0.00	0.01	0.00	0.00	0.04	0.03	0.03	0.01
Market Factor	7.96	0.07	0.92	1.93	4.40	0.00	0.00	0.00	0.00	0.00	0.14	0.00	0.01	0.00	0.03	0.00	0.00	0.16	0.14	0.13	0.03
Net Acres	23.87	0.20	2.76	5.79	13.20	0.00	0.00	0.00	0.00	0.00	0.43	0.00	0.02	0.00	0.09	0.00	0.00	0.49	0.42	0.38	0.10

Sources: City of Blaine, 2022; Whatcom County, 2021; Community Attributes Inc., 2021.

Exhibit 31. Developable Nonresidential Land Capacity, Blaine UGA, 2021-2036

	UGA	GW	HCA	Ma	Mb	Mc	Mpr	PC	PR	RL	R/O	RPR	CB TP- 60	CB M- 60	CB M- 48	CB G- 36	CB WV- 36	HCb	HCc	HCd	CB G- 48
Net Developable Employment Acres (Vacant, PU, UU)	165.76	14.70	16.42	15.92	66.78	8.27	0.00	1.26	18.82	0.00	1.62	7.04	0.16	0.01	0.44	0.47	0.40	3.08	2.19	0.92	0.20
Commercial Developable Acres	71.97	14.70	16.42	-	-	-	-	1.26	18.82	-	1.62	7.04	0.16	0.01	0.44	0.47	0.40	3.08	2.19	0.92	0.20
Assumed Commercial Density (FAR)		0.9	0.9	0.8	0.8	0.8	0.7	0.8	0.6		0.7	0.7	1.0	1.0	1.0	0.9	1.0	0.9	0.9	0.9	0.9
Subtotal: Commercial Capacity (SF)	2,466,577	576,235	608,115	-	-	-	-	43,790	491,993	-	49,505	214,792	6,825	413	19,010	17,314	17,396	114,111	81,215	33,946	7,290
Existing Commercial Space (SF)	143,180	45,286	13,682	-	-	-	-	17,773	-	160	11,177	-	1,223	2,472	18,393	1,494	2,182	5,640	3,848	2,352	5,945
Pending Commercial Space (SF)	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Master Planned Commercial Space (SF)	225,000	37,000	-	-	-	-	71,000	-	72,000	-	-	45,000	-	-	-	-	-	-	-	-	-
Subtotal: Net Commercial Capacity (SF)	2,558,953	567,949	594,433	-	-	-	71,000	26,017	563,993	-	38,328	259,792	5,602	-	617	15,820	15,214	108,471	77,367	31,594	1,345
Potential Occupied Commercial Space (SF)	2,431,006	539,552	564,711	-	-	-	67,450	24,716	535,793	-	36,412	246,802	5,322	-	586	15,029	14,453	103,047	73,499	30,014	1,278
Commercial Employment Capacity	4,578	1,016	1,063	-	-	-	127	47	1,009	-	69	465	10	-	1	28	27	194	138	57	2
Industrial Developable Acres	93.79	-	-	15.92	66.78	8.27	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Assumed Industrial Density (FAR)		0.9		0.8	0.8	0.8															
Subtotal: Industrial Capacity (SF)	3,094,830	-	-	520,064	2,181,559	270,122	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Existing Industrial Space (SF)	19,761	-	1,044	-	-	200	-	-	-	4,864	-	-	-	-	-	-	-	2,000	-	6,253	-
Pending Industrial Space (SF)	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Master Planned Industrial Space (SF)	10,208	10,208	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Subtotal: Net Industrial Capacity (SF)	3,104,838	10,208	-	520,064	2,181,559	269,922	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Potential Occupied Industrial Space (SF)	2,949,596	9,698	-	494,061	2,072,481	256,426	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Industrial Employment Capacity	3,992	13	-	669	2,804	347	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Net Commercial & Industrial Capacity (SF)	5,663,791	578,157	594,433	520,064	2,181,559	269,922	71,000	26,017	563,993	-	38,328	259,792	5,602	-	617	15,820	15,214	108,471	77,367	31,594	1,345
Potential Occupied Commercial & Industrial Employment Capacity	5,380,602	549,249	564,711	494,061	2,072,481	256,426	67,450	24,716	535,793	-	36,412	246,802	5,322	-	586	15,029	14,453	103,047	73,499	30,014	1,278
Employment Capacity Surplus (Deficit)	8,570	1,029	1,063	669	2,804	347	127	47	1,009	-	69	465	10	-	1	28	27	194	138	57	2
Remaining Employment Growth to Accommodate (2021-2036)	1,578																				
Employment Capacity Surplus (Deficit)	6,992																				

Sources: City of Blaine, 2022; Whatcom County, 2021; Community Attributes Inc., 2021.

4. Cherry Point UGA

The Cherry Point Urban Growth Area is characterized by and planned for industrial uses. This UGA does not have residential zoning or allocated population growth. The UGA has an employment growth allocation of 774 between 2016 and 2036 (**Exhibit 2**).

Achieved Growth 2016-2021

Permit data for the Cherry Point UGA is not a sufficient data source to estimate past employment growth. This is because a major employer in the UGA shutdown in 2020. Additionally, the Cherry Point Urban Growth Area is unique in that many of the building permits are not for the more traditional enclosed industrial buildings that have been permitted in other cities and UGAs (building permits at Cherry Point include equipment, pipe supports, platforms, etc.). Therefore, Whatcom County contracted with Western Washington University to provide an employment growth estimate for the review period (*Employment at Cherry Point, June 2021*). Employment data for 2016 was limited. Therefore, the employment estimate represents growth between 2017 and 2021. Based on these estimates, the Cherry Point UGA declined in employment by 141 (**Exhibit 7**). Cherry Point UGA employment declined between 2016 and 2021 because of job losses

associated with the Alcoa Intalco shutdown in 2020.

Employment Assumptions

Occupancy rate and employment density assumptions for estimating future growth capacity in the Cherry Point UGA are:

- 95.0% Industrial occupancy rate
- 1,779 Industrial square feet per employee

The Cherry Point UGA will need to accommodate 876 more jobs between 2021 and 2036 under current planning assumptions (**Exhibit 7**).

Employment Capacity 2021-2036

The *Whatcom County Comprehensive Plan* does not have adopted industrial planned densities. Between 2016 and 2021 the Cherry Point UGA has seen an overall achieved industrial FAR of 0.11 (**Exhibit 11**).

Based on achieved densities between 2016 and 2021, Whatcom County is assuming future FARs of 0.10 for the HII zone and 0.12 for the LII zone (**Exhibit 32**).

The Cherry Point UGA has estimated net land capacity for employment growth of 1,152 acres (**Exhibit 33**), with a total estimated potential occupied industrial capacity of over 4.6 million square feet. Based on square feet per employee assumptions, the Cherry Point UGA has an estimated future employment capacity of 2,613, indicating an estimated employment capacity surplus of 1,737 (**Exhibit 34**).

Regulatory Changes

The County has evaluated development regulations adopted in the review period (April 1, 2016 - March 31, 2021). Only Ordinance 2019-005 could prevent assigned densities from being achieved or impact the quantity of land suitable for development in the remainder of the 20-year planning period (2021-2036). In an e-mail of October 6, 2021, a representative of the Whatcom County Public Works River & Flood Division stated:

. . . the 2019 revisions were done mainly to reflect updated flood study and the most recent just adopted in 2021 was for compliance with building freeboard required for CRS [Community Rating System] credit, nothing to do with 'supply of land'. That being said, the flood study did change the Base Flood Elevations and floodplain boundaries in those areas and

the FEMA Biological Opinion does restrict density in the floodplain. . .

A September 30, 2021 River & Flood Division memo attached to the e-mail states that the Special Flood Hazard Area is:

. . . designated Critical Area and/or Habitat Conservation Area (HCA) per WCC Title-16. As such, creating additional 'buildable' lots within a Critical Area or HCA may be prohibited. For further information reference WCC 16.16.420 – Frequently Flooded Areas. . .

Pursuant to the *Whatcom County Review and Evaluation Program Methodology*, Whatcom County deducted floodplains from the buildable land supply.

After the end of the review period, the County Council adopted Ordinance 2021-046 prohibiting certain uses and requiring a conditional use permit for certain uses in the Cherry Point UGA. This ordinance also included greenhouse gas provisions in SEPA.

Infrastructure Gaps

Whatcom County has reviewed capital facility plans and/or consulted with service providers. Based upon these actions, the County has not identified any infrastructure gaps that would

prevent service providers from supplying planned capital facilities to developable land in the Cherry Point UGA within the remaining portion of the planning period (2021-2036).

Analysis of Comprehensive Plan Objectives and Reasonable Measures

The Cherry Point UGA experienced negative job growth in the review period because of the Alcoa Intalco shutdown, which resulted in the loss of approximately 662 jobs at this plant (*Employment at Cherry Point, June 2021, page 8*). The shutdown was a business decision by a large corporation based upon a number of factors, including the global business environment. If not for this shutdown, employment growth in the UGA would have outpaced the growth allocated in the Whatcom County Comprehensive Plan.

Whatcom County Comprehensive Plan Policy 7B-1 states:

The Port of Bellingham, serving as the ADO [Associate Development Organization], will work with the cities, the County, Chambers of Commerce, educational institutions, and other groups to assist retention and expansion of existing local businesses and to attract appropriate businesses to Whatcom County. . .

The Port of Bellingham is actively working to recruit a business for the Alcoa Intalco property. A reasonable measure is for the Port of Bellingham to continue the recruitment process until a new tenant is found, in order to facilitate job growth as envisioned in the *Whatcom County Comprehensive Plan* and implement Comprehensive Plan Policy 7B-1.

Commercial and Industrial Development

Exhibit 32. Nonresidential Development, Achieved and Assumed Densities, Cherry Point UGA, 2016-2021

Zoning Designation	Development Type	Acres Developed	Built Square Feet	Achieved Density (FAR)	Assumed Density (FAR)
HII	Industrial	8.8	39,560	0.10	0.10
LII	Industrial	8.0	40,991	0.12	0.12

Sources: Whatcom County, 2022; Community Attributes Inc., 2021.

Note: Assumed Density is the assumed density for evaluation of land suitable for development by zone.

Exhibit 33. Developable Nonresidential Land Supply, Cherry Point UGA, 2021 -2036

	UGA Total	HII	LII
Vacant Land			
Gross Acres	3,834.69	3,765.09	69.60
Critical Areas	2,188.05	2,132.12	55.93
Future Public Uses	10.00	10.00	0.00
Infrastructure Gaps	0.00	0.00	0.00
Quasi-Public Use Deduction	81.83	81.15	0.68
Infrastructure Deduction	163.66	162.30	1.37
Market Factor	313.01	310.39	2.62
Net Acres	1,078.14	1,069.13	9.01
Partially-Used Land			
Gross Acres	148.42	148.42	0.00
Critical Areas	109.30	109.30	0.00
Future Public Uses	0.00	0.00	0.00
Infrastructure Gaps	0.00	0.00	0.00
Quasi-Public Use Deduction	1.96	1.96	0.00
Infrastructure Deduction	3.91	3.91	0.00
Market Factor	10.81	10.81	0.00
Net Acres	22.45	22.45	0.00
Underutilized Land			
Gross Acres	223.24	218.47	4.77
Critical Areas	133.21	130.42	2.79
Future Public Uses	0.00	0.00	0.00
Infrastructure Gaps	0.00	0.00	0.00
Quasi-Public Use Deduction	4.50	4.40	0.10
Infrastructure Deduction	9.00	8.80	0.20
Market Factor	24.87	24.32	0.55
Net Acres	51.65	50.52	1.14

Sources: Whatcom County, 2022; Community Attributes Inc., 2021.

Exhibit 34. Developable Nonresidential Land Capacity, Cherry Point UGA, 2021 -2036

	UGA	HII	LII
Net Developable Employment Acres (Vacant, PU, UU)	1,152.24	1,142.09	10.15
Commercial Developable Acres	-	-	-
Assumed Commercial Density (FAR)	-	-	-
Subtotal: Commercial Capacity (SF)	-	-	-
Existing Commercial Space (SF)	11,328	11,328	-
Pending Commercial Space (SF)	-	-	-
Master Planned Commercial Space (SF)	-	-	-
Subtotal: Net Commercial Capacity (SF)	-	-	-
Potential Occupied Commercial Space (SF)	-	-	-
Commercial Employment Capacity	-	-	-
Industrial Developable Acres	1152.24	1142.09	10.15
Assumed Industrial Density (FAR)	-	0.1	0.1
Subtotal: Industrial Capacity (SF)	5,027,995	4,974,958	53,037
Existing Industrial Space (SF)	134,000	134,000	-
Pending Industrial Space (SF)	-	-	-
Master Planned Industrial Space (SF)	-	-	-
Subtotal: Net Industrial Capacity (SF)	4,893,995	4,840,958	53,037
Potential Occupied Industrial Space (SF)	4,649,295	4,598,910	50,385
Industrial Employment Capacity	2,613	2,585	28
Net Commercial & Industrial Capacity (SF)	4,893,995	4,840,958	53,037
Potential Occupied Commercial & Industrial Employment Capacity	4,649,295	4,598,910	50,385
Remaining Employment Growth to Accommodate (2021-2036)	876		
Employment Capacity Surplus (Deficit)	1,737		

Sources: Whatcom County, 2022; Community Attributes Inc., 2021.

5. Columbia Valley UGA

The Columbia Valley Urban Growth Area, one of three Non-City UGAs, is projected to reach 4,448 total population and 444 employees by 2036. The UGA has projected growth allocations of 1,170 new residents and 312 new jobs between 2016 and 2036 (**Exhibit 1** and **Exhibit 2**).

Achieved Growth 2016-2021

Based on permit data collected between 2016 and 2021, occupancy, persons per household and square feet per employee assumptions, new construction in the Columbia Valley UGA accommodated an estimated 271 new residents and 11 new jobs over this five-year period (**Exhibit 6** and **Exhibit 7**).

The Columbia Valley UGA achieved an overall residential density of 4.9 units per net acre between 2016 and 2021. This is within the range of 4.0 to 6.0 units per net acre planned in the *Whatcom County Comprehensive Plan* (**Exhibit 11**).

Whatcom County has not adopted planned densities for commercial or industrial uses. Between 2016 and 2021, the UGA achieved a commercial FAR of 0.05, and did not have industrial development during the period (**Exhibit 11**). The commercial FAR is based

upon a limited number of commercial building permits (2) issued between April 1, 2016 and March 31, 2021. One of the 2 building permits was in a commercial zone (the other was in a residential zone). The permit in commercial zone was for a new food bank.

Population and Employment Assumptions

Occupancy rate and population and employment assumptions for estimating future growth capacity in the Columbia Valley UGA are:

- 88.0% residential occupancy rate
- 95.0% Commercial and Industrial occupancy rate
- 2.90 persons per household
- 532 and 812 respectively Commercial and Industrial square feet per employee

Population Capacity 2021-2036

The Columbia Valley UGA will need to accommodate 899 more residents and 301 more jobs between 2021 and 2036 under current planning assumptions (**Exhibit 6** and **Exhibit 7**).

Based on achieved densities between 2016 and 2021, Whatcom County is assuming future residential densities of 4.9 units per acre for

both single family and multifamily development (**Exhibit 35**).

The Columbia Valley UGA has estimated net land capacity for population growth of 178.4 acres (**Exhibit 36**), with a total estimated potential occupied unit capacity of 747 dwelling units. Based on persons per household assumptions, the Columbia Valley UGA has an estimated population capacity of 2,167, indicating an estimated population capacity surplus of 1,268 (**Exhibit 37**).

Housing Needs by Type

The *Whatcom County Comprehensive Plan* (Chapter 3- Housing, Chart 3 – Estimated Dwelling Units Needed, page 3-8) indicates that the Columbia Valley UGA has a need for 613 new single-family dwelling units during the 2013-2036 planning period (the Comprehensive Plan does not estimate multifamily housing needs for Columbia Valley). The calculation for Chart 3 in the *Whatcom County Comprehensive Plan* included building activity from 2013. Therefore, the analysis below includes permit data from April 1, 2013, even though the planning period for this Buildable Lands Report is from 2016.

- Between April 1, 2013 and March 31, 2021, Whatcom County performed final inspections on 120 single-family and 0

multi-family units in the Columbia UGA. Comparing units built and the needs indicated on Chart 3, the Columbia Valley UGA needs an additional 493 single-family units between 2021 and 2036.

- The Columbia Valley UGA has an estimated 2021-2036 capacity for 840 single-family and 9 multi-family housing units (**Exhibit 37**).

The capacity to accommodate single family residential housing in the Columbia Valley UGA is sufficient to accommodate the single family dwelling units needed in the planning period as established in the *Whatcom County Comprehensive Plan* (Chapter 3- Housing, Chart 3).

Employment Capacity 2021-2036

Whatcom County is using an average of the small city FARs for future commercial and industrial development, since there is little or no data on achieved densities in the Columbia Valley UGA (**Exhibit 38**).

The Columbia Valley UGA has estimated net land capacity for employment growth of 33.1 acres (**Exhibit 39**), with a total estimated potential occupied commercial and industrial capacity of 278,205 square feet. Based on square feet per employee assumptions, the

UGA has an estimated employment capacity of 420, indicating an estimated employment capacity surplus of 119 (**Exhibit 40**).

Regulatory Changes

The County has evaluated development regulations adopted in the review period (April 1, 2016 – March 31, 2021). No ordinances adopted during the review period have been identified that would prevent assigned densities from being achieved or impact the quantity of land suitable for development in the remainder of the 20-year planning period (2021-2036).

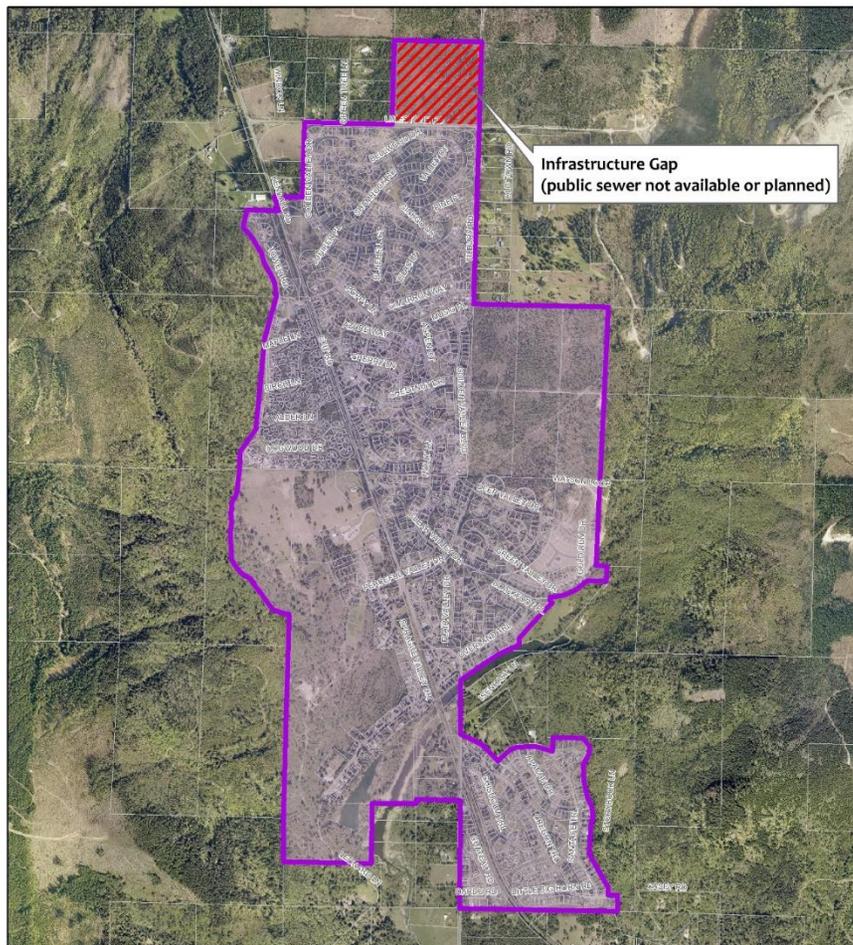
Infrastructure Gaps

Whatcom County has reviewed capital facility plans and/or consulted with service providers. Based upon these actions, the County has the following comments on infrastructure gaps that would prevent service providers from supplying planned capital facilities to developable land in the Columbia Valley UGA within the planning period (2021-2036).

Water District 13 is the only sewer purveyor in the UGA. There is no public sewer in parts of the UGA outside of District 13, including the Planned Industrial area north of Limestone Rd. On-site sewage systems may be used in areas with no sewer, which will

especially affect the Planned Light Impact Industrial Area. A 30% deduction will be taken from the land in the Planned Light Impact Industrial Area to account for the lack of public sewer. A map of the Columbia Valley UGA showing the land area associated with this deduction is provide below. Residential areas located outside District 13 are platted already and have developed with on-site sewage systems.

Additionally, the Water District 13 Sewer Plan will need to be updated to serve planned growth within its boundaries, as the existing Sewer System Plan only plans for projected population and sewer connections through the year 2029.



Columbia Valley UGA - Infrastructure Gaps

Legend

 Columbia Valley UGA

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March 2022
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**Analysis of Comprehensive Plan
Objectives and Reasonable Measures**

The Columbia Valley UGA has experienced slow employment growth between 2016 and 2021. The *Whatcom County Comprehensive Plan* employment projection would suggest that about 78 jobs should be created in the Columbia Valley UGA over a given five-year period (Chapter 1, page 1-8). However, the Data Reporting Tool estimates that only 11 jobs were created in the UGA between 2016 and 2021.

The County rezoned land in the UGA from Urban Residential to General Commercial in 2009 to provide land for business within the UGA. There is also a Planned Light Impact Industrial designation in the northern portion of the UGA, but this site has not yet been rezoned to accommodate industry. Therefore, it is not able to accommodate intensive employment growth at this time. A potential reasonable measure the County could consider is rezoning the Planned Light Impact Industrial area for industrial uses as set forth in the *Foothills Subarea Plan* (pages 2-12, 12-4, 12-5, and 12-10).

Residential Development

Exhibit 35. Residential Development, Achieved and Assumed Densities, Columbia Valley UGA, 2016-2021

Zoning Designation	Development Type	Acres Developed	Dwelling Units	Achieved Density (Units/Acre)	Density Assumed (Units/Acre)
UR4	Single Family	22.2	109	4.91	4.91
GC	Multifamily	N/A	N/A	N/A	4.91

Sources: Whatcom County, 2022; Community Attributes Inc., 2021.

Note: "Density Assumed" is the assumed density for evaluation of land suitable for development by zone.

Exhibit 36. Residential Land Supply, Columbia Valley UGA, 2021 -2036

	UGA Total	UR4	GC	RF
Vacant Land				
Gross Acres	408.37	406.02	2.35	0.00
Critical Areas	101.05	100.94	0.11	0.00
Future Public Uses	3.00	3.00	0.00	0.00
Infrastructure Gaps	0.00	0.00	0.00	0.00
Quasi-Public Use Deduction	15.22	15.10	0.11	0.00
Infrastructure Deduction	69.70	69.48	0.22	0.00
Market Factor	52.66	52.20	0.46	0.00
Net Acres	166.74	165.29	1.45	0.00
Partially-Used Land				
Gross Acres	29.17	29.17	0.00	0.00
Critical Areas	6.53	6.53	0.00	0.00
Future Public Uses	0.00	0.00	0.00	0.00
Infrastructure Gaps	0.00	0.00	0.00	0.00
Quasi-Public Use Deduction	1.13	1.13	0.00	0.00
Infrastructure Deduction	5.21	5.21	0.00	0.00
Market Factor	4.89	4.89	0.00	0.00
Net Acres	11.41	11.41	0.00	0.00
Underutilized Land				
Gross Acres	0.49	0.00	0.49	0.00
Critical Areas	0.00	0.00	0.00	0.00
Future Public Uses	0.00	0.00	0.00	0.00
Infrastructure Gaps	0.00	0.00	0.00	0.00
Quasi-Public Use Deduction	0.02	0.00	0.02	0.00
Infrastructure Deduction	0.05	0.00	0.05	0.00
Market Factor	0.13	0.00	0.13	0.00
Net Acres	0.29	0.00	0.29	0.00

Sources: Whatcom County, 2022; Community Attributes Inc., 2021.

Exhibit 37. Developable Residential Land Capacity, Columbia Valley UGA, 2021 -2036

	UGA	UR4	GC	RF
Net Developable Residential Acres (Vacant, PU, UU)	178.45	176.71	1.74	0.00
Single Family Developable Acres	176.71	176.71	-	-
Assumed Single Family Density (units/acre)		5		
Subtotal Single Family Unit Capacity	868	868	-	-
Existing Single Family Units	87	86	1	-
Pending Single Family Units	58	58	-	-
Master Planned Single Family Units	-	-	-	-
Subtotal: Net Single Family Unit Capacity	840	840	-	-
Potential Occupied Single Family Units	739	739	-	-
Single Family Population Capacity	2,144	2,144	-	-
Multifamily Developable Acres	1.74	-	1.74	-
Assumed Multifamily Density (units/acre)			5	
Subtotal Multifamily Unit Capacity	9	-	9	-
Existing Multifamily Units	-	-	-	-
Pending Multifamily Units	-	-	-	-
Master Planned Multifamily Units	-	-	-	-
Subtotal: Net Multifamily Unit Capacity	9	-	9	-
Potential Occupied Multifamily Units	8	-	8	-
Multifamily Population Capacity	23	-	23	-
Net Dwelling Unit Capacity	849	840	9	-
Potential Occupied Dwelling Units	747	739	8	-
Population Capacity	2,167	2,144	23	-
Remaining Population Growth to Accommodate (2021-2036)	899			
Population Capacity Surplus (Deficit)	1,268			

Sources: Whatcom County, 2022; Community Attributes Inc., 2021.

Commercial and Industrial Development

Exhibit 38. Nonresidential Development, Achieved and Assumed Densities, Columbia Valley UGA, 2016-2021

Zoning Designation	Development Type	Acres Developed	Built Square Feet	Achieved Density (FAR)	Assumed Density (FAR)
UR4	Commercial	0.1	864	0.27	N/A
GC	Commercial	2.6	5,500	0.05	0.18
RF	Industrial	N/A	N/A	N/A	0.22

Sources: Whatcom County, 2022; Community Attributes Inc., 2021.

Note: Assumed Density is the assumed density for evaluation of land suitable for development by zone.

Exhibit 39. Developable Nonresidential Land Supply, Columbia Valley UGA, 2021 -2036

	UGA Total	UR4	GC	RF
Vacant Land				
Gross Acres	59.74	0.00	21.16	38.58
Critical Areas	0.97	0.00	0.97	0.00
Future Public Uses	0.00	0.00	0.00	0.00
Infrastructure Gaps	11.57	0.00	0.00	11.57
Quasi-Public Use Deduction	2.36	0.00	1.01	1.35
Infrastructure Deduction	4.72	0.00	2.02	2.70
Market Factor	9.63	0.00	4.12	5.51
Net Acres	30.49	0.00	13.04	17.45
Partially-Used Land				
Gross Acres	0.00	0.00	0.00	0.00
Critical Areas	0.00	0.00	0.00	0.00
Future Public Uses	0.00	0.00	0.00	0.00
Infrastructure Gaps	0.00	0.00	0.00	0.00
Quasi-Public Use Deduction	0.00	0.00	0.00	0.00
Infrastructure Deduction	0.00	0.00	0.00	0.00
Market Factor	0.00	0.00	0.00	0.00
Net Acres	0.00	0.00	0.00	0.00
Underutilized Land				
Gross Acres	4.43	0.00	4.43	0.00
Critical Areas	0.00	0.00	0.00	0.00
Future Public Uses	0.00	0.00	0.00	0.00
Infrastructure Gaps	0.00	0.00	0.00	0.00
Quasi-Public Use Deduction	0.22	0.00	0.22	0.00
Infrastructure Deduction	0.44	0.00	0.44	0.00
Market Factor	1.13	0.00	1.13	0.00
Net Acres	2.64	0.00	2.64	0.00

Sources: Whatcom County, 2022; Community Attributes Inc., 2021.

Exhibit 40. Developable Nonresidential Land Capacity, Columbia Valley UGA, 2021-2036

	UGA	UR4	GC	RF
Net Developable Employment Acres (Vacant, PU, UU)	33.12	0.00	15.68	17.45
Commercial Developable Acres	15.68	-	15.68	-
Assumed Commercial Density (FAR)			0.2	
Subtotal: Commercial Capacity (SF)	125,658	-	125,658	-
Existing Commercial Space (SF)	-	-	-	-
Pending Commercial Space (SF)	-	-	-	-
Master Planned Commercial Space (SF)	-	-	-	-
Subtotal: Net Commercial Capacity (SF)	125,658	-	125,658	-
Potential Occupied Commercial Space (SF)	119,375	-	119,375	-
Commercial Employment Capacity	224	-	224	-
Industrial Developable Acres	17.45	-	-	17.45
Assumed Industrial Density (FAR)				0.2
Subtotal: Industrial Capacity (SF)	167,189	-	-	167,189
Existing Industrial Space (SF)	-	-	-	-
Pending Industrial Space (SF)	-	-	-	-
Master Planned Industrial Space (SF)	-	-	-	-
Subtotal: Net Industrial Capacity (SF)	167,189	-	-	167,189
Potential Occupied Industrial Space (SF)	158,830	-	-	158,830
Industrial Employment Capacity	196	-	-	196
Net Commercial & Industrial Capacity (SF)	292,847	-	125,658	167,189
Potential Occupied Commercial & Industrial Employment Capacity	278,205	-	119,375	158,830
	420	-	224	196
Remaining Employment Growth to Accommodate (2021-2036)	301			
Employment Capacity Surplus (Deficit)	119			

Sources: Whatcom County, 2022; Community Attributes Inc., 2021.

6. Everson UGA

The Everson Urban Growth Area is projected to reach a total population and employment of 3,907 and 1,312 respectively by 2036. The UGA has projected growth allocation of 1,080 for population and 523 for employment between 2016 and 2036 (**Exhibit 1** and **Exhibit 2**).

Achieved Growth 2016-2021

Based on permit data collected between 2016 and 2021 and occupancy and persons per household and square feet per employee assumptions, the Everson UGA grew by an estimated 317 population (100% within the City of Everson) and 16 employment (79% within the City of Everson) (**Exhibit 6** and **Exhibit 7**).

Between 2016 and 2021, the City of Everson achieved densities greater than planned for residential uses, 4.8 units per acre achieved compared to 4.0 planned based in the *Whatcom County Land Capacity Analysis Report* referenced in the *2016 City of Everson Comprehensive Plan*. This achieved residential density also falls within the planned density range of 4.0 to 6.0 units per acre adopted in the *Whatcom County Comprehensive Plan* for the City of Everson. The unincorporated portions of the Everson UGA have seen no

residential or commercial development between 2016 and 2021 (**Exhibit 11**).

The City of Everson, in the Comprehensive Plan, references commercial and industrial planned densities based on the *Whatcom County Land Capacity Analysis*. Whatcom County has not adopted planned densities for commercial or industrial uses. Planned commercial and industrial FAR for the Everson UGA are 0.20 and 0.30, respectively. Between 2016 and 2021, incorporated areas of the UGA have achieved a commercial FAR of 0.26, exceeding the adopted FAR. No industrial developed has occurred in the City of Everson between 2016 and 2021. Limited industrial development in the unincorporated portion of the UGA achieved a 0.01 FAR (**Exhibit 11**).

Population and Employment Assumptions

Specific occupancy rate and population and employment density assumptions for estimating future growth capacity in the Everson UGA are:

- 97.0% Single Family occupancy rate
- 92.8% Multifamily occupancy rate
- 95.0% Commercial and Industrial occupancy rate

- 3.066 Single Family persons per household
- 2.901 Multifamily persons per household
- 800 and 1,501 respectively Commercial and Industrial square feet per employee

The Everson UGA has an estimated 763 population and 507 employment growth remaining to accommodate between 2021 and 2036 (**Exhibit 6** and **Exhibit 7**).

Population Capacity 2021-2036

The City of Everson is utilizing achieved densities when estimating future residential land capacity. Based on achieved densities between 2016 and 2021 and planning assumptions, City of Everson planners are assuming future single family density of 4.4 units per acre, and 8.5 units per acre for multifamily zones (**Exhibit 41**).

The Everson UGA has estimated net land capacity for population growth of 248.4 acres (**Exhibit 42**), with a total estimated potential occupied unit capacity of 1,203 dwelling units. Based on persons per household assumptions, the UGA has an estimated population capacity of 3,634, indicating an estimated population capacity surplus of 2,871 (**Exhibit 43**).

Housing Needs by Type

The *Whatcom County Comprehensive Plan* (Chapter 3- Housing, Chart 3 – Estimated Dwelling Units Needed, page 3-8) indicates that Everson has a need for 277 single-family, 129 multi-family, and 28 other (“group housing”) new dwelling units during the 2013-2036 planning period. The calculation for Chart 3 in the *Whatcom County Comprehensive Plan* included building activity from 2013. Therefore, the analysis below includes permit data from April 1, 2013, even though the planning period for this Buildable Lands Report is from 2016.

- Between April 1, 2013 and March 31, 2021, Everson issued building permits for 117 single-family and 20 multi-family units. No group housing has been built during this time. Comparing units built and the needs indicated on Chart 3, Everson needs an additional 160 single-family units, 109 multi-family units, and 28 group housing units between 2021 and 2036.
- The City and unincorporated UGA have an estimated 2021-2036 capacity for 904 single-family and 351 multi-family housing units (**Exhibit 43**). The multi-family capacity includes group housing.

These capacities are sufficient to accommodate the dwelling unit types needed in the planning period as established in the Whatcom County Comprehensive Plan (Chapter 3- Housing, Chart 3).

Employment Capacity 2021-2036

The City of Everson is utilizing achieved densities (when available) when estimating future land capacity for employment. Based on achieved densities between 2016 and 2021 and planning assumptions, City of Everson planners are assuming a future commercial FAR of 0.26 and an industrial FAR of 0.30 (**Exhibit 44**).

The Everson UGA has estimated net land capacity for employment growth of 179.4 acres (**Exhibit 45**), with a total estimated potential occupied commercial and industrial capacity of 2.1 million square feet. Based on square feet per employee assumptions, the Everson UGA has an estimated employment capacity of 1,575, indicating an estimated employment capacity surplus of 1,065 (**Exhibit 46**).

Regulatory Changes

The City of Everson has not identified any regulatory changes that would prevent assigned densities from being achieved or impact the quantity of land suitable for

development during the remainder of the planning period.

Infrastructure Gaps

The City of Everson has not identified any infrastructure gaps that would prevent assigned densities from being achieved or impact the quantity of land suitable for development during the remainder of the planning period (2021 to 2036).

Analysis of Comprehensive Plan Objectives and Reasonable Measures

The City of Everson has determined that growth targets and assumptions are being met to a reasonable degree; therefore, an analysis of comprehensive plan development targets, assumptions and objectives is not deemed necessary.

Based on the results presented in the Buildable Land Report, implementation of reasonable measures is not deemed necessary. If in the future it is determined that Reasonable Measures are appropriate, then the following measures could be considered for implementation:

- Increase residential densities by reducing minimum lot sizes in the Residential District above the increases likely to result from

establishment of the Residential-7500
Subzone.

- Increase opportunities for construction of accessory dwelling units (ADUs).

Residential Development

Exhibit 41. Residential Development, Achieved and Assumed Densities, City of Everson, 2016 -2021

Zoning Designation	Development Type	Acres Developed	Dwelling Units	Achieved Density (Units/Acre)	Density Assumed (Units/Acre)
RES	Single Family	20.3	89	4.38	4.38
	Multifamily	0.3	2	7.14	N/A
RES-7500	Single Family	N/A	N/A	N/A	4.38
RMU	Single Family	0.4	3	7.33	N/A
	Multifamily	1.6	14	8.50	8.50

Sources: City of Everson, 2022; Community Attributes Inc., 2021.

Note: "Density Assumed" is the assumed density for evaluation of land suitable for development by zone.

Exhibit 42. Residential Land Supply, Everson UGA, 2021-2036

	UGA Total	RES	RES-7500	RMU	COM	LI
Vacant Land						
Gross Acres	201.31	161.60	0.64	39.07	0.00	0.00
Critical Areas	20.18	20.18	0.00	0.00	0.00	0.00
Future Public Uses	0.00	0.00	0.00	0.00	0.00	0.00
Infrastructure Gaps	0.00	0.00	0.00	0.00	0.00	0.00
Quasi-Public Use Deduction	9.06	7.07	0.03	1.95	0.00	0.00
Infrastructure Deduction	9.06	7.07	0.03	1.95	0.00	0.00
Market Factor	24.45	19.09	0.09	5.27	0.00	0.00
Net Acres	138.57	108.19	0.49	29.89	0.00	0.00
Partially-Used Land						
Gross Acres	214.57	201.09	0.00	13.48	0.00	0.00
Critical Areas	51.84	50.37	0.00	1.48	0.00	0.00
Future Public Uses	0.00	0.00	0.00	0.00	0.00	0.00
Infrastructure Gaps	0.00	0.00	0.00	0.00	0.00	0.00
Quasi-Public Use Deduction	8.14	7.54	0.00	0.60	0.00	0.00
Infrastructure Deduction	8.14	7.54	0.00	0.60	0.00	0.00
Market Factor	36.61	33.91	0.00	2.70	0.00	0.00
Net Acres	109.84	101.74	0.00	8.10	0.00	0.00
Underutilized Land						
Gross Acres	0.00	0.00	0.00	0.00	0.00	0.00
Critical Areas	0.00	0.00	0.00	0.00	0.00	0.00
Future Public Uses	0.00	0.00	0.00	0.00	0.00	0.00
Infrastructure Gaps	0.00	0.00	0.00	0.00	0.00	0.00
Quasi-Public Use Deduction	0.00	0.00	0.00	0.00	0.00	0.00
Infrastructure Deduction	0.00	0.00	0.00	0.00	0.00	0.00
Market Factor	0.00	0.00	0.00	0.00	0.00	0.00
Net Acres	0.00	0.00	0.00	0.00	0.00	0.00

Sources: City of Everson, 2022; Whatcom County, 2021; Community Attributes Inc., 2021.

Exhibit 43. Developable Residential Land Capacity, Everson UGA, 2021-2036

	UGA	RES	RES-7500	RMU	COM	LI
Net Developable Residential Acres (Vacant, PU, UU)	248.41	209.93	0.49	37.99	0.00	0.00
Single Family Developable Acres	210.42	209.93	0.49	-	-	-
Assumed Single Family Density (units/acre)		4	4			
Subtotal Single Family Unit Capacity	921	919	2	-	-	-
Existing Single Family Units	63	37	-	5	16	5
Pending Single Family Units	20	20	-	-	-	-
Master Planned Single Family Units	-	-	-	-	-	-
Subtotal: Net Single Family Unit Capacity	904	902	2	-	-	-
Potential Occupied Single Family Units	877	875	2	-	-	-
Single Family Population Capacity	2,689	2,683	6	-	-	-
Multifamily Developable Acres	37.99	-	-	37.99	-	-
Assumed Multifamily Density (units/acre)				9		
Subtotal Multifamily Unit Capacity	323	-	-	323	-	-
Existing Multifamily Units	-	-	-	-	-	-
Pending Multifamily Units	28	-	-	28	-	-
Master Planned Multifamily Units	-	-	-	-	-	-
Subtotal: Net Multifamily Unit Capacity	351	-	-	351	-	-
Potential Occupied Multifamily Units	326	-	-	326	-	-
Multifamily Population Capacity	945	-	-	945	-	-
Net Dwelling Unit Capacity	1,255	902	2	351	-	-
Potential Occupied Dwelling Units	1,203	875	2	326	-	-
Population Capacity	3,634	2,683	6	945	-	-
Remaining Population Growth to Accommodate (2021-2036)	763					
Population Capacity Surplus (Deficit)	2,871					

Sources: City of Everson, 2022; Whatcom County, 2021; Community Attributes Inc., 2021.

Commercial and Industrial Development

Exhibit 44. Nonresidential Development, Achieved and Assumed Densities, City of Everson, 2016 -2021

Zoning Designation	Development Type	Acres Developed	Built Square Feet	Achieved Density (FAR)	Assumed Density (FAR)
COM	Commercial	0.9	10,825	0.26	0.26
LI	Industrial	N/A	N/A	N/A	0.30

Sources: City of Everson, 2022; Community Attributes Inc., 2021.

Note: Assumed Density is the assumed density for evaluation of land suitable for development by zone.

Exhibit 45. Developable Nonresidential Land Supply, Everson UGA, 2021 -2036

	UGA Total	RES	RES-7500	RMU	COM	LI
Vacant Land						
Gross Acres	175.15	0.00	0.00	0.00	9.89	165.25
Critical Areas	2.52	0.00	0.00	0.00	0.19	2.33
Future Public Uses	0.00	0.00	0.00	0.00	0.00	0.00
Infrastructure Gaps	0.00	0.00	0.00	0.00	0.00	0.00
Quasi-Public Use Deduction	8.63	0.00	0.00	0.00	0.48	8.15
Infrastructure Deduction	8.63	0.00	0.00	0.00	0.48	8.15
Market Factor	23.30	0.00	0.00	0.00	1.31	22.00
Net Acres	132.06	0.00	0.00	0.00	7.42	124.64
Partially-Used Land						
Gross Acres	6.20	0.00	0.00	0.00	3.52	2.68
Critical Areas	0.00	0.00	0.00	0.00	0.00	0.00
Future Public Uses	0.00	0.00	0.00	0.00	0.00	0.00
Infrastructure Gaps	0.00	0.00	0.00	0.00	0.00	0.00
Quasi-Public Use Deduction	0.31	0.00	0.00	0.00	0.18	0.13
Infrastructure Deduction	0.31	0.00	0.00	0.00	0.18	0.13
Market Factor	1.40	0.00	0.00	0.00	0.79	0.60
Net Acres	4.19	0.00	0.00	0.00	2.38	1.81
Underutilized Land						
Gross Acres	79.02	0.00	0.00	0.00	26.46	52.55
Critical Areas	15.01	0.00	0.00	0.00	0.00	15.01
Future Public Uses	0.00	0.00	0.00	0.00	0.00	0.00
Infrastructure Gaps	0.00	0.00	0.00	0.00	0.00	0.00
Quasi-Public Use Deduction	3.20	0.00	0.00	0.00	1.32	1.88
Infrastructure Deduction	3.20	0.00	0.00	0.00	1.32	1.88
Market Factor	14.40	0.00	0.00	0.00	5.95	8.45
Net Acres	43.20	0.00	0.00	0.00	17.86	25.34

Sources: City of Everson, 2022; Whatcom County, 2021; Community Attributes Inc., 2021.

Exhibit 46. Developable Nonresidential Land Capacity, Everson UGA, 2021-2036

	UGA	RES	RES-7500	RMU	COM	LI
Net Developable Employment Acres (Vacant, PU, UU)	179.45	0.00	0.00	0.00	27.66	151.79
Commercial Developable Acres	27.66	-	-	-	27.66	-
Assumed Commercial Density (FAR)					0.3	
Subtotal: Commercial Capacity (SF)	313,283	-	-	-	313,283	-
Existing Commercial Space (SF)	4,592	-	-	-	4,592	-
Pending Commercial Space (SF)	-	-	-	-	-	-
Master Planned Commercial Space (SF)	-	-	-	-	-	-
Subtotal: Net Commercial Capacity (SF)	308,691	-	-	-	308,691	-
Potential Occupied Commercial Space (SF)	293,256	-	-	-	293,256	-
Commercial Employment Capacity	367	-	-	-	367	-
Industrial Developable Acres	151.79	-	-	-	-	151.79
Assumed Industrial Density (FAR)						0.3
Subtotal: Industrial Capacity (SF)	1,983,592	-	-	-	-	1,983,592
Existing Industrial Space (SF)	84,096	-	-	-	9,626	74,470
Pending Industrial Space (SF)	-	-	-	-	-	-
Master Planned Industrial Space (SF)	-	-	-	-	-	-
Subtotal: Net Industrial Capacity (SF)	1,909,122	-	-	-	-	1,909,122
Potential Occupied Industrial Space (SF)	1,813,666	-	-	-	-	1,813,666
Industrial Employment Capacity	1,208	-	-	-	-	1,208
Net Commercial & Industrial Capacity (SF)	2,217,813	-	-	-	308,691	1,909,122
Potential Occupied Commercial & Industrial	2,106,922	-	-	-	293,256	1,813,666
Employment Capacity	1,575	-	-	-	367	1,208
Remaining Employment Growth to Accommodate (2021-2036)	510					
Employment Capacity Surplus (Deficit)	1,065					

Sources: City of Everson, 2022; Whatcom County, 2021; Community Attributes Inc., 2021.

7. Ferndale UGA

The Ferndale Urban Growth Area is the second largest in the County and is projected to reach a total population and employment of 19,591 and 9,372 respectively by 2036. The UGA has projected growth allocation of 5,942 for population and 3,478 for employment between 2016 and 2036 (**Exhibit 1** and **Exhibit 2**).

Achieved Growth 2016-2021

Based on permit data collected between 2016 and 2021 and occupancy and persons per household and square feet per employee assumptions, the Ferndale UGA grew by an estimated 2,287 population (99% within the City) and 1,191 employment (95% within the City) (**Exhibit 6** and **Exhibit 7**).

The City of Ferndale has achieved residential densities of 6.4 units per net acre, a commercial FAR of 0.09, and an industrial FAR of 0.20 between 2016 and 2021. Achieved residential densities are greater than the planned densities for residential within the *Whatcom County Comprehensive Plan* of between 6.0 and 10.0 units per net acre. The City of Ferndale has not adopted commercial or industrial planned densities (**Exhibit 11**).

The unincorporated portions of the Ferndale UGA have an achieved residential density of 0.3 units per acre, based on construction of three dwelling units in the 2016-2021 time period (**Exhibit 11**). Densities within the City limits are consistent with county planned urban densities for the City. The unincorporated areas serve as urban growth potential for future growth after annexation, when city zoning is adopted and public water and sewer provided.

Population and Employment Assumptions

Occupancy rate and population and employment density assumptions for the Ferndale UGA are:

- 96.4% Single Family occupancy rate
- 95.1% Multifamily occupancy rate
- 95.0% Commercial and Industrial occupancy rate
- 2.850 Single Family persons per household
- 2.310 Multifamily persons per household
- 580 and 1,129 respectively Commercial and Industrial square feet per employee

The Ferndale UGA has an estimated 3,661 population and 2,287 employment growth remaining to accommodate between 2021 and 2036 (**Exhibit 6** and **Exhibit 7**).

Population Capacity 2021-2036

Based on achieved densities between 2016 and 2021 and planning assumptions, City of Ferndale planners are assuming future single family density between 5.0 and 7.0 units per acre depending on the zone, and between 7.0 and 15.0 units per acre for multifamily zones (**Exhibit 47**).

The Ferndale UGA has estimated net land capacity for population growth of 561.94 acres (**Exhibit 48**), with a total estimated potential occupied unit capacity of 4,310 dwelling units. Based on persons per household assumptions, the UGA has an estimated population capacity of 10,786, indicating an estimated population capacity surplus of 7,125 (**Exhibit 49**).

Housing Needs by Type

The *Whatcom County Comprehensive Plan* (Chapter 3- Housing, Chart 3 – Estimated Dwelling Units Needed, page 3-8) indicates that Ferndale has a need for 2,024 single-family, 456 multi-family, and 125 other (“group housing”) new dwelling units during the 2013-2036 planning period. The

calculation for Chart 3 in the *Whatcom County Comprehensive Plan* included building activity from 2013. Therefore, the analysis below includes permit data from April 1, 2013, even though the planning period for this Buildable Lands Report is from 2016.

- Between April 1, 2013 and March 31, 2021, Ferndale issued building permits for 938 single-family and 585 multi-family units. No group housing, which in Ferndale are assisted living facilities, has been built during this time. Comparing units built and the needs indicated on Chart 3, Ferndale needs to accommodate an additional 1,086 single-family units and 125 group housing units between 2021 and 2036.
- The City and unincorporated UGA have an estimated 2021-2036 capacity for 2,392 single-family and 1,918 multi-family housing units (**Exhibit 49**). The multi-family capacity includes group housing.

These capacities are sufficient to accommodate the dwelling unit types anticipated in the planning period as established in the *Whatcom County Comprehensive Plan* (Chapter 3- Housing, Chart 3).

Employment Capacity 2021-2036

Based on achieved densities between 2016 and 2021 and planning assumptions, City of Ferndale planners are assuming a future commercial FAR of 0.09 to 0.20 and an industrial FAR of 0.20 (**Exhibit 50**).

The Ferndale UGA has estimated net land capacity for employment growth of 273.49 acres (**Exhibit 51**), with a total estimated potential occupied commercial and industrial capacity of approximately 2.5 million square feet. Based on square feet per employee assumptions, the Ferndale UGA has an estimated employment capacity of 3,484, indicating an estimated employment capacity surplus of 1,197 (**Exhibit 52**).

Regulatory Changes

The City has evaluated development regulations adopted in the review period (April 1, 2016 – March 31, 2021). Only Ordinances 1969 and 1976 could prevent assigned densities from being achieved or impact the quantity of land suitable for development in the remainder of the 20-year planning period (2021-2036). Both ordinances adopted new regulations for stormwater treatment within the City, these regulations may impact the ability to meet densities in the City's

multifamily zones that have minimum gross densities.

During this period of time the City of Ferndale adopted several ordinances that would assist with realizing increased density within the UGA. Ordinance 1995 allowed for the establishment of Accessory Dwelling Units (ADUs) in all of the City's single family zones. Ordinance 2174 further reduced barriers to the establishment of ADUs by eliminating off-street parking and owner occupancy requirements.

The City of Ferndale created new multifamily zones through the adoption of ordinances 2026 and 2098. Ordinance 2026 established the Residential Multifamily Medium Density zone with a minimum density of 10 dwelling units and a maximum density of 30 dwelling units per gross acre. Ordinance 2098 established the Residential Multifamily High Density Zone with a minimum density of 15 dwelling units per gross acre and no maximum density.

The City of Ferndale also adopted ordinance 2173 which allows duplex and single-family attached duplexes in single family residential zones which the City believes will assist infill development with attaining densities at or near the maximum permitted.

Infrastructure Gaps

The City of Ferndale has reviewed capital facility plans and/or consulted with service providers. Based upon these actions, the City has not identified any infrastructure gaps that would prevent service providers from supplying planned capital facilities to developable land in the Ferndale UGA.

Analysis of Comprehensive Plan Objectives and Reasonable Measures

The City of Ferndale has determined that growth targets and assumptions are being met. Therefore, an analysis of comprehensive plan development assumptions, targets, and objectives is not necessary. The City is realizing efficient development of the land within the UGA. The achieved density in the UGA is in part a result of the City establishing minimum densities in all of its residential zones. No inconsistencies between planned and actual growth have been identified in the Ferndale UGA. Therefore, reasonable measures are not required under RCW 36.70A.215.

Residential Development

Exhibit 47. Residential Development, Achieved and Assumed Densities, City of Ferndale, 2016-2021

Zoning Designation	Development Type	Acres Developed	Dwelling Units	Achieved Density (Units/Acre)	Density Assumed (Units/Acre)
RS High	Single Family	N/A	N/A	N/A	7.00
RS Medium	Single Family	N/A	N/A	N/A	6.00
RS Low	Single Family	N/A	N/A	N/A	5.00
MXD	Single Family	N/A	N/A	N/A	7.00
	Multifamily	N/A	N/A	N/A	7.00
RMH	Multifamily	0.4	8	22.22	15.00
RMM	Single Family	3.9	2	0.51	N/A
	Multifamily	6.0	55	9.15	10.00
RO	Multifamily	5.5	38	6.85	7.00
GB	Single Family	2.6	N/A	0.00	N/A
UR	Single Family	0.5	N/A	0.00	N/A
	Multifamily	0.7	12	17.91	15.00
CC	Multifamily	0.3	5	15.36	12.00
RR	Multifamily	N/A	N/A	N/A	15.00

Sources: City of Ferndale, 2022; Community Attributes Inc., 2021.

Note: "Density Assumed" is the assumed density for evaluation of land suitable for development by zone.

Exhibit 48. Residential Land Supply, Ferndale UGA, 2021 -2036

	UGA Total	CC	GB	LI	M	MXD	RMH	RMM	RO	RR	RS High	RS Low	RS Medium	UR
Vacant Land														
Gross Acres	626.73	0.00	0.00	0.00	0.00	159.88	12.31	59.41	12.95	0.00	50.45	219.47	99.91	12.33
Critical Areas	262.06	0.00	0.00	0.00	0.00	69.41	9.78	28.40	9.04	0.00	30.52	67.45	37.60	9.85
Future Public Uses	13.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	10.00	3.00	0.00
Infrastructure Gaps	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Quasi-Public Use Deduction	17.08	0.00	0.00	0.00	0.00	4.52	0.13	1.55	0.20	0.00	1.00	6.60	2.97	0.12
Infrastructure Deduction	17.08	0.00	0.00	0.00	0.00	4.52	0.13	1.55	0.20	0.00	1.00	6.60	2.97	0.12
Market Factor	46.13	0.00	0.00	0.00	0.00	12.21	0.34	4.19	0.53	0.00	2.69	17.82	8.01	0.34
Net Acres	261.39	0.00	0.00	0.00	0.00	69.21	1.94	23.72	2.99	0.00	15.25	101.01	45.38	1.90
Partially-Used Land														
Gross Acres	664.19	0.00	0.00	0.00	0.00	6.06	0.00	6.73	0.44	0.00	40.29	462.56	148.12	0.00
Critical Areas	219.43	0.00	0.00	0.00	0.00	0.97	0.00	0.49	0.00	0.00	24.27	133.83	59.87	0.00
Future Public Uses	5.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	5.00	0.00	0.00
Infrastructure Gaps	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Quasi-Public Use Deduction	19.40	0.00	0.00	0.00	0.00	0.25	0.00	0.31	0.02	0.00	0.80	13.60	4.41	0.00
Infrastructure Deduction	19.40	0.00	0.00	0.00	0.00	0.25	0.00	0.31	0.02	0.00	0.80	13.60	4.41	0.00
Market Factor	87.30	0.00	0.00	0.00	0.00	1.14	0.00	1.40	0.10	0.00	3.60	61.19	19.86	0.00
Net Acres	261.89	0.00	0.00	0.00	0.00	3.43	0.00	4.21	0.30	0.00	10.81	183.58	59.57	0.00
Underutilized Land														
Gross Acres	76.26	0.00	0.00	0.00	0.00	32.61	5.77	27.11	0.00	0.00	0.00	0.00	0.00	10.77
Critical Areas	18.99	0.00	0.00	0.00	0.00	9.25	0.07	5.83	0.00	0.00	0.00	0.00	0.00	3.84
Future Public Uses	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Infrastructure Gaps	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Quasi-Public Use Deduction	2.86	0.00	0.00	0.00	0.00	1.17	0.28	1.06	0.00	0.00	0.00	0.00	0.00	0.35
Infrastructure Deduction	2.86	0.00	0.00	0.00	0.00	1.17	0.28	1.06	0.00	0.00	0.00	0.00	0.00	0.35
Market Factor	12.89	0.00	0.00	0.00	0.00	5.26	1.28	4.79	0.00	0.00	0.00	0.00	0.00	1.56
Net Acres	38.66	0.00	0.00	0.00	0.00	15.77	3.85	14.36	0.00	0.00	0.00	0.00	0.00	4.68

Sources: City of Ferndale, 2022; Whatcom County, 2021; Community Attributes Inc., 2021.

Exhibit 49. Developable Residential Land Capacity, Ferndale UGA, 2021 -2036

	UGA	CC	GB	LI	M	MXD	RMH	RMM	RO	RR	RS High	RS Low	RS Medium	UR
Net Developable Residential Acres (Vacant, PU, UU)	561.94	0.00	0.00	0.00	0.00	88.41	5.78	42.29	3.29	0.00	26.06	284.58	104.95	6.58
Single Family Developable Acres	428.22	-	-	-	-	12.63	-	-	-	-	26.06	284.58	104.95	-
Assumed Single Family Density (units/acre)						7					7	5	6	
Subtotal Single Family Unit Capacity	2,323	-	-	-	-	88	-	-	-	-	182	1,423	630	-
Existing Single Family Units	363	13	51	4	4	19	24	30	1	2	12	80	82	41
Pending Single Family Units	262	3	3	-	-	150	-	-	-	-	6	82	18	-
Master Planned Single Family Units	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Subtotal: Net Single Family Unit Capacity	2,392	3	3	-	-	219	-	-	-	-	176	1,425	566	-
Potential Occupied Single Family Units	2,306	3	3	-	-	211	-	-	-	-	170	1,374	546	-
Single Family Population Capacity	6,572	8	8	-	-	602	-	-	-	-	484	3,915	1,555	-
Multifamily Developable Acres	133.72	-	-	-	-	75.78	5.78	42.29	3.29	-	-	-	-	6.58
Assumed Multifamily Density (units/acre)		12				7	15	10	7	15				15
Subtotal Multifamily Unit Capacity	1,162	-	-	-	-	530	87	423	23	-	-	-	-	99
Existing Multifamily Units	180	4	16	-	-	5	7	131	-	-	-	-	-	17
Pending Multifamily Units	916	149	-	-	-	416	116	190	-	-	-	-	-	45
Master Planned Multifamily Units	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Subtotal: Net Multifamily Unit Capacity	1,918	149	-	-	-	941	196	482	23	-	-	-	-	127
Potential Occupied Multifamily Units	1,824	142	-	-	-	895	186	458	22	-	-	-	-	121
Multifamily Population Capacity	4,214	327	-	-	-	2,067	431	1,059	51	-	-	-	-	279
Net Dwelling Unit Capacity	4,310	152	3	-	-	1,160	196	482	23	-	176	1,425	566	127
Potential Occupied Dwelling Units	4,130	145	3	-	-	1,106	186	458	22	-	170	1,374	546	121
Population Capacity	10,786	335	8	-	-	2,669	431	1,059	51	-	484	3,915	1,555	279
Remaining Population Growth to Accommodate (2021-2036)	3,661													
Population Capacity Surplus (Deficit)	7,125													

Sources: City of Ferndale, 2022; Whatcom County, 2021; Community Attributes Inc., 2021.

Commercial and Industrial Development

Exhibit 50. Nonresidential Development, Achieved and Assumed Densities, City of Ferndale, 2016 -2021

Zoning Designation	Development Type	Acres Developed	Built Square Feet	Achieved Density (FAR)	Assumed Density (FAR)
MXD	Commercial	N/A	N/A	N/A	0.09
RO	Commercial	N/A	N/A	N/A	0.09
GB	Commercial	90.7	307,415	0.08	0.09
	Industrial	39.4	269,619	0.16	0.15
M	Commercial	N/A	N/A	N/A	N/A
	Industrial	N/A	N/A	N/A	0.20
LI	Industrial	5.5	103,994	0.44	0.20
UR	Commercial	0.3	7,061	0.49	0.09
CC	Commercial	0.1	156	0.03	0.50
RR	Commercial	N/A	N/A	N/A	0.15
	Industrial	N/A	N/A	N/A	0.15

Sources: City of Ferndale, 2022; Community Attributes Inc., 2021.

Note: Assumed Density is the assumed density for evaluation of land suitable for development by zone.

Exhibit 51. Developable Nonresidential Land Supply, Ferndale UGA, 2021-2036

	UGA Total	CC	GB	LI	M	MXD	Pub	RMH	RMM	RO	RR	RS Low	RS Medium	UR
Vacant Land														
Gross Acres	609.33	2.61	265.11	47.23	130.31	68.52	8.20	0.00	0.00	3.24	82.73	0.00	0.00	1.37
Critical Areas	279.58	1.72	100.25	31.28	91.63	29.75	1.58	0.00	0.00	2.26	20.01	0.00	0.00	1.09
Future Public Uses	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Infrastructure Gaps	77.98	0.00	77.98	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Quasi-Public Use Deduction	12.59	0.04	4.34	0.80	1.93	1.94	0.33	0.00	0.00	0.05	3.14	0.00	0.00	0.01
Infrastructure Deduction	12.59	0.04	4.34	0.80	1.93	1.94	0.33	0.00	0.00	0.05	3.14	0.00	0.00	0.01
Market Factor	33.99	0.12	11.73	2.15	5.22	5.23	0.89	0.00	0.00	0.13	8.47	0.00	0.00	0.04
Net Acres	192.61	0.68	66.46	12.20	29.59	29.66	5.06	0.00	0.00	0.75	47.98	0.00	0.00	0.21
Partially-Used Land														
Gross Acres	141.41	0.00	105.28	9.19	24.24	2.60	0.00	0.00	0.00	0.11	0.00	0.00	0.00	0.00
Critical Areas	53.74	0.00	38.18	7.02	8.13	0.42	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Future Public Uses	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Infrastructure Gaps	36.18	0.00	36.18	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Quasi-Public Use Deduction	2.57	0.00	1.55	0.11	0.81	0.11	0.00	0.00	0.00	0.01	0.00	0.00	0.00	0.00
Infrastructure Deduction	2.57	0.00	1.55	0.11	0.81	0.11	0.00	0.00	0.00	0.01	0.00	0.00	0.00	0.00
Market Factor	11.58	0.00	6.96	0.49	3.62	0.49	0.00	0.00	0.00	0.02	0.00	0.00	0.00	0.00
Net Acres	34.75	0.00	20.87	1.46	10.87	1.47	0.00	0.00	0.00	0.07	0.00	0.00	0.00	0.00
Underutilized Land														
Gross Acres	213.28	2.29	124.32	39.76	9.30	13.98	0.00	0.00	0.00	0.00	22.45	0.00	0.00	1.20
Critical Areas	68.38	0.23	44.30	16.15	2.77	3.96	0.00	0.00	0.00	0.00	0.55	0.00	0.00	0.43
Future Public Uses	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Infrastructure Gaps	76.56	0.00	76.56	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Quasi-Public Use Deduction	3.42	0.10	0.17	1.18	0.33	0.50	0.00	0.00	0.00	0.00	1.10	0.00	0.00	0.04
Infrastructure Deduction	3.42	0.10	0.17	1.18	0.33	0.50	0.00	0.00	0.00	0.00	1.10	0.00	0.00	0.04
Market Factor	15.38	0.46	0.78	5.31	1.47	2.25	0.00	0.00	0.00	0.00	4.93	0.00	0.00	0.17
Net Acres	46.13	1.39	2.34	15.94	4.41	6.76	0.00	0.00	0.00	0.00	14.78	0.00	0.00	0.52

Sources: City of Ferndale, 2022; Whatcom County, 2021; Community Attributes Inc., 2021.

Exhibit 52. Developable Nonresidential Land Capacity, Ferndale UGA, 2021-2036

	UGA	CC	GB	LI	M	MXD	Pub	RMH	RMM	RO	RR	RS Low	RS Medium	UR
Net Developable Employment Acres (Vacant, PU, UU)	273.49	2.07	89.67	29.60	44.87	37.89	5.06	0.00	0.00	0.82	62.77	0.00	0.00	0.73
Commercial Developable Acres	199.01	2.07	89.67	-	-	37.89	5.06	-	-	0.82	62.77	-	-	0.73
Assumed Commercial Density (FAR)		0.5	0.1			0.1	0.1			0.1	0.2			0.1
Subtotal: Commercial Capacity (SF)	981,204	45,050	351,548	-	-	148,545	19,847	-	-	3,220	410,128	-	-	2,866
Existing Commercial Space (SF)	48,652	9,518	9,839	-	1,700	17,523	-	-	4,610	-	-	-	1,200	4,262
Pending Commercial Space (SF)	742,332	5,000	674,886	-	-	54,446	-	-	-	-	-	-	-	8,000
Master Planned Commercial Space (SF)	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Subtotal: Net Commercial Capacity (SF)	1,683,790	40,532	1,016,595	-	-	185,468	19,847	-	-	3,220	410,128	-	-	8,000
Potential Occupied Commercial Space (SF)	1,599,601	38,505	965,766	-	-	176,195	18,855	-	-	3,059	389,622	-	-	7,600
Commercial Employment Capacity	2,758	66	1,665	-	-	304	33	-	-	5	672	-	-	13
Industrial Developable Acres	74.48	-	-	29.60	44.87	-	-	-	-	-	-	-	-	-
Assumed Industrial Density (FAR)			0.2	0.2	0.2						0.2			
Subtotal: Industrial Capacity (SF)	648,830	-	-	257,902	390,928	-	-	-	-	-	-	-	-	-
Existing Industrial Space (SF)	123,676	-	24,919	4,000	29,076	60,939	-	1,984	-	-	-	1,200	-	1,558
Pending Industrial Space (SF)	246,662	-	215,806	-	30,856	-	-	-	-	-	-	-	-	-
Master Planned Industrial Space (SF)	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Subtotal: Net Industrial Capacity (SF)	862,416	-	215,806	253,902	392,708	-	-	-	-	-	-	-	-	-
Potential Occupied Industrial Space (SF)	819,295	-	205,016	241,207	373,073	-	-	-	-	-	-	-	-	-
Industrial Employment Capacity	726	-	182	214	330	-	-	-	-	-	-	-	-	-
Net Commercial & Industrial Capacity (SF)	2,546,206	40,532	1,232,401	253,902	392,708	185,468	19,847	-	-	3,220	410,128	-	-	8,000
Potential Occupied Commercial & Industrial Employment Capacity	2,418,896	38,505	1,170,781	241,207	373,073	176,195	18,855	-	-	3,059	389,622	-	-	7,600
	3,484	66	1,847	214	330	304	33	-	-	5	672	-	-	13
Remaining Employment Growth to Accommodate (2021-2036)	2,287													
Employment Capacity Surplus (Deficit)	1,197													

Sources: City of Ferndale, 2022; Whatcom County, 2021; Community Attributes Inc., 2021.

8. Lynden UGA

The Lynden Urban Growth Area is projected to reach a total population and employment of 19,275 and 7,103 respectively by 2036. The UGA has projected allocation of 5,568 for population growth and 1,876 for employment growth between 2016 and 2036 (**Exhibit 1** and **Exhibit 2**).

Achieved Growth 2016-2021

Based on permit data collected between 2016 and 2021 and occupancy and persons per household and square feet per employee assumptions, the Lynden UGA grew by an estimated 1,668 people (nearly 100% within the City of Lynden) and 622 jobs (100% within the City) (**Exhibit 6** and **Exhibit 7**).

The City of Lynden has an overall achieved residential density of 7.1 units per acre between 2016 and 2021. Lynden's single-family zones have built out at 4.3 units per acre, its multi-family zones achieved 13.3 units per acre. The overall achieved residential density of 7.1 units per net acre is greater than the adopted planned density of 5.0 units per acre in the *2016 City of Lynden Comprehensive Plan*. The overall achieved residential density also falls within the adopted planned residential density for the City of Lynden of 6.0 to 10.0 units per net acre

in the *Whatcom County Comprehensive Plan* (**Exhibit 11**).

The unincorporated portions of the Lynden UGA have an achieved residential density of 1.7 units per acre (**Exhibit 11**). This density, which is based on construction of one dwelling unit in the 2016-2021 time period, lags county planned urban densities for the City. Land in the UGA, outside of City limits, is currently zoned for Agriculture or urban residential uses. The Agriculture zone does not allow urban densities. This land would need to be rezoned for urban land uses and served with public water and sewer, which typically occurs upon annexation. The urban residential zones in the unincorporated portion of the UGA do not allow urban densities until public water and sewer are available, which typically occurs upon annexation. These unincorporated areas serve as future urban growth potential. Until annexation, they do not have access to City infrastructure or urban densities.

Neither the City of Lynden nor Whatcom County have adopted planned densities for commercial or industrial development. Between 2016 and 2021, commercial development in the City of Lynden achieved an overall FAR of 0.12. Totals for commercial development are skewed by one project – the

construction of the new Lynden Middle School on a 30-acre vacant parcel. That one project accounted for 60% of the built commercial square footage during this time. Industrial development saw an overall FAR of 0.26. This was largely driven by construction associated with Lynden Door, Inc expansion and the new cold storage plants built to store agricultural products. More than 400,000 square feet of new industrial space was built in the city limits during this time. The unincorporated areas of the Lynden UGA did not see any commercial or industrial development (**Exhibit 11**).

Population and Employment Assumptions

Specific occupancy rate and population and employment density assumptions for estimating future growth capacity in the Lynden UGA are:

- 98.0% Single Family occupancy rate
- 95.0% Multifamily occupancy rate
- 95.0% Commercial and Industrial occupancy rate
- 2.88 Single Family persons per household
- 1.70 Multifamily persons per household

- 721 and 1,037 respectively Commercial and Industrial square feet per employee

Based on estimated growth since 2016 and population and employment projections adopted in the *Whatcom County Comprehensive Plan*, the Lynden UGA is expected to accommodate another 3,900 people and 1,254 jobs between 2021 and 2036 (**Exhibit 6** and **Exhibit 7**).

Population Capacity 2021-2036

Based on achieved densities between 2016 and 2021 and planning assumptions, City of Lynden planners are assuming future single family density of 4.0 and 8.0 units per acre depending on the zone. Assumed multifamily densities range between 8.0 and 24.0 units per acre (**Exhibit 53**).

The Lynden UGA has an estimated net land capacity for population growth of 459.5 acres (**Exhibit 54**), with a total estimated potential occupied unit capacity of 3,481 dwelling units. Based on persons per household assumptions, the UGA has an estimated population capacity of 8,467, indicating an estimated population capacity surplus of 4,567 (**Exhibit 55**).

Housing Needs by Type

The *Whatcom County Comprehensive Plan* (Chapter 3- Housing, Chart 3 – Estimated Dwelling Units Needed, page 3-8) indicates that Lynden has a need for 1,887 single-family, 627 multi-family, and 97 other (“group housing”) new dwelling units during the 2013-2036 planning period. The calculation for Chart 3 in the *Whatcom County Comprehensive Plan* included building activity from 2013. Therefore, the analysis below includes permit data from April 1, 2013, even though the planning period for this Buildable Lands Report is from 2016.

- Between April 1, 2013 and March 31, 2021, Lynden issued building permits for 652 single-family and 539 multi-family units. No group housing, which in Lynden are assisted living facilities, has been built during this time. Comparing units built and the needs indicated on Chart 3, Lynden needs an additional 1,235 single-family units, 88 multi-family units, and 97 group housing units between 2021 and 2036.
- The City and unincorporated UGA have an estimated 2021-2036 capacity for 2,204 single-family and 1,391 multi-family housing units (**Exhibit 55**). The multi-family capacity includes group housing.

These capacities are sufficient to accommodate the dwelling unit types needed in the planning period as established in the Whatcom County Comprehensive Plan (Chapter 3- Housing, Chart 3).

Employment Capacity 2021-2036

Looking forward, Lynden is assuming a FAR of 0.184 for future commercial development. This number (0.184) is the average achieved commercial FAR for all the small cities in the County between 2016-2021. Lynden is using this assumption, which is different than its achieved commercial FAR of 0.12 because Lynden’s achieved commercial development data during this time was skewed by the Lynden Middle School project. Additionally, Lynden is assuming a FAR of 0.26 for future industrial development. This is what was achieved for industrial development between 2016-2021 (**Exhibit 56**).

The Lynden UGA has an estimated net land capacity for employment growth of 388.4 acres (**Exhibit 57**), with a total estimated potential occupied commercial and industrial capacity of 4.0 million square feet. Based on square feet per employee assumptions, the Lynden UGA has an estimated employment capacity of 4,038, indicating an estimated employment capacity surplus of 2,784 (**Exhibit 58**).

Regulatory Changes

Since 2016, the City of Lynden has approved several regulatory changes that impact either the amount of land available for development, or the densities and types of development allowed on buildable lands. These regulatory changes are documented in the Data Reporting Tool worksheet.

Three annexations brought more than 90 acres of unincorporated UGA into the City, the largest (80 acres) of which is in the Pepin Creek Subarea, the area expected to house the majority of incoming residents during the remainder of the planning period.

Subsequently, the City adopted the Pepin Creek Subarea Plan which established zoning designations (including the RM-PC zone which is a new multifamily zone), development densities (including minimum density requirements), transportation routes, and recreational and open space opportunities within this 460-acre subarea.

Multiple rezones and Comprehensive Plan Amendments have been approved that are adapting to employment growth needs (i.e. increasing Industrial lands) and, in general, trend toward rezoning land to increase residential densities.

The City updated its Critical Areas Ordinance and Shoreline Master Program, which regulate potential impacts to environmental resources. These regulations restrict development in protected locations, as they establish buffers, setbacks, and the regulatory process for protecting these resources. The City has considered known critical areas and their buffers in its evaluation of population and employment growth and determined that the land supply can still accommodate projected growth during the remainder of the planning period.

Finally, other regulatory updates expanded the allowed types of commercial uses in commercial zones and business parks, incentivized low impact development techniques, and eased restrictions for making an accessory dwelling unit legal on residential properties.

Infrastructure Gaps

The City of Lynden has reviewed capital facility plans and/or consulted with service providers that will provide service for future growth. Based on this review, Lynden has not identified infrastructure gaps that would prevent service providers from supplying planned capital facilities to developable land in the Lynden UGA within the planning period (2021-2036).

**Analysis of Comprehensive Plan
Objectives and Reasonable Measures**

The City of Lynden has determined that growth targets and assumptions are being met. Therefore, an analysis of comprehensive plan development assumptions, targets, and objectives is not necessary. No inconsistencies between planned and actual growth have been identified in the Lynden UGA. Therefore, reasonable measures are not required under RCW 36.70A.215.

Residential Development

Exhibit 53. Residential Development, Achieved and Assumed Densities, City of Lynden, 2016-2021

Zoning Designation	Development Type	Acres Developed	Dwelling Units	Achieved Density (Units/Acre)	Density Assumed (Units/Acre)
RS-100	Single Family	25.9	93	3.59	4.00
	Multifamily	0.4	4	8.97	N/A
RS-84	Single Family	0.4	2	4.82	4.50
RS-72	Single Family	41.8	236	5.65	5.00
RMD	Single Family	8.7	16	1.84	8.00
	Multifamily	0.7	9	12.42	N/A
MH	Single Family	N/A	1	N/A	N/A
RM-1	Single Family	0.5	5	10.90	N/A
	Multifamily	1.7	14	8.36	8.00
RM-2	Single Family	2.1	11	5.29	N/A
	Multifamily	1.5	17	11.01	12.00
RM-3	Single Family	6.4	49	7.60	N/A
	Multifamily	10.0	144	14.34	16.00
RM-4	Multifamily	0.7	12	16.76	24.00
RM-PC	Multifamily	N/A	N/A	N/A	12.00
CSL	Multifamily	3.3	116	35.23	N/A
HBD	Multifamily	0.2	9	50.01	N/A

Sources: City of Lynden, 2022; Community Attributes Inc., 2021.

Note: "Density Assumed" is the assumed density for evaluation of land suitable for development by zone.

Exhibit 54. Residential Land Supply, Lynden UGA, 2021-2036

	UGA Total	RS-100	RS-84	RS-72	RMD	MH	RM-1	RM-2	RM-3	RM-4	RM-PC	CSR	CSL	ID	IBZ
Vacant Land															
Gross Acres	345.52	49.26	0.00	52.72	140.61	0.00	0.42	22.74	0.27	3.82	75.69	0.00	0.00	0.00	0.00
Critical Areas	69.30	19.58	0.00	3.65	19.06	0.00	0.00	8.65	0.00	0.00	18.37	0.00	0.00	0.00	0.00
Future Public Uses	1.28	0.00	0.00	0.00	0.00	0.00	0.00	1.28	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Infrastructure Gaps	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Quasi-Public Use Deduction	13.75	1.48	0.00	2.45	6.08	0.00	0.02	0.64	0.01	0.19	2.87	0.00	0.00	0.00	0.00
Infrastructure Deduction	13.75	1.48	0.00	2.45	6.08	0.00	0.02	0.64	0.01	0.19	2.87	0.00	0.00	0.00	0.00
Market Factor	37.12	4.01	0.00	6.62	16.41	0.00	0.06	1.73	0.04	0.52	7.74	0.00	0.00	0.00	0.00
Net Acres	210.33	22.71	0.00	37.54	92.98	0.00	0.32	9.80	0.20	2.92	43.86	0.00	0.00	0.00	0.00
Partially-Used Land															
Gross Acres	426.03	81.78	0.00	70.51	161.34	19.21	0.00	58.46	29.62	5.11	0.00	0.00	0.00	0.00	0.00
Critical Areas	68.26	13.28	0.00	7.60	4.58	8.69	0.00	18.96	14.71	0.44	0.00	0.00	0.00	0.00	0.00
Future Public Uses	0.28	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.28	0.00	0.00	0.00	0.00	0.00	0.00
Infrastructure Gaps	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Quasi-Public Use Deduction	17.88	3.43	0.00	3.15	7.84	0.53	0.00	1.97	0.73	0.23	0.00	0.00	0.00	0.00	0.00
Infrastructure Deduction	17.88	3.43	0.00	3.15	7.84	0.53	0.00	1.97	0.73	0.23	0.00	0.00	0.00	0.00	0.00
Market Factor	80.44	15.41	0.00	14.15	35.27	2.37	0.00	8.89	3.29	1.05	0.00	0.00	0.00	0.00	0.00
Net Acres	241.31	46.24	0.00	42.46	105.81	7.10	0.00	26.66	9.88	3.15	0.00	0.00	0.00	0.00	0.00
Underutilized Land															
Gross Acres	11.59	0.00	0.00	0.00	0.00	0.00	0.00	1.20	10.38	0.00	0.00	0.00	0.00	0.00	0.00
Critical Areas	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Future Public Uses	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Infrastructure Gaps	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Quasi-Public Use Deduction	0.58	0.00	0.00	0.00	0.00	0.00	0.00	0.06	0.52	0.00	0.00	0.00	0.00	0.00	0.00
Infrastructure Deduction	0.58	0.00	0.00	0.00	0.00	0.00	0.00	0.06	0.52	0.00	0.00	0.00	0.00	0.00	0.00
Market Factor	2.61	0.00	0.00	0.00	0.00	0.00	0.00	0.27	2.34	0.00	0.00	0.00	0.00	0.00	0.00
Net Acres	7.82	0.00	0.00	0.00	0.00	0.00	0.00	0.81	7.01	0.00	0.00	0.00	0.00	0.00	0.00

Sources: City of Lynden, 2022; Community Attributes Inc., 2021.

Exhibit 55. Developable Residential Land Capacity, Lynden UGA, 2021-2036

	UGA	RS-100	RS-84	RS-72	RMD	MH	RM-1	RM-2	RM-3	RM-4	RM-PC	CSR	CSL	ID	IBZ
Net Developable Residential Acres (Vacant, PU, UU)	459.46	68.95	0.00	80.00	198.80	7.10	0.32	37.28	17.09	6.07	43.86	0.00	0.00	0.00	0.00
Single Family Developable Acres	354.85	68.95	-	80.00	198.80	7.10	-	-	-	-	-	-	-	-	-
Assumed Single Family Density (units/acre)		4	5	5	8										
Subtotal Single Family Unit Capacity	2,266	276	-	400	1,590	-	-	-	-	-	-	-	-	-	-
Existing Single Family Units	167	33	-	24	5	29	-	19	12	-	-	23	20	1	1
Pending Single Family Units	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Master Planned Single Family Units	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Subtotal: Net Single Family Unit Capacity	2,204	243	-	376	1,585	-	-	-	-	-	-	-	-	-	-
Potential Occupied Single Family Units	2,160	238	-	368	1,553	-	-	-	-	-	-	-	-	-	-
Single Family Population Capacity	6,221	686	-	1,061	4,474	-	-	-	-	-	-	-	-	-	-
Multifamily Developable Acres	104.62	-	-	-	-	-	0.32	37.28	17.09	6.07	43.86	-	-	-	-
Assumed Multifamily Density (units/acre)							8	12	16	24	12				
Subtotal Multifamily Unit Capacity	1,395	-	-	-	-	-	3	447	273	146	526	-	-	-	-
Existing Multifamily Units	8	-	-	-	-	-	-	4	-	-	-	-	4	-	-
Pending Multifamily Units	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Master Planned Multifamily Units	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Subtotal: Net Multifamily Unit Capacity	1,391	-	-	-	-	-	3	443	273	146	526	-	-	-	-
Potential Occupied Multifamily Units	1,321	-	-	-	-	-	3	421	259	139	500	-	-	-	-
Multifamily Population Capacity	2,246	-	-	-	-	-	5	715	441	236	849	-	-	-	-
Net Dwelling Unit Capacity	3,595	243	-	376	1,585	-	3	443	273	146	526	-	-	-	-
Potential Occupied Dwelling Units	3,481	238	-	368	1,553	-	3	421	259	139	500	-	-	-	-
Population Capacity	8,467	686	-	1,061	4,474	-	5	715	441	236	849	-	-	-	-
Remaining Population Growth to Accommodate (2021-2036)	3,900														
Population Capacity Surplus (Deficit)	4,567														

Sources: City of Lynden, 2022; Community Attributes Inc., 2021.

Commercial and Industrial Development

Exhibit 56. Nonresidential Development, Achieved and Assumed Densities, City of Lynden, 2016-2021

Zoning Designation	Development Type	Acres Developed	Built Square Feet	Achieved Density (FAR)	Assumed Density (FAR)
RS-72	Commercial	30.6	113,444	0.09	N/A
CSR	Commercial	3.0	31,976	0.25	0.18
CSL	Commercial	2.3	36,744	0.36	0.18
HBD	Commercial	N/A	N/A	N/A	0.18
ID	Industrial	16.1	198,000	0.28	0.26
IBZ	Commercial	1.5	8,112	0.13	N/A
	Industrial	15.5	185,818	0.28	0.26
PU	Industrial	3.9	22,000	0.13	N/A

Sources: City of Lynden, 2022; Community Attributes Inc., 2021.

Note: Assumed Density is the assumed density for evaluation of land suitable for development by zone. RS-72 development was a School.

Exhibit 57. Developable Nonresidential Land Supply, Lynden UGA, 2021 -2036

	UGA Total	RS-100	RM-2	RM-3	RM-4	CSR	CSL	HBD	ID	IBZ	PU
Vacant Land											
Gross Acres	299.58	0.00	0.00	0.00	0.00	69.80	17.52	0.00	78.25	134.01	0.00
Critical Areas	16.67	0.00	0.00	0.00	0.00	7.93	5.32	0.00	3.10	0.32	0.00
Future Public Uses	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Infrastructure Gaps	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Quasi-Public Use Deduction	14.15	0.00	0.00	0.00	0.00	3.09	0.61	0.00	3.76	6.68	0.00
Infrastructure Deduction	14.15	0.00	0.00	0.00	0.00	3.09	0.61	0.00	3.76	6.68	0.00
Market Factor	38.19	0.00	0.00	0.00	0.00	8.35	1.65	0.00	10.15	18.05	0.00
Net Acres	216.43	0.00	0.00	0.00	0.00	47.34	9.33	0.00	57.49	102.27	0.00
Partially-Used Land											
Gross Acres	82.26	0.00	0.00	0.00	0.00	39.30	3.66	0.00	31.50	7.80	0.00
Critical Areas	5.75	0.00	0.00	0.00	0.00	4.94	0.00	0.00	0.00	0.81	0.00
Future Public Uses	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Infrastructure Gaps	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Quasi-Public Use Deduction	3.83	0.00	0.00	0.00	0.00	1.72	0.18	0.00	1.57	0.35	0.00
Infrastructure Deduction	3.83	0.00	0.00	0.00	0.00	1.72	0.18	0.00	1.57	0.35	0.00
Market Factor	17.21	0.00	0.00	0.00	0.00	7.73	0.82	0.00	7.09	1.57	0.00
Net Acres	51.64	0.00	0.00	0.00	0.00	23.19	2.47	0.00	21.26	4.72	0.00
Underutilized Land											
Gross Acres	186.70	0.00	0.00	0.00	0.00	82.57	26.22	0.00	62.72	15.19	0.00
Critical Areas	8.51	0.00	0.00	0.00	0.00	7.72	0.79	0.00	0.00	0.00	0.00
Future Public Uses	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Infrastructure Gaps	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Quasi-Public Use Deduction	8.91	0.00	0.00	0.00	0.00	3.74	1.27	0.00	3.14	0.76	0.00
Infrastructure Deduction	8.91	0.00	0.00	0.00	0.00	3.74	1.27	0.00	3.14	0.76	0.00
Market Factor	40.09	0.00	0.00	0.00	0.00	16.84	5.72	0.00	14.11	3.42	0.00
Net Acres	120.28	0.00	0.00	0.00	0.00	50.52	17.17	0.00	42.33	10.25	0.00

Sources: City of Lynden, 2022; Community Attributes Inc., 2021.

Exhibit 58. Developable Nonresidential Land Capacity, Lynden UGA, 2021 -2036

	UGA	RS-100	RM-2	RM-3	RM-4	CSR	CSL	HBD	ID	IBZ	PU
Net Developable Employment Acres (Vacant, PU, UU)	388.35	0.00	0.00	0.00	0.00	121.05	28.97	0.00	121.09	117.24	0.00
Commercial Developable Acres	150.02	-	-	-	-	121.05	28.97	-	-	-	-
Assumed Commercial Density (FAR)						0.2	0.2	0.2			
Subtotal: Commercial Capacity (SF)	1,202,435	-	-	-	-	970,220	232,215	-	-	-	-
Existing Commercial Space (SF)	16,054	-	-	-	-	5,281	1,266	-	-	9,507	-
Pending Commercial Space (SF)	-	-	-	-	-	-	-	-	-	-	-
Master Planned Commercial Space (SF)	-	-	-	-	-	-	-	-	-	-	-
Subtotal: Net Commercial Capacity (SF)	1,195,888	-	-	-	-	964,939	230,949	-	-	-	-
Potential Occupied Commercial Space (SF)	1,136,094	-	-	-	-	916,692	219,402	-	-	-	-
Commercial Employment Capacity	1,575	-	-	-	-	1,271	304	-	-	-	-
Industrial Developable Acres	238.33	-	-	-	-	-	-	-	121.09	117.24	-
Assumed Industrial Density (FAR)									0.3	0.3	
Subtotal: Industrial Capacity (SF)	2,699,209	-	-	-	-	-	-	-	1,371,372	1,327,837	-
Existing Industrial Space (SF)	62,752	14,128	5,568	6,888	6,080	1,200	18,540	-	10,348	-	-
Pending Industrial Space (SF)	-	-	-	-	-	-	-	-	-	-	-
Master Planned Industrial Space (SF)	-	-	-	-	-	-	-	-	-	-	-
Subtotal: Net Industrial Capacity (SF)	2,688,861	-	-	-	-	-	-	-	1,361,024	1,327,837	-
Potential Occupied Industrial Space (SF)	2,554,418	-	-	-	-	-	-	-	1,292,973	1,261,445	-
Industrial Employment Capacity	2,463	-	-	-	-	-	-	-	1,247	1,216	-
Net Commercial & Industrial Capacity (SF)	3,884,749	-	-	-	-	964,939	230,949	-	1,361,024	1,327,837	-
Potential Occupied Commercial & Industrial Employment Capacity	3,690,512	-	-	-	-	916,692	219,402	-	1,292,973	1,261,445	-
Employment Capacity Surplus (Deficit)	2,784	-	-	-	-	1,271	304	-	1,247	1,216	-
Remaining Employment Growth to Accommodate (2021-2036)	1,254										

Sources: City of Lynden, 2022; Community Attributes Inc., 2021.

9. Nooksack UGA

The Nooksack Urban Growth Area is projected to reach a total population and employment of 2,425 and 369 respectively by 2036. The UGA has projected growth allocation of 861 for population and 100 for employment between 2016 and 2036 (**Exhibit 1** and **Exhibit 2**).

Achieved Growth 2016-2021

Based on permit data collected between 2016 and 2021 and occupancy and persons per household and square feet per employee assumptions, the Nooksack UGA grew by an estimated 174 population and 8 employment (100% within the City) (**Exhibit 6** and **Exhibit 7**).

Between 2016 and 2021, the City of Nooksack achieved an overall residential density of 5.1 units per acre. No development occurred within the unincorporated area of the UGA within the period. The *City of Nooksack Comprehensive Plan* has an adopted planned residential density of 4.4 units per acre. The *Whatcom County Comprehensive Plan* has adopted planned residential density of 4.0 to 6.0 units per acre. Achieved residential density within the City of Nooksack exceeded the minimum planned density (**Exhibit 11**).

The City Comprehensive Plan references planned densities for commercial and industrial developed based on the *Whatcom County Land Capacity Analysis*. Whatcom County has not adopted planned densities for commercial or industrial uses. The City achieved a commercial FAR of 0.14, below the planned density of 0.25. The adopted planned industrial FAR is 0.10. No industrial development occurred within the City during the review period (**Exhibit 11**).

Population and Employment Assumptions

Specific occupancy rate and population and employment density assumptions for estimating future growth capacity in the Nooksack UGA are:

- 96.9% Single Family occupancy rate
- 94.5% Multifamily occupancy rate
- 95.0% Commercial and Industrial occupancy rate
- 3.088 Single Family persons per household
- 3.173 Multifamily persons per household
- 605 and 795 respectively Commercial and Industrial square feet per employee

The Nooksack UGA has an estimated 687 population and 92 employment growth

remaining to accommodate between 2021 and 2036 (**Exhibit 6** and **Exhibit 7**).

Population Capacity 2021-2036

The City of Nooksack is utilizing achieved densities (when available) when estimating future residential land capacity. Based on achieved densities between 2016 and 2021 and planning assumptions, City of Nooksack planners are assuming future single family density between 3.9 and 5.9 units per acre for single family residential development. The Nooksack UGA does not include any multifamily zones (**Exhibit 59**).

The Nooksack UGA has estimated net land capacity for population growth of 89.8 acres (**Exhibit 60**), with a total estimated potential occupied unit capacity of 416 dwelling units. Based on persons per household assumptions, the UGA has an estimated population capacity of 1,283, indicating an estimated population capacity surplus of 596 (**Exhibit 61**).

Housing Needs by Type

The *Whatcom County Comprehensive Plan* (Chapter 3- Housing, Chart 3 – Estimated Dwelling Units Needed, page 3-8) indicates that Nooksack has a need for 243 single-family, 48 multi-family, and 49 other (“group housing”) new dwelling units during the 2013-

2036 planning period. The calculation for Chart 3 in the *Whatcom County Comprehensive Plan* included building activity from 2013. Therefore, the analysis below includes permit data from April 1, 2013, even though the planning period for this Buildable Lands Report is from 2016.

- Between April 1, 2013 and March 31, 2021, Nooksack issued building permits for 48 single-family and 10 multi-family units. No group housing has been built during this time. Comparing units built and the needs indicated on Chart 3, Nooksack needs an additional 195 single-family units, 38 multi-family units, and 49 group housing units between 2021 and 2036.
- The City and unincorporated UGA have an estimated 2021-2036 capacity for 425 single-family and 4 multi-family housing units (**Exhibit 61**). The multi-family capacity includes group housing. Given that Nooksack does not have a designated multi-family zoning district and that multi-family development is allowed in the City’s single-family zones, it is anticipated that some of the above single-family capacity will be utilized to accommodate multi-family and group housing needs.

These capacities are sufficient to accommodate the dwelling unit types needed in the planning

period as established in the Whatcom County Comprehensive Plan (Chapter 3- Housing, Chart 3).

Employment Capacity 2021-2036

Based on achieved densities between 2016 and 2021 and planning assumptions, City of Nooksack planners are assuming a future commercial FAR of 0.26 and an industrial FAR of 0.10 (**Exhibit 62**).

The Nooksack UGA has estimated net land capacity for employment growth of 38.5 acres (**Exhibit 63**), with a total estimated potential occupied commercial and industrial capacity of 238,772 square feet. Based on square feet per employee assumptions, the Nooksack UGA has an estimated employment capacity of 355, indicating an estimated employment capacity surplus of 263 (**Exhibit 64**).

Regulatory Changes

The City of Nooksack has not identified any regulatory changes that would prevent assigned densities from being achieved or impact the quantity of land suitable for development during the remainder of the planning period.

Infrastructure Gaps

The City of Nooksack has not identified any infrastructure gaps that would prevent assigned densities from being achieved or impact the quantity of land suitable for development during the remainder of the planning period (2021 to 2036).

Analysis of Comprehensive Plan Objectives and Reasonable Measures

The City of Nooksack has determined that growth targets and assumptions are being met to a reasonable degree; therefore, an analysis of comprehensive plan development targets, assumptions and objectives is not deemed necessary.

Based on the results presented in the Buildable Land Report, implementation of reasonable measures is not deemed necessary. If in the future it is determined that Reasonable Measures are appropriate, then the following measures could be considered for implementation:

- Increase residential densities by reducing minimum lot sizes in the Residential District above the increases likely to result from establishment of the Residential-8600 Subzone.

- Reduce limitations on the placement of multifamily structures in the Residential District.
- Establish a multifamily residential zoning district.
- Increase opportunities for construction of accessory dwelling units (ADUs).

Residential Development

Exhibit 59. Residential Development, Achieved and Assumed Densities, City of Nooksack, 2016 -2021

Zoning Designation	Development Type	Acres Developed	Dwelling Units	Achieved Density (Units/Acre)	Density Assumed (Units/Acre)
RES	Single Family	5.6	22	3.93	3.93
	Multifamily	1.3	10	7.97	N/A
RES-8600	Single Family	4.4	26	5.88	5.88
AG UR	Single Family	N/A	N/A	N/A	4.80

Sources: City of Nooksack, 2022; Community Attributes Inc., 2021.

Note: "Density Assumed" is the assumed density for evaluation of land suitable for development by zone.

Exhibit 60. Residential Land Supply, Nooksack UGA, 2021-2036

	UGA Total	RES	RES-8600	COM	CMD	LI	AG UR
Vacant Land							
Gross Acres	83.36	43.41	9.66	0.00	0.00	0.00	30.29
Critical Areas	28.68	16.68	3.30	0.00	0.00	0.00	8.69
Future Public Uses	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Infrastructure Gaps	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Quasi-Public Use Deduction	2.73	1.34	0.32	0.00	0.00	0.00	1.08
Infrastructure Deduction	2.73	1.34	0.32	0.00	0.00	0.00	1.08
Market Factor	7.38	3.61	0.86	0.00	0.00	0.00	2.92
Net Acres	41.83	20.44	4.87	0.00	0.00	0.00	16.52
Partially-Used Land							
Gross Acres	87.19	86.08	1.10	0.00	0.00	0.00	0.00
Critical Areas	16.08	16.08	0.00	0.00	0.00	0.00	0.00
Future Public Uses	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Infrastructure Gaps	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Quasi-Public Use Deduction	3.56	3.50	0.06	0.00	0.00	0.00	0.00
Infrastructure Deduction	3.56	3.50	0.06	0.00	0.00	0.00	0.00
Market Factor	16.00	15.75	0.25	0.00	0.00	0.00	0.00
Net Acres	48.00	47.25	0.74	0.00	0.00	0.00	0.00
Underutilized Land							
Gross Acres	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Critical Areas	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Future Public Uses	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Infrastructure Gaps	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Quasi-Public Use Deduction	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Infrastructure Deduction	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Market Factor	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Net Acres	0.00	0.00	0.00	0.00	0.00	0.00	0.00

Sources: City of Nooksack, 2022; Whatcom County, 2021; Community Attributes Inc., 2021.

Exhibit 61. Developable Residential Land Capacity, Nooksack UGA, 2021 -2036

	UGA	RES	RES-8600	COM	CMD	LI	AG UR
Net Developable Residential Acres (Vacant, PU, UU)	89.83	67.70	5.61	0.00	0.00	0.00	16.52
Single Family Developable Acres	89.83	67.70	5.61	-	-	-	16.52
Assumed Single Family Density (units/acre)		4	6				5
Subtotal Single Family Unit Capacity	378	266	33	-	-	-	79
Existing Single Family Units	33	21	1	8	2	1	-
Pending Single Family Units	69	8	61	-	-	-	-
Master Planned Single Family Units	-	-	-	-	-	-	-
Subtotal: Net Single Family Unit Capacity	425	253	93	-	-	-	79
Potential Occupied Single Family Units	412	245	90	-	-	-	77
Single Family Population Capacity	1,271	757	278	-	-	-	236
Multifamily Developable Acres	-	-	-	-	-	-	-
Assumed Multifamily Density (units/acre)							
Subtotal Multifamily Unit Capacity	-	-	-	-	-	-	-
Existing Multifamily Units	-	-	-	-	-	-	-
Pending Multifamily Units	4	-	4	-	-	-	-
Master Planned Multifamily Units	-	-	-	-	-	-	-
Subtotal: Net Multifamily Unit Capacity	4	-	4	-	-	-	-
Potential Occupied Multifamily Units	4	-	4	-	-	-	-
Multifamily Population Capacity	12	-	12	-	-	-	-
Net Dwelling Unit Capacity	429	253	97	-	-	-	79
Potential Occupied Dwelling Units	416	245	94	-	-	-	77
Population Capacity	1,283	757	290	-	-	-	236
Remaining Population Growth to Accommodate (2021-2036)	687						
Population Capacity Surplus (Deficit)	596						

Sources: City of Nooksack, 2022; Whatcom County, 2021; Community Attributes Inc., 2021.

Commercial and Industrial Development

Exhibit 62. Nonresidential Development, Achieved and Assumed Densities, City of Nooksack, 2016-2021

Zoning Designation	Development Type	Acres Developed	Built Square Feet	Achieved Density (FAR)	Assumed Density (FAR)
COM	Commercial	0.6	3,765	0.14	0.25
CMD	Commercial	0.2	1,160	0.15	0.25
LI	Industrial	N/A	N/A	N/A	0.10

Sources: City of Nooksack, 2022; Community Attributes Inc., 2021.

Note: Assumed Density is the assumed density for evaluation of land suitable for development by zone.

Exhibit 63. Developable Nonresidential Land Supply, Nooksack UGA, 2021 -2036

	UGA Total	RES	RES-8600	COM	CMD	LI	AG UR
Vacant Land							
Gross Acres	19.96	0.00	0.00	2.10	0.17	17.70	0.00
Critical Areas	0.74	0.00	0.00	0.74	0.00	0.00	0.00
Future Public Uses	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Infrastructure Gaps	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Quasi-Public Use Deduction	0.96	0.00	0.00	0.07	0.01	0.89	0.00
Infrastructure Deduction	0.96	0.00	0.00	0.07	0.01	0.89	0.00
Market Factor	2.60	0.00	0.00	0.18	0.02	2.39	0.00
Net Acres	14.71	0.00	0.00	1.04	0.13	13.54	0.00
Partially-Used Land							
Gross Acres	0.45	0.00	0.00	0.45	0.00	0.00	0.00
Critical Areas	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Future Public Uses	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Infrastructure Gaps	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Quasi-Public Use Deduction	0.02	0.00	0.00	0.02	0.00	0.00	0.00
Infrastructure Deduction	0.02	0.00	0.00	0.02	0.00	0.00	0.00
Market Factor	0.10	0.00	0.00	0.10	0.00	0.00	0.00
Net Acres	0.30	0.00	0.00	0.30	0.00	0.00	0.00
Underutilized Land							
Gross Acres	38.53	0.00	0.00	21.10	0.59	16.83	0.00
Critical Areas	3.73	0.00	0.00	3.73	0.00	0.00	0.00
Future Public Uses	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Infrastructure Gaps	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Quasi-Public Use Deduction	1.74	0.00	0.00	0.87	0.03	0.84	0.00
Infrastructure Deduction	1.74	0.00	0.00	0.87	0.03	0.84	0.00
Market Factor	7.83	0.00	0.00	3.91	0.13	3.79	0.00
Net Acres	23.49	0.00	0.00	11.72	0.40	11.36	0.00

Sources: City of Nooksack, 2022; Whatcom County, 2021; Community Attributes Inc., 2021.

Exhibit 64. Developable Nonresidential Land Capacity, Nooksack UGA, 2021-2036

	UGA	RES	RES-8600	COM	CMD	LI	AG UR
Net Developable Employment Acres (Vacant, PU, UU)	38.50	0.00	0.00	13.07	0.53	24.90	0.00
Commercial Developable Acres	13.59	-	-	13.07	0.53	-	-
Assumed Commercial Density (FAR)				0.3	0.3		
Subtotal: Commercial Capacity (SF)	148,035	-	-	142,288	5,747	-	-
Existing Commercial Space (SF)	-	-	-	-	-	-	-
Pending Commercial Space (SF)	-	-	-	-	-	-	-
Master Planned Commercial Space (SF)	-	-	-	-	-	-	-
Subtotal: Net Commercial Capacity (SF)	148,035	-	-	142,288	5,747	-	-
Potential Occupied Commercial Space (SF)	140,633	-	-	135,174	5,460	-	-
Commercial Employment Capacity	232	-	-	223	9	-	-
Industrial Developable Acres	24.90	-	-	-	-	24.90	-
Assumed Industrial Density (FAR)						0.1	
Subtotal: Industrial Capacity (SF)	108,486	-	-	-	-	108,486	-
Existing Industrial Space (SF)	8,622	-	-	3,440	-	5,182	-
Pending Industrial Space (SF)	-	-	-	-	-	-	-
Master Planned Industrial Space (SF)	-	-	-	-	-	-	-
Subtotal: Net Industrial Capacity (SF)	103,304	-	-	-	-	103,304	-
Potential Occupied Industrial Space (SF)	98,139	-	-	-	-	98,139	-
Industrial Employment Capacity	123	-	-	-	-	123	-
Net Commercial & Industrial Capacity (SF)	251,339	-	-	142,288	5,747	103,304	-
Potential Occupied Commercial & Industrial Employment Capacity	238,772	-	-	135,174	5,460	98,139	-
	355	-	-	223	9	123	-
Remaining Employment Growth to Accommodate (2021-2036)	92						
Employment Capacity Surplus (Deficit)	263						

Sources: City of Nooksack, 2022; Whatcom County, 2021; Community Attributes Inc., 2021.

10. Sumas UGA

The Sumas Urban Growth Area is projected to reach a total population and employment of 2,323 and 1,145 respectively by 2036. The UGA has projected growth allocation of 760 for population and 387 for employment between 2016 and 2036 (**Exhibit 1** and **Exhibit 2**).

Achieved Growth 2016-2021

Based on permit data collected between 2016 and 2021 and occupancy and persons per household and square feet per employee assumptions, the Sumas UGA grew by an estimated 190 population and 65 employment (100% within the City) (**Exhibit 6** and **Exhibit 7**).

Between 2016 and 2021, the City of Sumas achieved an overall residential density of 7.5 units per acre. No development occurred within the unincorporated area of the UGA within the period. The *City of Sumas Comprehensive Plan* has an adopted planned residential density of 4.9 units per acre. The *Whatcom County Comprehensive Plan* has adopted planned residential density of 4.0 to 6.0 units per acre. Achieved residential density within the City of Sumas exceeded both the City and County planned densities (**Exhibit 11**).

The City Comprehensive Plan references planned densities for commercial and industrial developed based on the *Whatcom County Land Capacity Analysis*. Whatcom County has not adopted planned densities for commercial or industrial uses. No commercial development occurred within the City during the review period. The City achieved an industrial FAR of 0.12, exceeding slightly the planned density of 0.11. The adopted planned commercial FAR is 0.22 (**Exhibit 11**).

Population and Employment Assumptions

Specific occupancy rate and population and employment density assumptions for estimating future growth capacity in the Sumas UGA are:

- 95.8% Single Family occupancy rate
- 82.2% Multifamily occupancy rate
- 95.0% Commercial and Industrial occupancy rate
- 3.008 Single Family persons per household
- 2.199 Multifamily persons per household
- 669 and 890 respectively Commercial and Industrial square feet per employee

The Sumas UGA has an estimated 570 population and 322 employment growth

remaining to accommodate between 2021 and 2036 (**Exhibit 6** and **Exhibit 7**).

Population Capacity 2021-2036

Based on achieved densities between 2016 and 2021 and planning assumptions, City of Sumas planners are assuming future single family density between 2.5 and 4.5 units per acre for single family residential development. Assumed density for future multifamily development is 13.5 units per acre (**Exhibit 65**).

The Sumas UGA has estimated net land capacity for population growth of 65.8 acres (**Exhibit 66**), with a total estimated potential occupied unit capacity of 435 dwelling units. Based on persons per household assumptions, the UGA has an estimated population capacity of 1,073, indicating an estimated population capacity surplus of 503 (**Exhibit 67**).

Housing Needs by Type

The *Whatcom County Comprehensive Plan* (Chapter 3- Housing, Chart 3 – Estimated Dwelling Units Needed, page 3-8) indicates that Sumas has a need for 168 single-family, 146 multi-family, and 47 other (“group housing”) new dwelling units during the 2013-2036 planning period. The calculation for Chart 3 in the *Whatcom County*

Comprehensive Plan included building activity from 2013. Therefore, the analysis below includes permit data from April 1, 2013, even though the planning period for this Buildable Lands Report is from 2016.

- Between April 1, 2013 and March 31, 2021, Sumas issued building permits for 57 single-family and 45 multi-family units. No group housing has been built during this time. Comparing units built and the needs indicated on Chart 3, Sumas needs an additional 111 single-family units, 101 multi-family units, and 47 group housing units between 2021 and 2036.
- The City and unincorporated UGA have an estimated 2021-2036 capacity for 151 single-family and 353 multi-family housing units (**Exhibit 67**). The multi-family capacity includes group housing.

These capacities are sufficient to accommodate the dwelling unit types needed in the planning period as established in the Whatcom County Comprehensive Plan (Chapter 3- Housing, Chart 3).

Employment Capacity 2021-2036

The City of Sumas is utilizing achieved densities (when available) when estimating future land capacity. Based on achieved

densities between 2016 and 2021 and planning assumptions, City of Sumas planners are assuming a future commercial FAR between 0.22 and 0.50 depending on the specific zone and an industrial FAR of 0.12 (**Exhibit 68**).

The Sumas UGA has estimated net land capacity for employment growth of 110.6 acres (**Exhibit 69**), with a total estimated potential occupied commercial and industrial capacity of 601,950 square feet. Based on square feet per employee assumptions, the Sumas UGA has an estimated employment capacity of 758, indicating an estimated employment capacity surplus of 436 (**Exhibit 70**).

Regulatory Changes

The City of Sumas has not identified any regulatory changes that would prevent assigned densities from being achieved or impact the quantity of land suitable for development during the remainder of the planning period.

Infrastructure Gaps

The City of Sumas has not identified any infrastructure gaps that would prevent assigned densities from being achieved or impact the quantity of land suitable for development during the remainder of the planning period (2021 to 2036).

Analysis of Comprehensive Plan Objectives and Reasonable Measures

The City of Sumas has determined that growth targets and assumptions are being met to a reasonable degree; therefore, an analysis of comprehensive plan development targets, assumptions and objectives is not deemed necessary.

Based on the results presented in the Buildable Land Report, implementation of reasonable measures is not deemed necessary. If in the future it is determined that Reasonable Measures are appropriate, then the following measures could be considered for implementation:

- Increase residential densities by reducing minimum lot sizes in the Residential, Low-Density zoning district.
- Reduce conditional use permitting requirements for construction of multifamily structures in the Residential, High-Density zoning district.
- Increase opportunities for construction of accessory dwelling units (ADUs).

Residential Development

Exhibit 65. Residential Development, Achieved and Assumed Densities, City of Sumas, 2016-2021

Zoning Designation	Development Type	Acres Developed	Dwelling Units	Achieved Density (Units/Acre)	Density Assumed (Units/Acre)
RES LOW	Single Family	0.8	2	2.44	2.50
RES MED	Single Family	5.5	27	4.91	4.50
RES HIGH	Single Family	2.5	12	4.77	N/A
	Multifamily	1.8	36	19.54	13.50
BUS GEN	Multifamily	0.1	4	44.44	N/A

Sources: City of Sumas, 2022; Community Attributes Inc., 2021.

Note: "Density Assumed" is the assumed density for evaluation of land suitable for development by zone.

Exhibit 66. Residential Land Supply, Sumas UGA, 2021-2036

	UGA Total	RES LOW	RES MED	RES HIGH	BUS GEN	LI	BUS TO	BUS LOW
Vacant Land								
Gross Acres	69.68	4.36	24.36	40.95	0.00	0.00	0.00	0.00
Critical Areas	27.26	2.80	3.96	20.50	0.00	0.00	0.00	0.00
Future Public Uses	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Infrastructure Gaps	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Quasi-Public Use Deduction	2.12	0.08	1.02	1.02	0.00	0.00	0.00	0.00
Infrastructure Deduction	2.12	0.08	1.02	1.02	0.00	0.00	0.00	0.00
Market Factor	5.73	0.21	2.75	2.76	0.00	0.00	0.00	0.00
Net Acres	32.45	1.19	15.61	15.65	0.00	0.00	0.00	0.00
Partially-Used Land								
Gross Acres	84.72	38.38	25.39	20.94	0.00	0.00	0.00	0.00
Critical Areas	35.27	16.40	13.52	5.35	0.00	0.00	0.00	0.00
Future Public Uses	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Infrastructure Gaps	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Quasi-Public Use Deduction	2.47	1.10	0.59	0.78	0.00	0.00	0.00	0.00
Infrastructure Deduction	2.47	1.10	0.59	0.78	0.00	0.00	0.00	0.00
Market Factor	11.13	4.95	2.67	3.51	0.00	0.00	0.00	0.00
Net Acres	33.38	14.84	8.01	10.52	0.00	0.00	0.00	0.00
Underutilized Land								
Gross Acres	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Critical Areas	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Future Public Uses	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Infrastructure Gaps	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Quasi-Public Use Deduction	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Infrastructure Deduction	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Market Factor	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Net Acres	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00

Sources: City of Sumas, 2022; Whatcom County, 2021; Community Attributes Inc., 2021.

Exhibit 67. Developable Residential Land Capacity, Sumas UGA, 2021 -2036

	UGA	RES LOW	RES MED	RES HIGH	BUS GEN	LI	BUS TO	BUS LOW
Net Developable Residential Acres (Vacant, PU, UU)	65.83	16.03	23.63	26.17	0.00	0.00	0.00	0.00
Single Family Developable Acres	39.66	16.03	23.63	-	-	-	-	-
Assumed Single Family Density (units/acre)		3	5					
Subtotal Single Family Unit Capacity	146	40	106	-	-	-	-	-
Existing Single Family Units	38	6	7	9	13	2	-	1
Pending Single Family Units	18	-	18	-	-	-	-	-
Master Planned Single Family Units	-	-	-	-	-	-	-	-
Subtotal: Net Single Family Unit Capacity	151	34	117	-	-	-	-	-
Potential Occupied Single Family Units	145	33	112	-	-	-	-	-
Single Family Population Capacity	435	98	337	-	-	-	-	-
Multifamily Developable Acres	26.17	-	-	26.17	-	-	-	-
Assumed Multifamily Density (units/acre)				14				
Subtotal Multifamily Unit Capacity	353	-	-	353	-	-	-	-
Existing Multifamily Units	4	-	-	-	4	-	-	-
Pending Multifamily Units	-	-	-	-	-	-	-	-
Master Planned Multifamily Units	-	-	-	-	-	-	-	-
Subtotal: Net Multifamily Unit Capacity	353	-	-	353	-	-	-	-
Potential Occupied Multifamily Units	290	-	-	290	-	-	-	-
Multifamily Population Capacity	638	-	-	638	-	-	-	-
Net Dwelling Unit Capacity	504	34	117	353	-	-	-	-
Potential Occupied Dwelling Units	435	33	112	290	-	-	-	-
Population Capacity	1,073	98	337	638	-	-	-	-
Remaining Population Growth to Accommodate (2021-2036)	570							
Population Capacity Surplus (Deficit)	503							

Sources: City of Sumas, 2022; Whatcom County, 2021; Community Attributes Inc., 2021.

Commercial and Industrial Development

Exhibit 68. Nonresidential Development, Achieved and Assumed Densities, City of Sumas, 2016 -2021

Zoning Designation	Development Type	Acres Developed	Built Square Feet	Achieved Density (FAR)	Assumed Density (FAR)
RES LOW	Commercial	N/A	N/A	N/A	0.50
RES MED	Commercial	N/A	N/A	N/A	0.44
RES HIGH	Commercial	N/A	N/A	N/A	0.25
BUS GEN	Commercial	N/A	N/A	N/A	0.22
BUS TO	Commercial	N/A	N/A	N/A	0.22
BUS LOW	Commercial	N/A	N/A	N/A	0.22
LI	Industrial	11.2	60,549	0.12	0.12

Sources: City of Sumas, 2022; Community Attributes Inc., 2021.

Note: Assumed Density is the assumed density for evaluation of land suitable for development by zone.

Exhibit 69. Developable Nonresidential Land Supply, Sumas UGA, 2021 -2036

	UGA Total	RES LOW	RES MED	RES HIGH	BUS GEN	LI	BUS TO	BUS LOW
Vacant Land								
Gross Acres	206.54	0.00	0.00	0.00	5.15	168.29	32.89	0.21
Critical Areas	97.92	0.00	0.00	0.00	2.19	88.44	7.08	0.21
Future Public Uses	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Infrastructure Gaps	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Quasi-Public Use Deduction	5.43	0.00	0.00	0.00	0.15	3.99	1.29	0.00
Infrastructure Deduction	5.43	0.00	0.00	0.00	0.15	3.99	1.29	0.00
Market Factor	14.66	0.00	0.00	0.00	0.40	10.78	3.48	0.00
Net Acres	83.09	0.00	0.00	0.00	2.26	61.08	19.75	0.00
Partially-Used Land								
Gross Acres	13.87	0.00	0.00	0.00	0.00	13.87	0.00	0.00
Critical Areas	6.35	0.00	0.00	0.00	0.00	6.35	0.00	0.00
Future Public Uses	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Infrastructure Gaps	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Quasi-Public Use Deduction	0.38	0.00	0.00	0.00	0.00	0.38	0.00	0.00
Infrastructure Deduction	0.38	0.00	0.00	0.00	0.00	0.38	0.00	0.00
Market Factor	1.69	0.00	0.00	0.00	0.00	1.69	0.00	0.00
Net Acres	5.08	0.00	0.00	0.00	0.00	5.08	0.00	0.00
Underutilized Land								
Gross Acres	50.02	0.00	0.00	0.00	4.11	45.62	0.00	0.29
Critical Areas	16.81	0.00	0.00	0.00	0.98	15.54	0.00	0.29
Future Public Uses	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Infrastructure Gaps	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Quasi-Public Use Deduction	1.66	0.00	0.00	0.00	0.16	1.50	0.00	0.00
Infrastructure Deduction	1.66	0.00	0.00	0.00	0.16	1.50	0.00	0.00
Market Factor	7.47	0.00	0.00	0.00	0.70	6.77	0.00	0.00
Net Acres	22.42	0.00	0.00	0.00	2.11	20.31	0.00	0.00

Sources: City of Sumas, 2022; Whatcom County, 2021; Community Attributes Inc., 2021.

Exhibit 70. Developable Nonresidential Land Capacity, Sumas UGA, 2021-2036

	UGA	RES LOW	RES MED	RES HIGH	BUS GEN	LI	BUS TO	BUS LOW
Net Developable Employment Acres (Vacant, PU, UU)	110.59	0.00	0.00	0.00	4.37	86.47	19.75	0.00
Commercial Developable Acres	24.12	-	-	-	4.37	-	19.75	0.00
Assumed Commercial Density (FAR)		0.5	0.4	0.3	0.2		0.2	0.2
Subtotal: Commercial Capacity (SF)	231,113	-	-	-	41,882	-	189,231	-
Existing Commercial Space (SF)	-	-	-	-	-	-	-	-
Pending Commercial Space (SF)	-	-	-	-	-	-	-	-
Master Planned Commercial Space (SF)	-	-	-	-	-	-	-	-
Subtotal: Net Commercial Capacity (SF)	231,113	-	-	-	41,882	-	189,231	-
Potential Occupied Commercial Space (SF)	219,557	-	-	-	39,788	-	179,769	-
Commercial Employment Capacity	328	-	-	-	59	-	269	-
Industrial Developable Acres	86.47	-	-	-	-	86.47	-	-
Assumed Industrial Density (FAR)						0.1		
Subtotal: Industrial Capacity (SF)	451,991	-	-	-	-	451,991	-	-
Existing Industrial Space (SF)	49,472	-	-	-	-	49,472	-	-
Pending Industrial Space (SF)	-	-	-	-	-	-	-	-
Master Planned Industrial Space (SF)	-	-	-	-	-	-	-	-
Subtotal: Net Industrial Capacity (SF)	402,519	-	-	-	-	402,519	-	-
Potential Occupied Industrial Space (SF)	382,393	-	-	-	-	382,393	-	-
Industrial Employment Capacity	430	-	-	-	-	430	-	-
Net Commercial & Industrial Capacity (SF)	633,632	-	-	-	41,882	402,519	189,231	-
Potential Occupied Commercial & Industrial	601,950	-	-	-	39,788	382,393	179,769	-
Employment Capacity	758	-	-	-	59	430	269	-
Remaining Employment Growth to Accommodate (2021-2036)	322							
Employment Capacity Surplus (Deficit)	436							

Sources: City of Sumas, 2022; Whatcom County, 2021; Community Attributes Inc., 2021.

APPENDIX A: ANNEXATIONS

Between 2016 and 2021, 445 total acres were annexed to cities in Whatcom County. These annexations increased the total incorporated area in Whatcom County to 35,385 acres (**Exhibit 71**). These annexations were adopted by the following city legislative actions:

- City of Bellingham Ordinances 2018-11-027 and 2018-12-033
- City of Lynden Ordinances 1506, 1509, and 1561
- City of Nooksack Ordinance 712

Exhibit 71. Whatcom County Acres Annexed by City, 2016-2021

	Acres 2016	2016	2017	2018	2019	2020	2021	Total Acres Annexed	Acres 2021
Bellingham	19,275	0	0	0	249	0	0	249	19,524
Blaine	5,464	0	0	0	0	0	0	0	5,464
Everson	877	0	0	0	0	0	0	0	877
Ferndale	4,561	0	0	0	0	0	0	0	4,561
Lynden	3,382	82	0	10	0	0	0	92	3,474
Nooksack	446	0	0	0	104	0	0	104	550
Sumas	935	0	0	0	0	0	0	0	935
Total	34,940	82	0	10	353	0	0	445	35,385

Sources: Whatcom County and Cities, 2022 (Countywide Data Reporting Tool).

Notes: Acres 2016 represents acres within city limits as of March 31, 2016. Acres 2021 represents acres within city limits as of March 31, 2021. Numbers have been rounded. For Bellingham, land area excluding Bellingham Bay, Lake Whatcom, and Lake Padden is equal to 18,046 acres.

APPENDIX B: URBAN GROWTH AREA CHANGES

Between 2016 and 2021, 345 acres were added to Whatcom County’s urban growth areas. UGAs include areas within the city limits and unincorporated areas that have been designated for urban growth. UGA changes authorized by Whatcom County Ordinance 2016-034 include a reduction of 20 acres in the Everson UGA, as well as increases in the Ferndale, Lynden, and Nooksack UGAs. Overall, as of March 31, 2021, Whatcom County’s UGAs total 52,029 acres (**Exhibit 72**).

Exhibit 72. Whatcom County Acres Added to Urban Growth Areas, 2016-2021

	Acres 2016	2016	2017	2018	2019	2020	2021	Total Acres Added to UGAs	Acres 2021
Bellingham	23,172	0	0	0	0	0	0	0	23,172
Birch Bay	3,607	0	0	0	0	0	0	0	3,607
Blaine	4,071	0	0	0	0	0	0	0	4,071
Cherry Point	7,035	0	0	0	0	0	0	0	7,035
Columbia Valley	1,157	0	0	0	0	0	0	0	1,157
Everson	1,287	(20)	0	0	0	0	0	(20)	1,267
Ferndale	5,869	117	0	0	0	0	0	117	5,986
Lynden	3,979	193	0	0	0	0	0	193	4,172
Nooksack	548	55	0	0	0	0	0	55	603
Sumas	959	0	0	0	0	0	0	0	959
Total	51,684	345	0	0	0	0	0	345	52,029

Sources: Whatcom County and Cities, 2022 (Countywide Data Reporting Tool).

Notes: Acres 2016 represents acres within each UGA as of March 31, 2016. Acres 2021 represents acres within each UGA as of March 31, 2021.

APPENDIX C: ZONING MAP CHANGES

Zoning map changes documented in **Exhibit 73** and **Exhibit 74** provide a detailed accounting of changes to zoning within each UGA for residential, commercial, industrial, and other types of zones between 2016 and 2021. Many of the general land use categories encompass a number of zoning districts. In 2016, land was added to some UGAs or moved between UGAs. This land has not been rezoned and therefore these changes are reflected in **Exhibit 72**, but not in the zoning map changes.

Ordinances authorizing zoning changes from one land use category to another between April 1, 2016 and March 31, 2021:

- Bellingham UGA
 - City of Bellingham Ordinance 2017-07-018 rezoned 0.51 acres from Residential - Single Family to Commercial.
 - City of Bellingham Ordinance 2017-07-019 rezoned 10 acres from Residential – Single Family to Industrial.
 - City of Bellingham Ordinance 2017-07-020 rezoned 3.6 acres from Industrial to public and 17.7 acres of Commercial / Industrial / Residential Multifamily to Public.
 - City of Bellingham Ordinance 2017-11-025 rezoned 12.7 acres from Commercial to Institutional.

- Everson UGA
 - City of Everson zoning changes in 2016 were part of the 2016 Comprehensive Plan update, adopted through Ordinance 767-16.
 - City of Everson zoning changes in 2019 were adopted through Ordinance 806-19.

- Ferndale UGA
 - Ferndale Ordinance 1957 (2016) – Rezoned 0.75 acres from Residential – Single Family to Residential - Multifamily.
 - Ferndale Ordinance 1977 (2016) – Rezoned 6.78 acres from Residential – Single Family to Commercial.
 - Ferndale Ordinance 2080 (2019) – Rezoned 112 acres from Floodplain to Public (3.9 acres), Residential – Single Family (8.51 acres), Residential – Multifamily (48.62 acres), and Commercial (52.14 acres). Rezoned 18.92 acres from Commercial to Residential – Multifamily and 4.45 acres from Commercial to Residential – Single Family.
 - Ferndale Ordinance 2160 (2020) – Rezoned 2.71 acres from Residential – Single Family to Residential – Multifamily, and 3.8 acres from Residential – Multifamily to Commercial.

- Lynden UGA
 - Lynden Ordinances 1506 and 1509 (2016) - Annexed 82 acres and rezoned to Residential.
 - Lynden Ordinance 1519 (2016) - Rezoned 7 acres from Commercial to Industrial, 1 acre from Residential to Commercial, and 5 acres from Residential to Public Use.
 - Lynden Ordinance 1548 (2017) - Rezoned 27 acres from Commercial to Residential.
 - Lynden Ordinance 1569 (2018) - Rezoned 16 acres from Residential to Commercial (6 acres), Industrial (8 acres), and Public Use (2 acres). This Ordinance also rezoned 9 acres from Commercial to Industrial.
 - Lynden Ordinance 1561 (2018) - Annexed 10 acres and rezoned to Residential.
 - Lynden Ordinance 1597 (2019) - Rezoned 1 acre from Single Family Residential to Multifamily Residential.
 - Lynden Ordinance 1619 (2020)- Rezoned 83 acres from Single Family Residential to Multifamily Residential (80 acres) and Public Use (3 acres) in the Pepin Creek Subarea.

- Nooksack UGA
 - City of Nooksack Ordinance 712 rezoned 31 acres of a 104 acre annexation area from Residential to Public zoning.

- Sumas UGA
 - City of Sumas Ordinance No. 1685 adopted zoning changes from the 2016 Comprehensive Plan update.

- Areas Outside UGAs
 - Whatcom County Ordinance 2016-036 rezoned 2 acres of Rural one dwelling per five acres to Rural-Industrial.

Exhibit 73. Whatcom County Zoning Changes by Urban Growth Area and Land Use, Acres, 2016-2021

UGA	City Zoning 2016	County Zoning 2016	Zoning 2016	2016	2017	2018	2019	2020	2021	Total Zoning Changes	Zoning 2021
Bellingham											
Residential - Single Family	7,868	2,205	10,073	0	(11)	0	0	0	0	(11)	10,062
Residential - Multifamily	3,209	46	3,255	0	0	0	0	0	0	0	3,255
Commercial	1,847	314	2,161	0	(12)	0	0	0	0	(12)	2,149
Industrial	2,434	2,486	4,919	0	6	0	0	0	0	6	4,926
Other	2,444	139	2,583	0	16	0	0	0	0	16	2,600
<i>Subtotal</i>	<i>17,802</i>	<i>5,190</i>	<i>22,992</i>	<i>0</i>	<i>22,992</i>						
Birch Bay											
Residential - Single Family	0	1,728	1,728	0	0	0	0	0	0	0	1,728
Residential - Multifamily	0	1,281	1,281	0	0	0	0	0	0	0	1,281
Commercial	0	551	551	0	0	0	0	0	0	0	551
Industrial	0	0	0	0	0	0	0	0	0	0	0
Other	0	0	0	0	0	0	0	0	0	0	0
<i>Subtotal</i>	<i>0</i>	<i>3,560</i>	<i>3,560</i>	<i>0</i>	<i>3,560</i>						
Blaine											
Residential - Single Family	2,505	494	2,999	0	0	0	0	0	0	0	2,999
Residential - Multifamily	262	0	262	0	0	0	0	0	0	0	262
Commercial	347	0	347	0	0	0	0	0	0	0	347
Industrial	287	0	287	0	0	0	0	0	0	0	287
Other	144	0	144	0	0	0	0	0	0	0	144
<i>Subtotal</i>	<i>3,545</i>	<i>494</i>	<i>4,039</i>	<i>0</i>	<i>4,039</i>						
Cherry Point											
Industrial	0	7,029	7,029	0	0	0	0	0	0	0	7,029
<i>Subtotal</i>	<i>0</i>	<i>7,029</i>	<i>7,029</i>	<i>0</i>	<i>7,029</i>						
Columbia Valley											
Residential - Single Family	0	1,065	1,065	0	0	0	0	0	0	0	1,065
Residential - Multifamily	0	0	0	0	0	0	0	0	0	0	0
Commercial	0	40	40	0	0	0	0	0	0	0	40
Industrial	0	0	0	0	0	0	0	0	0	0	0
Other	0	40	40	0	0	0	0	0	0	0	40
<i>Subtotal</i>	<i>0</i>	<i>1,145</i>	<i>1,145</i>	<i>0</i>	<i>1,145</i>						
Everson											
Residential - Single Family	421	108	529	(60)	0	0	(1)	0	0	(61)	468
Residential - Multifamily	124	0	124	0	0	0	4	0	0	4	128
Commercial	47	7	54	10	0	0	(1)	0	0	9	63
Industrial	173	42	215	(26)	0	0	0	0	0	(26)	189
Other	116	251	367	76	0	0	(2)	0	0	74	441
<i>Subtotal</i>	<i>881</i>	<i>408</i>	<i>1,289</i>	<i>0</i>	<i>1,289</i>						

Sources: Whatcom County and Cities, 2022 (Countywide Data Reporting Tool).

Notes: Acres 2016 represents acres as of March 31, 2016. Acres 2021 represents acres as of March 31, 2021. Numbers may not add up because of rounding.

Exhibit 74. Whatcom County Zoning Changes by Urban Growth Area and Land Use, Acres, 2016-2021

UGA	City Zoning 2016	County Zoning 2016	Zoning 2016	2016	2017	2018	2019	2020	2021	Total Zoning Changes	Zoning 2021
Ferndale											
Residential - Single Family	1,580	1,599	3,179	(8)	0	0	13	(3)	0	3	3,182
Residential - Multifamily	485	0	485	1	0	0	63	(1)	0	63	548
Commercial	1,628	31	1,659	7	0	0	33	4	0	44	1,703
Industrial	516	415	931	0	0	0	0	0	0	0	931
Other	112	89	201	0	0	0	(109)	0	0	(109)	92
<i>Subtotal</i>	<i>4,321</i>	<i>2,134</i>	<i>6,455</i>	<i>0</i>	<i>6,455</i>						
Lynden											
Residential - Single Family	1,854	135	1,989	76	7	(6)	(1)	(83)	0	(7)	1,982
Residential - Multifamily	442	23	465	0	20	0	1	80	0	101	566
Commercial	479	0	479	(6)	(27)	(3)	0	0	0	(36)	443
Industrial	337	0	337	7	0	17	0	0	0	24	361
Other	189	446	635	(77)	0	(8)	0	3	0	(82)	553
<i>Subtotal</i>	<i>3,300</i>	<i>604</i>	<i>3,904</i>	<i>0</i>	<i>3,904</i>						
Nooksack											
Residential - Single Family	350	95	445	0	0	0	(31)	0	0	(31)	414
Residential - Multifamily	0	0	0	0	0	0	0	0	0	0	0
Commercial	35	0	35	0	0	0	0	0	0	0	35
Industrial	13	0	13	0	0	0	0	0	0	0	13
Other	45	11	56	0	0	0	31	0	0	31	87
<i>Subtotal</i>	<i>443</i>	<i>106</i>	<i>549</i>	<i>0</i>	<i>549</i>						
Sumas											
Residential - Single Family	160	0	160	(4)	0	0	0	0	0	(4)	156
Residential - Multifamily	193	0	193	(16)	0	0	0	0	0	(16)	177
Commercial	71	0	71	(1)	0	0	0	0	0	(1)	70
Industrial	376	0	376	8	0	0	0	0	0	8	384
Other	135	26	161	13	0	0	0	0	0	13	174
<i>Subtotal</i>	<i>935</i>	<i>26</i>	<i>961</i>	<i>0</i>	<i>961</i>						
Areas Outside UGAs											
Rural one dwelling/two acres	N/A	1,157	1,157	0	0	0	0	0	0	0	1,157
Rural one dwelling/five acres	N/A	90,331	90,331	(2)	0	0	0	0	0	(2)	90,329
Rural one dwelling/ten acres	N/A	30,211	30,211	0	0	0	0	0	0	0	30,211
Rural - Residential (LAMIRD)	N/A	10,634	10,634	0	0	0	0	0	0	0	10,634
Rural - Commercial (LAMIRD)	N/A	1,286	1,286	0	0	0	0	0	0	0	1,286
Rural - Industrial (LAMIRD)	N/A	494	494	2	0	0	0	0	0	2	496
Agriculture	N/A	86,276	86,276	0	0	0	0	0	0	0	86,276
Rural Forestry	N/A	36,208	36,208	0	0	0	0	0	0	0	36,208
Commercial Forestry	N/A	187,311	187,311	0	0	0	0	0	0	0	187,311
Mineral Resource Lands	N/A	0	0	0	0	0	0	0	0	0	0
<i>Subtotal</i>	<i>N/A</i>	<i>443,908</i>	<i>443,908</i>	<i>0</i>	<i>443,908</i>						
Total	31,227	464,604	495,831	0	495,831						

Sources: Whatcom County and Cities, 2022 (Countywide Data Reporting Tool).

Notes: Acres 2016 represents acres as of March 31, 2016. Acres 2021 represents acres as of March 31, 2021. LAMIRD stands for "limited area of more intensive rural development" (see RCW 36.70A.070(5)(d)).

From: darcy@jonesengineers.us
To: [PDS Planning Commission](#)
Cc: [Council](#); cmail@cob.org; planningcommission@cob.org; mayorsoffice@cob.org; [Satpal Sidhu](#); bglyon@cob.org; [Mark Personius](#); [Steve Roberge](#); [Behee, Christopher J.](#); [Matt Aamot](#); [Dan Dunne](#); troy@muljat.com; perrye@wcar.net; [Naoyuki Ishii](#); [Bob Carmichael](mailto:Bob.Carmichael@portofbellinham.com); dgoldberg@portofbellinham.com; rlee@biawc.com; [Rose Lathrop](#); Guy@Bellingham.com; kenb@portofbellinham.com
Subject: Whatcom County Review and Evaluation Program: Draft Buildable Lands Report April 7, 2022
Date: Tuesday, October 11, 2022 7:27:38 AM
Attachments: [Buildable Lands Review Oct 10 2022.pdf](#)
[ATT00001.png](#)

Honorable Commissioners - We have attached our written comments for the public hearing to be held regarding the Buildable Lands Report this Thursday, October 13. We appreciate the opportunity to participate in this process and look forward to working with you. Please let me know if you have any questions or need additional information.

Please include the attached comments in the public record for the Buildable Lands review process.

Thank you and Best Regards,

Darcy Jones
Jones Engineers, Inc.





Date: October 10, 2022

Whatcom County Planning Commission
Via email

Subject: Draft Buildable Lands Report – July 7, 2022
Whatcom County Review and Evaluation Program

Honorable Commissioners,

We write on behalf of Caitac, USA regarding the draft Buildable Lands Report 2022, (BLR). We would like to extend our appreciation to the County and City officials for the preparation of this document. Staff members from both the County and City have provided their time and insights to help stakeholders understand the methodology, procedures, data collection, and analysis that went into its development.

We acknowledge significant improvements which have been incorporated into the methodology and analysis of land capacity. For example, deductions for critical area buffers (such as wetlands, steep slopes and shorelines) are more appropriately applied. The addition of an “infrastructure gap deduction,” while incomplete, is a step in the right direction for assessment of available, buildable land. Also, the supporting worksheets are much easier to understand so that density assumptions and parcel status can be cross checked. Overall, the analysis spreadsheets are more user friendly than in previous years.

The findings of the BLR provide a baseline of analysis for the upcoming 2025 Whatcom County Comprehensive Plan update and therefore it is important the report present a realistic view of Whatcom County’s current housing situation. In the spirit of offering constructive input, we provide the following observations and comments focused on the land capacity and housing analysis presented in the City of Bellingham jurisdictional profile found within the report:

1. The BLR should include a more comprehensive assessment of the growth and development assumptions, targets and objectives contained in the countywide planning policies and county and city comprehensive plans.
2. The availability of lands for single-family homes in Bellingham is extremely constrained. The City is relying too heavily on small lot and attached housing products to meet the expectations for single-family homes established in the City and County Comprehensive Plans.
3. Certain geographic areas within Bellingham have been assigned unrealistic densities to be achieved by the end of the planning horizon (2036). The result is an unrealistic expectation of available land capacity, especially for single family homes.
4. Housing production in Bellingham has not kept up with demand.
5. Lack of proposed “Reasonable Measures” to address housing issues.

1. COMPREHENSIVE ASSESSMENT

As this is the first Buildable Lands Report created for Whatcom County, this report can set a higher standard for buildable lands and housing assessments that embraces recent amendments to the Growth Management Act, (GMA).

In our discussions with City and County staff it was pointed out that in the past most cities and counties operating under the State Buildable Lands Program have adopted an approach that is focused primarily on population accommodation and achieved densities.

However, in 2021, the State legislature amended the GMA to strengthen the standards for Comprehensive Plans with regard to housing needs assessment. The GMA now requires cities and counties to do more than plan to accommodate projected population growth. It also requires cities and counties to plan for housing that is affordable to all segments of the population, which includes assessing a variety of residential densities and housing types, (see RCW 36.70A.020).

RCW 36.70A.215 (1) establishes the purpose of a "Buildable Lands Report".

"The purpose of the review and evaluation shall be to: (a) Determine whether a county and its cities are achieving urban densities within urban growth areas by comparing growth and development assumptions, targets and objectives contained in the countywide planning policies and county and city comprehensive plans with actual growth and development that has occurred in the county and its cities."

RCW 36.70A.215 (3) establishes the minimum standards for adoption of a "Buildable Lands Report".

At a minimum, the evaluation component of the program required by subsection (1) of this section shall....

(d) Determine the actual density of housing that has been constructed and the actual amount of land developed for commercial and industrial uses within the urban growth area since the adoption of a comprehensive plan under this chapter or since the last periodic evaluation as required by subsection (1) of this section; and

(e) Based on the actual density of development as determined under (b) of this subsection, review commercial, industrial, and housing needs by type and density range to determine the amount of land needed for commercial, industrial, and housing for the remaining portion of the twenty-year planning period used in the most recently adopted comprehensive plan.

At best, the BLR reflects a very narrow view of these standards. The approach taken in the analysis should be more comprehensive in its assessment of the City of Bellingham's relative success or lack of success in meeting all of the goals and objectives of the Countywide Planning Policies and the Comprehensive Plan. Objectives related to housing variety, neighborhood character, affordability and preservation of existing housing stock should be incorporated into the assessment of available land supply and the associated findings and recommendations clearly presented.

For example:

The BLR should more clearly demonstrate how it has addressed Countywide Planning Policies G. 1 & 2, which state:

1) *The county and the cities shall take actions to ensure a balance of housing and economic growth consistent with each jurisdictions' employment base and diverse income levels and to reduce commuting times and traffic congestion.*

2) *The county and the cities shall plan for a range of housing types and costs commensurate with their affordable housing needs.*

The BLR should more clearly address the goals and policies within the City of Bellingham's Comprehensive Land Use and Housing Chapters which promote a variety of housing choices, which include:

City of Bellingham Housing Chapter - GOAL H-1 Ensure that Bellingham has a sufficient quantity and variety of housing types and densities to accommodate projected growth and promote other community goals.

City of Bellingham Housing Chapter - POLICY H-2 Encourage mixed housing types for new development on greenfield sites, a benefit of which is the integration of people from various socio-economic backgrounds.

City of Bellingham Land Use Chapter - POLICY LU-5 Foster neighborhoods with a balanced mix of housing prices that are compatible with the wages and incomes in the community.

The BLR should address issues associated with meeting the goals and policies of the Whatcom County Comprehensive Plans related to affordability and the preservation of existing housing stock, which include:

Whatcom County Housing Chapter: Preservation of Existing Housing Stock - Destruction of existing housing units due to redevelopment may be counterproductive for housing affordability. Instead, redevelopment should be taken as an opportunity to increase affordable housing.

Goal 3H: Facilitate maintenance and rehabilitation of existing housing.

Policy 3H-1: Wherever there is potential for destruction of existing structures, provide for preserving existing housing or creating new housing, whether by incorporation into the new project, moving, or recycling.

Policy 3H-2: Support creation of one or more additional housing units, within permitted density, when existing housing is remodeled, or commercial or light industrial facilities are redeveloped.

Policy 3H-3: Identify and implement incentives to preserve and sensitively rehabilitate historic properties.

An honest assessment comparing how the above goals and policies fit with the current housing situation in Bellingham is largely absent from the draft BLR. The emphasis in current comprehensive plans on providing a variety of housing and affordable housing is striking. Yet we have a housing affordability crisis in Bellingham. By not acknowledging our failures as a community to keep housing affordable, and not examining the reasons for this failure, we do not comply with RCW 36.70A.215, and miss a real opportunity to learn from our mistakes. There are many issues worth examining in the BLR, which are not. One such question is whether the infill development emphasized by the City provides affordable housing, or whether affordable housing is better provided by "greenfield" development. We believe the greenfield development is more likely to lead to equitable and affordable housing than infill.

2. AVAILABILITY OF BUILDABLE LAND FOR SINGLE FAMILY HOMES

The Housing chapter of the City Comprehensive Plan discusses alternative housing types and it is understood that some small lot and Infill Toolkit housing forms would be represented in the single-family category. However, we are concerned that a disproportionate amount of attached housing product is anticipated to fulfill the single-family demand in the future.

We are also concerned that there is not enough capacity for single-family homes to meet the expectations established in the Comprehensive Plans for the City and the County.

The City of Bellingham embraced a growth strategy in their 2016 Comprehensive Plan which promotes the achievement of a near equal mix of single-family and multi-family housing products. In order to achieve that goal, the City and County planned for the future housing production to be generally a split of one-third single family and two-third multi-family housing until the equal mix was achieved.

Page I - Section 2, (Goals and Policies) of the Housing Chapter of the City of Bellingham Comprehensive Plan states:

Approximately 44% of the current housing stock in Bellingham is multi-family. The projected mix (i.e., current mix + growth), which is based on current zoning and the land capacity analysis, is 49% single-family and 51% multi-family. This split not only supports the City's growth strategy, but also provides options for changing demographics.

At the time, the City's existing single-family housing stock was comprised of mainly traditional detached single-family homes. In this context the City's future single-family sector was widely recognized to be comprised of primarily traditional detached single-family homes.

Currently, according to the City of Bellingham Development Dashboard website, the desired split between single-family and multi-family homes has already been achieved. Therefore, in accordance with the City's growth strategy, projections for future residential development through the year 2036, should anticipate approximately 49% of all new homes to be single-family homes.

Exhibit 16 of the report indicates that the capacity for future single-family homes makes up only 26% of the capacity for all residential units projected from 2021 to 2036. It is acknowledged that since the adoption of the 2016 Comprehensive Plan, the City of Bellingham has increased capacity for multi-family homes, therefore, the proportion of single-family to multi-family capacity as been reduced. The City's efforts to increase housing capacity through regulatory changes and revisions to zoning rules have produced a surplus of multi-family capacity, however the capacity for single-family homes has remained static.

According to Exhibit 16 of the draft BLR, the currently available capacity for single-family homes may be marginally adequate to accommodate the single-family component of the remaining population growth for the planning period. However, most of the capacity lies within lands zoned for multi-family. Exhibit 16 indicates that there is available capacity for 4,200 single-family homes in Bellingham. 3,070 single-family homes would be located in the multi-family zones, (73%). 505 homes in the single-family zones (12%); 527 homes in the mixed-use zones (12.5%); 82 homes in the Commercial/Industrial zones, (2%) and less than 1% of single family homes in the Urban Villages.

Chart 3, Page 3-8 of the Whatcom County Comprehensive Plan anticipates the City of Bellingham to accommodate 5,171 single-family homes from 2013-2036. Page 31 of the draft

BLR provides calculations which estimate the capacity for single-family homes in Bellingham to be 5,366 (including the homes built between 2013 and 2016). Based on these calculations, the City of Bellingham would appear to have a surplus capacity of approximately 3.7% of land available for single family homes. However, no data has been provided in the draft BLR to support the existence of a 3.7% surplus of land available for single family homes. Calculations provided on the current City data sharing site (FTP Outgoing Files) are not consistent with Exhibit 16. The posted worksheet data estimates approximately 2% less single-family home capacity than what is presented in Exhibit 16 of the BLR, resulting in a surplus of 1.7% (not 3.7%): (CAI_UGA_SLT_FINAL_2022_0610.xlsx "Whatcom County Review and Evaluation Program FINAL Suitability Land Tool"). Given the nature of the data and the margin of error in these calculations, whether it is 1.7% or 3.7%, we assert there is no meaningful surplus of single-family lands based on the estimates anticipated in the 2016 Comprehensive Plans.

The ratio of single-family home construction to multi-family home construction has not kept pace with the projections established in the Comprehensive Plans.

Chart 3, Page 3-8 of the Whatcom County Comprehensive Plan indicates that the total number of housing units to be achieved in Bellingham between 2013 and 2036 is 14,678. 5,171 (35%) to be single-family homes and 9,507 (65%) to be multi-family units. According to page 30 of the BLR between 2016 and 2021 only 24.9% of new homes constructed were single family. Adding years 2013 to 2016 increases this ratio to 27%, but still falls short of the 35% objective. Again, the existing draft BLR does not include sufficient introspection on this problem to begin addressing it.

3. UNREALISTIC DENSITIES IN CERTAIN AREAS

Certain areas within the City and its UGA have been assigned development densities which are not realistic.

For example, properties within the Whatcom Falls Neighborhood and the associated UGA to the south at the base of Lookout Mountain are not reasonably expected to be developed by the year 2036. Based on the GIS data provided by the City, we estimate approximately 250 units are assigned to this area. We understand there may be some owner interest in development, however critical areas, the existence of power lines and gas pipelines, lack of primary and secondary access and road connections, as well as the lack of public utilities render this area highly unlikely to achieve home construction within the next 14 years. We acknowledge that the City has assigned a 10% deduction in density to this area, however it is unlikely that any density will be achieved within the planning period. See attached Exhibit A.

We have similar concerns about the density assigned to blocks of properties located within the Samish Neighborhood between Padden Creek and Interstate 5 (approximately 210 units assigned) as well as the area along the west side of Samish Hill lying east of 40th street, (approximately 55 units assigned). See attached Exhibits B and C.

Significant commitments of finances and time would be required to obtain approvals, permits and to construct regional infrastructure, road access and utilities suitable for urban densities into these areas. Given the necessary investments to achieve the urban services and access it would be expected that a much higher density yield would be sought to make such a project financially viable let alone attractive, compared to those densities depicted in the GIS data. Higher densities will raise even more challenges in areas blanketed with critical areas, such as these. It is simply not reasonable to expect that these events will occur in the next 14 years.

We believe zero density should be assigned to the above identified areas for the purpose of the draft BLR report. This would reduce the single family capacity by approximately 515 units. Additionally, there are other lands within the City which would benefit from a higher level of scrutiny to confirm the realistic development capacity.

4. HOUSING UNDERPRODUCTION

Page 22 of the draft BLR, exhibit 9 shows that overall Housing production in Bellingham has not kept up with demand as projected in the 2016 Comprehensive Plan. In order to catch up with needed housing Bellingham needs to increase housing production by approximately 10% year over year through the end of the planning horizon (2036). The draft BLR does not clearly acknowledge this as a problem or clearly present strategies to address the underproduction of homes.

Given that the City does not have a margin of surplus land available for single-family homes, we believe that the City's capacity for single-family lands falls short of the expectations established in the both the City and County Comprehensive plans.

5. REASONABLE MEASURES

The lack of availability and the continued underproduction of housing in the City of Bellingham has forced those looking for affordable home ownership to live in smaller cities and rural areas of Whatcom County. The negative effects to the unincorporated area and small cities associated with the lack of housing choices in Bellingham are sprawl, lack of capital facility planning, budget shortfalls, social and economic stratification, lack of equity, school overcrowding, property tax increases, traffic issues and environmental pressures, among others. We agree that the City has made progress, implementing programs to solve housing issues. Yet, there is still much work to do.

Shortly following the circulation of the Review and Evaluation Program's Buildable Lands Report the Bellingham Chamber of Commerce hosted the "State of the City" event on July 19, 2022. At this speaker series, Mayor Seth Fleetwood announced he had tasked Planning & Community Development Director, Blake Lyon, with creating a "Radical Affordability Plan" to address the issue of missing-middle housing in Bellingham.

Yet, on page 32 of the Buildable Lands Report, the Analysis of Comprehensive Plan Objectives and Reasonable Measures for Bellingham states:

"Over the past five years Bellingham has worked hard to implement the goals adopted in the 2016 Comprehensive Plan. As described below in the Regulatory Changes section, new development rules for land division, multifamily housing, and infill toolkit (middle) housing have expanded capacity significantly. And as documented in this report Bellingham is meeting or exceeding the development assumptions in the county-wide planning policies and the comprehensive plan. To that end, and as stated in section 5.2 of the Whatcom County Review and Evaluation Program Methodology, ***no reasonable measures are required.***"

The Washington State Department of Commerce 2018 Buildable Lands Guidelines, page 43 states reasonable measures as actions to reduce the differences between planned and realized growth may be necessary when *actual development patterns are inconsistent with*

growth and development assumptions in the county-wide planning policies and comprehensive plan which is what we are seeing in the City of Bellingham.

If Mayor Fleetwood and Director Lyon agree there is justification for a plan to address missing-middle housing and increase affordability, is it fair to say “*no reasonable measures are required*” to address Bellingham’s housing issues? The current draft BLR seems to conclude that planning for housing in Bellingham is going just fine, when we all know it is not. A sense of urgency is required. Respectfully, we believe reexamination and revision of the draft BLR, consistent with the comments made here, is a good place to start.

Thank you for your consideration in reviewing our comments, please let us know if you have questions or need additional information.

Best Regards,

A handwritten signature in blue ink that reads "Darcy Jones". The signature is fluid and cursive, with the first name "Darcy" being more prominent than the last name "Jones".

Darcy Jones, AICP, LEED-ND, PLS
Jones Engineers, Inc.

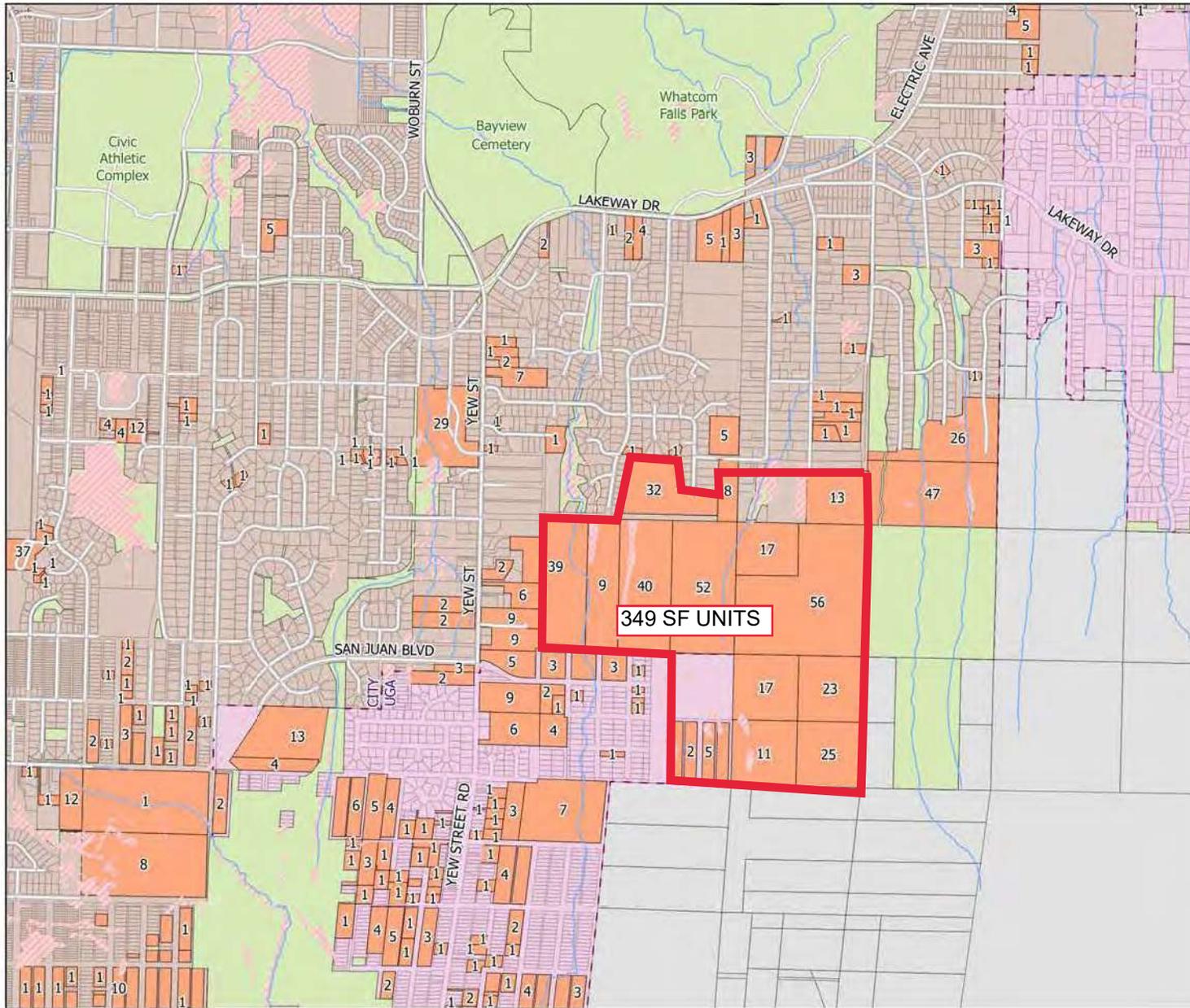
CC:

Whatcom County Council
Bellingham City Council
City of Bellingham Planning Commission
Seth Fleetwood, Mayor City of Bellingham
Satpal Sidhu, Whatcom County Executive
Blake Lyon, City of Bellingham Planning Director
Mark Personious, Whatcom County Planning Director
Steve Roberge, Whatcom County Assistant Planning Director
Chris Behee, City of Bellingham Senior Planner
Matt Aamot, Whatcom County Senior Planner
Whatcom County Business and Commerce Committee

EXHIBIT A

WHATCOM FALLS

Single-Family Residential Development Potential Bellingham - South of Lakeway Drive



- Stream/ Channel
- BLR Defined Critical Area
- Park
- Future Single-Family Unit
- Boundary**
- City
- Urban Growth Area
- Rural

Numbers shown on parcel indicate the number of potential single-family units per parcel according to the 2022 Whatcom County Buildable Lands Report.



0 1,000 2,000 feet

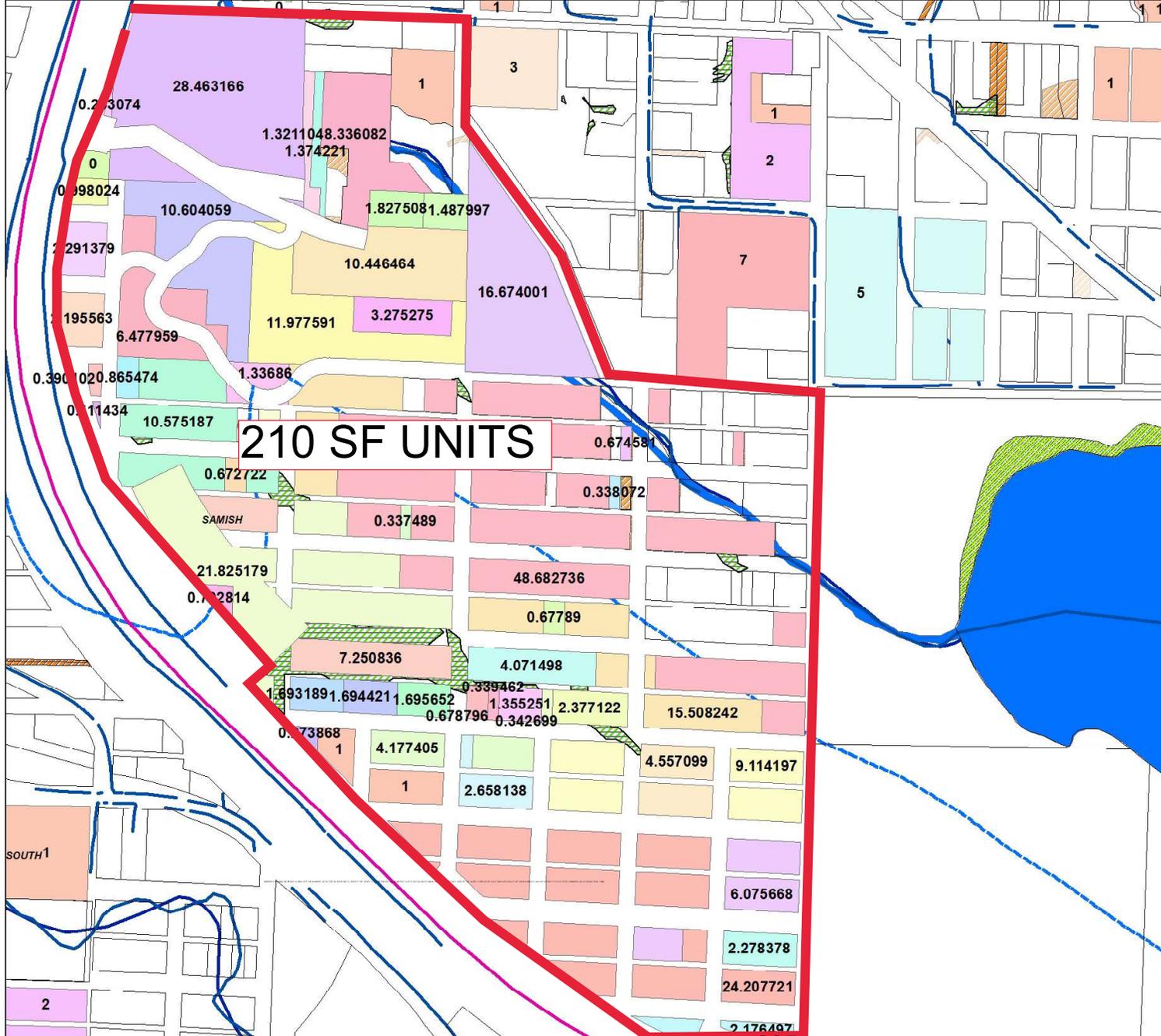
Map authored by J. Fast | 10.07.2022
Data sourced from the Whatcom County Buildable Lands Report and City of Bellingham | 10.07.2022

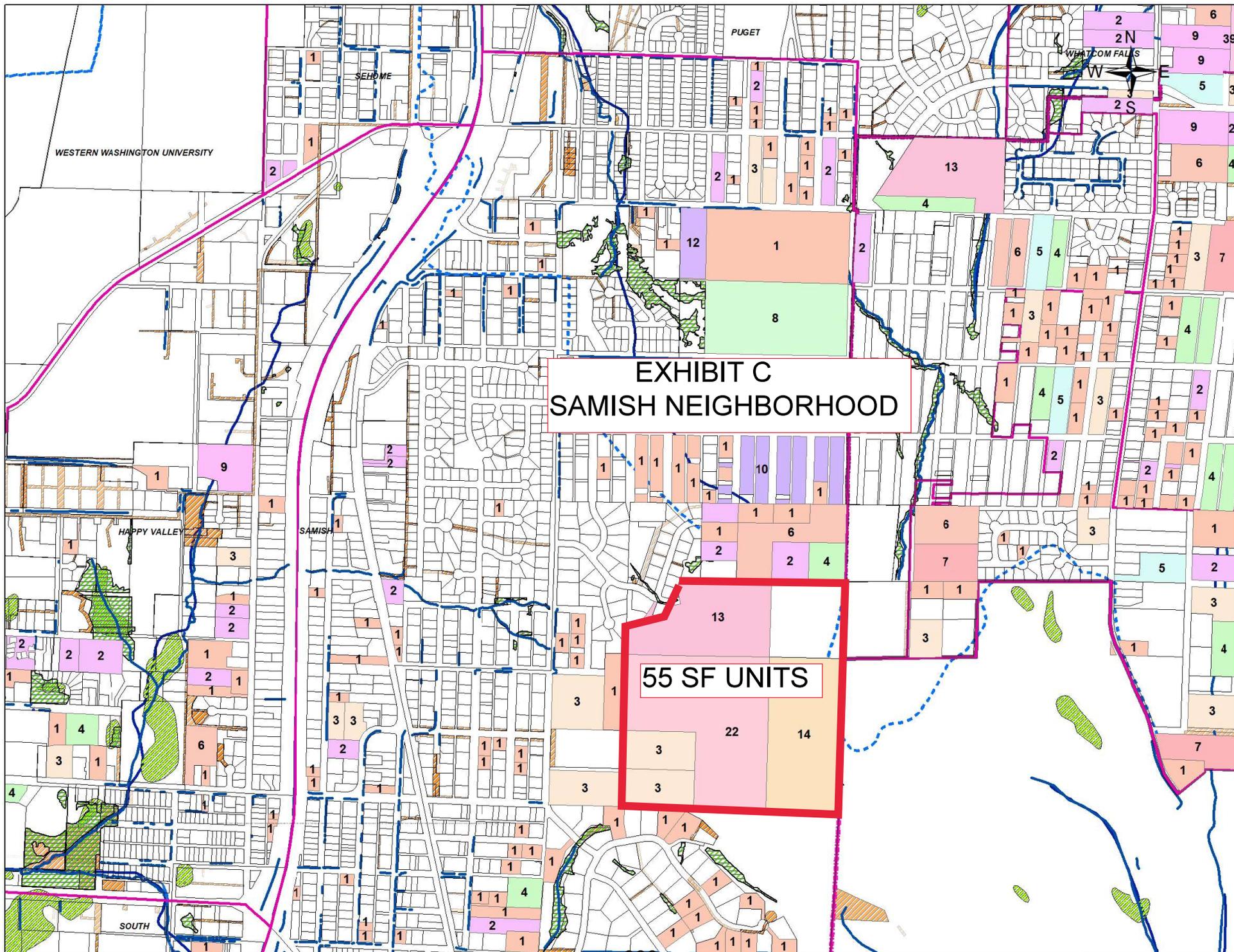
WEST OF LK. PADDEN
FUTURE SINGLE FAMILY
Residential Development Potential



EXHIBIT B

SAMISH





**EXHIBIT C
SAMISH NEIGHBORHOOD**

55 SF UNITS

From: [Tim Trohimovich](#)
To: [PDS Planning Commission](#)
Subject: Comments for Planning Commission Oct 13 Public Hearings on Buildable Lands Report and Public Participation Plan
Date: Thursday, October 13, 2022 11:29:11 AM
Attachments: [image003.png](#)
[Futurewise Comments BLR and PPP Whatcom PC Oct 13 2022.pdf](#)

Dear Ms. Axlund:

Enclosed please find Futurewise's comments for the October 13, 2022, public hearings on the Buildable Lands Report: 2022 Whatcom County Review and Evaluation Program (issued July 7, 2022) and the proposed Public Participation Plan for Whatcom County Comprehensive Plan and Development Regulation Amendments.

Please contact me if you require any additional information.

Tim Trohimovich, AICP (he/him)
Director of Planning & Law



816 Second Avenue, Suite 200
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816 Second Ave, Suite 200, Seattle, WA 98104
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October 13, 2022

Kelvin Barton, Chair
Whatcom County Planning Commission
ATTN: Tammy Axlund
5280 Northwest Drive
Bellingham, Washington 98226

Dear Chair Barton and Planning Commissioners:

Subject: Comments for the public hearings on the Buildable Lands Report: 2022 Whatcom County Review and Evaluation Program (issued July 7, 2022) and the proposed Public Participation Plan for Whatcom County Comprehensive Plan and Development Regulation Amendments.

Sent via email to: PDS_Planning_Commission@co.whatcom.wa.us

Thank you for the opportunity to comment on the Buildable Lands Report and the proposed Public Participation Plan for the Whatcom County Comprehensive Plan and Development Regulation Amendments. We recommend that the Planning Commission recommend approval of both documents. We do have a suggestion for the Public Participation Program. Our recommendations are discussed below.

Futurewise works throughout Washington State to support land-use policies that encourage healthy, equitable, and opportunity-rich communities, and that protect our most valuable farmlands, forests, and water resources. Futurewise has members across Washington State including Whatcom County.

Futurewise suggests the Planning Commission should recommend approval of the Buildable Lands Report: 2022 Whatcom County Review and Evaluation Program (issued July 7, 2022).

Futurewise has reviewed the Buildable Lands Report and has concluded that it accurately analyzes recent growth trends and the availability of developable land in Whatcom County. Futurewise appreciates that the county staff invited comments from interested members of the public including Futurewise and we





appreciate that the staff considered our comments. We recommend that the Planning Commission recommend approval of the Buildable Lands Report.

Comments on the Public Participation Plan for the Whatcom County Comprehensive Plan and Development Regulation Amendments.

Futurewise also supports the proposed Public Participation Plan. We recommend that the sections 4.2.1. Approach on page 4-2, 4.3.1. Approach on page 4-4, and 4.4.1. Approach on page 4-5 provide that the various county bodies will accept the transfer of documents supporting public comments and intended for the record by Dropbox, Box, and similar file transfer protocols that do not require a payment for the county to transfer the documents. The electronic transfer of record documents is quick and economical for the county and the public and allows the county to maintain the documents in an electronic format making them easier to store, distribute, and work with.

Thank you for considering our comments. If you require additional information, please contact Tim Trohimovich at telephone (206) 343-0681 Ext. 102 or email: tim@futurewise.org.

Very Truly Yours,

Tim Trohimovich, AICP
Director of Planning & Law



Date: October 13, 2022
Whatcom County Planning Commission
Subject: Draft Buildable Lands Report – July 7, 2022
Whatcom County Review and Evaluation Program

Honorable Commissioners,

The Building Industry Association of Whatcom County is a Professional Trade Association Comprised of almost 400 member companies representing 7000 employees who are committed to the construction of Single-Family homes and the affordability of said homes. Recently one of our members, Jones Engineering, submitted written testimony regarding the Buildable Lands Report 2022. We stand behind all their comments and would like to reiterate the following.

1. The BLR should include a more comprehensive assessment of the growth and development assumptions, targets and objectives contained in the countywide planning policies and county and city comprehensive plans.
2. The availability of lands for single-family homes in Bellingham is extremely constrained. The City is relying too heavily on small lot and attached housing products to meet the expectations for single-family homes established in the City and County Comprehensive Plans.
3. Certain geographic areas within Bellingham have been assigned unrealistic densities to be achieved by the end of the planning horizon (2036). The result is unrealistic expectation of available land capacity, especially for single family homes.
4. Housing production in Bellingham has not kept up with demand.
5. Lack of proposed "Reasonable Measures" to address housing issues.
6. The City of Bellingham is not realizing Affordable housing with its Infill Tool Kit. Many of the homes that are being built with this program are very high end and do little to address the "Missing Middle".
7. Lack of adequate capital facilities (arterial streets, "trunk" sanitary sewer and water lines, major storm water systems etc.) in under or un-developed urban areas.
8. Excessive development rules, e.g., wetlands and streams and habitat. See the partly subjective Department of Ecology wetland rating forms and arbitrary buffer tables.
9. High permit costs and fees, and often slow, subjective review processes.
10. Under-zoned" areas in UGAs, with extra-large lot requirements: eg the Birchwood, South neighborhoods in Bellingham;

Also, In the Comprehensive Plan, the Bellingham Urban Growth Area has a growth allocation of 19,688 new jobs between 2016 and 2036, implying an increase of about 1,000 jobs per year. The achievement of this goal assumes that industrial and commercial land capacity is the primary driver of employment, and that if we have enough land, we will achieve our employment goals. However, between 2016 and 2021, Bellingham only created 3,108 new jobs, or 621 per year. To make up this deficit over the next 15 years, we need to produce 1,105 jobs per year,

or 150% of what we created in the first 5-year period. The report states that no reasonable measures are needed to accomplish this goal of accelerated job production. In addition, the report does not consider a primary barrier to employment - the cost of housing.

In Bellingham, housing costs have doubled since 2016, see chart A. Many employers report losing well qualified applicants because they can't find affordable homes in Bellingham. This results in the leveling off of employment, see Chart B, even though there are jobs available in the community.

Please consider taking reasonable measures to produce more homes that are affordable to employees across the income spectrum. This, more than measuring commercial square footage, will increase employment in our community.

Chart A from <https://data.bls.gov/pdq/SurveyOutputServlet> using BLS data for Bellingham Metropolitan Area.

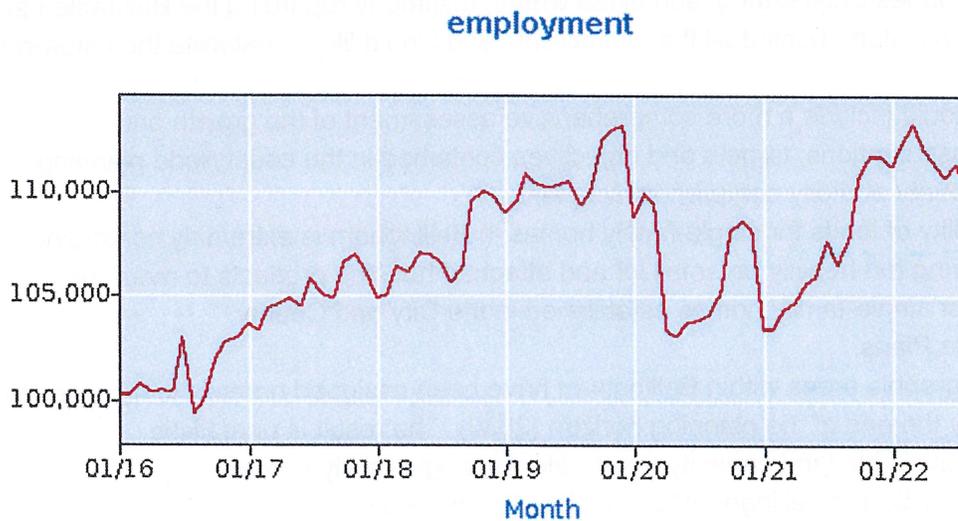
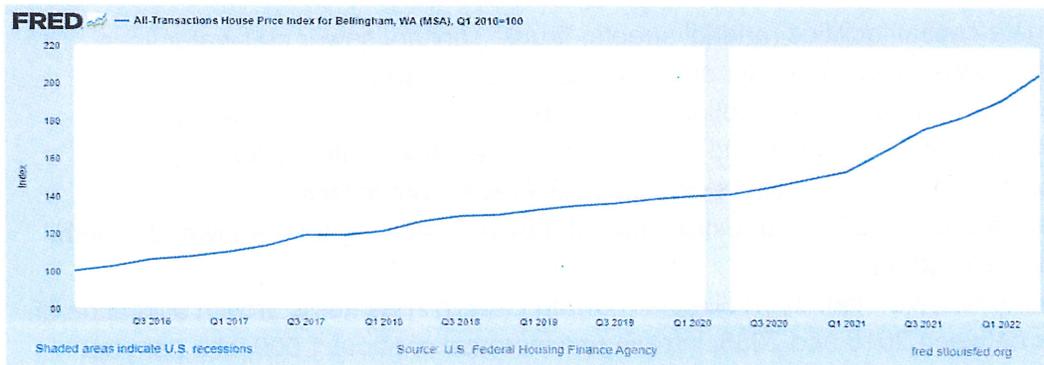


Chart B, Indexed to 2016 = 100. from <https://fred.stlouisfed.org/series/ATNHPIUS13380Q>



Respectfully

Robert Lee: BIAWC



Whatcom County

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

Agenda Bill Master Report

File Number: AB2022-586

File ID:	AB2022-586	Version:	1	Status:	Agenda Ready
File Created:	10/14/2022	Entered by:	MAamot@co.whatcom.wa.us		
Department:	Planning and Development Services Department	File Type:	Request for Motion		
Assigned to:	Council Planning and Development Committee	Final Action:			
Agenda Date:	11/09/2022	Enactment #:			

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

TITLE FOR AGENDA ITEM:

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

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

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

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
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Attachments: Staff Memo, Draft Public Participation Plan, Public Comment on PPP



Memorandum

October 25, 2022

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

FROM: Matt Aamot, Senior Planner

THROUGH: Steve Roberge, Assistant Director

RE: Draft Public Participation Plan (PLN2022-00007)

The Growth Management Act (GMA) requires counties to develop public participation programs for comprehensive plan and development regulation amendments. The Whatcom County Council approved the Public Participation Plan in May 2021, after review by the Planning Commission.

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

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

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

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

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

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

1. Inserting Statutory Requirements – Inserting new requirements passed by the State Legislature. The 2025 Comprehensive Plan Update and UGA Review has also been inserted. This is not a new requirement, but it is anticipated that the County and cities will commence the update process in 2023.
2. Inserting Docketed Amendments - Inserting the new comprehensive plan and development regulation amendments that the County Council initiated for review in 2022 (Resolution 2022-011).
3. Removing Amendments - Deleting amendments that were previously initiated but have completed the review process or were withdrawn.
4. Open Public Meetings Act – Adding a reference to the Washington State Open Public Meetings Act (RCW 42.30) and quoting new language that was added to the Act when the State Legislature passed Engrossed Substitute House Bill 1329 in 2022 (p. 4-1).
5. Electronic File Transfer – The existing Plan indicates that the public can comment to Planning Commission or Council by email or US mail. In response to public comment, the Planning Commission added text stating the public can also comment by “. . . other electronic file transfer protocols set up by the County. . .” (Chapter 4, pages 4-2, 4-4, and 4-5). Some electronic files are too large to transfer via email, so this change will provide other options for receiving public comments electronically.

Notice of the Planning Commission hearing was published in the Bellingham Herald, sent to the County's e-mail list, and posted on the County website on September 30, 2022. The Planning Commission held a hearing and recommended approval of the Public Participation Plan on October 13, 2022.

We look forward to discussing the Public Participation Plan at the Council's Planning and Development Committee on November 9. We request that Council consider a motion at the evening meeting on November 9 to approve the Plan.

Public Participation Plan

Whatcom County Comprehensive Plan and Development Regulation Amendments

Planning Commission Recommended Version - October 13, 2022

~~Approved by County Council~~

~~May 4, 2021~~

Table of Contents

Chapter 1. Introduction	1-1
1.1. Public Participation Plan Format.....	1-2
1.2. Remote Participation	1-3
Chapter 2. The Issues.....	2-1
2.1. Statutory Requirements.....	2-1
2.2. Docketed Amendment Requests	2-2
2.3. Comprehensive Plan and Development Regulation Appeals ..	2-7
Chapter 3. Project Participants	3-1
3.1. The Public	3-1
3.1.1. Interested Property Owners and Developers.....	3-1
3.1.2. Community Organizations	3-1
3.1.3. Other Groups and Individuals	3-2
3.2. Governmental/Quasi-Governmental Groups	3-2
3.2.1. Planning Commission.....	3-3
3.3. The Cities	3-4
Chapter 4. Public Participation Approach	4-1
4.1. Overall Approach.....	4-1
4.2. Level 1 Issues.....	4-2
4.2.1. Approach	4-2
4.2.2. Level 1 Projects	4-2
4.3. Level 2 Issues.....	4-4
4.3.1. Approach	4-4
4.3.2. Level 2 Projects	4-4
4.4. Level 3 Issues.....	4-5
4.4.1. Approach	4-5
4.4.2. Level 3 Projects	4-6
Chapter 5. Conclusion.....	5-11

Chapter 1. Introduction

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

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

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

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

This PPP outlines the public participation approach that will be taken with each issue rather than a generic overall approach. The objective of this plan is to provide a clear process for each issue so residents can easily determine how best to be involved in the issues they care about most.

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

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

The PPP is designed to meet the following objectives:

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

1.1. Public Participation Plan Format

To meet PPP objectives consistent with GMA goals this document:

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

1.2. Remote Participation

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

Chapter 2. The Issues

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

2.1. Statutory Requirements

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

- S-1. 2025 Comprehensive Plan/Development Regulation Update and UGA Review (RCW 36.70A.130(1) and RCW 36.70A.130(3)) - Review and, if needed, revise the Whatcom County Comprehensive Plan and development regulations by June 2025 to ensure compliance with the requirements of RCW 36.70A. Review urban growth areas and densities permitted within urban growth areas by June 2025, in conjunction with the Cities. If necessary, revise urban growth areas and/or associated development regulations to accommodate the urban growth projected for the succeeding twenty-year period.

~~Forest Practices (RCW 36.70A.570, amended in 2007 by SHB 1409)—Relating to the transfer of jurisdiction over conversion-related forest practices to local governments. For counties planning under the GMA, if more than 25 Class IV applications had been filed with the DNR between certain dates, then the county, and the cities within it, are required to adopt forest practices approval ordinances.~~

- S-2. **Utilities to Schools in Rural Areas** (RCW 36.70A, amended in 2017 by HB 2243) – The State Legislature amended the GMA to indicate it does not prohibit extension of public facilities and utilities to serve a school in a rural area if certain conditions are met.
- S-3. **Buildable Lands / Review and Evaluation Program** (RCW 36.70A.070, .115, .215, amended in 2017 by ESSSB 5254) – Whatcom County is now subject to the buildable lands (review and evaluation) program requirements of the GMA, which formerly only applied to six large counties in the state. The GMA requires the County, in conjunction with the cities, to issue a buildable lands report that compares growth assumptions in the comprehensive plan with actual growth that has occurred and, if necessary, develop reasonable measures to reconcile any inconsistencies. This process involves determining if there is sufficient suitable land to accommodate growth projections. ~~The Buildable Lands Report was issued on July 7, 2022 is due by June 30, 2022.~~ This report must be considered in the next countywide Comprehensive Plan and development regulation update, which is due by June 30, 2025.
- S-4. **Shoreline Management Program Update** (RCW 90.58.080). Review and, if necessary, revise the Whatcom County Shoreline Management Program to assure it complies with applicable law and guidelines and to assure consistency with the County’s comprehensive plan and development regulations. The County Council approved the amendments by resolution on May 24, 2022. The County is now waiting for Department of Ecology’s approval prior to adopting the update by ordinance. The Shoreline Management Program update is due by June 30, 2020.
- S-5. Tribal Participation in Planning (RCW 36.70A.210(3)(i) and (4), RCW 36.70A.040(8), and 36.70A.110(1)), amended in 2022 by SHB 1717). Develop Countywide Planning Policies that address the protection of tribal cultural resources. Develop and implement a memorandum of agreement (MOA) with federally recognized Indian tribes that voluntarily choose to participate in the planning process. If a MOA is adopted, the County, cities and tribe will coordinate their planning efforts for UGAs and other areas consistent with the terms outlined in the MOA.

2.2. Docketed Amendment Requests

The items in this section were initiated for further review by the County Council under Resolution ~~2022-011~~~~2021-007~~. As with statutory requirements in the previous section, this list will be updated on an annual basis.

D-1. Capital Facilities Planning, CIP 2023-2028 (PLN2022-00001) - Amend the capital facilities element of the Whatcom County Comprehensive Plan, including updating the list of special district plans adopted by reference (Chapter 4) and adopting a new Six-Year Capital Improvement Program for 2023-2028 (Appendix F).

D-2. Whatcom County Code Amendments (PLN2022-00003) - Review and revise the Whatcom County Zoning Code and other sections of the County Code to implement Comprehensive Plan policies and/or address issues identified in the administration of the codes. Revisions needed to achieve consistency with the Growth Management Act may also be considered.

D-3. Cherry Point Shoreline Access (PLN2022-00005) - Review and, if necessary, revise county code and the Comprehensive Plan to protect, enhance, and expand public access to shorelines of Cherry Point. The review should include but not be limited to planning to facilitate the development of the Coast Millennium Trail, land swaps, development mitigation allowances, easements, and land purchases.

D-4. Lake Whatcom Watershed Seasonal Closure Exemption (PLN2022-00006) - Amend the Whatcom County Code to allow for an exemption to seasonal clearing activity closures in the Lake Whatcom watershed for trail maintenance and limited trail construction under certain circumstances.

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

D-52. **TDR Receiving Area** (PLN2021-00002) - Amend the Whatcom County Comprehensive Plan, Zoning Text, and /or Zoning Map to designate approximately 23.77 acres, zoned Rural one dwelling/five acres (R5A), as a transfer of development rights receiving area pursuant to WCC 20.89.051. A maximum of 3 development rights would be transferred from the Lake Whatcom Watershed to the subject site.

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

D-64. **Wireless Communication Facilities** (PLN2021-00005) - Review and update the Zoning Code provisions relating to Wireless Communication Facilities (WCC 20.13) to ensure consistency with Federal rules.

~~D-5. — Whatcom County Code Amendments (PLN2021-00006) — Review and revise the Whatcom County Zoning Code and other sections of the County Code to implement Comprehensive Plan policies and/or address issues identified in the administration of the codes. Revisions needed to achieve consistency with the Growth Management Act may also be considered.~~

D-76. **Bellingham UGA Expansion** (PLN2021-00007) - Amend the Whatcom County Comprehensive Plan by expanding the Bellingham Urban Growth Area (UGA) on 339 acres (the

site is currently designated as UGA Reserve). Rezone this land to Urban Residential - Mixed (URMX) and commercial zoning.

D-~~87~~. **Lake Whatcom Watershed Overlay District Amendments** (PLN2021-00008) - Amend the Lake Whatcom Watershed Overlay District (WCC 20.51) and the definition of significant tree (WCC 20.97.436.4) to improve compliance with the Total Maximum Daily Load by further reducing phosphorus loading impacts from development and improve tree protection measures.

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

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

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

~~D-11. — **Neighborhood Commercial to Residential Rezone** (PLN2020-00003) — Rezone approximately 1.25 acres from Neighborhood Commercial (NC) to Residential Rural (RR-1).~~

~~D-12. — **Rural Forestry Designation and Text Amendment** (PLN2020-00004) — Amend the comprehensive plan designation from Mineral Resource Lands (MRL) to Rural Forestry on approximately 66 acres in the Nooksack Falls exclave (off Mt. Baker Hwy). Amend the Zoning Code to allow certain conditional uses in the Nooksack Falls exclave within the Rural Forestry zone (WCC 20.42.155).~~

D-~~913~~. **Shoreline Management Program Update** (PLN2020-00006) - Update the Whatcom County Shoreline Management Program (Title 23). Move the goals and policies of the Shoreline Management Program to the Whatcom County Comprehensive Plan. NOTE: This is the same project as S-4 above.

D-~~1014~~. **MRL Expansion – Breckenridge Rd.** (PLN2019-00002) - Amend the comprehensive plan designation from Rural to Mineral Resource Lands (MRL) and amend the zoning map to expand a MRL overlay zone on approximately 22.8 acres off Breckenridge Rd., east of Nooksack. The underlying zoning is Rural one dwelling/ five acres (R5A).

~~D-15. — **Lummi Island Ferry Amendments** (PLN2019-00004) — Amend Whatcom County Comprehensive Plan provisions relating to the Lummi Island Ferry. Modify Policy 6A-1 relating to ferry level of service and delete Policy 6C-9 relating to a ferry feasibility study as shown in Resolution 2018-026.~~

~~D-16.— **Density Credit Program—Zoning Code Amendments** (PLN2019-00005)—Amend the Whatcom County Zoning Code to implement the following recommendations contained in the TDR/PDR Multi Stakeholder Work Group Final Report dated October 3, 2018: (1) modify the UR4 zone in the Birch Bay Urban Growth Area to allow increased density if density credits are purchased and (2) modify the code to allow larger accessory dwelling unit size if density credits are purchased.~~

~~D-17.— **Surface Mining Pipeline Buffer** (PLN2019-00010)—Amend the Whatcom County Comprehensive Plan and Whatcom County Code to determine the minimum safe distance to allow surface mining to be conducted from a petroleum pipeline to ensure a pipeline will not become exposed or rupture during an earthquake event and contaminate an aquifer. Determination should be based on independent sources where possible and assume a magnitude 9.0 or greater earthquake could occur.~~

~~D-18.— **Surface Mining of Dry Meander Zones** (PLN2019-00011)—Amend the Whatcom County Comprehensive Plan and Whatcom County Code to allow the seasonal extraction of sand and gravel from dry upland areas located within the 1,000 year meander zone of the Nooksack River, provided that such extraction has no negative impact on salmon spawning habitat. The intent is to (a) reduce the conversion of land currently used for farming, forestry and wildlife habitat into gravel pits, and (b) safely remove some of the significant sediment load that enters the Nooksack every year in an effort to reduce flooding and the need to build higher flood prevention berms along the river as the climate continues to change.~~

~~D-19.— **Density Credit Program—Comprehensive Plan Amendments** (PLN2018-00002)—Amend the Whatcom County Comprehensive Plan to reflect a shift in emphasis from a traditional transfer of development rights program to a density credit program. Density credits allow development incentives, such as increased density, in exchange for a voluntary contribution towards preserving agricultural lands and open space.~~

~~D-20.— **Repeal Cherry Point-Ferndale Subarea Plan** (PLN2018-00003)—Repeal the Cherry Point-Ferndale Subarea Plan, which was adopted in 1981. The proposal would also amend related provisions in the Whatcom County Comprehensive Plan and Zoning Code.~~

~~D-21.— **CAO On-Going Agriculture** (PLN2018-00005)—The Critical Areas Ordinance (CAO) was adopted by the County Council in December 2017 (Ordinance 2017-077). Section 4(a) of this Ordinance states “Planning and Development Services staff shall work with the farming community to develop creative solutions that would allow farmers to maintain or attain ‘ongoing agriculture’ status pursuant to applicable laws.~~

D-1122. **Wind Energy System Amendments** (PLN2018-00008) - Review and, if needed, revise WCC 20.14 Wind Energy Systems.

~~D-23.— **Cherry Point Amendments** (PLN2018-00009)—Amend the Whatcom County Comprehensive Plan and Whatcom County Code to address ways the County may limit the negative impacts on public safety, transportation, the economy, and the environment from crude oil, coal, liquefied petroleum gases, and natural gas exports from the Cherry Point Urban~~

~~Growth Area, in accordance with Whatcom County Comprehensive Plan Policy 2CC 16. Some of the amendments apply to various land uses on a countywide basis.~~

~~D-24. **Sustainable Salmon Harvest Goal** (PLN2018-00010) — Amend the Comprehensive Plan to create a new policy to work with Lummi and Nooksack Nations, the State Department of Fish and Wildlife (WDFW) and other stakeholders to establish a sustainable salmon harvest goal for the county.~~

D-1225. **Mineral Resource Lands County-wide Designation Process** (PLN2017-00004) - Through a county-led countywide assessment, seek to identify and designate potential commercially significant mineral resource lands, to meet future demand, compatible with water resources, agricultural lands, forest lands and other GMA goals pursuant to Comprehensive Plan Policy 8R-1.

D-1326. **Sign Regulations Update** (PLN2016-00009) - Review and revise Whatcom County Code 20.80.400 (Sign Regulations), including updating the code for consistency with the U.S. Supreme Court's decision in *Reed v. Town of Gilbert* (2015).

D-1427. **Vacation Rental Regulations** (PLN2014-00020/PLN2016-00011) - Amend Whatcom County Code Title 20 (Zoning) & Title 23 (Shoreline Management Program) to allow vacation rentals under certain conditions as a use within certain zones and shoreline designations.

D-1528. **Code Enforcement Amendments** (PLN2015-00003) - Create a new Whatcom County Code (WCC) Chapter 22.15, called "Code Compliance Procedures," to establish an efficient system to address enforcement of building, critical areas and zoning codes. The proposal would consolidate the existing code enforcement provisions from WCC 15, 16.16, and 20 into a new WCC 22.15. The proposed amendments include provisions that would allow the County to record a document at the Whatcom Auditor's office indicating that there is a code violation on a property.

D-1629. **Weddings and Special Events** (PLN2014-00016) - Amend the Official Whatcom County Zoning Ordinance (Title 20) to allow for "Weddings and Special Events" in specific zone districts through an approved Conditional Use Permit (CUP). Authorization to approve this amendment will result in the county needing to define "Special Events" under the "Definitions" section of WCC 20.97 and an additional amendment made to the "Parking Space Requirements" under WCC 20.80.580.

D-1730. **Agricultural Strategic Plan Implementation** (PLN2012-00007) - Resolution 2018-027 was approved by the County Council on 8/8/2018 declaring support for the updated Whatcom County Agricultural Strategic Plan. Immediate priorities in this plan include reviewing designation of Agricultural Lands of Long-term Commercial Significance and the agricultural zoning code. Reviewing the Rural Study Areas as listed in the 2007 Rural Land Study and making recommendations for possible changes in accordance with Resolution 2009-040 (100,000 acre target), Resolution 2018-027 (Updated Agricultural Strategic Plan) and RCW 36.70A.170 and .177 will be included. Other short-term and medium-term priorities in this plan

include development of policies and regulations that provide for protection of the best agricultural areas while supporting development at zoned densities and continued work on development of the Natural Resource Marketplace. These activities may lead to proposed changes to the agricultural portions of the Comprehensive Plan and zoning regulations.

D-~~1831~~. **Mineral Resource Lands Expansion - North Star Rd.** (PLN2012-00009) – Consider proposal to amend the comprehensive plan designation from Rural to Mineral Resource Lands (MRL) and amend the zoning map to expand a MRL overlay zone on approximately 19.7 acres on the west side of North Star Rd., south of Brown Rd. The underlying zoning is Rural one dwelling/five acres (R5A).

2.3. Comprehensive Plan and Development Regulation Appeals

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

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

Chapter 3. Project Participants

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

3.1. The Public

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

3.1.1. Interested Property Owners and Developers

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

3.1.2. Community Organizations

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

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

3.1.3. Other Groups and Individuals

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

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

3.2. Governmental/Quasi-Governmental Groups

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

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

- Agricultural Advisory Committee
- Bicycle/Pedestrian Advisory Committee
- Birch Bay Shellfish Protection District Advisory Committee
- Birch Bay Watershed and Aquatic Resources Management Advisory Committee
- Business and Commerce Advisory Committee
- Child and Family Wellbeing Taskforce
- Climate Impact Advisory Committee
- Purchase of Development Rights Conservation Easement Program Oversight Committee
- Development Standards Technical Advisory Committee
- Drayton Harbor Shellfish Protection District Advisory Committee
- Flood Control Zone District Advisory Committee
- Flood Control Sub-Zone District Advisory Committee
- Food System Committee
- Forestry Advisory Committee
- Marine Resource Committee
- Parks and Recreation Committee
- Portage Bay Shellfish Protection District Advisory Committee
- Public Health Advisory Board
- Racial Equity Commission
- Rural Library Board
- Surface Mining Advisory Committee
- Whatcom Council of Governments: Citizens’ Community Transportation Advisory Group
- Whatcom County Family & Community Network

- Whatcom County Housing Advisory Committee
- Whatcom Transportation Authority’s Citizen Advisory Panel
- Wildlife Advisory Committee
- WRIA 1 –Management Team
- WRIA 1 – Planning Unit

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

3.2.1. Planning Commission

Implementation of the GMA as it relates to public participation is covered within WAC 365-196-600 “Public Participation.” WAC 365-196-600(3)(c) states: “The public participation program should clearly describe the role of the planning commission, ensuring consistency with

requirements of chapter 36.70, 35.63, or 35A.63 RCW.” RCW 36.70 is the Planning Enabling Act, which requires:

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

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

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

3.3. The Cities

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

Chapter 4. Public Participation Approach

4.1. Overall Approach

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

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

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

Planning Commission and County Council meetings will be conducted in accordance with the Washington State Open Public Meetings Act (RCW 42.30). Specifically, RCW 42.30.240(1) states:

Except in an emergency situation, the governing body of a public agency shall provide an opportunity at or before every regular meeting at which final action is taken for public comment. The public comment required under this section may be taken orally at a public meeting, or by providing an opportunity for written testimony to be submitted before or at the meeting. If the governing body accepts written testimony, this testimony must be distributed to the governing body. The governing body may set a reasonable deadline for the submission of written testimony before the meeting.

This means that the Planning Commission and County Council need to take oral or written public comment when they take final action, even if the meeting is not a public hearing.

4.2. Level 1 Issues

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

4.2.1. Approach

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

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

4.2.2. Level 1 Projects

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

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

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

S-3. **Buildable Lands / Review and Evaluation Program** (RCW 36.70A.070, .115, .215, amended in 2017 by ESSSB 5254)

D-1. Capital Facilities Planning, CIP 2023-2028 (PLN2022-00001)

D-2. Whatcom County Code Amendments (PLN2022-00003)

D-4. Lake Whatcom Watershed Seasonal Closure Exemption (PLN2022-00006)

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

D-52. **TDR Receiving Area** (PLN2021-00002)

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

D-64. **Wireless Communication Facilities** (PLN2021-00005)

~~D-5. Whatcom County Code Amendments (PLN2021-00006)~~

D-87. **Lake Whatcom Watershed Overlay District Amendments** (PLN2021-00008)

~~D-8. Marijuana Growing and Processing (PLN2021-00009)~~

~~D-9. Six-Year Capital Improvement Program Amendment (PLN2021-00010)~~

~~D-10. Affordable Housing Amendments (PLN2021-00011)~~

~~D-11. Neighborhood Commercial to Residential Rezone (PLN2020-00003)~~

~~D-12. Rural Forestry Designation and Text Amendments – Nooksack Falls (PLN2020-00004)~~

D-104. **MRL Expansion - Breckenridge Rd.** (PLN2019-00002)

~~D-15. Lummi Island Ferry Amendments (PLN2019-00004)~~

~~D-16. Density Credit Program – Zoning Code Amendments (PLN2019-00005)~~

~~D-19. Density Credit Program – Comprehensive Plan Amendments (PLN2018-00002)~~

~~D-20. Repeal Cherry Point Ferndale Subarea Plan (PLN2018-00003)~~

~~D-21. CAO On-Going Agriculture (PLN2018-00005)~~

D-1326. **Sign Regulations Update** (PLN2016-00009)

D-1427. **Vacation Rentals** (PLN2014-00020/PLN2016-00011)

D-1528. **Code Enforcement Amendments** (PLN2015-00003)

D-1629. **Weddings and Special Events** (PLN2014-00016)

D-1834. **Mineral Resource Lands Expansion - North Star Rd.** (PLN2012-00009)

4.3. Level 2 Issues

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

4.3.1. Approach

Typically, level 2 issues will follow this process:

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

4.3.2. Level 2 Projects

D-3. Cherry Point Shoreline Access (PLN2022-00005)

D-~~76~~. Bellingham UGA Expansion (PLN2021-00007)

D-~~1122~~. Wind Energy System Amendments (PLN2018-00008)

~~D-24. Sustainable Salmon Harvest Goal (PLN2018-00010)~~

D-~~1730~~. Agricultural Strategic Plan Implementation (PLN2012-00007). Coordination with the Agriculture Advisory Committee and applicable Cities.

S-5. Tribal Participation in Planning

4.4. Level 3 Issues

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

4.4.1. Approach

Typically, level 3 issues will follow this process:

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

4.4.2. Level 3 Projects

~~D-17 — Surface Mining Pipeline Buffer (PLN2019-00010)~~

~~D-18 — Surface Mining of Dry Meander Zones (PLN2019-00011)~~

~~D-23 — Cherry Point Amendments (PLN2018-00009)~~

S-1. 2025 Comprehensive Plan/Development Regulation Update and UGA Review

~~D-1225. Mineral Resource Lands County-wide Designation Process (PLN2017-00004)~~

~~S-4/D-913. Shoreline Management Program Update (PLN2020-00006)~~

~~It is anticipated that projects D-17 and D-18 will be incorporated into review of project D-25.~~

Chapter 5. Conclusion

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

To provide written feedback on this public participation plan, please contact Planning and Development Services at pds@co.whatcom.wa.us. If you wish to provide comment on any issue to the Planning Commission or County Council, please utilize the following addresses:

Whatcom County Planning Commission
c/o Secretary
5280 Northwest Drive
Bellingham, WA 98226
PDS_Planning_Commission@co.whatcom.wa.us

County Council
311 Grand Ave, Ste 105
Bellingham, WA 98225
council@co.whatcom.wa.us



816 Second Ave, Suite 200, Seattle, WA 98104
p. (206) 343-0681
futurewise.org



October 13, 2022

Kelvin Barton, Chair
Whatcom County Planning Commission
ATTN: Tammy Axlund
5280 Northwest Drive
Bellingham, Washington 98226

Dear Chair Barton and Planning Commissioners:

Subject: Comments for the public hearings on the Buildable Lands Report: 2022 Whatcom County Review and Evaluation Program (issued July 7, 2022) and the proposed Public Participation Plan for Whatcom County Comprehensive Plan and Development Regulation Amendments.

Sent via email to: PDS_Planning_Commission@co.whatcom.wa.us

Thank you for the opportunity to comment on the Buildable Lands Report and the proposed Public Participation Plan for the Whatcom County Comprehensive Plan and Development Regulation Amendments. We recommend that the Planning Commission recommend approval of both documents. We do have a suggestion for the Public Participation Program. Our recommendations are discussed below.

Futurewise works throughout Washington State to support land-use policies that encourage healthy, equitable, and opportunity-rich communities, and that protect our most valuable farmlands, forests, and water resources. Futurewise has members across Washington State including Whatcom County.

Futurewise suggests the Planning Commission should recommend approval of the Buildable Lands Report: 2022 Whatcom County Review and Evaluation Program (issued July 7, 2022).

Futurewise has reviewed the Buildable Lands Report and has concluded that it accurately analyzes recent growth trends and the availability of developable land in Whatcom County. Futurewise appreciates that the county staff invited comments from interested members of the public including Futurewise and we





appreciate that the staff considered our comments. We recommend that the Planning Commission recommend approval of the Buildable Lands Report.

Comments on the Public Participation Plan for the Whatcom County Comprehensive Plan and Development Regulation Amendments.

Futurewise also supports the proposed Public Participation Plan. We recommend that the sections 4.2.1. Approach on page 4-2, 4.3.1. Approach on page 4-4, and 4.4.1. Approach on page 4-5 provide that the various county bodies will accept the transfer of documents supporting public comments and intended for the record by Dropbox, Box, and similar file transfer protocols that do not require a payment for the county to transfer the documents. The electronic transfer of record documents is quick and economical for the county and the public and allows the county to maintain the documents in an electronic format making them easier to store, distribute, and work with.

Thank you for considering our comments. If you require additional information, please contact Tim Trohimovich at telephone (206) 343-0681 Ext. 102 or email: tim@futurewise.org.

Very Truly Yours,

Tim Trohimovich, AICP
Director of Planning & Law





Whatcom County

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

Agenda Bill Master Report

File Number: MIN2022-067

File ID:	MIN2022-067	Version:	1	Status:	Agenda Ready
File Created:	10/26/2022	Entered by:	KFelbing@co.whatcom.wa.us		
Department:	Council Office	File Type:	Minutes Consent		
Assigned to:	Council			Final Action:	
Agenda Date:	11/09/2022			Enactment #:	

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

TITLE FOR AGENDA ITEM:

Committee of the Whole Executive Session for October 25, 2022

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

None

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
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Attachments: Committee of the Whole Exec Oct 25 2022

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

Tuesday, October 25, 2022

8:30 AM

Hybrid Meeting

HYBRID MEETING - ADJOURNS BY 10:30 A.M. (PARTICIPATE IN-PERSON, SEE REMOTE JOIN INSTRUCTIONS AT www.whatcomcounty.us/joinvirtualcouncil, OR CALL 360.778.5010); AGENDA REVISED 10.21.2022: ITEM ADDED AND START TIME CHANGED TO 8:30 A.M.

COUNCILMEMBERS

Barry Buchanan
Tyler Byrd
Todd Donovan
Ben Elenbaas
Carol Frazey
Kaylee Galloway
Kathy Kershner

CLERK OF THE COUNCIL

Dana Brown-Davis, C.M.C.

Call To Order

Council Chair Todd Donovan called the meeting to order at 8:30 a.m. in a hybrid meeting.

Roll Call

Present: 7 - Barry Buchanan, Tyler Byrd, Todd Donovan, Ben Elenbaas, Carol Frazey, Kaylee Galloway, and Kathy Kershner

Absent: None

Announcements

Committee Discussion

Attorneys Present: Karen Frakes, George Roche, and Chris Quinn.

Donovan stated that discussion of agenda item one through three may take place in executive session pursuant to RCW 42.30.110 (1) (i), RCW 42.30.140(4)(a), and RCW 42.30.110(1)(b) respectively. Executive session will conclude no later than 10:30 a.m. If the meeting extends beyond the stated conclusion time, Council Staff will make a public announcement.

Frazey moved to go into executive session until no later than 10:30 a.m. to discuss the agenda item(s) pursuant to the RCW citation(s) as announced by the Council Chair. The motion was seconded by Kershner.

The motion carried by the following vote:

Aye: 5 - Buchanan, Donovan, Elenbaas, Frazey, and Kershner

Nay: 0

Out of the Meeting: 2 - Byrd and Galloway (both Byrd and Galloway were not present for the roll call and the vote but joined the meeting shortly after.)

Clerk's note: Councilmember Donovan recused himself from the discussion on agenda item number one (AB2022-598).

1. [AB2022-598](#) Discussion of potential liabilities in the Whatcom County Jail and discussion of pending litigation with Civil Deputy Prosecutor, re: Cooper as personal representative of the Estate of Paula Jefferson, et al. v. Whatcom County, et al. US District Court Western District of WA No. 2:20-cv-01196. [Discussion of this item may take place in executive session (closed to the public) pursuant to RCW42.30.110 (1) (i)]

Donovan recused himself from the discussion.

This agenda item was DISCUSSED.

2. [AB2022-569](#) Update on negotiations and planning strategy discussion regarding collective bargaining [Discussion of this item may take place in executive session (closed to the public) pursuant to RCW 42.30.140(4)(a)]

This agenda item was DISCUSSED.

3. [AB2022-432](#) 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)]

This agenda item was DISCUSSED.

Items Added by Revision

REVISION SUMMARY:

AB2022-598 was added to the agenda by revision.

Other Business

There was no other business.

Adjournment

The meeting adjourned at 10:29 a.m.

ATTEST:

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WA

Dana Brown-Davis, Council Clerk

Todd Donovan, 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: MIN2022-068

File ID:	MIN2022-068	Version:	1	Status:	Agenda Ready
File Created:	10/28/2022	Entered by:	KFelbing@co.whatcom.wa.us		
Department:	Council Office	File Type:	Minutes Consent		
Assigned to:	Council			Final Action:	
Agenda Date:	11/09/2022			Enactment #:	

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

TITLE FOR AGENDA ITEM:

Committee of the Whole for October 25, 2022

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 Oct 25 2022

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

Tuesday, October 25, 2022

2:35 PM

Hybrid Meeting

**HYBRID MEETING - ADJOURNS BY 4:30 P.M.; MAY BEGIN EARLY
(PARTICIPATE IN-PERSON, SEE REMOTE JOIN INSTRUCTIONS AT
www.whatcomcounty.us/joinvirtualcouncil, OR CALL 360.778.5010)**

COUNCILMEMBERS

Barry Buchanan
Tyler Byrd
Todd Donovan
Ben Elenbaas
Carol Frazey
Kaylee Galloway
Kathy Kershner

CLERK OF THE COUNCIL

Dana Brown-Davis, C.M.C.

Call To Order

Council Chair Todd Donovan called the meeting to order at 2:31 p.m. in a hybrid meeting.

Roll Call

Present: 7 - Barry Buchanan, Tyler Byrd, Todd Donovan, Ben Elenbaas, Carol Frazey, Kaylee Galloway, and Kathy Kershner

Absent: None

Announcements

Special Presentation

1. [AB2022-532](#) Update from Blaine-Birch Bay Park and Recreation District on the California Creek Estuary project

The following people presented:

- Ted Morris, Capital Project Specialist for the Blaine-Birch Bay Park and Recreation District
- Heather Lindsay, Blaine-Birch Bay Park and Recreation District Director

Morris answered whether the estuary project will improve the functionality of the estuary or whether it is just stand-alone.

This agenda item was PRESENTED.

2. [AB2022-560](#) Presentation from the Port of Bellingham and PUD#1 regarding broadband projects and planning

The following people presented:

- Chris Heimgartner, Whatcom PUD General Manager
- Andrew Entrikin, Whatcom PUD Broadband Program Manager

The speakers, Satpal Sidhu, County Executive, and Councilmembers discussed whether the unserved areas on the maps shown in the presentation are those that the Port of Bellingham said would not be included in the Port's maps and that they cannot get to, the definition of being served by private Internet Service Providers (ISPs) since some "served" areas do not meet the internet speed standards, whether private industries would go into harder-to-service areas they have passed over because it is not lucrative if grant and government funding for building out infrastructure were available to them, the difference between aerial or ground connection that might go

in Point Roberts and how they determine which house gets what, online GIS mapping tools for showing internet speeds in different areas of the county, whether a company like Comcast for whom internet is not their bread and butter would have the same access to compete with a provider like PogoZone, what areas are out there that show they are being served but are actually not served well and whether we may be spending a lot of money on services that may not be viable, whether the ISPs have all been identified and whether they are all invited to be service providers on this new network that is being built, which ISP would respond to a problem like a pole being knocked out if two neighbors have two different providers, why it is good that PogoZone would own the infrastructure in 25 years, whether the steering committee does not see the Indefeasible Right of Use (IRU) until after the Port of Bellingham has signed it, how PogoZone got selected and how the other providers compete if PogoZone is the selected provider, getting a definition of open access versus public ownership, what would stop an ISP from charging a lot of money if there is not competition, whether the grant submission is time sensitive, whether it is a possibility to go in the direction of the SkagitNet model as opposed to the model being proposed, and getting the outcome of the PUD's feasibility study before allocating money.

This agenda item was PRESENTED AND DISCUSSED.

3. [AB2022-584](#) Presentation of the County Executive's proposed 2023-2024 Biennial Budget
Satpal Sidhu, County Executive, read from a presentation (on file) and he and the following people answered questions:

- Tyler Schroeder, Director of Administrative Services
- Brad Bennett, Administrative Services Department Finance

They answered where the Racial Equity Commission and the Water Solutions Table are found in the budget, what the minimum is we can have in the General Fund, how long the County has been using the jail fund to pay for corrections deputies and operations and how the money they are collecting from the sales tax increase has been used, what the public might be expecting the County to be putting aside for a new facility, whether the budget for Emergency Medical Services (EMS) is assuming the levy passes or whether it is without the levy, why the Flood Control Zone District revenue and expenditures are blank in the presentation slide for 2024, whether the numbers for 2021 on the "General Fund Revenue Projections" slide are actual or budget, and where the increase in tax revenue between the 2022 adopted budget and 2023 recommended budget is coming from.

Schroeder spoke about documents that are available online.

This agenda item was PRESENTED AND DISCUSSED.

Committee Discussion

1. [AB2022-585](#) Discussion of the Whatcom County, City of Bellingham and Port of Bellingham Legislative Agenda

Tyler Schroeder, Director of Administrative Services, briefed the Councilmembers.

Galloway made suggestions for the following objectives:

Criminal Justice

Refer to criminal justice and public safety.

Capital Budget Priorities

Add something about open access so it reads:

- Continued funding for countywide, open access broadband infrastructure

Climate Action and Environmental Sustainability

Add a bullet point on culverts.

Housing Affordability and Child Care

Add in conversation around missing middle housing and workforce housing.

She stated she is interested in having specific bills that they advocate for and cohosting a legislative send-off probably in December to gather our local legislative delegations and let them know what our priorities are and vice-versa.

Schroeder stated he will speak with the Bellingham and Port of Bellingham representatives to see if we can update this document to recognize the suggestions and they are working with the City and the Port about doing a legislative send-off.

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 4:33 p.m.

ATTEST:

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WA

Dana Brown-Davis, Council Clerk

Todd Donovan, 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: MIN2022-070

File ID:	MIN2022-070	Version:	1	Status:	Agenda Ready
File Created:	10/31/2022	Entered by:	KFelbing@co.whatcom.wa.us		
Department:	Council Office	File Type:	Minutes Consent		
Assigned to:	Council			Final Action:	
Agenda Date:	11/09/2022			Enactment #:	

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

TITLE FOR AGENDA ITEM:

Regular County Council for October 25, 2022

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 Oct 25 2022

Whatcom County Council

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



Minutes - Draft Minutes

Tuesday, October 25, 2022

6 PM

Hybrid Meeting

**HYBRID MEETING (PARTICIPATE IN-PERSON, SEE REMOTE JOIN
INSTRUCTIONS AT www.whatcomcounty.us/joinvirtualcouncil, OR CALL
360.778.5010)**

COUNCILMEMBERS

Barry Buchanan
Tyler Byrd
Todd Donovan
Ben Elenbaas
Carol Frazey
Kaylee Galloway
Kathy Kershner

CLERK OF THE COUNCIL

Dana Brown-Davis, C.M.C.

COUNTY COUNCIL

CALL TO ORDER

Council Chair Todd Donovan called the meeting to order at 6:01 p.m. in a hybrid meeting.

ROLL CALL

Present: 7 - Barry Buchanan, Tyler Byrd, Todd Donovan, Ben Elenbaas, Carol Frazey, Kaylee Galloway, and Kathy Kershner

Absent: None

FLAG SALUTE

ANNOUNCEMENTS

COUNTY EXECUTIVE'S REPORT

Satpal Sidhu, County Executive, presented the 2023-2024 Whatcom County Budget Message.

MINUTES CONSENT

Buchanan moved to accept the minutes consent items. The motion was seconded by Frazey (see votes on individual items below).

1. [MIN2022-063](#) Committee of the Whole Executive Session for October 11, 2022

Buchanan moved and Frazey seconded that the Minutes Consent be APPROVED BY CONSENT. The motion carried by the following vote:

Aye: 7 - Buchanan, Byrd, Donovan, Elenbaas, Frazey, Galloway, and Kershner

Nay: 0

Absent: 0

2. [MIN2022-064](#) Committee of the Whole for October 11, 2022

Buchanan moved and Frazey seconded that the Minutes Consent be APPROVED BY CONSENT. The motion carried by the following vote:

Aye: 7 - Buchanan, Byrd, Donovan, Elenbaas, Frazey, Galloway, and Kershner

Nay: 0

Absent: 0

3. [MIN2022-065](#) Regular County Council for October 11, 2022

Buchanan moved and Frazey seconded that the Minutes Consent be

APPROVED BY CONSENT. The motion carried by the following vote:

Aye: 7 - Buchanan, Byrd, Donovan, Elenbaas, Frazey, Galloway, and Kershner

Nay: 0

Absent: 0

4. [MIN2022-066](#) Water Work Session for October 18, 2022

Buchanan moved and Frazey seconded that the Minutes Consent be APPROVED BY CONSENT. The motion carried by the following vote:

Aye: 7 - Buchanan, Byrd, Donovan, Elenbaas, Frazey, Galloway, and Kershner

Nay: 0

Absent: 0

PUBLIC HEARINGS

1. [AB2022-529](#) Ordinance approving a system of rates and charges for the Whatcom Conservation District

Heather Christianson, Whatcom Conservation District (WCD) Board of Supervisors Chair, briefed the Councilmembers.

Donovan opened the Public Hearing and the following person spoke:

- Don Starr

Steve Oliver, Whatcom County Treasurer, spoke about a proposed amendment to the Ordinance that he sent to the Councilmembers.

Public comment continued and the following people spoke:

- Chris Diele
- Michael Feerer
- Wendy Harris

Hearing no one else, Donovan closed the Public Hearing.

Galloway moved and Frazey seconded that the Ordinance Requiring a Public Hearing be ADOPTED.

Karen Frakes, Prosecuting Attorney's Office, spoke about the proposed amendment sent to Council by the County Treasurer. She stated she is supportive of the change and does not believe the change will affect the

Council's ability to adopt this tonight.

Galloway moved to amend section five in the Ordinance as follows:

~~**Section 5.** As provided in RCW 89.08.405(6), the County shall retain one-percent (1%) of the amount collected by the County Treasurer to reimburse the County for the costs of collection.~~

Section 5. As provided in RCW 89.08.405(6), the County Treasurer shall deduct an amount from the collected rates and charges, as established by the county legislative authority, to cover the costs incurred by the county assessor and county treasurer in spreading and collecting the rates and charges, but not to exceed the actual costs of such work.

The motion was seconded by Frazey.

The motion to amend carried by the following vote:

Aye: 7 - Byrd, Donovan, Elenbaas, Frazey, Galloway, Kershner, and Buchanan

Nay: 0

Councilmembers discussed the main motion.

Galloway's motion that the Ordinance Requiring a Public Hearing be ADOPTED AS AMENDED carried by the following vote:

Aye: 4 - Buchanan, Donovan, Frazey, and Galloway

Nay: 3 - Byrd, Elenbaas, and Kershner

Absent: 0

Enactment No: ORD 2022-066

2. [AB2022-545](#) Resolution adopting the 2023-2028 Six-Year Water Resources Improvement Program (WRIP) by the Whatcom County Council (Council acting as the Whatcom County Flood Control Zone District Board of Supervisors)

Gary Stoyka, Public Works Department, stated he did not have a report.

Donovan opened the Public Hearing and the following people spoke:

- Cliff (last name not stated)
- Misty Flowers
- Shannon Buckley

Hearing no one else, Donovan closed the Public Hearing.

Frazey moved and Kershner seconded that the Resolution (FCZDBS) Requiring a Public Hearing be APPROVED.

Paula Harris, Public Works Department, answered what the connection is between this long-range plan and some of the flood-related repairs and mitigation efforts they have been working on.

Kershner invited the public to look at the Public Works Department website for flood information. There have also been several updates in Council Committee meetings and Water Work Session meetings on various plans that the County has put in place.

Harris answered whether the County is limited to the projects listed on this six-year plan.

Frazey's motion that the Resolution (FCZDBS) Requiring a Public Hearing be APPROVED carried by the following vote:

Aye: 7 - Buchanan, Byrd, Donovan, Elenbaas, Frazey, Galloway, and Kershner

Nay: 0

Absent: 0

Enactment No: RES 2022-043

3. [AB2022-555](#) Resolution approving the Whatcom County 2023 Annual Construction Program
Jim Karcher, Public Works Department, briefed the Councilmembers.

Donovan opened the Public Hearing and the following person spoke:

- Cynthia (last name not stated)

Hearing no one else, Donovan closed the Public Hearing.

Kershner moved and Buchanan seconded that the Resolution Requiring a Public Hearing be APPROVED.

Karcher answered questions about the language in the Resolution “that no changes be made in the program without the unanimous vote of the Whatcom County Council” and whether that is statutorily required or unique to this plan, and Annual Program Item numbers 44 and 45 regarding the Lummi Island ferry and the relocation of the Gooseberry Terminal and what sort of flexibilities exist with those projects should circumstances change (different technologies may result in different costs).

Kershner's motion that the Resolution Requiring a Public Hearing be APPROVED carried by the following vote:

Aye: 7 - Buchanan, Byrd, Donovan, Elenbaas, Frazey, Galloway, and Kershner

Nay: 0

Absent: 0

Enactment No: RES 2022-044

OPEN SESSION

The following people spoke:

- Cynthia Ripke-Kutsagoitz
- Emily Freudenberger
- Rochelle Hallowell
- Ivy Little
- Christopher Diele
- Pamela Carron
- Jillian Froebe
- Sophie McMahon
- Rob Lewis
- Carly Lloyd
- Elizabeth Kerwin
- Asa Menlove
- Susan David
- Cory McDonald
- Brel Froebe
- Jay McAfee
- Name not stated
- Natalie Chavez
- Barbara Powers
- Todd Lagestee
- Name not stated
- Lyle Sorenson
- Michael Feerer
- Bill Turner
- Kai Clarke
- Misty Flowers
- Wendy Harris
- Sara Rose

- Judith Akins
- Cliff (last name not stated)
- Hannah (last name not stated)

Hearing no one else, Donovan closed the Open Session.

Clerk's note: Councilmembers took a short break.

CONSENT AGENDA

(From Council Finance and Administrative Services Committee)

Byrd reported for the Finance and Administrative Services Committee and *moved* to approve Consent Agenda items one through ten. Councilmembers voted on those items (see votes on individual items below).

1. [AB2022-563](#) Request authorization for the County Executive to enter into an interlocal agreement between Whatcom County and Washington State Department of Commerce for Drug Task Force Justice Assistance Grant (JAG), in the amount of \$199,375.00

Byrd reported for the Finance and Administrative Services Committee and moved that the Interlocal be AUTHORIZED BY CONSENT. The motion carried by the following vote:

Aye: 6 - Buchanan, Byrd, Donovan, Frazey, Galloway, and Kershner

Nay: 1 - Elenbaas

Absent: 0

2. [AB2022-564](#) Request authorization for the County Executive to enter into an interlocal agreement between Whatcom County and South Whatcom Fire Authority for fire protection services in an amount determined by the current levy rate and the assessed value of improvements on the park properties within the district

Byrd reported for the Finance and Administrative Services Committee and moved that the Interlocal be AUTHORIZED BY CONSENT. The motion carried by the following vote:

Aye: 6 - Buchanan, Byrd, Donovan, Frazey, Galloway, and Kershner

Nay: 1 - Elenbaas

Absent: 0

3. [AB2022-567](#) Request authorization for the County Executive to enter into an interlocal agreement between Whatcom County and Washington State Health Care Authority to establish an alternative response team to respond to 911 calls that do not require law enforcement, in the amount of \$2,213,000

Byrd reported for the Finance and Administrative Services Committee and moved that the Interlocal be AUTHORIZED BY CONSENT. The motion carried by the following vote:

Aye: 6 - Buchanan, Byrd, Donovan, Frazey, Galloway, and Kershner

Nay: 1 - Elenbaas

Absent: 0

4. [AB2022-572](#) Request authorization for the County Executive to enter into an interlocal agreement between Whatcom County and U.S. Department of Justice Drug Enforcement Administration for reimbursement of overtime for two Sheriff's Office detectives, in the amount of \$39,681.50

Byrd reported for the Finance and Administrative Services Committee and moved that the Interlocal be AUTHORIZED BY CONSENT. The motion carried by the following vote:

Aye: 6 - Buchanan, Byrd, Donovan, Frazey, Galloway, and Kershner

Nay: 1 - Elenbaas

Absent: 0

5. [AB2022-573](#) Request authorization for the County Executive to enter into an interlocal agreement between Whatcom County and U.S. Department of Justice Organized Crime Drug Enforcement Task Forces (OCDETF) for reimbursement of overtime of Whatcom County Sheriff's Office deputies engaged in OCDETF investigation PA-WAW-0363, in the amount of \$2,500.00

Byrd reported for the Finance and Administrative Services Committee and moved that the Interlocal be AUTHORIZED BY CONSENT. The motion carried by the following vote:

Aye: 6 - Buchanan, Byrd, Donovan, Frazey, Galloway, and Kershner

Nay: 1 - Elenbaas

Absent: 0

6. [AB2022-574](#) Request authorization for the County Executive to enter into an interlocal agreement between Whatcom County and U.S. Department of Justice Organized Crime Drug Enforcement Task Forces (OCDETF) for reimbursement of overtime of Whatcom County Sheriff's Office deputies engaged in OCDETF investigation PA-WAW-0362, in the amount of \$2,500.00

Byrd reported for the Finance and Administrative Services Committee and moved that the Interlocal be AUTHORIZED BY CONSENT. The motion carried by the following vote:

Aye: 6 - Buchanan, Byrd, Donovan, Frazey, Galloway, and Kershner

Nay: 1 - Elenbaas

Absent: 0

7. [AB2022-578](#) Request authorization for the County Executive to enter into an interlocal agreement between Whatcom County and City of Bellingham for partial funding of the ongoing maintenance and operations of the Crisis Stabilization Center, in the amount of \$65,000

Byrd reported for the Finance and Administrative Services Committee and moved that the Interlocal be AUTHORIZED BY CONSENT. The motion failed by the following vote:

Aye: 6 - Buchanan, Byrd, Donovan, Frazey, Galloway, and Kershner

Nay: 1 - Elenbaas

Absent: 0

8. [AB2022-580](#) Request authorization for the County Executive to enter into an interlocal amendment between Whatcom County and the City of Bellingham to extend the term of the Jail Use Agreement until December 31, 2023

Byrd reported for the Finance and Administrative Services Committee and moved that the Interlocal be AUTHORIZED BY CONSENT. The motion carried by the following vote:

Aye: 6 - Buchanan, Byrd, Donovan, Frazey, Galloway, and Kershner

Nay: 1 - Elenbaas

Absent: 0

9. [AB2022-582](#) Request authorization for the County Executive to enter into an interlocal agreement between Whatcom County and the City of Bellingham for design and construction costs associated with the Meridian Birchwood Roundabout project in the amount of \$2,625,000

Byrd reported for the Finance and Administrative Services Committee and moved that the Interlocal be AUTHORIZED BY CONSENT. The motion carried by the following vote:

Aye: 6 - Buchanan, Byrd, Donovan, Frazey, Galloway, and Kershner

Nay: 1 - Elenbaas

Absent: 0

10. [AB2022-590](#) Request authorization for the County Executive to enter into an interlocal agreement between Whatcom County and the City of Bellingham for joint support of the

Whatcom Racial Equity Committee in the amount of \$600,000

Byrd reported for the Finance and Administrative Services Committee and moved that the Interlocal be AUTHORIZED BY CONSENT. The motion carried by the following vote:

Aye: 6 - Buchanan, Byrd, Donovan, Frazey, Galloway, and Kershner

Nay: 1 - Elenbaas

Absent: 0

OTHER ITEMS

(From Council Finance and Administrative Services Committee)

1. [AB2022-536](#) Ordinance amending Whatcom County Code 2.21.030 to increase the per diem amount paid to Board of Equalization members

Byrd reported for the Finance and Administrative Services Committee and **moved** that the Ordinance be **ADOPTED**.

Councilmembers discussed the motion.

Byrd's motion that the Ordinance be ADOPTED carried by the following vote:

Aye: 7 - Buchanan, Byrd, Donovan, Elenbaas, Frazey, Galloway, and Kershner

Nay: 0

Absent: 0

Enactment No: ORD 2022-067

2. [AB2022-554](#) Ordinance amending the 2022 Whatcom County Budget, request no. 14, in the amount of \$420,917

Byrd reported for the Finance and Administrative Services Committee and moved that the Ordinance be ADOPTED. The motion carried by the following vote:

Aye: 7 - Buchanan, Byrd, Donovan, Elenbaas, Frazey, Galloway, and Kershner

Nay: 0

Absent: 0

Enactment No: ORD 2022-068

3. [AB2022-576](#) Request authorization for the County Executive to enter into a contract between Whatcom County and Opportunity Council to provide funding to support childcare

stabilization, in the amount of \$1,489,509

Byrd reported for the Finance and Administrative Services Committee and moved that the Contract be AUTHORIZED. The motion carried by the following vote:

Aye: 5 - Buchanan, Donovan, Frazey, Galloway, and Kershner

Nay: 2 - Byrd, and Elenbaas

Absent: 0

4. [AB2022-579](#) Request authorization for the County Executive to enter into a Subrecipient Agreement between Whatcom County and Opportunity Council for pass-through of a CDBG Public Services grant for the delivery of direct public services in the amount of \$131,000

Byrd reported for the Finance and Administrative Services Committee and moved that the Contract be AUTHORIZED. The motion carried by the following vote:

Aye: 6 - Buchanan, Donovan, Elenbaas, Frazey, Galloway, and Kershner

Nay: 1 - Byrd

Absent: 0

(From Council Public Works and Health Committee)

5. [AB2022-562](#) Resolution adopting Whatcom County Public Works policies as required by the County Road Administration Board

Kershner reported on AB2022-565 from the Public Works and Health Committee.

Galloway made a point of order that this item is AB2022-562.

Kershner reported for the Public Works and Health Committee and moved that the Resolution be APPROVED. The motion carried by the following vote:

Aye: 7 - Buchanan, Byrd, Donovan, Elenbaas, Frazey, Galloway, and Kershner

Nay: 0

Absent: 0

Enactment No: RES 2022-045

COUNCIL APPOINTMENTS TO BOARDS, COMMISSIONS, AND COMMITTEES

1. [AB2022-547](#) Appointments to fill two vacancies on the Forestry Advisory Committee, commercial

forestry landowner positions, Applicants: John Gold and David Janicki

Frazey moved and Galloway seconded that both applicants be APPOINTED.

The motion carried by the following vote:

Aye: 7 - Buchanan, Byrd, Donovan, Elenbaas, Frazey, Galloway, and Kershner

Nay: 0

Absent: 0

2. [AB2022-556](#) Appointment to fill one vacancy on the Forestry Advisory Committee, citizen with forestry expertise, applicant(s): Charles Bagley Wright

Buchanan moved and Galloway seconded that the Council Appointment Requiring Introduction be APPOINTED. The motion carried by the following vote:

Aye: 7 - Buchanan, Byrd, Donovan, Elenbaas, Frazey, Galloway, and Kershner

Nay: 0

Absent: 0

CONFIRMATION OF EXECUTIVE APPOINTMENTS TO BOARDS, COMMISSIONS, AND COMMITTEES

1. [AB2022-577](#) Request confirmation of the County Executive's appointments to the Whatcom County Commission on Salaries for Elected Officials

Galloway moved and Frazey seconded that the Executive Appointment be CONFIRMED. The motion carried by the following vote:

Aye: 6 - Buchanan, Byrd, Donovan, Frazey, Galloway, and Kershner

Nay: 0

Absent: 0

Abstain: 1 - Elenbaas

2. [AB2022-588](#) Request confirmation of the County Executive's appointment of Russell Baird Tewskbury to the Civil Service Commission

Frazey moved and Galloway seconded that the Executive Appointment be CONFIRMED.

Elenbaas stated the individual has an interesting resume.

Frazey's motion that the Executive Appointment be CONFIRMED carried by the following vote:

Aye: 7 - Buchanan, Byrd, Donovan, Elenbaas, Frazey, Galloway, and Kershner

Nay: 0

Absent: 0

ITEMS ADDED BY REVISION

There were no agenda items added by revision.

INTRODUCTION ITEMS

Galloway moved to introduce items one through four. The motion was seconded by Buchanan (see votes on individual items below).

- 1. [AB2022-571](#) Ordinance amending the Whatcom County Code relating to Personal Wireless Service Facilities

Galloway moved and Buchanan seconded that the Ordinance Requiring a Public Hearing be INTRODUCED FOR PUBLIC HEARING. The motion carried by the following vote:

Aye: 7 - Buchanan, Byrd, Donovan, Elenbaas, Frazey, Galloway, and Kershner

Nay: 0

Absent: 0

- 2. [AB2022-538](#) Appointment to fill a vacancy on the Criminal Justice Treatment Account Panel, Substance Use Disorder Treatment Agency Position, Applicant(s): Julie Grendon

Galloway moved and Buchanan seconded that the Council Appointment Requiring Introduction be INTRODUCED. The motion carried by the following vote:

Aye: 7 - Buchanan, Byrd, Donovan, Elenbaas, Frazey, Galloway, and Kershner

Nay: 0

Absent: 0

- 3. [AB2022-592](#) Appointment to fill a vacancy on the Forestry Advisory Committee, Small Forest Landowner Position, Applicant(s): Holly Koon

Galloway moved and Buchanan seconded that the Council Appointment Requiring Introduction be INTRODUCED. The motion carried by the following vote:

Aye: 7 - Buchanan, Byrd, Donovan, Elenbaas, Frazey, Galloway, and Kershner

Nay: 0

Absent: 0

- 4. [AB2022-593](#) Appointment to fill a vacancy on Drainage District 3, Commissioner Position #3,

Applicant(s): Paul Sangha

Galloway moved and Buchanan seconded that the Council Appointment Requiring Introduction be INTRODUCED. The motion carried by the following vote:

Aye: 7 - Buchanan, Byrd, Donovan, Elenbaas, Frazey, Galloway, and Kershner

Nay: 0

Absent: 0

COMMITTEE REPORTS, OTHER ITEMS, AND COUNCILMEMBER UPDATES

Councilmembers gave Committee reports and other updates.

Dana Brown-Davis, Clerk of the Council, read into the record the title of the item that was added to the Committee of the Whole Executive Session agenda by revision (AB2022-598).

Elenbaas asked why Councilmember Donovan recused himself from that item and whether there is anything the Council needs to think about.

Galloway updated the Council on what she has been learning regarding the Box of Rain forest, the Appointments Project at Whatcom Community College (which is about engaging people in public boards, committees, and commissions), and a ride-along that she and Councilmember Frazey took with the Bellingham Fire Department. She thanked the Whatcom Housing Alliance for the housing week they put on last week.

Kershner reported on the Emergency Operations Center briefing on how to be prepared for emergencies, and a presentation from the Whatcom Housing Alliance on the Way Station.

Kershner moved to ask the Administration to come back to the Council with options for building and funding a new correctional facility.

The motion was seconded by Elenbaas.

Satpal Sidhu, County Executive, and Councilmembers discussed the motion, funding ideas and finding creative solutions, and when the final report from the Incarceration Prevention and Reduction Task Force (IPRTF) will be presented to Council.

Kershner restated her motion to ask the Administration to come back to the Council with a report on potential funding opportunities for a new

correctional facility.

Councilmembers and Sidhu continued to discuss the motion, when the information should be brought to the Council, and having a sense of what the options are that they might be negotiating with the cities.

The motion carried by the following vote:

Aye: 7 - Buchanan, Byrd, Donovan, Elenbaas, Frazey, Galloway, and Kershner

Nay: 0

Elenbaas spoke about going into this time of year and stated he hopes that we continue to look for more tools to put in our flooding toolbox.

MOTION SUMMARY:

Motion approved 7-0 to ask the Administration to come back to the Council with a report on potential funding opportunities for a new correctional facility.

ADJOURN

The meeting adjourned at 9:45 p.m.

ATTEST:

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WA

Dana Brown-Davis, Council Clerk

Todd Donovan, 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: **AB2022-581**

File ID:	AB2022-581	Version:	1	Status:	Agenda Ready
File Created:	10/13/2022	Entered by:	AHester@co.whatcom.wa.us		
Department:	Public Works Department	File Type:	Resolution Requiring a Public Hearing		
Assigned to:	Council	Final Action:			
Agenda Date:	11/09/2022	Enactment #:			

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

TITLE FOR AGENDA ITEM:

Resolution to declare Whatcom County Real Property as Surplus and Approve Sale

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

Per RCW 36.34.005 and Whatcom County Code 1.10, the Whatcom County Property Management Committee has recommended to surplus and sell Whatcom County real property, tax parcel 390225 443267 0000, subject to a covenant to bind to the highest bidder who could legally purchase the property, by sealed bid with the minimum sale price of \$890.00 (eight hundred ninety 00/100 dollars)

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
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Attachments: Memo, Resolution, Assessor Map, Aerial Map



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

Date: October 27, 2022

Re: Resolution to Declare Whatcom County Real Property as Surplus and Approve Sale

Enclosed is a resolution requesting the approval of the surplus and sale of Whatcom County real property.

Requested Action

Public Works respectfully requests that the Whatcom County Council hold a public hearing and take action on the proposed resolution to approve the surplus and sale of Whatcom County real property.

Background and Purpose

Per RCW and Whatcom County Code, the Whatcom County Property Management Committee has recommended the sale of Whatcom County real property, tax parcel number 390225 434267 0000, subject to a covenant to bind, as surplus property. The property is a 15 foot strip less than 1 acre in total area. It has been evaluated by Public Works and it has been determined that it is useless to Public Works operations. It is recommended that it be sold by sealed bid with the minimum sale price of \$890.00 (eight hundred ninety 00/100 dollars).

Funding Amount and Source

The successful bidder is responsible for paying all costs associated with the sale of property.

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. _____

RESOLUTION TO DECLARE WHATCOM COUNTY REAL PROPERTY AS SURPLUS AND APPROVE SALE

WHEREAS, RCW 36.34.005 authorizes counties to establish comprehensive 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, having met and considered Whatcom County's best interest, recommends that the County Council declare Whatcom County real property, tax parcel number 390225 434267 0000, to be surplus property and that the property be sold, subject to a covenant to bind, to the highest bidder who could legally purchase the property, by sealed bid, for not less than the amount listed below, plus costs; and

WHEREAS, WCC 1.10.310 authorizes the Council, after receipt of estimated market values from the Property Management Committee, to establish limitations and conditions upon sale of property, such as the minimum price for said property and whether or not a contract will be allowed, or if it will be a cash price; and

NOW, THEREFORE, BE IT RESOLVED that it is in the best interest of the County to declare Whatcom County real property, tax parcel number 390225 434267 0000, to be surplus and that the property be sold, subject to a covenant to bind, to the highest bidder who can legally purchase the property by sealed bid.

BE IT FURTHER RESOLVED that the minimum bid for the property listed above shall be no less than the assessed value of \$890.00 (eight hundred ninety 00/100 dollars) and that Buyer will pay all costs associated with a real property transaction; and

BE IT FURTHER RESOLVED that transfer of said real property be by quitclaim deed and that Buyer will represent and warrant in writing to Seller Whatcom County, that Buyer has thoroughly inspected and evaluated the properties for sell, to Buyer's complete satisfaction and Buyer accepts the properties AS IS with full knowledge of potential liability the Buyer could incur for any environmental hazards or conditions affecting the properties. Buyer agrees that the purchase price of the properties reflects the agreed upon value of the properties AS IS, taking into account the aforementioned disclosures; and

BE IT FURTHER RESOLVED that said purchase of said real property shall not be allowed under contract and shall be paid either in cash, certified check or money order to the Whatcom County Treasurer; and

BE IT FURTHER RESOLVED that the Whatcom County Treasurer is hereby directed to sell said property at no less than the appraised value of \$890.00 (eight hundred ninety 00/100 dollars) and that said sale shall

1 take place in accordance with the duties as established in WCC 1.10.290-1.10.390. If the minimum bid is
2 not reached, the properties shall not be sold.

3
4

5 BE IT FURTHER RESOLVED that the sale will not be completed until Buyer has paid all fees and costs
6 associated with it and has paid the Whatcom County Treasurer the bid award amount.

7
8
9

10 APPROVED this _____ day of _____, 2022

11
12 ATTEST:

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

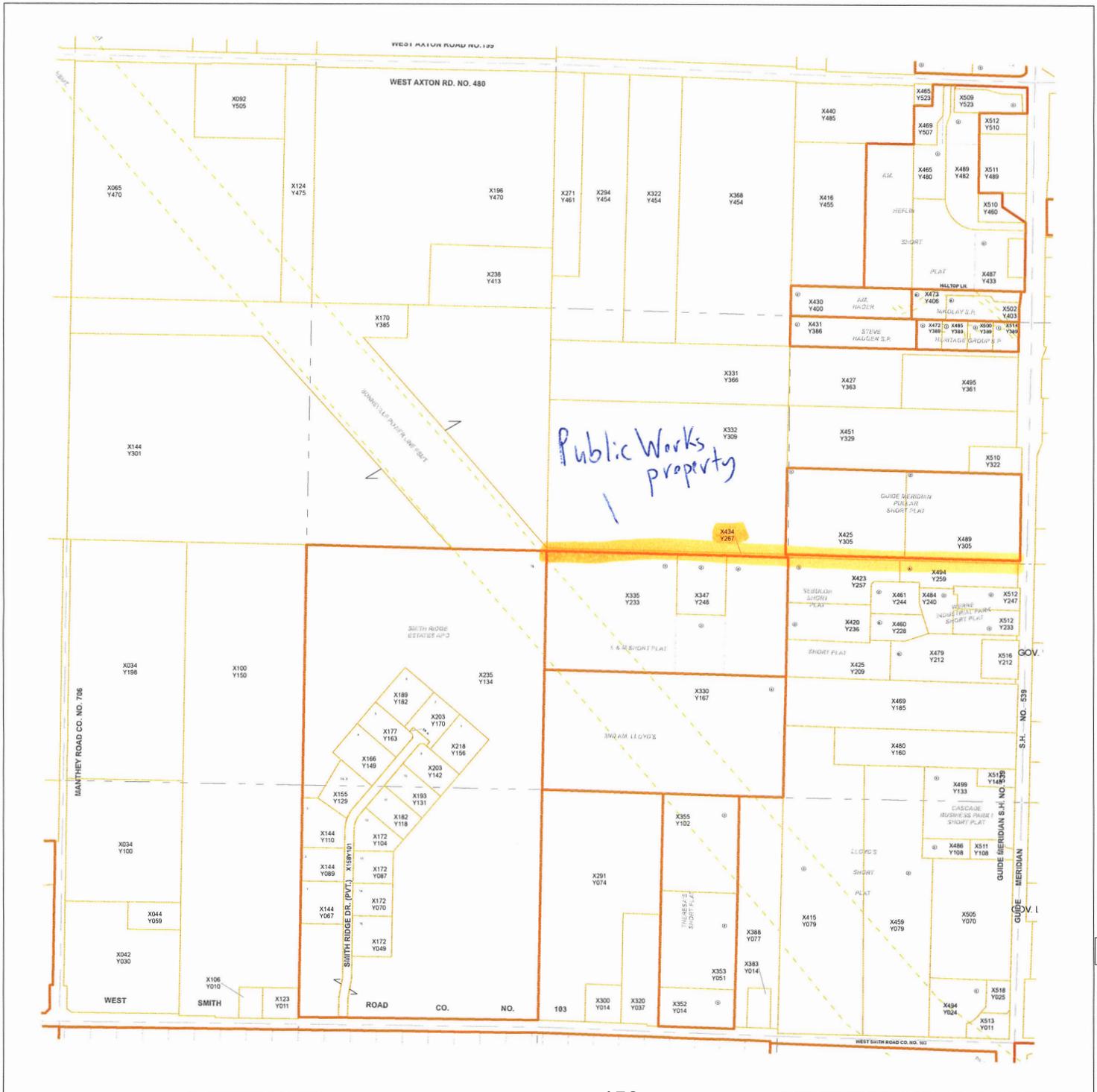
13
14 _____
15 Dana Brown-Davis, County Clerk

Todd Donovan, Council Chair

16
17 APPROVED AS TO FORM:

18
19 Christopher Quinn
20 Civil Deputy Prosecutor
21 (authorized via email 10/27/2022)

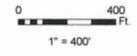
22



TOWNSHIP:
39
RANGE:
02
SECTION:
25
MAP NO.:
01

KEY MAP:

23	24	19
26	25	30
35	36	31



- Tax Parcels
- Plats
- Lots
- Section Lines
- Qtr. Section Lines
- City Limits
- Annexations
- Railroads
- Pipelines
- Waterlines
- Waterbodies*

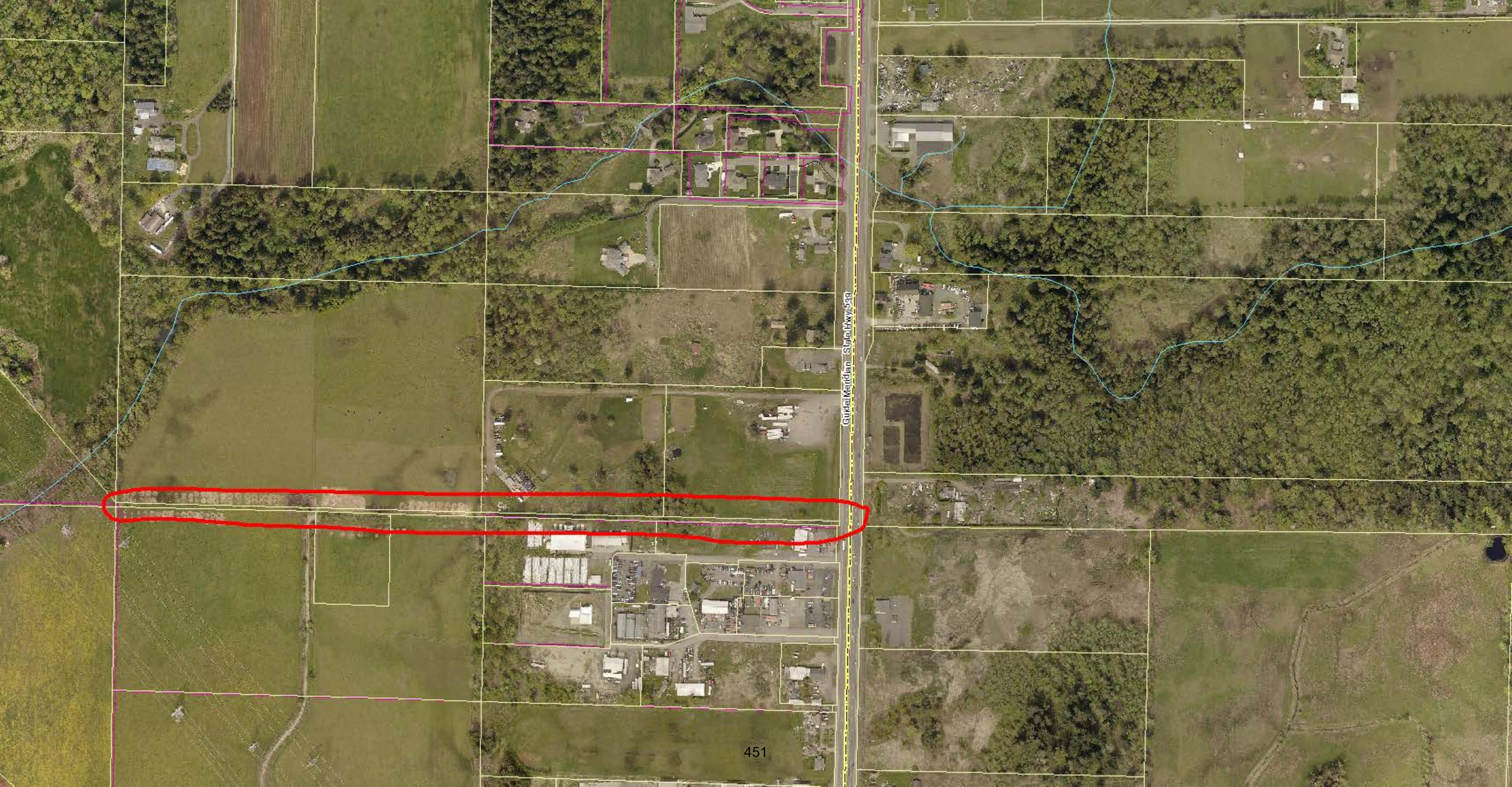
Whatcom County Assessor's Office

Sep. 30, 2022

This map is for assistance in property location and not guaranteed for accurate measurements.

Geographic Tax Parcel Numbers (GID) are a 16-digit number derived from a combination of the Township, Range and Section, plus the XY coordinates of the theoretical center of the parcel, plus four trailing zeroes. The trailing zeroes are used where an auxiliary tax parcel exists at the same location as the primary parcel, such as a condo unit or a mobile home.

*Waterbodies provided for reference only; has not been verified by Assessor
For information on reading maps visit our website: whatcomcounty.us/177/Assessor



Carpenter Meridian State Hwy 539

451



Whatcom County

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

Agenda Bill Master Report

File Number: **AB2022-601**

File ID:	AB2022-601	Version:	1	Status:	Agenda Ready
File Created:	10/24/2022	Entered by:	MCaldwel@co.whatcom.wa.us		
Department:	Finance Division	File Type:	Ordinance		
Assigned to:	Council			Final Action:	
Agenda Date:	11/09/2022			Enactment #:	

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

TITLE FOR AGENDA ITEM:

Ordinance amending the project based budget for the Courthouse Improvement Fund, request no. 2

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

Request appropriation of an additional \$100,000 to fund improvements to the basement of the Courthouse for the purpose of providing additional office space.

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
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Attachments: Proposed Ordinance, Proposed Exhibit A, Supplemental Budget Request

ORDINANCE NO.- -

**ORDINANCE AMENDING THE PROJECT BUDGET FOR THE COURTHOUSE
IMPROVEMENT FUND, REQUEST NO. 2**

WHEREAS, this fund was established by Ordinance No. 2014-073 to replace the Courthouse fire alarm system and the roof over Juvenile; and

WHEREAS, both of those projects have been completed and the project budget was amended to include several other courthouse repair and replacement projects; and

WHEREAS, all of the additional projects have now been completed leaving an expenditure balance of \$91,013; and

WHEREAS, the county is experiencing a need for additional office space throughout the organization due to increases in staffing and many tenant improvement projects that have and will continue to temporarily displace staff; and

WHEREAS, the administration believes it to be efficient and resourceful to maximize all available and underutilized space within the courthouse; and

WHEREAS, there is currently a need to temporarily relocate the Medical Examiner staff from their State Street office during the Waystation construction project; and

WHEREAS, there is available unfinished space in the courthouse basement that was formerly used as the emergency operations center which can be converted to three large offices to accommodate multiple employees; and

WHEREAS, the administration believes it to be in the best interest of the county to have readily available office space that can be utilized for temporary or long-term occupation when the need arises; and

WHEREAS, the proposed improvements to this underutilized space will provide long-term benefits for the organization when office space is needed;

NOW, THEREFORE, BE IT ORDAINED by the Whatcom County Council that Ordinance 2014-073 is hereby amended by adding \$100,000 of expenditure authority, as described in Exhibit A, to the amended project budget of \$1,071,907, for a total project budget of \$1,171,907.

ADOPTED this ____ day of _____, 2022.

ATTEST:

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

Dana Brown-Davis, Clerk of the Council

Todd Donovan, Council Chair

WHATCOM COUNTY EXECUTIVE
WHATCOM COUNTY, WASHINGTON

APPROVED AS TO FORM:

Civil Deputy Prosecutor

Satpal Sidhu, County Executive

() Approved () Denied

Date Signed: _____

EXHIBIT A

COURTHOUSE IMPROVEMENTS - FUND 357, Cost Center 357100

Account	Description	Amended Project Budget	Amendment #3 to Ord. 2014-073	Total Amended Project Budget
Expenditures				
6190	Direct Billing Rate	\$0	\$20,000	\$20,000
6510	Tools & Equipment	\$26,815	\$0	\$26,815
7060	Repairs & Maintenance	\$80,000	\$80,000	\$160,000
7350	Buildings & Structures	\$785,092	\$0	\$785,092
7380	Other Improvements	\$180,000	\$0	\$180,000
		\$1,071,907	\$100,000	\$1,171,907
Revenues				
8301.326	REET I Transfer	\$729,216	\$100,000	\$829,216
8301.332	Rural Sales Tax (EDI) Transfer	\$342,691	\$0	\$342,691
		\$1,071,907	\$100,000	\$1,171,907

Supplemental Budget Request

Status: Pending

Administrative Services

Facilities Management

Suppl ID # 3813 *Fund* 357 *Cost Center* 357100 *Originator:* Rob Ney

Year 2 2022 Add'l FTE Priority 1

Name of Request: Add'l Funds Cover Misc CTHS Tenant Improvments

X

Department Head Signature (Required on Hard Copy Submission) **Date**

Costs:	<i>Object</i>	<i>Object Description</i>	<i>Amount Requested</i>
	6190	Direct Billing Rate	\$20,000
	7060	Repairs & Maintenance	\$80,000
	8301.326	Operating Transfer In	(\$100,000)
	Request Total		\$0

1a. Description of request:

The County is running out of vacant office space. It is necessary to convert existing space within the Courthouse that is currently underutilized into feasible office space.

The first space to be converted is a portion of the basement that was used as the Temporary Law Library while that project was being completed, and also a portion of the old Emergency Operations Center. This space will be used to temporarily house the Medical Examiner Administrative Office during the construction of the Way Station. This is only a temporary location for the ME as they will ultimately move back to the second floor of the Way Station Building. Once vacated, this space can be put in the pool for a future tenant.

Lastly, staff and the administration are requesting additional funds be placed into Courthouse Improvement Fund for future potential small improvements to create efficiencies that further maximize underutilized space within the Courthouse.

Existing Courthouse Improvement Fund Balance: 91,000
 Additional Funds Requested by this ASR: \$100,000

Total fund balance after ASR: \$191,000

Basement Tenant Improvement estimated costs:
 (Including a 15% contingency) \$150,000

Estimated Net remaining funds for future
 Tenant Improvements: 41,000

Improvements will include three new large offices (large enough for multiple occupants), Open office cubical area, replacement of the HVAC system within the space (currently failed), new LED lighting, new data connectivity and electrical, and make up air within the space (Currently no fresh air within the space. Covid protocols dictate fresh/make up air). The space will have fresh paint and new carpet.

1b. Primary customers:

Initially, the Medical Examiner. Any department that requires additional space once the ME vacates the premises.

Supplemental Budget Request

Status: Pending

Administrative Services

Facilities Management

Suppl ID # 3813

Fund 357

Cost Center 357100

Originator: Rob Ney

2. Problem to be solved:

There is no vacant surge space available within the Courthouse (or any County building fleet). This project will create a usable space for up to 10 employees in a separate, secure location.

3a. Options / Advantages:

Leasing is the only other option and there is not much available in the Civic Center area that meets ADA standards.

This space will be available to the pool after the ME vacates.

3b. Cost savings:

Facilities will be the General Contractor, saving the County at least 15%. It is not anticipated that the contingency will be necessary. It is however, prudent to budget for unknowns in construction.

4a. Outcomes:

The tenant improvement will be built by the end of February.

4b. Measures:

One the space is occupied.

By seeking the most cost-effective purchasing of items we procure.

5a. Other Departments/Agencies:

No

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

6. Funding Source:

REET I



Whatcom County

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

Agenda Bill Master Report

File Number: AB2022-604

File ID:	AB2022-604	Version:	1	Status:	Agenda Ready
File Created:	10/25/2022	Entered by:	MCaldwel@co.whatcom.wa.us		
Department:	Finance Division	File Type:	Ordinance		
Assigned to:	Council			Final Action:	
Agenda Date:	11/09/2022			Enactment #:	

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

TITLE FOR AGENDA ITEM:

Ordinance amending the Whatcom County Budget, request no. 15, in the amount of \$153,395

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

Supplemental #15 requests funding from the General Fund:

1. To appropriate \$7,713 in Sheriff to fund sound suppressors from Washington Counties Risk Pool reimbursement.
2. To appropriate \$10,000 in Sheriff to fund Organized Crime Drug Enforcement Task Force overtime from grant proceeds.

From the Emergency Management Fund:

3. To appropriate \$35,682 to fund portable radios for the Sheriff's Office from grant proceeds.

From Real Estate Excise Tax I Fund:

4. To appropriate \$100,000 to fund transfer in support of Courthouse Improvements Project Budget Fund basement renovation project.

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
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Attachments: Proposed Ordinance, Summary, Supplemental Budget Requests

**ORDINANCE NO.
 AMENDMENT NO. 15 OF THE 2022 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 2022 budget included therein:

Fund	Expenditures	Revenues	Net Effect
General Fund			
Sheriff	17,713	(17,713)	-
Total General Fund	17,713	(17,713)	-
Emergency Management Fund	35,682	(35,682)	-
Real Estate Excise Tax I Fund	100,000	-	100,000
Total Supplemental	153,395	(53,395)	100,000

ADOPTED this ____ day of _____, 2022.

ATTEST:

WHATCOM COUNTY COUNCIL
 WHATCOM COUNTY, WASHINGTON

 Dana Brown-Davis, Council Clerk

 Todd Donovan, 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 2022 Supplemental Budget Ordinance No. 15				
Department/Fund	Description	Increased (Decreased) Expenditure	(Increased) Decreased Revenue	Net Effect to Fund Balance (Increase) Decrease
General Fund				
Sheriff	To fund sound suppressors from Risk Pool reimbursement.	7,713	(7,713)	-
Sheriff	To fund Organized Crime Drug Enforcement Task Force overtime from PA-WAW-0363 ,DEA RL-21-0004.	2,500	(2,500)	-
Sheriff	To fund Organized Crime Drug Enforcement Task Force overtime from PA-WAW-0362, DEA RL-21-0012.	2,500	(2,500)	-
Sheriff	To fund Organized Crime Drug Enforcement Task Force overtime from PA-WAW-0362, DEA RL-21-0012, amend #2	5,000	(5,000)	-
Total General Fund		17,713	(17,713)	-
Emergency Management Fund	To fund portable radios for the Sheriff's Office from grant proceeds.	35,682	(35,682)	-
Real Estate Excise Tax I Fund	To fund transfer in support of Courthouse Improvements Project Budget Fund basement renovation project.	100,000	-	100,000
Total Supplemental		153,395	(53,395)	100,000

Supplemental Budget Request

Status: Pending

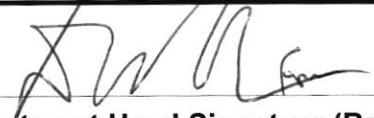
Sheriff

Operations

Suppl ID # 3811 **Fund 1** **Cost Center 2920** **Originator: Jason Gum / Donna Duling**

Expenditure Type: One-Time **Year 2 2022** **Add'l FTE** **Add'l Space** **Priority 1**

Name of Request: Risk Pool Suppressor Reimbursement

X  10/24/22
Department Head Signature (Required on Hard Copy Submission) **Date**

Costs:	Object	Object Description	Amount Requested
	4369.9001	Miscellaneous Revenues	(\$7,713)
	6510	Tools & Equip	\$7,713
	Request Total		\$0

1a. Description of request:

The acquisition of twenty-two (22) Gemtech Trek 11 Sound Suppressor 5.56 for Whatcom County Sheriff's Office (WCSO) department issued patrol rifles.

1b. Primary customers:

Commissioned deputies of Whatcom County Sheriff's Office.

2. Problem to be solved:

A single incident of not using a sound suppressor can cause hearing loss that affects a deputy's career. Noise induced hearing loss and tinnitus are two of the most common afflictions for law enforcement officers due to required firearms trainings for WCSO deputies. The average unsuppressed sound from a patrol rifle is between 165-185 decibels, well above the 140-decibel range which is where hearing damage occurs. Hearing loss can be cumulative and permanent, resulting in a decrease in a deputy's ability to safely perform their jobs, or enjoy basic functions in life.

Budget authority is needed to purchase suppressors and recognize reimbursement from the Risk Pool.

3a. Options / Advantages:

Ear protection is provided during firearms training, but cannot be worn full time and is not worn during patrol shifts. The use of sound suppressors reduces the sound of gunshot.

3b. Cost savings:

\$7,713.00

4a. Outcomes:

When the suppressors are attached to firearms, a safer environment is immediately achieved.

4b. Measures:

5a. Other Departments/Agencies:

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

6. Funding Source:

Washington Counties Risk Pool

Supplemental Budget Request

Status: Pending

Sheriff

Operations

Suppl ID # 3814

Fund 1

Cost Center 1003521005

Originator: Donna Duling / Dawn Pierce

Expenditure Type: One-Time

Year 2 2022

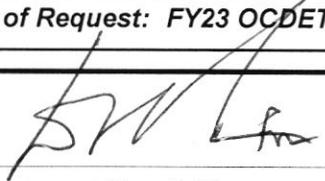
Add'l FTE

Add'l Space

Priority 1

Name of Request: FY23 OCDETF PA-WAW-0363, DEA RL-21-0004

X



10/24/22

Department Head Signature (Required on Hard Copy Submission)

Date

Costs:	Object	Object Description	Amount Requested
	4342.1013	Reimb Drug Enforcement	(\$2,500)
	6140	Overtime	\$2,500
	Request Total		\$0

1a. Description of request:

The U.S. Department of Justice Drug Enforcement Administration (DEA) authorized funding for the Whatcom County Sheriff's Office to participate in the Organized Crime Drug Enforcement Task Forces (OCDETF) and assist with the investigation and prosecution of major drug trafficking organizations. DEA will reimburse the Sheriff's Office for overtime of deputies engaged in these investigations. In

This is the initial allotment for Whatcom County Contract #202210008, FY23, 10/01/22 through 09/30/23.

1b. Primary customers:

Citizens of Whatcom County

2. Problem to be solved:

Budget authority is needed for deputies to participate in this operation.

3a. Options / Advantages:

Funds were authorized specifically for overtime on OCDETF investigations. They may not be used for any other purpose.

3b. Cost savings:

\$2,500.00

4a. Outcomes:

Deputies assigned to assist in OCDETF investigations may perform a variety of duties: interviewing witnesses, conducting surveillance, performing undercover assignments, handling informant and/or prisoner transportation, preparing and executing search and arrest warrants, serving subpoenas, assisting with trial preparation, and testifying at trials.

4b. Measures:

5a. Other Departments/Agencies:

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

6. Funding Source:

The U.S. Department of Justice Drug Enforcement Administration will provide \$2,500.00 from State and Local Overtime (SLOT) Funds. PA-WAW-0363, DEA RL-21-0004.

Supplemental Budget Request

Status: Pending

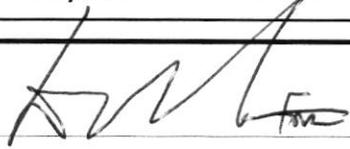
Sheriff

Operations

Suppl ID # 3815 **Fund 1** **Cost Center 1003521008** **Originator:** Donna Duling / Dawn Pierce

Expenditure Type: One-Time **Year 2 2022** **Add'l FTE** **Add'l Space** **Priority 1**

Name of Request: FY23 OCDETF PA-WAW-0362, DEA RL-21-0012

X  10/24/22
Department Head Signature (Required on Hard Copy Submission) **Date**

Costs:	Object	Object Description	Amount Requested
	4342.1013	Reimb Drug Enforcement	(\$2,500)
	6140	Overtime	\$2,500
	Request Total		\$0

1a. Description of request:

The U.S. Department of Justice Drug Enforcement Administration (DEA) authorized funding for the Whatcom County Sheriff's Office to participate in the Organized Crime Drug Enforcement Task Forces (OCDETF) and assist with the investigation and prosecution of major drug trafficking organizations. DEA will reimburse the Sheriff's Office for overtime of deputies engaged in these investigations.

This is the initial allotment for Whatcom County Contract #202210009, FY23, 10/01/22 through 09/30/23.

1b. Primary customers:

Citizens of Whatcom County

2. Problem to be solved:

Budget authority is needed for deputies to participate in this operation.

3a. Options / Advantages:

Funds were authorized specifically for overtime on OCDETF investigations. They may not be used for any other purpose.

3b. Cost savings:

\$2,500.00

4a. Outcomes:

Deputies assigned to assist in OCDETF investigations may perform a variety of duties: interviewing witnesses, conducting surveillance, performing undercover assignments, handling informant and/or prisoner transportation, preparing and executing search and arrest warrants, serving subpoenas, assisting with trial preparation, and testifying at trials.

4b. Measures:

5a. Other Departments/Agencies:

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

6. Funding Source:

The U.S. Department of Justice Drug Enforcement Administration will provide \$2,500.00 from State and Local Overtime (SLOT) Funds. PA-WAW-0362, DEA RL-21-0012.

Supplemental Budget Request

Status: Pending

Sheriff

Operations

Suppl ID # 3820

Fund 1

Cost Center 1003521008

Originator: Dawn Pierce

Expenditure Type: One-Time

Year 2 2022

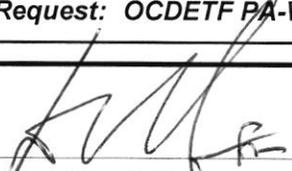
Add'l FTE

Add'l Space

Priority 1

Name of Request: OCDETF PA-WAW-0362, WCC# 202201027

X



10/25/22

Department Head Signature (Required on Hard Copy Submission)

Date

Costs:	Object	Object Description	Amount Requested
	4342.1013	Reimb Drug Enforcement	(\$5,000)
	6140	Overtime	\$5,000
	Request Total		\$0

1a. Description of request:

The U.S. Department of Justice Drug Enforcement Administration (DEA) authorized additional funding of \$5,000 on 07/27/22 for the Whatcom County Sheriff's Office to continue this Organized Crime Drug Enforcement Task Forces (OCDETF) operation and assist with the investigation and prosecution of this case. DEA reimbursed the Sheriff's Office for overtime of deputies engaged in these investigations.

This is the second amendment to Whatcom County Contract #202201027 with performance period 02/01/22 through 09/30/22.

1b. Primary customers:

Citizens of Whatcom County.

2. Problem to be solved:

Budget authority is needed to balance revenue with expenditures for this OCDETF investigation.

3a. Options / Advantages:

Funds were authorized specifically for overtime on OCDETF investigations. They may not be used for any other purpose.

3b. Cost savings:

\$5,000.00

4a. Outcomes:

Deputies assigned to assist in OCDETF investigations may perform a variety of duties: interviewing witnesses, conducting surveillance, performing undercover assignments, handling informant and/or prisoner transportation, preparing and executing search and arrest warrants, serving subpoenas, assisting with trial preparation, and testifying at trials.

4b. Measures:

5a. Other Departments/Agencies:

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

6. Funding Source:

The U.S. Department of Justice Drug Enforcement Administration provided an additional \$5,000.00 from State and Local Overtime (SLOT) Funds. PA-WAW-0362, DEA RL-21-0012.

Supplemental Budget Request

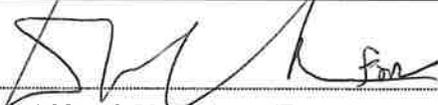
Status: Pending

Sheriff **Emergency Management**

Suppl ID # 3816 Fund 167 Cost Center 1673521003 Originator: Frances Burkhart

Expenditure Type: One-Time Year 2 2022 Add'l FTE Add'l Space Priority 1

Name of Request: 21EMPG-ARPA Amendment 1 (202201019-1)

X		10/20/22
Department Head Signature (Required on Hard Copy Submission)		Date

Costs:	Object	Object Description	Amount Requested
	4333.8704	FEMA Military	(\$35,682)
	6510	Tools & Equip	\$35,682
	Request Total		\$0

1a. Description of request:

The Whatcom County Sheriff's Office primary method of field communication is the multi-band portable radio, providing connectivity and interoperability between local, regional, state, tribal, and national agencies and organizations. Multi-band portable radios provide the capability to ensure a safe, efficient, effective, and timely coordinated response to routine calls for service, in-progress, and high-risk law enforcement incidents, rescue and recovery missions, CBRNE operations, and natural disasters occurring within Whatcom County. Whatcom County Sheriff's Office is in need of multi-band portable radios to ensure emergency response capabilities are maintained at the level of service needed and expected.

1b. Primary customers:

Sheriff's Office

2. Problem to be solved:

Whatcom County Sheriff's Office Division of Emergency Management received a US Dept of Homeland Security (DHS)/Federal Emergency Management Agency (FEMA) FFY2021 Emergency Management Performance Grant American Rescue Plan Act (21EMPG-ARPA) in the amount of \$25,325 to assist in preparing for all hazards through its Emergency Management (Whatcom County Contract # 202201019). Whatcom County has been awarded an additional \$35,682 to purchase portable radios for the Sheriff's Office (WCC# 202201019-1, Legistar # AB2022-595) and requires budget authority to proceed.

3a. Options / Advantages:

This is the best option since Whatcom County will use outside funding to purchase needed equipment.

3b. Cost savings:

\$35,682

4a. Outcomes:

Once budget authority is granted, a PO will be requested. Anticipated delivery date will be by 12/31/2022.

4b. Measures:

Radios will be received and tested for operational capability.

5a. Other Departments/Agencies:

Whatcom County Sheriff's Office

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

Jason Gum

6. Funding Source:

Federal Grant: DHS/FEMA 21EMPG-ARPA, which is passed through Washington State Military Department.

Supplemental Budget Request

Status: Pending

Non-Departmental

Suppl ID # 3818 Fund 326 Cost Center 32600 Originator: M Caldwell

Year 2 2022

Add'l FTE

Priority 1

Name of Request: Companion to CH Improvements Project Bgt Amend. #2

X

Department Head Signature (Required on Hard Copy Submission)

Date

Costs:	Object	Object Description	Amount Requested
	8351	Operating Transfer Out	\$100,000
	Request Total		\$100,000

1a. Description of request:

Companion to Courthouse Improvements Project Budget Amendment #2 request for additional funding to make improvements to courthouse basement space to accommodate temporary move of Medical Examiner and staff while State Street location is being remodeled.

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:

REET I



Whatcom County

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

Agenda Bill Master Report

File Number: **AB2022-606**

File ID:	AB2022-606	Version:	1	Status:	Agenda Ready
File Created:	10/26/2022	Entered by:	MCaldwel@co.whatcom.wa.us		
Department:	Finance Division	File Type:	Ordinance Requiring a Public Hearing		
Assigned to:	Council	Final Action:			
Agenda Date:	11/09/2022	Enactment #:			

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

TITLE FOR AGENDA ITEM:

Ordinance Authorizing the Levy of Taxes for Conservation Futures Purposes for 2023

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

Pursuant to Home Rule Charter Section 6.10, this ordinance requests authorization to levy taxes for Conservation Futures purposes in 2023

HISTORY OF LEGISLATIVE FILE

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

PROPOSED BY: Executive
INTRODUCTION DATE: November 9, 2022

ORDINANCE NO. _____
ORDINANCE AUTHORIZING THE LEVY OF TAXES
FOR CONSERVATION FUTURES PURPOSES FOR 2023

WHEREAS, pursuant to Home Rule Charter Section 6.10 the County Executive is required to submit for Council consideration a budget and proposed tax and revenue ordinances necessary to raise sufficient revenues to balance the budget; and,

WHEREAS, the County Council has approved a budget for the 2023-2024 biennium, including all sources of revenues and anticipated expenditures on November 22, 2022; and,

WHEREAS, the County Council has determined it is not necessary to increase the Conservation Futures Fund property tax levy for 2023; and,

WHEREAS, the County Council held a public hearing regarding the county biennial budget which included property taxes, and other revenues;

NOW, THEREFORE, BE IT ORDAINED AND ESTABLISHED by the Whatcom County Council that amounts collected through the County Conservation Futures levy shall be limited to the amount of 2022 taxes, increased for the addition of new construction and improvements to property and any increase in the value of state assessed property. A property tax increase, in addition to the amount resulting from the addition of new construction and improvements to property and any increase in the value of state-assessed property, is hereby authorized for the 2023 levy in the amount of \$0, which is a percentage increase of 0% from the previous year.

ADOPTED this ____ day of _____, 2022

ATTEST:

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

Dana Brown-Davis, Council Clerk

Todd Donovan, Council Chair

APPROVED AS TO FORM:

() APPROVED () NOT APPROVED

Approved by email/C Quinn/M Caldwell
Civil Deputy Prosecutor

Satpal Singh Sidhu, Executive

Date: _____



Whatcom County

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

Agenda Bill Master Report

File Number: **AB2022-607**

File ID:	AB2022-607	Version:	1	Status:	Agenda Ready
File Created:	10/26/2022	Entered by:	MCaldwel@co.whatcom.wa.us		
Department:	Finance Division	File Type:	Ordinance Requiring a Public Hearing		
Assigned to:	Council	Final Action:			
Agenda Date:	11/09/2022	Enactment #:			

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

TITLE FOR AGENDA ITEM:

Ordinance Authorizing the Levy of Taxes for County Road Purposes for 2023

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

Pursuant to Home Rule Charter Section 6.10, this ordinance requests authorization to levy taxes for County Road purposes in 2023.

HISTORY OF LEGISLATIVE FILE

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

ORDINANCE NO. _____
ORDINANCE AUTHORIZING THE LEVY OF 2023
PROPERTY TAXES FOR COUNTY ROAD PURPOSES

WHEREAS, pursuant to Home Rule Charter Section 6.10 the County Executive is required to submit for Council consideration proposed tax and revenue ordinances necessary to raise sufficient revenues to balance the Budget; and,

WHEREAS, the County Council has approved a budget for the 2023-2024 biennium, including all sources of revenues and anticipated expenditures on November 22, 2022; and,

WHEREAS, the County Council has determined it is not necessary to increase the Road Fund property tax levy for 2023; and,

WHEREAS, the County Council held a public hearing regarding the county biennial budget which included property tax revenues, and other revenues;

NOW, THEREFORE, BE IT ORDAINED AND ESTABLISHED by the Whatcom County Council that the amounts collected through the County Road levy shall be limited to the amount of 2022 taxes, increased for the addition of new construction and improvements to property and any increase in the value of state assessed property. A property tax increase in addition to the amount resulting from the addition of new construction and improvements to property and any increase in the value of state-assessed property is hereby authorized for the 2023 levy in the amount of \$0, which is a percentage increase of 0% from the previous year.

BE IT FURTHER ORDAINED AND ESTABLISHED, that the Whatcom County Council does hereby authorize diverting \$806,530 of the County Road District levy for the budget year 2023 to the General Fund. Diverted County Road Taxes are to be used for traffic law enforcement in the unincorporated areas of Whatcom County.

ADOPTED this ____ day of _____, 2022.

ATTEST:

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

Dana Brown-Davis, Council Clerk

Todd Donovan, Council Chair

APPROVED AS TO FORM:

() APPROVED () NOT APPROVED

Approved by email/C Quinn/M Caldwell
Civil Deputy Prosecutor

Satpal Singh Sidhu, Executive

Date: _____



Whatcom County

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

Agenda Bill Master Report

File Number: AB2022-608

File ID:	AB2022-608	Version:	1	Status:	Agenda Ready
File Created:	10/26/2022	Entered by:	MCaldwel@co.whatcom.wa.us		
Department:	Finance Division	File Type:	Ordinance Requiring a Public Hearing		
Assigned to:	Council	Final Action:			
Agenda Date:	11/09/2022	Enactment #:			

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

TITLE FOR AGENDA ITEM:

Ordinance Authorizing the Levy of Taxes for County and State Purposes in Whatcom County, Washington, for the Year of 2023

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

The proposed ordinance adopts the Whatcom County 2023 property tax levy.

HISTORY OF LEGISLATIVE FILE

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

ORDINANCE NO. _____

**ORDINANCE AUTHORIZING THE LEVY OF TAXES
FOR COUNTY AND STATE PURPOSES
IN WHATCOM COUNTY, WASHINGTON,
FOR THE YEAR OF 2023**

WHEREAS, pursuant to Home Rule Charter Section 6.10 the County Executive is required to submit for Council consideration a budget and proposed tax and revenue ordinances necessary to raise sufficient revenues to balance the budget; and,

WHEREAS, the County Council has approved a budget for the 2023-2024 biennium, including all sources of revenues and anticipated expenditures on November 22, 2022; and,

WHEREAS, the County Council has determined it is necessary to increase the General Fund property tax levy 1% for 2023 to fund essential county services; and,

WHEREAS, the County Council held a public hearing regarding the biennial county budget which included property tax rates, and other revenues;

NOW, THEREFORE, BE IT ORDAINED AND ESTABLISHED by the Whatcom County Council:

- (A) The property taxes for Whatcom County are hereby levied and are to be charged to the assessment and tax rolls of Whatcom County; and,
- (B) Property taxes are levied in 2022 for collection in 2023; and,
- (C) The County general levy for the 2023 tax year shall be increased \$321,752 which is a percentage increase of 1% from the previous year. This increase is exclusive of additional revenue resulting from new construction and improvements to property and any increase in the value of state assessed property; and,

(D) Because the State of Washington is currently unable to provide the figures and documentation necessary to establish fixed levy rates, as these figures do become available from the state, levies shall be fixed per "Exhibit A" which shall be prepared by the County Assessor, and attached and incorporated herein by reference.

BE IT FURTHER ORDAINED, that the taxes to be levied against parcels of property within the Diking Districts, Drainage Districts, and Drainage Improvement Districts are to be credited to the individual maintenance funds for the year 2023, and the amounts to be apportioned to the original assessments for construction in said districts are as follows per "Exhibit B" attached hereto and incorporated herein by reference.

BE IT FURTHER ORDAINED, that if the Washington State Legislature changes any laws affecting levies contained herein, and the Prosecuting Attorney's Office concurs, the Whatcom County administration will change such levies accordingly.

ADOPTED this ____ day of _____, 2022.

ATTEST:

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

Dana Brown-Davis, Council Clerk

Todd Donovan, Council Chair

APPROVED AS TO FORM:

() APPROVED () NOT APPROVED

Approved by email/C Quinn/M Caldwell
Civil Deputy Prosecutor

Satpal Singh Sidhu, Executive

Date: _____

**EXHIBIT A WILL BE
AVAILABLE AFTER THE
FIRST OF THE YEAR 2023**



Whatcom County

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

Agenda Bill Master Report

File Number: **AB2022-609**

File ID:	AB2022-609	Version:	1	Status:	Agenda Ready
File Created:	10/26/2022	Entered by:	MCaldwel@co.whatcom.wa.us		
Department:	Finance Division	File Type:	Ordinance		
Assigned to:	Council			Final Action:	
Agenda Date:	11/09/2022			Enactment #:	

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

TITLE FOR AGENDA ITEM:

Ordinance amending the project based budget for the Courthouse Building Envelope Fund, request no. 5

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

Requests appropriation of an additional \$4,077,100 in 2023 and \$3,238,000 in 2024 to fund the next phases of the Courthouse Building Envelope project for a total amended project budget of \$11,754,909 in 2023 and \$14,992,909 in 2024.

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
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Attachments: Proposed Ordinance, Proposed Exhibit A, Additional Service Request

PROPOSED BY: Executive
INTRODUCTION DATE: 11/09/22

ORDINANCE NO. _____

**ORDINANCE AMENDING THE PROJECT BASED BUDGET FOR THE COURTHOUSE
BUILDING ENVELOPE FUND, REQUEST NO. 5**

WHEREAS, Ordinance No. 2014-075 established the project budget for the Courthouse Building Envelope Fund with an initial budget of \$250,000; and

WHEREAS, additional requests added \$7,427,809 and accomplished the first phases and preliminary design of the 2023 phase of this multi-phase extensive repair project to protect the Courthouse from water intrusion; and

WHEREAS, each year has additional phases as defined in HKP Report dated November 2015 (available on the AS – Facilities county website); and

WHEREAS, the 2023 and 2024 phases include replacing remaining roofs, roof-top mechanical equipment, and failed glazing on the 1993 east addition; and

WHEREAS, funding for this work is available from Real Estate Excise Tax Fund I and from the Public Utilities Improvement Fund (aka EDI Fund),

NOW, THEREFORE, BE IT ORDAINED by the Whatcom County Council that Ordinance 2014-075 is hereby amended by adding \$4,077,100 in 2023 and \$3,238,000 in 2024, as described in Exhibit A, to the amended project budget of \$7,677,809, for a total amended project budget of \$11,754,909 in 2023 and \$14,992,909 in 2024.

ADOPTED this ____ day of _____, 2022.

ATTEST:

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

Dana Brown-Davis, Council Clerk

Todd Donovan, Chair of the Council

APPROVED AS TO FORM:

() Approved () Denied

Approved by email/C Quinn/M Caldwell
Civil Deputy Prosecutor

Satpal Sidhu, County Executive

Date: _____

EXHIBIT A

COURTHOUSE BUILDING ENVELOPE PROJECT BUDGET, FUND 359

Amendment #5

Account	Description	2023		2024		
		Current Amended Project Budget	Amendment #5 to Ord. 2014-075	Total Amended Project Budget	Amendment #5 to Ord. 2014-075	Total Amended Project Budget
Expenditures						
6190	Direct Billing Rate	\$50,000	\$100,000	\$150,000	\$100,000	\$250,000
6630	Professional Services	\$860,000	\$450,000	\$1,310,000	\$463,000	\$1,773,000
7060	Repairs & Maintenance	\$6,767,809	\$3,527,100	\$10,294,909	\$2,675,000	\$12,969,909
		\$7,677,809	\$4,077,100	\$11,754,909	\$3,238,000	\$14,992,909
Revenues						
8301.326	REET I	\$5,303,713	\$2,568,573	\$7,872,286	\$2,039,940	\$9,912,226
8301.332	EDI (Public Utilities Improvement Fund)	\$2,374,096	\$1,508,527	\$3,882,623	\$1,198,060	\$5,080,683
		\$7,677,809	\$4,077,100	\$11,754,909	\$3,238,000	\$14,992,909

2023-2024 Budget Preparation - Regular Additional Service Request

Administrative Services

Facilities Management

ASR # 2023- 6604 Fund 359 Cost Cente 359100 Originator: Rob Ney

Expenditure Type: One-Time Add'l FTE Add'l Space Priority 10

Name of Request: Courthouse Exterior Project

Costs:	Object	Object Description	2023 Requested	2023 Approved	2024 Requested	2024 Approved
	6630	Professional Services	\$4,077,100	\$4,077,100	\$3,238,000	\$3,238,000
	8301.332	Operating Transfer In	\$0	(\$1,508,527)	\$0	(\$1,198,060)
	8301.326	Operating Transfer In	\$0	(\$2,568,573)	\$0	(\$2,039,940)
	Totals		\$4,077,100	\$0	\$3,238,000	\$0

1. Description of Request:

a) Describe the proposed activity or service, and indicate whether it is a higher or lower priority than existing services in your department budget.

Continuation of HKP Courthouse Exterior Project as Defined in HKP Report Dated November 2015. Continued efforts include replacing remaining roofs, and roof top mechanical equipment. The scope of work also includes replacing glazing on the 1993 (East) addition, where glazing has failed. Efforts are shown for cost/year. Each year has a design phase, typically for the following year construction (with the exception of 2022). Also shown is the contract administration effort by the design team for each project while under construction.

b) Who are the primary customers for this service?

All Departments and patrons of the Courthouse

2. Describe the problem this request addresses and why Whatcom County needs to address it.

The Courthouse exterior project was a multiyear maintenance project. The County has only undertaken the first of this long series of repairs.

3. Options

a) What other options have you considered? Why is this the best option?

Deferred maintenance.

The longer these improvements/repairs are put out into the future, the more the work will cost County tax payers.

b) What are the specific cost savings? (Quantify)

This project will be competitively bid and overall maintenance will be reduced.

4. Outcomes / Objectives

a) What outcomes will be delivered and when?

The phases slated for years 2023 and 2024 will be implemented and completed.

b) How will you know whether the outcomes happened?

The projects will be successfully completed.

Completing the projects on time and within budget.

5. Other Departments/Agencies

a) Will this ASR impact other departments or agencies? If so, please identify the departments and/or agencies impacted and explain what the impact(s) will be.

The impacts will be minimal as the improvements are on the exterior of the courthouse.

b) If another department or agency is responsible for part of the implementation, name the person in charge of implementation and what they are responsible for.

Rob Ney

6. What is the funding source for this request?

REET 63%/EDI 37%



Whatcom County

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

Agenda Bill Master Report

File Number: **AB2022-610**

File ID:	AB2022-610	Version:	1	Status:	Agenda Ready
File Created:	10/26/2022	Entered by:	maamot@co.whatcom.wa.us		
Department:	Planning and Development Services Department	File Type:	Ordinance Requiring a Public Hearing		
Assigned to:	Council	Final Action:			
Agenda Date:	11/09/2022	Enactment #:			

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

TITLE FOR AGENDA ITEM:

Ordinance adopting the Six-Year Capital Improvement Program for Whatcom County Facilities 2023-2028

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

Ordinance adopting the Six-Year Capital Improvement Program (CIP) for Whatcom County Facilities 2023-2028 (Appendix F of the Whatcom County Comprehensive Plan). The CIP addresses parks, trails & activity centers, maintenance & operations, general government buildings and sites, Sheriff's Office facilities, emergency management, adult corrections, juvenile detention, transportation (including the ferry), and stormwater projects. The ordinance repeals the existing Six-Year Capital Improvement Program for Whatcom County Facilities 2021-2026.

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
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Attachments: Staff Memo, Draft Ordinance, Planning Commission Findings, Public Comments to PC



Memorandum

October 26, 2022

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

From: Matt Aamot, Senior Planner

Through: Steve Roberge, Assistant Director

RE: Capital Facilities Planning/Six-Year CIP (PLN2022-00001)

The subject proposal is to modify the Whatcom County Comprehensive Plan as follows:

- Adopting a new Six-Year Capital Improvement Program (CIP) for Whatcom County Facilities 2023-2028 (Appendix F of the Whatcom County Comprehensive Plan); and
- Repealing the existing Six-Year CIP for Whatcom County Facilities 2021-2026.

The Six-Year CIP for Whatcom County Facilities addresses County parks, trails, activity centers, maintenance and operations, general government buildings and sites, Sheriff's Office, emergency management, adult corrections, juvenile detention, transportation, and stormwater facilities. The Whatcom County Comprehensive Plan indicates that the Six-Year CIP should be updated every two years. The last comprehensive CIP update was approved by the County Council in 2020. Therefore, the CIP is being updated in 2022.

The County Council's Public Works & Health Committee reviewed the proposed Six-Year CIP on October 25, 2022 and recommended increasing the cost of the Public Health, Safety, and Justice Facilities from \$120 million to \$150 million (page F-17). The Committee also recommended increasing the Birch Bay Beach Park Development from \$200,000 to \$5.3 million, as proposed by the County Parks & Recreation Department (page F-9). This moves actual construction of the Birch Bay Beach Park improvements into the current six-year planning period. These changes increase the total CIP costs (page F-24).

We are requesting that the County Council introduce an ordinance relating to the Six-Year CIP on November 9. It is anticipated that the County Council will hold a public hearing and make a final decision on the CIP with approval of the biennial budget on November 22.

Thank you for your review and consideration of this matter.

PROPOSED BY: Planning & Development Services
INTRODUCTION DATE: _____

ORDINANCE NO. _____

**ADOPTING AMENDMENTS TO THE
WHATCOM COUNTY COMPREHENSIVE PLAN
SIX-YEAR CAPITAL IMPROVEMENT PROGRAM**

WHEREAS, The Whatcom County Planning Commission held a public hearing and issued recommendations on the proposed amendments; and

WHEREAS, The County Council considered Planning Commission recommendations; and

WHEREAS, The County Council held a public hearing; and

WHEREAS, The County Council hereby adopts the following findings of fact:

FINDINGS OF FACT

1. The proposal is to amend the Whatcom County Comprehensive Plan as follows:
 - a. Adopting the new Six-Year Capital Improvement Program (CIP) for Whatcom County Facilities 2023-2028 (Appendix F of the Whatcom County Comprehensive Plan).
 - b. Repealing the existing Six-Year CIP for Whatcom County Facilities 2021-2026.
2. Notice of the subject amendments was submitted to the Washington State Department of Commerce on September 7, 2022.
3. A Determination of Non-Significance was issued under the State Environmental Policy Act (SEPA) by the Responsible Official on September 16, 2022.
4. Notice of the Planning Commission hearing for the subject amendments was published in the Bellingham Herald on September 16, 2022.

5. Notice of the Planning Commission hearing was posted on the County website on September 14, 2022.
6. Notice of the Planning Commission hearing was sent to citizens, media, cities and others on the County's e-mail list on September 15, 2022.
7. The Planning Commission held a public hearing on the subject amendments on September 29, 2022.
8. Pursuant to WCC 22.10.060(1), in order to approve the proposed comprehensive plan amendments, the County must find all of the following:
 - a. The amendment conforms to the requirements of the Growth Management Act, is internally consistent with the county-wide planning policies and is consistent with any interlocal planning agreements.
 - b. Further studies made or accepted by the Department of Planning and Development Services indicate changed conditions that show need for the amendment.
 - c. The public interest will be served by approving the amendment. In determining whether the public interest will be served, factors including but not limited to the following shall be considered:
 - i. The anticipated effect upon the rate or distribution of population growth, employment growth, development, and conversion of land as envisioned in the comprehensive plan.
 - ii. The anticipated effect on the ability of the county and/or other service providers, such as cities, schools, water and/or sewer purveyors, fire districts, and others as applicable, to provide adequate services and public facilities including transportation facilities.
 - iii. Anticipated impact upon designated agricultural, forest and mineral resource lands.
 - d. The amendment does not include or facilitate spot zoning.
9. The Growth Management Act (GMA) establishes planning goals in RCW 36.70A.020 to guide adoption of comprehensive plan amendments.

10. GMA planning goal # 12 is to “Ensure that those public facilities and services necessary to support development shall be adequate to serve the development at the time the development is available for occupancy and use without decreasing current service levels below locally established minimum standards” (RCW 36.70A.020(12)).
11. The subject amendments update the Six-Year CIP for Whatcom County Facilities for the 2023-2028 planning period. Updating the CIP is one step in the process of planning regional facilities provided by the County to serve the people of Whatcom County.
12. The GMA, at RCW 36.70A.070(3), requires that a comprehensive plan must include a capital facilities plan element consisting of:
 - a. An inventory of existing capital facilities owned by public entities, showing the locations and capacities of the capital facilities.
 - b. A forecast of the future needs for such capital facilities.
 - c. The proposed locations and capacities of expanded or new capital facilities.
 - d. At least a six-year plan that will finance such capital facilities within projected funding capacities and clearly identifies sources of public money for such purposes.
 - e. A requirement to reassess the land use element if probable funding falls short of meeting existing needs and to ensure that the land use element, capital facilities plan element, and financing plan within the capital facilities plan element are coordinated and consistent.
13. The Six-Year CIP for Whatcom County Facilities contains an inventory of existing facilities, a forecast of future needs based upon the level of service standards adopted in the Whatcom County Comprehensive Plan and/or other relevant factors, proposed capital facility projects, costs and funding sources.
14. Existing Comprehensive Plan Policy 4A-4 addresses the GMA requirement to reassess the land use element if probable capital facility funding falls short.
15. County-Wide Planning Policy K-1 indicates that, as part of the comprehensive planning process, the County must identify appropriate land for public facilities that meets the needs of the community including recreation, transportation and human service facilities.

16. The Six-Year CIP identifies County park, trail, activity center, transportation and other improvements as contemplated by the County Wide Planning Policies.
17. Existing interlocal agreements between Whatcom County and the cities indicate that the County will consult with the appropriate city in planning new road construction projects within the city's urban growth area. The interlocal agreements also address joint planning for parks.
18. The County Engineer confirmed on August 18, 2022 that the County sends a copy of the six-year transportation improvement program to cities and coordinates projects with the applicable city. The Whatcom County Parks Interim Director confirmed on August 12, 2022 that the County Parks' staff maintains a working relationship with appropriate staff from cities on joint park projects and planning. Therefore, the type of cooperation envisioned by the interlocal agreements is occurring.
19. The Whatcom County Comprehensive Plan calls for an update of the Six-Year CIP for County facilities every other year. Specifically, Policy 4B-1 is to:

Maintain and update, on at least a biennial basis, a six-year capital improvement program (CIP) that identifies projects, outlines a schedule, and designates realistic funding sources for all county capital projects based on a review of population and revenue conditions existing at that time.
20. A revised CIP has been formulated for County owned or operated facilities, which presents improvement projects over the new six-year planning period.
21. The Six-Year CIP for Whatcom County Facilities 2023-2028 is based upon anticipated population growth over the six-year planning period and other relevant factors. Therefore, the proposal should complement the County's growth and development plans.
22. The Six-Year CIP for Whatcom County Facilities will have a positive impact on the County's ability to provide public facilities by planning ahead for such facilities.
23. The goal of the Six-Year CIP for Whatcom County Facilities is to plan for County owned or operated parks, trails, activity centers, maintenance and operations, general government buildings and sites, Sheriff's Office, emergency management, adult corrections, juvenile detention, transportation, and stormwater facilities to serve the people of Whatcom County. Planning for such County facilities is in the public interest.
24. The subject proposal does not involve rezoning property.

CONCLUSION

The subject Whatcom County Comprehensive Plan amendments are consistent with the approval criteria in WCC 22.10.060.

NOW, THEREFORE, BE IT ORDAINED by the Whatcom County Council that:

Section 1. The Six-Year Capital Improvement Program for Whatcom County Facilities 2023-2028 (Appendix F of the Whatcom County Comprehensive Plan) is hereby adopted as shown on Exhibit A.

Section 2. The Six-Year Capital Improvement Program for Whatcom County Facilities 2021-2026 is hereby repealed as shown on Exhibit B.

Section 3. Adjudication of invalidity of any of the sections, clauses, or provisions of this ordinance shall not affect or impair the validity of the ordinance as a whole or any part thereof other than the part so declared to be invalid.

ADOPTED this _____ day of _____, 2022.

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

ATTEST:

Dana Brown-Davis, Council Clerk

Todd Donovan, Chairperson

APPROVED as to form:

() Approved () Denied

/s/ Karen Frakes

Civil Deputy Prosecutor

Satpal Sidhu, Executive

Date: _____

Exhibit A

Six-Year Capital Improvement Program For Whatcom County Facilities 2023-2028

Table of Contents

Chapter 1 – Introduction.....	3
Growth Management Act Requirements.....	3
Charter Provisions and the County Budget.....	4
Chapter 2 – Parks, Trails, and Activity Centers.....	5
Parks.....	5
Future Needs.....	6
Proposed Improvement Projects.....	6
Trails.....	6
Future Needs.....	7
Proposed Improvement Projects.....	7
Activity Centers.....	7
Future Needs.....	8
Proposed Improvement Projects.....	8
Six-Year Capital Improvement Program.....	9
Chapter 3 – Maintenance and Operations.....	10
Existing Maintenance and Operations Space.....	10
Future Needs.....	10
Proposed Improvement Projects.....	10
Chapter 4 – General Government Buildings and Sites.....	11
Existing Office Space.....	11
Future Needs.....	11
Proposed Improvement Projects.....	11
Chapter 5 – Sheriff’s Office.....	13
Existing Sheriff’s Office Space.....	13
Future Needs.....	13
Proposed Improvement Projects.....	13

Chapter 6 – Emergency Management	15
Existing Emergency Management Space.....	15
Future Needs	15
Proposed Improvement Projects.....	15
Chapter 7 – Adult Corrections.....	16
Existing Jail Facilities	16
Future Needs	16
Proposed Improvement Projects.....	17
Chapter 8 – Juvenile Detention	18
Existing Juvenile Detention Facilities.....	18
Future Needs	18
Proposed Improvement Projects.....	18
Chapter 9 – Transportation	19
Existing Roads	19
Future Needs	19
Proposed Improvement Projects.....	19
Existing Ferry Facilities	20
Future Needs	20
Proposed Improvement Projects.....	20
Total Transportation Costs.....	20
Chapter 10 – Stormwater Facilities.....	21
Existing Stormwater Management Facilities	21
Future Needs	22
Proposed Improvement Projects.....	22
Chapter 11 – Total Costs.....	24

Chapter 1 – Introduction

The Growth Management Act requires that the County's Comprehensive Plan include a "capital facilities plan element" (RCW 36.70A.070(3)). The Whatcom County Comprehensive Plan calls for the County to develop and update the Six-Year Capital Improvement Program (CIP) for County projects every two years. The main purpose of the Capital Improvement Program is to identify priority capital improvement projects and estimated costs, outline a schedule for project completion, and designate funding sources for these projects based on a review of existing and projected population and revenue conditions for the six year planning period.

Growth Management Act Requirements

According to the Growth Management Act, a county's capital facilities plan must include five items, which are shown below.

- A. An inventory of existing capital facilities owned by public entities, showing the locations and capacities of the capital facilities.*

Current inventories of existing County capital facilities, based upon information provided by various County departments, are included in each chapter of this document.

- B. A forecast of the future needs for such capital facilities.*

Chapter 4 of the Whatcom County Comprehensive Plan establishes numerical "level of service" standards for County parks and trails and contains policies relating to other County facilities. Capital facility needs are forecasted over the six-year planning period by applying the adopted level of service standards to the expected population in the year 2028 and by considering other relevant factors.

- C. Proposed locations and capacities of expanded or new capital facilities.*

General locations and capacities of proposed County facilities are indicated in this document (as applicable).

- D. At least a six-year plan that will finance such capital facilities within projected funding capacities and clearly identifies sources of public money for such purposes.*

This Six-Year Capital Improvement Program presents costs and funding sources for proposed County capital facilities (all figures are in 2022 dollars). There are a variety of funding sources that the County may utilize to pay for capital facilities, including real estate excise taxes (REET), sales tax, the Public Utilities Improvement Fund (also known as the Rural Sales Tax Fund, Economic Development Investment Fund or EDI Fund), Road Fund, state grants, federal grants and a variety of other sources.

- E. *A requirement to reassess the land use element if probable funding falls short of meeting existing needs and to ensure that the land use element, capital facilities plan element, and financing plan within the capital facilities plan element are coordinated and consistent.*

Finally, in accordance with the Growth Management Act, a requirement to reassess the land use element of the Comprehensive Plan if probable funding falls short of meeting existing needs and to ensure consistency between plans already exists in the Comprehensive Plan (Policy 4A-4).

Charter Provisions and the County Budget

In addition to Growth Management Act provisions relating to capital facilities, Section 6.30 of the County Charter also requires the County to include a six-year capital improvement program as part of the budget. Appropriations for 2023-2024 capital projects may be included in the biennial budget or may be adopted through the supplemental budget process. Ultimate funding for capital improvement projects is subject to County Council authorization in the adopted budget. Costs identified for 2025-2028 are included for planning purposes and review of potential future needs, but not for budget authorization at this time.

Chapter 2 – Parks, Trails, and Activity Centers

Parks

The 2022 inventory of County parks and open space areas is over 16,200 acres. This inventory is shown in Table 1 below.

Table 1. Existing Parks

Site No.	Park Name and Location	Acres
1	Alderwood Park, 3479 Willowood Rd.	1.9
2	Bay Horizon Park, 7467 Gemini St.	68.2
3	Birch Bay Beach Park, 7930 Birch Bay Dr.	13.7
4	Birch Bay Conservancy Area, 7000 Point Whitehorn Rd.	45.0
5	Birch Bay Tidelands	151.0
6	Boulevard Park, 471 Bayview Dr.	1.4
7	Broadway Beach Access, 7497 Birch Bay Dr.	0.1
8	Cagey Road, 3130 Haxton Way	20.0
9	Camp 2 RR ROW, 3775 Camp 2 Rd.	2.3
10	Canyon Lake Community Forest, 8300 Mt. Baker Hwy.	2,266.0
11	Chuckanut Mountain Park, 745 Old Samish Rd.	987.9
12	Cottonwood Beach Access, 8191 Birch Bay Dr.	5.1
13	Deming Eagle Homestead Park, 5615 Truck Rd.	33.0
14	Dittrich Park, 319 E Lake Samish Dr.	25.2
15	Drayton Harbor Tidelands	0.3
16	Euclid Park, 1570 Euclid Ave.	2.2
17	Galbraith Mountain Access, 800 Birch Falls Dr.	20.0
18	Glacier Cemetery	0.5
19	Halverson Park, 5075 Anderson Rd.	5.6
20	Haynie Road, 2876 Haynie Rd.	1.9
21	Hegg, 3845 Blue Canyon Rd.	3.5
22	Hovander Homestead Park and Tennant Lake, 5299 Nielsen Rd.	333.4
23	Jackson Rd. Beach Access, 7465 Birch Bay Dr.	0.2
24	Jensen Family Forest Park, 8051 Stein Rd.	21.5
25	Josh VanderYacht Park, 4106 Valley Highway	2.0
26	Kickerville Road, 4110 Bay Rd.	2.6
27	Lake Whatcom Park, 3220 North Shore Rd.	4,853.0
28	Lighthouse Marine Park, 811 Marine Dr. in Point Roberts	20.5
29	Lily Point Marine Park, 2315 APA Rd. in Point Roberts	262.1
30	Little Squalicum Park, 640 Marine Dr.	12.7
31	Lookout Mountain Forest Preserve, 2537 Lake Louise Rd.	4,682.8
32	Lummi Island Beach Access, 2198 N. Nugent Rd.	0.2
33	Maple Beach Tidelands	100.9
34	Maple Creek Park, 7842 Silver Lake Rd.	73.1
35	Maple Falls Community Park, 7470 Second St.	4.2
36	Monument Park, 25 Marine Dr. in Point Roberts	6.9
37	Nugent's Corner River Access, 3685 Mt. Baker Highway	14.2
38	Ostrom Conservation Site, 4304 South Pass Rd.	38.6
39	Phillips 66 Soccer Park, 5238 Northwest Dr.	36.6
40	Point Whitehorn Marine Reserve, 6770 Koehn Rd.	54.1
41	Redwood Park, 3310 Redwood Ave.	0.3
42	Samish Park, 673 N. Lake Samish Dr.	30.6
43	Samish Way, 5170 Samish Way	1.4
44	Semiahmoo Park, 9261 Semiahmoo Parkway	291.9
45	Silver Lake Park, 9006 Silver Lake Rd.	413.4
46	South Fork Park, 1530 Mosquito Lake Rd.	603.0
47	South Lake Whatcom Park, 4144 S Bay Dr.	79.5
48	South Pass East, 4900 South Pass Rd.	0.5
49	South Pass West, 4190 South Pass Rd.	0.4
50	Squires Lake Park, 2510 Nulle Rd.	90.1
51	Stimpson Family Nature Reserve, 2076 Lake Louise Rd.	400.4
52	Sunnyside Landing, 2870 Northshore Rd.	6.3
53	Sunset Beach, 2580 West Shore Dr. on Lummi Island	7.0
54	Sunset Farm Park, 7977 Blaine Rd.	69.5
55	Ted Edwards Park, 4150 Oriental Ave.	3.5
56	Teddy Bear Cove Park, 1467 Chuckanut Dr.	11.2
57	Terrell Creek Access, 7417 Jackson Rd.	0.5
58	Terrell Creek Heron Rookery, 7065 Jackson Rd.	15.0
59	Terrell Creek Point, 7685 Birch Bay Dr.	6.7
60	Turner-Jaeger, 1975 Lake Louise Rd.	3.8
61	Welcome Bridge River Access, 5585 Mosquito Lake Rd.	0.6
TOTAL		16,210.0

Pursuant to RCW 36.87.130, there are also public access properties on right-of-way ends that intersect shorelines. Whatcom County also holds public access easements for recreational purposes on certain lands owned by the City of Lynden, Whatcom Land Trust and the Lummi Island Heritage Trust.

Future Needs

A level of service of 9.6 acres of developed parkland for every 1,000 people in the County was adopted in the Whatcom County Comprehensive Plan. The County’s existing parks will meet the adopted level of service over the six-year planning period. However, the County is proposing park improvement projects to increase quality of existing park facilities and develop the Birch Bay Community Park to meet the longer term needs of a growing population.

Proposed Improvement Projects

Park improvement projects, totaling approximately \$16.8 million, are proposed over the six-year planning period (see Table 4). Prioritize funding for restroom facilities at the Birch Bay Beach Park.

Trails

Whatcom County currently has over 75 miles of trails in various locations throughout the County. This inventory is shown in Table 2 below.

Table 2. Existing Trails

Site No.	Trail Name and Location	Miles
1	Bay Horizon/Bay Crest Trail	0.75
2	Bay to Baker Maple Falls-Glacier	4.00
3	Birch Bay Drive and Pedestrian Facility	1.58
4	Canyon Lake Community Forest	7.01
5	Chuckanut Mountain / Pine & Cedar Lakes	16.60
6	Deming Homestead Eagle Park, Truck Rd.	0.30
7	Hovander Homestead Park	3.20
8	Interurban, Chuckanut area	3.15
9	Jensen Family Forest Park, Stein Rd. and Birch Bay Lynden Rd.	0.67
10	Lake Whatcom Park	8.50
11	Lily Point, Point Roberts	2.00
12	Lookout Mountain Forest Preserve	6.80
13	Maple Creek Park, 7842 Silver Lake Rd., Maple Falls	1.28
14	Monument Park, 25 Marine Dr. in Point Roberts	0.35
15	Phillips 66 Soccer Park Trail (Used to be Northwest Soccer Park), Smith	0.38
16	Ostrom Conservation Site, 4304 South Pass Rd.	0.56
17	Point Whitehorn Marine Reserve, 6770 Koehn Rd, Birch Bay	0.81
18	Samish Park, 673 N. Lake Samish	1.38
19	Semiahmoo Park	0.63
20	Silver Lake Park, 9006 Silver Lake Rd.	5.28
21	South Fork Park	2.30
22	Squires Lake, 2510 Nulle Rd.	2.88
23	Stimpson Family Nature Reserve, 2076 Lake Louise Rd.	4.02
24	Sunset Farm, 7977 Blaine Rd.	0.56
25	Teddy Bear Cove	0.33
	TOTAL	75.32

Future Needs

A level of service of 0.60 miles of trails for every 1,000 people in the County was adopted in the Whatcom County Comprehensive Plan. With projected population growth in Whatcom County over the next six years, about 74 additional miles of trails would be needed by the year 2028 to serve the people of Whatcom County.

Proposed Improvement Projects

Trail improvement projects and associated facilities, totaling approximately \$7.4 million dollars, are proposed over the six-year planning period (see Table 4). These projects would add up to 25.6 trail miles (the South Fork Park trails project would add 5.5 miles, the Lake Whatcom trails project would add up to 20 miles, and a Silver Lake project would add 0.15 miles).

While there is a shortfall in trail miles provided by the County, there are other trails that are owned/maintained by a variety of agencies or jurisdictions that provide recreational opportunities for Whatcom County residents and visitors.

Activity Centers

There are currently 13 activity centers that provide a variety of year-round programs for various age groups. The activity center inventory is shown in Table 3 below.

Table 3. Existing Activity Centers

Site No.	Activity Center Name and Location
1	Bay Horizon, 7511 Gemini Street
2	Bellingham Senior Activity Center, 315 Halleck Street
3	Blaine Community Senior Center, 763 G Street
4	East Whatcom Regional Resource Center, 8251 Kendall Rd.
5	Everson Senior Center, 111 W. Main Street
6	Ferndale Senior Center, 1999 Cherry Street
7	Lynden Senior Center, 401 Grover Street
8	Plantation Rifle Range, 5102 Samish Way
9	Point Roberts Senior Center, 1487 Gulf Road
10	Roeder Home, 2600 Sunset Dr.
11	Sumas Senior Center, 461 2nd Street
12	Van Zandt Community Hall, 4106 Valley Highway
13	Welcome Senior Center, 5103 Mosquito Lake Rd.

Note: The Blaine, Everson, Lynden and Sumas Centers are owned by these respective cities. The Point Roberts Center is owned by the Point Roberts Park District. Whatcom County provides and/or contracts for senior activities and recreational programming at these centers.

Future Needs

The Whatcom County Comprehensive Plan does not contain a level of service standard for activity centers. Rather, Comprehensive Plan Policy 4F-5 states:

Continue to provide and support activity centers, including senior centers, to serve the growing population of Whatcom County by the following methods, as needed, which are listed in priority order: (1) implementing programming changes, (2) adding space to existing centers, and/or (3) establishing new centers.

Proposed Improvement Projects

Four activity center projects are proposed. These projects will cost about \$2.3 million within the six-year planning period (see Table 4).

Six-Year Capital Improvement Program

The park, trail, and activity center projects planned over the next six years are shown below.

Table 4. Park, Trail, and Activity Center Projects

Project # and Name	Funding Source	Funding						Totals	
		2023	2024	2025	2026	2027	2028		
1 Plantation Range Lead Reclamation & Stormwater	1	655,000						655,000	
2 Silver Lake Shower & Restroom Buildings	1	1,850,000	200,000	1,000,000	1,150,000			4,200,000	
3 Silver Lake Park - Lodge Roof Replacement	1	231,000						231,000	
4 Hovander Barn Paintworks	1	147,400						147,400	
5 Lookout Mountain - Road System Storm Damage Repairs	1, 2, 3, 4	560,000						560,000	
6 Silver Lake Residence Demolition	1	61,800						61,800	
7 Hovander Residence Demolition	1	55,500						55,500	
8 Bellingham Senior Center HVAC Replace & Upgrade	1, 5	94,000	772,000					866,000	
9 Aiston Preserve Access Improvements	1		50,000					50,000	
10 Lookout Mtn Forest Preserve Parking Improvements	1		124,100					124,100	
11 Bay Horizon Hostel Demolition	1		493,000					493,000	
12 Silver Lake Cabin & Lodge Renovations	1		121,242	62,458				183,700	
13 Hovander Picnic Shelters	1		66,700	374,050				440,750	
14 Parks Headquarters Parking & Pedestrian Improvements	1		77,300	295,100				372,400	
15 Hovander - Flood Repair & Mitigation Improvements	1		80,000	182,000				262,000	
16 Tennant Lk Interpretive Ctr Remodel & Flood Mitigation	1, 2		67,000	437,500				504,500	
17 South Fork Park Bridges & Connector Trail	1			132,500	149,200	306,800	273,800	862,300	
18 Lily Point Marine Park Parking Improvements	1			254,900				254,900	
19 Lake Whatcom Trail Development	1			392,150	264,500	241,500	189,750	1,087,900	
20 Lake Whatcom Park Trailhead	1			500,000	3,339,000			3,839,000	
21 Nessel Farm Improvements	5			152,500	845,000			997,500	
22 Hovander Park Access Improvements	1			250,000	225,000	1,925,000		2,400,000	
23 Hertz Trail Capital Maintenance	1				353,500			353,500	
24 Ferndale Senior Center HVAC Replace & Upgrade	1				335,000			335,000	
25 Maple Falls Park Trailhead	1					200,000	825,000	1,025,000	
26 Samish Park Parking/Vehicular Circulation Improvement	1					75,000	250,000	325,000	
27 South Fork Park Loop Trail Improvements	1						276,600	276,600	
28 Birch Bay Beach Park Development	1, 3, 5, 6, 7			260,000	5,105,000			5,365,000	
29 Parks Construction Supervisor	1	50,000	50,000	50,000	50,000	50,000	50,000	300,000	
Parks Totals			3,704,700	2,101,342	4,343,158	11,816,200	2,798,300	1,865,150	26,628,850

Funding Sources:

1. Real Estate Excise Tax (REET)
2. Federal Emergency Management Agency (FEMA)
3. Parks Special Revenue Fund
4. Conservation Futures Funds
5. Donations
6. Lodging Tax (Hotel-Motel Tax)
7. Grants

Chapter 3 – Maintenance and Operations

Existing Maintenance and Operations Space

The 2022 inventory of maintenance & operations/facilities management space is 70,681 square feet. This inventory is shown below.

Table 5. Existing Space

Site No.	Facility Name	Square feet
1	Central Shop, 901 W. Smith Rd. (Maintenance and Operations)	35,773
2	3720 Williamson Way (Facilities Management)	31,248
3	Minimum Security Correction Facility - 2030 Division St. (Facilities Management Storage)	3,660
TOTAL		70,681

Future Needs

The Whatcom County Comprehensive Plan does not contain a level of service standard for maintenance and operations. The County will budget for improvements to such facilities as needed.

Proposed Improvement Projects

Improvement and maintenance projects on existing buildings and sites over the six-year planning period total over \$2.6 million as shown below.

Table 6. Maintenance and Operations Projects

Project # and Name	Funding Source							Total Cost
		2023	2024	2025	2026	2027	2028	
1 Central Shop Stormwater Project - 901 W. Smith Rd.	1	500,000	500,000					1,000,000
2 Road Oil Tank Removal - 901 W. Smith Rd.	1	270,000						270,000
3 Road Salt Storage - 901 W. Smith Rd.	1	150,000						150,000
4 Truck Shed Structural Repair - 901 W. Smith Rd.	1	160,000						160,000
5 Underground Fuel Tank Removal - 901 W. Smith Rd.	1	250,000	50,000	10,000				310,000
6 Vactor Building - 901 W. Smith Rd.	1	546,509						546,509
7 Water Line Extension/Anti-Ice Prep - 901 W. Smith Rd.	1	185,000						185,000
TOTAL		2,061,509	550,000	10,000	0	0	0	2,621,509

Funding Sources

- Road Fund

Chapter 4 – General Government Buildings and Sites

Existing Office Space

The 2022 inventory of County government office space is 301,375 square feet at nine locations. This inventory is shown below.

Table 7. Existing County Government Office Space

Site No.	Facility Name	Square feet
1	Civic Center Annex (322 North Commercial)	30,000
2	Central Plaza Building (215 N. Commercial)	10,307
3	County Courthouse (311 Grand Avenue)	178,476
4	Lottie St. Annex (316 Lottie St.)	2,533
5	509 Girard St.	13,189
6	3373 Mt. Baker Highway	2,110
7	1500 N. State St.	20,045
8	Northwest Annex (5280 Northwest Dr.)	20,265
9	Crisis Stabilization Center (2026 Division St.)	<u>24,450</u>
	TOTAL	301,375

Note: The County also rents 4,820 of building space at 600 Dupont St.

Future Needs

The Whatcom County Comprehensive Plan does not contain a level of service standard for general government buildings. The County will budget for improvements to such facilities as needed.

Proposed Improvement Projects

Improvement and maintenance projects on existing buildings and sites over the six-year planning period total over \$67 million as shown below.

Table 8. Government Building and Site Projects

Project # and Name	Funding Source	Funding						Totals
		2023	2024	2025	2026	2027	2028	
1 Misc. Courthouse Maintenance Projects	1,2	450,000						450,000
2 Elevator Replacements (multiple locations)	4, 5, 7	410,000	460,000	510,000	560,000			1,940,000
3 NW Annex Campus	3, 5, 8	26,950,000	550,000					27,500,000
4 Courthouse Exterior Project	1, 2	4,077,100	3,238,000	4,536,000	2,463,000			14,314,100
5 Prox Lock Control Panel Replacement (multiple locations)	5	178,000						178,000
6 Way Station Improvements - State Street	5, 6, 9	9,281,000						9,281,000
7 Girard Street Improvements	1, 2				100,000	1,000,000	9,000,000	10,100,000
8 Interior Painting, Carpets, Asphalt Repairs, ADA (multiple locations)	1	205,000	205,000	205,000	205,000	205,000	205,000	1,230,000
9 County Building Maintenance	1, 2	100,000	100,000	100,000	100,000	100,000	100,000	600,000
10 Alternative Response Treatment Facility	6, 10	926,000	700,000					1,626,000
11 Construction Coordinator Wages/Benefits	1	10,000	10,000	10,000	10,000	10,000	10,000	60,000
Totals		42,587,100	5,263,000	5,361,000	3,438,000	1,315,000	9,315,000	67,279,100

Funding Sources

1. Real Estate Excise Tax (REET)
2. Economic Development Investment (EDI) Fund
3. Debt
4. Road Fund
5. Project Based Budget
6. Grants
7. General Fund
8. Reserve Funds
9. Donations
10. Behavioral Health Programs Fund

Chapter 5 – Sheriff’s Office

Existing Sheriff’s Office Space

The 2022 inventory of Sheriff’s office space is 22,902 square feet. This inventory is shown below.

Table 9. Existing Sheriff’s Facilities

Site No.	Facility Name	Square Feet
1	Public Safety Building (311 Grand Ave)	15,102
2	Minimum Security Correction Facility (2030 Division St.)	6,000
3	Laurel Substation (194 W. Laurel Rd.)	<u>1,800</u>
TOTAL		22,902

Notes: The Sheriff’s Office also has storage facilities at various locations in Whatcom County. The County has two mobile homes and an old detention facility in Point Roberts. The resident deputies operate out of their homes or utilize space at the U.S. Customs office at the border. Deputies are able to utilize an office at the Kendall Fire hall when working in the area.

Future Needs

The Whatcom County Comprehensive Plan does not contain a level of service standard for Sheriff’s Office facilities. Rather, Comprehensive Plan Policy 4D-2 is to:

Maintain Sheriff’s Office adult corrections facilities and headquarters to provide a safe environment for the community, staff and inmates. . . Existing facilities may be expanded, remodeled, and/or new facilities developed in response to changing need.

Proposed Improvement Projects

A new Sheriff’s Office and a new public safety radio system are planned within the next six years. The comprehensive radio system update will include infrastructure (such as towers), radio systems in buildings, radios in vehicles, and hand-held radios. These improvements will cost approximately \$22 million, as shown below.

Table 10. Sheriff’s Office Projects

Project # and Name	Funding	2023	2024	2025	2026	2027	2028	Totals
	Source							
Sheriff’s Office Relocation	1, 2				1,500,000	13,500,000		15,000,000
Public Safety Radio System	3, 4, 5, 6	1,674,808	2,007,500	1,782,000	1,028,500	275,000	275,000	7,042,808
Totals		1,674,808	2,007,500	1,782,000	2,528,500	13,775,000	275,000	22,042,808

Funding Sources

1. Real Estate Excise Tax (REET)
2. Debt
3. Grants
4. Economic Development Investment (EDI) Fund
5. Fire Districts/Departments
6. Countywide Emergency Medical Services (EMS) Fund

Chapter 6 – Emergency Management

Existing Emergency Management Space

The 2022 inventory of Sheriff’s Office, Division of Emergency Management space is 24,000 square feet, located at the Whatcom Unified Emergency Coordination Center (WUECC). Rented by and shared between both Whatcom County and the City of Bellingham, the WUECC is comprised of 2,000 square feet of office space and an additional 22,000 square feet of support facilities (used for meetings, training, exercises, and during emergencies). The WUECC serves as the Emergency Operations Center for both the County and the City.

Table 11. Existing Emergency Management/EOC Facilities

Site No.	Facility Name	Square feet
1	Whatcom Unified Emergency Coordination Center 3888 Sound Way, Bellingham	24,000

Future Needs

The Whatcom County Comprehensive Plan does not contain a level of service standard for emergency management facilities. Rather, Comprehensive Plan Policy 4D-4 is to:

Maintain adequate facilities for daily emergency management activities and, during an emergency or disaster, for the emergency operations center. The facilities will provide sufficient space for activities relating to emergency/disaster planning, mitigation, response and recovery. Existing facilities may be expanded, remodeled, and/ or new facilities developed in response to changing need.

The County will budget for improvements to such facilities as needed.

Proposed Improvement Projects

There are no emergency management capital improvement projects planned over the next six years.

Chapter 7 – Adult Corrections

Existing Jail Facilities

The County’s Main Jail was designed and originally built to hold 148 beds, although with some limited remodeling and the use of double bunking, the operational capacity of the main jail should be for the use of 212 beds. Whatcom County completed construction of a 150 bed minimum security correction facility on Division St. in 2006. The Main Jail is located in the Public Safety Building next to the County Courthouse in downtown Bellingham and the Minimum Security Correction Facility is located in the Bakerview Rd. industrial area.

Table 12. Existing Jail Beds

Site No.	Facility Name	Jail Beds
1	Public Safety Building (311 Grand Ave.)	212
2	Jail Work Center (2030 Division St.)	<u>150</u>
TOTAL		362

Note: As the result of the COVID-19 pandemic, the jail is operating at a reduced capacity to provide for social distancing until such time as the pandemic is declared under control by the Washington State Department of Health. Due to the mix of offenders, a firm population cap has not been set, but is anticipated to remain at approximately 150 offenders at the Downtown Jail.

Future Needs

There continues to be serious concerns among law and justice officials related to jail facility needs in the community. That need has been documented over the years, with the most recent being the *Building Assessment Studies and Cost Estimates for Capital Improvements at the Jail (Public Safety Building)* (Sept. 2017).

The Whatcom County Comprehensive Plan does not contain a level of service standard for jail facilities. Rather, Comprehensive Plan Policy 4D-2 is to:

Maintain Sheriff’s Office adult corrections facilities and headquarters to provide a safe environment for the community, staff and inmates. The number of jail beds in adult corrections facilities will be determined after review of multiple factors, including projected population growth, State sentencing laws, alternative programs, treatment diversion programs, early release programs, the need to separate violent inmates, the need to separate inmates by gender, the need to separate inmates by other classification considerations, average length of stay, peak inmate populations and available funding. Existing facilities may be expanded, remodeled, and/ or new facilities developed in response to changing need.

Proposed Improvement Projects

The adult corrections projects planned over the next six years are shown below. These improvements will cost approximately \$151 million, as shown below.

Table 13. Adult Corrections Projects

Project # and Name	Funding Source	2023	2024	2025	2026	2027	2028	Totals
1 Public Health, Safety, and Justice Facilities	1,2		10,000,000	110,000,000	30,000,000			150,000,000
2 Corrections Facilities Ongoing Maint. Project:	3, 4	200,000	200,000	200,000	200,000	200,000	200,000	1,200,000
Totals		200,000	10,200,000	110,200,000	30,200,000	200,000	200,000	151,200,000

Funding Sources

1. Debt
2. New Sales Tax
3. Jail Fund
4. General Fund

Chapter 8 – Juvenile Detention

Existing Juvenile Detention Facilities

The 2022 inventory of County juvenile detention facilities includes 32 beds serving the countywide population. The juvenile detention facility is located on the sixth floor of the County Courthouse at 311 Grand Avenue.

Table 14. Existing Juvenile Detention Beds

Site No.	Facility Name	Beds
1	County Courthouse (311 Grand Ave.)	32

Future Needs

The Whatcom County Comprehensive Plan does not contain a level of service standard for juvenile detention facilities. Rather, Comprehensive Plan Policy 4D-3 is to:

Maintain juvenile detention facilities and alternative corrections programs to provide safe and secure methods to provide accountability and support for minors who break the law. Existing facilities may be expanded, remodeled, and/or new facilities developed in response to changing need.

The County will budget for improvements to such facilities as needed.

Proposed Improvement Projects

There are no juvenile detention capital improvement projects planned in the six-year planning period.

Chapter 9 – Transportation

Existing Roads

The 2021 inventory shows a total of 935 miles of County roads.

Future Needs

The Whatcom County Comprehensive Plan sets level of service (LOS) standards for County roads. Future traffic and the level of service for roads can be forecasted using computer-modeling software. The Whatcom Council of Governments forecasts future traffic utilizing a computer transportation model. This modeling effort will inform transportation planning in Whatcom County.

Whatcom County accomplishes planning for County road improvements by approving a Six-Year Transportation Improvement Program each year, as required by RCW 36.81.121.

Proposed Improvement Projects

The Whatcom County Six-Year Transportation Improvement Program includes preliminary planning for one proposed new road project:

- Lincoln Road extension (between Harborview Road and Blaine Road).

While this project is on the Six-Year Transportation Improvement Program, construction is not anticipated within the six-year planning period. Rather, preliminary engineering to determine project feasibility may be initiated within this time frame. The Transportation Improvement Program includes two road projects over \$5 million:

- North Lake Samish Rd. Bridge Replacement (\$10.6 million); and
- East Smith Rd / Hannegan Rd intersection improvements (\$5.4 million).

The Six-Year Transportation Improvement Program contains a variety of other projects, including flood damage repair, bridge replacements, intersection improvements, road reconstruction, and fish passage projects.

Existing Ferry Facilities

Whatcom County currently has one ferry vessel serving Lummi Island. The ferry runs between Lummi Island and Gooseberry Point on a daily basis.

Future Needs

Whatcom County Comprehensive Plan Policy 6A-1 establishes the following LOS standard for the ferry:

Public Works shall establish a performance metric to monitor service performance of the Lummi Island ferry system. This will include a week long count at least every quarter in both sailing directions. This count will include percent capacity, on-time performance, and the number of vehicles left in the queue. The count shall be compared to the desired level of service of no more than two sailing waits during average weekday peak periods.

The Special Programs Manager for the County Public Works Department confirmed that the ferry service currently meets the LOS standard.

Whatcom County accomplishes planning for the ferry by approving a Fourteen-Year Ferry Capital Program, as required by RCW 36.54.015.

Proposed Improvement Projects

The Six-Year Transportation Improvement Program includes replacement of the Whatcom Chief ferry (\$49.4 million) and terminal modifications. It also includes engineering for relocation of the ferry terminal.

Total Transportation Costs

Transportation projects, including road and ferry projects, total approximately \$114 million over the six-year planning period. This includes almost \$50 million in local funds, with the remainder coming from the State and Federal governments.

Chapter 10 – Stormwater Facilities

Existing Stormwater Management Facilities

The Public Works Department is responsible for design, engineering, and construction of county-owned stormwater facilities. Many stormwater facilities are road-related stormwater conveyance systems such as culverts and ditches on and adjacent to county roads. Others are off right-of-way facilities that control storm flows and improve water quality.

In response to increasing federal and state mandates to manage stormwater and the public’s desire to improve stewardship of sensitive watersheds, Whatcom County established a Stormwater Division in 2005. The Stormwater Division is responsible for planning, designing, engineering, and construction of stormwater facilities. Inventories of existing stormwater facilities are maintained by the Public Works Department. The Engineering Services Division maintains an inventory of all road-related facilities. The Stormwater Division maintains an inventory of public and private stormwater facilities in the area covered by the County’s NPDES Phase II permit for Municipal Separate Storm Sewer Systems. This inventory includes ditches, culverts, catch basins, vaults, ponds, and swales. Completed Stormwater Construction Projects since the Stormwater Division was created in 2005 are listed below.

Table 15. Completed Stormwater Construction Projects Since 2005

Existing Site No.	Watershed	Facility Name	Year Completed
1	Lake Whatcom	Geneva Stormwater Retrofits	2006
2	Lake Whatcom	Cable Street Reconstruction & Stormwater Improvements	2007
3	Lake Whatcom	Lahti Drive Stormwater Improvements	2010
4	Lake Whatcom	Silver Beach Creek Improvements - Brownsville Drive to E. 16th Place	2011
5	Lake Whatcom	Silver Beach Creek Improvements - West Tributary	2012
6	Lake Whatcom	Coronado-Fremont Stormwater Improvements	2014
7	Lake Whatcom	Cedar Hills-Euclid Stormwater Improvements	2016
8	Lake Whatcom	Agate Bay Improvements-Phase 1 & 2	2018-2019
9	Lake Whatcom	Northshore/Edgewater Stormwater Improvements	2020
10	Lake Whatcom	Silver Beach Creek Phase 1-Woodlake	2021



Figure 1. Lake Whatcom Cedar Hills-Euclid Stormwater Improvements

Whatcom County Public Works regularly seeks and is awarded grant money that contributes to the design and construction of these stormwater projects that improve water quality through treatment systems and stream stabilization.

Future Needs

An increasing emphasis on the protection of sensitive watersheds has resulted in the adoption of comprehensive stormwater plans, including plans for Lake Whatcom and Birch Bay. The adopted plans identify work towards planning, design, engineering, and construction of capital projects intended to address stormwater issues.

Proposed Improvement Projects

Stormwater improvement projects totaling approximately \$14.7 million are proposed over the six-year planning period as shown below. These costs would be paid by Real Estate Excise Tax (REET), Lake Whatcom Stormwater Utility, grants, Road fund, funding from the Birch Bay Watershed and Aquatic Resources Management District (BBWARM), Flood fund, and Federal Emergency Management Agency (FEMA) funds.

Table 16. Stormwater Projects

Project # and Name	Funding Source	2023	2024	2025	2026	2027	2028	Totals
1 Academy Stormwater Facility Phase 2-Eval & Improvements	1, 2, 6	330,000						330,000
2 Geneva Bioretention Pilot Project	1, 2, 3	977,250	132,000	132,000	17,000	-	-	1,258,250
3 Eagleridge Stormwater Facility	1, 2	10,000	115,000	350,000	-	-	-	475,000
4 Austin Ct Filter Vault	1, 2	95,000		320,000		-	-	415,000
5 Silver Beach Creek Phase 2 - Erosion Control	2	80,000	600,000					680,000
6 Viewhaven Lane Water Quality & Conveyance Improvements	1, 2	10,000	115,000		350,000			475,000
7 Strawberry Pt/ Lake Whatcom Blvd Water Quality Facility	1, 2		-	115,000	140,000	655,000		910,000
8 Geneva St/Lake Louise Culvert Replacement	1, 4		-	-	80,000		200,000	280,000
9 Lake Whatcom Boulevard Media Filter Drain	2		-	-	125,000	80,000	630,000	835,000
10 Sudden Valley - Stormwater Improvements Phase 2	1, 2				10,000	180,000		190,000
11 Lake Whatcom Boulevard Water Quality Vault	2						115,000	115,000
12 Charel Terrace Stormwater Outfall Repair	1, 5, 7	415,000						415,000
13 Holeman Ave Stormwater Improvements	1, 5	35,000	950,000	-	-	-	-	985,000
14 Semiahmoo Dr South & Outfall Improvements	1, 4, 5, 7	250,000	1,200,000		-	-	-	1,450,000
15 Normar Place Stormwater Improvements	1, 5	150,000	40,000	500,000		-	-	690,000
16 Lora Lane Drainage & Tide Gate	1, 4, 5		80,000	150,000	1,200,000			1,430,000
17 Birch Pt Rd & Outfall Improvements	5		50,000	150,000	500,000			700,000
18 Richmond Park Stormwater Improvements	1, 5			180,000	200,000	1,050,000	1,000,000	2,430,000
19 Wooldridge Ave & Sunset Dr Stormwater Improvements	5					50,000	100,000	150,000
20 Hillsdale Stormwater Improvements Phase I	5						50,000	50,000
21 Shallow Shore Culvert Relocation	1	470,000						470,000
Stormwater Totals		2,822,250	3,282,000	1,897,000	2,622,000	2,015,000	2,095,000	14,733,250

Funding Sources

1. Real Estate Excise Tax (REET)
2. Lake Whatcom Stormwater Utility
3. Grants
4. Road Fund
5. Birch Bay Watershed and Aquatic Resources Management District (BBWARM)
6. Flood Fund
7. FEMA

Note: Projects 1-11 are within the Lake Whatcom Watershed. Projects 12-20 are within the Birch Bay Watershed.

Chapter 11 – Total Costs

Total Costs for the six-year planning period are shown below.

Table 17. Total Costs for the Six-Year Planning Period

	Total Costs 2023-2028	Percent of Total Costs
Parks, Trails, and Activity Centers	26,628,850	6.69%
Maintenance and Operations	2,621,509	0.66%
General Government Buildings and Sites	67,279,100	16.90%
Sheriff's Office	22,042,808	5.54%
Emergency Management	0	0.00%
Adult Corrections	151,200,000	37.98%
Juvenile Detention	0	0.00%
Transportation	113,592,000	28.53%
Stormwater Facilities	<u>14,733,250</u>	<u>3.70%</u>
TOTAL	398,097,517	100.00%

The County plans to undertake capital improvement projects costing approximately \$398 million between 2023 and 2028, which will be financed with a combination of local, state, federal, and other funding sources.

Exhibit B (Repeal Existing CIP)

Six-Year Capital Improvement Program For Whatcom County Facilities 2021–2026

Table of Contents

Chapter 1 – Introduction.....	3
Growth Management Act Requirements.....	3
Charter Provisions and the County Budget.....	4
Chapter 2 – Parks, Trails, and Activity Centers.....	5
Parks.....	5
Future Needs.....	6
Proposed Improvement Projects.....	6
Trails.....	6
Future Needs.....	7
Proposed Improvement Projects.....	7
Activity Centers.....	7
Future Needs.....	8
Proposed Improvement Projects.....	8
Six-Year Capital Improvement Program.....	8
Chapter 3 – Maintenance and Operations.....	9
Existing Maintenance and Operations Space.....	9
Future Needs.....	9
Proposed Improvement Projects.....	9
Chapter 4 – General Government Buildings and Sites.....	10
Existing Office Space.....	10
Future Needs.....	10
Proposed Improvement Projects.....	10
Chapter 5 – Sheriff’s Office.....	11
Existing Sheriff’s Office Space.....	11

Future Needs	11
Proposed Improvement Projects.....	11
Chapter 6 – Emergency Management	13
Existing Emergency Management Space.....	13
Future Needs	13
Proposed Improvement Projects.....	13
Chapter 7 – Adult Corrections.....	14
Existing Jail Facilities	14
Future Needs	14
Proposed Improvement Projects.....	15
Chapter 8 – Juvenile Detention	16
Existing Juvenile Detention Facilities	16
Future Needs	16
Proposed Improvement Projects.....	16
Chapter 9 – Transportation	17
Existing Roads	17
Future Needs	17
Proposed Improvement Projects.....	17
Existing Ferry Facilities	18
Future Needs.....	18
Proposed Improvement Projects.....	18
Total Transportation Costs.....	18
Chapter 10 – Stormwater Facilities.....	19
Existing Stormwater Management Facilities	19
Future Needs	20
Proposed Improvement Projects.....	20
Chapter 11 – Total Costs.....	22

Chapter 1—Introduction

The Growth Management Act requires that the County's Comprehensive Plan include a "capital facilities plan element" (RCW 36.70A.070(3)). The Whatcom County Comprehensive Plan calls for the County to develop and update the Six-Year Capital Improvement Program (CIP) for County projects every two years. The main purpose of the Capital Improvement Program is to identify priority capital improvement projects and estimated costs, outline a schedule for project completion, and designate funding sources for these projects based on a review of existing and projected population and revenue conditions for the six year planning period.

Growth Management Act Requirements

According to the Growth Management Act, a county's capital facilities plan must include five items, which are shown below:

A. An inventory of existing capital facilities owned by public entities, showing the locations and capacities of the capital facilities.

Current inventories of existing County capital facilities, based upon information provided by various County departments, are included in each chapter of this document.

B. A forecast of the future needs for such capital facilities.

Chapter 4 of the Whatcom County Comprehensive Plan establishes numerical "level of service" standards for County parks and trails and contains policies relating to other County facilities. Capital facility needs are forecasted over the six-year planning period by applying the adopted level of service standards to the expected population in the year 2026 and by considering other relevant factors.

C. Proposed locations and capacities of expanded or new capital facilities.

General locations and capacities of proposed County facilities are indicated in this document (as applicable).

D. At least a six-year plan that will finance such capital facilities within projected funding capacities and clearly identifies sources of public money for such purposes.

This Six-Year Capital Improvement Program presents costs and funding sources for proposed County capital facilities (all figures are in 2020 dollars). There are a variety of funding sources that the County may utilize to pay for capital facilities, including real estate excise taxes (REET), sales tax, the Public Utilities Improvement Fund (also known as the Rural Sales Tax Fund, Economic Development Investment Fund or EDI Fund), Road Fund, state grants, federal grants and a variety of other sources.

~~E.—A requirement to reassess the land use element if probable funding falls short of meeting existing needs and to ensure that the land use element, capital facilities plan element, and financing plan within the capital facilities plan element are coordinated and consistent.~~

~~Finally, in accordance with the Growth Management Act, a requirement to reassess the land use element of the Comprehensive Plan if probable funding falls short of meeting existing needs and to ensure consistency between plans already exists in the Comprehensive Plan (Policy 4A-4).~~

~~Charter Provisions and the County Budget~~

~~In addition to Growth Management Act provisions relating to capital facilities, Section 6.30 of the County Charter also requires the County to include a six-year capital improvement program as part of the budget. Appropriations for 2021–2022 capital projects may be included in the biennial budget or may be adopted through the supplemental budget process. Ultimate funding for capital improvement projects is subject to County Council authorization in the adopted budget. Costs identified for 2023–2026 are included for planning purposes and review of potential future needs, but not for budget authorization at this time.~~

Chapter 2 – Parks, Trails, and Activity Centers

Parks

The 2020 inventory of County parks and open space areas is over 16,200 acres. This inventory is shown below.

Table 1. Existing Parks

Site No.	Park Name and Location	Acres
1	Alderwood Park, 3479 Willowood Rd.	1.9
2	Bay Horizon Park, 7467 Gemini St.	68.2
3	Birch Bay Beach Park, 7930 Birch Bay Dr.	13.7
4	Birch Bay Conservancy Area, 7000 Point Whitehorn Rd.	45.0
5	Birch Bay Tidelands	151.0
6	Boulevard Park, 471 Bayview Dr.	1.4
7	Broadway Beach Access, 7497 Birch Bay Dr.	0.1
8	Cagey Road, 3130 Haxton Way	20.0
9	Camp 2 RR ROW, 3775 Camp 2 Rd.	2.3
10	Canyon Lake Community Forest, 8300 Mt. Baker Hwy.	2,266.0
11	Chuckanut Mountain Park, 745 Old Samish Rd.	987.9
12	Cottonwood Beach Access, 8191 Birch Bay Dr.	5.1
13	Deming Eagle Homestead Park, 5615 Truck Rd.	33.0
14	Dittrich Park, 319 E Lake Samish Dr.	25.2
15	Drayton Harbor Tidelands	0.3
16	Euclid Park, 1570 Euclid Ave.	2.2
17	Galbraith Mountain Access, 800 Birch Falls Dr.	20.0
18	Glacier Cemetery	0.5
19	Halverson Park, 5075 Anderson Rd.	5.6
20	Haynie Road, 2876 Haynie Rd.	1.9
21	Hegg, 3845 Blue Canyon Rd.	3.5
22	Hovander Homestead Park and Tennant Lake, 5299 Nielsen Rd.	333.4
23	Jackson Rd. Beach Access, 7465 Birch Bay Dr.	0.2
24	Jensen Family Forest Park, 8051 Stein Rd.	21.5
25	Josh VanderYacht Park, 4106 Valley Highway	2.0
26	Kickerville Road, 4110 Bay Rd.	2.6
27	Lake Whatcom Park, 3220 North Shore Rd.	4,853.0
28	Lighthouse Marine Park, 811 Marine Dr. in Point Roberts	20.5
29	Lily Point Marine Park, 2315 APA Rd. in Point Roberts	262.1
30	Little Squallicum Park, 640 Marine Dr.	12.7
31	Lookout Mountain Forest Preserve, 2537 Lake Louise Rd.	4,682.8
32	Lummi Island Beach Access, 2198 N. Nugent Rd.	0.2
33	Maple Beach Tidelands	100.9
34	Maple Creek Park, 7842 Silver Lake Rd.	73.1
35	Maple Falls Community Park, 7470 Second St.	4.2
36	Monument Park, 25 Marine Dr. in Point Roberts	6.9
37	Nugent's Corner River Access, 3685 Mt. Baker Highway	14.2
38	Ostrom Conservation Site, 4304 South Pass Rd.	38.6
39	Phillips 66 Soccer Park, 5238 Northwest Dr.	36.6
40	Point Whitehorn Marine Reserve, 6770 Koehn Rd.	54.1
41	Redwood Park, 3310 Redwood Ave.	0.3
42	Samish Park, 673 N. Lake Samish Dr.	30.6
43	Samish Way, 5170 Samish Way	1.4
44	Semiahmoo Park, 9261 Semiahmoo Parkway	291.9
45	Silver Lake Park, 9006 Silver Lake Rd.	413.4
46	South Fork Park, 1530 Mosquito Lake Rd.	603.0
47	South Lake Whatcom Park, 4144 S Bay Dr.	79.5
48	South Pass East, 4900 South Pass Rd.	0.5
49	South Pass West, 4190 South Pass Rd.	0.4
50	Squires Lake Park, 2510 Nulle Rd.	84.2
51	Stimpson Family Nature Reserve, 2076 Lake Louise Rd.	400.4
52	Sunnyside Landing, 2870 Northshore Rd.	6.3
53	Sunset Beach, 2580 West Shore Dr. on Lummi Island	7.0
54	Sunset Farm Park, 7977 Blaine Rd.	69.5
55	Ted Edwards Park, 4150 Oriental Ave.	3.5
56	Teddy Bear Cove Park, 1467 Chuckanut Dr.	11.2
57	Terrell Creek Access, 7417 Jackson Rd.	0.5
58	Terrell Creek Heron Rookery, 7065 Jackson Rd.	15.0
59	Terrell Creek Point, 7685 Birch Bay Dr.	6.7
60	Turner-Jaeger, 1975 Lake Louise Rd.	3.8
61	Welcome Bridge River Access, 5585 Mosquito Lake Rd.	0.6
	TOTAL	16,204.1

Pursuant to RCW 36.87.130, there are also public access properties on right-of-way ends that intersect shorelines.

Future Needs

A level of service of 9.6 acres of developed parkland for every 1,000 people in the County was adopted in the Whatcom County Comprehensive Plan. The County's existing parks will meet the adopted level of service over the six-year planning period. However, the County is proposing park improvement projects to increase quality of existing park facilities and develop the Birch Bay Community Park to meet the longer term needs of a growing population.

Proposed Improvement Projects

Park improvement projects, totaling approximately \$8 million, are proposed over the six-year planning period.

Trails

Whatcom County currently has almost 74 miles of trails in various locations throughout the County. This inventory is shown below.

Table 2. Existing Trails

Site No.	Trail Name and Location	Miles
1	Bay Horizon/Bay Crest Trail	0.75
2	Bay to Baker Maple Falls-Glacier	4.00
3	Canyon Lake Community Forest	7.01
4	Chuckanut Mountain / Pine & Cedar Lakes	16.60
5	Deming Homestead Eagle Park, Truck Rd.	0.30
6	Hovander Homestead Park	3.20
7	Interurban, Chuckanut area	3.15
8	Jensen Family Forest Park, Stein Rd. and Birch Bay Lynden Rd.	0.67
9	Lake Whatcom Park	8.50
10	Lily Point, Point Roberts	2.00
11	Lookout Mountain Forest Preserve	6.80
12	Maple Creek Park, 7842 Silver Lake Rd., Maple Falls	1.28
13	Monument Park, 25 Marine Dr. in Point Roberts	0.35
14	Phillips 66 Soccer Park Trail (Used to be Northwest Soccer Park), Smith	0.38
15	Ostrom Conservation Site, 4304 South Pass Rd.	0.56
16	Point Whitehorn Marine Reserve, 6770 Koehn Rd, Birch Bay	0.81
17	Samish Park, 673 N. Lake Samish	1.38
18	Semiahmoo Park	0.63
19	Silver Lake Park, 9006 Silver Lake Rd.	5.28
20	South Fork Park	2.30
21	Squires Lake, 2510 Nulle Rd.	2.88
22	Stimpson Family Nature Reserve, 2076 Lake Louise Rd.	4.02
23	Sunset Farm, 7977 Blaine Rd.	0.56
24	Teddy Bear Cove	0.33
	TOTAL	73.74

Future Needs

A level of service of 0.60 miles of trails for every 1,000 people in the County was adopted in the Whatcom County Comprehensive Plan. With projected population growth in Whatcom County over the next six years, about 71 additional miles of trails would be needed by the year 2026 to serve the people of Whatcom County.

Proposed Improvement Projects

Trail improvement projects and associated facilities, totaling approximately \$4.8 million dollars, are proposed over the six-year planning period. These projects would add 9 trail miles (the South Fork Park trails project would add 5 miles and the Lake Whatcom trails project would add 4 miles). Additionally, the Birch Bay Drive & Pedestrian Facility (beach restoration and berm project) will add 1 mile of trail.

While there is a shortfall in trail miles provided by the County, there are other trails that are owned/maintained by a variety of agencies or jurisdictions that provide recreational opportunities for Whatcom County residents and visitors.

Activity Centers

There are currently 13 activity centers that provide a variety of year-round programs for various age groups. The activity center inventory is shown below:

Table 3. Existing Activity Centers

Site No.	Activity Center Name and Location
1	Bay Horizon, 7511 Gemini Street
2	Bellingham Senior Activity Center, 315 Halleck Street
3	Blaine Community Senior Center, 763 G Street
4	East Whatcom Regional Resource Center, 8251 Kendall Rd.
5	Everson Senior Center, 111 W. Main Street
6	Ferndale Senior Center, 1999 Cherry Street
7	Lynden Senior Center, 401 Grover Street
8	Plantation Rifle Range, 5102 Samish Way
9	Point Roberts Senior Center, 1487 Gulf Road
10	Roeder Home, 2600 Sunset Dr.
11	Sumas Senior Center, 461 2nd Street
12	Van Zandt Community Hall, 4106 Valley Highway
13	Welcome Senior Center, 5103 Mosquito Lake Rd.

Note: The Blaine, Everson, Lynden and Sumas Centers are owned by these respective cities. The Point Roberts Center is owned by the Point Roberts Park District. Whatcom County provides and/or contracts for senior activities and recreational programming at these centers.

Future Needs

The Whatcom County Comprehensive Plan does not contain a level of service standard for activity centers. Rather, Comprehensive Plan Policy 4F-5 states:

Continue to provide and support activity centers, including senior centers, to serve the growing population of Whatcom County by the following methods, as needed, which are listed in priority order: (1) implementing programming changes, (2) adding space to existing centers, and/or (3) establishing new centers.

Proposed Improvement Projects

Two activity center projects, involving a boiler replacement at the East Whatcom Regional Resource Center and demolition of a building at Bay Horizon, are proposed. These project will cost about \$591,000 within the six-year planning period.

Six-Year Capital Improvement Program

The park, trail, and activity center projects planned over the next six years are shown below:

Table 4. Park, Trail, and Activity Center Projects Planned Over the Next Six Years

Project #	Funding Source	2021	2022	2023	2024	2025	2026	Totals	
1	Nugent's Corner Buiding Demolition	1	67,713					67,713	
2	Parks Admin Offices HVAC Replacement & Upgrade	1	81,411					81,411	
3	Lighthouse Marine Park Siding & Roofing	1		168,350				168,350	
4	Silver Lake Restrooms & Day-Use Improvements	1	1,430,000	1,450,000	910,000			3,790,000	
5	Birch Bay Beach Park Development	2, 3	140,000	392,825				532,825	
6	Hovander Picnic Shelters	1		53,200	210,000	105,000		368,200	
7	Silver Lake Cabins Capital Maintenance Program	1			250,603			250,603	
8	Hertz Trail Capital Maintenance Program	1				25,000	195,000	220,000	
9	Stimpson Family Nature Reserve Parking Improvements	1		80,075				80,075	
10	Lookout Mtn Forest Preserve Parking Improvements	1			94,218			94,218	
11	Lake Whatcom Park Trailhead	1	352,025			1,350,000	975,000	2,677,025	
12	Lily Point Marine Park Parking Improvements	1					241,136	241,136	
13	South Fork Park Bridges & Connector Trail	1, 2	29,000	125,000	125,000	515,000		794,000	
14	Tennant Lake Interpretive Center Remodel	1					10,000	56,383	
15	Hovander Park Access Improvements	1, 2						250,000	
16	Samish Park Parking/Vehicular Circulation Improvements	1					75,000	225,000	
17	Bay Horizon Hostel Demolition	1						456,248	
18	Lake Whatcom Trail Development	1	189,000					189,000	
19	Hovander Maintenance Shop	1	175,000					175,000	
20	Maple Falls Park Trailhead Restroom & Parking	1, 2						932,500	
21	East Whatcom Regional Resource Center-Replace Boiler	4			134,770			134,770	
22	Hovander Park Tennant Lake Flood Repair and Mitigation Improvements	1, 2		1,050,000				1,050,000	
23	Lookout Mountain Road & Culvert Repair and Mitigation Improvements	1, 2, 5		500,000				500,000	
Parks Totals			2,464,149	3,954,220	1,589,821	1,995,000	1,678,636	1,737,631	13,419,457
Funding Sources:									
1. Real Estate Excise Tax (REET)									
2. Grants									
3. Parks Special Revenue Fund									
4. Economic Development Investment (EDI) Funds									
5. Conservation Futures									

Chapter 3 – Maintenance and Operations

Existing Maintenance and Operations Space

The 2020 inventory of maintenance & operations/facilities management space is 70,681 square feet. This inventory is shown below:

Table 5. Existing Space

Site No.	Facility Name	Square feet
1	Central Shop, 901 W. Smith Rd. (Maintenance and Operations)	35,773
2	3720 Williamson Way (Facilities Management)	31,248
3	Minimum Security Correction Facility - 2030 Division St. (Facilities Management Storage)	3,660
TOTAL		70,681

Future Needs

The Whatcom County Comprehensive Plan does not contain a level of service standard for maintenance and operations. The County will budget for improvements to such facilities as needed.

Proposed Improvement Projects

Improvement and maintenance projects on existing buildings and sites over the six-year planning period total over \$812,000 as shown below:

Table 6. Proposed Maintenance and Operations Projects

Maintenance & Operations	Funding Source							Total Cost
		2021	2022	2023	2024	2025	2026	
1. Central Shop - Vactor Building	1	330,000						330,000
2. Central Shop - Road Oil Tank	1	236,500						236,500
3. Central Shop - Roof Replacement	2, 3	232,875						232,875
4. HVAC Programming (3720 Williamson Way)	3	13,000						13,000
TOTAL		812,375						812,375

Funding Sources

1. Road Fund
2. Equipment Rental & Revolving (ER&R) Fund
3. Real Estate Excise Tax (REET)

Chapter 4 – General Government Buildings and Sites

Existing Office Space

The 2020 inventory of County government office space is 331,141 square feet at nine locations. This inventory is shown below.

Table 7. Existing County Government Office Space

Site No.	Facility Name	Square feet
1	Civic Center Annex (322 North Commercial)	30,000
2	Central Plaza Building (215 N. Commercial)	10,307
3	County Courthouse (311 Grand Avenue)	200,000
4	Forest St. Annex (1000 North Forest St.)	14,000
5	509 Girard St.	13,189
6	3373 Mt. Baker Highway	2,110
7	1500 N. State St.	16,820
8	Northwest Annex (5280 Northwest Dr.)	20,265
9	Crisis Stabilization Center (2026 Division St.)	24,450
TOTAL		331,141

Future Needs

The Whatcom County Comprehensive Plan does not contain a level of service standard for general government buildings. The County will budget for improvements to such facilities as needed.

Proposed Improvement Projects

Improvement and maintenance projects on existing buildings and sites over the six-year planning period total approximately \$52.9 million as shown below.

Table 8. Proposed Government Building and Site Improvement Projects

	Funding Source	2021	2022	2023	2024	2025	2026	Totals
1 Courthouse Maintenance Projects (311 Grand Ave)	1, 2	311,837	1,020,514		500,000	500,000		2,332,351
2 Northwest Annex Campus	2, 3, 4	1,950,000	12,000,000	12,000,000				25,950,000
3 Courthouse Exterior Project - Phase 2 (311 Grand Ave)	1, 2	500,000	2,921,000	2,921,000				6,342,000
4 Improvements, including remodel and HVAC (1500 N. State St)	5, 6			750,000	8,717,000			9,467,000
5 Improvements, including roof, HVAC, and windows (509 Girard St)	2				80,000	1,380,000		1,460,000
6 Prosecuting Attorney - Office Update (311 Grand Ave)	1	60,514						60,514
7 Civic Center - Parking Lot (322 N. Commercial)	1, 4				75,000	400,000		475,000
8 Civic Center Building Renovation (322 N Commercial)	1, 4	3,000,000	1,600,000	400,000				5,000,000
9 Interior Painting, Carpets, Asphalt Repairs (various locations)	1	165,000	165,000	165,000	165,000	165,000	165,000	990,000
10 Central Plaza Debt Service (215 N. Commercial)	1	124,000	124,000	124,000				372,000
11 ADA Compliance (various locations)	1	40,000	40,000					80,000
12 Central Plaza - Public Defender Tenant Improvement (215 N. Commercial)	1	182,302	182,302					364,604
Totals		6,333,653	18,052,816	16,360,000	9,537,000	2,445,000	165,000	52,893,469

Funding Sources

- 1. Real Estate Excise Tax (REET)
- 2. Economic Development Initiative (EDI)
- 3. Debt
- 4. Road Fund
- 5. State Street Project Based Budget
- 6. Grants

~~Chapter 5 — Sheriff’s Office~~

~~Existing Sheriff’s Office Space~~

The 2020 inventory of Sheriff’s office space is 22,902 square feet. This inventory is shown below:

Table 9. Existing Sheriff’s Facilities

Site No.	Facility Name	Square Feet
1	Public Safety Building (311 Grand Ave)	15,102
2	Minimum Security Correction Facility (2030 Division St.)	6,000
3	Laurel Substation (194 W. Laurel Rd.)	<u>1,800</u>
	TOTAL	22,902

Notes: The Sheriff’s Office also has storage facilities at various locations in Whatcom County. The County has two mobile homes and an old detention facility in Point Roberts. The resident deputies operate out of their homes or utilize space at the U.S. Customs office at the border.

~~Future Needs~~

The ~~Whatcom County Comprehensive Plan does not contain a level of service standard for Sheriff’s Office facilities. Rather, Comprehensive Plan Policy 4D-2 is to:~~

~~Maintain Sheriff’s Office adult corrections facilities and headquarters to provide a safe environment for the community, staff and inmates. . . Existing facilities may be expanded, remodeled, and/or new facilities developed in response to changing need.~~

~~Proposed Improvement Projects~~

~~A new Sheriff’s Office, satellite office, and a new public safety radio system are planned within the next six years. The comprehensive radio system update will include infrastructure (such as towers), radio systems in buildings, radios in vehicles, and hand-held radios. These improvements will cost almost \$22 million, as shown below:~~

Table 10. Proposed Sheriff's Office Improvement Projects

Project #	Funding Source	Year						Totals
		2021	2022	2023	2024	2025	2026	
Sheriff's Office & Satellite Office	1, 2			1,200,000	14,400,000			15,600,000
Public Safety Radio System	3, 4, 5, 6	1,500,000	850,000	1,425,000	1,575,000	780,000		6,130,000
Totals		1,500,000	850,000	2,625,000	15,975,000	780,000	-	21,730,000

Funding Source

1. Real Estate Excise Tax (REET)
2. Debt
3. Grants
4. Economic Development Investment (EDI) Fund
5. Fire Districts/Departments
6. Countywide Emergency Medical Services (EMS) Fund

Chapter 6—Emergency Management

Existing Emergency Management Space

The 2020 inventory of Sheriff’s Office, Division of Emergency Management space is 24,000 square feet, located at the Whatcom Unified Emergency Coordination Center (WUECC). Rented by and shared between both Whatcom County and the City of Bellingham, the WUECC is comprised of 2,000 square feet of office space and an additional 22,000 square feet of support facilities (used for meetings, training, exercises, and during emergencies). The WUECC serves as the Emergency Operations Center for both the County and the City.

Table 11. Existing Emergency Management/EOC Facilities

Site No.	Facility Name	Square feet
1	Whatcom Unified Emergency Coordination Center 3888 Sound Way, Bellingham	24,000

Future Needs

The Whatcom County Comprehensive Plan does not contain a level of service standard for emergency management facilities. Rather, Comprehensive Plan Policy 4D-4 is to:

Maintain adequate facilities for daily emergency management activities and, during an emergency or disaster, for the emergency operations center. The facilities will provide sufficient space for activities relating to emergency/disaster planning, mitigation, response and recovery. Existing facilities may be expanded, remodeled, and/or new facilities developed in response to changing need.

The County will budget for improvements to such facilities as needed.

Proposed Improvement Projects

There is one emergency management capital improvement project planned over the next six years, as shown below.

Table 12. Proposed Emergency Management/EOC Improvement Projects

Emergency Management	Funding Source	2021	2022	2023	2024	2025	2026	Total Cost
1. Whatcom Unified Emergency Coordination Center Re-Roof Project	1, 2, 3	405,842						405,842
TOTAL								

Funding Sources

1. Real Estate Excise Tax (REET)
2. City of Bellingham
3. Port of Bellingham

Chapter 7—Adult Corrections

Existing Jail Facilities

The County’s Main Jail was designed and originally built to hold 148 beds, although with some limited remodeling and the use of double bunking, the operational capacity of the main jail should be for the use of 212 beds. Additionally, the jail is currently not in compliance with the Building/Fire Codes for double bunking, although a plan has been approved to bring it into partial compliance. Whatcom County completed construction of a 150 bed minimum security correction facility on Division St. in 2006. The Main Jail is located in the Public Safety Building next to the County Courthouse in downtown Bellingham and the Minimum Security Correction Facility is located in the Bakerview Rd. industrial area.

Table 13. Existing Jail Beds

Site No.	Facility Name	Jail Beds
1	Public Safety Building (311 Grand Ave.)	212
2	Jail Work Center (2030 Division St.)	<u>150</u>
TOTAL		<u>362</u>

Note: As the result of the COVID-19 pandemic, the jail is operating at a reduced capacity to provide for social distancing until such time as the pandemic is declared under control by the Washington State Department of Health. Due to the mix of offenders, a firm population cap has not been set, but is anticipated to remain at approximately 150 offenders at the Downtown Jail.

Future Needs

There continues to be serious concerns among law and justice officials related to jail facility needs in the community. That need has been documented over the years, with the most recent being the *Building Assessment Studies and Cost Estimates for Capital Improvements at the Jail (Public Safety Building)* (Sept. 2017).

The Whatcom County Comprehensive Plan does not contain a level of service standard for jail facilities. Rather, Comprehensive Plan Policy 4D-2 is to:

Maintain Sheriff’s Office adult corrections facilities and headquarters to provide a safe environment for the community, staff and inmates. The number of jail beds in adult corrections facilities will be determined after review of multiple factors, including projected population growth, State sentencing laws, alternative programs, treatment diversion programs, early release programs, the need to separate violent inmates, the need to separate inmates by gender, the need to separate inmates by other classification considerations, average length of stay, peak inmate populations and available funding. Existing facilities may be expanded, remodeled, and/ or new facilities developed in response to changing need.

Proposed Improvement Projects

The adult corrections projects planned over the next six years are shown below.

Table 14. Proposed Improvement Projects

Project #		Funding Source	2021	2022	2023	2024	2025	2026	Totals
1	Public Health, Safety, and Justice Facilities	1			5,000,000	90,000,000			95,000,000
2	Jail Work Center - Hot Water Tanks	2	197,922						197,922
	Totals		197,922	0	5,000,000	90,000,000	0	0	95,197,922

Funding Sources

1. Investigate alternative funding sources outside of debt and sales tax
2. Jail Improvement Fund

Chapter 8 — Juvenile Detention

Existing Juvenile Detention Facilities

The 2020 inventory of County juvenile detention facilities includes 32 beds serving the countywide population. The juvenile detention facility is located on the sixth floor of the County Courthouse at 311 Grand Avenue.

Table 15. Existing Juvenile Detention Beds

Site No.	Facility Name	Beds
1	County Courthouse (311 Grand Ave.)	32

Future Needs

The Whatcom County Comprehensive Plan does not contain a level of service standard for juvenile detention facilities. Rather, Comprehensive Plan Policy 4D-3 is to:

Maintain juvenile detention facilities and alternative corrections programs to provide safe and secure methods to provide accountability and support for minors who break the law. Existing facilities may be expanded, remodeled, and/or new facilities developed in response to changing need.

The County will budget for improvements to such facilities as needed.

Proposed Improvement Projects

There are no juvenile detention capital improvement projects planned in the six-year planning period.

Chapter 9 — Transportation

Existing Roads

The 2019 inventory shows a total of 935.44 miles of County roads.

Future Needs

The Whatcom County Comprehensive Plan sets level of service (LOS) standards for County roads. Future traffic and the level of service for roads can be forecasted using computer modeling software. The Whatcom Council of Governments forecasts future traffic utilizing a computer transportation model. This modeling effort will inform transportation planning in Whatcom County.

Whatcom County accomplishes planning for County road improvements by approving a Six-Year Transportation Improvement Program each year, as required by RCW 36.81.121.

Proposed Improvement Projects

The Whatcom County Six-Year Transportation Improvement Program includes preliminary planning for two proposed new road projects:

- Horton Road connector (between Northwest Drive and Aldrich Road); and
- Lincoln Road extension (between Harborview Road and Blaine Road).

While these two projects are on the Six-Year Transportation Improvement Program, construction is not anticipated within the six-year planning period. Rather, preliminary engineering to determine project feasibility may be initiated within this time frame.

The six-year plan contains a variety of projects, including bridge replacements, intersection improvements, reconstruction, fish passage projects, and the Birch Bay Drive & Pedestrian Facility improvements, which include pedestrian and non-motorized enhancements along Birch Bay Dr.

Existing Ferry Facilities

Whatcom County currently has one ferry vessel serving Lummi Island. The ferry runs between Lummi Island and Gooseberry Point on a daily basis.

Future Needs

Current Whatcom County Comprehensive Plan Policy 6A-1 establishes the following LOS standard for the ferry:

The Lummi Island Ferry Advisory Committee (LIFAC) is cooperating with Public Works to develop an updated LOS standard. LIFAC will present a revision to this section when that work is complete. The interim LOS is calculated using the scheduled trips, the estimated car units of the ferry and the Small Area Estimates Program (SAEP) population figure. The interim standard is established at $439 \text{ (LOS} = \text{(Scheduled one-way trips} \times \text{estimated car units for the boat)} \times 2 / \text{SAEP [Small Area Estimate Program] population figure from OFM for Lummi Island)}$.

The Special Programs Manager for the County Public Works Department confirmed that the ferry service currently meets the interim LOS standard.

Proposed Improvement Projects

The Six-Year Transportation Improvement Program includes construction of ferry terminal improvements, preliminary engineering and design for replacing the Whatcom Chief, and preliminary engineering and right-of-way acquisition for relocation of the ferry terminal.

Total Transportation Costs

Transportation projects, including road and ferry projects, total approximately \$54 million over the six-year planning period. This includes approximately \$39 million in local funds, with the remainder coming from the State and Federal governments.

Chapter 10 — Stormwater Facilities

Existing Stormwater Management Facilities

The Public Works Department is responsible for design, engineering, and construction of county-owned stormwater facilities. Many stormwater facilities are road-related stormwater conveyance systems such as culverts and ditches on and adjacent to county roads. Others are off-right-of-way facilities that control storm flows and improve water quality.

In response to increasing federal and state mandates to manage stormwater and the public’s desire to improve stewardship of sensitive watersheds, Whatcom County established a Stormwater Division in 2005. The Stormwater Division is responsible for planning, designing, engineering, and construction of stormwater facilities. Inventories of existing stormwater facilities are maintained by the Public Works Department. The Engineering Services Division maintains an inventory of all road-related facilities. The Stormwater Division maintains an inventory of public and private stormwater facilities in the area covered by the County’s NPDES Phase II permit for Municipal Separate Storm Sewer Systems. This inventory includes ditches, culverts, catch basins, vaults, ponds, and swales. Completed Stormwater Construction Projects since the Stormwater Division was created in 2005 are listed below.

Table 16. Completed Stormwater Construction Projects Since 2005

Existing Site No.	Watershed	Facility Name	Year Completed
1	Lake Whatcom	Geneva Stormwater Retrofits	2006
2	Lake Whatcom	Cable Street Reconstruction & Stormwater Improvements	2007
3	Lake Whatcom	Lahti Drive Stormwater Improvements	2010
4	Lake Whatcom	Silver Beach Creek Improvements - Brownsville Drive to E. 16th Place	2011
5	Lake Whatcom	Silver Beach Creek Improvements - West Tributary	2012
6	Lake Whatcom	Coronado-Fremont Stormwater Improvements	2014
7	Lake Whatcom	Cedar Hills-Euclid Stormwater Improvements	2016
8	Lake Whatcom	Agate Bay Improvements-Phase 1 & 2	2018-2019



Figure 1. Lake Whatcom Cedar Hills-Euclid Stormwater Improvements

Whatcom County Public Works regularly seeks and is awarded grant money that contributes to the design and construction of these stormwater projects that improve water quality through treatment systems and stream stabilization.

Future Needs

An increasing emphasis on the protection of sensitive watersheds has resulted in the adoption of comprehensive stormwater plans, including plans for Lake Whatcom and Birch Bay. The adopted plans identify work towards planning, design, engineering, and construction of capital projects intended to address stormwater issues.

Proposed Improvement Projects

Stormwater improvement projects totaling over \$12 million are proposed over the six-year planning period as shown below. These costs would be paid by Real Estate Excise Tax (REET), Lake Whatcom Stormwater Utility, grants, Road fund, and funding from the Birch Bay Watershed and Aquatic Resources Management District (BBWARM).

Table 17. Proposed Stormwater Improvement Projects

	Funding Source	2021	2022	2023	2024	2025	2026	Totals
1 Silver Beach Creek -Phase 1	1	560,000						560,000
2 Academy Stormwater Facility - Phase 2	1, 2	100,000		300,000				400,000
3 Geneva - Bioretention	1, 3	125,000	730,000	10,000	10,000			875,000
4 Sudden Valley - Stormwater Improvements	1	150,000	600,000					750,000
5 Silver Beach Creek - Stream Bank Erosion Project Phase 2	1	70,000	80,000		600,000			750,000
6 Eagleridge - Stormwater Improvements	1			55,000	100,000	325,000		480,000
7 Strawberry Pt/Lake Whatcom Blvd - Stormwater Improvements	1			120,000	140,000	650,000		910,000
8 Austin Court - Stormwater Improvements	1				42,000	80,000	320,000	442,000
9 Viewhaven Lane - Water Quality and Conveyance	1					66,000	160,000	226,000
10 Geneva St./Lake Louise Rd - Culvert Replacement	1, 4						75,000	75,000
11 Shallow Shore Drive - Culvert Relocation	1	100,000	250,000					350,000
12 Semiahmoo Drive - Stormwater Improvements	1, 5	135,000	480,000					615,000
13 Harborview Rd./Birch Bay Dr - Stormwater Improvements	1, 5	1,100,000	30,000					1,130,000
14 Holeman Ave. - Stormwater Improvements	1, 5	50,000	200,000					250,000
15 Lora Lane - Drainage & Tide Gate Modifications	1, 4, 5	35,000	150,000	1,200,000				1,385,000
16 Wooldridge Ave & Sunset Drive - Stormwater Improvements	1, 3, 5		100,000	120,000	1,000,000			1,220,000
17 Hillsdale - Stormwater Improvements Phase 1	1, 5			100,000	150,000	500,000		750,000
18 Morrison Ave & Terrill Drive - Stormwater Improvements	1, 5				100,000	120,000	700,000	920,000
19 Normar Place - Stormwater Improvements	5					50,000	75,000	125,000
Stormwater Totals		2,425,000	2,620,000	1,905,000	2,142,000	1,791,000	1,330,000	12,213,000
Funding Sources								
1. Real Estate Excise Tax (REET)								
2. Lake Whatcom Stormwater Utility								
3. Grants								
4. Road Fund								
5. Birch Bay Watershed and Aquatic Resources Management District (BBWARM)								

~~Chapter 11 — Total Costs~~

~~Total Costs for the six-year planning period are shown below.~~

~~Table 18. Total Costs for the Six-Year Planning Period~~

	Total Costs 2021-2026	Percent of Total Costs
Parks, Trails, and Activity Centers	13,419,457	5.36%
Maintenance and Operations	812,375	0.32%
General Government Buildings and Sites	52,893,469	21.12%
Sheriff's Office	21,730,000	8.68%
Emergency Management	405,842	0.16%
Adult Corrections	95,197,922	38.01%
Juvenile Detention	0	0.00%
Transportation	53,797,000	21.48%
Stormwater Facilities	12,213,000	4.88%
	TOTAL	
	250,469,065	100.00%

~~The County plans to undertake capital improvement projects costing approximately \$250.5 million between 2021 and 2026, which will be financed with a combination of local, state, federal, and other funding sources.~~

**WHATCOM COUNTY
PLANNING COMMISSION**

Six-Year Capital Improvement Program

FINDINGS OF FACT AND REASONS FOR ACTION

Background Information

1. The proposal is to amend the Whatcom County Comprehensive Plan as follows:
 - a. Adopting the new Six-Year Capital Improvement Program (CIP) for Whatcom County Facilities 2023-2028 (Appendix F of the Whatcom County Comprehensive Plan).
 - b. Repealing the existing Six-Year CIP for Whatcom County Facilities 2021-2026.
2. Notice of the subject amendments was submitted to the Washington State Department of Commerce on September 7, 2022.
3. A Determination of Non-Significance was issued under the State Environmental Policy Act (SEPA) by the Responsible Official on September 16, 2022.
4. Notice of the Planning Commission hearing for the subject amendments was published in the Bellingham Herald on September 16, 2022.
5. Notice of the Planning Commission hearing was posted on the County website on September 14, 2022.
6. Notice of the Planning Commission hearing was sent to citizens, media, cities and others on the County's e-mail list on September 15, 2022.
7. The Planning Commission held a public hearing on the subject amendments on September 29, 2022.

8. Pursuant to WCC 22.10.060(1), in order to approve the proposed comprehensive plan amendments, the County must find all of the following:
 - a. The amendment conforms to the requirements of the Growth Management Act, is internally consistent with the county-wide planning policies and is consistent with any interlocal planning agreements.
 - b. Further studies made or accepted by the Department of Planning and Development Services indicate changed conditions that show need for the amendment.
 - c. The public interest will be served by approving the amendment. In determining whether the public interest will be served, factors including but not limited to the following shall be considered:
 - i. The anticipated effect upon the rate or distribution of population growth, employment growth, development, and conversion of land as envisioned in the comprehensive plan.
 - ii. The anticipated effect on the ability of the county and/or other service providers, such as cities, schools, water and/or sewer purveyors, fire districts, and others as applicable, to provide adequate services and public facilities including transportation facilities.
 - iii. Anticipated impact upon designated agricultural, forest and mineral resource lands.
 - d. The amendment does not include or facilitate spot zoning.

Growth Management Act

9. The Growth Management Act (GMA) establishes planning goals in RCW 36.70A.020 to guide adoption of comprehensive plan amendments.
10. GMA planning goal # 12 is to "Ensure that those public facilities and services necessary to support development shall be adequate to serve the development at the time the development is available for occupancy and use without decreasing current service levels below locally established minimum standards" (RCW 36.70A.020(12)).

11. The subject amendments update the Six-Year CIP for Whatcom County Facilities for the 2023-2028 planning period. Updating the CIP is one step in the process of planning regional facilities provided by the County to serve the people of Whatcom County.
12. The GMA, at RCW 36.70A.070(3), requires that a comprehensive plan must include a capital facilities plan element consisting of:
 - a. An inventory of existing capital facilities owned by public entities, showing the locations and capacities of the capital facilities.
 - b. A forecast of the future needs for such capital facilities.
 - c. The proposed locations and capacities of expanded or new capital facilities.
 - d. At least a six-year plan that will finance such capital facilities within projected funding capacities and clearly identifies sources of public money for such purposes.
 - e. A requirement to reassess the land use element if probable funding falls short of meeting existing needs and to ensure that the land use element, capital facilities plan element, and financing plan within the capital facilities plan element are coordinated and consistent.
13. The Six-Year CIP for Whatcom County Facilities contains an inventory of existing facilities, a forecast of future needs based upon the level of service standards adopted in the Whatcom County Comprehensive Plan and/or other relevant factors, proposed capital facility projects, costs and funding sources.
14. Existing Comprehensive Plan Policy 4A-4 addresses the GMA requirement to reassess the land use element if probable capital facility funding falls short.

County-Wide Planning Policies

15. County-Wide Planning Policy K-1 indicates that, as part of the comprehensive planning process, the County must identify appropriate land for public facilities that meets the needs of the community including recreation, transportation and human service facilities.
16. The Six-Year CIP identifies County park, trail, activity center, transportation and other improvements as contemplated by the County Wide Planning Policies.

Interlocal Agreements

17. Existing interlocal agreements between Whatcom County and the cities indicate that the County will consult with the appropriate city in planning new road construction projects within the city's urban growth area. The interlocal agreements also address joint planning for parks.
18. The County Engineer confirmed on August 18, 2022 that the County sends a copy of the six-year transportation improvement program to cities and coordinates projects with the applicable city. The Whatcom County Parks Interim Director confirmed on August 12, 2022 that the County Parks' staff maintains a working relationship with appropriate staff from cities on joint park projects and planning. Therefore, the type of cooperation envisioned by the interlocal agreements is occurring.

Further Studies/Changed Conditions

19. The Whatcom County Comprehensive Plan calls for an update of the Six-Year CIP for County facilities every other year. Specifically, Policy 4B-1 is to:

Maintain and update, on at least a biennial basis, a six-year capital improvement program (CIP) that identifies projects, outlines a schedule, and designates realistic funding sources for all county capital projects based on a review of population and revenue conditions existing at that time.
20. A revised CIP has been formulated for County owned or operated facilities, which presents improvement projects over the new six-year planning period.

Public Interest

21. The Six-Year CIP for Whatcom County Facilities 2023-2028 is based upon anticipated population growth over the six-year planning period and other relevant factors. Therefore, the proposal should complement the County's growth and development plans.
22. The Six-Year CIP for Whatcom County Facilities will have a positive impact on the County's ability to provide public facilities by planning ahead for such facilities.
23. The goal of the Six-Year CIP for Whatcom County Facilities is to plan for County owned or operated parks, trails, activity centers, maintenance and operations, general government buildings and sites, Sheriff's Office, emergency management, adult corrections, juvenile detention,

transportation, and stormwater facilities to serve the people of Whatcom County. Planning for such County facilities is in the public interest.

Spot Zoning

24. The subject proposal does not involve rezoning property.

CONCLUSION

The subject Whatcom County Comprehensive Plan amendments are consistent with the approval criteria in WCC 22.10.060.

RECOMMENDATION

Based upon the above findings and conclusions, Whatcom County Planning Commission recommends :

1. Approval of Exhibit A, the Six-Year Capital Improvement Program for Whatcom County Facilities 2023-2028 (Appendix F of the Whatcom County Comprehensive Plan).
2. Repealing Exhibit B, the Six-Year Capital Improvement Program for Whatcom County Facilities 2021-2026.

WHATCOM COUNTY PLANNING COMMISSION



Kelvin Barton, Chair



Tammy Axlund, Secretary

September 29, 2022

Date

9/29/2022

Date

Commissioners voted to recommend approval on September 29, 2022 (vote was 9-0). Members present at the meeting when the vote was taken: Robert Bartel, Kelvin Barton, Atul Deshmane, Jim Hansen, Stephen Jackson, Julie Jefferson, Kimberley Lund, Dominic Mocerri, and Scott Van Dalen.

September 27, 2022

TO: Whatcom County Planning Commission

FROM: Doralee Booth, Birch Bay Chamber Director - County Liaison
Danielle Gaughen, Executive Director, Birch Bay Chamber

We would like to address the Planning Commission regarding the proposed Six-Year Capital Improvement Program (CIP) for Whatcom County Facilities 2023-2028. We are aware of the importance of the “6-year CIP to have a positive impact on the Counties ability to provide public facilities by planning ahead for such facilities.”

Birch Bay is designated as an Urban Growth Area (UGA) by Whatcom County. The resort, recreation and residential community has a population of over 10,115 residents. If incorporated Birch Bay would be the fourth largest city in Whatcom County. Our economy is based on tourism and our population more than doubles in the summer months.

We have no essential public restrooms to accommodate the needs of tourists and visitors who come to visit and recreate along the central/resort-commercial shoreline of Birch Bay. The need is becoming critical. The 4-acre Birch Bay Beach Park along Birch Bay Drive was purchased by Whatcom County in 2014. The public planning for the development of the Park was adopted in 2017. The need for essential public restrooms was urgent then and is critical now! The CIP lists Birch Bay Beach funding for 2028. Capital project funds will be needed much sooner to develop the first phase of the Beach Park which will provide the needed essential public restrooms.

(See Birch Bay Beach Park Master Planning)

<https://www.whatcomcounty.us/1809/Birch-Bay-Community-Park-Master-Planning>





Whatcom County

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

Agenda Bill Master Report

File Number: **AB2022-611**

File ID:	AB2022-611	Version:	1	Status:	Agenda Ready
File Created:	10/26/2022	Entered by:	MCaldwel@co.whatcom.wa.us		
Department:	Finance Division	File Type:	Resolution Requiring a Public Hearing		
Assigned to:	Council			Final Action:	
Agenda Date:	11/09/2022			Enactment #:	

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

TITLE FOR AGENDA ITEM:

Resolution adopting the 2023-2024 budget for the Point Roberts Transportation Benefit District
(Council acting as the governing body of the Point Roberts Transportation Benefit District)

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

Requests adoption of the 2023-2024 biennial budget for the Point Roberts Transportation Benefit District

HISTORY OF LEGISLATIVE FILE

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

Attachments: Staff Memo, Proposed Resolution

**WHATCOM COUNTY
PUBLIC WORKS DEPARTMENT**

**Jon Hutchings
DIRECTOR**



Administration

Civic Center
322 N. Commercial Street, Suite 210
Bellingham, WA 98225-4042
Telephone: (360) 778-6217
www.whatcomcounty.us
JHutchings@co.whatcom.wa.us

TO: The Honorable Point Roberts Transportation Benefit District Board of Supervisors

THROUGH: Jon Hutchings, Public Works Director *JH*

FROM: James P. Karcher, P. E., County Engineer *JK*

DATE: **October 24th, 2022**

RE: 2023-2024 Point Roberts Transportation Benefit District Biennial Budget

Enclosed is a resolution establishing the 2023-2024 budget for the Point Roberts Transportation Benefit District (PRTBD) for your review and adoption. The budget is consistent with prior years and covers only maintenance operations. A budget amendment will be sought at a later date if a capital project moves forward.

Requested Action:

Public Works respectfully requests that the PRTBD Board of Supervisors adopt the attached resolution to establish a 2023-2024 budget for the Point Roberts Transportation Benefit District

Background and Purpose:

The Point Roberts Transportation Benefit District is a separate entity from the county, with the Whatcom County Council serving as the legislative body governing the District. As such, actions undertaken by and for the district need to be taken as the Governing Body of the Point Roberts Transportation Benefit District. This necessitates the attached resolution.

*A Resolution by the Governing Body of the
Point Roberts Transportation Benefit District*

RESOLUTION NO. _____

**A RESOLUTION ADOPTING THE FINAL 2023-2024 BUDGET OF THE POINT ROBERTS
TRANSPORTATION BENEFIT DISTRICT**

WHEREAS, pursuant to RCW 36.73.020, the Whatcom County Council established the Point Roberts Benefit District by Ordinance 91-043; and

WHEREAS, the operations of the District are governed by the Whatcom County Council acting ex officio and independently; and

WHEREAS, pursuant to RCW 42.30, the District is subject to the Open Public Meeting Act; and

WHEREAS, the District intends to approve its 2023-2024 budget in an Open Public Meeting; and

WHEREAS, the District’s operations plan calls for spending \$20,000 each year on roadside maintenance contracts;

NOW, THEREFORE, BE IT RESOLVED by the legislative body of the Point Roberts Transportation Benefit District that the funding for the Point Roberts Transportation Benefit District Budget is approved with a biennium budget of \$20,000 per year.

APPROVED this ____ day of _____, 2022.

ATTEST:

WHATCOM COUNTY, WASHINGTON

Dana Brown-Davis, Clerk of the Council

Todd Donovan, Chair of the Council

APPROVED AS TO FORM:

Approved by email/C Quinn/R Rydel

Christopher Quinn
Senior Deputy Prosecuting Attorney
Civil Division



Whatcom County

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

Agenda Bill Master Report

File Number: **AB2022-612**

File ID:	AB2022-612	Version:	1	Status:	Agenda Ready
File Created:	10/26/2022	Entered by:	MCaldwel@co.whatcom.wa.us		
Department:	Finance Division	File Type:	Ordinance		
Assigned to:	Council			Final Action:	
Agenda Date:	11/09/2022			Enactment #:	

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

TITLE FOR AGENDA ITEM:

Ordinance amending the project budget for the Courthouse Improvement Fund, request no. 3

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

Requests appropriation of an additional \$450,000 to fund further courthouse improvements for a total project budget of \$1,621,907.

HISTORY OF LEGISLATIVE FILE

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

Attachments: Proposed Ordinance, Proposed Exhibit A, Additional Service Request

ORDINANCE NO. _____

**ORDINANCE AMENDING THE PROJECT BUDGET FOR THE COURTHOUSE
IMPROVEMENT FUND, REQUEST NO. 3**

WHEREAS, this fund was established by Ordinance No. 2014-073 to replace the Courthouse fire alarm system and the roof over Juvenile; and

WHEREAS, both of those projects have been completed and the project budget has been amended to include several other courthouse repair and replacement projects; and

WHEREAS, the Courthouse currently has many systems in it which have reached the end of their useful lives and should be replaced as a planned maintenance event rather than when they fail; and

WHEREAS, Administrative Services – Facilities proposes two such maintenance projects for the 2023-2024 biennium, including replacement of copper supply and cast-iron waste water lines, as well as, replacement of compact florescent lighting fixtures with LED; and

WHEREAS, there is available funding for these projects from the Real Estate Excise Tax I Fund and the Public Utilities Improvement Fund (aka EDI Fund);

NOW, THEREFORE, BE IT ORDAINED by the Whatcom County Council that Ordinance 2014-073 is hereby amended, effective January 1, 2023, by adding \$450,000 of expenditure authority, as described in Exhibit A, to the amended project budget of \$1,171,907, for a total project budget of \$1,621,907.

ADOPTED this ____ day of _____, 2022.

ATTEST:

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

Dana Brown-Davis, Clerk of the Council

Todd Donovan, Council Chair

APPROVED AS TO FORM:

() Approved () Denied

Approved by email/C Quinn/M Caldwell
Civil Deputy Prosecutor

Satpal Sidhu, County Executive

Date: _____

EXHIBIT A

COURTHOUSE IMPROVEMENTS - FUND 357, Cost Center 357100

Amendment #3

Account	Description	Amended Project Budget	Amendment #3 to Ord. 2014-073	Total Amended Project Budget
Expenditures				
6190	Direct Billing Rate	\$20,000	\$25,000	\$45,000
6510	Tools & Equipment	\$26,815	\$0	\$26,815
7060	Repairs & Maintenance	\$160,000	\$425,000	\$585,000
7350	Buildings & Structures	\$785,092	\$0	\$785,092
7380	Other Improvements	\$180,000	\$0	\$180,000
		\$1,171,907	\$450,000	\$1,621,907
Revenues				
8301.326	REET I Transfer	\$829,216	\$283,500	\$1,112,716
8301.332	Rural Sales Tax (EDI) Transfer	\$342,691	\$166,500	\$509,191
		\$1,171,907	\$450,000	\$1,621,907

2023-2024 Budget Preparation - Regular Additional Service Request

Administrative Services

Facilities Management

ASR # 2023- 6489 Fund 357 Cost Cente 357100 Originator: Rob Ney

Expenditure Type: One-Time Add'l FTE Add'l Space Priority 8

Name of Request: Miscellaneous Courthouse Projects

Costs:	Object	Object Description	2023 Requested	2023 Approved	2024 Requested	2024 Approved
	7060	Repairs & Maintenance	\$450,000	\$450,000	\$0	\$0
	8301.332	Operating Transfer In	\$0	(\$166,500)	\$0	\$0
	8301.326	Operating Transfer In	\$0	(\$283,500)	\$0	\$0
	Totals		\$450,000	\$0	\$0	\$0

1. Description of Request:

a) Describe the proposed activity or service, and indicate whether it is a higher or lower priority than existing services in your department budget.

The Courthouse is built in several iterations (1940's, 1970's, 1980's and 1992). Many systems within the Courthouse have reached their useful life and should be replaced in a planned event, instead of when they fail at an unknown time.

Copper supply and cast-iron waste water lines in the original courthouse (1940's) have been failing and should be replaced. Catastrophic failure of the copper lines could be very costly to repair. Miscellaneous mechanical units fail and are very costly to replace.

The existing lighting in the Courthouse is compact florescent. Facilities wants to upgrade all lighting fixtures to LED, reducing power consumption throughout the Courthouse.

b) Who are the primary customers for this service?

All Departments and patrons of the Courthouse.

2. Describe the problem this request addresses and why Whatcom County needs to address it.

The waste lines within the Courthouse are failing and need replacement.

The conversion to LED Lighting is not a problem, however it is a prudent conservation measure.

3. Options

a) What other options have you considered? Why is this the best option?

For the copper waste lines, there is not any other alternative. For the lighting, an option would be to not replace to more energy efficient lighting.

Planned maintenance is always less expensive than waiting for failure.

b) What are the specific cost savings? (Quantify)

The cost savings would be related to the lighting conversion.

4. Outcomes / Objectives

a) What outcomes will be delivered and when?

Facilities Management will repair the failing copper waste lines as best they can at competitive rates.

Replacement of LED fixtures will save substantial amounts of energy costs.

b) How will you know whether the outcomes happened?

Both projects will be complete.

When both projects are complete.

5. Other Departments/Agencies

a) Will this ASR impact other departments or agencies? If so, please identify the departments and/or agencies impacted and explain what the impact(s) will be.

Only those that reside in the Courthouse.

All departments will be impacted;

2023-2024 Budget Preparation - Regular Additional Service Request

Administrative Services

Facilities Management

ASR # 2023- 6489

Fund 357

Cost Cente 357100

Originator: Rob Ney

b) If another department or agency is responsible for part of the implementation, name the person in charge of implementation and what they are responsible for.

Rob Ney, Facilities Manager/Project and Operations Manager

6. What is the funding source for this request?

REET I/EDI



Whatcom County

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

Agenda Bill Master Report

File Number: **AB2022-613**

File ID:	AB2022-613	Version:	1	Status:	Agenda Ready
File Created:	10/26/2022	Entered by:	MCaldwel@co.whatcom.wa.us		
Department:	Finance Division	File Type:	Ordinance		
Assigned to:	Council			Final Action:	
Agenda Date:	11/09/2022			Enactment #:	

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

TITLE FOR AGENDA ITEM:

Ordinance amending the project budget for the Criminal Justice Integrated Case Management Systems Fund, request no. 1

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

Requests appropriation of an additional \$30,000 to complete the criminal justice case management systems project, in Prosecuting Attorney, Public Defender and Superior Court - Juvenile, for a total amended budget of \$630,000.

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
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Attachments: Proposed Ordinance, Proposed Exhibit A, Additional Service Request

ORDINANCE NO. _____

ORDINANCE AMENDING THE PROJECT BUDGET FOR THE CRIMINAL JUSTICE INTEGRATED CASE MANAGEMENT SYSTEMS FUND, REQUEST NO. 1

WHEREAS, this fund was established by Ordinance No. 2014-084 to replace outdated case management systems in the Prosecutor’s Office, Juvenile Court and District Court Probation; and

WHEREAS, District Court Probation was able to use separate funding to implement a new case management system in 2016 and did not need to utilize the project budget, and

WHEREAS, Public Defender is also in need of a new case management system, and

WHEREAS, after delays associated with the COVID-19 global pandemic, all three projects, Prosecuting Attorney, Juvenile and Public Defender, are underway and are expected to be live within the next year, and

WHEREAS, it is forecast that an additional \$30,000 is needed to complete these projects, which is available from the General Fund,

NOW, THEREFORE, BE IT ORDAINED by the Whatcom County Council that Ordinance 2014-084 is hereby amended, effective January 1, 2023, by adding \$30,000 of expenditure authority, as described in Exhibit A, to the original project budget of \$600,000, for a total project budget of \$630,000.

ADOPTED this ____ day of _____, 2022.

ATTEST:

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

Dana Brown-Davis, Clerk of the Council

Todd Donovan, Council Chair

APPROVED AS TO FORM:

() Approved () Denied

Approved by email/C Quinn/M Caldwell
Civil Deputy Prosecutor

Satpal Sidhu, County Executive

Date: _____

EXHIBIT A

CRIMINAL JUSTICE INTEGRATED CASE MANAGEMENT SYSTEMS FUND (Fund 368)

Amendment #1

Account	Description	Original Project Budget	Amendment #1 to Ord. 2014-084	Total Amended Project Budget
Expenditures				
6630	Professional Services	\$0	\$30,000	\$30,000
7420	Computer - Capital Outlays	\$600,000	\$0	\$600,000
		\$600,000	\$30,000	\$630,000
Revenues				
8301.001	General Fund Transfer	\$600,000	\$30,000	\$630,000
		\$600,000	\$30,000	\$630,000

2023-2024 Budget Preparation - Regular Additional Service Request

Administrative Services

Information Technology

ASR # 2023- 6729 Fund 368 Cost Cente 368100 Originator: P. Rice

Expenditure Type: One-Time Add'l FTE Add'l Space Priority 1

Name of Request: Criminal Justice CMS Project Budget Additions

Costs:	Object	Object Description	2023 Requested	2023 Approved	2024 Requested	2024 Approved
	6630	Professional Services	\$30,000	\$30,000	\$0	\$0
	8301.001	Operating Transfer In	\$0	(\$30,000)	\$0	\$0
	Totals		\$30,000	\$0	\$0	\$0

1. Description of Request:

a) Describe the proposed activity or service, and indicate whether it is a higher or lower priority than existing services in your department budget.

Additional funding for Criminal Justice Case Management System Project Budget.

b) Who are the primary customers for this service?

Public Defender
Prosecutor
Superior Court - Juvenile Division

2. Describe the problem this request addresses and why Whatcom County needs to address it.

This Project Budget is for new case management systems to replace the current systems in Public Defender, Prosecutor and Superior Court (Juvenile). After delays associated with the COVID-19 global pandemic, all three projects are underway and are expected to be live within the next year. It is forecasted that an additional \$30k will be needed to complete these projects.

3. Options

a) What other options have you considered? Why is this the best option?

Continue with the current available funding of \$548,391. Based on recent forecasts, current funding would not allow for a 10% contingency which is important for technology projects which have a high degree of uncertainty.

b) What are the specific cost savings? (Quantify)

Providing adequate funding would allow us to deliver these new case management systems without delays and departments would realize the benefits as planned.

4. Outcomes / Objectives

a) What outcomes will be delivered and when?

New case management systems would be live in Public Defender, Prosecutor and Superior Court by the end of 2023.

b) How will you know whether the outcomes happened?

The new case management systems in Public Defender, Prosecutor and Superior Court would be fully operational.

5. Other Departments/Agencies

a) Will this ASR impact other departments or agencies? If so, please identify the departments and/or agencies impacted and explain what the impact(s) will be.

Yes. Public Defender, Prosecutor and Superior Court will be getting new case management systems.

b) If another department or agency is responsible for part of the implementation, name the person in charge of implementation and what they are responsible for.

County IT is partnering with Public Defender, Prosecutor and Superior Court and their vendors for the new case management systems.

6. What is the funding source for this request?

General Fund



Whatcom County

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

Agenda Bill Master Report

File Number: AB2022-614

File ID:	AB2022-614	Version:	1	Status:	Agenda Ready
File Created:	10/26/2022	Entered by:	MCaldwel@co.whatcom.wa.us		
Department:	Finance Division	File Type:	Ordinance		
Assigned to:	Council			Final Action:	
Agenda Date:	11/09/2022			Enactment #:	

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

TITLE FOR AGENDA ITEM:

Ordinance amending the project budget for the Finance System Software Fund, request no. 1

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

Requests appropriation of an additional \$1,604,000 to perform the core upgrade of the J. D. Edwards financial system for an amended total budget of \$3,354,000.

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
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Attachments: Proposed Ordinance, Proposed Exhibit A, Additional Service Request

ORDINANCE NO. _____

ORDINANCE AMENDING THE PROJECT BUDGET FOR THE FINANCE SYSTEM SOFTWARE FUND, REQUEST NO. 1

WHEREAS, this fund was established by Ordinance No. 2018-049 to replace the outdated J.D. Edwards World financial system software; and

WHEREAS, the project team has worked with a consultant on requirements and has performed a significant amount of research with vendors and other organizations; and

WHEREAS, J.D. Edwards Enterprise One software has been chosen as the best system for County needs; and

WHEREAS, the Request for Proposal for an implementation consultant closed in May of 2022 and we are now able to more accurately estimate project costs, and

WHEREAS, it has been determined that the project will need additional funding to perform the core upgrade by the end of 2023, and

WHEREAS, funding is available from the residual balance remaining in the County's Administrative Services Health Self - Insurance fund balance,

NOW, THEREFORE, BE IT ORDAINED by the Whatcom County Council that Ordinance 2018-049 is hereby amended, effective January 1, 2023, by adding \$1,604,000 of expenditure authority, as described in Exhibit A, to the original project budget of \$1,750,000, for a total project budget of \$3,354,000.

ADOPTED this ____ day of _____, 2022.

ATTEST:

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

Dana Brown-Davis, Clerk of the Council

Todd Donovan, Council Chair

APPROVED AS TO FORM:

() Approved () Denied

Approved by email/C Quinn/M Caldwell
Civil Deputy Prosecutor

Satpal Sidhu, County Executive

Date: _____

EXHIBIT A

FINANCE SYSTEM SOFTWARE PROJECT BUDGET FUND (Fund 375)

Amendment #1

Account	Description	Original Project Budget	Amendment #1 to Ord. 2018-049	Total Amended Project Budget
Expenditures				
6630	Professional Services	\$125,000	\$1,604,000	\$1,729,000
7420	Computer - Capital Outlays	\$1,625,000	\$0	\$1,625,000
		\$1,750,000	\$1,604,000	\$3,354,000
Revenues				
8301	Admin Services Fund Transfer In	\$0	\$1,604,000	\$1,604,000
8301.001	General Fund Transfer	\$1,750,000	\$0	\$1,750,000
		\$1,750,000	\$1,604,000	\$3,354,000

2023-2024 Budget Preparation - Regular Additional Service Request

Administrative Services

Information Technology

ASR # 2023- 6727 Fund 375 Cost Cente 375100 Originator: P. Rice

Expenditure Type: One-Time Add'l FTE Add'l Space Priority 1

Name of Request: ERP Project Budget Additions

Costs:	Object	Object Description	2023 Requested	2023 Approved	2024 Requested	2024 Approved
	6630	Professional Services	\$1,604,000	\$1,604,000	\$0	\$0
	8301	Operating Transfer In	(\$1,604,000)	(\$1,604,000)	\$0	\$0
	Totals		\$0	\$0	\$0	\$0

1. Description of Request:

a) Describe the proposed activity or service, and indicate whether it is a higher or lower priority than existing services in your department budget.

Add additional funding to the existing Enterprise Resource and Planning (ERP) project budget for the upgrade of our financial system from JDE World to JDE Enterprise One.

b) Who are the primary customers for this service?

All county departments.

2. Describe the problem this request addresses and why Whatcom County needs to address it.

The Financial System Software project budget (Fund 375) was established in 2018 with initial funding in the amount of \$1,750,000. Over the years the project team has worked with a consultant on requirements and has performed a significant amount of research with vendors and other organizations. Our Request for Proposal (RFP) for an implementation consultant closed in May of 2022 and we are now able to more accurately estimate project costs. It is anticipated that the project will need additional funding in the amount of \$1,604,000 to perform the core upgrade from JD Edwards World to JD Edwards Enterprise One planned for the 4th Quarter of 2023.

3. Options

a) What other options have you considered? Why is this the best option?

The primary option is to continue with the initial budget established in 2018. Revising the budget based on more accurate cost forecasts will help to insure that the project is successful.

b) What are the specific cost savings? (Quantify)

The upgrade to a new financial system will result in process improvements and more timely financial information.

4. Outcomes / Objectives

a) What outcomes will be delivered and when?

The core upgrade from JD Edwards World to the newer JD Edwards Enterprise One will be completed at the end of 2023.

b) How will you know whether the outcomes happened?

County departments will be using a stable and reliable JD Edwards Enterprise One for our financial system.

5. Other Departments/Agencies

a) Will this ASR impact other departments or agencies? If so, please identify the departments and/or agencies impacted and explain what the impact(s) will be.

All county departments will benefit from and by impacted by a new financial system.

b) If another department or agency is responsible for part of the implementation, name the person in charge of implementation and what they are responsible for.

Executive's Office, Finance, Human Resources, IT, Treasurer's Office, and Public Works are participating in and guiding the project for all of the departments.

6. What is the funding source for this request?

Transfer in from Administrative Services Fund Health Insurance
(See companion ASR # 2023-6918)

2023-2024 Budget Preparation - Regular Additional Service Request

Administrative Services

Information Technology

ASR # 2023- 6727

Fund 375

Cost Cente 375100

Originator: P. Rice



Whatcom County

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

Agenda Bill Master Report

File Number: AB2022-615

File ID:	AB2022-615	Version:	1	Status:	Agenda Ready
File Created:	10/26/2022	Entered by:	MCaldwel@co.whatcom.wa.us		
Department:	Finance Division	File Type:	Ordinance		
Assigned to:	Council			Final Action:	
Agenda Date:	11/09/2022			Enactment #:	

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

TITLE FOR AGENDA ITEM:

Ordinance amending the project budget for the Silver Lake Park Improvement Fund, request no. 4

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

Requests appropriation of an additional \$2,050,000 to continue improvements at Maple Creek Campground and add a new shower and restroom building, at Cedar Campground and Cabins area, for a total amended budget of \$8,438,100.

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
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Attachments: Proposed Ordinance, Proposed Exhibit A, Additional Service Request

PROPOSED BY: Executive
INTRODUCTION DATE: 11/09/22

ORDINANCE NO. _____

**ORDINANCE AMENDING THE PROJECT BUDGET FOR THE SILVER LAKE PARK
IMPROVEMENT FUND, REQUEST NO. 4**

WHEREAS, Ordinance No. 2014-077 established the project budget for the 2015 Silver Lake Park Improvement Fund; and

WHEREAS, initial funding was used to realign the entrance area for better traffic flow; reconstruct the dump station; widen and rebuild the main road; resurface the group picnic parking lot and provide for drainage improvements; design, engineer and permit campground improvements and provide for a dry hydrant and mitigation area; plus other improvements; and

WHEREAS, additional funding in the last two biennia provided for new shower and restroom buildings at Red Mountain and Maple Creek campgrounds; and

WHEREAS, this request continues the improvement efforts underway at Maple Creek Campground and includes a new shower and restroom building at Cedar Campground and Cabins area; and

WHEREAS, continued funding for these projects is available by transfer from Real Estate Excise Tax Fund II,

NOW, THEREFORE, BE IT ORDAINED by the Whatcom County Council that Ordinance 2014-077 is hereby amended, effective January 1, 2023, by adding \$2,050,000 of expenditure authority as presented in Exhibit A, to the amended project budget for a total project budget of \$8,438,100.

ADOPTED this ____ day of _____, 2022.

ATTEST:

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

Dana Brown-Davis, Council Clerk

Todd Donovan, Chair of the Council

APPROVED AS TO FORM:

() Approved () Denied

Approved by email/C Quinn/M Caldwell
Civil Deputy Prosecutor

Satpal Sidhu, County Executive

Date: _____

EXHIBIT A

SILVER LAKE PARK IMPROVEMENTS FUND AMENDMENT #4 (Fund 361)

Account	Description	Current Amended Project Budget	Amendment #4 to Ord. 2014-077	Total Amended Project Budget
Expenditures				
6190	Direct Billing Rate	\$151,250	\$80,000	\$231,250
6330	Printing	\$4,400	\$0	\$4,400
6630	Professional Services	\$453,300	\$0	\$453,300
6810	Advertising	\$3,250	\$0	\$3,250
7060	Repairs and Maintenance	\$880,000	\$0	\$880,000
7350	Buildings & Structures	\$1,686,500	\$1,970,000	\$3,656,500
7380	Other Improvements	\$3,209,400	\$0	\$3,209,400
		\$6,388,100	\$2,050,000	\$8,438,100
Revenues				
8301.324	Operating Transfer In - REET II	\$6,388,100	\$2,050,000	\$8,438,100
		\$6,388,100	\$2,050,000	\$8,438,100

2023-2024 Budget Preparation - Regular Additional Service Request

Parks & Recreation

ASR # 2023- 6920 Fund 361 Cost Cente 361100 Originator: Christ Thomsen

Expenditure Type: One-Time Add'l FTE Add'l Space Priority 1

Name of Request: Silver Lake Shower & Restroom Facilities

Costs:	Object	Object Description	2023 Requested	2023 Approved	2024 Requested	2024 Approved
	6190	Direct Billing Rate	\$70,000	\$80,000	\$10,000	\$0
	7380	Other Improvements	\$1,780,000	\$1,970,000	\$190,000	\$0
	8301.324	Operating Transfer In	\$0	(\$2,050,000)	\$0	
	Totals		\$1,850,000	\$0	\$200,000	\$0

1. Description of Request:

a) Describe the proposed activity or service, and indicate whether it is a higher or lower priority than existing services in your department budget.

This project continues improvement efforts currently funded and underway at Maple Creek Campground that replaces vault facilities with a flush-type combination shower and restroom building. The projects proposed in this capital improvement request focuses on Cedar Campground and Cabins area where similar shower and restroom facilities will be constructed. Details of the proposed new facilities are detailed below:

A new shower and restroom building will replace one existing double vault-type toilet. The new facility will be approximately 1,315 square feet and is the same design that is being constructed at the Maple Creek Campground. Because it serves a smaller camping population, the facility is slightly smaller than Maple Creek Campground and will contain six restroom stalls, and 5 shower stalls, one of which is configured as a "Family Friendly" unit. The buildings will be constructed from precast concrete masonry (CMU) and have a metal roof that will provide durable and easily maintained facilities for many decades to come.

b) Who are the primary customers for this service?

The over 1.7 million residents and visitors that annually use Whatcom County parks and trails; including the more than 318,000 visitors to Silver Lake Park.

2. Describe the problem this request addresses and why Whatcom County needs to address it.

Silver Lake Park was constructed in 1969, and many of the facilities are at the end of their serviceable life, including the existing vault-type restroom facilities. Visitor feedback has consistently shown that flush-type toilet facilities and access to additional showers are the most desired improvements at Silver Lake Park. Additionally, providing to these new facilities will likely lead to increased use and campground revenues and contribute to local economic activity

3. Options

a) What other options have you considered? Why is this the best option?

The department considered a no action alternative that maintains status queue. This option was rejected based on increased visitation at the park necessitating expansion of shower and restroom facilities and requests by the recreating public to replace vault toilets with flush facilities.

b) What are the specific cost savings? (Quantify)

No, the additional shower and restroom facility requires increased maintenance and routine services as compared to the existing facility.

4. Outcomes / Objectives

a) What outcomes will be delivered and when?

Construction of the shower and restroom facility is initiated in 2023 and completed in 2024.

b) How will you know whether the outcomes happened?

Contractor achieves substantial completion and the restroom is put into service for the 2024 camping season.

2023-2024 Budget Preparation - Regular Additional Service Request

Parks & Recreation

ASR # 2023- 6920

Fund 361

Cost Cente 361100

Originator: Christ Thomsen

5. Other Departments/Agencies

a) Will this ASR impact other departments or agencies? If so, please identify the departments and/or agencies impacted and explain what the impact(s) will be.

Yes, Planning & Development Services is responsible for issuing permits necessary for construction.

b) If another department or agency is responsible for part of the implementation, name the person in charge of implementation and what they are responsible for.

Employees as assigned by Planning and Development Services.

6. What is the funding source for this request?

REET II



Whatcom County

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

Agenda Bill Master Report

File Number: **AB2022-616**

File ID:	AB2022-616	Version:	1	Status:	Agenda Ready
File Created:	10/26/2022	Entered by:	MCaldwel@co.whatcom.wa.us		
Department:	Finance Division	File Type:	Ordinance		
Assigned to:	Council			Final Action:	
Agenda Date:	11/09/2022			Enactment #:	

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

TITLE FOR AGENDA ITEM:

Ordinance establishing the Bellingham Senior Center HVAC Replacement Fund and establishing a project based budget for the Bellingham Senior Center HVAC Replacement project

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

Requests establishment of a new fund to account for revenues and expenses relating to providing a new HVAC system of integrated air handling control to manage heating, cooling, air quality and circulation throughout the Bellingham Senior Center. Requests appropriation of a budget of \$866,000 to be funded from Real Estate Excise Tax I Fund.

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
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Attachments: Proposed Ordinance, Proposed Exhibit A, Additional Service Request

ORDINANCE NO. _____

**ORDINANCE ESTABLISHING THE BELLINGHAM SENIOR CENTER HVAC REPLACEMENT
FUND AND ESTABLISHING A PROJECT BASED BUDGET FOR THE BELLINGHAM
SENIOR CENTER HVAC REPLACEMENT PROJECT**

WHEREAS, Bellingham Senior Center provides services to the senior population in the community, and

WHEREAS, this population is more susceptible to the deleterious effects of temperature extremes and poor air quality, and

WHEREAS, in recent years, we have seen higher summer temperatures, lower winter temperatures, and longer periods of poor air quality, and

WHEREAS, currently multiple furnaces of varying age are utilized, on five independently controlled zones, to heat the Center, the facility has no air conditioning, and there are no air circulations systems to manage year-round air quality, and

WHEREAS, this project proposes to provide a new HVAC system of integrated air handling control to manage heating, cooling, air quality and circulation throughout the building, and

WHEREAS, funding is available from Real Estate Excise Tax I Fund, and

WHEREAS, Section 6.80 of the Whatcom County Home Rule Charter allows for project-based capital budget appropriation ordinances that lapse when the project has been completed or abandoned or when no expenditure or encumbrance has been made for three (3) years,

NOW, THEREFORE, BE IT ORDAINED by the Whatcom County Council that a new fund is hereby established effective January 1, 2023 known as the Bellingham Senior Center HVAC Replacement Fund. This fund shall be used to account for the revenues and expenditures related to this project, and

BE IT FURTHER ORDAINED by the Whatcom County Council that the Bellingham Senior Center HVAC Replacement Fund is approved as described in Exhibit A with a project budget of \$866,000.

ADOPTED this ____ day of _____, 2022.

ATTEST:

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

Dana Brown-Davis, Council Clerk

Todd Donovan, Chair of the Council

APPROVED AS TO FORM:

() Approved () Denied

Approved by email/C Quinn/M Caldwell
Civil Deputy Prosecutor

Satpal Sidhu, County Executive

Date:_____

EXHIBIT A

BELLINGHAM SENIOR CENTER HVAC REPLACEMENT PROJECT

Account	Description	Initial Project Budget
Expenditures		
6190	Direct Billing Rate	\$45,000
7380	Other Improvements	\$821,000
		<hr/>
		\$866,000
		<hr/> <hr/>
Revenues		
8301.326	REET I Transfer	\$866,000
		<hr/>
		\$866,000
		<hr/> <hr/>

2023-2024 Budget Preparation - Regular Additional Service Request

Parks & Recreation

ASR # 2023- 6923	Fund	Cost Cente	Originator: Christ Thomsen
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Expenditure Type: One-Time **Add'l FTE** **Add'l Space** **Priority** 1

Name of Request: *Bellingham Senior Center HVAC Replacement*

Costs:	Object	Object Description	2023 Requested	2023 Approved	2024 Requested	2024 Approved
	6190	Direct Billing Rate	\$7,000	\$45,000	\$38,000	\$0
	7380	Other Improvements	\$87,000	\$821,000	\$734,000	\$0
	8301.326	Operating Transfer In	\$0	(\$866,000)	\$0	\$0
	Totals		\$94,000	\$0	\$772,000	\$0

1. Description of Request:

a) Describe the proposed activity or service, and indicate whether it is a higher or lower priority than existing services in your department budget.

This request is to provide for a project-based budget for design, permitting, and construction to replace existing furnaces at the Bellingham Senior Activity Center (BSAC). The new system will provide an integrated air handling control system to manage heating, cooling, and air quality and circulation throughout the building. A variable refrigerant flow system with a combination of heat pumps and heat recovery systems, that would utilize existing ductwork, is being proposed. The final system design will be determined through the design process.

b) Who are the primary customers for this service?

The over 1.7 million residents of Whatcom County and the visitors and members of the Bellingham Senior Activity Center.

2. Describe the problem this request addresses and why Whatcom County needs to address it.

The BSAC provides services to the senior population in the community. This population is more susceptible to the deleterious effects of temperature extremes and poor air quality. In recent years, we have seen higher summer temperatures, lower winter temperatures, and longer periods of poor air quality due to summer wildfires. Members and stakeholders of the center have requested improved air conditioning and filtration at the center. Currently, multiple furnaces, of varying age, are utilized, on five independently controlled zones, to heat the BSAC. The facility is not air conditioned. There are no air quality or air circulation systems to manage year-round air quality.

3. Options

a) What other options have you considered? Why is this the best option?

No action option was considered. This option does not address the concerns with increased frequency of temperature extremes and periods of poor air quality due to wildfire smoke.

Implementing this project provides for the design and installation of a modern HVAC system for the Bellingham Senior Activity Center that mitigates the effects of temperature extremes and periods of poor air quality and provides a safe and healthy environment for senior population of Whatcom County.

b) What are the specific cost savings? (Quantify)

4. Outcomes / Objectives

a) What outcomes will be delivered and when?

System design is complete in 2023. Construction is complete in 2024.

b) How will you know whether the outcomes happened?

Contractor achieves substantial completion, the HVAC system is certified, and the system is put into service in 2024.

5. Other Departments/Agencies

a) Will this ASR impact other departments or agencies? If so, please identify the departments and/or agencies impacted and explain what the impact(s) will be.

2023-2024 Budget Preparation - Regular Additional Service Request

Parks & Recreation

ASR # 2023- 6923

Fund

Cost Cente

Originator: Christ Thomsen

Yes. Planning and Development Services is responsible for evaluating regulatory compliance and issuance of permits necessary to complete the project.

b) If another department or agency is responsible for part of the implementation, name the person in charge of implementation and what they are responsible for.

Employees as assigned by Planning and Development Services.

6. What is the funding source for this request?

REET I & Donations



Whatcom County

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

Agenda Bill Master Report

File Number: **AB2022-617**

File ID:	AB2022-617	Version:	1	Status:	Agenda Ready
File Created:	10/26/2022	Entered by:	MCaldwel@co.whatcom.wa.us		
Department:	Finance Division	File Type:	Ordinance		
Assigned to:	Council			Final Action:	
Agenda Date:	11/09/2022			Enactment #:	

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

TITLE FOR AGENDA ITEM:

Ordinance establishing the Plantation Rifle Range Lead Reclamation & Capital Improvements Fund and establishing a project based budget for the Plantation Rifle Range Lead Reclamation & Capital Improvements project

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

Request establishes the Plantation Rifle Range Lead Reclamation & Capital Improvements Fund and requests an initial appropriation of \$655,000 to fund lead reclamation efforts and to hire a team to assess the range for capital improvement needs.

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
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Attachments: Proposed Ordinance, Proposed Exhibit A, Additional Service Request

PROPOSED BY: Executive
INTRODUCTION DATE: 11/09/22

ORDINANCE NO. _____

ORDINANCE ESTABLISHING THE PLANTATION RIFLE RANGE LEAD RECLAMATION & CAPITAL IMPROVEMENTS FUND AND ESTABLISHING A PROJECT BASED BUDGET FOR THE PLANTATION RIFLE RANGE LEAD RECLAMATION & CAPITAL IMPROVEMENTS PROJECT

WHEREAS, Parks and Recreation, in collaboration with Washington State Department of Ecology, is proposing a multi-year lead reclamation project at Plantation Rifle Range, and

WHEREAS, this is the Department's number one priority capital improvement project, and

WHEREAS, once lead reclamation is complete, modifications will be necessary to improve lead shot containment, to control and direct stormwater runoff, and to make other improvements at the Range, and

WHEREAS, this initial request will provide for the lead reclamation efforts and to hire a team to assess the range for capital improvement needs, and

WHEREAS, funding for this project is available from Real Estate Excise Tax I Fund, and

WHEREAS, Section 6.80 of the Whatcom County Home Rule Charter allows for project-based capital budget appropriation ordinances that lapse when the project has been completed or abandoned or when no expenditure or encumbrance has been made for three (3) years,

NOW, THEREFORE, BE IT ORDAINED by the Whatcom County Council that a new fund is hereby established effective January 1, 2023 known as the Plantation Rifle Range Lead Reclamation & Capital Improvements Fund. This fund shall be used to account for the revenues and expenditures related to this project, and

BE IT FURTHER ORDAINED by the Whatcom County Council that the Plantation Rifle Range Lead Reclamation & Capital Improvements Fund is approved as described in Exhibit A with an initial project budget of \$655,000.

ADOPTED this ____ day of _____, 2022.

ATTEST:

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

Dana Brown-Davis, Council Clerk

Todd Donovan, Chair of the Council

APPROVED AS TO FORM:

() Approved () Denied

Approved by email/C Quinn/M Caldwell
Civil Deputy Prosecutor

Satpal Sidhu, County Executive

Date:_____

EXHIBIT A

PLANTATION RIFLE RANGE LEAD RECLAMATION & CAPITAL IMPROVEMENTS FUND

Account	Description	Initial Project Budget
Expenditures		
6190	Direct Billing Rate	\$97,000
7380	Other Improvements	\$558,000
		<hr/>
		\$655,000
		<hr/> <hr/>
Revenues		
8301.326	REET I Transfer	\$655,000
		<hr/>
		\$655,000
		<hr/> <hr/>

2023-2024 Budget Preparation - Regular Additional Service Request

Parks & Recreation

ASR # 2023- 6919	Fund	Cost Cente	Originator: Christ Thomsen
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Expenditure Type: One-Time **Add'l FTE** **Add'l Space** **Priority** 1

Name of Request: Range Lead Reclamation & Capital Improvements

Costs:	Object	Object Description	2023 Requested	2023 Approved	2024 Requested	2024 Approved
	6190	Direct Billing Rate	\$97,000	\$97,000		\$0
	7380	Other Improvements	\$558,000	\$558,000		\$0
	8301.326	Operating Transfer In	\$0	(\$655,000)	\$0	\$0
	Totals		\$655,000	\$0	\$0	\$0

1. Description of Request:

a) Describe the proposed activity or service, and indicate whether it is a higher or lower priority than existing services in your department budget.

This request is to establish a project-based budget for a multi-year project at Plantation Range. This project recovers and recycles lead from the outdoor ranges at Plantation Range and is the number one priority capital improvement project for the department. The affected area for lead recovery is estimated at approximately 4.5 acres. Once lead reclamation is complete, modifications are needed to improve lead shot containment, to control and direct stormwater runoff, to protect surface waters from direct deposition of lead from firearms activities, and to make other improvements at Plantation Range.

b) Who are the primary customers for this service?

The citizens of Whatcom County and users of Plantation Range, including recreational shooters, local law enforcement agencies, and others.

2. Describe the problem this request addresses and why Whatcom County needs to address it.

The EPA's manual Best Management Practices for Outdoor Shooting Ranges provides guidance for managing the environmental impacts of lead at outdoor shooting ranges. The manual provides a four-step model for BMPs. They include 1) Control and Contain, 2) Prevent Migration, 3) Remove and Recycle, and 4) Document Activities and Record Keeping. Plantation Range design and management has implemented many aspects of the BMPs.

The manual identifies lead reclamation as an important BMP for lead management. Lead reclamation (removal and recycle) has not occurred at Plantation Range since operations started about 1971.

Additionally, as time progressed uses and configuration of the range have changed and environmental regulations have evolved. A need exists to evaluate current activities and environmental conditions. Capital improvements for modification of the outdoor range(s) are likely required to provide appropriate environmental protections while providing for continued operation of the outdoor ranges. Modifications may include changes to firing lines, berms, and other features to contain and control lead, and changes to the grounds to protect water quality. Modifications may also be implemented to make future lead reclamation efforts more cost efficient.

In 2020, Washington State Department of Ecology (DOE) conducted an investigation at Plantation Range over concerns of potential environmental impacts resulting from lead in the environment resulting from use of firearms. These efforts have culminated in the County and DOE working collaboratively on lead reclamation efforts.

The initial funding request provides for typical lead reclamation efforts and to hire a team to assess the range for capital improvement needs. Additional funding requests will be considered as more information is gathered.

3. Options

a) What other options have you considered? Why is this the best option?

Lead reclamation is a regulatory required activity. How clean-up is accomplished can take a variety of

2023-2024 Budget Preparation - Regular Additional Service Request

Parks & Recreation

ASR # 2023- 6919	Fund	Cost Cente	Originator: Christ Thomsen
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forms. Options will be assessed as the work between Whatcom County and DOE progresses.

b) What are the specific cost savings? (Quantify)

Lead reclaimed during the project will be recycled providing off-setting revenue. No other cost savings are expected initially, however, capital improvement components may make future lead reclamation more cost and resource efficient.

4. Outcomes / Objectives

a) What outcomes will be delivered and when?

Lead reclamation is complete at Plantation Range. Analysis of potential capital improvements needed to sustain long-term Range operations is complete, and preferred alternatives have been identified., and capital improvements are initiated. This work is planned to be complete by the end of 2024.

b) How will you know whether the outcomes happened?

Department of Ecology certifies lead reclamation is complete at Plantation Range. Analysis documents are complete for capital improvements and capital improvements are initiated.

5. Other Departments/Agencies

a) Will this ASR impact other departments or agencies? If so, please identify the departments and/or agencies impacted and explain what the impact(s) will be.

Planning and Development Services is responsible for processing permit applications. Department of Health is participating in consultant role regarding drinking water quality and solid waste management.

b) If another department or agency is responsible for part of the implementation, name the person in charge of implementation and what they are responsible for.

Employees as assigned by the various departments.

6. What is the funding source for this request?

REET I



Whatcom County

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

Agenda Bill Master Report

File Number: **AB2022-618**

File ID:	AB2022-618	Version:	1	Status:	Agenda Ready
File Created:	10/26/2022	Entered by:	MCaldwel@co.whatcom.wa.us		
Department:	Finance Division	File Type:	Ordinance Requiring a Public Hearing		
Assigned to:	Council			Final Action:	
Agenda Date:	11/09/2022			Enactment #:	

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

TITLE FOR AGENDA ITEM:

Ordinance in the matter of the adoption of the final budget of Whatcom County for the Biennium 2023-2024

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

This proposed ordinance adopts the Whatcom County 2023-2024 budget, places restrictions on certain expenditures, authorizes actions, and sets expectations.

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
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Attachments: Proposed Ordinance, Proposed Exhibit B, Proposed Exhibit C

PROPOSED BY: County Executive

DATE: November 9, 2022

ORDINANCE NO. _____

**IN THE MATTER OF THE ADOPTION OF THE FINAL BUDGET OF
WHATCOM COUNTY FOR THE BIENNIUM 2023-2024**

WHEREAS, pursuant to and in conformity with the provisions of the Whatcom County Home Rule Charter, Section 6.10, relating to the County budget process, the Whatcom County Executive did complete and place on file a Preliminary Budget for Whatcom County for the biennium 2023-2024; and,

WHEREAS, following the completion of the Preliminary Budget, which was presented to the Council on October 18, 2022, a notice was published in the County's official newspaper; and,

WHEREAS, several meetings of the Council's Committee of the Whole took place in the ensuing weeks to analyze the amounts set forth for each department in the budget and to make recommendations for changes; and

WHEREAS, the County Council has analyzed the amounts set forth in the budget in reference to deciding whether the amounts were proper and necessary amounts to be used by the various departments of Whatcom County for the biennium 2023-2024; and

WHEREAS, notice was published in the County's official newspaper that the Council would have a hearing to further consider the Preliminary Budget as presented by the Executive and the recommended changes from the Council's Committee of the Whole, together with the Council's proposed restrictions on the expenditure of certain appropriations, and said public hearing took place.

NOW, THEREFORE, BE IT ORDAINED by the Whatcom County Council:

Section I. Adoption of Budget

The amounts set forth below are adopted as the Whatcom County Budget for the biennium 2023-2024:

FUND/DEPT.

GENERAL FUND	2023 Appropriation	2024 Appropriation
Assessor	4,026,482	4,129,800
Auditor	1,491,588	1,510,777
Council	1,960,027	2,003,737
Executive		
Executive	1,052,506	1,071,821
Non-Departmental	21,807,123	24,484,896
Planning & Development	6,737,291	6,862,970
Treasurer	1,726,988	1,759,325
Sheriff	20,650,196	20,330,806
District Court		
District Court	3,126,608	3,173,979
District Court Probation	2,351,782	2,389,828
Prosecuting Attorney	7,610,425	7,827,903
Public Defender	6,339,771	6,575,900
Superior Court		
Superior Court Administration	4,134,491	4,178,633
County Clerk	2,958,705	3,026,399
Juvenile Administration	5,537,680	5,657,912
Extension	697,880	702,954
Parks and Recreation	5,307,454	5,150,284
Public Health	18,800,228	18,800,932
TOTAL GENERAL FUND	116,317,225	119,638,856

FUND/DEPT - Continued

Fund No.	OTHER FUNDS	2023 Appropriation	2024 Appropriation
108	County Road	31,733,537	31,815,169
109	Election Reserves	1,825,443	1,781,667
114	Veterans Relief	528,243	527,601
118	Whatcom County Jail	19,901,010	20,297,519
121	Low-Income Housing Projects	260,000	260,000
122	Homeless Housing	7,257,347	5,229,071
123	Stormwater	1,780,194	1,543,637
124	Behavioral Health Programs	10,266,071	10,397,988
126	Parks Special Revenue	105,000	105,000
127	Mental Health & Developmental Disability	735,815	764,556
128	Swift Creek Sediment Management	225,300	335,300
129	Affordable & Supportive Housing	650,000	650,000
130	Countywide Emergency Medical Srvcs	23,091,531	23,965,184
132	Lake Whatcom Stormwater Utility	941,915	793,761
133	Affordable Hsg, Beh Hlth Fac, Rltd Srvc	1,289,585	1,304,260
135	WC Trial Court Improvement	105,870	45,870
138	American Rescue Plan Act	17,830,258	4,002,972
139	Ferry Fare Capital Surcharge	41,266	41,266
140	Solid Waste	2,288,314	2,275,169
141	WC Convention Center	1,456,925	891,150
142	Victim Witness	251,000	263,644
154	Road Improve #1	38,292	39,292
155	Road Improve #2	2,488	2,588
159	Road Improve #7	3,508	3,608
165	WC Drug Fund	562,000	187,000
166	Auditor's O&M	252,426	167,426
167	Emergency Management	1,625,817	1,567,433
170	Pt Roberts Fuel Tax	20,000	20,000
175	Conservation Futures	504,510	514,336
245	2010 Ltd Tax GO & Refund Bond	233,025	230,025
324	REET II	2,644,142	129,658
326	REET I	4,613,073	2,279,940
332	Public Utilities Improvement	2,888,937	1,932,307
444	Ferry System	3,911,803	3,946,609
501	ER&R	19,959,132	16,697,112
507	Administrative Services	22,953,060	21,623,142
	Total Other Funds	182,776,837	156,631,260

Section II. Provisions Restricting Expenditures, Authorizing Actions, and Setting Expectations.

Pursuant to Section 6.60 of the Whatcom County Home Rule Charter, the following provisions restricting the expenditure of certain appropriations are enacted for the 2023-2024 biennium. These provisions are an integral part of the official budget of Whatcom County and shall be published therewith, and are adopted as the Whatcom County Budget for the 2023-2024 biennium:

(A) This department/fund level appropriation is based upon the backup detail budget, as attached, and as contained in the document titled Whatcom County 2023-2024 Budget, Exhibit A (although labeled as Exhibit A to this ordinance, it is not attached herewith; rather it is kept on permanent file in the Whatcom County Council Office). Authorized positions are listed in attached Exhibit C. Authorized Personnel positions cannot be increased during the biennium except by approval of the County Council. Positions approved at less than a full-time equivalent may be increased subject to the availability of funds and the consent of the County Executive, but shall not be considered a permanent change in authorized levels. The monies allocated to Salaries and Wages, Personnel Benefits, and Capital Outlay can be transferred only with the prior approval of the County Executive.

(B) For purposes of purchasing and award, all assets, projects, and improvements included in capital appropriations shall be considered adopted by a capital budget appropriation ordinance and shall be administered pursuant to WCC Chapter 3.08.100 A.(2) and A.(3) using the process prescribed for capital budget appropriation ordinance. Capital items included in this budget ordinance are listed in the attached Exhibit B Capital Appropriations. Capital appropriations adopted in this ordinance lapse at the end of the fiscal year except as provided in WCC 3.02.050 Budgeting - Continuing appropriation. Contracts for good and services on individual items or projects listed in Exhibit B may be exceeded by up to 10% provided capital expenditures in total do not exceed capital appropriation adopted for each department of the general fund or for each fund for other county funds. The Public Works Director may make substitutions for individually listed vehicles and equipment provided the vehicles and equipment substituted meet established replacement criteria and are similar purpose type and size as the original asset identified in Exhibit B.

(C) Appropriation authority for any budgeted personnel position that becomes vacant during 2023-2024 shall continue unless the Council by motion identifies the position as one in need of review.

(D) Administration of the budget is the responsibility of the County Executive and therefore the County Executive is authorized to manage County budgets. To improve efficiency and flexibility for managers of multiple departments, the County Executive is authorized to transfer appropriation authority within the following groups of departments:

- District Court - District Court Probation
- Superior Court, County Clerk, and Juvenile Court Administration

The County Executive may transfer appropriation authority between other departments within the General Fund only if authorized by the County Council. The Council will receive a quarterly report of all transfers.

(E) \$1,000,000 of the adopted Undesignated Ending Fund Balance as provided for in this ordinance shall be maintained in a Rainy Day Reserve Account, and such monies shall only be appropriated upon a two-thirds affirmative vote of the entire County Council. In administering this Rainy Day Reserve Fund:

(1) The County Treasurer shall be empowered to use the Rainy Day Reserve Fund to manage the cash flow needs of all County Funds by making short-term loans (less than six months) without interest, and without the need to get Council/Executive permissions.

(2) Longer term loans (more than six months) can be made to other funds, but only with County Council approval.

(3) Any investment income earned as a result of the Rainy Day Reserve Fund shall be credited to the General Fund general revenues.

(F) The County Treasurer shall be empowered to use the Road Fund to manage the cash flow needs of all County Road Project Funds by making short-term loans (up to two years) without interest, and without the need to obtain Council/Executive permissions.

(G) Expenditure authority granted in this ordinance is based on revenue projections contained in Exhibit A. If it is evident that a department's revenues will fall short of the department's budgeted revenues in any calendar year, the department head will submit a plan to the County Executive to reduce departmental expenditures sufficient to offset the revenue shortfall within the same calendar year.

(H) Grant and restricted revenue shall be used first to pay for all eligible expenditures before any unrestricted General Fund general revenue is used as local funding for eligible expenditures.

(I) The one dollar surcharge authorized in RCW 36.22.170 (1)(a) may be used to fund Auditor recording fees charged to other General Fund departments and not funded by another revenue source.

BE IT FURTHER ORDAINED, to authorize the County Council staff to make such clerical, scrivener, or mathematical changes necessary to correct inadvertent errors that may have occurred.

ADOPTED this _____ day of _____, 2022.

ATTEST:

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

Dana Brown-Davis, Clerk of Council

Todd Donovan, 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 B
 Capital Appropriations
 2023-2024 Budget

Department	Fund	ASR Base Budget	Capital Description	Budget Year	Cost
General Government Equipment and Software					
AS Facilities	Admin Services	6487	Generator at Williamson Way	2023	\$ 125,000
AS Facilities	Admin Services	6490	Energy Management Software Migration	2023	\$ 236,000
AS Info Services	Admin Services	6653	Lifecycle Replacement: Network & Tele Switches	2023	\$ 550,000
AS Info Services	Admin Services	6654	Lifecycle Replacement: Network Firewall	2023	\$ 220,000
AS Info Services	Admin Services	6660	Lifecycle Replacement: Enterprise Storage System	2023	\$ 100,000
AS Info Services	Admin Services	6706	Enterprise GIS Software and Data Upgrade	2023	\$ 80,000
AS Info Services	Trial Court Imprvmnt	6711	Computer Equipment for CMS for District Court	2023	\$ 60,000
Sheriff - Operations	Drug Fund	6514	Ballistic Protective Armored Vehicle	2023	\$ 350,000
Sheriff - Operations	General Fund	6532	Two Rescue Boats for River and Flood Response	2023	\$ 45,000
Sheriff - Corrections	Jail Fund	6465	Kitchen Equipment	2023	\$ 142,840
Sheriff - Corrections	Jail Fund	6466	Dental Equipment	2023	\$ 80,000
Sheriff - Corrections	Jail Fund	6471	Radio Replacement	2023	\$ 215,858
Sheriff - Operations	General Fund	6532	Two Rescue Boats for River and Flood Response	2024	\$ 45,000
Sheriff - Corrections	Jail Fund	6465	Kitchen Equipment	2024	\$ 117,291
AS Info Services	Various	6703	Regional Pictometry Imagery Flight	2024	\$ 200,000
AS Info Services	Admin Services	6659	Lifecycle Replacement: Enterprise Backup System	2024	\$ 220,000
Total					\$ 2,661,989
General Government Facilities Improvements					
Facilities	REET I	Base Bgt	Interior Painting	2023	\$ 50,000
Facilities	REET I	Base Bgt	Carpet Replacement	2023	\$ 65,000
Facilities	REET I	Base Bgt	Asphalt Patching/Sidewalk Repairs	2023	\$ 50,000
Facilities	REET I	Base Bgt	ADA Compliance	2023	\$ 40,000
Facilities	REET I	Base Bgt	Interior Painting	2024	\$ 50,000
Facilities	REET I	Base Bgt	Carpet Replacement	2024	\$ 65,000
Facilities	REET I	Base Bgt	Asphalt Patching/Sidewalk Repairs	2024	\$ 50,000
Facilities	REET I	Base Bgt	ADA Compliance	2024	\$ 40,000
Total					\$ 410,000

Exhibit B
Capital Appropriations
2023-2024 Budget

Department	Fund	ASR Base Budget	Capital Description	Budget Year	Cost
Health Department Facilities Improvements					
Health	Solid Waste	6867	Disposal of Toxics Floor Painting	2023	\$ 40,000
Total					<u>\$ 40,000</u>
Parks Improvements					
Parks	REET II	6924	Silver Lake Roof Replacement Project	2023	\$ 231,000
Parks	REET II	6925	Hovander Barn Paintworks	2023	\$ 147,400
Parks	REET II	6926	Silver Lake Park Residence Demolition	2023	\$ 61,800
Parks	REET II	6928	Hovander Residence Demolition	2023	\$ 55,500
Parks	REET II	6929	Aiston Preserve Access Improvements	2024	\$ 50,000
Total					<u>\$ 545,700</u>
Public Works Maintenance & Operations					
Public Works	Road	6794	Survey Total Stations	2023	\$ 50,000
Total					<u>\$ 50,000</u>

Exhibit B
Capital Appropriations
2023-2024 Budget

Dept/Div	Fund	Description of Assets to be Purchased	Budget Year	Cost	Assets Being Replaced	Year	Replaced Equip #
Equipment Rental and Revolving Fund Vehicle & Equip Replacement and Additions							
Assessor	ER&R	Passenger Vehicle- hybrid	2023	\$ 48,000	Toyota Prius hybrid sedan	2005	28
Auditor	ER&R	Van (ASR 6446)	2023	\$ 70,000			NEW
Corrections	ER&R	Bus- Prisoner Vans	2023	\$ 540,000	Braun Transport 7400	2008	900
Corrections	ER&R	Bus- Prisoner Vans	2023	\$ 75,000	Ford E350 1 ton van	2006	8025
AS-Facilities	ER&R	Van	2023	\$ 68,000	Ford Aerostar van	1993	47
Health	ER&R	Passenger Vehicle- hybrid	2023	\$ 48,000	Toyota Prius hybrid sedan	2005	59
Health	ER&R	Passenger Vehicle- hybrid	2023	\$ 48,000	Toyota Prius hybrid sedan	2004	84
Health	ER&R	Passenger Vehicle- hybrid (ASR 6981)	2023	\$ 37,500			NEW
Health	ER&R	Passenger Vehicle- hybrid (ASR 6981)	2023	\$ 37,500			NEW
Health	ER&R	Passenger Vehicle- hybrid (ASR 6981)	2023	\$ 37,500			NEW
Engineering	ER&R	1/2 ton 4x4 pickup	2023	\$ 62,500	Ford F150 1/2 ton crewcab 4x4 pickup	2007	170
Flood	ER&R	Utility Terrain Vehicle (ASR 6817)	2023	\$ 25,000			NEW
Equipment Rental and Revolv	ER&R	ER&R Shop Tools	2023	\$ 10,000	Bear Gas Analyzer Series 200	1993	712
Equipment Rental and Revolv	ER&R	ER&R Shop Tools	2023	\$ 8,000	Floor Scrubber	2010	769
Equipment Rental and Revolv	ER&R	ER&R Shop Tools	2023	\$ 10,000	Bosch ESI HD Diagnostic Tool	2015	771
Road-M&O	ER&R	Loader-mounted Snow Blower Attachment	2023	\$ 154,000	Snow plow	1994	580
Road-M&O	ER&R	1/2 ton 4x4 pickup	2023	\$ 62,500	Dodge Ram 1500 1/2 ton crewcab 4x4 pickup	2014	100
Road-M&O	ER&R	1/2 ton 4x4 pickup	2023	\$ 62,500	Dodge Ram 1500 1/2 ton crewcab 4x4 pickup	2015	123
Road-M&O	ER&R	Roadside Mowing Tractor	2023	\$ 310,000	New Holland TS110A tractor	2006	326
Road-M&O	ER&R	Roadside Mowing Mower	2023	\$ -	Diamond flail mower	2006	526
Road-M&O	ER&R	Roadside Mowing Tractor	2023	\$ 310,000	John Deere 6430 Tractor	2012	345
Road-M&O	ER&R	Roadside Mowing Mower	2023	\$ -	Alamo flail mower	2012	545
Road-M&O	ER&R	Roadside Mowing Tractor	2023	\$ 310,000	John Deere 6430 Tractor	2012	346
Road-M&O	ER&R	Roadside Mowing Mower	2023	\$ -	Alamo flail mower	2012	546
Road-M&O	ER&R	Excavator (See ASR 2023-6774)	2023	\$ 280,000	Kobelco 760B excavator	2005	305
Road-M&O	ER&R	1.5 Yard Wheel Loader	2023	\$ 180,000	Fermec 760B backhoe	2000	323
Road-M&O	ER&R	Loader	2023	\$ 240,000	Cat Loader	2003	335
Road-M&O	ER&R	Loader	2023	\$ 335,000	Komatsu WA430 loader	2007	336
Road-M&O	ER&R	Dump Trucks(10-12 yard)	2023	\$ 450,000	Kenworth Blade Truck	2002	228
Road-M&O	ER&R	Air Compressor and Welders	2023	\$ 40,000	Sullair-Comp	2003	453
Road-M&O	ER&R	Sander	2023	\$ 38,500	Hiway E20500 sander	2003	454
Road-M&O	ER&R	Tracked Excavator (See ASR 2023-6775)	2023	\$ 265,000	Gradall XL3100	2009	352
Road-M&O	ER&R	Water Tank- 3000 gallon	2023	\$ 50,000	Norstar 3000 gallon water tank	2001	368
Road-M&O	ER&R	Hydro mulcher	2023	\$ 90,000	Bowie hydromulcher 800/1100	2002	369
Road-M&O	ER&R	Compactor (See ASR 2023-6776)	2023	\$ 115,000	Sheeps foot compactor	1962	442
Road-M&O	ER&R	Side Cast Sweeper (See ASR 2023-6783)	2023	\$ 250,000	Cat 953 track loader	1989	504
Planning & Development	ER&R	1/4 ton 4x4 pickup	2023	\$ 48,000	Toyota Tacoma 1/4 ton crewcab 4x4 pickup	2014	19
Planning & Development	ER&R	SUV- 4x4	2023	\$ 52,000	Ford Escape 4x4 SUV	2007	13
Planning & Development	ER&R	PDS Fire Inspector Vehicle (See SBR 3309)	2023	\$ 75,000	Crew Cab 4x4 2500		NEW
Parks	ER&R	Backhoe	2023	\$ 170,000	New Holland B95 backhoe	2006	815
Parks	ER&R	Roller (ASR 6978)	2023	\$ 4,260	Acquire from surplus Beuthling B400 roller		NEW
Parks	ER&R	Single Axle Dump Truck (ASR 6978)	2023	\$ 60,000	Acquire from surplus single axle 4wd dump truck		NEW

Exhibit B
Capital Appropriations
2023-2024 Budget

Dept/Div	Fund	Description of Assets to be Purchased	Budget Year	Cost	Assets Being Replaced	Year	Replaced Equip #
Equipment Rental and Revolving Fund Vehicle & Equip Replacement and Additions							
Parks	ER&R	Mower (ASR 6979)	2023	\$ 15,700	New Zero-turn mower, 24hp, 60" cutting deck		NEW
Parks	ER&R	Tracked Excavator (ASR 6979)	2023	\$ 82,900	New 12,000lb 42hp tracked excavator with mower		NEW
Parks	ER&R	1/4 ton 4x4 pickup (ASR 6980)	2023	\$ 46,000			NEW
Parks	ER&R	1/2 ton 4x4 pickup (ASR 6980)	2023	\$ 51,000			NEW
Sheriff	ER&R	1 ton 4x4 Pickup	2023	\$ 62,000	Chevy Silverado 3500 1 ton crewcab 4x4 pickup	2014	6014
Sheriff	ER&R	Sheriff Patrol Vehicle	2023	\$ 59,000	Crown Vic.	2011	6221
Sheriff	ER&R	Sheriff Patrol Vehicle	2023	\$ 59,000	PUV-AWD	2014	6223
Sheriff	ER&R	Sheriff Patrol Vehicle	2023	\$ 59,000	Tahoe 4X4	2015	6229
Sheriff	ER&R	Sheriff Patrol Vehicle	2023	\$ 59,000	Tahoe 4X4	2015	6231
Sheriff	ER&R	Sheriff Patrol Vehicle	2023	\$ 59,000	Tahoe 4X4	2015	6233
Sheriff	ER&R	Sheriff Patrol Vehicle	2023	\$ 59,000	Tahoe 4X4	2015	6234
Sheriff	ER&R	Sheriff Patrol Vehicle	2023	\$ 59,000	PUV-AWD	2015	6237
Sheriff	ER&R	Sheriff Patrol Vehicle	2023	\$ 59,000	PUV-AWD	2015	6238
ER&R	ER&R	Make Ready Intrafund Capital	2023	\$ 250,000			
Total				<u>\$ 6,056,360</u>			
Road-M&O	ER&R	1/2 ton 4x4 pickup	2024	\$ 88,000	Ford F250 1/2 ton crewcab 4x4 pickup	2015	202
Road-M&O	ER&R	Hot Box Patch Truck	2024	\$ 280,000	Freightliner M2106 w/ Propatch	2006	282
Road-M&O	ER&R	Herbicide Truck	2024	\$ 130,000	Chevrolet Tilt Cab	2004	356
Road-M&O	ER&R	Rollers	2024	\$ 42,000	Buethling Double Drum Roller	2004	448
Road-M&O	ER&R	General Purpose & Water Truck	2024	\$ 275,000	International 6 Wheel Dump Truck	2004	290
Road-M&O	ER&R	Lowboy Truck	2024	\$ 240,000	Kenworth T800 Lowboy Truck	2007	201
Road-M&O	ER&R	Motor Graders	2024	\$ 461,000	Volvo G946 Motor Grader	2008	312
Road-M&O	ER&R	Trailers	2024	\$ 45,000	Tandem Axle Tilt Trailer	2007	428
Parks	ER&R	Work Trucks(Up to 2,300 lbs. GVW)	2024	\$ 68,000	Ford F350 Supercab & Chassis	2008	886
Parks	ER&R	Tractors	2024	\$ 120,000	John Deere 3720 Tractor Mower	2013	804
Parks	ER&R	Small Dozer	2024	\$ 250,000	Cat Tractor	1990	801
Sheriff	ER&R	Sheriff Patrol Vehicle	2024	\$ 62,000	PUV-AWD	2015	6239
Sheriff	ER&R	Sheriff Patrol Vehicle	2024	\$ 62,000	PUV-AWD	2015	6240
Sheriff	ER&R	Sheriff Patrol Vehicle	2024	\$ 62,000	PUV-AWD	2015	6241
Sheriff	ER&R	Sheriff Patrol Vehicle	2024	\$ 62,000	PUV-AWD	2015	6242
Sheriff	ER&R	Sheriff Patrol Vehicle	2024	\$ 62,000	PUV-AWD	2015	6243
Sheriff	ER&R	Sheriff Patrol Vehicle	2024	\$ 62,000	Tahoe 4X4	2015	6245
Sheriff	ER&R	Sheriff Patrol Vehicle	2024	\$ 62,000	Tahoe 4X4	2015	6246
ER&R	ER&R	Make Ready Intrafund Capital	2024	\$ 250,000			
Total				<u>\$ 2,683,000</u>			

EXHIBIT C - POSITION CONTROL CHANGES

	Mid-Biennium 2022 Totals	Additional 2022 Changes	Amended 2022	2023 Changes	2023 Totals	2024 Changes	2024 Totals
ADMINISTRATIVE SERVICES							
Administration							
Director - Administrative Services	0.50		0.50		0.50		0.50
Administrative Services Coordinator	1.00		1.00		1.00		1.00
Admin Secretary/Grant Coordinator	0.50		0.50		0.50		0.50
	2.00	0.00	2.00	0.00	2.00	0.00	2.00
Finance							
Finance Manager	1.00		1.00		1.00		1.00
Associate Manager	1.00	1.00	2.00		2.00		2.00
Budget Analyst	2.00	1.00	3.00		3.00		3.00
Accountant	1.00		1.00		1.00		1.00
Financial Accountant	3.00		3.00		3.00		3.00
Office Coordinator	1.00		1.00		1.00		1.00
Grant Compliance Specialist	1.00		1.00		1.00		1.00
Payroll Supervisor	1.00		1.00		1.00		1.00
Payroll Benefits Specialist	1.00		1.00		1.00		1.00
Purchasing Coordinator	1.00	1.00	2.00		2.00		2.00
	13.00	3.00	16.00	0.00	16.00	0.00	16.00
Facilities Management							
Project & Operations Manager	1.00		1.00		1.00		1.00
Associate Manager	1.00		1.00		1.00		1.00
Administrative Assistant	0.00	1.00	1.00		1.00		1.00
Facilities Assistant	1.00	(1.00)	0.00		0.00		0.00
Special Projects Manager	1.00		1.00		1.00		1.00
Clerk/Receptionist	1.00		1.00		1.00		1.00
Coordinator	0.00	1.00	1.00		1.00		1.00
Clerk IV	1.00	(1.00)	0.00		0.00		0.00
Facilities Technical Specialist	4.00		4.00		4.00		4.00
Facilities Maintenance Lead	1.00		1.00		1.00		1.00
Facilities Maintenance Technician	4.00		4.00		4.00		4.00
Facilities Technical Apprentice	1.00		1.00		1.00		1.00
Custodial Coordinator	1.00		1.00		1.00		1.00
Custodian	9.00		9.00		9.00		9.00
	26.00	0.00	26.00	0.00	26.00	0.00	26.00
Information Technology							
Information Technology Manager	1.00		1.00		1.00		1.00
Administrative Assistant	1.00		1.00		1.00		1.00
Associate Manager	1.00	(1.00)	0.00		0.00		0.00
Network Engineer	1.00		1.00		1.00		1.00
Active Directory Administrator	1.00		1.00		1.00		1.00
Systems Supervisor	0.00	1.00	1.00		1.00		1.00
Systems Administrator	6.00		6.00		6.00		6.00
Systems Support Specialist	2.00		2.00		2.00		2.00
Systems Analyst	2.00	(1.00)	1.00		1.00		1.00
Applications Supervisor	1.00		1.00		1.00		1.00
Applications Administrator	3.00	1.00	4.00		4.00		4.00
Applications Support Specialist	1.00		1.00		1.00		1.00
GIS Administrator	2.00		2.00		2.00		2.00

EXHIBIT C - POSITION CONTROL CHANGES

	Mid-Biennium 2022 Totals	Additional 2022 Changes	Amended 2022	2023 Changes	2023 Totals	2024 Changes	2024 Totals
GIS Supervisor	1.00		1.00		1.00		1.00
Public Records Officer	0.00	1.00	1.00		1.00		1.00
Records & Project Administrator Coordinator	1.00 1.00	(1.00)	0.00 1.00		0.00 1.00		0.00 1.00
	25.00	0.00	25.00	0.00	25.00	0.00	25.00
Human Resources							
Human Resources Manager	1.00		1.00		1.00		1.00
Associate Manager	1.00		1.00		1.00		1.00
Human Resources Representative	5.00		5.00		5.00		5.00
Office Coordinator	1.00		1.00		1.00		1.00
	8.00	0.00	8.00	0.00	8.00	0.00	8.00
TOTAL ADMINISTRATIVE SERVICES	74.00	3.00	77.00	0.00	77.00	0.00	77.00
ASSESSOR							
Assessor	1.00		1.00		1.00		1.00
Chief Deputy	1.00		1.00		1.00		1.00
Chief Appraiser	0.00	1.00	1.00		1.00		1.00
Administrative Specialist	0.00		0.00	1.00	1.00		1.00
Administrative Assistant	1.00		1.00	(1.00)	0.00		0.00
Property Data Supervisor	1.00		1.00		1.00		1.00
Property Services Manager	1.00		1.00		1.00		1.00
Coordinator	1.00		1.00		1.00		1.00
Program Technician	1.00		1.00		1.00		1.00
Clerk	4.00		4.00	2.00	6.00		6.00
Clerk/Receptionist	2.00		2.00	(2.00)	0.00		0.00
Personal Property Clerk	2.00		2.00		2.00		2.00
GIS Specialist	1.00		1.00		1.00		1.00
Drafter/GIS Technician	1.00		1.00		1.00		1.00
Appraiser	13.00		13.00		13.00		13.00
TOTAL ASSESSOR	30.00	1.00	31.00	0.00	31.00	0.00	31.00
AUDITOR							
Auditor	1.00		1.00		1.00		1.00
Chief Deputy	1.00		1.00		1.00		1.00
Licensing Supervisor	1.00		1.00		1.00		1.00
Coordinator	1.00		1.00		1.00		1.00
Accounting Technician	0.00		0.00	1.00	1.00		1.00
Clerk	7.50		7.50	(1.00)	6.50		6.50
	11.50	0.00	11.50	0.00	11.50	0.00	11.50
Elections							
Elections Supervisor	1.00		1.00		1.00		1.00
Office Coordinator	1.00		1.00		1.00		1.00
Coordinator	1.00		1.00		1.00		1.00
Clerk	2.50		2.50		2.50		2.50
	5.50	0.00	5.50	0.00	5.50	0.00	5.50
TOTAL AUDITOR	17.00	0.00	17.00	0.00	17.00	0.00	17.00
COUNTY COUNCIL							
Council							
Clerk of the Council	1.00		1.00		1.00		1.00
Legislative Analyst	1.00		1.00		1.00		1.00

EXHIBIT C - POSITION CONTROL CHANGES

	Mid-Biennium 2022 Totals	Additional 2022 Changes	Amended 2022	2023 Changes	2023 Totals	2024 Changes	2024 Totals
Council Member	3.50		3.50		3.50		3.50
Legislative Clerk	2.00		2.00		2.00		2.00
Legislative Coordinator	4.00		4.00		4.00		4.00
TOTAL COUNTY COUNCIL	11.50	0.00	11.50	0.00	11.50	0.00	11.50
COUNTY EXECUTIVE							
County Executive	1.00		1.00		1.00		1.00
Director of Administrative Services	0.50		0.50		0.50		0.50
Special Programs Manager	1.00		1.00		1.00		1.00
Executive Asst/Communications Coord.	1.00		1.00		1.00		1.00
Community Outreach Facilitator	1.00		1.00		1.00		1.00
Executive Secretary	1.00		1.00		1.00		1.00
Admin Secretary/Grant Coordinator	0.50		0.50		0.50		0.50
	6.00	0.00	6.00	0.00	6.00	0.00	6.00
Executive - Non Departmental							
American Rescue Plan Act							
Grants Manager	1.00		1.00	(1.00)	0.00	0.00	0.00
Emergency Medical Services							
Emergency Medical Services Manager	1.00		1.00		1.00		1.00
Program Specialist	1.00		1.00		1.00		1.00
Systems Analyst	1.00		1.00		1.00		1.00
Coordinator	1.00		1.00		1.00		1.00
	4.00	0.00	4.00	0.00	4.00	0.00	4.00
TOTAL COUNTY EXECUTIVE	11.00	0.00	11.00	(1.00)	10.00	0.00	10.00
DISTRICT COURT							
District Court							
Judge	2.00		2.00		2.00		2.00
District Court Commissioner	1.00		1.00		1.00		1.00
District Court Administrator	0.50		0.50		0.50		0.50
Deputy District Court Administrator	1.00		1.00		1.00		1.00
Jury Coordinator	1.00		1.00		1.00		1.00
Coordinator	2.00		2.00		2.00		2.00
Financial Accountant	1.00		1.00		1.00		1.00
Clerk	3.00		3.00		3.00		3.00
Clerk/Receptionist	2.00		2.00		2.00		2.00
Calendar Coordinator	2.00		2.00		2.00		2.00
Senior Court Clerk	1.00		1.00		1.00		1.00
Court Clerk	5.00		5.00		5.00		5.00
	21.50	0.00	21.50	0.00	21.50	0.00	21.50
District Court Probation							
District Court Probation Administrator	0.50		0.50		0.50		0.50
Probation Manager	1.00		1.00		1.00		1.00
Lead Probation Officer	1.00		1.00		1.00		1.00
Probation Officer	10.00		10.00		10.00		10.00
Senior Clerk	1.00		1.00		1.00		1.00
Clerk	2.00		2.00		2.00		2.00
	15.50	0.00	15.50	0.00	15.50	0.00	15.50
TOTAL DISTRICT COURT	37.00	0.00	37.00	0.00	37.00	0.00	37.00
HEALTH							

EXHIBIT C - POSITION CONTROL CHANGES

	Mid-Biennium 2022 Totals	Additional 2022 Changes	Amended 2022	2023 Changes	2023 Totals	2024 Changes	2024 Totals
Health Administration							
Health Department Director	1.00		1.00		1.00		1.00
Health Officer	1.20		1.20		1.20		1.20
Assistant Director	1.00		1.00		1.00		1.00
Office Coordinator	1.00		1.00		1.00		1.00
Contract Coordinator	1.00		1.00		1.00		1.00
Communications Coordinator	0.00		0.00	1.00	1.00		1.00
Community Health Outreach Worker	0.00		0.00	1.00	1.00	(1.00)	0.00
Community Health Specialist	0.00		0.00	1.00	1.00		1.00
Accounting Supervisor	1.00		1.00		1.00		1.00
Accountant	1.00	1.00	2.00		2.00		2.00
Accounting Technician	3.00	(1.00)	2.00	1.00	3.00		3.00
Account Clerk	1.00		1.00		1.00		1.00
Health Info & Assessment Supervisor	1.00		1.00		1.00		1.00
Data Applications Specialist	0.00		0.00	1.00	1.00		1.00
Data Technician	0.00	1.00	1.00		1.00		1.00
Pub. Health Informatics Specialist	1.00		1.00		1.00		1.00
Program Specialist	5.00	2.00	7.00	4.00	11.00		11.00
Administrative Supervisor	1.00		1.00		1.00		1.00
Clerk	7.00		7.00	2.00	9.00		9.00
Coordinator	2.00		2.00		2.00		2.00
	28.20	3.00	31.20	11.00	42.20	(1.00)	41.20
Community Services (formerly Human Services & Community Health)							
Human Services Manager	1.00		1.00		1.00		1.00
Human Services Supervisor	2.00	(1.00)	1.00		1.00		1.00
Program Specialist	11.00	(1.00)	10.00		10.00		10.00
Mental Health Court Program Manager	1.00	(1.00)	0.00		0.00		0.00
Child & Family Programs Manager	1.00		1.00		1.00		1.00
Community Health Specialist	7.00	(1.00)	6.00		6.00		6.00
Community Health Manager	1.00		1.00		1.00		1.00
Public Health Nurse Supervisor	1.00		1.00		1.00		1.00
Public Health Nurse	4.00		4.00		4.00		4.00
Community Nutrition Specialist	1.00		1.00		1.00		1.00
	30.00	(4.00)	26.00	0.00	26.00	0.00	26.00
Environmental Health							
Environmental Health Services Manager	1.00		1.00		1.00		1.00
Environmental Health Supervisor	3.00		3.00		3.00		3.00
Environmental Health Specialist	18.50	(0.50)	18.00		18.00		18.00
	22.50	(0.50)	22.00	0.00	22.00	0.00	22.00
Communicable Disease & Epidemiology							
Communicable Disease & Epidemiology Mgr	1.00		1.00		1.00		1.00
Public Health Nurse Supervisor	2.00		2.00		2.00		2.00
Public Health Nurse	15.00		15.00		15.00		15.00
Special Projects Manager	1.00		1.00	(1.00)	0.00		0.00
Coordinator	0.00		0.00	1.00	1.00	(1.00)	0.00
Program Specialist	2.00	(2.00)	0.00		0.00		0.00
Data Technician	1.00	(1.00)	0.00		0.00		0.00
Community Health Specialist	0.00	1.00	1.00		1.00		1.00

EXHIBIT C - POSITION CONTROL CHANGES

	Mid-Biennium 2022 Totals	Additional 2022 Changes	Amended 2022	2023 Changes	2023 Totals	2024 Changes	2024 Totals
Environmental Health Specialist	0.50	0.50	1.00		1.00		1.00
	22.50	(1.50)	21.00	0.00	21.00	(1.00)	20.00
Response System Division							
Response System Manager	0.00	1.00	1.00		1.00		1.00
Special Programs Manager	0.00	1.00	1.00		1.00		1.00
Mental Health Court Program Manager	0.00	1.00	1.00		1.00		1.00
Human Services Supervisor	0.00	1.00	1.00		1.00		1.00
Response Systems Supervisor	0.00	3.00	3.00		3.00		3.00
Behavioral Health Specialists	0.00	18.00	18.00		18.00		18.00
Community Health Outreach Worker	0.00		0.00	1.00	1.00		1.00
Program Specialist	0.00	1.00	1.00		1.00		1.00
Public Health Nurse	0.00	2.00	2.00		2.00		2.00
Clerk	0.00	1.00	1.00		1.00		1.00
	0.00	29.00	29.00	1.00	30.00	0.00	30.00
TOTAL HEALTH	103.20	26.00	129.20	12.00	141.20	(2.00)	139.20
PARKS & RECREATION							
Administration							
Director	1.00		1.00		1.00		1.00
Administrative Supervisor	1.00		1.00		1.00		1.00
Accountant	1.00		1.00		1.00		1.00
Clerk	2.00		2.00		2.00		2.00
	5.00	0.00	5.00	0.00	5.00	0.00	5.00
Park Facilities							
Park Operations Manager	1.00		1.00		1.00		1.00
Regional Park Supervisor	2.00	1.00	3.00		3.00		3.00
Park Ranger	4.00		4.00		4.00		4.00
Conservation & Park Steward	1.00	(1.00)	0.00		0.00		0.00
Park Attendant	3.00		3.00		3.00		3.00
Sr. Design & Development Supervisor	1.00	(1.00)	0.00		0.00		0.00
Park Design & Development Manager	0.00	1.00	1.00		1.00		1.00
Project Manager	0.00		0.00	1.00	1.00		1.00
Field Operations Supervisor	0.00		0.00	1.00	1.00		1.00
Maintenance/Construction Supervisor	1.00		1.00		1.00		1.00
Outside Maintenance Coordinator	2.00		2.00		2.00		2.00
Repair Maintenance	5.00		5.00		5.00		5.00
Maintenance Worker	1.00		1.00		1.00		1.00
	21.00	0.00	21.00	2.00	23.00	0.00	23.00
TOTAL PARKS & RECREATION	26.00	0.00	26.00	2.00	28.00	0.00	28.00
PLANNING & DEVELOPMENT							
Director	1.00		1.00		1.00		1.00
Assistant Director	1.00		1.00		1.00		1.00
Administrative Manager	0.00		0.00	1.00	1.00		1.00
Operations Supervisor	1.00		1.00	(1.00)	0.00		0.00
Clerk/Receptionist	1.00		1.00	(1.00)	0.00		0.00
Division Manager	2.00		2.00		2.00		2.00
GIS Specialist	1.00		1.00		1.00		1.00
Planner	25.00		25.00	2.00	27.00		27.00
Coordinator	2.00		2.00	1.00	3.00		3.00

EXHIBIT C - POSITION CONTROL CHANGES

	Mid-Biennium 2022 Totals	Additional 2022 Changes	Amended 2022	2023 Changes	2023 Totals	2024 Changes	2024 Totals
Clerk	1.00		1.00		1.00		1.00
Public Service Inspector	4.00		4.00		4.00		4.00
Fire Inspector	3.00		3.00		3.00		3.00
Plans Examiner	3.00		3.00		3.00		3.00
Permit Center Specialist	1.00		1.00		1.00		1.00
Planning Technician	1.00		1.00		1.00		1.00
TOTAL PLANNING & DEVELOPMENT	47.00	0.00	47.00	2.00	49.00	0.00	49.00
PROSECUTING ATTORNEY							
Prosecuting Attorney	1.00		1.00		1.00		1.00
Chief Criminal Deputy	1.00		1.00		1.00		1.00
Chief Civil Deputy	1.00		1.00		1.00		1.00
Administrative Manager	1.00		1.00		1.00		1.00
Assistant Chief Criminal Deputy	1.00		1.00		1.00		1.00
Deputy	23.00		23.00		23.00		23.00
Coordinator	1.00		1.00		1.00		1.00
Legal Assistant	12.00	(1.00)	11.00		11.00		11.00
Discovery Specialist	0.00	1.00	1.00		1.00		1.00
Records Assistant	0.00	1.00	1.00		1.00		1.00
Clerk/Receptionist	1.00		1.00		1.00		1.00
Investigator Supervisor	0.00	1.00	1.00		1.00		1.00
Lead Victim Witness Coordinator	1.00		1.00		1.00		1.00
Victim Witness Coordinator	4.00		4.00		4.00		4.00
Confidential Secretary	1.00		1.00		1.00		1.00
Paralegal	3.00		3.00		3.00		3.00
Domestic Relations Coordinator	2.00		2.00		2.00		2.00
TOTAL PROSECUTING ATTORNEY	53.00	2.00	55.00	0.00	55.00	0.00	55.00
PUBLIC DEFENDER							
Public Defender	1.00		1.00		1.00		1.00
Chief Deputy	1.00		1.00		1.00		1.00
Assistant Chief Deputy	0.00	1.00	1.00		1.00		1.00
Deputy	21.00	(1.00)	20.00		20.00		20.00
Office Administrator	1.00		1.00		1.00		1.00
Investigations Supervisor	1.00		1.00		1.00		1.00
Investigator	5.00		5.00		5.00		5.00
Behavioral Health Specialist	2.00		2.00		2.00		2.00
Legal Assistant	7.00		7.00		7.00		7.00
Administrative Secretary	1.00	(1.00)	0.00		0.00		0.00
Coordinator	0.00	1.00	1.00		1.00		1.00
Clerk	1.00		1.00		1.00		1.00
Clerk/Receptionist	2.00		2.00		2.00		2.00
TOTAL PUBLIC DEFENDER	43.00	0.00	43.00	0.00	43.00	0.00	43.00
PUBLIC WORKS							
Administration/Accounting							
Director	1.00		1.00		1.00		1.00
Assistant Director	1.00		1.00		1.00		1.00
Financial Services Manager	1.00		1.00		1.00		1.00
Accounting Supervisor	0.00	1.00	1.00		1.00		1.00
Financial Accountant	1.00		1.00		1.00		1.00

EXHIBIT C - POSITION CONTROL CHANGES

	Mid-Biennium 2022 Totals	Additional 2022 Changes	Amended 2022	2023 Changes	2023 Totals	2024 Changes	2024 Totals
Accountant	0.00	1.00	1.00		1.00		1.00
Accounting Technician	1.00		1.00		1.00		1.00
Account Clerk	1.00	(1.00)	0.00		0.00		0.00
Administrative Specialist	1.00		1.00		1.00		1.00
Safety/Training Specialist	1.00	(1.00)	0.00		0.00		0.00
Safety & Training Coordinator	0.00	1.00	1.00		1.00		1.00
Clerk/Receptionist	1.00		1.00		1.00		1.00
Program Specialist	2.00		2.00		2.00		2.00
Special Programs Manager	1.00		1.00		1.00		1.00
	12.00	1.00	13.00	0.00	13.00	0.00	13.00
Engineering							
County Engineer	1.00		1.00		1.00		1.00
Administrative Secretary	1.00	1.00	2.00		2.00		2.00
Clerk	2.00	(1.00)	1.00		1.00		1.00
Records Assistant	1.00		1.00		1.00		1.00
Engineering Manager	4.00		4.00		4.00		4.00
Engineering Supervisor	0.00	1.00	1.00		1.00	1.00	2.00
Engineer	7.00		7.00		7.00		7.00
Planner	3.00		3.00		3.00		3.00
Coordinator	1.00	(1.00)	0.00		0.00		0.00
Survey Technician	2.00		2.00		2.00		2.00
Senior Professional Land Surveyor	1.00	(1.00)	0.00		0.00		0.00
Engineering Technician	13.00	1.00	14.00	2.00	16.00		16.00
	36.00	0.00	36.00	2.00	38.00	1.00	39.00
NPDES							
Natural Resource Specialist	1.00		1.00		1.00		1.00
Engineering Technician	2.00		2.00		2.00		2.00
Planner	1.00		1.00		1.00		1.00
	4.00	0.00	4.00	0.00	4.00	0.00	4.00
Flood Control							
Engineering Manager	1.00		1.00		1.00		1.00
Administrative Secretary	1.00		1.00		1.00		1.00
Engineering Supervisor	0.00	1.00	1.00		1.00		1.00
Engineer	3.00		3.00		3.00		3.00
Engineering Technician	2.00		2.00		2.00		2.00
Planner	0.00	1.00	1.00		1.00		1.00
	7.00	2.00	9.00	0.00	9.00	0.00	9.00
Flood - Natural Resources							
Natural Resources Program Manager	1.00		1.00		1.00		1.00
Special Programs Manager	0.00	2.00	2.00		2.00		2.00
Clerk	1.00		1.00		1.00		1.00
Program Specialist	2.00		2.00		2.00		2.00
Planner	6.00	(1.00)	5.00	1.00	6.00		6.00
	10.00	1.00	11.00	1.00	12.00	0.00	12.00
Maintenance & Operations							
M&O Superintendent	1.00		1.00		1.00		1.00
Assistant Superintendent/M & O	2.00		2.00		2.00		2.00
Safety & Training Specialist	1.00		1.00		1.00		1.00

EXHIBIT C - POSITION CONTROL CHANGES

	Mid-Biennium 2022 Totals	Additional 2022 Changes	Amended 2022	2023 Changes	2023 Totals	2024 Changes	2024 Totals
Road Crew Leader	7.00		7.00		7.00		7.00
Sign Leader	1.00		1.00		1.00		1.00
Heavy Equipment Operator	8.00		8.00		8.00		8.00
Senior Road Maintenance Worker	21.00		21.00		21.00		21.00
Sr Road Maintenance Worker - Sign Crew	3.00		3.00		3.00		3.00
Sr Road Maintenance Worker - Basket Truck	1.00		1.00		1.00		1.00
Road Maintenance Worker	20.00		20.00		20.00		20.00
Engineering Technician	1.00		1.00		1.00		1.00
Clerk	2.50		2.50		2.50		2.50
Administrative Assistant	1.00		1.00		1.00		1.00
	69.50	0.00	69.50	0.00	69.50	0.00	69.50
Noxious Weed							
Weed Control Coordinator	1.00		1.00		1.00		1.00
Weed Compliance Inspector	1.00		1.00		1.00		1.00
	2.00	0.00	2.00	0.00	2.00	0.00	2.00
Ferry							
Coordinator	1.00		1.00		1.00		1.00
Senior Master	1.00		1.00		1.00		1.00
Master	1.00		1.00		1.00		1.00
Master Engineer	1.00		1.00		1.00		1.00
Purser/ Deckhand	3.00		3.00		3.00		3.00
Deckhand	3.00		3.00		3.00		3.00
Regular Relief Deckhand	3.00		3.00		3.00		3.00
	13.00	0.00	13.00	0.00	13.00	0.00	13.00
Stormwater & BBWARM							
Stormwater Program Manager	1.00		1.00		1.00		1.00
Division Secretary	1.00		1.00		1.00		1.00
Engineer	2.00		2.00		2.00		2.00
Project Manager	0.00		0.00	1.00	1.00		1.00
Program Specialist (BBWARM)	1.00		1.00		1.00		1.00
	5.00	0.00	5.00	1.00	6.00	0.00	6.00
Equipment Services							
Assistant Superintendent ER&R	0.00	1.00	1.00		1.00		1.00
Equipment Services Manager	1.00	(1.00)	0.00		0.00		0.00
Shop Crew Leader	1.00		1.00		1.00		1.00
Heavy Duty Mechanic	8.00		8.00		8.00		8.00
Purchasing Coordinator	1.00		1.00		1.00		1.00
Purchasing Assistant	2.00		2.00		2.00		2.00
Shop Service Writer	1.00		1.00		1.00		1.00
Clerk	0.50		0.50		0.50		0.50
	14.50	0.00	14.50	0.00	14.50	0.00	14.50
TOTAL PUBLIC WORKS	173.00	4.00	177.00	4.00	181.00	1.00	182.00
SHERIFF							
Sheriff	1.00		1.00		1.00		1.00
Undersheriff	1.00		1.00		1.00		1.00
Chief Criminal Deputy	1.00		1.00		1.00		1.00
Chief Civil Deputy	1.00		1.00		1.00		1.00
Inspector	0.50		0.50		0.50		0.50

EXHIBIT C - POSITION CONTROL CHANGES

	Mid-Biennium 2022 Totals	Additional 2022 Changes	Amended 2022	2023 Changes	2023 Totals	2024 Changes	2024 Totals
Lieutenant	3.00		3.00		3.00		3.00
Public Safety Communications Manager	1.00		1.00		1.00		1.00
Program Specialist	0.00	1.00	1.00		1.00		1.00
Crime Analyst	1.00		1.00		1.00		1.00
Community Programs Coordinator	1.00	(1.00)	0.00		0.00		0.00
Senior Administrative Assistant	1.00		1.00		1.00		1.00
Financial Accountant	1.00		1.00		1.00		1.00
Accounting Technician	1.00		1.00		1.00		1.00
Records/ID Administrator	1.00		1.00		1.00		1.00
ID Technician	6.00		6.00		6.00		6.00
Coordinator	1.00		1.00		1.00		1.00
Division Secretary	0.00	1.00	1.00		1.00		1.00
Clerk	7.00	(1.00)	6.00		6.00		6.00
Sergeant	10.00		10.00		10.00		10.00
Deputy	72.00		72.00		72.00		72.00
	110.50	0.00	110.50	0.00	110.50	0.00	110.50
Bureau of Corrections							
Chief of Corrections	1.00		1.00		1.00		1.00
Inspector	0.50		0.50		0.50		0.50
Lieutenant	2.00		2.00		2.00		2.00
Corrections Sergeant	10.00		10.00		10.00		10.00
Corrections Deputy	65.00		65.00		65.00		65.00
Clerk	2.00		2.00		2.00		2.00
Coordinator	1.00		1.00		1.00		1.00
Division Secretary	1.00		1.00		1.00		1.00
Accounting Technician	1.00		1.00		1.00		1.00
Account Clerk	1.00		1.00		1.00		1.00
Outside Maintenance Coordinator	6.00		6.00		6.00		6.00
	90.50	0.00	90.50	0.00	90.50	0.00	90.50
Emergency Management							
Deputy Director	1.00		1.00		1.00		1.00
Program Specialist	2.00	1.00	3.00		3.00		3.00
Financial Accountant	0.00		0.00	1.00	1.00		1.00
Coordinator	1.00		1.00		1.00		1.00
Clerk	1.00		1.00		1.00		1.00
	5.00	1.00	6.00	1.00	7.00	0.00	7.00
TOTAL SHERIFF	206.00	1.00	207.00	1.00	208.00	0.00	208.00
SUPERIOR COURT							
Superior Court Administration							
Judge	4.00		4.00		4.00		4.00
Director of Superior Court Admin.	1.00		1.00		1.00		1.00
Superior Court Commissioner	4.00		4.00		4.00		4.00
Court Reporter	3.00		3.00		3.00		3.00
Judicial Assistant	5.00		5.00		5.00		5.00
Pretrial Services Manager	1.00		1.00		1.00		1.00
Pretrial Services Officer	1.00		1.00		1.00		1.00
Court Facilitator	1.00		1.00		1.00		1.00
Therapeutic Court Coordinator	1.00		1.00		1.00		1.00

EXHIBIT C - POSITION CONTROL CHANGES

	Mid-Biennium 2022 Totals	Additional 2022 Changes	Amended 2022	2023 Changes	2023 Totals	2024 Changes	2024 Totals
Substance Abuse Specialist	2.70		2.70		2.70		2.70
County Clerk	23.70	0.00	23.70	0.00	23.70	0.00	23.70
Asst SC Administrator/Chief Deputy Clerk	1.00		1.00		1.00		1.00
Coordinator	0.00	1.00	1.00		1.00		1.00
Financial Accountant	1.00	(1.00)	0.00		0.00		0.00
Accounting Technician	0.00		0.00	1.00	1.00		1.00
Court Clerk	12.50		12.50		12.50		12.50
Specialty Court Clerk	8.00		8.00	(1.00)	7.00		7.00
Senior Court Clerk	1.00		1.00		1.00		1.00
Court Services Coordinator	1.00		1.00		1.00		1.00
Juvenile Court Administration	24.50	0.00	24.50	0.00	24.50	0.00	24.50
Juvenile Court Administrator	0.00		0.00		0.00	1.00	1.00
Juvenile Court Services Manager	0.00		0.00	1.00	1.00	(1.00)	0.00
Administrative Supervisor	1.00		1.00		1.00		1.00
Assistant Administrator	1.00		1.00		1.00		1.00
Accounting Technician	1.00		1.00		1.00		1.00
Account Clerk	1.00		1.00		1.00		1.00
Legal Secretary	3.00		3.00		3.00		3.00
Probation Officer	8.00		8.00	(1.00)	7.00		7.00
Detention Manager	1.00		1.00		1.00		1.00
Juvenile Detention Officer	14.00		14.00		14.00		14.00
Volunteer Guardian Ad Litem Coordinator	3.00		3.00	(1.00)	2.00		2.00
Dependency Guardian Ad Litem	2.00		2.00		2.00		2.00
Lead Dependency Guardian Ad Litem	1.00		1.00		1.00		1.00
Parent Ally Coordinator	1.00		1.00		1.00		1.00
Community Programs Coordinator	1.00		1.00		1.00		1.00
	38.00	0.00	38.00	(1.00)	37.00	0.00	37.00
TOTAL SUPERIOR COURT	86.20	0.00	86.20	(1.00)	85.20	0.00	85.20
TREASURER							
Treasurer	1.00		1.00		1.00		1.00
Chief Deputy	1.00		1.00		1.00		1.00
Tax Specialist	1.00		1.00		1.00		1.00
Revenue Deputy	3.00	2.00	5.00	1.00	6.00		6.00
Operations/Accounting Specialist	1.00		1.00		1.00		1.00
Investment Officer	1.00		1.00		1.00		1.00
Tax Services Manager	1.00		1.00		1.00		1.00
Accounting Technician	1.00		1.00		1.00		1.00
Clerk	2.00	(2.00)	0.00		0.00		0.00
Head Cashier	1.00		1.00	(1.00)	0.00		0.00
TOTAL TREASURER	13.00	0.00	13.00	0.00	13.00	0.00	13.00
WSU EXTENSION							
Clerk	1.00		1.00		1.00		1.00
Coordinator	1.00		1.00		1.00		1.00
TOTAL WSU EXTENSION	2.00	0.00	2.00	0.00	2.00	0.00	2.00
COUNTY TOTAL STAFFING	932.90	37.00	969.90	19.00	988.90	(1.00)	987.90



Whatcom County

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

Agenda Bill Master Report

File Number: **AB2022-620**

File ID:	AB2022-620	Version:	1	Status:	Agenda Ready
File Created:	10/27/2022	Entered by:	MCaldwel@co.whatcom.wa.us		
Department:	Finance Division	File Type:	Resolution (FCZDBS) Requiring a Public Hearing		
Assigned to:	Council	Final Action:			
Agenda Date:	11/09/2022	Enactment #:			

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

TITLE FOR AGENDA ITEM:

Resolution adopting the 2023 budget for the Whatcom County Flood Control Zone District and Subzones (Council acting as the Flood Control Zone District Board of Supervisors)

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

Consistent with RCW 86.15.140, the Flood Control Zone District (FCZD) must adopt an annual budget that includes the countywide district and the subzones of the district. The attached resolution establishes the overall budget consistent with the appropriation items outlined in the law.

Public Works respectfully requests that the FCZD Board of Supervisors adopt the attached resolution to establish a 2023 budget for the countywide district and the following subzones:

- Acme/Van Zandt Subzone
- Lynden/Everson Subzone
- Sumas/Nooksack/Everson Subzone
- Samish Watershed Subzone
- Birch Bay Watershed and Aquatic Resources Management District

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
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Attachments: Proposed Resolution, Staff Memo - 2023 Flood Budget

PROPOSED BY: Public Works

INTRODUCTION DATE: 11/09/2022

RESOLUTION NO. _____

(A Resolution of the Whatcom County Flood Control
Zone District Board of Supervisors)

**ADOPTING THE 2023 BUDGET FOR THE
WHATCOM COUNTY FLOOD CONTROL ZONE DISTRICT AND SUBZONES**

WHEREAS, RCW 86.15.140 requires that the Board of Supervisors of each flood control zone district and subzone adopt an annual budget for the zone; and

WHEREAS, the statute further requires that the zone or subzone budget be divided into four appropriation items: overhead and administration; maintenance and operation; construction and improvements; and bond retirement and interest; and

WHEREAS, under the appropriation item for construction and improvements, the Board is required to list each flood control improvement or storm water control improvement planned for the budget year and the estimated expenditure for each during the next year; and

WHEREAS, the budget may only be adopted after a public hearing for which proper notice has been given; and

WHEREAS, Fund No. 169 is managed by the County on behalf of the Whatcom County Flood Control Zone District for purposes of funding flood control, storm water management, and other water resources work by the County that are consistent with the powers of the District under RCW 86.15 and RCW 39.34.190; and

WHEREAS, funds obtained by the County through grants or cooperative agreements for flood control and other water resources work are also managed through Fund No. 169; and

WHEREAS, the 2023 budget proposed by the County Executive for the Whatcom County Flood Control Zone District includes proposed expenditures out of Fund 169 to pay for flood control, storm water management, and other water resources work consistent with the powers of the District under RCW 86.15 and RCW 39.34.190;

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors as follows:

Section I. Approval of the Budget

The Board hereby adopts the 2023 budget for the Flood Control Zone District Fund No. 169 in the amounts presented below and further described Exhibit A of this resolution:

OVERALL BUDGET SUMMARY

Budget Code	Program	RCW Appropriation Item	2023 Budget	
			Revenues	Expenditures
169100	Administration	Overhead & administration	\$6,472,000	\$1,297,083
169119	Natural Resources Administration	Overhead & administration	-	792,921
169120	AIS Administration	Overhead & administration	-	-
169121	Water Planning Administration	Overhead & administration	5,887	298,465
169122	Climate Action	Overhead & administration	130,017	130,017
169100	Stormwater Administration (Transfer)	Overhead & administration	-	855,400
169102	Flood Response	Maintenance & operations	-	110,000
169104	Flood Planning	Maintenance & operations	1,132,000	1,470,000
169106	Technical Assistance	Maintenance & operations	-	75,000
169108	NFIP and CRS	Maintenance & operations	12,000	127,000
169110	Early Warning	Maintenance & operations	4,413	174,800
169119	Natural Resources Operations	Maintenance & operations	393,228	1,526,012
169120	AIS Operations	Maintenance & operations	20,000	212,691
169121	Water Planning Operations	Maintenance & operations	181,613	736,613
169122	Climate Action	Maintenance & operations	150,000	150,000
169100	Stormwater Lake Whatcom Operations (Transfer)	Maintenance & operations	-	657,400
169700	Stormwater NPDES Phase II	Maintenance & operations	-	172,000
169100	Stormwater Lake Whatcom Capital (Transfer)	Construction & improvements	-	-
169112	Repair and Maintenance	Construction & improvements	5,026,827	6,251,204
169114	Flood Hazard Reduction	Construction & improvements	8,360,630	11,013,080
			<u>\$21,888,615</u>	<u>\$26,049,686</u>
Total 2023 FCZD Budget			<u>\$(4,161,071)</u>	

Code	Program		Revenues	Expenditures
16923	Acme/VanZandt Subzone	Overhead & administration	-	\$1,500
16925	Birch Bay Subzone	Overhead & administration	887,500	303,339
16921	Lynden/Everson Subzone	Maintenance & operations	47,500	42,500
16922	Sumas/Nooksack/Everson Subzone	Maintenance & operations	140,000	21,000
16923	Acme/VanZandt Subzone	Maintenance & operations	26,196	6,181
16924	Samish Watershed Subzone	Maintenance & operations	22,570	21,869
16925	Birch Bay Subzone	Maintenance & operations	-	309,450
16921	Lynden/Everson Subzone	Construction & improvements	-	72,000
16922	Sumas/Nooksack/Everson Subzone	Construction & improvements	-	103,820
16923	Acme/VanZandt Subzone	Construction & improvements	-	30,000
16925	Birch Bay Subzone	Construction & improvements	851,875	911,000
			<u>\$1,705,641</u>	<u>\$1,822,659</u>
Total of 2023 FCZD Sub-Zone Budgets			<u>\$(117,018)</u>	

Section II. Provisions Restricting Expenditures, Authorizing Actions, and Setting Expectations.

For purposes of purchasing and award, projects listed in the attached Exhibit (B) FCZD Construction and Improvements Work Plan shall be administered pursuant to WCC Chapter 3.08.100 A.(2) and A.(3) using the process prescribed for capital budget appropriations. Contracts for goods and services on individual items or projects listed in Exhibit (B) may be exceeded by up to 10%, provided expenditures in total do not exceed the total appropriation for the FCZD construction and improvement Work Plan.

APPROVED this ____ day of _____, 2022.

ATTEST:

WHATCOM COUNTY FLOOD CONTROL ZONE
DISTRICT BOARD OF SUPERVISORS
WHATCOM COUNTY, WASHINGTON

Dana Brown-Davis, Clerk of the Council

Todd Donovan, Chair of Board of Supervisors

APPROVED AS TO FORM:

Approved by email/C Quinn/ R Rydel
Christopher Quinn
Senior Civil Deputy Prosecuting Attorney

Flood Control Zone District Proposed 2023 Budget

OVERALL BUDGET SUMMARY

Budget Code	Program	Approved 2022 Budget		Supplemented 2022 Budget		2022 Year End Projection		Proposed 2023 Budget	
		Revenues	Expenditures	Revenues	Expenditures	Revenues	Expenditures	Revenues	Expenditures
169100	Administration	\$ 5,210,000	\$ 1,081,709	\$ 5,210,000	\$ 1,081,709	\$ 5,169,922	\$ 854,838	\$ 6,472,000	\$ 1,297,083
169100	Transfers - To Stormwater		\$ 1,075,811		\$ 1,075,811		\$ 1,313,870		\$ 1,512,800
169102	Flood Response	\$ -	\$ 110,000	\$ -	\$ 110,000	\$ -	\$ 110,000	\$ -	\$ 110,000
169104	Flood Planning	\$ 70,000	\$ 940,000	\$ 595,200	\$ 1,668,486	\$ 660,160	\$ 1,319,986	\$ 1,132,000	\$ 1,470,000
169106	Technical Assistance	\$ -	\$ 75,000	\$ -	\$ 75,000	\$ -	\$ 75,000	\$ -	\$ 75,000
169108	NFIP and CRS	\$ 12,000	\$ 127,000	\$ 12,000	\$ 127,000	\$ 12,000	\$ 115,000	\$ 12,000	\$ 127,000
169110	Early Warning	\$ 4,413	\$ 133,000	\$ 4,413	\$ 133,000	\$ 4,413	\$ 214,000	\$ 4,413	\$ 174,800
169112	Repair and Maintenance	\$ 715,000	\$ 1,692,439	\$ 3,655,997	\$ 4,972,450	\$ 1,529,353	\$ 2,258,748	\$ 5,026,827	\$ 6,251,204
169114	Flood Hazard Reduction	\$ 3,169,846	\$ 4,437,456	\$ 5,997,127	\$ 7,718,690	\$ 3,197,553	\$ 4,420,572	\$ 8,360,630	\$ 11,013,080
169119	Natural Resources	\$ 744,139	\$ 2,277,659	\$ 761,139	\$ 2,436,487	\$ 761,139	\$ 2,365,487	\$ 393,228	\$ 2,318,933
169120	Aquatic Invasive Species	\$ -	\$ 164,944	\$ -	\$ 192,944	\$ -	\$ 192,944	\$ 20,000	\$ 212,691
169121	Water Planning	\$ 175,000	\$ 548,914	\$ 319,380	\$ 1,229,590	\$ 300,000	\$ 919,750	\$ 187,500	\$ 1,035,078
169122	Climate Action Planning		\$ 230,000	\$ 230,000	\$ 230,000	\$ 170,000	\$ 170,000	\$ 280,017	\$ 280,017
169700	NPDES	\$ -	\$ 160,320	\$ -	\$ 160,320	\$ -	\$ 80,000	\$ -	\$ 172,000
TOTAL		\$ 10,100,398	\$ 12,824,252	\$ 16,785,256	\$ 21,211,487	\$ 11,804,540	\$ 14,410,194	\$ 21,888,615	\$ 26,049,686
(DECREASE)/INCREASE IN FUND BALANCE		\$ (2,723,854)		\$ (4,426,231)		\$ (2,605,654)		\$ (4,161,071)	

Notes:

Assumes no fall flood in 2022; 2023 budget includes funding for flood response and new repair
 Program Manager Projected 2022 Lapse: 30% Rev Lapse 32% Exp Lapse

Starting Balance	6,914,680	1/1/2022	Starting - Beginning 2022	\$ 6,914,680
Projected Net Annual Activity	(613,803)		Budgeted Activity 2022	\$ (2,605,654)
Projected Balance	6,300,877	1/1/2023	Unprojected Lapse Calc all except 112&114	\$ 1,778,101
2023 Proposed Budget Net Annual Activity	(4,161,071)		Outstanding SBR's not yet budgeted	\$ -
Budget proposed fund balance after ASRs at year end	2,139,806		FEMA Revenue from 2021 recovery	\$ 213,750
Add back expense lapse of 23% (with related grant income reduction)	2,912,313		EOY 2022 Fund Balance - With Lapse	\$ 6,300,877
Projected fund balance with lapse considered	5,052,118	1/1/2024		

DETAIL FOR FCZD PROGRAM AREAS

FLOOD MAINTENANCE AND OPERATIONS

Flood Response (169102)	Proposed 2023 Budget		Assumptions/Notes
	Revenues	Expenditures	
Wage and Benefits		\$ 10,000	
Sand and sandbags		\$ 35,000	Includes pre-deployed and sand bags for training
Preparedness training		\$ 5,000	Road and M&O employees and equipment
Sector observers during response		\$ 40,000	Road employees wages and benefits for 1 significant flood event
Construction contracts		\$ 20,000	During and immediately following response (may supplement with 112 Emerg. New Projects)
TOTAL	\$ -	\$ 110,000	Budget based on 2021 flood with cost & wage increases
NET IMPACT TO FUND BALANCE	\$ (110,000)		2022 YE projection assumes small fall flood

Flood Planning (169104)	Proposed 2023 Budget		Assumptions/Notes
	Revenues	Expenditures	
Lower Nooksack			
Wage and Benefits		\$ 130,000	
CFHMP refinement/update			
PH Facilitation		\$ 80,000	6630 2021 BA inc 37,550 CA for CollinsW; need 2022 BA to cover est balance (35000) and amendment
PH Hydraulic modeling/alternatives analyses			Included below
PH FLIP process support/Engineering design/Plan	\$ 1,000,000	\$ 1,000,000	6630 2022 YE = CA+500k Amendment; 2023 assumes DOE offsetting revenue of \$1M
PH SBR-3683 FLIP Funding SBR			2022 Supplement goes with 718003 work above
PH Sediment management		\$ 70,000	7210 likely to get under contract in 2022; 3 yr (2022,2023,2024)
PH Reach 1 Sediment	\$ -	\$ -	7210 Removed in 2023. Refocused upstream
PH FLIP support for ag (AWB, farmer stipends, tribes)	\$ 80,000	\$ 100,000	7210 Pass through funding for ag consultant, farmers stipends and tribes- revenues from FbD
PH Instream flow study for DBM	\$ 52,000	\$ 65,000	6630 Revenues from '19-21 FbD ag integration task
PH High water mark survey		\$ 25,000	6630
TOTAL	\$ 1,132,000	\$ 1,470,000	
NET IMPACT TO FUND BALANCE	\$ (338,000)		

Technical Assistance (169106)	Proposed 2023 Budget		Assumptions/Notes
	Revenues	Expenditures	
Wage and Benefits		\$ 75,000	
		\$ -	
TOTAL	\$ -	\$ 75,000	
NET IMPACT TO FUND BALANCE	\$ (75,000)		

National Flood Insurance Prgm (169108)	Proposed 2023 Budget		Assumptions/Notes
	Revenues	Expenditures	
Wage and Benefits		\$ 100,000	
FEMA Floodplain mapping	\$ -	\$ 12,000	Assumes LNR mapping in 2023 - expenditures for public meeting notice
Permit reviews	\$ 12,000	\$ -	Flood permit fees
Public education/CRS activities	\$ -	\$ 15,000	CRS mailings
TOTAL	\$ 12,000	\$ 127,000	
NET IMPACT TO FUND BALANCE	\$ (115,000)		

Early Warning System (169110)	Proposed 2023 Budget		Assumptions/Notes
	Revenues	Expenditures	
Wage and Benefits		\$ 1,000	
Nooksack River gages - USGS	\$ -	\$ 146,800	2023: Added gauges and increased 3% COLA
Everson MainSt stage gage _ USGS	\$ 4,413	\$ -	Canadians reimburse cost to maintain gage; AVZ pays for Jones gage directly
Emergency access to SNOTEL	\$ -	\$ 5,000	
Equipment for gage upgrades/repairs	\$ -	\$ 12,000	Equip at NF gage may need replacing
Repairs and maintenance	\$ -	\$ 10,000	
TOTAL	\$ 4,413	\$ 174,800	
NET IMPACT TO FUND BALANCE	\$ (170,387)		

FLOOD CONSTRUCTION AND IMPROVEMENTS

Repair and Maintenance (169112)	Proposed 2023 Budget		Assumptions/Notes
	Revenues	Expenditures	
Wage and Benefits		\$ 260,000	
Misc			
Supplemental for UTV		\$ 20,000	
Construction Projects			
PH Emergency/new projects as needed	\$ 50,000	\$ 350,000	Assumed costs for responding to flood/new repairs (assumes no fall 2021 flood)

Flood Control Zone District
2023 Natural Resources Budget
Work Plan and Supporting Documentation

PH	Miscellaneous repair projects	\$	-	\$	50,000	Placeholder for small projects; fall 2019 flood assumed
PH/DJ	Marine Drive Levee Repair 2020 damage (720004)	\$	1,007,000	\$	1,000,000	Interim measures in 22, construction in 2023 (FEMA)
PH/CS	Truck Road 2020 Damage (720008)	\$	2,535,327	\$	2,608,765	Rev are 90% FEMA 5% State 2.5% Roads; rev inc wages
PH/CS	Everson Overflow Pipeline Bank Stabilization (720009)	\$	1,220,750	\$	1,225,000	design in 2022; FEMA reimburses 95%; 2022 amendment Assumes 2023 construction in case not able to do in 2022
PH/CS	SBR-3686 Everson Overflow Pipeline	\$	-	\$	-	
?PH?	SBR-3709 Supp to increase FEMA to 90%					cost -share is 95% not 90% - not sure how to redistribute
PH	Bertrand Creek Levee Stabilization (721002)	\$	-	\$	-	Delayed due to 2021 flood
PH/CS	Jones Creek Revetment Repair (722004)	\$	95,000	\$	85,000	90% FEMA 5% State cost-share. ?Subzone to Cost Share 2.5%?
PH/CS	Hudson Rd Bridge No. 132 Repair (XXXXXX)	\$	118,750	\$	110,000	90% FEMA 5% State cost-share. ?Roads to Cost Share 2.5%? Assumes no bridge replacement requirement, and RF does work, not M&O
PH	SBR-3684 Timon			\$	270,000	Anticipating 2023 activity instead of 2022
PH	SBR-3685 Upper Hampton			\$	115,000	Anticipating 2023 activity instead of 2022
Mitigation Planning/Implementation						
	Jail crew	\$	-	\$	117,439	Jail crew labor for FCZD and SWIF projects; available to diking or subzones
	Reveg planning/coordination	\$	-	\$	30,000	New 2-year contract in 2023
	Reveg/misc supplies	\$	-	\$	10,000	Increased to cover plant replacement costs for Deming and other past projects as needed
	TOTAL	\$	5,026,827	\$	6,251,204	
	NET IMPACT TO FUND BALANCE	\$	(1,224,377)			
Flood Hazard Reduction (169114)						
		Proposed 2023 Budget		Assumptions/Notes		
		Revenues	Expenditures			
	Wage and Benefits		\$	372,500		
	Misc	\$	-			
PH	SBR-3681 Buyout Program	\$	1,950,000	\$	1,950,000	USGS gage upgrades, storage study, appraisals in 2022; buyout in 2023
Swift Creek						
	Bank stabilization/channel excavation	\$	-	\$	125,580	300k commitment per year; 150k Roads; remainder cost-shared 70/30 b/w FCZD and SNE Subzone Subject to CPI-W Increases
Lower Nooksack River						
PH	Marietta property acquisition & demo New properties	\$	-	\$	50,000	Included in other acquisition line item for 2023
PH	Leases for agriculture	\$	3,780	\$	-	River Rd and Emerson Rd properties
PH	Walton Property Management	\$	16,800	\$	-	Revenues are from lease
	Floodplain acquisition	\$	1,280,000	\$	1,600,000	Revenues from FbD grant; 22 exp for pre-acquisition costs; 2023 is remaining grant task balance
PH						
DG/RR	Ferndale Levee Improvement Project (719008)	\$	220,000	\$	275,000	2022 BA will CA into 2023; 2023 budgeted amt is for Amendment to 60%
GDJ/PH	Lynden Levee Improvement Project (in conjunction with USACE rehab project) (718005)	\$	-	\$	-	22 BA for planting and O&M plan in 2022; actual work included flood repairs; rev are from FbD and FEMA
DG/RR	Abbott Levee Improvement (SWIF) (718010)	\$	-	\$	-	Assumes Roads pays 50%; Amended in 2022 for phase 2. Will CA into 2023
PH/CS	Cougar Creek Early Action Project Design (720010)	\$	52,000	\$	65,000	Assume an amendment for bidding/construction support executed next yr. Assume FbD will also fund this at 80%?
PH/DJ	Other FbD Early Action Projects (TBD)	\$	128,000	\$	160,000	22 is for appraisals and side channel; 23 Balance of task budget in 2019-21 FbD grant; projects TBD
South Fork Fish Camp Project (72100x)						
PH/DJ	Phase 1 design/construction	\$	-	\$	-	Pass-through FbD funding to Nooksack Tribe for integrated fish-flood project: Tribe to provide grant match (not included in WRIP)
Dahlberg Wetland Mitigation Site (719006)						
PH/CS	Wetland plan development			\$	15,000	2022 cost for data collection and RFP; 2023 is data collection
Jones Creek Deflection Berm (712004)						
PH/CS	Berm and bridge design	\$	7,500	\$	25,000	2022BA inc CA and \$75k supplement; design not under grant but rev are 30% from Roads
PH/CS	Land/easement acquisition	\$	4,000	\$	5,000	Assumes Bassir in 2022 and Franklin in 23
PJ/CS						
	Construction	\$	3,918,550	\$	5,295,000	Grant revenues \$30,000 reimbursement from Acme Water Dist. Roads will fund the local share of the road realignment work. Assume reallocation of FbD 21-23 1.5M
PH/CS	SBR-3687 Budget Supplemental - Property Acq.	\$	-	\$	-	Integrated into specific items above
High Creek Sediment Management						
PH/CS	Sediment trap maintenance (720005)	\$	-	\$	100,000	FEMA funded in 2022; 22 BA inc supplement
Glacier-Gallup Creek Alluvial Fan Restoration (718007)						
PH/DJ	Outreach	\$	20,000	\$	25,000	2022 BA and will CA into 23; rev are FbD
PH/DJ	Preliminary design	\$	760,000	\$	950,000	22 BA is CA+amendment+Drayton; 23 BA for construction for interim
	TOTAL	\$	8,360,630	\$	11,013,080	
	NET IMPACT TO FUND BALANCE	\$	(2,652,450)			

Flood Control Zone District
 2023 Natural Resources Budget
 Work Plan and Supporting Documentation

Natural Resources (169119)	Proposed 2023 Budget		Assumptions/Notes
	Revenues	Expenditures	
NATURAL RESOURCES ADMINISTRATION			
Staff		\$ 457,105	Includes salary for 3.5 FTEs and overtime.
Office and operating		\$ 335,816	
TOTAL	\$ -	\$ 792,921	
NET IMPACT TO FUND BALANCE	\$ (792,921)		
NATURAL RESOURCES OPERATIONS			
Salmon Recovery			
Staff		\$ 133,331	1 FTE
Restoration effectiveness monitoring, adaptive management, and stewardship		\$ 65,344	WCC crew restoration activities
Maintaining existing restoration projects*		\$ 98,016	WCC crew contract for maintaining
New restoration projects*		\$ 30,000	Contracted services for activities supporting planting, fencing, culvert replacement, etc.
Marine Resources Committee			
Staff	\$ 148,728	\$ 167,672	0.95 FTE + \$1,100 for intern
MRC restoration projects	\$ 98,000	\$ 102,000	MRC projects
Water Quality/Pollution Identification & Correction			
Program Coordination		\$ 140,081	Program Coordinator (1 FTE)
Water Quality Monitoring	\$ -	\$ 259,760	Sampling personnel, lab contract, one
Data Management	\$ 30,000	\$ 30,000	WCD Data Manager
Technical Assistance	\$ 65,000	\$ 65,000	WCD Farm Planners
Community Outreach	\$ 19,100	\$ 192,955	Outreach staff, WCD staff, supplies
Incentives	\$ 32,400	\$ 54,400	OSS and small farm cost share
Compliance		\$ 99,263	PDS Staff
Coordination and Planning			
Lake Whatcom Homeowner Incentive Program		\$ 63,191	Staff time only (0.5 FTE); contracted
WSU Extension outreach services		\$ 25,000	
TOTAL	\$ 393,228	\$ 1,526,013	
NET IMPACT TO FUND BALANCE	\$ (1,132,785)		
TOTAL FOR COST CENTER	\$ 393,228	\$ 2,318,933	
		\$ 1,925,705	
*Integrated Salmon Recovery/Flood Hazard Reduction capital and planning projects appear under Cost Center 169114 and 169104.			
Aquatic Invasive Species (169120)			
		Proposed 2023 Budget	
		Revenues	Expenditures
AIS ADMINISTRATION			
Staff	\$ -	\$ -	
Office and operating		\$ -	Misc. Expenses
TOTAL	\$ -	\$ -	
NET IMPACT TO FUND BALANCE	\$ -		
AIS OPERATIONS			
Coordination and Planning			
Interlocal Agreement (COB)	\$ -	\$ 162,691	Contribution to City for AIS Program; includes COB program cost increase
Enforcement	\$ 20,000	\$ 40,000	Interdepartmental Agreement with WCSO
AIS online education program website maintenance	\$ -	\$ 10,000	Contracted services for online
TOTAL	\$ 20,000	\$ 212,691	
NET IMPACT TO FUND BALANCE	\$ (192,691)		
TOTAL FOR COST CENTER	\$ 20,000	\$ 212,691	
		\$ 192,691	
Water Planning (169121)			
		Proposed 2023 Budget	
		Revenues	Expenditures
WATER PLANNING ADMINISTRATION			
Staff	\$ 5,887	\$ 136,707	Watershed Planner + LIO Labor
Program Specialist		\$ 161,208	Property/Restoration Manager
Office and operating		\$ 550	
TOTAL	\$ 5,887	\$ 298,465	
NET IMPACT TO FUND BALANCE	\$ (292,578)		

Flood Control Zone District
 2023 Natural Resources Budget
 Work Plan and Supporting Documentation

WATER PLANNING OPERATIONS			
Coordination and Planning			
Drainage-Based Management		\$ 50,000	Drainage-Based Management
Watershed Planning Administrative Support		\$ 30,000	Watershed Planning Administrative Support
Whatcom Groundwater Model		\$ 100,000	Whatcom Groundwater Model
LIO administration	\$ 119,113	\$ 119,113	Administration of LIO process
Stream Gauging		\$ 125,000	USGS Stream Monitoring/AESI GW Monitoring Contracts
Water Settlement Initiative	\$ 62,500	\$ 282,500	Collaborative Process to Resolve Water Issues
Domestic Water Use Efficiency Program		\$ 30,000	Domestic Water Use Efficiency Program
TOTAL	\$ 181,613	\$ 736,613	
NET IMPACT TO FUND BALANCE	\$ (555,000)		
TOTAL FOR COST CENTER	\$ 187,500	\$ 1,035,078	
		\$ 847,578	
Climate Action (169122)			
	Proposed 2023 Budget		Assumptions/Notes
	Revenues	Expenditures	
CLIMATE ACTION ADMINISTRATION			
Staff	\$ 120,017	\$ 120,017	
Office and operating	\$ 10,000	\$ 10,000	Misc. Expenses
TOTAL	\$ 130,017	\$ 130,017	
NET IMPACT TO FUND BALANCE	\$ -		
CLIMATE ACTION OPERATIONS			
Coordination and Planning			
Climate Vulnerability Assessment	\$ -	\$ -	Climate Vulnerability Assessment
	\$ 150,000	\$ 150,000	
	\$ -	\$ -	
TOTAL	\$ 150,000	\$ 150,000	
NET IMPACT TO FUND BALANCE	\$ -		
TOTAL FOR COST CENTER	\$ 280,017	\$ 280,017	
		\$ -	
	\$ 3,846,719		
	\$ 880,745		
	\$ (2,965,974)		
		\$ 3,846,719	Total with ASRs
		\$ (307,738)	8% lapse on expenses with ASRs
		\$ 3,538,981	Estimated 2023 Expenditures

**Lynden/Everson Subzone
2023 Budget
and Fund Balance Projections**

Fund balance as of December 31, 2021	\$172,090	(+)	(-)	Notes
2022 Estimated Revenues:				
Assessment				
	\$45,000			
Interest earnings/penalties				
	\$2,500			
2022 Estimated Expenditures:				
Levee vegetation maintenance				\$25,000 brushing, spraying and hydroseeding
Mole control/misc				\$0 ACOE deficiency
Alternative corrections crew labor				\$10,000 misc levee and mitigation
Address new ACOE deficiencies				\$0 new problems placeholder
ACOE Culvert Inspections				\$0 video/photos
Cost-share/repairs as needed				\$20,000 New damage
Coordination				\$5,000 staff time
	Total			
				\$47,500
Projected December 2022 fund balance	\$159,590			\$60,000
 2023 Revenues - Proposed Budget				
Assessment				
				\$45,000
Interest earnings				
				\$2,500
2023 Expenditures - Proposed Budget				
Levee vegetation maintenance				\$30,000 brushing, spraying and hydroseeding
Mole control/misc				\$2,500 ACOE deficiency
Alternative corrections crew labor				\$10,000 misc levee and mitigation maintenance
Address new ACOE deficiencies				\$6,000 new problems placeholder
ACOE Culvert Inspections				\$6,000 video/photos
Cost-share/repairs as needed				\$50,000 Timon & Upper Hampton 30% Share
Coordination				\$10,000 staff time
	Total			
				\$47,500
Projected December 2023 fund balance	\$92,590			\$114,500

**Sumas/Nooksack/Everson Subzone
2023 Budget
and Fund Balance Projections**

Fund balance as of December 31, 2021	\$1,539,280	(+)	(-)	Notes
2022 Estimated Revenues:				
Assessment		\$125,000		
Interest earnings		\$15,000		
2022 Estimated Expenditures:				
Levee vegetation maintenance				\$5,000 brushing, spraying and hydroseed
Pump station electric charges				\$2,500 PSE
Mitigation monitoring and maintenance				\$1,000 supplies
Alternative corrections crew labor				\$5,000 misc maintenance
Coordination, TA & Project Mgmt.				\$5,000 staff costs
Transfer to Swift Creek project fund				\$49,125 150k Road fund, 105K FCZD fund also transferred for \$300k/yr subject to CPI-Urban Seattle
Cost-share/repairs as needed (new damage)				\$35,000 30% of \$500,000 project
Total		\$140,000		\$102,625
Projected December 2022 fund balance	\$1,576,655			
 2023 Revenues - Proposed Budget				
Assessment		\$125,000		
Interest earnings		\$15,000		
2023 Expenditures - Proposed Budget				
Levee vegetation maintenance				\$6,000 brushing, spraying and hydroseed
Pump station electric charges				\$3,000 PSE
Mitigation monitoring and maintenance				\$2,000 supplies
Alternative corrections crew labor				\$5,000 misc maintenance
Coordination, TA & Project Mgmt.				\$5,000 staff costs
Transfer to Swift Creek project fund				\$53,820 150k Road fund, 105K FCZD fund also transferred for \$300k/yr subject to CPI-Urban Seattle
Cost-share/repairs as needed (new damage)				\$50,000 30% of \$500,000 project
Total		\$140,000		\$124,820
Projected December 2023 fund balance	\$1,591,835			

**Acme/Van Zandt Subzone
2023 Budget
and Fund Balance Projections**

Fund balance as of December 31, 2021	\$386,230	(+)	(-)	Notes
2022 Estimated Revenues:				
Assessment		\$24,196		
Interest earnings		\$2,000		
2022 Estimated Expenditures:				
Cost-share/repairs as needed			\$30,000	30% of 100k project
M&O for Jones Creek stage/prec gage (9 month operation)			\$6,181	9 month operation with telemetry
Admin support for meetings/minutes			\$1,500	
Total		\$26,196	\$37,681	
Projected December 2022 fund balance	\$374,745			
 2023 Revenues - Proposed Budget				
Assessment		\$24,196		
Interest earnings		\$2,000		
2023 Expenditures - Proposed Budget				
Cost-share/repairs as needed			\$30,000	30% of 100k project
M&O for Jones Creek stage/prec gage (9 month operation)			\$6,181	9 month operation with telemetry
Admin support for meetings/minutes			\$1,500	
Total		\$26,196	\$37,681	
Projected December 2023 fund balance	\$363,260			

**Samish Watershed Subzone
2023 Proposed Budget
and Fund Balance Projections**

Fund balance as of December 31, 2021	\$144,169	(+)	(-)	Subtotal	Notes
2022 Estimated Revenues:				\$22,555	
Assessment			\$21,820		2X June actual
Interest earnings			\$735		2X June actual
2022 Estimated Expenditures:				\$21,400	
Natural resource staff salaries, wages, benefits			\$6,750		
Office & operating supplies			\$500		Weir timber replacement, new neoprene baffles, etc.
Repair & maintain weir & channel - contract services			\$7,900		2021-2022 LOA amount plus 3.5% cost increase for 2022-2023 LOA + \$2000 for beaver trapping
Repairs & Maintenance - interfund			\$6,250		Assumes M&O rental rates don't inflate appreciably
Permits			\$0		Permits current thru spring 2024
Total			\$22,555	\$21,400	
Projected Fund Balance December 31, 2022	\$145,324				
2023 Revenues - Proposed Budget				\$22,570	
Assessment			\$21,820		Assumes 2023 similar to 2022
Interest earnings			\$750		Assumes 2023 similar to 2022
2023 Expenditures - Proposed Budget				\$21,869	
Natural resource staff salaries, wages, benefits			\$6,750		Increased 3.5% over 2022
Office & operating supplies			\$1,500		Weir timber replacement, new neoprene baffles, etc.
Repair & maintain weir & channel - contract services			\$6,400		2021-2022 LOA amount plus 3.5% cost increase for 2022-2023 LOA + \$2000 for beaver trapping
Repairs & Maintenance - interfund			\$6,469		Increased 3.5% over 2022
Permits			\$750		Permits current thru spring 2024; reapply fall 2023
Total			\$22,570	\$21,869	
Projected December 2023 fund balance	\$146,025				

**Birch Bay Subzone
2023 Budget**

	Administration/ Program Development	Program Development & Management	Capital Improvement Projects	Maintenance, Small Works & Scoping	Water Quality Monitoring	Education & Outreach	Habitat Improvement	Total	2023 Break Out				
	2023	2023	2023	2023	2023	2023	2023		Overhead/ Admin	M&O	Construction		
									A	O	C		
Revenue													
FEMA - Fed (75%)			(498,750)					(498,750)	-		(498,750)		
FEMA - State (12.5%)			(83,125)					(83,125)	-		(83,125)		
Assessment Penalties	(2,500)							(2,500)	(2,500)		-		
Interest	(20,000)							(20,000)	(20,000)		-		
Assessments	(795,000)							(795,000)	(795,000)		-		
Stormwater transfer in	(70,000)							(70,000)	(70,000)		-		
REET II transfer in								-	-		-		
Revenue Total	(887,500)		(581,875)					(1,469,375)	(887,500)		(581,875)	(1,469,375)	
Expense													
Salaries & Wages	93,096							93,096					
Extra Help	22,980							22,980					
Overtime	2,000							2,000					
Benefits	67,836							67,836					
Total Salaries & Benefits	185,912							185,912					
Unrealized Gain (Loss)													
Office & Operating Supplies	1,000					6,700		7,700	7,700				
Printing						9,700		9,700		9,700			
Books/Publications/Subscrip.	200					130		330	330				
Tools & Equipment					100			100		100			
Software	1,500							1,500	1,500				
Other Services and Charges (Emergency)	50,000							50,000		50,000			
Contractual Services				5,000	12,500			17,500		17,500			
Professional Services	20,000		425,000	34,000		15,000	50,000	544,000		85,000	459,000		
Building Maintenance	0							-					
Other Services-Interfund			-	22,000				22,000			22,000		
Postage/Shipping/Freigh	500					9,350		9,850		9,850			
Telephone	965							965	965				
Travel-Educ/Training	1,000							1,000	1,000				
Travel-Other	1,500							1,500	1,500				
Advertising						200		200		200			
Space Rental	500							500	500				
Space Rental-Interfund	1,600							1,600	1,600				
Insurance Premium - Interfunc	1,158							1,158	1,158				
Solid Waste						2,000		2,000	2,000				
Repairs & Maintenance				75,000				75,000		75,000			
Repairs & Maintenance - Interfunc				-				-		0			
Registration/Tuition	2,100							2,100	2,100				
Meeting Refreshments	300					500		800		800			
Administrative Cost Allocation	16,757							16,757	16,757				
Other Miscellaneous-Interfunc			-	5,000				5,000			5,000		
Intergov. Professional Services						23,600	37,700	61,300		61,300			
Capital Outlays - Other Improvements			425,000					425,000			425,000		
Operating Transfer Out - Gen Fc	80,317							80,317	80,317				
Total Expenditures	365,309	-	850,000	141,000	12,600	67,180	87,700	1,523,789	303,339	309,450	911,000	1,523,789	
								Net Fund Impact:	54,414	(584,161)	309,450	329,125	54,414

Projected 2023 Starting Balance: 1,145,747
 Net 2023 Fund Impact: (54,414)
 Lapse Add Back at 15%: 228,568
 Projected 2023 Ending Balance: 1,319,901

Capital Improvement Projects

Object Code	Project/Program	2023	Notes
9259020001 Semiahmoo Drive Stormwater Improvements			
6630	PROFESSIONAL SERVICES	200,000	Design, archaeology, bid support
7380	CAPITAL OUTLAYS - OTHER IMPROVEMENTS	50,000	Construction contract, ROW
6699	OTHER SERVICES INTERFUND		Construction staking, as-built survey, permitting assistance, engineering oversight
7199	OTHER MISC INTERFUND		Permit expense
9259019002 Charel Terrace Bank Stabilization Study			
6630	PROFESSIONAL SERVICES	40,000	Herrera design contract. Received \$110k from FEMA, requires 12.5% match
7380	CAPITAL OUTLAYS - OTHER IMPROVEMENTS	375,000	Construction contract, ROW
6699	OTHER SERVICES INTERFUND		Construction staking, as-built survey, permitting assistance, engineering oversight
7199	OTHER MISC INTERFUND		Permit expense
9259020002 Holeman Avenue Stormwater Improvements			
6630	PROFESSIONAL SERVICES	35,000	Design, archaeology, bid support
7380	CAPITAL OUTLAYS - OTHER IMPROVEMENTS		Construction contract, ROW
6699	OTHER SERVICES INTERFUND		Construction staking, as-built survey, permitting assistance, engineering oversight
7199	OTHER MISC INTERFUND		Permit expense
9259021001 Normar Place Stormwater Improvements			
6630	PROFESSIONAL SERVICES	150,000	Design, archaeology, bid support
7380	CAPITAL OUTLAYS - OTHER IMPROVEMENTS		Construction contract, ROW
6699	OTHER SERVICES INTERFUND		Construction staking, as-built survey, permitting assistance, engineering oversight
7199	OTHER MISC INTERFUND		Permit expense
169250 Birch Point Road & Outfall Improvements			
6630	PROFESSIONAL SERVICES		Design, archaeology, bid support
7380	CAPITAL OUTLAYS - OTHER IMPROVEMENTS		Construction contract, ROW
6699	OTHER SERVICES INTERFUND		Construction staking, as-built survey, permitting assistance, engineering oversight
7199	OTHER MISC INTERFUND		Permit expense
Total Expenditures		850,000	
Object Code Totals			
6630	PROFESSIONAL SERVICES	425,000	
6699	OTHER SERVICES INTERFUND	0	
7199	OTHER MISC INTERFUND	0	
7380	CAPITAL OUTLAYS - OTHER IMPROVEMENTS	425,000	
Total Expenditures		850,000	

Whatcom County Flood Control Zone District
Flood Capital Program
2023

Department	Fund	Database ID No.	Project Title	Year	Cost	Fund #	Cost Center
Flood Capital Program							
Public Works	Flood Fund	20-002	Everson Overflow Pipeline Bank Stabilization	2023	\$ 1,285,000	169	720009
Public Works	Flood Fund	20-001	Marine Drive Levee 2020 Damage Repair	2023	\$ 1,060,000	169	720004
Public Works	Flood Fund	20-003	Truck Road Flood Damage	2023	\$ 2,667,600	169	720008
Public Works	Flood Fund	07-105	Jones Creek Debris Flow Protection	2023	\$ 5,430,000	169	712004
Public Works	Flood Fund	22-001	Hudson Rd Bridge No. 132 Repair	2023	\$ 125,000	169	722006
Public Works	Flood Fund	22-002	Timon Levee USACE Rehab	2023	\$ 270,000	169	722001
Public Works	Flood Fund	22-004	Upper Hampton USACE Levee Rehab	2023	\$ 115,000	169	722008
Public Works	Flood Fund	22-003	Jones Creek Revetment Repair	2023	\$ 100,500	169	722004
Public Works	Flood Fund	16-008	Cougar Creek Early Action Project	2023	\$ 75,500	169	720010
Public Works	Flood Fund	16-007	Abbott Levee Protection and Improvement	2023	\$ 50,000	169	718010
Public Works	Flood Fund	07-104	Ferndale Levee Improvement	2023	\$ 325,000	169	719008
Public Works	Flood Fund	18-006	Glacier-Gallup Alluvial Fan Restoration	2023	\$ 1,045,000	169	718007
Public Works	Flood Fund	07-002	Floodplain Acquisition	2023	\$ 1,600,000	169	169114
Public Works	Flood Fund	07-002	Marietta Acquisition	2023	\$ 55,000	169	709026
Public Works	Flood Fund	22-005	High Creek Sediment Trap	2023	\$ 115,000	169	720005
Total					\$ 14,318,600		
Public Works	BBWARM	20-011	Charel Terrace Stormwater Outfall Improvements	2023	\$ 415,000	16925	9259019002
Public Works	BBWARM	18-009	Semiahmoo Drive Drainage Improvements	2023	\$ 250,000	16925	9259020001
Public Works	BBWARM	19-004	Normar Place Stormwater Improvements	2023	\$ 150,000	16925	9259021001
Total					\$ 815,000		

**WHATCOM COUNTY
PUBLIC WORKS DEPARTMENT**

**Jon Hutchings
DIRECTOR**



Administration

Civic Center
322 N. Commercial Street, Suite 210
Bellingham, WA 98225-4042
Telephone: (360) 778-6217
www.whatcomcounty.us
JHutchings@co.whatcom.wa.us

TO: The Honorable Whatcom County Flood Control Zone District Board of Supervisors

THROUGH: Jon Hutchings, Public Works Director *EaK*

FROM: Gary S. Stoyka, Natural Resource Program Manager *GSS*
Paula J. Harris, River and Flood Division Manager *PJH*

DATE: **October 25th, 2022**

RE: 2023 Flood Control Zone District Budget

Enclosed is a resolution establishing the 2023 budget for the Whatcom County Flood Control Zone District (FCZD) for your review and adoption. Supporting documentation detailing the programs and projects included in the budget are also attached.

Requested Action:

Public Works respectfully requests that the FCZD Board of Supervisors adopt the attached resolution to establish a 2023 budget for the County-wide District and the following subzones:

- Acme/Van Zandt Subzone
- Lynden/Everson Subzone
- Sumas/Nooksack/Everson Subzone
- Samish Watershed Subzone
- Birch Bay Watershed and Aquatic Resources Management District

Background and Purpose:

Consistent with RCW 86.15.140, the FCZD must adopt an annual budget that includes the County-wide district and the subzones of the District. The attached resolution establishes the overall budget consistent with the appropriation items outlined in the law.



Whatcom County

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

Agenda Bill Master Report

File Number: AB2022-622

File ID:	AB2022-622	Version:	1	Status:	Agenda Ready
File Created:	10/27/2022	Entered by:	MCaldwel@co.whatcom.wa.us		
Department:	Finance Division	File Type:	Resolution (FCZDBS) Requiring a Public Hearing		
Assigned to:	Council	Final Action:			
Agenda Date:	11/09/2022	Enactment #:			

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

TITLE FOR AGENDA ITEM:

Resolution authorizing the levy of taxes for the Whatcom County Flood Control Zone District for 2023

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

In accordance with RCW 86.15.160(3), requests the Board of Supervisors of the Whatcom County Flood Control Zone District to authorize the levy of taxes with the the district for 2023.

HISTORY OF LEGISLATIVE FILE

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

PROPOSED BY: Executive
INTRODUCTION DATE: November 09, 2022

RESOLUTION NO. _____
RESOLUTION AUTHORIZING THE LEVY OF TAXES
FOR THE WHATCOM COUNTY FLOOD CONTROL ZONE DISTRICT FOR 2023

WHEREAS, RCW 86.15.160(3) authorizes the Board of Supervisors of the Whatcom County Flood Control Zone District (WCFCZD) to impose an ad valorem property tax levy of up to fifty cents per thousand dollars of assessed value upon real property within the district; and

WHEREAS, the Board of Supervisors of the WCFCZD has reviewed the proposed annual budget, including all sources of revenues and anticipated expenditures; and,

WHEREAS, the annual budget provides detailed listings of various revenues including property taxes; and,

WHEREAS, the WCFCZD Board of Supervisors has held a public hearing concerning the annual budget, the property tax rates, and revenues included therein.

NOW, THEREFORE, BE IT RESOLVED by the **WCFCZD Board of Supervisors** that the WCFCZD levy for the 2023 tax year shall be increased \$1,200,000, which is a percentage increase of 23.42%, from the previous year. This increase is exclusive of additional revenue resulting from new construction and improvements to property and any increase in the value of state assessed property.

ADOPTED this ____ day of _____, 2022.

ATTEST:

WHATCOM COUNTY FLOOD CONTROL
ZONE DISTRICT BOARD OF SUPERVISORS
WHATCOM COUNTY, WASHINGTON

Dana Brown-Davis, Council Clerk

Todd Donovan, District Chair

APPROVED AS TO FORM:

Approved by email/C Quinn/B Bennett
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: **AB2022-632**

File ID:	AB2022-632	Version:	1	Status:	Agenda Ready
File Created:	10/28/2022	Entered by:	MCaldwel@co.whatcom.wa.us		
Department:	Finance Division	File Type:	Ordinance Requiring a Public Hearing		
Assigned to:	Council			Final Action:	
Agenda Date:	11/09/2022			Enactment #:	

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

TITLE FOR AGENDA ITEM:

Ordinance Authorizing the Levy of Taxes for Countywide Emergency Medical Purposes for 2023

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

The proposed ordinance authorizes the 2023 levy of taxes for Countywide Emergency Medical Purposes.

HISTORY OF LEGISLATIVE FILE

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

PROPOSED BY: Executive
INTRODUCTION DATE: November 09, 2022

ORDINANCE NO. _____
ORDINANCE AUTHORIZING THE LEVY OF TAXES
FOR COUNTYWIDE EMERGENCY MEDICAL PURPOSES FOR 2023

WHEREAS, the 2016 six-year emergency medical levy approved by the Whatcom County electorate expires December 31, 2022, and

WHEREAS, the Whatcom County Council approved Ordinance 2022-055 authorizing a proposition renewing the levy of a regular property tax each year for six years, collection beginning in 2023, at a rate of \$.295 or less per \$1,000 of assessed valuation, to continue to provide emergency medical services, and

WHEREAS, the proposition will be considered by Whatcom County voters on November 8, 2022 and the election results will be certified on November 29, 2022, and

WHEREAS, pursuant to Home Rule Charter Section 6.10 the County Executive is required to submit for Council consideration a budget and proposed tax and revenue ordinances necessary to raise sufficient revenues to balance the budget; and,

WHEREAS, the County Council has approved a budget for the 2023–2024 biennium, including all sources of revenues and anticipated expenditures on November 22, 2022; and,

WHEREAS, the County Council has determined it is necessary to levy 2023 property taxes in the amount of \$13,235,000 to fund the countywide emergency medical services, and,

WHEREAS, the County Council has held public hearings regarding the county 2023-2024 biennial budget which included property tax revenues, and other revenues;

NOW, THEREFORE, BE IT ORDAINED AND ESTABLISHED by the Whatcom County Council that the Countywide Emergency Medical levy is hereby authorized for the 2023 levy in the amount of \$13,235,000.

ADOPTED this ____ day of _____, 2022

ATTEST:

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

Dana Brown-Davis, Council Clerk

Todd Donovan, Council Chair

APPROVED AS TO FORM:

() APPROVED () NOT APPROVED

Approved by email/C Quinn/B Bennett
Civil Deputy Prosecutor

Satpal Singh Sidhu, Executive

Date: _____



Whatcom County

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

Agenda Bill Master Report

File Number: **AB2022-637**

File ID:	AB2022-637	Version:	1	Status:	Agenda Ready
File Created:	11/01/2022	Entered by:	THelms@co.whatcom.wa.us		
Department:	County Executive's Office	File Type:	Ordinance		
Assigned to:	Council	Final Action:			
Agenda Date:	11/09/2022	Enactment #:			

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

TITLE FOR AGENDA ITEM:

Ordinance closing COVID-19 Emergency Response (CARES Act) Fund 134

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

Ordinance closing COVID-10 Emergency Response (CARES Act) Fund 134

HISTORY OF LEGISLATIVE FILE

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

PROPOSED BY: Executive

INTRODUCTION DATE: 11/09/2022

ORDINANCE NO. _____

CLOSING COVID-19 EMERGENCY RESPONSE (CARES ACT) FUND 134

WHEREAS, On April 7, 2020 the County established the COVID-19 Emergency Response Fund to account for the use of restricted revenues expended in response to the COVID-19 outbreak; and

WHEREAS, the COVID Emergency Response Fund has a balance of Approximately \$6.4 million; and

WHEREAS, the COVID Emergency Response Fund balance is the result of reporting eligible General Fund expenditures to fulfil grant requirements; and

WHEREAS, federal assistance from the American Rescue Act is available to fund the COVID-19 response as well as efforts to recover from the impact of COVID 19; and

WHEREAS, the fund balance in the COVID-19 Emergency Response Fund can be repurposed to other pressing needs; and

WHEREAS, the County has established a new Capital Facilities Reserve Fund to accumulate resources to fund needed facilities and facility improvement; and

NOW, THEREFORE, BE IT ORDAINED by the Whatcom County Council that the COVID-19 Emergency Response Fund be dissolved and its remaining cash balance transferred to the new Capital Facilities Reserve Fund.

ADOPTED this ____ day of _____, 2022.

ATTEST:

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

Dana Brown-Davis, Clerk of the Council

Todd Donovan, Council Chair

WHATCOM COUNTY EXECUTIVE
WHATCOM COUNTY, WASHINGTON

APPROVED AS TO FORM:

Christopher Quinn per email 11/01/2022
Civil Deputy Prosecutor

Satpal Sidhu, County Executive

() Approved () Denied

Date Signed: _____



Whatcom County

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

Agenda Bill Master Report

File Number: **AB2022-638**

File ID:	AB2022-638	Version:	1	Status:	Agenda Ready
File Created:	11/01/2022	Entered by:	THelms@co.whatcom.wa.us		
Department:	County Executive's Office	File Type:	Ordinance		
Assigned to:	Council	Final Action:			
Agenda Date:	11/09/2022	Enactment #:			

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

TITLE FOR AGENDA ITEM:

Ordinance establishing a Capital Facilities Reserve Fund

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

Ordinance establishing a Capital Facilities Reserve Fund

HISTORY OF LEGISLATIVE FILE

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

PROPOSED BY: Executive

INTRODUCTION DATE: 11/9/2022

ORDINANCE NO. _____

ESTABLISHING A CAPITAL FACILITIES RESERVE FUND

WHEREAS, Whatcom County has an ongoing need for improvements to existing facilities as well as a need for new facilities.; and

WHEREAS, a fund dedicated to the long-term accumulation of resources for capital facilities needs will assist in meeting these needs; and

WHEREAS, Whatcom County has approximately \$6.4 million remaining in the COVID-19 Emergency Response (CARES ACT) Fund that can be transferred to this new fund for Capital Facilities projects; and

WHEREAS, annual contributions of \$500,000 from the General Fund are budgeted to be transferred to this fund in the 2023 -2024 biennium, and

WHEREAS, the Executive will annually determine a portion of the previous year’s budget lapse to contribute to the Capital Facilities Reserve Fund; and

NOW, THEREFORE, BE IT ORDAINED by the Whatcom County Council that a new fund is hereby established effective January, 2023 titled “Capital Facilities Reserve Fund”.

BE IT FURTHER ORDAINED that the new fund shall be established with a transfer of the balance remaining in the COVID-19 Emergency Response (CARES Act) Fund.

ADOPTED this ____ day of _____, 2022.

ATTEST:	WHATCOM COUNTY COUNCIL WHATCOM COUNTY, WASHINGTON
_____ Dana Brown-Davis, Clerk of the Council	_____ Todd Donovan, Council Chair

APPROVED AS TO FORM:	WHATCOM COUNTY EXECUTIVE WHATCOM COUNTY, WASHINGTON
_____ Christopher Quinn per email 11/01/2022	_____ Satpal Sidhu, County Executive

Civil Deputy Prosecutor	Date Signed: _____
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() Approved () Denied



Whatcom County

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

Agenda Bill Master Report

File Number: **AB2022-571**

File ID:	AB2022-571	Version:	1	Status:	Introduced for Public Hearing
File Created:	10/11/2022	Entered by:	maamot@co.whatcom.wa.us		
Department:	Planning and Development Services Department	File Type:	Ordinance Requiring a Public Hearing		
Assigned to:	Council	Final Action:			
Agenda Date:	11/09/2022	Enactment #:			

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

TITLE FOR AGENDA ITEM:

Ordinance amending the Whatcom County Code relating to Personal Wireless Service Facilities

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

Ordinance amending Whatcom County Code (WCC) 20.13, WCC 20.82, WCC 20.83, WCC 20.97, and WCC 22.05 relating to personal wireless service facilities. The primary purpose of the amendments is to bring consistency between the Whatcom County Code and federal laws and regulations. The proposal addresses eligible facilities requests, small wireless facilities, macro wireless facilities, definitions, exemptions, permitted uses, administrative approval uses, conditional uses, nonconforming uses and structures, concealment elements, standards, noise, conditions associated with siting approval, and project permit procedures (including variances, application requirements, permit review time frames, and appeals).

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
10/25/2022	Council	INTRODUCED FOR PUBLIC HEARING	Council

Attachments: Staff Memo, Draft Ordinance, Planning Commission Findings, Public Comments



Memorandum

October 12, 2022

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

From: Matt Aamot, Senior Planner

Through: Steve Roberge, Assistant Director

RE: Personal Wireless Service Facility Code Amendments (PLN2021-00005)

The U.S. Congress passed the [Telecommunications Act of 1996](#) to “To promote competition and reduce regulation in order to secure lower prices and higher quality services for American telecommunications consumers and encourage the rapid deployment of new telecommunications technologies.” A provision of this law, now codified in [Title 47](#) of the U.S. Code (entitled Telecommunications), indicates that “No State or local statute or regulation, or other State or local legal requirement, may prohibit or have the effect of prohibiting the ability of any entity to provide any interstate or intrastate telecommunications service” (47 U.S. Code [253\(a\)](#)). Additionally, 47 U.S. Code [332\(c\)\(7\)\(B\)\(i\)](#) states that such local regulation “. . . shall not prohibit or have the effect of prohibiting the provision of personal wireless services. . .” Except as otherwise preempted by federal rules, 47 U.S. Code [332\(c\)\(7\)\(A\)](#) generally preserves local government authority over placement, construction, and modification of personal wireless service facilities.

Congress and the Federal Communications Commission (FCC) have adopted additional rules over the years to address deployment of telecommunication facilities. However, not all of these rules have been incorporated into County Code. Therefore, the Whatcom County Council docketed a project to “Review and update the Zoning Code provisions relating to Wireless Communication Facilities (WCC 20.13) to ensure consistency with Federal rules” (Resolution 2021-007).

The subject proposal substantially modifies the existing County wireless facility regulations. The proposed revisions address three main types of wireless facilities:

- Eligible Facilities Requests;
- Small Wireless Facilities; and
- Macro Wireless Facilities.

Eligible Facilities Requests

The term "eligible facilities request" comes from federal law. Specifically, the U.S. Congress approved the Middle Class Tax Relief and Job Creation Act of 2012 addressing these facilities. Section 6409(a)(1) of this Act, now codified as 47 U.S. Code [1455](#)(a)(1), indicates:

. . . a State or local government may not deny, and shall approve, any eligible facilities request for a modification of an existing wireless tower or base station that does not *substantially change the physical dimensions* of such tower or base station (italics added).

The following definition is included in 47 U.S. Code 1455(a)(2):

. . . "eligible facilities request" means any request for modification of an existing wireless tower or base station that involves-

- (A) collocation of new transmission equipment;
- (B) removal of transmission equipment; or
- (C) replacement of transmission equipment.

The Code of Federal Regulations (CFR), adopted by the FCC, further clarifies what constitutes an eligible facility request by defining "substantial change," in part, as:

. . . A modification substantially changes the physical dimensions of an eligible support structure if it meets any of the following criteria:

(i) For towers other than towers in the public rights-of-way, it increases the height of the tower by more than 10% or by the height of one additional antenna array with separation from the nearest existing antenna not to exceed twenty feet, whichever is greater; for other eligible support structures, it increases the height of the structure by more than 10% or more than ten feet, whichever is greater . . .

(ii) For towers other than towers in the public rights-of-way, it involves adding an appurtenance to the body of the tower that would protrude from the edge of the tower more than twenty feet, or more than the width of the tower structure at the level of the appurtenance, whichever is greater; for other eligible support structures, it involves adding an appurtenance to the body of the structure that would protrude from the edge of the structure by more than six feet;

(iii) For any eligible support structure, it involves installation of more than the standard number of new equipment cabinets for the technology involved, but not to exceed four cabinets . . . (47 CFR [1.6100](#)(b)(7)).

The above cited U.S. Code, along with the FCC's implementing regulations, preempts certain local governmental authority by requiring local governments to approve eligible facilities requests (wireless projects that do not create major changes to the built environment). The proposed County Code amendments provide definitions, regulations, and permitting timelines that are consistent with the federal rules.

Small Wireless Facilities

The term “small wireless facilities” comes from the Code of Federal Regulations, adopted by the FCC. These federal regulations define small wireless facilities, in part, as follows:

- (1) The facilities—
 - (i) Are mounted on structures 50 feet or less in height including their antennas . . . ; or
 - (ii) Are mounted on structures no more than 10 percent taller than other adjacent structures; or
 - (iii) Do not extend existing structures on which they are located to a height of more than 50 feet or by more than 10 percent, whichever is greater;
- (2) Each antenna associated with the deployment, excluding associated antenna equipment . . . is no more than three cubic feet in volume;
- (3) All other wireless equipment associated with the structure, including the wireless equipment associated with the antenna and any pre-existing associated equipment on the structure, is no more than 28 cubic feet in volume . . . (47 CFR [1.6002\(l\)](#)).

The proposed County Code amendments provide definitions, regulations, and permitting timelines that are consistent with the federal rules. At the same time, the proposal retains/modifies certain zoning rules that are within the County’s authority, such as siting priorities and design standards.

Macro Wireless Facilities

The term “macro wireless facilities” in the proposed County Code amendments basically includes anything that does not qualify as an eligible facilities request or small wireless facility. A FCC Report and Order in the matter of *Acceleration of Broadband Deployment by Improving Wireless Facilities Siting Policies* (adopted October 17, 2014) states:

. . . We use the term “macrocell” to refer to a high-powered deployment, typically installed relatively high on a tower, to provide signal coverage to a large geographic area . . . Because small cells are smaller and less visible than macrocells, providers can more easily deploy them with stealth measures such as concealment enclosures that blend with the structures on which they are installed . . . (pp. 12 and 16).

Additionally, in distinguishing between macro facilities and small wireless facilities, a FCC Declaratory Ruling and Third Report and Order in the matter of *Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Investment* (adopted September 26, 2018) indicates:

. . . Over the last few years, providers have been increasingly looking to densify their networks with new small cell deployments that have antennas often no larger than a small backpack. From a regulatory perspective, these raise different issues than the construction of large, 200-foot towers that marked the 3G and 4G deployments of the past. . . While the existing wireless infrastructure in the U.S. was erected primarily using macro cells with relatively large antennas and towers, wireless networks increasingly have required the deployment of small cell systems to support increased usage and capacity. We expect this trend to increase with next generation networks, as demand continues to grow, and providers deploy 5G service across the nation. . . (pp. 2 and 9).

The proposed County Code amendments provide definitions, regulations, and permitting timelines that are consistent with the federal rules. At the same time, the proposal retains/modifies certain zoning rules that are within the County’s authority, such as siting priorities and design standards.

“Shot Clock” Rules

Federal law requires local governments to process wireless facility permit applications in a timely manner. Specifically, 47 U.S. Code [332\(c\)\(7\)\(B\)\(ii\)](#) indicates:

A State or local government or instrumentality thereof shall act on any request for authorization to place, construct, or modify personal wireless service facilities within a reasonable period of time after the request is duly filed with such government or instrumentality, taking into account the nature and scope of such request.

The Code of Federal Regulations (47 CFR), adopted by the FCC, implements this law by providing the following timeframes for issuing local government permits for wireless facilities (“shot clock” rules). These timelines, along with the proposed County Code permitting requirements, are shown in the table below.

Type	Time for issuing permit	47 CFR Section	County Code Proposal
Eligible Facilities Requests	60 Days	1.6100(c)(2)	Permitted use (building permit only)
Small Wireless Facilities on an existing structure	60 Days	1.6003(c)(1)(i)	Permitted use (building permit only)
Small Wireless Facilities on a new structure	90 Days	1.6003(c)(1)(iii)	Administrative approval use permit + building permit
Macro Wireless Facilities on an existing structure	90 Days	1.6003(c)(1)(ii)	Administrative approval use permit + building permit
Macro Wireless Facilities on a new structure	150 Days	1.6003(c)(1)(iv)	Conditional use permit + building permit

These timelines are integrated into the proposed amendments, as they are all different than the standard 120 day timeframe the County has to process permits under existing WCC 22.05.130(1).

It should be noted that the State Legislature amended the State Environmental Policy Act (SEPA) in 2013 to modify the exemptions for certain wireless facilities ([RCW 43.21C.0384](#)). The State Department of Ecology subsequently amended the “categorical exemptions” in the SEPA Rules to include these wireless facilities ([WAC 197-11-800\(25\)](#)). Exempt activities are not required to submit a SEPA checklist. This rule helps local governments to comply with the shorter permit processing timelines set forth in federal rules.

Planning Commission Recommendations

The Planning Commission made the following changes to the Planning and Development Services (PDS) Department’s proposal:

- **WCC 20.13.010 Purpose** – The Planning Commission recommended adding the following text to the Personal Wireless Service Facilities purpose statement in the County Zoning Code: “. . . Whatcom County recognizes its requirement to provide for communication services and a commitment to the health of its citizens. . . .” (Exhibit A, p. 2).

County PDS Response: No objections.

County Council Planning & Development (P&D) Committee – Did not change the above text on October 11, 2022.

- **WCC 22.05.020 Project permit processing table** – The Planning Commission recommended that “Type 1” applications for Permitted Personal Wireless Service Facilities require notice of application pursuant to WCC 22.05.070. Type I wireless facilities would require a building permit (but not an administrative approval or conditional use permit).

County PDS Response: The Department has significant concerns relating to this proposed amendment. Type I applications include permitted uses. The County Zoning Code defines “Permitted use” as:

. . . a principal use of a site allowed as a matter of right in conformance to applicable zoning, building and health codes, and not subject to special review or conditions under this ordinance beyond those specifically set forth in zoning district regulations (WCC 20.97.300).

Type I permitted uses contrast with Type II applications (e.g. administrative use permits) and Type III applications (e.g. conditional use permits) where the decision-maker exercises some degree of judgement or discretion in determining whether the approval criteria are met and can condition the permit to address public comments.

No other Type I applications require public notice. In fact, by definition, a Type I application is an “Administrative Decision with No Public Notice or Hearing” (WCC 22.05.020(1)). Requiring notice for these permits would not

be consistent with the definition of Type I applications. It would also divert staff time and resources away from other tasks. Notice would have to be mailed to surrounding property owners and published in the newspaper. PDS would likely get phone calls expressing concerns that PDS cannot address for an outright permitted use. The County would be asking for written comments that it couldn't do anything with (since Type I permits are not discretionary permits and are not conditioned to address public comment). It would give the appearance, and set a false expectation, that PDS is seeking comment and would consider those comments in the decision making process when PDS cannot do so. In reality, public comments have no effect on a Type I permitting process, which is why comments are not sought for Type I permits.

County Council Planning & Development Committee – Voted 3-0 on October 11, 2022 to modify the Planning Commission version so that “Type 1” applications for Permitted Personal Wireless Service Facilities do not require notice of application pursuant to WCC 22.05.070.

- **WCC 22.05.070 Notice of Application** – The Planning Commission recommended adding language that “Notices relating to personal wireless service facilities shall state the federal preemption of local regulation of radio frequency emissions.”

County PDS Response: The proposed language is essentially a disclaimer indicating that the County cannot regulate radio frequency emissions. This would create a different legal notice requirement for wireless facilities than for other land use applications. It creates additional notice requirements for wireless applications and the potential to miss this self-imposed requirement, resulting in a defective notice. If there is a notice failure, the process of providing proper notice would start all over again. This presents a greater concern for wireless facility applications because of the federal timelines for the local government permitting process. Additionally, providing this information is not legally required. It would simply be a self-imposed notice relating to the lack of County authority to regulate radio frequency emissions from a proposed wireless facility. Therefore, PDS has concerns about the proposed notice requirement.

County Council Planning & Development Committee – Voted 3-0 on October 11, 2022 to modify the Planning Commission language as follows: “Notices relating to personal wireless service facilities ~~may~~ state the federal preemption of local regulation of radio frequency emissions.”

- **WCC 22.05.070 Notice of Application** – The Planning Commission recommended amending notice requirements as follows:

For sites within urban growth areas: Application notice shall be sent to all property owners within 300 feet of the external boundaries of the subject property as shown by the records of the county assessor, except that for personal wireless service facilities, notice shall be sent to all property owners within 1,000' of the external boundaries of the subject property as shown by the records of the county assessor;

County PDS Response: The existing County Code requires notice to property owners within 300' for land use applications, such as administrative approval use or conditional use permits, in UGAs. Notice is required to property owners within 1,000' of the site in areas outside of UGAs. The Planning Commission's rationale for this change is that "Impacts from personal wireless service facilities are similar regardless of whether the facility is in an urban growth area or not." However, this could be said of many land use applications. Additionally, local government does not have regulatory jurisdiction over radio frequency emissions, which is preempted by federal government rules. A 300' notice has been deemed adequate for other land use applications in UGAs. PDS thinks this uniform notice requirement should be maintained in the present case.

County Council Planning & Development Committee – Voted 3-0 on October 11, 2022 to accept the Planning Commission recommendation.

Summary

In summary, federal law imposes several requirements on local permitting of wireless facilities. U.S. Code Title 47 has three sections that specifically have a bearing on this proposal, which are briefly summarized below:

- Section 253 – No local regulation may prohibit or have the effect of prohibiting the ability of any entity to provide telecommunications service.
- Section 332 – Local regulation shall not prohibit or have the effect of prohibiting the provision of personal wireless services. Additionally, a local government must act on a permit application for personal wireless service facilities within a reasonable period of time.
- Section 1455 - Local government may not deny, and shall approve, any eligible facilities request for a modification of an existing wireless tower or base station that does not substantially change the physical dimensions of such tower or base station.

As mentioned earlier in this memo, the FCC has promulgated more specific rules to implement these federal laws.

The proposed amendments are intended to incorporate these federal requirements into the County Code.

Thank you for your review and consideration of this matter.

PROPOSED BY: Planning & Development Services
INTRODUCTION DATE: _____

ORDINANCE NO. _____

**AMENDING THE
WHATCOM COUNTY CODE
RELATING TO PERSONAL WIRELESS SERVICE FACILITIES**

WHEREAS, The Whatcom County Planning Commission held a public hearing and issued recommendations on the proposed amendments; and

WHEREAS, The County Council considered Planning Commission recommendations;

WHEREAS, The County Council held a public hearing; and

WHEREAS, The County Council hereby adopts the following findings of fact:

FINDINGS OF FACT

1. The subject proposal consists of amendments to the following Whatcom County Code chapters:
 - a. Wireless Communication Facilities (WCC 20.13);
 - b. Public Utilities (WCC 20.82);
 - c. Nonconforming Uses and Parcels (WCC 20.83);
 - d. Definitions (WCC 20.97); and
 - e. Project Permit Procedures (WCC 22.05).
2. A Determination of Non-Significance was issued by the SEPA Responsible Official on April 6, 2022.
3. Notice of the Planning Commission hearing for the subject amendments was published in the Bellingham Herald on June 13, 2022.
4. Notice of the Planning Commission hearing for the subject amendments was posted on the County website on June 10, 2022.
5. Notice of the Planning Commission hearing was sent to the County's e-mail list on June 13, 2022.
6. The Planning Commission held a public hearing on the subject amendments on June 23, 2022. The Planning Commission held work sessions on the subject amendments on July 28 and September 8, 2022.

7. In order to approve development regulation amendments, the County must find that the amendments are consistent with the comprehensive plan (WCC 22.10.060(2)).
8. Federal laws and regulations partially preempt local government authority over personal wireless service facilities, such as cell phone facilities.
9. Federal law passed by the U.S. Congress indicates that "No State or local statute or regulation, or other State or local legal requirement, may prohibit or have the effect of prohibiting the ability of any entity to provide any interstate or intrastate telecommunications service" (47 U.S. Code 253(a)).
10. Federal law passed by the U.S. Congress (47 U.S. Code 332(c)(7)(B)) states that:
 - (i) The regulation of the placement, construction, and modification of personal wireless service facilities by any State or local government or instrumentality thereof—
 - (I) shall not unreasonably discriminate among providers of functionally equivalent services; and
 - (II) shall not prohibit or have the effect of prohibiting the provision of personal wireless services.
 - (ii) A State or local government or instrumentality thereof shall act on any request for authorization to place, construct, or modify personal wireless service facilities within a reasonable period of time after the request is duly filed with such government or instrumentality, taking into account the nature and scope of such request.
 - (iii) Any decision by a State or local government or instrumentality thereof to deny a request to place, construct, or modify personal wireless service facilities shall be in writing and supported by substantial evidence contained in a written record.
 - (iv) No State or local government or instrumentality thereof may regulate the placement, construction, and modification of personal wireless service facilities on the basis of the environmental effects of radio frequency emissions to the extent that such facilities comply with the Commission's regulations concerning such emissions.
 - (v) Any person adversely affected by any final action or failure to act by a State or local government or any instrumentality thereof that is inconsistent with this subparagraph may, within 30 days after such action or failure to act, commence an action in any court of competent jurisdiction. The court shall hear and decide such action on an expedited

basis. Any person adversely affected by an act or failure to act by a State or local government or any instrumentality thereof that is inconsistent with clause (iv) may petition the Commission for relief.

11. However, Federal law (47 U.S. Code 332(c)(7)(A)) also states:

Except as provided in this paragraph, nothing in this chapter shall limit or affect the authority of a State or local government or instrumentality thereof over decisions regarding the placement, construction, and modification of personal wireless service facilities.

12. Federal law passed by the U.S. Congress (47 U.S. Code 1455 (a)(1)) states that:

. . . local government may not deny, and shall approve, any eligible facilities request for a modification of an existing wireless tower or base station that does not substantially change the physical dimensions of such tower or base station.

13. Federal law (U.S. Code 1455(a)(2)) defines "eligible facilities request" as:

. . . any request for modification of an existing wireless tower or base station that involves—
(A) collocation of new transmission equipment;
(B) removal of transmission equipment; or
(C) replacement of transmission equipment.

14. The Code of Federal Regulations (CFR) Title 47, Chapter 1, Subchapter A, Part 1, Subpart U titled "State and Local Government Regulation of the Placement, Construction, and Modification of Personal Wireless Facilities" (Rules adopted by FCC) addresses "eligible facilities requests" in Section 1.6100. This section provides definitions and rules for review of applications. CFR 1.6100(c)(2) states that "Within 60 days of the date on which an applicant submits a request seeking approval under this section, the State or local government shall approve the application. . ." for an eligible facilities request.

15. Federal law preempts certain County regulatory authority over wireless eligible facilities requests. The County Code currently does not reflect requirements of federal law. Therefore, County Code is being updated to incorporate the provisions of federal law.

16. The Code of Federal Regulations (CFR) Title 47, Chapter 1, Subchapter A, Part 1, Subpart U titled "State and Local Government Regulation of the Placement, Construction, and Modification of Personal Wireless Facilities" addresses small wireless facilities in Sections 1.6002 and 1.6003. Definitions are set forth in 47 CFR 1.6002. "Presumptively reasonable periods of time" for local government action on applications are contained in 47 CFR 1.6003(c)(1), as follows:
 - . . . Review of an application to collocate a Small Wireless Facility using an existing structure: 60 days.
 - . . . Review of an application to deploy a Small Wireless Facility using a new structure: 90 days. . .
17. Federal law preempts certain County regulatory authority over small wireless facilities. The County Code currently does not reflect requirements of federal law. Therefore, County Code is being updated to incorporate the provisions of federal law.
18. The Code of Federal Regulations Title 47, Chapter 1, Subchapter A, Part 1, Subpart U titled "State and Local Government Regulation of the Placement, Construction, and Modification of Personal Wireless Facilities" addresses facilities that do not qualify as eligible facilities requests or small wireless facilities (that the County is calling "macro wireless facilities") in sections 1.6002 and 1.6003. Definitions are set forth in 47 CFR 1.6002. "Presumptively reasonable periods of time" for local government action on applications are contained in 47 CFR 1.6003(c)(1), as follows:
 - . . . Review of an application to collocate a facility other than a Small Wireless Facility using an existing structure: 90 days. . .
 - Review of an application to deploy a facility other than a Small Wireless Facility using a new structure: 150 days. . .
19. Federal law preempts certain County regulatory authority over macro wireless facilities. The County Code currently does not reflect requirements of federal law. Therefore, County Code is being updated to incorporate the provisions of federal law.
20. Whatcom County Comprehensive Plan Chapter 2 - Land Use states that the County has designated telecommunication towers as essential public facilities (p. 2-95).

21. Whatcom County Comprehensive Plan Land Use Policy 2WW-9 states:
- . . . Personal wireless communication facilities, such as cell phone towers, shall be sited in accordance with Whatcom County Code 20.13 . . . Proximity to airports and potential hazards to aviation will be considered when siting new towers or increasing height of existing towers.
22. The Whatcom County Comprehensive Plan Chapter 5 - Utilities states:
- Utilities, as defined herein and for purposes of the plan, include all lines and facilities used to distribute, collect, transmit, or control electric power, natural gas, petroleum products, information (telecommunications), water, and sewage. . . It is the intent of this plan to support providers of electricity, natural gas, petroleum, telecommunications, and other utilities in fulfilling their public service obligations required by state law to provide service on demand to existing and future customers. It is also the intent of this plan to minimize any negative effects resulting from the provision of that service on the residents, infrastructure, and the environment of the county. . . (p. 5-1).
23. The Whatcom County Comprehensive Plan Utility Chapter states "Telecommunications are provided by multiple telephone, cable television, internet, and wireless communication companies. . ." (p. 5-3).
24. Whatcom County Comprehensive Plan policies relating to utilities include:
- Policy 5B-3: Recognize the economic opportunities and benefits communication services access provides to the community.
- Policy 5B-4: Support development regulations that are flexible and receptive to innovations and advances in communication technologies and that recognize the positive impact of moving information rather than people.
- Policy 5C-1: Support user access to natural gas, electric, and communications utilities.
- Goal 5D: Minimize the time required for processing utilities permits.
25. Whatcom County Comprehensive Plan Chapter 7 - Economics states:
- Along with planning for future water and other infrastructure for economic development, electric energy supply and telecommunications are also important for future economic growth within the county (p. 7-11).
26. The Federal Communication Commission's (FCC) *Declaratory Ruling* (November 18, 2009) states ". . . Wireless services are central to the economic, civic, and social lives of over 270 million Americans . . ." (p. 2).

27. The FCC's *Declaratory Ruling and Third Report and Order* (September 26, 2018) states:

. . . America is in the midst of a transition to the next generation of wireless services, known as 5G. These new services can unleash a new wave of entrepreneurship, innovation, and economic opportunity for communities across the country. . . (p. 2).

28. The FCC's *Declaratory Ruling and Notice of Proposed Rulemaking* (June 9, 2020) states:

. . . We are committed to working with State and local governments to facilitate the deployment of advanced wireless networks in all communities consistent with the decisions already made by Congress, which we expect will usher in a new era of American entrepreneurship, productivity, economic opportunity, and innovation for years to come . . . (p. 3).

29. The subject amendments are primarily intended to bring consistency between federal laws adopted by the U.S. Congress & implementing regulations adopted by the FCC and County codes relating to personal wireless service facilities.

30. The federal laws and regulations are intended, among other things, to facilitate user access and economic opportunities. By virtue of being consistent with federal rules, the County Code amendments should also support user access and facilitate economic opportunities and benefits.

31. Federal regulations set "presumptively reasonable periods of time" for local government permitting of various types of wireless facilities. These federal timelines range from 60 days to 150 days depending on the type and size of wireless facility. The subject County Code amendments are consistent with these federal timelines thereby minimizing the required time for processing permits.

CONCLUSION

The subject Whatcom County Code amendments are consistent with the Whatcom County Comprehensive Plan.

NOW, THEREFORE, BE IT ORDAINED by the Whatcom County Council that:

Section 1. Amendments to WCC 20.13 are hereby adopted as shown on Exhibit A.

Section 2. Amendments to WCC 20.82 are hereby adopted as shown on Exhibit B.

Section 3. Amendments to WCC 20.83 are hereby adopted as shown on Exhibit C.

Section 4. Amendments to WCC 20.97 are hereby adopted as shown on Exhibit D.

Section 5. Amendments to WCC 22.05 are hereby adopted as shown on Exhibit E.

Section 6. Adjudication of invalidity of any of the sections, clauses, or provisions of this ordinance shall not affect or impair the validity of the ordinance as a whole or any part thereof other than the part so declared to be invalid.

ADOPTED this _____ day of _____, 2022.

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

ATTEST:

Dana Brown-Davis, Council Clerk

Todd Donovan, Chairperson

APPROVED as to form:

() Approved () Denied

/s/ Royce Buckingham

Civil Deputy Prosecutor

Satpal Sidhu, Executive

Date: _____

EXHIBIT A

Amend WCC 20.13, Wireless Communication Facilities, as shown below.

Chapter 20.13

PERSONAL WIRELESS SERVICE COMMUNICATION FACILITIES

Sections:

Rationale: Modify the chapter title for consistency with the terminology used in 47 US Code 332(c)(7) and the Code of Federal Regulations (47 CFR 1.6002(i)).

20.13.010 Purpose.

20.13.020 Definitions - General.

20.13.025 Definitions - Eligible facilities requests.

20.13.030 Applicability – Exemptions.

20.13.040 Permitted uses.

20.13.050 Administrative approval uses.

20.13.060 Conditional uses.

20.13.070 Nonconforming uses and structures.

20.13.080 Prohibited locations for small and macro wireless facilities.

20.13.085 Siting priorities for small and macro wireless facilities.

20.13.090 Design and development standards for small and macro wireless facilities.

~~20.13.092 General design standards.~~

20.13.095 Concealment Elements for small and macro wireless facilities.

20.13.100 Temporary uses.

20.13.105 Noise requirements.

20.13.110 Special exceptions for small and macro wireless facilities.

20.13.120 Conditions associated with siting approval. ~~Application requirements and conditions of issuance.~~

20.13.130 General criteria for issuance of permits for small and macro wireless facilities.

20.13.140 Federal requirements.

20.13.150 Removal of antennas and support structures.

20.13.160 Third party review.

20.13.170 Project permit procedures. ~~Appeals.~~

20.13.010 Purpose.

The purpose of this chapter is to establish regulations for the placement, development, permitting, and removal of personal wireless ~~service communication~~ facilities including support structures and antennas. These standards were developed to comply with the federal laws and regulations relating to personal wireless service facilities (47 US Code Sections 253, 332, and 1455 and 47 CFR Sections 1.6001 through 1.6100)Federal Telecommunications Act of 1996. They are intended to protect property values and minimize visual impact while furthering the development of enhanced telecommunication services in the county.

Rationale: The above amendments provide specific references to the applicable federal laws (US Code) and Code of Federal Regulations (CFR), rather than a reference to a single federal law adopted in 1996.

The term “personal wireless communication facilities” has been changed to “personal wireless service facilities” to match the term defined by the FCC in 47 CFR 1.6002(i).

The provisions of this chapter are not intended to and shall not be interpreted to prohibit or to have the effect of prohibiting personal wireless services. This chapter shall not be applied in such a manner as to discriminate between providers of functionally equivalent personal wireless services.

Whatcom County recognizes its requirement to provide for communication services and a commitment to the health of its citizens.

Rationale: Planning Commission – Recognizes both federal rules relating to wireless, including rules that currently preempt local government regulation of radio frequency emissions, and health concerns expressed by citizens of the County relating to such emissions.

~~In reviewing an application to provide personal wireless service or to install personal wireless service facilities, the county shall act within a reasonable period of time, taking into account the nature and scope of the application and the required notice and necessary review process. Any decision to deny an application shall be in writing, supported by substantial evidence contained in a written record.~~ (Ord. 2014-042 § 1 (Att. A), 2014; Ord. 2000-006 § 1, 2000).

Rationale: Permit review time frames for wireless communication facilities are proposed in WCC 22.05.130. The language relating to denials has been moved to proposed WCC 20.13.170.

20.13.020 Definitions - General.

As used in this chapter, the following terms shall have the following meanings. Additional definitions that only apply to eligible facilities requests are set forth in WCC 20.13.025. Other words and terms shall have meanings assigned to them by ~~Chapter WCC 20.97-WCC~~ or, if not defined in this chapter or ~~Chapter WCC 20.97-WCC~~, the meaning customarily assigned to them.

(1) “Administrator” means the director of planning and development services or his designee.

(2) “Amateur radio” or “ham radio” means radio facilities operated for noncommercial purposes by individuals licensed by the FCC with an interest in construction and operation of radio equipment, usually as a hobby or vocation.

(3) “Ancillary equipment facility ~~(AEF)~~” means ancillary equipment and/or an unstaffed structure used to contain ancillary equipment for a personal wireless service facility ~~WCF~~. Such structures include cabinets, shelters, remodeled structures, pedestals and other similar structures. Ancillary equipment ~~may include~~ means equipment necessary for the functioning of personal wireless service facilities, which may include but is not limited to air conditioners and backup power supplies (including emergency generators).

(4) “Antenna” means an apparatus designed for the purpose of emitting radiofrequency radiation, to be operated or operating from a fixed location pursuant to Federal Communication Commission (FCC) authorization, for the provision of personal wireless service and any commingled information services. means any pole, panel, reflection disc, or similar device used for the transmission or reception of radio frequency signals, including but not limited to directional antennas, omni-directional antennas, and parabolic antennas.

Rationale: The definition of “antenna” has been modified for consistency with 47 CFR 1.6002(b).

(5) “Antenna array” means any system of poles, panels, rods, reflecting discs or similar devices used for the transmission or reception of radio frequency signals. An antenna array can be made up of one or more antennas including but not limited to the following:

(a) Directional antenna (also known as a panel antenna) which transmits signals in a directional pattern of less than 360 degrees.

(b) Omni-directional antenna (also known as a whip antenna) which transmits signals in a 360-degree pattern.

(c) Parabolic antenna (also known as a dish antenna) which is a bowl-shaped device that receives and transmits signals in a specific directional pattern (e.g., point-to-point).

(6) “Antenna equipment” means equipment, switches, wiring, cabling, power sources, shelters or cabinets associated with an antenna, located at the same fixed location as the antenna, and, when collocated on a structure, is mounted or installed at the same time as such antenna.

Rationale: The definition of “antenna equipment” has been inserted for consistency with 47 CFR 1.6002(c).

(7) “Antenna facility” means an antenna and associated antenna equipment.

Rationale: The definition of “antenna facility” has been inserted for consistency with 47 CFR 1.6002(d).

~~(86)~~ “Attached wireless communication support structure” is a support structure not specifically designed and constructed to support an antenna array. Such structures may include but are not limited to buildings or structures, utility poles, signs, and water towers, together with any accompanying pole or device (attachment device) which attaches the antenna array to the existing building or structure.

~~(97)~~ “Attached wireless communication facility” is a personal wireless ~~service~~communication facility that utilizes an attached wireless communication support structure ~~as defined in subsection (6) of this section~~. It means the site, the leased area, attached wireless communication support structures, antennas, antenna array(s), ~~accessory-ancillary~~ equipment ~~facilities~~structures, and appurtenances used to transmit, receive, distribute, provide or offer personal wireless communication, together with any accompanying pole or device (attachment device) which attaches the antenna array to the existing building or structure, transmission cables, and an ancillary equipment facility which may be located either inside or outside of the attachment structure.

~~(108)~~ “Citizens band radio” means two-way radio facilities operated for short-range personal and business communications, without necessity of a federal license, ~~pursuant to 47 Congressional Federal Register Part 95~~.

~~(9)~~ “Clustering” means the placement of more than one wireless communication support structure on a single site either by one provider or by several different providers.

Rationale: The term “clustering” is not used in the proposed amendments to WCC 20.13.

(11) “Collocation” means:

(a) Mounting or installing an antenna facility on a pre-existing structure; and/or

(b) Modifying a structure for the purpose of mounting or installing an antenna facility on that structure.

The definition of “collocation” in WCC 20.13.025 applies to eligible facilities requests.

~~(10) “Collocate” means the installation of wireless services equipment on a freestanding or attached wireless communication facility that may be shared by one or more wireless service providers to transmit and/or receive radio frequency signals for communication purposes. For the purposes of this chapter, the terms “collocate”, “collocation” or “co-locate” may be used interchangeably to describe action taken by a principal facility owner, an authorized agent, or a valid lessee to add wireless services equipment to an existing facility. Note: The spelling of these terms may vary based on local vernacular used by wireless service industry professionals, and in accordance with state and federal law.~~

Rationale: The definition of “collocation” has been modified for consistency with 47 CFR 1.6002(g).

(12) “Deployment” means placement, construction, or modification of a personal wireless service facility.

Rationale: The definition of “deployment” has been inserted for consistency with 47 CFR 1.6002(h).

~~(1311)~~ “Direct-to-home satellite service” means the distribution or broadcasting of programming or services by satellite directly to the subscriber’s premises without use of ground receiving or distribution equipment, except at the subscriber’s premises or in the uplink process to the satellite.

~~(1412)~~ “FAA” means the Federal Aviation Administration.

~~(1513)~~ “FCC” means the Federal Communications Commission.

~~(1614)~~ “Freestanding wireless communication facilities” means the site, the lease area, freestanding wireless communication support tower(s), antennas, antenna array(s), ~~accessory-ancillary~~ equipment ~~facilities~~~~structures~~, and appurtenances used to transmit, receive, distribute, provide or offer personal wireless ~~communication~~ services. Freestanding wireless communication facilities include but are not limited to antennas, poles, towers, cables, wires, conduits, ducts, pedestals, vaults, buildings, and electronic switching equipment.

~~(1715)~~ “Freestanding wireless communication support structure” is a freestanding structure, designed and constructed to specifically support an antenna array, and may include but is not limited to any of the structures listed below:

(a) “Lattice tower” means a wireless communication support structure which consists of a network of vertical and horizontal supports and crossed metal braces, forming a tower which is usually triangular or square in cross-section.

(b) “Monopole tower” means a wireless communication support structure consisting of a single pole to support antennas and connecting appurtenances.

(c) “Guyed tower” means any variety of wireless communication support structures using wire guys connecting above grade portions of a communication support structure diagonally with the ground or the structure on which the tower is placed. The purpose of the wire guys is to provide support for wireless communication towers, antennas, and connecting appurtenances.

(18) “Macro wireless facilities” means any personal wireless service facilities that:

(a) Do not qualify as an exemption pursuant to WCC 20.13.030;

(b) Are not eligible facilities requests;

(c) Are not permitted replacement of components; and

(d) Are not small wireless facilities.

Rationale: The subject amendments relate to wireless eligible facilities requests, small wireless facilities, and macro wireless facilities. Eligible facilities requests and small wireless facilities are classifications of wireless facilities that are set apart in the Code of Federal Regulations from other (larger) wireless facilities. The FCC Declaratory Ruling and Third Report and Order in the matter of *Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Investment* (adopted September 26, 2018) indicates “. . . While the existing wireless infrastructure in the U.S. was erected primarily using macro cells with relatively large antennas and towers, wireless networks increasingly have required the deployment of small cell systems to support increased usage and capacity. . .” (page 9). The proposal adopts the “macro” facility language to signify larger wireless installations.

(19) “Personal wireless service facility” means an antenna facility or a structure that is used for the provision of personal wireless service, whether such service is provided on a stand-alone basis or commingled with other wireless communications services. Personal wireless service facilities include, but are not limited to, antennas, poles, towers, cables, wires, conduits, ducts, pedestals, vaults, buildings, and electronic and switching equipment. ~~(16) “Personal wireless communication services” means wireless communication services.~~

Rationale: The first sentence is the definition of “personal wireless service facility” from 47 CFR 1.6002(i). The second sentence is elaboration from the definition of “wireless communication facilities” below, which is proposed to be deleted.

~~(2017)~~ “Satellite earth station” means the facilities used for reception and processing of programming services from a satellite prior to transfer to terrestrial distribution systems or for processing of programming and services from a terrestrial source before transmission via satellite.

~~(2118)~~ Site. For the purpose of this chapter, “sSite” means a leased area which may contain a base station, building(s) or structure in compliance with provisions of Whatcom County subdivision regulations, site easement area or lot of record upon which a wireless communications facility is or will be located. The definition of “site” in WCC 20.13.025 applies to eligible facilities requests.

(22) “Small wireless facilities” are facilities that meet each of the following conditions:

(a) The facilities—

(i) Are mounted on structures 50 feet or less in height including their antennas as defined in 47 CFR 1.1320(d); or

(ii) Are mounted on structures no more than 10 percent taller than other adjacent structures; or

(iii) Do not extend existing structures on which they are located to a height of more than 50 feet or by more than 10 percent, whichever is greater;

(b) Each antenna associated with the deployment, excluding associated antenna equipment (as defined in the definition of antenna in 47 CFR 1.1320(d)), is no more than three cubic feet in volume;

(c) All other wireless equipment associated with the structure, including the wireless equipment associated with the antenna and any pre-existing associated equipment on the structure, is no more than 28 cubic feet in volume;

(d) The facilities do not require antenna structure registration under 47 CFR part 17 (Construction, Marking, and Lighting of Antenna Structures);

(e) The facilities are not located on Tribal lands, as defined under 36 CFR 800.16(x); and

(f) The facilities do not result in human exposure to radiofrequency radiation in excess of the applicable safety standards specified in 47 CFR 1.1307(b).

Rationale: The definition of “small wireless facility” has been inserted for consistency with 47 CFR 1.6002(l).

(23) “Structure” means a pole, tower, base station, or other building, whether or not it has an existing antenna facility, that is used or to be used for the provision of personal wireless service (whether on its own or comingled with other types of services).

Rationale: The definition of “structure” has been inserted for consistency with 47 CFR 1.6002(m).

(2419) “Unlicensed wireless services” means commercial mobile services that operate on public frequencies and do not need a FCC license.

~~(20) “Wireless communication facilities” means facilities for the provision of wireless service. Wireless communication facilities include, but are not limited to, antennas, poles, towers, cables, wires, conduits, ducts, pedestals, vaults, buildings, and electronic and switching equipment.~~

(2521) “Wireless communication service” means wireless data and telecommunications services, including commercial mobile services, commercial mobile data services, unlicensed wireless services, and common carrier wireless exchange access services, as defined by federal laws and regulations.

~~(22) “Substantially change the physical dimensions” means:~~

~~(a) The installation or mounting of wireless services equipment on an existing support structure that would increase the overall height of the structure by more than 10 percent, or 20 feet, whichever is greater; provided, that any such increase in height must conform to the provisions of this chapter; or~~

~~(b) The installation or mounting of equipment that would involve adding an appurtenance to the body of the structure that would protrude from the edge of the structure more than 20 feet or more than the width of the structure at the level of the appurtenance, whichever is greater; provided, that in making determinations as to whether or not project proposals constitute a substantial change as described in this subsection, and in order to limit incremental and cumulative effects concerning the overall size of such facilities, measurements shall be taken to establish a base line for determining whether or not proposed changes constitute a substantial change; such measurements shall be taken from the dimensions of the existing facility as it was approved and constructed under the original building permit issued by Whatcom County. (Ord. 2014-042 § 1 (Att. A), 2014; Ord. 2000-006 § 1, 2000).~~

Rationale: A definition of “substantially change” has been inserted in the definitions relating to eligible facility requests below, consistent with 47 CFR 1.6100(b)(7).

20.13.025 Definitions - Eligible facilities requests.

The following definitions shall only apply to eligible facilities requests:

(1) “Base station” means a structure or equipment at a fixed location that enables FCC licensed or authorized wireless communications between user equipment and a communications network. The term does not encompass a tower as defined in this section or any equipment associated with a tower.

(a) The term includes, but is not limited to, equipment associated with wireless communications services such as private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul.

(b) The term includes, but is not limited to, radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration (including Distributed Antenna Systems and small-cell networks).

(c) The term includes any structure other than a tower that, at the time the relevant application is filed with the County for an eligible facilities request, supports or houses equipment described in subsections (a) and (b) above that has been reviewed and approved under the applicable zoning or siting process, or under another State or local regulatory review process, even if the structure was not built for the sole or primary purpose of providing such support.

(d) The term does not include any structure that, at the time the relevant application is filed with the County for an eligible facilities request, does not support or house equipment described in subsections (a) and (b) above.

(2) “Collocation” means the mounting or installation of transmission equipment on an eligible support structure for the purpose of transmitting and/or receiving radio frequency signals for communications purposes.

(3) “Eligible facilities request” means any request for modification of an existing tower or base station that does not substantially change the physical dimensions of such tower or base station, involving:

(a) Collocation of new transmission equipment;

(b) Removal of transmission equipment; or

(c) Replacement of transmission equipment.

(4) “Eligible support structure” means any tower or base station as defined in this section, provided that it is existing at the time the relevant application is filed with the County for an eligible facilities request.

(5) “Existing” means a constructed tower or base station that has been reviewed and approved under the applicable zoning or siting process, or under another State or local regulatory review process, provided that a tower that has not been reviewed and approved because it was not in a zoned area when it was built, but was lawfully constructed, is existing for purposes of this definition.

(6) “Site” means, for towers other than towers in the public rights-of-way, the current boundaries of the leased or owned property surrounding the tower and any access or utility easements currently related to the site, and, for other eligible support structures, further restricted to that area in proximity to the structure and to other transmission equipment already deployed on the ground. The current boundaries of a site are the boundaries that existed as of the date that the original support structure or a modification to that structure was last reviewed and approved by a State or local government, if the approval of the modification occurred prior to the Spectrum Act (Middle Class Tax Relief and Job Creation Act of 2012, which was signed into law on February 22, 2012) or otherwise outside of the eligible facilities request review process.

(7) “Substantially change the physical dimensions” means a modification of an eligible support structure that meets any of the following criteria:

(a) For towers other than towers in the public rights-of-way, it increases the height of the tower by more than 10% or by the height of one additional antenna array with separation from the nearest existing antenna not to exceed twenty feet, whichever is greater; for other eligible support structures, it increases the height of the structure by more than 10% or more than ten feet, whichever is greater;

(i) Changes in height are measured from the original support structure in cases where deployments are or will be separated horizontally, such as on buildings' rooftops; in other circumstances, changes in height are measured from the dimensions of the tower or base station, inclusive of originally approved appurtenances and any modifications that were approved prior to the passage of the Spectrum Act (Middle Class Tax Relief and Job Creation Act of 2012) on February 22, 2012.

(ii) The phrase “with separation from the nearest existing antenna not to exceed twenty feet” allows an increase in the height of the tower of up to twenty feet between antennas, as measured from the top of an existing antenna to the bottom of a proposed new antenna on the top of a tower.

(b) For towers other than towers in the public rights-of-way, it involves adding an appurtenance to the body of the tower that would protrude from the edge of the tower more than twenty feet, or more than the width of the tower structure at the level of the appurtenance, whichever is greater; for other eligible support structures, it involves adding an appurtenance to the body of the structure that would protrude from the edge of the structure by more than six feet;

(c) For any eligible support structure, it involves installation of more than the standard number of new equipment cabinets for the technology involved, but not to exceed four cabinets; or, for towers in the public rights-of-way and base stations, it involves installation of any new equipment cabinets on the ground if there are no pre-existing ground cabinets associated with the structure, or else involves installation of ground cabinets that are more than 10% larger in height or overall volume than any other ground cabinets associated with the structure. The term “equipment cabinets” does not include relatively small electronic components, such as remote radio units, radio transceivers, amplifiers, or other devices mounted on the structure, and up to four such cabinets may be added to an existing facility for each separate eligible facilities request;

(d) It entails any excavation or deployment outside of the current site, except that, for towers other than towers in the public rights-of-way, it entails any excavation or deployment of transmission equipment outside of the current site by more than 30 feet in any direction. The site boundary from which the 30 feet is measured excludes any access or utility easements currently related to the site;

(e) It would defeat the concealment elements of the eligible support structure. The term “concealment element” means an element that is part of a stealth-designed facility intended to make a structure look like something other than a wireless facility, and that was part of a prior approval. Examples of concealment elements include painting to match the supporting façade and making the structure look like a tree or flag pole. To “defeat” a concealment element, a proposed modification must cause a reasonable person to view a structure’s intended stealth design as no longer effective; or

(f) It does not comply with conditions associated with the siting approval of the construction or modification of the eligible support structure or base station equipment, provided however that this limitation does not apply to any modification that is non-compliant only in a manner that would not exceed the thresholds identified in subsections (a) through (d) above. The phrase “conditions associated with the siting approval” may include aesthetic conditions to minimize the visual impact of a wireless facility as long as the condition does not prevent modifications explicitly allowed under subsections (a) through (d) above (height, width, equipment cabinets, and excavations or deployments outside the current site) and so long as there is express evidence that at the time of approval the locality required the feature and conditioned approval upon its continuing existence. Examples of aesthetic conditions include requiring a specific placement, requiring a shroud, requiring walls or fences, setbacks, location behind a tree-line, **and landscaping.**

(8) “Tower” means any structure built for the sole or primary purpose of supporting any FCC-licensed or authorized antennas and their associated facilities, including structures that are constructed for wireless communications services including, but not limited to, private, broadcast, and public safety services, as

well as unlicensed wireless services and fixed wireless services such as microwave backhaul, and the associated site.

(9) “Transmission equipment” means equipment that facilitates transmission for any FCC-licensed or authorized wireless communication service, including, but not limited to, radio transceivers, antennas, coaxial or fiber-optic cable, and regular and backup power supply. The term includes equipment associated with wireless communications services including, but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul.

Rationale: The above definitions are primarily from 47 CFR 1.6100. Minor changes have been made, such as changing “Commission” to “FCC” and referencing subsections of this proposed code instead of subsections of the CFR. The FCC’s *Declaratory Ruling and Notice of Proposed Rulemaking* (June 2020, pages 7, 8, 18, 20, 23, and 24) elaborated on the definition of “Substantial change” by clarifying the meaning of:

- The phrase “with separation from the nearest existing antenna not to exceed twenty feet”;
- Equipment cabinets;
- Concealment element;
- To defeat a concealment element; and
- Conditions associated with siting approval.

These FCC clarifications have been incorporated into the definition of “Substantially change” above (language and concepts from the FCC’s 2020 Declaratory Ruling have been inserted in italics). Staff has added an example of a “condition associated with siting approval” shown in bold.

20.13.030 Applicability – Exemptions.

The requirements of this chapter shall apply to all new personal wireless ~~service~~communication facilities and the expansion and/or alteration of any existing personal wireless ~~service~~communication facilities, except that, ~~the~~ the following are exempt from the provisions of this chapter:

- (1) Satellite earth stations using antenna(s) not more than two meters in diameter in commercial and industrial districts and direct-to-home satellite services.
- (2) Send and receive citizen band radio antennas or antennas operated by federally licensed amateur (“ham”) radio operators.
- (3) Industrial, scientific and medical equipment using frequencies regulated by the FCC.
- (4) Electronic communications structures and telecommunication towers including associated maintenance and operations structures that do not qualify as “personal wireless service facilities” and, therefore, are regulated under WCC 20.82. ~~Military and government radar antennas and associated communication towers used for navigational purposes as regulated by the FCC under 47 Congressional Federal Register Parts 97 and 95 respectively.~~

Rationale: The above language was inserted for consistency with the language of WCC 20.82.030(5). It would also point the reader to WCC 20.82 for rules relating to facilities that do not fit within the definition of “personal wireless service facilities.”

(5) Military and federal, state and local government communications facilities used for emergency preparedness and public safety purposes, which are regulated under WCC 20.82.

Rationale: The above facilities are permitted uses pursuant to WCC 20.82.021.
 Inserting the reference will point the reader to that section of the code.

(6) Normal, routine and emergency maintenance and repair of existing personal wireless service communications facilities and related equipment which do not increase the size, footprint or bulk of such facilities and which otherwise comply with the county, state, and federal law and regulations; provided, that compliance with design and development standards of this chapter is maintained.

(7) Personal wireless service facilities in the County right-of-way, provided that the applicant obtains other necessary County authorizations (e.g. revocable encroachment permit and/or franchise agreement).

(8) Personal wireless service facilities in the State right-of-way, provided that the applicant obtains necessary state authorizations.

(Ord. 2014-042 § 1 (Att. A), 2014; Ord. 2000-006 § 1, 2000).

20.13.040 Permitted uses.

.041 Eligible facilities requests.

.042 Collocation of small wireless facilities using existing structures.

Rationale: Regarding eligible facility requests, 47 CFR 1.6100(c) indicates: “A State or local government may not deny and shall approve any eligible facilities request for modification of an eligible support structure that does not substantially change the physical dimensions of such structure. . . Within 60 days of the date on which an applicant submits a request seeking approval under this section, the State or local government shall approve the application unless it determines that the application is not covered by this section. . .”

Regarding small wireless facilities, 47 CFR 1.6003(c) states: “The following are the presumptively reasonable periods of time for action on applications seeking authorization for deployments . . . (i) Review of an application to collocate a Small Wireless Facility using an existing structure: 60 days. . .”

The FCC’s Declaratory Ruling and Third Report and Order (September 26, 2018) states:

. . . Industry commenters contend that the shot clocks should apply to all authorizations a locality may require, and to all aspects of and steps in the siting process, including license or franchise agreements to access ROW, building permits, public notices and meetings, lease negotiations, electric permits, road closure permits, aesthetic approvals, and other authorizations needed for deployment. . . we find that “any request for authorization to place, construct, or modify personal wireless service facilities” under [CB](ii) means all authorizations necessary for the deployment of personal wireless services infrastructure. . . (pages 68-69, paragraph 132).

Furthermore, 47 CFR 1.6002(f) states “*Authorization* means any approval that a siting authority must issue under applicable law prior to the deployment of personal wireless service facilities, including, but not limited to, zoning approval and building permit.” It would be very difficult, if not impossible, to process an administrative approval use permit or conditional use permit, along with other required permits, within the 60 day time-frame allowed by the federal rules. Therefore, the proposal is to allow eligible facilities requests and small wireless facilities using existing structures as permitted uses.

~~The following uses shall be considered permitted uses and shall comply with federal, state, and local laws and regulations and the provisions of this chapter (including but not limited to WCC 20.13.120); the following uses shall also be subject to environmental review under the State Environmental Policy Act (SEPA), unless categorically exempt:~~

~~.043 (1) Replacement construction. In all districts: Replacement of any component of an existing freestanding or attached personal wireless service communication facility; and/or replacement of any component of an existing ancillary equipment facility on existing, approved and conforming sites that does not increase the physical dimensions of the components being replaced.~~

~~; provided, that such replacement does not increase the total number of components lawfully existing on the site at the time of application for such replacement construction; and further provided, that such replacement construction does not “substantially change the physical dimensions” of the individual components being replaced as defined in WCC 20.13.020(22).~~

~~Determinations made as to whether or not replacement proposals substantially change the physical dimensions of existing facilities shall be made by the administrator, as follows:~~

~~(a) The applicant or applicant’s agent must submit documentation to the administrator that demonstrates that replacement construction proposals do not substantially change the physical dimensions of such facilities as defined in WCC 20.13.020(22). Examples of such documentation may include specification sheets and/or area calculations for both the existing and proposed replacement equipment. Such documentation must be submitted at the time of preapplication interview for the required commercial building permit(s).~~

~~(b) The applicant or applicant’s agent must also submit documentation to the administrator demonstrating that replacement construction meets Federal Communications Commission (FCC) Emission Standards (as applicable). Such documentation must be submitted at time of application for the required commercial building permit(s).~~

~~(2) New antenna or new antenna array construction. In all districts: New antennas or new antenna arrays may be constructed on or added to existing, attached or freestanding wireless communication facilities on existing, approved and conforming sites; provided, that such new antennas or antenna arrays do not “substantially change the physical dimensions” of such facilities, as defined in WCC 20.13.020(22).~~

~~Determinations made as to whether or not new construction proposals substantially change the physical dimensions of existing facilities shall be made by the administrator, as follows:~~

~~(a) The applicant or applicant’s agent must submit documentation to the administrator that demonstrates that the proposed new antenna or new antenna array construction does not substantially change the physical dimensions of such facilities. Examples of such documentation may include specification sheets and/or area calculations for both the existing and the proposed new equipment.~~

~~Such documentation must be submitted at the time of pre-application interview for the required commercial building permit(s).~~

~~(b) The applicant or applicant's agent must also submit documentation to the administrator that demonstrates that any new antenna(s) meet Federal Communications Commission (FCC) Emission Standards (as applicable). Such documentation must be submitted at time of application for the required commercial building permit(s). (Ord. 2017-030 § 1 (Exh. N), 2017; Ord. 2014-042 § 1 (Att. A), 2014).~~

20.13.050 Administrative approval uses.

.051 Small wireless facilities on a new structure.

.052 Collocation of macro wireless facilities using an existing structure.

.053 New ancillary equipment facilities that:

- (1) Do not qualify as eligible facilities requests;
- (2) Do not qualify as small wireless facilities; and
- (3) Are not part of a macro wireless facility using a new structure.

Rationale: Regarding small wireless facilities and macro wireless facilities, 47 CFR Section 1.6003(c) states that the following are the presumptively reasonable periods of time for action on applications seeking authorization for deployments . . .

- (ii) Review of an application to collocate a facility other than a Small Wireless Facility using an existing structure: 90 days.
- (iii) Review of an application to deploy a Small Wireless Facility using a new structure: 90 days. . .

A facility "other than a Small Wireless Facility" is called a "macro wireless facility" in the proposed regulations.

The FCC's Declaratory Ruling and Third Report and Order (September 26, 2018) states:

. . . Industry commenters contend that the shot clocks should apply to all authorizations a locality may require, and to all aspects of and steps in the siting process, including license or franchise agreements to access ROW, building permits, public notices and meetings, lease negotiations, electric permits, road closure permits, aesthetic approvals, and other authorizations needed for deployment. . . we find that "any request for authorization to place, construct, or modify personal wireless service facilities" under [47 US Code] Section 332(c)(7)(B)(ii) means all authorizations necessary for the deployment of personal wireless services infrastructure. . . (pages 68 and 69, paragraph 132).

Furthermore, 47 CFR 1.6002(f) states "*Authorization* means any approval that a siting authority must issue under applicable law prior to the deployment of personal wireless service facilities, including, but not limited to, zoning approval and building permit."

It would be very difficult to process a conditional use permit, along with other required permits, within the 90 day time-frame allowed by the federal rules. Therefore, the proposal is to allow small wireless facilities on new structures and macro wireless facilities using existing structures as administrative approval uses. These structures would have more impact than the proposed uses allowed in the permitted use section, so it is reasonable to provide notice and seek comments from neighboring property owners and the public.

~~The following uses are considered administrative approval uses and shall require a wireless communication facility (WCF) permit in accordance with Chapters 22.05 and 20.84 WCC, and shall be subject to a threshold determination in accordance with the Whatcom County SEPA Ordinance unless categorically exempt; provided, that WCF permit proposals located in nonresidential related districts shall be exempt from the public noticing requirements found in Chapter 22.05 WCC, Project Permit Procedures.~~

~~Uses described in this section must comply with county, state, and federal law and regulations and all applicable provisions of this chapter. The administrator may refer an application for a WCF permit to a technical review committee for its review prior to making a decision on the application.~~

~~(1) Wireless Communication Facility (WCF) Permit. New freestanding wireless communication support structures, new antennas or antenna arrays on existing freestanding or attached wireless communication structures on existing approved and conforming sites, and new attached wireless communication facilities that substantially change the physical dimensions of a facility as defined in WCC 20.13.020(22) may be approved by the administrator through issuance of a WCF permit, subject to a required commercial building permit. Prior to application approval, the applicant or applicant's agent must also submit documentation to the administrator that demonstrates that any new antenna(s) meet Federal Communication Commission (FCC) emission standards (as applicable).~~

~~(a) New Freestanding Wireless Communication Support Structures.~~

~~(i) New freestanding wireless communication support structures (lattice towers or monopole towers) may be collocated or clustered on existing, approved and conforming wireless communication facility sites in the following residential related districts: Rural, Residential Rural, and Rural Residential Island.~~

~~(ii) New freestanding wireless communication support structures (monopoles only) may be collocated or clustered on existing, approved and conforming wireless communication facility sites in the following residential related districts: Urban Residential, Urban Residential Medium, Urban Residential Mixed, Neighborhood Commercial, and Eliza Island; provided, that the site does not also contain residential uses.~~

~~(iii) Monopoles that are permitted as a WCF may exceed the height limits of the underlying residential related zone by 15 feet; provided, the applicant demonstrates that the structure's height is the minimum necessary to adequately function, or if collocation is specifically provided for on the tower. The additional 15 feet for collocation may be added to the 15 feet necessary for adequate function for a total of 30 feet in the event both situations pertain.~~

~~(iv) In all nonresidential districts: New freestanding wireless communication support structures (lattice towers or monopole towers) may be collocated or clustered on approved and conforming sites; provided, that the height of such structures shall be subject to requirements of WCC 20.13.092(9)(b); and provided further, that the height does not exceed 150 feet. Additional height may be approved only by special exception as provided in WCC 20.13.110.~~

~~(b) New Attached Wireless Communication Facilities. New attached wireless communication facilities may be approved by the administrator through issuance of a WCF permit, and subject to a required commercial building permit(s), as provided below:~~

~~(i) In all residential districts: new attached wireless communication facilities or new antennas attached to existing attached wireless communication structures that utilize a nonresidential structure on a parcel or lot not used primarily for residential purposes; provided, the antenna is not more than 15 feet above the roof or parapet wall or top of structure (if not a building). Installation of dish antennas on the roof of an attached wireless communication structure may be permitted as a WCF permit if the applicant demonstrates to the administrator that such proposal satisfies the special exception criteria pursuant to WCC 20.13.110.~~

~~(ii) In all nonresidential related districts: Ground mounted dish antennas may be located on existing approved, conforming sites; provided, that the site is not used exclusively for residential purposes.~~

~~(iii) In all residential related districts: Ground mounted dish antennas may be located on existing approved, conforming sites; provided, that the site is not used exclusively for residential purposes and the antenna is not more than 15 feet above ground level nor more than 12 feet in diameter.~~

~~(c) New antennas or antenna arrays on existing freestanding wireless communication facilities or existing attached wireless communication facilities on existing, approved and conforming sites may be approved by the administrator through issuance of a WCF permit, and subject to required commercial building permit(s):~~

~~(i) In all nonresidential districts: New antennas or antenna arrays may be added to existing freestanding wireless communication support structures on existing approved and conforming sites; provided, that the height of such new antennas or antenna arrays shall not extend more than 15 feet above the attachment device.~~

~~(ii) In all residential districts: New antennas or antenna arrays may be added to existing freestanding wireless communication support structures on approved and conforming sites; provided, that the height of such new antennas or antenna arrays shall be subject to the requirements of WCC 20.13.092(9)(b).~~

~~(iii) In all residential districts: new antennas on existing attached wireless communication structures that utilize a nonresidential structure on a parcel or lot not used primarily for residential purposes; provided, the antenna is not more than 15 feet above the roof or parapet wall or top of structure (if not a building). Installation of dish antennas on the roof of an attached wireless communication structure may be permitted as a WCF permit if the applicant demonstrates to the administrator that such proposal satisfies the special exception criteria pursuant to WCC 20.13.110.~~

~~(iv) In all nonresidential related districts: new antennas attached on existing attached wireless communication structures that utilize a nonresidential structure on a parcel or lot not used primarily for residential purposes; provided, the antenna is not more than 15 feet above the roof or parapet.~~

~~(2) Ancillary Equipment Facilities.~~

~~(a) New ancillary equipment facilities or replacement construction that substantially increases the physical dimensions of an existing facility as defined in WCC 20.13.020(22) may be permitted on existing approved, conforming sites as an ancillary equipment facility (AEF) under the scope of a WCF permit. Such structures include cabinets, shelters, remodeled structures, pedestals and other similar structures. Ancillary equipment may include air conditioners, emergency generators, and GPS units. Installation of such ancillary equipment when included in the scope of a WCF permit shall conform to original time frames for completion set by the administrator, or as further amended by the administrator. (Ord. 2018-032 § 1 (Exh. D), 2018; Ord. 2014-042 § 1 (Att. A), 2014).~~

20.13.060 Conditional uses.

.061 Macro wireless facilities using a new structure, including associated ancillary equipment facilities.

Rationale: 47 CFR Section 1.6003(c) states:

The following are the presumptively reasonable periods of time for action on applications seeking authorization for deployments . . .

- (iv) Review of an application to deploy a facility other than a Small Wireless Facility using a new structure: 150 days. . .

A facility “other than a Small Wireless Facility” is called a “macro wireless facility” in the proposed regulations.

The FCC’s Declaratory Ruling and Third Report and Order (September 26, 2018) states:

. . . Industry commenters contend that the shot clocks should apply to all authorizations a locality may require, and to all aspects of and steps in the siting process, including license or franchise agreements to access ROW, building permits, public notices and meetings, lease negotiations, electric permits, road closure permits, aesthetic approvals, and other authorizations needed for deployment. . . we find that “any request for authorization to place, construct, or modify personal wireless service facilities” under [47 US Code] Section 332(c)(7)(B)(ii) means all authorizations necessary for the deployment of personal wireless services infrastructure. . . (pages 68 and 69, paragraph 132).

Furthermore, 47 CFR 1.6002(f) states “*Authorization* means any approval that a siting authority must issue under applicable law prior to the deployment of personal wireless service facilities, including, but not limited to, zoning approval and building permit.”

The 150 day federal time frame would allow sufficient time to process a conditional use permit, along with a building permit, for these larger macro wireless facilities. These larger structures have the potential for greater visual impact than the proposed uses allowed in the permitted and administrative approval uses section. Therefore, it is reasonable to provide notice and hold a public hearing to allow comments from neighboring property owners and the public.

~~(1) The following uses shall require conditional use permit approval by the hearing examiner, and shall be processed in accordance with Chapters 22.05 and 20.84 WCC and shall be subject to a threshold determination in accordance with the Whatcom County SEPA Ordinance, unless categorically exempt. Such uses shall comply with county, state, and federal law and regulations and all applicable provisions of this chapter. The applicant or applicant's agent must also submit documentation to the administrator that demonstrates that any new antennas meet Federal Communication Commission (FCC) emission standards (as applicable). The administrator may refer an application for a conditional use to a technical review committee for review and comment prior to referring the application to the hearing examiner for a decision.~~

~~(a) New Freestanding Wireless Communication Facilities.~~

~~(i) In all nonresidential related districts: new freestanding wireless communication facilities that utilize lattice tower or monopole wireless communication support structures; provided, that the height of such structures shall be subject to the requirements of WCC 20.13.092(9)(b); and further provided, that the height does not exceed 150 feet. Additional height may only be approved by special exception as provided in WCC 20.13.110.~~

~~(ii) New freestanding wireless communication facilities that utilize lattice towers or monopole towers in the following residential related districts: Rural, Residential Rural, Rural Residential Island; provided, that the height of such structures shall be subject to the requirements of WCC 20.13.092(9)(b).~~

~~(iii) New freestanding wireless communication facilities that utilize monopole towers only in the following residential districts: Urban Residential, Urban Residential Medium, Urban Residential Mixed, Neighborhood Commercial, and Eliza Island; provided, that the site does not also contain existing residential uses; and further provided, that the height of such structures shall be subject to the requirements of WCC 20.13.092(9)(b).~~

~~(b) New Attached Wireless Communication facilities:~~

~~(i) In all nonresidential related districts: New attached wireless communication facilities that utilize a residential structure on a site used exclusively for residential purposes shall require a conditional use permit; provided, that the antenna shall not extend more than 15 feet above the roof or parapet.~~

~~(ii) In all residential districts: New attached wireless communication facilities that utilize an attached wireless communication support structure that is a residential building or on a parcel used exclusively for residential purposes shall require a conditional use permit; provided, that the antenna shall not extend more than 15 feet above the roof top (or top of the structure if not a building) and that the requirements of WCC 20.13.092(1) are met. The hearing examiner shall have the authority to restrict the height of the attached antenna to a figure less than 15 feet in order to attain compliance with WCC 20.13.092(1).~~

~~(2) New ancillary equipment facilities may be permitted under the scope of a conditional use permit, or may be permitted separately as an AEF under a WCF permit pursuant to WCC 20.13.050. Such structures include cabinets, shelters, remodeled structures, pedestals and other similar structures. Ancillary equipment may include air conditioners, emergency generators, and GPS units. Installation of such ancillary equipment when included in the scope of a conditional use permit shall conform to original time frames for completion set by the hearing examiner, or as further amended by the hearing examiner. (Ord. 2018-032 § 1 (Exh. D), 2018; Ord. 2014-042 § 1 (Att. A), 2014).~~

20.13.070 Nonconforming uses and structures.

Expansion of nonconforming personal wireless service facilities shall be treated as follows:

- (1) Eligible facilities requests are permitted uses that are required to comply with WCC 20.13, but shall not be subject to WCC 20.83.020.
- (2) Collocation of small wireless facilities using existing structures are permitted uses that are required to comply with WCC 20.13, but shall not be subject to WCC 20.83.020.
- (3) Collocation of a macro wireless facilities using existing structures, including associated ancillary equipment facilities, are administrative approval uses that are required to comply with WCC 20.13, but shall not be subject to WCC 20.83.020.
- (4) Other expansions shall be subject to WCC 20.83.020.

~~Freestanding and attached wireless communication facilities, and ancillary equipment facilities in operation as of the effective date of the ordinance codified in this chapter or amendment hereto, including vested applications for such facilities, that do not conform to the use standards or development standards of this chapter shall be subject to the provisions of Chapter 20.83 WCC governing nonconforming uses. Routine maintenance on existing towers and antennas is permitted as provided in WCC 20.13.030(6). However, any new construction other than routine maintenance on existing nonconforming towers, antennas, buildings or other facilities shall comply fully with the requirements of Chapter 20.83 WCC governing nonconforming uses, and this chapter. (Ord. 2014-042 § 1 (Att. A), 2014; Ord. 2000-006 § 1, 2000. Formerly 20.13.040).~~

Rationale: The expansion of a nonconforming use currently requires a conditional use permit under existing WCC 20.83.020.

However, under federal rules, a local government has 60 days to process permits for eligible facilities requests and small wireless facilities using existing structures. It would be very difficult, if not impossible, to process a conditional use permit, along with other required permits, within the 60 day time-frame allowed by the federal rules. Therefore, the proposal is to allow eligible facilities requests and small wireless facilities using existing nonconforming structures as permitted uses.

Under federal rules, a local government has 90 days to process permits for collocation of macro wireless facilities using existing structures. It would be very difficult to process a conditional use permit, along with other required permits, within the 90 day time-frame allowed by the federal rules. Therefore, the proposal is to allow collocation of macro wireless facilities using existing structures as administrative approval uses.

Other expansions, such as increasing the height of an existing nonconforming macro tower, would still require a conditional use permit under WCC 20.83.020.

20.13.080 Prohibited locations for small and macro wireless facilities.

(1) New attached antennas or antenna arrays shall not be mounted, installed or affixed to a single-family residence, duplex or their accessory structures; this prohibition shall not apply to residential structures such as multifamily housing, condominiums, apartment buildings, hotels, rooming houses, and their appurtenant structures, such as parking garages, and storage buildings.

(2) New freestanding wireless communication support structures (lattice towers) are prohibited in Urban Residential, Urban Residential Medium, Urban Residential Mixed, Neighborhood Commercial, and Eliza Island districts.

(3) New freestanding wireless communication support structures (monopole towers and ground level dishes) are prohibited in Urban Residential, Urban Residential Medium, Urban Residential Mixed, Neighborhood Commercial, and Eliza Island districts on sites that also contain residential uses.

(4) New support structures are prohibited on lands within the jurisdiction of the Whatcom County Shoreline Program. (Ord. 2014-042 § 1 (Att. A), 2014; Ord. 2011-013 § 2 Exh. B, 2011; Ord. 2000-006 § 1, 2000. Formerly 20.13.050(4)).

Rationale: 47 CFR 1.6100(c) indicates: “A State or local government may not deny and shall approve any eligible facilities request for modification of an eligible support structure that does not substantially change the physical dimensions of such structure. . .” Because of this federal preemption, eligible facilities requests are not included in the types of wireless facilities that are prohibited in the above areas.

20.13.085 Siting priorities for small and macro wireless facilities.

(1) In reviewing applications for new freestanding wireless communication facilities, and new attached wireless communication facilities, the approving authority shall evaluate the proposal in relationship to the following siting priorities. Unless the facility will be located at the highest priority location, the applicant shall demonstrate that:

- (a) None of the higher priority locations are available; or
- (b) If one is available it is not a feasible location for the proposed facility, based upon a feasibility study demonstrating that higher priority locations have been explored and are not feasible or available; or
- (c) If feasible, the location is less desirable than the one proposed from the standpoint of minimizing impacts on surrounding land uses.

Rationale: The subject proposal includes deleting WCC 20.13.130(1)(a) because it is largely redundant. However, this section does mention a feasibility study that should be preserved in the code. Therefore, feasibility study language has been inserted above.

(2) For the purpose of this chapter:

- (a) Residential related districts include Urban Residential (UR), Urban Residential Medium (URM), Urban Residential Mixed (UR-MX), Eliza Island (EI), Neighborhood Commercial (NC), Residential Rural (RR), Rural Residential Island (RR-I), and Rural (R) Districts;
- (b) Nonresidential related districts include:
 - (i) Commercial districts, including Rural General Commercial (RGC), Small Town Commercial (STC), General Commercial (GC), Resort Commercial (RC) and Tourist Commercial (TC) Districts; and
 - (ii) Industrial districts including Heavy Impact Industrial (HII), Light Impact Industrial (LII), Gateway Industrial (GI), Rural Industrial and Manufacturing (RIM), General Manufacturing (GM), and Airport Operations (AO) ~~and the Cherry Point Industrial District (CP-ID)~~; and
 - (iii) Resource districts including Agriculture (AG), Commercial Forestry (CF), Rural Forestry (RF) and Recreation Open Space (ROS).

Rationale: The Small Town Commercial zone was inadvertently omitted from the above list of commercial zoning districts. The last Gateway Industrial zoned land was annexed into a city and this zoning district has been removed from the Whatcom County Zoning Code. The Cherry Point Industrial District is an overlay zone that encompasses Heavy Impact Industrial and Light Impact Industrial zones (which are already mentioned above).

(3) Siting Priorities. Listed in descending order with the highest priority first:

(a) Collocated antennas on attached wireless communication support structures that are nonresidential buildings and structures, and collocated antennas on existing freestanding wireless communications towers in nonresidential related districts.

(b) Collocated antennas on attached wireless communication support structures that are nonresidential buildings and structures, and collocated antennas on existing freestanding wireless communications towers in residential related districts on property not used exclusively for residential purposes.

~~(c) New antennas on attached wireless communication structures such as nonresidential buildings and structures in nonresidential related districts.~~

Rationale: An attached wireless communication support structure is “. . . a support structure not specifically designed and constructed to support an antenna array. . .” such as a building or water tower (WCC 20.13.020(8)). Collocation includes mounting an antenna (presumably, a new antenna) on a pre-existing structure (proposed WCC 20.13.020(11)). A collocated antenna on an attached wireless communication support structure and a new antenna on such a structure are the same thing. Since subsection (a) already addresses collocated antennas on existing structures, subsection (c) addressing new antennas on existing structures is redundant and not needed.

~~(c)~~ (ce) New freestanding wireless communication support structures in low visual impact locations in resource and industrial districts.

~~(d)~~ (de) New attached wireless communication facilities that utilize nonresidential buildings and structures in residential related zones on property not used exclusively for residential purposes.

~~(e)~~ (ef) New freestanding wireless communication support structures at low visual impact locations in commercial districts.

~~(f)~~ (fg) Locations other than those listed above. (Ord. 2014-042 § 1 (Att. A), 2014; Ord. 2011-013 § 2 Exh. B, 2011; Ord. 2000-006 § 1, 2000. Formerly 20.13.050(1) – (3)).

20.13.090 Design and development standards for small and macro wireless facilities.

.091 Design and Development Standards. ~~The development standards set forth below shall apply to all wireless communication facilities.~~ These development standards are minimum standards and shall be in addition to any development standards ~~or project review process which applies~~ in the underlying district in which a personal wireless ~~service communication~~ facility is located. In the event of a conflict between the provisions of this chapter and the general development standards of this title, ~~or the~~

~~project review process~~, the more stringent provision shall govern; provided, that where a provision of this chapter is the more specific in its application to personal wireless ~~service~~communication facilities, that provision shall prevail regardless of stringency.

- (1) Anti-Climbing Devices. All freestanding and attached wireless communication support structures ~~and required fencing~~ shall be equipped with appropriate anti-climbing devices.

Rationale: In an email dated June 23, 2022, an industry representative asked for:

. . . clarification on the requirement for anticlimbing devices on all facilities and on the fencing. For building mounted sites, I am not sure what that would look like and for fencing, the only anticlimbing device that comes to mind is barbed wire, which is tough aesthetically. . .

The industry representative made similar comments at the June 23, 2022 Planning Commission hearing.

At the request of the Planning Commission, Planning and Development Services staff met on July 6, 2022 to discuss this provision. PDS finds that there are anti-climbing devices that may be appropriate for antennas attached to existing buildings (such a locked metal plate over wall mounted ladders). However, given that anti-climbing devices are required on a tower (such as anti-climbing sheets on the tower supports), it does not appear that a fence around the tower would need additional anti-climbing devices. Barbed wire has generally not been required on such fences. Therefore, fencing may be deleted from the anti-climbing provision above.

- (2) Attachment to Trees Prohibited. It is prohibited to attach any personal wireless ~~communications~~service facility or portion thereof to any tree.

- (3) Signage. All freestanding and attached wireless communication support structures shall be identified with a nonilluminated sign not exceeding four square feet. The sign shall list the wireless service provider’s name and emergency telephone number and shall be posted in a place visible to the general public. Safety signs required by applicable laws and regulations are also permitted. No ~~other advertising~~ signs shall be located on support structures or antennas; ~~however, arrays may be camouflaged as otherwise permitted signs.~~

Rationale: The existing text would allow signs with a non-advertising message but not signs with an advertising message. However, sign regulations are to be content neutral in accordance with U.S. Supreme Court’s decision in *Reed v. Town of Gilbert* (2015).

- (4) Lighting. All freestanding and attached wireless communication facilities shall not be illuminated except where required by the FAA.

- (5) Painting. All freestanding and attached wireless communication facilities shall be painted or finished in a manner that blends with the dominant color of the background except where otherwise required by the FAA. The applicant and the operator of the facility shall have a continuing duty to maintain such paint or finish.

~~(6) Noise from Accessory Equipment. Accessory equipment facilities shall comply with state noise level standards under Chapter 173-60 WAC, as amended. Generators may only be permitted for emergency operation purposes. If air conditioning or other noise generating equipment is proposed, 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.~~

Rationale: Noise requirements have been modified and moved to proposed WCC 20.13.105.

~~(67)~~ Copies of deeds or other instruments such as lease agreements and site easements that establish the applicant’s right to use the site shall be provided at the time of application. These may be in unsigned final draft form pending the outcome of the approval process. The boundaries of a proposed personal wireless ~~service~~communications facility site shall be defined in each such instrument in a manner that will provide a land surveyor sufficient information to accurately locate the site boundaries using standard survey methods. The applicant may redact proprietary information or lease terms that are not relevant to establishing the applicant’s right to use the site or defining the site boundaries.

~~(78)~~ If the proposed site is leased, the terms of the lease shall not restrict the land owner in any way from leasing other areas of his property to other wireless communications providers with the exception that the lease may include a provision that any additional facilities so located not materially interfere with the operation of the existing facility.

~~**.092 General Design Standards.**~~

~~(81)~~ Antennas that are mounted, installed or affixed to an attached wireless communication support structure shall be designed or placed to blend with the predominant background or architectural features as seen from abutting residential uses, roadways or other public rights-of-way.

~~(92)~~ When located on buildings, panel antennas shall be placed closely against walls or parapets and not extend above the wall or parapet unless an alternative design is required to (a) achieve better compatibility with the building design or (b) to obtain antenna function. In the alternative, antennas may be placed on an attached wireless communication support structure if designed with concealment elements, screened or otherwise obscured from view in a manner compatible with the structure’s design. Such antennas shall not extend more than 10 feet above the top of the structure.

Rationale: In an email dated June 23, 2022, and in comments at the June 23, 2022 Planning Commission hearing, an industry representative asked for greater flexibility to mount antennas on rooftops.

At the request of the Planning Commission, Planning and Development Services staff met on July 6, 2022 to discuss this issue.

WCC 20.13.085 contains siting priorities for small and macro wireless facilities. This section of the Zoning Code states that collocated antennas on existing structures are the highest priority locations in the County. New freestanding towers or support structures are a lower priority. Given that locating new antennas on existing structures is a higher priority, it makes sense to provide flexibility in the language above.

(103) Ancillary equipment facility structures shall be placed underground or wholly enclosed in an existing structure or building, or designed to blend into the architecture and landscaping of the surrounding buildings or structures. When equipment boxes are placed at ground level, they shall be screened from view.

(114) Ground-mounted dishes shall be located outside any required landscaped area and preferably located in service areas or other less visible locations. They shall be solidly screened to at least as high as the center of the dish when viewed from off the site. Solid screening shall be provided as high as the top of the dish on sides adjacent to residential zones.

Roof-mounted dishes shall be solidly screened at least as high as the center of the dish. The screening shall be of a material and design compatible with the building, and can include penthouse screening, parapet walls, or other similar screening. The dish should be placed as close to the center of the roof as possible.

~~(5) Antennas on utility poles shall be limited to antennas that are no more than two feet in length unless the approving authority finds that the visual impact of a longer antenna would not have an appreciable effect on surrounding uses. No more than one antenna is permitted per pole. No utility pole shall be extended in height in order to accommodate an antenna. No antenna shall be allowed on light standards.~~

Rationale: 47 US Code 253(a) indicates that “No State or local statute or regulation, or other State or local legal requirement, may prohibit or have the effect of prohibiting the ability of any entity to provide any interstate or intrastate telecommunications service.” Additionally, 47 US Code 332(c)(7)(B)(i) states: “The regulation of the placement, construction, and modification of personal wireless service facilities by any State or local government . . . shall not prohibit or have the effect of prohibiting the provision of personal wireless services.”

The FCC Declaratory Ruling and Third Report and Order in the matter of *Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Investment* (adopted September 26, 2018) states:

. . . The “effectively prohibit” language must have some meaning independent of the “prohibit” language . . . our interpretation that ‘effective prohibition’ does not require a showing of an insurmountable barrier to entry is demonstrated not only by a number of circuit courts’ acceptance of that view, but in the Supreme Court’s own characterization of Section 253(a) as “prohibit[ing] state and local regulation that *impedes* the provision of ‘telecommunications service’”. . . (paragraph 41).

Initially, it should be noted that utility poles are often located in the road right-of-way. Additionally, the County Engineer indicated, in an e-mail of October 20, 2021, that he is not aware of any County light standards (street lights or traffic lights) located outside the County right of way and that all County-owned facilities should be in the County right of way. Utility poles and light standards within the road right of way will be addressed by County revocable encroachment permit or franchise agreement (or comparable State permits), rather than the regulations of WCC 20.13.

Utility poles and/or light standards outside of the right-of-way should be treated like any other structure, so potential wireless services on such structures (if allowed by the owner) will not be impeded. Therefore, we are proposing to delete the text above.

~~(126)~~ Setbacks Applicable. The following setback standards shall apply to personal wireless service communication facilities:

(a) ~~Accessory-Ancillary~~ equipment ~~facilitiesstructures~~ shall comply with the setback requirements ~~for principal nonaccessory structures~~ in the underlying district or be located in a legally established existing structure.

~~(b)~~ An antenna and its attachment device attached to a building or other permanent structures shall comply with the setback requirements ~~for principal nonaccessory structures~~ in the underlying district. Where the setback requirement in the underlying zone is based on the height of the structure, the height used to compute the setback for the antenna array shall be the height of the structure plus the additional height that will be added by the antenna array and its attachment device.

~~(c)~~ Freestanding wireless communication support structures located in a residential related district as described in WCC 20.13.085 shall be set back from any property line by a distance equal to the height of the wireless communications support structure or the setback of the underlying use district, whichever is greater.

~~(d)~~ Freestanding wireless communication support structures located in other than residential related districts shall be set back from any property line abutting or adjacent to a residential related district a distance equal to the height of the wireless

communications support structure or the setback of the underlying use district, whichever is greater.

(~~ed~~) Regardless of the district, freestanding wireless communication support structures shall be set back from dwellings not on the same legal lot, a distance equal to the height of the freestanding wireless communication support structure or the setback of the underlying use district whichever is greater.

(~~fe~~) Setbacks for freestanding wireless communication support structures shall be measured from the ground level base of the structure.

(~~gf~~) The setback requirements for freestanding and attached wireless communication facilities under WCC 20.13~~this chapter~~ may be reduced by the approving authority subject to the satisfaction of the special exception criteria in WCC 20.13.110.

(~~137~~) In the event that a new freestanding or attached wireless communication facility is proposed on land zoned agriculture or in an agriculture overlay zone and the land is otherwise suitable for agricultural use, the facility shall be located and maintained so as not to interfere with current agricultural activities or the potential future use of the site for agricultural activities.

(~~148~~) Screening Standards. Freestanding and attached wireless communication facilities shall be subject to the following standards for visual screening:

(a) The perimeter of the wireless communication support structure and any guyed wires and anchors shall be enclosed by a fence or wall at least six feet in height. A row of evergreen shrubs, spaced not more than five feet apart and capable of growing to form a continuous hedge at least five feet high within five years of planting, and at least one row of evergreen trees or shrubs spaced not more than 10 feet apart nor less than six feet high when planted shall be installed outside and adjacent to the fence.

(b) Landscape material used for screening should be selected and sited to produce a hardy and drought-resistant landscape area. Native plant materials are preferred.

(c) Maintenance of landscaped areas shall be the responsibility of the applicant and/or operator of the facility. Required landscaping must be maintained in a healthy manner. Trees and shrubs that die must be replaced with healthy in-kind materials such that during the life of the facility the landscaping continues to satisfy the requirements of the permit. Temporary irrigation shall be provided to help ensure survival during the plant establishment period. If the approving authority determined that existing vegetation provided adequate screening without the need for additional landscaping, then no action shall be taken by the applicant or his assigns or successors that would diminish its effectiveness in screening the site. In the event that natural vegetation is removed to the extent that the area required to be screened is made more visible, the operator of

the facility shall prepare a revegetation plan and submit the plan to the administrator for review and approval. Upon approval, the operator shall implement the plan.

(d) The administrator or the hearing examiner as appropriate may approve any combination of existing vegetation, topography, walls, decorative fences or other features instead of landscaping, if they achieve the same degree of screening as the required landscaping. Either, as appropriate, may waive the requirement for the installation of screening for those sides of the facility that are naturally screened so as not to be visible from public streets or adjoining properties.

(e) Existing vegetation shall be preserved to the maximum extent practicable.

(f) When landscaping is required to be installed a maintenance bond, assignment of funds or other financial guaranty acceptable to the county shall be provided in the amount of 50 percent of the value of the labor and materials. The guaranty shall be in effect for two years from the date of planting.

(159) General Height Standards. The following standards shall apply to wireless communications facilities:

(a) The height of a freestanding or attached wireless communication facility shall be measured to include the support structure and any antennas proposed to be attached to the structure at the time of application; provided, that a lightning rod, not to exceed 10 feet, or FAA required lighting shall not be included in the height measurement.

(b) The height limit on a freestanding wireless communications facility shall be the minimum height necessary for the facility to function satisfactorily provided the height does not exceed height restriction imposed elsewhere in this chapter. The applicant shall provide technical documentation that the height proposed is the minimum necessary. As provided in WCC 20.13.160, the administrator or the hearing examiner may require a third party review of this information.

(c) The height of antennas mounted or installed on an attached wireless communication support structure may exceed the height limit of the underlying zone; provided, that the height does not exceed height restriction imposed elsewhere in this chapter.

(1610) Parking. Each freestanding and attached wireless communication support structure shall be provided with at least one adjacent parking space or more if needed to accommodate staff. All unstaffed facilities shall have access to parking for maintenance personnel; however, such parking may be shared or public parking at the discretion of the county. Staffed facilities shall require one parking space per staff ~~member under the standard provisions of the zone in which it is located.~~

Rationale: Parking space requirements are contained in WCC 20.80.580. These requirements do not address wireless facilities.

(~~1711~~) Building and Utility Permits. Approval of a ~~WCF~~-permit pursuant to WCC 20.13 does not exempt or otherwise remove any requirements for obtaining building permits and other applicable construction, development or operation related permits, licenses or approvals for the project. It shall be the permittee's responsibility to secure all other necessary permits and approvals prior to beginning work on the installation of the facility. (Ord. 2014-042 § 1 (Att. A), 2014; Ord. 2000-006 § 1, 2000. Formerly 20.13.060).

20.13.095 Concealment elements for small and macro wireless facilities.

Small wireless facilities and macro wireless facilities may be designed with concealment elements. The term "concealment element" means an element that is part of a stealth-designed facility intended to make a structure look like something other than a wireless facility, and is part of the eligible support structure approval. Examples of concealment elements include painting to match the supporting façade and making the structure look like a native tree or flag pole.

The FCC's *Declaratory Ruling and Notice of Proposed Rulemaking* (June 2020) states:

. . . The term "concealment element" in [47 CFR] section 1.6100(b)(7)(v) means an element that is part of a stealth-designed facility intended to make a structure look like something other than a wireless facility, and that was part of a prior approval . . . the *2014 Infrastructure Order* identified parts of a stealth wireless facility such as "painting to match the supporting façade or artificial tree branches" as examples of concealment elements. . . a concealment element must have been part of the facility that was considered by the locality at the original approval of the tower . . . a concealment element. . . would look like something else, such as a pine tree, flag pole, or chimney. . . (pages 8, 18, and 20).

The significance of the term "concealment element" is derived from the federal definition of "eligible facilities request" and the related definition of "substantially change" (incorporated into proposed WCC 20.13.025). In order to qualify as an eligible facilities request the proposal cannot, among other things, defeat the concealment elements of the eligible support structure.

As a related matter, in order to qualify as an eligible facilities request a proposal cannot violate certain conditions associated with approval of the eligible support structure. These "conditions" may include aesthetic conditions to minimize the visual impact of a wireless facility as long as the condition does not prevent modifications explicitly allowed under the eligible facility request provisions (relating to antenna height, antenna width, equipment cabinets, and excavations or deployments outside the current site). There must be express evidence that at the time of approval the local government required the feature and conditioned approval upon its continuing existence. Examples of aesthetic conditions include requiring a specific placement, requiring a shroud, requiring walls or fences, setbacks, or location behind a tree-line (FCC's *Declaratory Ruling and Notice of Proposed Rulemaking*, June 2020, pages 8, 18, 23, and 24).

Therefore, when permitting support structures that eligible facility requests may later be located on, it is useful to distinguish between concealment elements (addressed in proposed WCC 20.13.095) and other aesthetic conditions of approval (addressed in proposed WCC 20.13.120). Furthermore, some aesthetic "conditions associated with siting approval" (i.e. screening) may not be needed if the original tower or support structure is designed with concealment elements.

20.13.100 Temporary uses.

Freestanding or attached wireless communication facilities may be permitted as a temporary use with review by the administrator in order to facilitate continuity in personal wireless ~~communication~~-service during repair or maintenance of existing personal wireless ~~service~~communication facilities, when a supporting structure and site are being redeveloped, or prior to completion of construction of new personal wireless ~~service~~communication facilities. ~~Such temporary uses shall operate for not more than 60 days at any one location within a six-month period commencing when transmission from such facility begins, provided that the administrator may approve additional one six month extensions if the applicant demonstrates that substantial progress has been made on the repair, maintenance, redevelopment, or new construction. Additional extension requests must be submitted before the end of any extension period.~~ Temporary uses shall not be authorized for more than a cumulative total of 24 months. The personal wireless ~~service~~communication facility(s) shall be removed within 30 days after the facility is no longer needed for telecommunications purposes. (Ord. 2014-042 § 1 (Att. A), 2014; Ord. 2000-006 § 1, 2000. Formerly 20.13.090).

Rationale: In an email dated June 23, 2022, an industry representative stated:

. . . It often takes a more than a year for demolition and redevelopment of a building mount site, especially with the labor shortages in both the construction and local planning/building departments. Verizon would request that the director have discretion to grant more than one 6 month extension if the project is still underway. The telecom carrier waiting to go on the roof has no control over these delays and having to remove a temp facility results in gaps in coverage. . .

The industry representative made similar comments at the June 23, 2022 Planning Commission hearing.

At the request of the Planning Commission, Planning and Development Services staff met on July 6, 2022 to discuss this provision. PDS finds that it is reasonable to allow temporary uses for a longer period of time. We suggest that such uses could qualify for “temporary” status for a maximum of 24 months.

20.13.105 Noise requirements.

(1) Personal wireless service facilities shall comply with state noise level standards under Chapter 173-60 WAC, as amended.

(2) Generator use is only permitted as a backup power supply for emergency operation purposes or other times when the regular power supply is not available. If generators, air conditioning or other noise generating equipment is proposed, 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.

Rationale: Noise requirements have been modified and moved from WCC 20.13.090 (which, under the proposal, only applies to small and macro wireless facilities) to proposed WCC 20.13.105 (which applies to all personal wireless service facilities).

20.13.110 Special exceptions for small and macro wireless facilities.

When adherence to ~~all development standards~~ the requirements of WCC 20.13 ~~this chapter~~ would prohibit, have the effect of prohibiting or materially inhibit personal wireless service, including but not limited to resulting in a physical barrier which would block signal reception or transmission or preventing effective communication in all permissible locations, a special exception may be permitted provided criteria outlined below are met. Exceptions do not apply to variations from ~~the current code as adopted and amended per~~ WCC Title 15, Buildings and Construction. A variance pursuant to WCC 22.05.024 ~~Chapter 20.84~~ WCC is required for variations from applicable zoning regulations not contained in WCC 20.13 ~~described in this section~~.

Rationale: 47 US Code 253(a) indicates that “No State or local statute or regulation, or other State or local legal requirement, may prohibit or have the effect of prohibiting the ability of any entity to provide any interstate or intrastate telecommunications service.” Additionally, 47 US Code 332(c)(7)(B)(i) states: “The regulation of the placement, construction, and modification of personal wireless service facilities by any State or local government . . . shall not prohibit or have the effect of prohibiting the provision of personal wireless services.”

The FCC *Declaratory Ruling and Third Report and Order in the matter of Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Investment* (adopted September 26, 2018) indicates:

. . . a state or local legal requirement will have the effect of prohibiting wireless telecommunications services if it materially inhibits the provision of such services. We clarify that an effective prohibition occurs where a state or local legal requirement materially inhibits a provider’s ability to engage in any of a variety of activities related to its provision of a covered service. This test is met not only when filling a coverage gap but also when densifying a wireless network, introducing new services or otherwise improving service capabilities. . . a state or local legal requirement could materially inhibit service in numerous ways—not only by rendering a service provider unable to provide an existing service in a new geographic area or by restricting the entry of a new provider in providing service in a particular area, but also by materially inhibiting the introduction of new services or the improvement of existing services. Thus, an effective prohibition includes materially inhibiting additional services or improving existing services. . . (paragraph 37).

An industry representative requested that the “materially inhibit” language be inserted in the Special Exception section of the code.

The approval authority for granting of the special exception shall be the same as that of the authority authorized to approve the permit for the ~~personal wireless service facilities antenna location~~. A request for a special exception shall be processed in conjunction with the permit approving the antenna location.

Rationale: A special exception may be requested for the whole wireless facility, not just the antenna.

~~Upon review of special exception requests, the approval authority shall consider first those standards having the least effect upon the resulting aesthetic compatibility of the antenna or tower with the surrounding environment. The approval authority shall review setback, size, screening requirements, and height limits.~~

Rationale: The special exception approval criteria are listed below and it is unclear what the above text is intended to achieve.

(1) Special Exception Criteria.

(a) The applicant shall justify the request for a special exception by documenting and providing evidence that the full application of a particular standard or standards of ~~WCC 20.13 this chapter~~ would ~~prohibit, have the effect of prohibiting or materially inhibit personal wireless service, including but not limited to~~ resulting in an obstruction or inability to send and receive a communication signal from the proposed location of the facility and, further, that the obstruction or inability to send or receive a signal from that location is the result of factors beyond the property owner’s or applicant’s control. Pictures, scaled drawings, maps and/or manufacturer’s specifications, and other technical information as necessary should be provided to substantiate the need for the special exception.

(b) The applicant for a special exception shall demonstrate that the proposed materials, shape, and color of the ~~proposed personal wireless service facilities antenna~~ will minimize negative visual impacts on adjacent or nearby residential uses to the greatest extent possible. The use of certain materials, shapes and colors may be required in order to minimize visual impacts.

(c) Any request for a special exception to heights for new antennas that are proposed to be mounted or installed on an attached wireless communication support structure shall be reviewed relative to height limitations set for structures in the underlying zone district in which the antenna is to be located.

(d) Requests for special exceptions for setback reductions shall also be ~~evaluated~~ ~~judged~~ based on the following criteria:

(i) The extent to which screening and camouflaging is existing or will be employed to mitigate the effects of the structure versus the effectivenessvalue of the setback in providing such screening.

(ii) The need for the setback reduction to facilitate a location or design that better satisfies the criteria of this chapter.

(iii) The impact on adjacent properties.

~~(iv) Location in a street right of way.~~ (Ord. 2014-042 § 1 (Att. A), 2014; Ord. 2013-057 § 1 (Exh. A), 2013; Ord. 2000-006 § 1, 2000).

Rationale: WCC 20.13 does not apply within the street right of way (see proposed WCC 20.13.030(7) and (8)).

(e) A special exception for small wireless facilities shall not be granted that would alter the dimensional, bulk, numerical, or other criteria in the definition of small wireless facilities in WCC 20.13.020.

Rationale: If a proposal does not meet the definition of small wireless facility, it would have to be re-submitted as a macro wireless facility.

20.13.120 Conditions associated with siting approval.

The County may impose conditions associated with any permit for a personal wireless service facility in accordance with the WCC. Conditions may require that all activity on site shall be done in accordance with the site plan approved by the County and that any alterations from the approved site plan will require further review by Whatcom County Planning and Development Services and/or the Hearing Examiner. Conditions must be incorporated into the permit in writing. Subsequent eligible facilities requests must comply with conditions associated with permits for construction or modification of the eligible support structure or base station equipment, except as set forth in WCC 20. 13. 025(3) and (7).

Rationale: Pursuant to 47 CFR 1.6100(b)(3) and (7) a proposal will not qualify as an “eligible facilities request” if, among other things, “It does not comply with conditions associated with the siting approval of the construction or modification of the eligible support structure or base station equipment.” The FCC’s *Declaratory Ruling and Notice of Proposed Rulemaking* (June 2020) states “. . . there must be express evidence that at the time of approval the locality required the feature and conditioned approval upon its continuing existence in order for non-compliance with the condition to disqualify a modification from being an eligible facilities request. . .” (page 22). Therefore, it is important to explicitly set forth conditions associated with the original permit for a small wireless or macro wireless facility so that subsequent eligible facility requests can be evaluated for compliance with these conditions.

20.13.120 Application and conditions of issuance.

Applicants shall submit the following information in addition to standard application materials:

~~(1) A scaled site plan clearly indicating the location of the proposed facility, all other structures and uses on the site, adjacent roadways, proposed means of access, parking, existing and proposed landscaping and setbacks from property lines. Elevation drawings of the proposed tower, the equipment structure, existing structure with proposed antenna, fencing, buffering/screening, type of architectural treatment, and any other feature necessary to show compliance with the applicable standards.~~

~~(2) Photo simulations of the proposed facility from adjacent residential properties, public properties and public rights-of-way.~~

~~(3) Legal description and ownership of the parcel.~~

~~(4) A valid agreement for collocation on an existing WCF support structure or on an existing building or structure; or a location evaluation study as described in subsection (5) of this section.~~

~~(5) For new freestanding support structures, a location evaluation study shall be provided as follows:~~

~~(a) A study shall be provided showing that the structure is required for present and future network coverage, that the height requested is the minimum necessary to provide for the function and potential collocated antennas and why the antennas could not be collocated on an existing structure. In residential zones, the applicant shall provide adequate proof that the facility could not be located in a nonresidential zone.~~

~~(6) The applicant shall submit a performance bond or other security acceptable to the county, as described in WCC 20.13.130(4), to cover the future costs of removal of the facility.~~

~~(7) A report from a licensed professional engineer documenting that:~~

~~(a) The support structure is designed for collocation of other antennas (if applicable).~~

~~(b) The antenna usage will not interfere with other adjacent or neighboring transmission or reception communications signals.~~

~~(c) The wireless communications facility complies with all applicable standards of the FCC for such facilities including EMF emission standards, if applicable.~~

~~(8) Proof of license by the FCC, if applicable.~~

~~(9) A copy of the findings from the FAA's Aeronautical Study Determination regarding the proposed wireless communication support structure.~~

~~(10) A copy of the instrument that establishes the right of the applicant to use the site for the intended purpose as required in WCC 20.13.091(7).~~

~~(11) If the site is a leased site, a copy of lease agreement which specifies or shows that it does not preclude the site owner from entering into leases on the site with other providers. (Ord. 2017-030 § 1 (Exh. M), 2017; Ord. 2014-042 § 1 (Att. A), 2014; Ord. 2000-006 § 1, 2000).~~

Rationale: In accordance with proposed amendments to WCC 22.05.050, the County will prepare application forms specifying submittal requirements for wireless communication facilities. These submittal requirements may also be included in the Planning and Development Service Department’s administrative manual.

20.13.130 General criteria for issuance of permits for small and macro wireless facilities.

(1) Any applicant for a land use permit (other than a building permit) proposing to install an antenna support structure or mount an antenna on an existing structure shall demonstrate by engineering evidence that:

~~(a) The antenna must be located at the site to satisfy its function in the wireless service provider’s local system. The county may require the applicant to provide feasibility studies which demonstrate that locations on existing structures and/or in higher priority locations have been explored and are not feasible or available.~~

~~(b) T~~he height requested is the minimum height necessary to fulfill the site’s function within the wireless service provider’s system.

Rationale: There may be multiple high priority sites available, so it is not necessary to show that the antenna must be located at any one particular site. Additionally, the applicant must address higher priority locations under criterion (2) below.

(2) ~~In addition to standard criteria, t~~he authority granting the permit shall find that, unless the facility will be located at the highest priority location as set forth in WCC 20.13.085, the applicant has demonstrated that none of the higher priority locations are available or if one is available it is not a feasible location for the proposed facility, or if feasible is less desirable than the one proposed from the standpoint of minimizing impacts on surrounding land uses.

~~(3) The permit may include requirements which:~~

~~(a) Minimize visual impacts to the greatest extent possible by maximum feasible use of camouflage or screening, including but not limited to fencing, landscaping, strategic placement adjacent to existing buildings or live or simulated vegetation, undergrounding of accessory equipment structures, incorporation of wireless communications support structures, antennas and other appurtenances into the architectural features of existing buildings or structures and by requiring compatibility with key design elements in the surrounding area; for example, use of brick or other material similar to that used in adjacent buildings or structures, incorporation of~~

~~support structures into compatible architectural features such as flag poles, bell towers or cornices, or use of simulated vegetation to camouflage support structures.~~

~~(b) Locate wireless communication facilities so as to minimize the visibility of the facility to residentially zoned land and so as to minimize the obstruction of scenic views from residentially zoned land.~~

~~(c) Require the mounting of the facility on existing buildings or structures, or use of other alternatives with less visual, aesthetic or safety impacts, as an alternative to use of a monopole or lattice tower.~~

Rationale: Conditions of approval are addressed under proposed WCC 20.13.120. Visual impacts are addressed in WCC 20.13.080 (prohibited locations), WCC 20.13.085 (siting priorities), WCC 20.13.090 (design and development standards), and WCC 20.13.095 (concealment elements).

(3) The applicant shall submit documentation that the personal wireless service facilities comply with applicable FCC regulations concerning radio frequency emissions.

Rationale: Federal law, passed by the U.S. Congress, indicates that:

No State or local government or instrumentality thereof may regulate the placement, construction, and modification of personal wireless service facilities on the basis of the environmental effects of radio frequency emissions to the extent that such facilities comply with the Commission's regulations concerning such emissions (47 U.S. Code 332(c)(7)(B)(iv)).

While the federal government preempts regulation of radio frequency emissions, there is nothing that says local government cannot require documentation that a proposed small or macro wireless facility will comply with FCC regulations.

With regard to eligible facilities requests, federal regulations adopted by the FCC state:

. . . a State or local government may require the applicant to provide documentation or information only to the extent reasonably related to determining whether the request meets the requirements of this section. A State or local government may not require an applicant to submit any other documentation. . . (47 CFR 1.6100(c)(1)).

Therefore, it appears that the County cannot require the applicant to submit radio frequency emission documentation for eligible facilities requests.

(4) Performance Bond or Other Security Acceptable to the County. The operator of the facility shall obtain and keep in force throughout the time the facility is located on the site a performance bond or other security acceptable to Whatcom County payable to Whatcom County in the amount of 150 percent of the estimated cost of removal as determined by the director, but not less than \$1,000. The

bond is intended to cover the costs of removal of such facility at such time as the facility may be required to be removed pursuant to WCC 20.13.150. (Ord. 2014-042 § 1 (Att. A), 2014; Ord. 2000-006 § 1, 2000).

20.13.140 Federal requirements.

All wireless communications support structures must meet or exceed applicable current standards and regulations of the FAA, the FCC and any other agency of the federal government with the authority to regulate wireless communication support structures and antennas. If such standards and regulations are changed, owners of the freestanding or attached wireless communication support structure, antennas and electronic equipment governed by this chapter shall bring such facility into compliance with such revised standards and regulations if required by~~within the compliance schedule of~~ the federal agency. Failure to bring such facilities into compliance with such revised standards and regulations shall constitute grounds for the removal of the facility at the owner's expense. (Ord. 2014-042 § 1 (Att. A), 2014; Ord. 2000-006 § 1, 2000).

20.13.150 Removal of antennas and support structures.

No less than 30 days prior to the date that a personal wireless service provider plans to abandon or discontinue operation of a facility, the provider must notify the Whatcom County planning and development services director by certified U.S. mail of the proposed date of abandonment or discontinuation of operation. The owner of the facility shall then remove the antenna within 90 days of discontinuation or abandonment unless an additional period of time is authorized by the county. In any case, if the county finds that any wireless communication support structure has not operated for a continuous period of six months, the owner or lessee of the property shall remove the facility within 36 months of receipt of notice to remove from the county. If the abandoned facility is not removed within said time period, the county may remove the antenna or wireless communication support structure at the owner's expense. If there are two or more wireless communications providers on a single wireless communication support structure, this provision shall not become effective until all providers cease using the wireless communication support structure. (Ord. 2014-042 § 1 (Att. A), 2014; Ord. 2000-006 § 1, 2000).

20.13.160 Third party review.

Personal wireless service providers use various methodologies and analyses, ~~including geographically based computer software,~~ to determine the specific technical parameters of their services ~~and low power mobile radio service facilities,~~ such as expected coverage area, antenna configuration, topographic constraints that affect signal paths, etc. Because of the technical nature of methodologies and analyses, the county may find it necessary to require a third party technical review of the material submitted by the applicant as part of a permitting process. The expert review is intended to address ~~interference and~~ public safety issues and be a site-specific review of technical aspects of the facilities or a review of the provider's methodology and equipment used and not a subjective review of the site which was selected by a provider. Based on the results of the expert review, the county may require changes to the provider's application. The expert review shall address the following:

Rationale: An industry representative recommended removing “interference” in the above text stating:

. . . the Federal Communications Commission has the exclusive authority to regulate radio frequency interference, and local regulations that require a wireless applicant to demonstrate that its facilities will not cause RFI are impliedly preempted by federal law. [New York SMSA Limited Partnership v. Town of Clarkstown](#), 612 F.3d 97, 105 (2nd Cir. 2010).

A representative of the Whatcom County Prosecuting Attorney’s Office reviewed this case and stated in an e-mail of January 20, 2022 that frequency regulation is preempted and it is appropriate to remove the word “interference” (in the text above).

- (1) The accuracy ~~and completeness~~ of submissions;
- (2) The applicability of analysis techniques and methodologies;
- (3) The validity of conclusions reached; and
- (4) Any specific technical issues designated by the county.

Rationale: The Planning and Development Services Department makes determinations of completeness without consultant assistance.

In general, and if necessary, the administrator shall consider requiring a third party review of technical information submitted in support of a special exception, and technical information submitted in support of a ~~personal~~ wireless ~~service~~ communication facility proposed at a low priority, high visual impact location.

The selection of a third party expert shall be by mutual agreement between the provider and the county. The cost of the technical review shall be borne by the applicant. (Ord. 2014-042 § 1 (Att. A), 2014; Ord. 2000-006 § 1, 2000).

20.13.170 Project permit procedures.

Project permit procedures including application procedures, permit review time frames, deemed granted provisions (for eligible facilities requests), and appeals are contained in WCC 22.05. Any decision to deny an application shall be in writing, supported by substantial evidence contained in a written record.

Rationale: The language relating to denials has been moved to from WCC 20.13.010 (Purpose), because it fits better under the Project permit procedures section. This language is from 47 US Code Section 332(c)(7)(B)(ii).

~~20.13.170 Appeals.~~

~~The hearing examiner shall have the authority to decide, in conformity with this chapter, appeals from any order, requirement, permit decision or determination made by an administrative official in the administration or enforcement of this chapter where more than one interpretation is possible as provided in WCC 22.05.160. (Ord. 2018-032 § 1 (Exh. D), 2018; Ord. 2014-042 § 1 (Att. A), 2014; Ord. 2000-006 § 1, 2000).~~

Rationale: Appeal procedures are set forth in WCC 22.05, Project Permit Procedures.

EXHIBIT B

Amend WCC 20.82, Public Utilities, as shown below.

20.82.030 Conditional uses.

The following uses shall require a conditional use permit or major project permit and shall be subject to a threshold determination in accordance with the Whatcom County SEPA Ordinance:

(1) Transmission pipelines, or pipelines termed a distribution pipeline but having characteristics that fit the definition of a transmission pipeline, carrying petroleum and petroleum products other than natural gas when such pipelines will be located outside the zoning district classified as Heavy Impact Industrial.

(2) Regional transmission pipelines for the bulk conveyance of natural gas, or pipelines termed a distribution pipeline but having characteristics that fit the definition of a transmission pipeline. Except for the above conditions, natural gas pipelines which are owned and operated by a gas utility company regulated by the State Utilities and Transportation Commission and which are distribution lines owned by the utility that provide natural gas service directly to county citizens and businesses shall not be considered regional transmission lines.

(3) New water lines with a nominal pipe size greater than eight inches except for the following, which are permitted outright:

(a) New water lines located and installed by a public utility or municipality within urban growth areas or limited areas of more intensive rural development (LAMIRDs); or

(b) New water lines outside urban growth areas or limited areas of more intensive rural development (LAMIRDs) in conformance with a state approved water comprehensive plan pursuant to RCW [43.20.260](#) and consistent with the Whatcom County Comprehensive Plan, so long as they are water transmission lines per WCC [20.97.452](#), or provide service at an intensity historically and typically found in rural areas, per RCW [36.70A.030](#)(17), including but not limited to agricultural uses. Water service for uses or densities not permitted in rural or resource areas shall not be extended or expanded outside urban growth areas or limited areas of more intensive rural development (LAMIRDs), except where necessary to protect basic public health and safety and the environment and when such services are financially supportable at rural densities and do not permit urban development, per RCW [36.70A.110](#)(4).

(4) New sewer lines with an inside diameter of six inches or greater and length of 150 feet or greater, except for new sewer lines located and installed within urban growth areas or limited areas of more intensive rural development (LAMIRDs), and in conformance with a state approved sewer and/or water comprehensive plan and consistent with the Whatcom County Comprehensive Plan, which shall be permitted outright. Sewer lines shall not be extended to serve lots outside urban growth areas unless such extensions are shown to be necessary to protect basic public health and safety and the environment, and when such services are financially supportable at rural densities and do not permit

urban development. Sewer lines may pass through areas outside urban growth areas provided they do not provide sewer service to any lot in the nonurban areas.

(5) Electronic communications structures and telecommunication towers including associated maintenance and operations structures, provided this section shall not apply to personal wireless service facilities and associated ~~any~~ structures regulated under WCC 20.13 nor to structures or towers in the public right of way associated with wireless communications facilities.

(6) Water storage reservoirs with volumes exceeding 50,000 gallons, those with height in excess of 12 feet above the ground level measured within 20 feet in all directions of the tank. The following height standards shall apply:

(a) The height limit on the water storage reservoir shall be the minimum necessary to accomplish its intended purpose. The applicant shall provide technical documentation that the height proposed is the minimum necessary.

(b) The height of the water storage reservoir may exceed the height limit of the underlying zone; provided, that all other criteria in WCC [22.05.026](#) are satisfied.

(7) Utility structures located above ground such as pump stations, equipment buildings and similar structures greater than 200 square feet in area.

(8) Sewer and water treatment plants, except that sewer treatment plants are prohibited in the Airports Operations Zone.

(9) Electrical substations and new electrical power lines operating at voltages greater than 55 kV (55,000 volts); provided, applications for such substations and power lines shall be processed as a major development permit (pursuant to Chapter [20.88](#) WCC); provided, that no further major development permit shall be granted for such lines which:

(a) Operate at greater than 115 kV (115,000 volts) except on land where such permits have already been granted or in those districts classified as industrial; or

(b) Operate at 115 kV (115,000 volts) and carry greater than 160 mw (160 megawatts) average loading, except on land where such permits have already been granted or in those districts classified as industrial. For purposes of this section, "average loading" means the average power in megawatts carried by a power line over any 12-month period; provided, that loading at full line carrying capacity may not extend beyond any 90-day period;

(c) Are dedicated to provision of transmission service to (from) an electrical generating plant having a generating capacity greater than 160 mw (160 megawatts), except on lands where such permits have already been granted or in those districts classified as industrial.

(10) Electrical substations and new electrical power lines with height in excess of the zoning district's height limitations. The following height standards shall apply:

(a) The height limit on the substation or power line shall be the minimum necessary to accomplish its intended purpose. The applicant shall provide technical documentation that the height proposed is the minimum necessary.

(b) The height of the substation or power line may exceed the height limit of the underlying zone; provided, that all other criteria in WCC [22.05.026](#) are satisfied. (Ord. 2016-035 § 1 (Exh. A), 2016; Ord. 2016-011 § 1 (Exh. C), 2016; Ord. 2013-028 § 2 Exh. B, 2013; Ord. 2012-032 § 2 Exh. B, 2012; Ord. 2011-013 § 2 Exh. B, 2011; Ord. 2004-041 § 1, 2004; Ord. 2004-014 § 2, 2004; Ord. 2002-017 § 1, 2002; Ord. 2000-006 § 7, 2000; Ord. 99-067, 1999; Ord. 96-056 Att. A § T1, 1996; Ord. 90-124, 1990; Ord. 88-29, 1988; Ord. 87-12, 1987; Ord. 87-11, 1987).

EXHIBIT C

Amend WCC 20.83, Nonconforming Uses and Parcels, as shown below.

20.83.020 Expansion of nonconforming use.

(1) Nonconforming uses may be extended throughout any building partially occupied by such use at the time of passage of the ordinance codified in this section, except for nonconforming adult businesses, which shall not be extended to other parts of the building.

(2) The expansion of a nonconforming use by addition or enlargement shall require a conditional use permit, except for:

(a) ~~Nonconforming adult businesses, which shall not be expanded;~~ and

(b) Personal wireless service facilities regulated under WCC 20.13.070(1-3).

The expansion must be on the parcel as it existed at the time the use became nonconforming and the use shall not expand on adjacent parcel(s). The expansion shall be approved if it is consistent with the applicable zoning regulations except the use restrictions and complies with WCC [22.05.026\(3\)\(b\)](#) to (i).

(3) For the purposes of this section, the expansion of a nonconforming surface mining operation (which requires a conditional use permit) shall mean:

(a) Any lateral excavation outside of the footprint of the nonconforming mine as it existed on the effective date of the amendment codified in this subsection; or

(b) Any further excavation within a five-year time of travel boundary for delineated wellhead protection areas (areas within the one-year and two-year time of travel boundaries are included in the five-year time of travel boundary); or

(c) Any further excavation within 10 feet of the seasonal high water table if mining is within a 10-year time of travel boundary for delineated wellhead protection areas, but outside of a five-year time of travel boundary; or

(d) Any further excavation within five feet of the seasonal high water table if mining is within a critical aquifer recharge area, but outside of the 10-year time of travel boundary for delineated wellhead protection areas.

This subsection (3) does not apply to mining operations conducted in accordance with a previously approved conditional use permit, mining operations conducted in accordance with a previously approved county surface mining permit, nor to mining operations within the mineral resource lands overlay zone that have obtained administrative approval. Subsections (3)(b) and (3)(c) of this section do not apply when the well was drilled after the effective date of the amendment codified in this subsection.

(4) Whatcom County shall not pursue enforcement action for failure to possess a conditional use permit against any operator or owner of a nonconforming surface mining operation if all of the following circumstances apply:

(a) The owner or operator demonstrates that this section would require them to cease operations until they obtained a conditional use permit; and

(b) The owner or operator applies for a conditional use permit:

(i) Within 120 days of the effective date of the amendment codified in this subsection; or

(ii) Within 120 days of the date the mine owner or operator is notified of the new wellhead protection area, if the new wellhead protection area is established after the effective date of the amendment codified in this subsection for an existing well; and

(c) The owner or operator continues to actively seek the conditional use permit after the application is submitted. (Ord. 2016-011 § 1 (Exh. J), 2016; Ord. 2001-047 § 1, 2001; Ord. 99-070 § 2, 1999; Ord. 88-29, 1988).

EXHIBIT D

Amend WCC 20.97, Definitions, as shown below.

~~**20.97.302 Personal wireless communications service.**~~

~~“Personal wireless communications service” is a term which means the same as wireless communications service. (Ord. 2000-006-5-5, 2000).~~

Rationale: A definition of “Personal wireless service facility” has been inserted in proposed WCC 20.13.020(19), with the rest of the definitions relating to wireless facilities.

EXHIBIT E

Amend WCC 22.05, Project Permit Procedures, as shown below.

Chapter 22.05 PROJECT PERMIT PROCEDURES

Sections:

- 22.05.010 Purpose and applicability.**
- 22.05.020 Project permit processing table.**
- 22.05.024 Variances.**
- 22.05.026 Conditional use permits.**
- 22.05.028 Administrative approval uses.**
- 22.05.030 Consolidated permit review.**
- 22.05.040 Pre-application conference.**
- 22.05.050 Application and determination of completeness.**
- 22.05.060 Vesting.**
- 22.05.070 Notice of application.**
- 22.05.080 Posting of application.**
- 22.05.090 Open record hearings.**
- 22.05.100 Consistency review and recommendations.**
- 22.05.110 Final decisions – Type I, II, and III applications.**
- 22.05.120 Recommendations and final decisions – Type IV applications.**
- 22.05.125 Proof of insurance for hazards created in the county.**
- 22.05.126 Supplemental procedures for fossil fuel refinery and fossil fuel transshipment facility permitting.**
- 22.05.130 Permit review time frames.**
- 22.05.140 Expiration of project permits.**
- 22.05.150 Permit revocation procedure.**
- 22.05.160 Appeals.**
- 22.05.170 Annual report.**
- 22.05.180 Interpretation, conflict and severability.**

22.05.010 Purpose and applicability.

(1) The purpose of this chapter is to combine and consolidate the application, review, and approval processes for project permits and appeals as defined in WCC 20.97.321. It is further intended for this chapter to comply with the provisions of Chapter 36.70B RCW and federal laws and regulations relating to personal wireless service facilities (47 US Code Sections 253, 332, and 1455 and 47 CFR Sections 1.6001 through 1.6100). These procedures provide for a consolidated land use permit process and integrate the environmental review process with the procedures for review of land use decisions.

Rationale: Federal laws (US Code) and regulations (Code of Federal Regulations or CFR) preempt certain local governmental authority relating to personal wireless service facilities. Therefore, the County’s project permit procedures must be modified for these facilities.

(2) This chapter applies to the processing of project permit applications for development and appeals related to the provisions of WCC Title 15, Buildings and Construction; WCC Title 16, Environment; WCC Title 17, Flood Damage Prevention; WCC Title 20, Zoning; WCC Title 21, Land Division Regulations; and WCC Title 23, Shoreline Management Program. The provisions of this chapter shall apply to all project permit applications as defined in RCW 36.70B.020, and other administrative decisions, as listed in the table in WCC 22.05.020.

(3) The meaning of words used in this chapter shall be as defined in Chapter 20.97 WCC. (Ord. 2019-013 § 1 (Exh. A); Ord. 2018-032 § 1 (Exh. A)).

22.05.020 Project permit processing table.

(1) Marked boxes in the table below indicate the required general steps for processing all project permit applications or administrative actions. The requirements for each step listed in the top row of the table are provided in WCC 22.05.040 through 22.05.160, as indicated. Specific requirements for each project permit can be found through the references given in the table.

Permit Application Processing Table	WCC Reference for Specific Requirements	Pre-Application Required (see 22.05.040)	Determination of Completeness Required (see 22.05.050)	Notice of Application Required (see 22.05.070)	Site Posting Required (see 22.05.080)	Notice of Open Record Hearing Required (see 22.05.090)	Open Record Hearing Held By: (see 22.05.090)	County Decision Maker (see 2.11.210, 22.05.120)	Appeal Body (see 2.11.210, 22.05.160, 23.60.150(H))
Type I Applications (Administrative Decision with No Public Notice or Hearing)									
Boundary Line Adjustment	21.03		✓					Director	Hearing Examiner
Building Permit	15.04	✓ (f)	✓					Director	Hearing Examiner (i)

Permit Application Processing Table	WCC Reference for Specific Requirements	Pre-Application Required (see 22.05.040)	Determination of Completeness Required (see 22.05.050)	Notice of Application Required (see 22.05.070)	Site Posting Required (see 22.05.080)	Notice of Open Record Hearing Required (see 22.05.090)	Open Record Hearing Held By: (see 22.05.090)	County Decision Maker (see 2.11.210, 22.05.120)	Appeal Body (see 2.11.210, 22.05.160, 23.60.150(H))
Natural Resource Assessment	Title 16		✓					Director	Hearing Examiner
Commercial Site Plan Review			✓					Director	Hearing Examiner
Exempt Land Division	21.03		✓					Director	Hearing Examiner
Floodplain Development Permit	Title 17							Director	Hearing Examiner
Land Disturbance Permit	15.04 and 20.80		✓					Director	Hearing Examiner
Lot of Record/Lot Consolidation	20.83 and 20.97.220		✓					Director	Hearing Examiner
Nonconforming Use	20.83		✓					Director	Hearing Examiner
Removal of Development Moratorium	20.80.738(3)								
Shoreline Exemption	23.60	✓ (a)	✓					Director	Hearing Examiner
Zoning Interpretation	22.20							Director	Hearing Examiner
<u>Permitted Personal Wireless Service Facilities</u>	<u>20.13</u>		<u>✓</u>					<u>Director</u>	<u>Court of competent jurisdiction</u>
Type II Applications (Administrative Decision with Public Notice; No Public Hearing)									
Administrative Use	22.05.028	✓	✓	✓	✓			Director	Hearing Examiner
<u>Administrative Use for Personal</u>	<u>20.13</u>		<u>✓</u>	<u>✓</u>	<u>✓</u>			<u>Director</u>	<u>Court of competent jurisdiction</u>

Permit Application Processing Table	WCC Reference for Specific Requirements	Pre-Application Required (see 22.05.040)	Determination of Completeness Required (see 22.05.050)	Notice of Application Required (see 22.05.070)	Site Posting Required (see 22.05.080)	Notice of Open Record Hearing Required (see 22.05.090)	Open Record Hearing Held By: (see 22.05.090)	County Decision Maker (see 2.11.210, 22.05.120)	Appeal Body (see 2.11.210, 22.05.160, 23.60.150(H))
Wireless Service Facilities									
Lot Consolidation Relief	20.83.070		✓	✓	✓			Director	Hearing Examiner
Reasonable Use (b)	16.16		✓	✓	✓			Director	Hearing Examiner
Shoreline Substantial (c)	23.60	✓ (a)	✓	✓	✓			Director (d)	Shorelines Hearings Board (h)
Shoreline Conditional Use (c)	23.60	✓ (a)	✓	✓	✓			Director (d)	Hearing Examiner
Zoning or Critical Areas Variance, Minor	22.05.024	✓	✓					Director	Hearing Examiner
Zoning or Critical Areas Variance, Minor for Personal Wireless Service Facilities	22.05.024		✓					Director	Court of Competent Jurisdiction
Short Subdivision	21.04	✓	✓	✓	✓			Director	Hearing Examiner
Type III Applications (Hearing Examiner Decision with Public Notice and Public Hearing)									
Conditional Use	22.05.026	✓	✓	✓	✓	✓	Hearing Examiner	Hearing Examiner	Superior Court
Conditional Use for Personal Wireless Service Facilities	WCC 20.13		✓	✓	✓	✓	Hearing Examiner	Hearing Examiner	Court of Competent Jurisdiction
Floodplain Development Variance	Title 17		✓	✓	✓	✓	Hearing Examiner	Hearing Examiner	Superior Court

Permit Application Processing Table	WCC Reference for Specific Requirements	Pre-Application Required (see 22.05.040)	Determination of Completeness Required (see 22.05.050)	Notice of Application Required (see 22.05.070)	Site Posting Required (see 22.05.080)	Notice of Open Record Hearing Required (see 22.05.090)	Open Record Hearing Held By: (see 22.05.090)	County Decision Maker (see 2.11.210, 22.05.120)	Appeal Body (see 2.11.210, 22.05.160, 23.60.150(H))
Long Subdivision	21.05	✓	✓	✓	✓	✓	Hearing Examiner	Hearing Examiner (g)	Superior Court
Binding Site Plan	21.07	✓	✓	✓	✓	✓	Hearing Examiner	Hearing Examiner (g)	Superior Court
Reasonable Use (e)	16.16	✓	✓	✓	✓	✓	Hearing Examiner	Hearing Examiner	Superior Court
Removal of Development Moratorium	20.80.738(2)		✓	✓	✓	✓	Hearing Examiner	Hearing Examiner	Superior Court
Shoreline Conditional Use	23.60	✓ (a)	✓	✓	✓	✓	Hearing Examiner	Hearing Examiner (d)	Shorelines Hearings Board (h)
Shoreline Substantial	23.60	✓ (a)	✓	✓	✓	✓	Hearing Examiner	Hearing Examiner (d)	Shorelines Hearings Board (h)
Shoreline Variance	23.60	✓ (a)	✓	✓	✓	✓	Hearing Examiner	Hearing Examiner (d)	Shorelines Hearings Board (h)
Zoning or Critical Areas Variance, Major	22.05.024 or 16.16.273	✓	✓	✓	✓	✓	Hearing Examiner	Hearing Examiner	Superior Court
Zoning or Critical Areas Variance, Major For Personal Wireless Service Facilities	22.05.024 or 16.16.273		✓	✓	✓	✓	Hearing Examiner	Hearing Examiner	Court of Competent Jurisdiction
Type IV Applications (County Council Decision with Public Notice and Public Hearing)									
Development Agreement	2.11.205	✓	✓	✓	✓	✓	Hearing Examiner	County Council	Superior Court
Major Project Permit	20.88	✓	✓	✓	✓	✓	Hearing Examiner	County Council	Superior Court
Planned Unit Development	20.85	✓	✓	✓	✓	✓	Hearing Examiner	County Council	Superior Court

Check marks indicate a step is required; reference letters refer to the notes in subsection (2) of this section.

(2) Project Permit Processing Table Notes. As indicated in the table in subsection (1) of this section, project permits are subject to the following additional requirements:

- (a) Pre-application conference subject to WCC Title 23, Shoreline Management Program.
- (b) Single-family residential uses in critical areas or critical area buffers, except all uses in geological hazardous areas and setbacks.
- (c) Shoreline permit public hearing decision determined pursuant to WCC Title 23, Shoreline Management Program. If a public hearing is required the shoreline permit shall be processed as a Type III application.
- (d) Pursuant to Chapters 23.60 and 23.70 WCC, final administrative determinations or decisions as appropriate shall be filed with, or approved by, the Washington State Department of Ecology.
- (e) All uses in geological hazardous areas and setbacks and all non-single-family residential uses in critical areas or critical area buffers.
- (f) Building permit pre-application conference, subject to WCC 15.04.020(A)(3)(a).
- (g) The hearing examiner may choose to consult with the development standards technical advisory committee concerning technical matters relating to land division applications.
- (h) Whatcom County shall consider an appeal of a decision on a shoreline substantial development permit, shoreline variance, or shoreline conditional use only when the applicant waives his/her right to a single appeal to the Shorelines Hearings Board. When an applicant has waived his/her right to a single appeal, such appeals shall be processed in accordance with the appeal procedures of section WCC 23.60.150(H).
- (i) Except that appeals of WCC Title 15 fire and building code requirements shall be made to the board of appeals per current building code, as adopted in WCC 15.04.010. (Ord. 2020-045 § 1 Exh. A; Ord. 2018-032 § 1 (Exh. A)).

Rationale: See proposed amendments to WCC 20.13, personal wireless service facilities, on rationale for status as permitted use (Type I), administrative approval use (Type II), or conditional use (Type III).

22.05.024 Variances.

(1) Variances from the terms of WCC Title 20 (Zoning) or Chapter 16.16 WCC (Critical Areas) may be authorized in specific cases that will not be contrary to the public interest, and where, due to special conditions, literal enforcement of the provisions of those codes would result in unnecessary hardship.

Generally, variances shall only be considered for dimensional standards, unless otherwise specified in those codes. Under no circumstances shall a variance be granted that allows a use not permissible or otherwise prohibited in the zoning district in which the subject property is located.

(2) There are two types of variances: Minor and Major Variances.

(a) Minor variances include those that are unlikely to have impacts on surrounding properties or people or need to be processed more rapidly to meet federal time frames. These shall be limited to variances for:

(i) A reduction of up to 10 percent of a front yard setback;

(ii) A reduction in parking stall dimensions down to nine feet by 18 feet.

(iii) The following personal wireless service facilities: Small wireless facilities, provided that a variance shall not be granted that would alter the dimensional, bulk, numerical, or other criteria in the definition of small wireless facility in WCC 20.13.

(b) Major variances include all other variances.

(3) The appropriate decision maker, as specified in WCC 22.05.020 (Project permit processing table) shall have the authority to grant variances when the conditions set forth in subsection (4) of this section have been found to exist. In such cases, a variance may be granted so that the spirit of the county's land use codes shall be observed, public safety and welfare secured, and substantial justice done.

(4) Before any variance may be granted, it shall be shown that the following circumstances are found to apply:

(a) That any variance granted shall not constitute a grant of special privilege, be based upon reasons of hardship caused by previous actions of the property owner, nor be granted for pecuniary reasons alone;

(b) Because of special circumstances applicable to the subject property, including size, shape, topography, location, or surrounding, the strict application of WCC Title 20 (Zoning) or Chapter 16.16 WCC (Critical Areas Ordinance) is found to cause a hardship and deprive the subject property of a use or improvement otherwise allowed in its zoning district. Aesthetic considerations or design preferences without reference to restrictions based upon the physical characteristics of the property do not constitute sufficient hardship under this section;

(c) The granting of the variance will not be materially detrimental to the public welfare, or injurious to the property or improvements in the vicinity and zone in which the subject property is situated. (Ord. 2020-045 § 1 Exh. A).

22.05.026 Conditional use permits.

(1) Application. Conditional use permit applications shall be processed per the provisions of this chapter.

(2) Conditional use permits shall be nontransferable unless said transfer is approved by the hearing examiner.

(3) Approval Criteria. Before approving an application, the director or hearing examiner shall ensure that any specific standards of the zoning district defining the use are fulfilled, and shall find adequate evidence showing that the proposed use at the proposed location:

(a) Will be harmonious and in accordance with the general and specific objectives of Whatcom County’s Comprehensive Plan, zoning regulations, and any other applicable regulations.

(b) Will be designed, constructed, operated, and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity, and that such use will not change the essential character of the same area.

(c) If located in a rural area (as designated in the Comprehensive Plan), will be consistent with rural land use policies as designated in the rural lands element of the Comprehensive Plan.

(d) Will not be hazardous or disturbing to existing or future neighboring uses.

(e) Will be serviced adequately by necessary public facilities such as highways, streets, police and fire protection, drainage structures, refuse disposal, water, sewers, and schools; or that the persons or agencies responsible for the establishment of the proposed use shall be able to provide adequately any such services.

(f) Will not create excessive additional requirements at public cost for public facilities and services, and will not be detrimental to the economic welfare of the community.

(g) Will not involve uses, activities, processes, materials, equipment, and conditions of operation that will be detrimental to any persons, property, or the general welfare by reasons of excessive production of traffic, noise, smoke, fumes, glare or odors.

(h) Will have vehicular approaches to the property which shall be so designed as not to create an interference with traffic on surrounding public streets.

(i) Will not result in the destruction, loss or damage of any natural, scenic, or historic feature of major importance.

(4) Approval Criteria for Expansion of Fossil Fuel Refineries Pursuant to WCC 20.68.153 and Expansion of Fossil Fuel Transshipment Facilities Pursuant to WCC 20.68.154. Before approving an application, the hearing examiner shall ensure that any specific standards of the zoning district defining the use are fulfilled, and shall find adequate evidence showing that:

(a) The conditional use permit approval criteria listed under subsection (3) of this section are met;

(b) Within shorelines, if applicable, county approval shall be contingent upon approval of a shoreline permit;

(c) The applicant has documented to the county decision maker (as applicable):

(i) All of the anticipated types and volumes of substances to be processed, stored, or transferred in bulk with the proposed expansion;

(ii) Changes in the maximum transshipment capacity or the maximum atmospheric crude distillation capacity occurring as a result of the proposed expansion, as applicable; and

(iii) The mode of shipment vessels to be loaded or unloaded with the proposed equipment and/or as a result of the proposed expansion.

The permit shall be limited exclusively to those types and volumes of materials or products as documented and approved.

(d) Insurance requirements meet the provisions of WCC 22.05.125.

(e) Mitigation of transportation impacts consistent with Chapter 20.78 WCC, Transportation Concurrency Management, and Chapter 16.24 WCC, Commute Trip Reduction.

(f) Mitigation of impacts to other services including fire and emergency response capabilities, water supply and fire flow, to address risks created by expansions.

(g) Plans for stormwater and wastewater releases have been approved.

(h) Prior to commencement of any site preparation or construction activities, all necessary state leases shall be acquired for any piers or aquatic lands improvements, and it shall be demonstrated to the zoning administrator that the project applicant has met any federal or state permit consultation requirements, including tribal treaty rights or the provisions of the Magnuson Amendment through state and federal permitting decisions.

(i) The county decision maker may approve a conditional use permit with a condition to obtain relevant leases and complete any necessary federal and state permitting requirements, and may restrict the conditional use permittee from undertaking site preparation or construction activities until it has fulfilled that condition.

(j) The permittee must inform the county permitting authorities of a change in the aforementioned disclosures so that the department can document current capacity levels to ensure that the cumulative thresholds under WCC 20.68.153 or 20.68.154 (as applicable) have not been exceeded.

(k) The county decision maker shall include, in any approval of an application for an expansion, as per WCC 20.68.153 or 20.68.154, a condition that the permitted equipment shall only be used in the manner described by the project proponent in the application and approved in the permit.

The application shall describe the intended use, including the type of fuel to be stored and, if located at a fossil fuel refinery or renewable fuel refinery, whether the equipment will or will not be used for transshipment.

(5) Revisions. The hearing examiner may administratively approve revisions to conditional use permits; provided, that the proposed changes are within the scope and intent of the original permit. "Within the scope and intent of the original permit" shall mean the following:

(a) Lot coverage and height may be increased a maximum of 10 percent from the provisions of the original permit; provided, that:

(i) Revisions involving new structures not shown on the original site plan shall require a new permit;

(ii) Any revisions shall not exceed height, lot coverage, setback, or any other requirements of the regulations for the area in which the project is located; and

(iii) Any revisions shall be reviewed for consistency with the Comprehensive Plan;

(b) Landscaping may be added to a project without necessitating an application for a new permit; provided, that the landscaping is consistent with conditions (if any) attached to the original permit and is consistent with the regulations for the area in which the project is located;

(c) The use authorized pursuant to the original permit is not changed;

(d) No additional over-water construction will be involved for shoreline conditional use permits;

(e) No substantial increase in adverse environmental impact will be caused by the project revision. (Ord. 2021-046 § 4 (Exh. D); Ord. 2020-045 § 1 Exh. A).

22.05.028 Administrative approval uses.¹

(1) Administrative approval applications shall be processed per the provisions of this chapter.

(2) The director of planning and development services is authorized to approve, approve with conditions, or deny all administrative approval use applications.

(3) Approval Criteria. Decisions for all administrative approval use permits shall be based upon compliance with:

(a) The criteria established for the proposed use in the appropriate zone district;

(b) The Comprehensive Plan policies governing the associated land use designation;

(c) In rural areas, consideration will be given to the cumulative impacts of permitted uses in relation to the governing Comprehensive Plan policies and zoning district; and

(d) The criteria of WCC 22.05.026(3) (conditional use permits, approval criteria).

(e) Additionally, decisions for administrative approval use permits for adult businesses shall be based on the criteria in subsection (4) of this section.

(4) Additional Approval Criteria for Adult Businesses. Prior to granting administrative approval for an adult business, the director shall find that the proposed use at the proposed location satisfies or will satisfy all the following criteria:

(a) The adult business will be consistent with WCC 20.66.131 (Light Impact Industrial District, Administrative approval uses).

(b) The adult business shall be closed from 2:00 a.m. to 10:00 a.m. if it contains:

(i) An adult eating or drinking establishment; or

(ii) An adult theater; or

(iii) Another adult commercial establishment; or

(iv) One or more viewing booths.

(c) If the adult business includes one or more viewing booths, the interior of the adult business will incorporate all of the following measures:

(i) Each viewing booth shall have at least a three-foot-wide opening where a customer enters and exits the booth that is without doors, physical barriers, or visual barriers; and

(ii) Each viewing booth shall have at least one 100-watt light bulb that is properly working and turned on when business is open. The light bulb shall not be covered or otherwise shielded except with a commercially available lighting fixture. A minimum of one 12-inch by 12-inch durable metal sign shall be located at the entrance to each viewing booth area stating that lights shall remain on; and

(iii) Aisles or hallways adjacent to viewing booths shall be a minimum of five feet wide; and

(iv) There shall be no holes or openings in common walls between viewing booths.

(d) Additionally for adult businesses containing one or more viewing booths, a condition of approval shall allow an unannounced inspection by Whatcom County every six months during business hours to ensure that measures in subsections (4)(c)(i) through (iv) of this section are being implemented on an ongoing basis.

(5) Revisions. The director may approve revisions to administrative approval use permits; provided, that the proposed changes are within the scope and intent of the original permit. "Within the scope and intent of the original permit" shall mean the following:

(a) Lot coverage and height may be increased a maximum of 10 percent from the provisions of the original permit; provided, that:

(i) Revisions involving new structures not shown on the original site plan shall require a new permit; and

- (ii) Any revisions shall not exceed height, lot coverage, setback, or any other requirements of the regulations for the area in which the project is located; and
- (iii) Any revisions shall be reviewed for consistency with the Comprehensive Plan;
- (b) Landscaping may be added to a project without necessitating an application for a new permit; provided, that the landscaping is consistent with conditions (if any) attached to the original permit and is consistent with the regulations for the area in which the project is located;
- (c) The use authorized pursuant to the original permit is not changed;
- (d) No additional over-water construction will be involved for shoreline conditional use permits;
- (e) No substantial increase in adverse environmental impact will be caused by the project revision. (Ord. 2020-045 § 1 Exh. A).

22.05.030 Consolidated permit review.

The county shall integrate and consolidate the review and decision on two or more project permits subject to this chapter that relate to the proposed project action unless the applicant requests otherwise. Consolidated Type I, II, III and IV permits shall be reviewed under the process required for the permit with the highest process type number per WCC 22.05.020. Level IV is considered the highest and Level I is considered the lowest process type. (Ord. 2018-032 § 1 (Exh. A)).

22.05.040 Pre-application conference.

The purpose of a pre-application conference is to assist applicants in preparing development applications for submittal to the county by identifying applicable regulations and procedures. It is not intended to provide a staff recommendation on future permit decisions. Pre-application review does not constitute acceptance of an application by the county nor does it vest an application, unless otherwise indicated in Whatcom County Code.

- (1) A pre-application conference is required as indicated in WCC 22.05.020, unless the director or designee grants a written waiver. For other permits, the applicant may request a pre-application conference.
- (2) The county shall charge the applicant a fee for a pre-application conference per the unified fee schedule. If the county makes a determination of completeness on a project permit submitted within one year of the notice of site-specific submittal requirements per subsection (6) of this section, the pre-application fee shall be applied to the application cost.
- (3) It is the responsibility of the applicant to initiate a pre-application conference through a written application. The application shall, at a minimum, include all items identified on the pre-application form and the department's administrative manual. The applicant may provide additional information to facilitate more detailed review.

(4) A pre-application conference shall be scheduled as soon as possible and held no later than 30 calendar days from the date of the applicant's request, unless agreed upon by the applicant and the county.

(5) The county shall invite the appropriate city to the pre-application meeting if the project is located within that city's urban growth area or which contemplates the use of any city utilities. Notice shall also be given to appropriate public agencies and public utilities, if within 500 feet of the area submitted in the application.

(6) The county should provide the applicant with notice of site-specific submittal requirements for application no later than 14 calendar days from the date of the conference.

(7) A new pre-application conference shall be required if an associated project permit application is not filed with the county within one year of the notice of site-specific submittal requirements per subsection (6) of this section or the application is substantially altered, unless waived per WCC 22.05.040(1). (Ord. 2018-032 § 1 (Exh. A)).

22.05.050 Application and determination of completeness.

(1) Project permit applications shall be submitted using current forms provided by the review authority. The submittal shall include: all applicable fees per Chapter 22.25 WCC, all materials required by the department's administrative manual, and all items identified in the pre-application notice of site-specific submittal requirements, except for personal wireless service facilities which shall be as follows:

- (a) Eligible Facility Requests - The county shall prepare and make publicly available an "Eligible Facilities Request Application" form used to determine whether a proposal qualifies as an eligible facilities request. An applicant's submittal of a completed "Eligible Facilities Request Application" is the first procedural step in the county's application process. The county may require the applicant to provide documentation or information only to the extent reasonably related to determining whether the request meets the definition and requirements for an eligible facilities request. The county may not require an applicant to submit any other documentation, including but not limited to documentation intended to illustrate the need for such wireless facilities or to justify the business decision to modify such wireless facilities. The applicant shall submit applicable fees per Chapter 22.25 WCC.
- (b) The county shall prepare and make publicly available a "Small Wireless Facility Application" form used to determine whether a proposal qualifies as a small wireless facility. An applicant's submittal of a completed "Small Wireless Facility Application" is the first procedural step in the county's application process. The applicant shall submit applicable fees per Chapter 22.25 WCC.
- (c) The county shall prepare and make publicly available a "Macro Wireless Facility Application" form for projects that do not qualify as an exempt activity pursuant to WCC

20.13.030, eligible facilities request, or small wireless facility. An applicant’s submittal of a completed “Macro Wireless Facility Application” is the first procedural step in the county’s application process. The applicant shall submit applicable fees per Chapter 22.25 WCC.

Rationale for Eligible Facilities Requests: The FCC’s *Declaratory Ruling and Notice of Proposed Rulemaking* (June 2020) states: “. . . The 60-day shot clock . . . begins to run when an applicant takes the first procedural step in a locality’s application process and submits written documentation showing that a proposed modification is an eligible facilities request . . .” (p. 7). This FCC language makes it important to set forth in local code the “first procedural step” so that it is clear when the 60-day shot clock begins.

47 CFR Section 1.6100(c)(1), relating to eligible facility requests, states:

When an applicant asserts in writing that a request for modification is covered by this section, a State or local government may require the applicant to provide documentation or information only to the extent reasonably related to determining whether the request meets the requirements of this section. A State or local government may not require an applicant to submit any other documentation, including but not limited to documentation intended to illustrate the need for such wireless facilities or to justify the business decision to modify such wireless facilities.

Rationale for Small Wireless Facilities and Macro Wireless Facilities: 47 CFR 1.6003(e) states “. . . The shot clock date for a siting application is determined by counting forward, beginning on the day after the date when the application was submitted. . .”

As noted above, the FCC’s *Declaratory Ruling and Notice of Proposed Rulemaking* (June 2020) states, for eligible facility requests, the shot clock “. . . begins to run when an applicant takes the first procedural step in a locality’s application process and submits written documentation showing that a proposed modification is an eligible facilities request . . .” (p. 7). While the FCC’s 2020 Ruling only applies to eligible facility requests, it is presumed that they would take a similar approach for other wireless facilities. In any event, it’s important to set forth in local code when the shot clocks begins for small and macro wireless facilities.

(2) Upon submittal by the applicant, the county will accept the application and note the date of receipt. Receipt of an application does not constitute approval of the project proposal.

(3) Within 14 calendar days of receiving the application, the county shall provide to the applicant a written determination which states either that the application is complete or the application is incomplete within:

- (a) 10 calendar days of receiving a wireless eligible facilities request application;
- (b) 10 calendar days of receiving a small wireless facility application;
- (c) 30 calendar days of receiving a macro wireless facility application; and
- (d) 14 calendar days of receiving all other applications.

To the extent known by the county, other agencies of local, state, or federal government that may have jurisdiction shall be identified on the determination.

Rationale: 47 CFR 1.6003(d)(1) states:

For an initial application to deploy Small Wireless Facilities, if the siting authority notifies the applicant on or before the 10th day after submission that the application is materially incomplete, and clearly and specifically identifies the missing documents or information and the specific rule or regulation creating the obligation to submit such documents or information, the shot clock date calculation shall restart at zero on the date on which the applicant submits all the documents and information identified by the siting authority to render the application complete.

The CFR allows a longer period (30 days) for eligible facilities requests for the initial determination of incompleteness. However, because there are tight time frames for reviewing these applications, it is better to quickly make the determination of completeness or incompleteness so the County has more time to process the permit application.

The CFR also allows a longer period (30 days) for macro wireless facilities for the initial determination of incompleteness. Because these facilities are typically larger and the overall time frames for reviewing these applications is longer, it is reasonable to allow the full 30 days for the determination of completeness.

(4) A project permit application (other than for personal wireless service facilities) is complete when it meets the submittal requirements of the department's administrative manual, includes items identified through the pre-application conference process and contains sufficient information to process the application even if additional information will be required. A project permit application for personal wireless service facilities is complete when the application required pursuant to WCC 22.05.050(1) is entirely filled out with the required information, as set forth in the department's administrative manual, and submitted to the county. A determination of completeness shall not preclude the county from requiring additional information or studies at any time prior to permit approval. A project permit application (other than for personal wireless service facilities) shall be deemed complete under this section if the county does not issue a written determination to the applicant that the application is incomplete by the end of the fourteenth calendar day from the date of receipt. A project permit application for personal wireless service facilities is subject to the tolling provisions of WCC 22.05.130 (tolling refers to the time excluded from the permit review time frame).

(5) If the application is determined to be incomplete, the following shall take place:

(a) The county will notify the applicant that the application is incomplete and indicate what is necessary to make the application complete.

(b) The applicant shall have 90 calendar days from the date that the notification was issued to submit the necessary information to the county. If the applicant does not submit the necessary information to the county in writing within the 90-day period, the application shall be rejected. The director or designee may extend this period for an additional 90 calendar days upon written request by the applicant.

(c) Upon receipt of the necessary information, the county shall have 14 calendar days (10 days for personal wireless service facilities) to make a determination and notify the applicant whether the application is complete or what additional information is necessary.

Rationale: For eligible facilities requests, 47 CFR 1.6100(c)(3)(iii) states: "Following a supplemental submission, the State or local government will have 10 days to notify the applicant that the supplemental submission did not provide the information identified in the original notice delineating missing information. . ."

There are also benefits for the County to provide the notification within 10-days for small and macro wireless facilities under 47 CFR 1.6003(d)(3). Specifically, the time it takes the applicant to submit the required information is not counted in the federally mandated time frame for review if the County provides the determination within 10 days.

(6) A determination of an incomplete application is an appealable final administrative determination, subject to WCC 22.05.160(1). (Ord. 2018-032 § 1 (Exh. A)).

22.05.060 Vesting.

(1) Complete Applications. For a project permit application the department has determined to be complete per WCC 22.05.050(4), the application shall be considered under the zoning or other land use control ordinances in effect on the date the application was submitted to the department.

(2) Incomplete Applications. For a project permit application the department has determined to be incomplete per WCC 22.05.050(5), the application shall be considered under the zoning or other land use control ordinances in effect on the date the department determines the application to be complete based on the necessary information required by the department.

(3) Applications Subject to Pre-Application Conference. Notwithstanding the provisions of subsections (1) and (2) of this section, for a project permit application that is (a) subject to a pre-application conference per WCC 22.05.020 and 22.05.040, (b) submitted no more than 28 calendar days from the date the department issued its notice of site-specific submittal requirements, and (c) determined complete by the department, the application shall be considered under the zoning or other land use control ordinances in effect on the date the pre-application conference request was submitted to the department.

(4) Continuation of Vesting. Building or land disturbance permit applications that are required to complete a valid (i.e., not expired) project permit approval for project permits identified in the following list (subsections (4)(a) through (m) of this section) shall vest to the zoning and land use control ordinances in effect at the time the project permit application identified below was determined complete:

- (a) Administrative use;
- (b) Commercial site plan review;
- (c) Conditional use;
- (d) Critical areas variance;

- (e) Major project permit;
- (f) Natural resource review;
- (g) Planned unit development;
- (h) Reasonable use (Type II and III);
- (i) Shoreline conditional use permit;
- (j) Shoreline exemption;
- (k) Shoreline substantial;
- (l) Shoreline variance;
- (m) Zoning variance.

(5) Building Permit Applications within Recorded Long and Short Subdivisions and Binding Site Plans. Building permit applications, including associated land disturbance permits, shall be governed by conditions of approval, statutes, and ordinances in effect at the time of final approval pursuant to RCW 58.17.170. Vesting duration for those building permit applications shall be governed by the time limits established for long subdivisions in RCW 58.17.170, unless the county finds that a change in conditions creates a serious threat to the public health or safety.

(6) Building and Fire Code Requirements. Building and fire code provisions adopted per WCC Title 15 vest at the time a building permit application is determined complete.

(7) Duration. Vesting status established through subsections (1) through (5) of this section runs with the application and expires upon denial of the application by the county, withdrawal of the application by the applicant, rejection of the application per WCC 22.05.050(5), expiration of the application per WCC 22.05.130(1)(a)(i), or expiration of the approved permit per WCC 22.05.140. (Ord. 2018-032 § 1 (Exh. A)).

22.05.070 Notice of application.

(1) For Type II, III, and IV applications per WCC 22.05.020, the county shall issue a notice of application within 14 calendar days of a determination of completeness. The date of notice shall be the date of mailing.

(2) If the county has made a State Environmental Policy Act (SEPA) threshold determination of significance concurrently with the notice of application, the county shall combine the determination of significance and scoping notice with the notice of application.

(3) Notice shall include:

(a) The date of application, the date of determination of completeness for the application, and the date of the notice of application;

(b) A description of the proposed project action and a list of the project permits included in the application, and, if applicable, a list of any studies requested by the county;

(c) The identification of other permits not included in the application to the extent known by the county;

(d) The identification of environmental reviews conducted, including notice of existing environmental documents that evaluate the proposed project (including but not limited to reports, delineations, assessments and/or mitigation plans associated with critical area reviews) and, if not otherwise stated on the document providing notice of application, the location where the application and any studies can be reviewed;

(e) Any other information determined appropriate by the county;

(f) A statement indicating those development regulations that will be used for project mitigation or a determination of consistency if they have been identified at the time of notice;

(g) A statement of the minimum public comment period which shall be 14 calendar days for all project permits except for shoreline substantial development, shoreline conditional use, shoreline variance and major project permits for mitigation banks which shall have a minimum comment period of no more than 30 calendar days;

(h) A statement of the right of any person to comment on the application and receive notice of and participate in any hearings, request a copy of the decision once made and to appeal a decision when allowed by law. The department may accept public comments at any time prior to the close of the open record public hearing, or if there is no public hearing, prior to the decision on the project permit. In addition, the statement shall indicate that any person wishing to receive personal notice of any decisions or hearings must notify the department.

(i) Notices relating to personal wireless service facilities may state the federal preemption of local regulation of radio frequency emissions.

Rationale: Planning Commission – To alert the public to the federal preemption of local government regulation of radio frequency emissions. Council P&D Committee substituted “may” for “shall” on 10/11/2022 (3-0 vote).

(4) The department shall issue a notice of application in the following manner:

(a) The notice shall be published once in the official county newspaper and on the Whatcom County website. The applicant shall bear the responsibility of paying for such notice.

(b) Additional notice shall be given using the following method:

(i) For sites within urban growth areas: Application notice shall be sent to all property owners within 300 feet of the external boundaries of the subject property as shown by the records of the county assessor, except that for personal wireless service facilities, notice shall be sent to all property owners within 1,000’ of the external boundaries of the subject property as shown by the records of the county assessor;

Rationale: Planning Commission – Impacts from personal wireless service facilities are similar regardless of whether the facility is in an urban growth area or not. Council P&D Committee voted to maintain the above language on 10/11/2022 (3-0 vote).

(ii) For sites outside urban growth areas: Application notice shall be sent to all property owners within 1,000 feet of the external boundaries of the subject property as shown by the records of the county assessor.

(5) The county shall send notices of application to neighboring cities and other agencies or tribes that will potentially be affected, either directly or indirectly, by the proposed development. Notice shall also be given to public utilities, if within 500 feet of the area submitted in the application.

(6) All public comments received on the notice of application must be received by the department of planning and development services by 4:30 p.m. on or before the last day of the comment period.

(7) Except for a determination of significance, the county shall not issue its SEPA threshold determination or issue a decision or recommendation on a permit application until the end of the public comment period on the notice of application. If an optional determination of nonsignificance (DNS) process is used, the notice of application and DNS comment period shall be combined.

(8) Public notice given for project permit applications, SEPA documents, project hearings, and appeals hearings as required by this chapter and other provisions of the county code may be combined when practical, where such combined notice will expedite the permit review process, and where provisions applicable to each individual notice are met through the combined notice. (Ord. 2018-032 § 1 (Exh. A)).

22.05.080 Posting of application.

Where posting of public notice is required per WCC 22.05.020, the department shall post public notices of the proposal on all road frontages of the subject property and adjacent shorelines on or before the notice of application date and shall be visible to adjacent property owners and to passing motorists. Said notices shall remain in place until three days after the comment period closes. (Ord. 2018-032 § 1 (Exh. A)).

22.05.090 Open record hearings.

As shown in WCC 22.05.020 (Project permit processing table), Type III and Type IV applications and appeals of some Type I and Type II applications require an open record public hearing before the hearing examiner. These hearings are subject to the following:

Rationale: Appeals of personal wireless service facilities are filed with a court of competent jurisdiction, rather than the hearing examiner, under the subject proposal.

(1) Open Record Hearing Notice.

(a) The hearing examiner shall publish a notice of open record hearing once in the official county newspaper and on the Whatcom County website at least 14 calendar days prior to the hearing. The notice shall consist of the date, time, place, and type of the hearing. In addition, personal notice shall be provided to any person who has requested such notice in a timely manner, consistent with WCC 22.05.070(3)(h).

(b) Within two days of the published notice the applicant shall be responsible for posting three copies of the notice in a conspicuous manner on the property upon which the use is proposed. Notices shall be provided by the hearing examiner.

(c) An affidavit verifying distribution of the notice must be submitted to the hearing examiner two working days prior to the open record hearing.

(d) The hearing examiner shall send notice of an open record hearing to neighboring cities and other agencies or tribes that will potentially be affected, either directly or indirectly by the proposed development. The hearing examiner shall be responsible for such notification.

(e) The applicant shall pay all costs associated with providing notice.

(2) One Open Record Hearing. A project proposal subject to this chapter shall be provided with no more than one open record hearing and one closed record hearing pursuant to Chapter 36.70B RCW. This restriction does not apply to an appeal of a determination of significance as provided in RCW 43.21C.075.

(3) Combined County and Agency Hearing. Unless otherwise requested by an applicant, the county shall allow an open record hearing to be combined with a hearing that may be necessary by another local, state, regional, federal or other agency for the same project if the joint hearing can be held within the time periods specified in Chapter 22.05 WCC, or if the applicant agrees to waive such time periods in the event additional time is needed in order to combine the hearings. The combined hearing shall be conducted in Whatcom County pursuant to Chapter 36.70B RCW.

(4) Quasi-judicial actions, including applications listed as Type III and IV applications in WCC 22.05.020, are subject to the appearance of fairness doctrine, Chapter 42.36 RCW. The hearing examiner shall administer the open record hearing and issue decisions or recommendations in accordance with Chapter 42.36 RCW. (Ord. 2020-045 § 1 Exh. A; Ord. 2018-032 § 1 (Exh. A)).

22.05.100 Consistency review and recommendations.

During project permit review, the review authority shall determine if the project proposal is consistent with the county's comprehensive plan, other adopted plans, existing regulations and development standards.

(1) For Type I and II applications, the conclusions of a consistency determination made under this section shall be documented in the project permit decision.

(2) For Type III and IV applications the department shall prepare a staff report on the proposed development or action. Staff shall file one consolidated report with the hearing examiner at least 10 calendar days prior to the scheduled open record hearing. The staff report shall:

(a) Summarize the comments and recommendations of county departments, affected agencies, special districts and public comments received within the 14-day or 30-day comment period as established in WCC 22.05.070(6).

(b) Provide an evaluation of the project proposal for consistency as indicated in this section.

(c) Include recommended findings, conclusions, and actions regarding the proposal.

(3) For all project permit applications except for personal wireless service facilities applications, if more information is required to determine consistency at any time in review of the application, the department may issue a notice of additional requirements. The notice of additional requirements shall allow the applicant 180 calendar days from the date of issuance to submit all required information. The director or designee may extend this period for no more than cumulative 24 months upon written request by the applicant, provided the request is submitted before the end of the first 180-day period. A notice of additional requirements is not a final administrative determination. (Ord. 2018-032 § 1 (Exh. A)).

22.05.110 Final decisions – Type I, II, and III applications.

(1) The director or designee's final decision on all Type I or II applications shall be in the form of a written determination or permit. The determination or permit may be granted subject to conditions, modifications, or restrictions that are necessary to comply with all applicable codes.

(2) The hearing examiner's final decision on all Type III applications per WCC 22.05.020 or appeals per WCC 22.05.160(1) shall either grant or deny the application or appeal.

(a) The hearing examiner may grant Type III applications subject to conditions, modifications or restrictions that the hearing examiner finds are necessary to make the application compatible with its environment, carry out the objectives and goals of the comprehensive plan, statutes, ordinances and regulations as well as other official policies and objectives of Whatcom County.

(b) Requirements.

(i) Performance bonds or other security, acceptable to the prosecuting attorney, may be required to ensure compliance with the conditions, modifications and restrictions.

(ii) Fossil or renewable fuel refinery or fossil or renewable fuel transshipment facilities: The applicant shall provide insurance or other financial assurance acceptable to the prosecuting attorney consistent with WCC 22.05.125.

(c) The hearing examiner shall render a final decision within 14 calendar days following the conclusion of all testimony and hearings. Each final decision of the hearing examiner shall be in writing and shall include findings and conclusions based on the record to support the decision.

(d) No final decision of the hearing examiner shall be subject to administrative or quasi-judicial review, except as provided herein.

(e) The applicant, any person with standing, or any county department may appeal any final decision of the hearing examiner to superior court, except as otherwise specified in WCC 22.05.020. (Ord. 2021-046 § 4 (Exh. D); Ord. 2019-013 § 1 (Exh. A); Ord. 2018-032 § 1 (Exh. A)).

22.05.120 Recommendations and final decisions – Type IV applications.

(1) For Type IV applications per WCC 22.05.020 the hearing examiner's recommendations to the county council may be to grant, grant with conditions or deny an application. The hearing examiner's recommendation may include conditions, modifications or restrictions as may be necessary to make the application compatible with its environment, carry out the objectives and goals of the comprehensive plan, statutes, ordinances and regulations as well as other official policies and objectives of Whatcom County.

(2) Each recommended decision of the hearing examiner for an application identified as a Type IV application per WCC 22.05.020 shall be in writing to the clerk of the county council and shall include findings and conclusions based upon the record to support the decision. Such findings and conclusions shall also set forth the manner in which the decision carries out and conforms to the county's comprehensive plan and complies with the applicable statutes, ordinances or regulations.

(3) The deliberation of the county council on quasi-judicial actions shall be in accordance with WCC 22.05.090(4) and Chapter 42.36 RCW.

(4) For planned unit developments and major project permits the following shall apply:

(a) The recommendation of the hearing examiner regarding planned unit developments and major project permits shall be based upon the criteria set forth in WCC 20.85.335 and 20.88.130, respectively.

(b) The hearing examiner shall file the recommendation with the clerk of the county council within 21 calendar days following the conclusion of the open record hearing.

(c) The county council shall conduct the following within the specified time frames, except as provided in subsection (4)(c)(iii) of this section:

(i) Hold a public meeting, not an open record public hearing, to deliberate on the project application within 28 calendar days after receiving the hearing examiner's recommendation.

(ii) Issue a final written decision within 21 calendar days of the public meeting.

(iii) The county council may exceed the time limits in subsection (4)(c)(i) or (ii) of this section if the county council meeting schedule does not accommodate a meeting within the above time frames, or if the county council makes written findings that a specified amount of additional time is needed to process a specific application or project type, per RCW 36.70B.080(1).

(5) The county council's final written decision may include conditions when the project is approved and shall state the findings of fact upon which the decision is based.

(a) Performance bonds or other security, acceptable to the prosecuting attorney, may be required to ensure compliance with the conditions, modifications and restrictions.

(b) Fossil or renewable fuel refinery or fossil or renewable fuel transshipment facilities: The applicant shall provide insurance or other financial assurance acceptable to the prosecuting attorney consistent with WCC 22.05.125.

(6) Any deliberation or decision of the county council shall be based solely upon consideration of the record established by the hearing examiner, the recommendations of the hearing examiner and the criteria set forth in applicable county code, the county Comprehensive Plan if applicable, and the county Shoreline Management Program, including compliance with SEPA, Chapter 197-11 WAC (SEPA Rules) as adopted and modified in the county code, and the county's adopted SEPA policies. (Ord. 2021-046 § 4 (Exh. D); Ord. 2018-032 § 1 (Exh. A)).

22.05.125 Proof of insurance for hazards created in the county.

For expansion projects requiring approval under a conditional use permit or major project permit at new or existing facilities per WCC 20.68.153 or 20.68.154, financial assurance for the benefit of Whatcom County shall be required. For such expansion projects, a permittee must demonstrate proof of financial assurance (such as trust funds, letters of credit, insurance, self-insurance, financial tests, corporate guarantees, payment bonds, or performance bonds) sufficient to comply with the financial responsibility requirements set forth in state and federal law, as applicable, prior to permit approval by a Whatcom County decision maker. If the financial assurance is in the form of insurance policies, the policies must name Whatcom County as an additional insured and provide Whatcom County with a certificate of insurance to that effect.

The permittee must maintain the approved level of financial assurance coverage for new or expanded uses while operating the permitted facility. At the request of the permittee, the Whatcom County decision maker may approve new or altered forms of financial assurance to meet the requirements of

this section; provided, that the new or altered form is consistent with the scope and intent of the original permit condition. (Ord. 2021-046 § 4 (Exh. D)).

22.05.126 Supplemental procedures for fossil fuel refinery and fossil fuel transshipment facility permitting.

(1) Upon request of the county, fossil fuel refineries or fossil fuel transshipment facilities shall fill out a supplemental checklist for the purpose of determining whether a project qualifies as a permitted use or requires a conditional use permit as specified in WCC 20.68.153 or 20.68.154. The checklist shall contain supplemental information to include:

- (a) Impact on maximum atmospheric crude distillation capacity (MACDC), maximum transshipment capacity, and fossil fuel unit train shipment frequency from the proposed activity;
- (b) Confirmation of the acceptance of potential permit conditions as outlined in WCC 20.68.068(23);
- (c) Applicant name, property owner information, and parcel information as appropriate; and
- (d) An attestation by the applicant regarding the accuracy of the information contained therein, signed by the applicant and certified by a notary public.

(2) Confidential Business Information.

(a) For the purpose of checklists, permit applications and all other materials submitted by fossil fuel refineries or fossil fuel transshipment facilities for activities in the Cherry Point Heavy Impact Industrial District, the following shall apply:

(i) The applicant shall clearly identify information the applicant considers to be confidential business information, not subject to disclosure under Chapter 42.56 RCW (Public Records Act) and/or WCC 1.32.090. If such information is contained in submittal documents, the applicant shall submit two copies of materials for county use as follows:

- (A) A copy with confidential business information clearly identified, with a watermark indicating the document contains such information; and
- (B) A copy with confidential business information redacted, and a watermark added indicating that the document does not contain such information and is suitable for public disclosure.

(ii) Confidential business information may include:

- (A) Processing equipment technical specifications on internals, sidestream/pumparounds, design specifications, and process controls;
- (B) Process unit design, instrumentation and controls;
- (C) Feedstock, product, or process unit pump capacity and configuration; and

(D) Contractual agreements and all terms contained therein.

(iii) The information listed above is not meant to be all-inclusive. Other information related to the applicant's processing activities, feedstock and product purchase, and/or sale and transportation methods and costs may be confidential business information and, if so, shall be marked as such when submitted.

(iv) Calculation and permit material submittals may contain, but are not required to contain any of the above information.

(v) Where no increase to MACDC, maximum transshipment capacity, or unit train frequency is proposed, submittal of confidential business information specifically related to the criteria of WCC 20.68.153 and 20.68.154 shall not be required to be submitted with the permit application materials.

(3) Where calculations are to be submitted for maximum transshipment capacity of maximum atmospheric crude distillation capacity, the applicant shall provide calculations performed and certified by a professional engineer licensed in the state of Washington, clearly indicating the impact on MACDC and transshipment capacity. Confidential business information shall be clearly identified as required by subsection (2)(a)(i) of this section.

(4) If the county receives a public records request for records containing information the applicant has clearly indicated to be confidential business information pursuant to subsection (2)(a)(i) of this section, the county will notify the applicant of the request and provide the applicant with a reasonable period of time of at least 15 days to file for an injunction under RCW 42.56.540 to prevent the disclosure of such information. If the applicant does not file for an injunction within the period of time set by the county, the county will disclose the records containing the information that the applicant has designated as confidential business information pursuant to subsection (2)(a)(i) of this section. (Ord. 2021-046 § 4 (Exh. D)).

22.05.130 Permit review time frames.

(1) The county shall issue a notice of final decision for all permit types, including procedures for administrative appeal and notice that affected property owners may request a change in valuation for property tax purposes, to the applicant, the Whatcom County assessor, and any person who requested notice or submitted substantive comments on the application within 120 calendar days of the date the department determined the application complete, except as provided below:

(a) The following time periods shall be excluded from the calculation of the number of days elapsed:

(i) Any period during which the applicant has been required by the county to correct plans, perform required studies, or provide additional, required information through a notice of additional requirements, per WCC 22.05.100(3). The period shall be calculated

from the date the county issues a notice of additional requirements until the date the county receives all of the requested additional information;

(ii) Any period during which an environmental impact statement is being prepared following a determination of significance pursuant to Chapter 43.21C RCW and WCC Title 16;

(iii) The period specified for administrative appeals of project permits as provided in Chapter 2.11 WCC;

(iv) The period specified for administrative appeals of development standards as provided in WCC 12.08.035(l);

(v) Any period in which the applicant has not met public notification requirements;

(vi) Any period of time mutually agreed upon in writing by the applicant and the county.

(b) The time limits established by this section shall not apply to a project permit application that:

(i) Requires an amendment to the Whatcom County comprehensive plan or a development regulation in order to obtain approval.

(ii) Requires approval of a new fully contained community as provided in RCW 36.70A.350, a master planned resort as provided in RCW 36.70A.360, or the siting of an essential public facility as provided in RCW 36.70A.200.

(iii) Is substantially revised by the applicant, including all redesigns of proposed land divisions, in which case a new time period shall start from the date at which the revised project application is determined to be complete.

(c) The county may extend notice of final decision on the project if the county can document legitimate reasons for such a delay. In such a case the county shall provide written notice to the applicant at least 14 calendar days prior to the deadline for the original notice of final decision. The notice shall include a statement of reasons why the time limits have not been met and a date of issuance of a notice of final decision.

(d) Eligible facility requests for personal wireless service facilities shall be subject to the following permit review time frames, tolling, and deemed granted provisions:

(i) An application for an eligible facilities request is reviewed by the county, who will approve the application within 60 days of the date an applicant submits an eligible facilities request application, unless it determines that the proposal does not qualify as an eligible facilities request under WCC 20.13.

(ii) If the county determines that the applicant's request does not qualify as an eligible facilities request, the county shall deny the application within 60 days of

the date an applicant submits an eligible facilities request application. The denial shall be in writing and supported by substantial evidence contained in the written record. If an eligible facilities request application is denied, a new application may be submitted under the appropriate personal wireless service facilities provisions of WCC 20.13.

- (iii) The 60-day review period begins to run when the application is filed and may be tolled only by mutual agreement by the county and the applicant or in cases where the county determines that the application is incomplete. The time frame for review is not tolled by a moratorium on the review of applications.
- (iv) To toll the time frame for incompleteness, the county must provide written notice to the applicant within 30 days of receipt of the application, clearly and specifically delineating all missing documents or information required in the application.
- (v) The time frame for review begins running again when the applicant makes a supplemental submission in response to the county's notice of incompleteness.
- (vi) Following a supplemental submission, the county will notify the applicant within 10 days if the supplemental submission did not provide the information identified in the original notice delineating missing information. The time frame is tolled in the case of second or subsequent notices pursuant to the procedures identified in this section. Second or subsequent notice of incompleteness may not specify missing documents or information that was not delineated in the original notice of incompleteness.
- (vii) In the event the county fails to approve or deny an eligible facilities request within the time frame for review (accounting for any tolling), the request shall be deemed granted if required by federal law or federal regulation. The deemed grant does not become effective until the applicant notifies the county in writing after the review period has expired (accounting for any tolling) that the application has been deemed granted. The applicant shall provide a citation to the federal law or federal regulation that requires the deemed granted status.

Rationale for Eligible Facility Request Permit Timeframes: There are several U.S. Code provisions (adopted by Congress) and CFR provisions (adopted by the FCC) that shape the above language:

47 U.S. Code Section 1455(a)(1) indicates that “. . . a State or local government may not deny, and shall approve, any eligible facilities request for a modification of an existing wireless tower or base station that does not substantially change the physical dimensions of such tower or base station.”

47 CFR Section 1.6100(c)(2) states “Within 60 days of the date on which an applicant submits a request seeking approval under this section [relating to eligible facilities requests], the State or local government shall approve the application unless it determines that the application is not covered by this section.”

47 U.S. Code Section 332(c)(7)(B)(iii) states “Any decision by a State or local government or instrumentality thereof to deny a request to place, construct, or modify personal wireless service facilities shall be in writing and supported by substantial evidence contained in a written record.”

The above tolling provisions are from 47 CFR 1.6100(c)(3), with minor changes such as citing the County Code. It should be noted that the proposal requires a determination of completeness or incompleteness within 10 days under WCC22.05.050(3) so that the bulk of the time allowed under federal regulations is available for processing the application. However, for purposes of tolling under federal regulations, the timeframe for processing a permit is tolled if written notice is issued within 30 days pursuant to proposed WCC 22.05.130(d).

Finally, the above “deemed granted” language is based upon 47 CFR 1.6100(c)(4). This federal code preempts local government approval authority if a decision is not rendered on a permit application within the time frame for review set forth in federal regulations. The proposed County Code contains minor changes to the language in the federal code (such as substituting “County” for “State or local government”). Text has also been added that the “deemed granted” status only applies if required by federal law or regulation (if this provision was ever deleted from the federal rules, it would no longer apply in the County Code).

(e) Small wireless facilities shall be subject to the following permit review time frames and tolling periods (collectively known as shot clock periods):

- (i) Review of an application to collocate a small wireless facility using an existing structure: 60 days.
- (ii) Review of an application to deploy a small wireless facility using a new structure: 90 days.
- (iii) Unless a written agreement between the applicant and the county provides otherwise, the tolling period for an application is as set forth below.
- (iv) For an initial application for small wireless facilities, if the county notifies the applicant on or before the 10th day after submission that the application is materially incomplete, and clearly and specifically identifies the missing documents or information and the specific rule or regulation creating the obligation to submit such documents or information, the shot clock date calculation shall restart at zero on the date on which the applicant submits all

the documents and information identified by the county to render the application complete.

(v) For resubmitted applications following a notice of deficiency, the tolling period shall be the number of days from the day after the date when the county notifies the applicant in writing that the applicant's supplemental submission was not sufficient to render the application complete and clearly and specifically identifies the missing documents or information that need to be submitted based on the county's original request until the date when the applicant submits all the documents and information identified by the County to render the application complete. The notice pursuant to this section must be issued on or before the 10th day after the date when the applicant makes a supplemental submission in response to the county's written notification.

(vi) The shot clock date for an application is determined by counting forward, beginning on the day after the date when the application was submitted, by the number of calendar days of the shot clock period identified in WCC 22.05.130(1)(e); provided, that if the date calculated in this manner is a federal, state, or local holiday, the shot clock date is the next business day after such date. The term "business day" means any day, except Saturday or Sunday, that is not a legal holiday.

Rationale for Small Wireless Facilities Permit Timeframes: 47 US Code Section 332(c)(7) (B)(ii) indicates: "A State or local government or instrumentality thereof shall act on any request for authorization to place, construct, or modify personal wireless service facilities within a **reasonable period of time** after the request is duly filed with such government or instrumentality, taking into account the nature and scope of such request" (bold added for emphasis).

47 CFR Section [1.6003](#) provides "Presumptively reasonable periods of time" for action, as follows:

- (i) Review of an application to collocate a Small Wireless Facility using an existing structure: 60 days. . .
- (iii) Review of an application to deploy a Small Wireless Facility using a new structure: 90 days. . .

The FCC Declaratory Ruling and Third Report and Order in the matter of *Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Investment* (adopted September 26, 2018) explain the 60 and 90 day timeframes for processing small wireless facilities:

. . . a shorter, 60-day shot clock for processing collocation applications for Small Wireless Facilities is reasonable . . . collocation applications are generally easier to process than new construction because the community impact is likely to be smaller. In particular, the addition of an antenna to an existing tower or other structure is unlikely to have a significant visual impact on the community. The size of Small Wireless Facilities poses little or no risk of adverse effects on the environment or historic preservation. Indeed, many jurisdictions do not require public hearings for approval of such attachments, underscoring their belief that such attachments do not implicate complex issues requiring a more searching review.

. . . we also find it reasonable to establish a new 90 day Section 332 shot clock for new construction of Small Wireless Facilities. Ninety days is a presumptively reasonable period of time for localities to review such siting applications. Small Wireless Facilities have far less visual and other impact than the facilities we considered in 2009 [i.e. macro facilities], and should accordingly require less time to review. . . (paragraphs 106, 107, and 111).

(f) Macro wireless facilities shall be subject to the following permit review time frames and tolling periods (collectively known as shot clock periods):

(i) Review of an application to collocate a macro wireless facility using an existing structure: 90 days.

(ii) Review of an application to deploy a macro wireless facility using a new structure: 150 days.

(iii) Unless a written agreement between the applicant and the county provides otherwise, the tolling period for an application is as set forth below.

(iv) For an initial application for macro wireless facilities, the tolling period shall be the number of days from: The day after the date when the county notifies the applicant in writing that the application is materially incomplete and clearly and specifically identifies the missing documents or information that the applicant must submit to render the application complete and the specific rule or regulation creating this obligation until the date when the applicant submits all the documents and information identified by the county to render the application complete. The notice pursuant to this section must be issued on or before the 30th day after the date when the application was submitted to toll the review time frame.

(v) For resubmitted applications following a notice of deficiency, the tolling period shall be the number of days from the day after the date when the county notifies the applicant in writing that the applicant's supplemental submission was not sufficient to render the application complete and clearly and specifically identifies the missing documents or information that need to be submitted based on the county's original request until the date when the applicant submits all the documents and information identified by the county to render the application complete. The notice pursuant to this section must be issued on or before the 10th day after the date when the applicant makes a supplemental submission in response to the county's written notification.

(vi) The shot clock date for an application is determined by counting forward, beginning on the day after the date when the application was submitted, by the number of calendar days of the shot clock period identified in WCC 22.05.130(1)(f); *provided*, that if the date calculated in this manner is a federal, state, or local holiday, the shot clock date is the next business day after such date. The term "business day" means any day, except Saturday or Sunday, that is not a legal holiday.

Rationale for Macro Wireless Facilities Permit Timeframes: 47 US Code Section 332(c)(7) (B)(ii) indicates:

A State or local government or instrumentality thereof shall act on any request for authorization to place, construct, or modify personal wireless service facilities within a **reasonable period of time** after the request is duly filed with such government or instrumentality, taking into account the nature and scope of such request (bold added for emphasis).

47 CFR Section [1.6003](#) provides “Presumptively reasonable periods of time” for action, as follows:

...

(ii) Review of an application to collocate a facility other than a Small Wireless Facility using an existing structure: 90 days.

...

(iv) Review of an application to deploy a facility other than a Small Wireless Facility using a new structure: 150 days.

A facility “other than a Small Wireless Facility” is called a “macro wireless facility” in the proposed regulations.

The FCC Declaratory Ruling (adopted November 18, 2009) explains the 90 and 150 day timeframes, still applicable to macro wireless facilities, as follows:

... we consider the nature and scope of the request by defining a shorter timeframe for collocation applications, consistent with record evidence that collocation applications generally are considered at a faster pace than other tower applications. . . (paragraph 42).

The above tolling provisions are from 47 CFR 1.6003(d), with minor changes such as citing the County instead of the “siting authority.”

(2) If an applicant believes a project permit application has not been acted upon by the county in a timely manner or otherwise consistent with this chapter, the applicant or authorized representative may request a meeting with the director to resolve the issue. Within 14 calendar days of the meeting, the director shall:

(a) Approve the permit if it is within the director’s authority to do so, provided the approval would not violate state or county regulations; or

(b) Deny the permit if it is within the director’s authority to do so; or

(c) Respond in writing with the department’s position, or a mutually acceptable resolution of the issue, which may include a partial refund of application fees at the director’s discretion.

(3) Any final order, permit decision or determination issued by Whatcom County shall include a notice to the applicant of his or her appeal rights per WCC 22.05.160. (Ord. 2018-032 § 1 (Exh. A)).

22.05.140 Expiration of project permits.

- (1) Project permit approval status shall expire two years from the date of approval except where a different duration of approval is authorized by Whatcom County Code, or is established by a court decision or state law, or executed by a development agreement. The decision maker may extend this period up to one year from the date of original expiration upon written request by the applicant.
- (2) Any complete project permit application for which no information has been submitted in response to the department's notice of additional requirements per WCC 22.05.100(3) shall expire at the end of the time limit established in 22.05.100(3).
- (3) For projects that have received a SEPA determination of significance per Chapter 16.08 WCC, all underlying project permit applications shall expire when one of the following occurs:
 - (a) The applicant has not in good faith maintained a contract with a person or firm to complete the environmental impact statement (EIS) as specified in the scoping document. The applicant is responsible for informing the county of the status of such contract. If there is no notice given to the county, all underlying project permit applications shall expire upon the end date of the contract; or
 - (b) The mutually agreed time frame to complete the draft EIS or final EIS has lapsed.
- (4) Project permits which received preliminary approval or a final decision prior to February 22, 2009, that did not include an expiration time frame in the conditions of approval shall expire on June 16, 2020. (Ord. 2018-032 § 1 (Exh. A)).

22.05.150 Permit revocation procedure.

- (1) Upon notification by the director that a substantial violation of the terms and conditions of any previously granted zoning conditional use, shoreline substantial development or shoreline conditional use permit exists, the hearing examiner shall issue a summons as per WCC 2.11.220 to the permit holder requiring said permit holder to appear and show cause why revocation of the permit should not be ordered. Failure of the permit holder to respond may be deemed good cause for revocation.
- (2) Upon issuance of a summons as set forth in subsection (1) of this section, the hearing examiner shall schedule an open record hearing to review the alleged violations. The summons shall include notice of the hearing and shall be sent to the permit holder and the director of planning and development services no less than 12 calendar days prior to the date of the hearing. At the hearing the hearing examiner shall receive evidence of the alleged violations and the responses of the permit holder, as per the business rules of the hearing examiner's office. Testimony shall be limited to that of the division and the permit holder except where additional evidence would be of substantial value in determining if revocation should be ordered. The land use division's evidence may include the testimony of witnesses.
- (3) Upon a showing of violation by a preponderance of the evidence as alleged, the hearing examiner may revoke the permit or allow the permit holder a reasonable period of time to cure the violation. If the violation is not cured within the time set by the hearing examiner, the permit shall be revoked.

Where a time to cure the violation has been set out, no further hearing shall be necessary prior to the revocation. The permit holder shall have the burden of proving that the violation has been cured within the time limit previously set. Such evidence as is necessary to demonstrate that the violation has been cured may be submitted to the hearing examiner by either the permit holder or the director of planning and development services. Any revocation shall be accompanied by written findings of fact and conclusions of law. The permit holder shall be notified of any revocation within 14 calendar days of the revocation. (Ord. 2018-032 § 1 (Exh. A)).

22.05.160 Appeals.

(1) Any person with standing may appeal any order, final permit decision, or final administrative determination made by the director or designee in the administration or enforcement of any chapter to the hearing examiner, who has the authority to hear and decide such appeals per WCC 2.11.210.

Appeals relating to personal wireless service facilities are filed with a court of competent jurisdiction rather than the hearing examiner.

(a) To be valid, an appeal to the hearing examiner shall be filed, on a form provided by the department, with the department within 14 calendar days of the issuance of a final permit decision and shall be accompanied by a fee as specified in the Unified Fee Schedule. The written appeal shall include:

- (i) The action or decision being appealed and the date it was issued;
- (ii) Facts demonstrating that the person is adversely affected by the decision;
- (iii) A statement identifying each alleged error and the manner in which the decision fails to satisfy the applicable decision criteria;
- (iv) The specific relief requested; and
- (v) Any other information reasonably necessary to make a decision on the appeal.

(b) The hearing examiner shall schedule an open record public hearing on the appeal to be held within 60 calendar days following the department's receipt of the application for appeal unless otherwise agreed upon by the county and the appellant.

(c) A party who fails to appeal within 14 calendar days is barred from appeal, per Chapter 2.11 WCC.

(d) The business rules of the hearing examiner shall govern appeal procedures. The hearing examiner shall have the authority granted in the business rules, and that authority is incorporated herein by reference. See also WCC 2.11.220.

(2) The applicant, any person with standing, or any county department may appeal any final decision of the hearing examiner to superior court or other body as specified by WCC 22.05.020. The appellant shall

file a written notice of appeal within 21 calendar days of the final decision of the hearing examiner, as provided in RCW 36.70C.040. (Ord. 2019-013 § 1 (Exh. A); Ord. 2018-032 § 1 (Exh. A)).

Rationale: With regard to eligible facilities requests, 47 CFR Section 1.6100(c)(5) states “Applicants and reviewing authorities may bring claims related to Section 6409(a) to any court of competent jurisdiction.” Section 6409(a) is part of the Middle Class Tax Relief and Job Creation Act of 2012 (AKA Spectrum Act), addressing these facilities. Section 6409 of this Act, now codified as 47 U.S. Code Section 1455(a)(1), indicates:

. . . a State or local government may not deny, and shall approve, any eligible facilities request for a modification of an existing wireless tower or base station that does not substantially change the physical dimensions of such tower or base station.

The County would not have sufficient time to process all required permits and an appeal to the hearing examiner within the 60 day period for reviewing eligible facility requests under federal regulations. Therefore, such appeals will be made to court.

With regard to small wireless facilities and macro wireless facilities, 47 USC 332(c)(7)(B)(v) states:

Any person adversely affected by any final action or failure to act by a State or local government or any instrumentality thereof that is inconsistent with this subparagraph may, within 30 days after such action or failure to act, commence an action in any court of competent jurisdiction. The court shall hear and decide such action on an expedited basis. . .

Small wireless facilities must be processed within 60 to 90 days. Macro wireless facilities approved by the PDS Director must be processed within 90 days (macro facilities on a new structure must be approved within 150 days, but these would require a conditional use permit decided by the hearing examiner). The County would have difficulty processing all required permits and an appeal to the hearing examiner within the 60 to 90 day period for reviewing these facilities under federal regulations.

22.05.170 Annual report.

Staff shall prepare an annual report on the implementation of this chapter and submit it to the council. (Ord. 2018-032 § 1 (Exh. A)).

22.05.180 Interpretation, conflict and severability.

(1) Interpret to Protect Public Welfare. In the event of any discrepancies between the requirements established herein and those contained in any other applicable regulation, code or program, the regulations which are more protective of the public health, safety, environment and welfare shall apply.

(2) Severability. The provisions of this chapter are severable. If a section, sentence, clause, or phrase of this title is adjudged by a court of competent jurisdiction to be invalid, the decision shall not affect the remaining portions of this chapter. (Ord. 2018-032 § 1 (Exh. A)).

**WHATCOM COUNTY
PLANNING COMMISSION**

**Personal Wireless Service Facilities
Code Amendments**

FINDINGS OF FACT AND REASONS FOR ACTION

Background Information

1. The subject proposal consists of amendments to the following Whatcom County Code chapters:
 - a. Wireless Communication Facilities (WCC 20.13);
 - b. Public Utilities (WCC 20.82);
 - c. Nonconforming Uses and Parcels (WCC 20.83);
 - d. Definitions (WCC 20.97); and
 - e. Project Permit Procedures (WCC 22.05).
2. A Determination of Non-Significance was issued by the SEPA Responsible Official on April 6, 2022.
3. Notice of the Planning Commission hearing for the subject amendments was published in the Bellingham Herald on June 13, 2022.
4. Notice of the Planning Commission hearing for the subject amendments was posted on the County website on June 10, 2022.
5. Notice of the Planning Commission hearing was sent to the County's e-mail list on June 13, 2022.
6. The Planning Commission held a public hearing on the subject amendments on June 23, 2022. The Planning Commission held work sessions on the subject amendments on July 28 and September 8, 2022.
7. In order to approve development regulation amendments, the County must find that the amendments are consistent with the comprehensive plan (WCC 22.10.060(2)).
8. Federal laws and regulations partially preempt local government authority over personal wireless service facilities, such as cell phone facilities.

Federal Rules – General Telecommunication Provisions

9. Federal law passed by the U.S. Congress indicates that “No State or local statute or regulation, or other State or local legal requirement, may prohibit or have the effect of prohibiting the ability of any entity to provide any interstate or intrastate telecommunications service” (47 U.S. Code 253(a)).

Federal Rules – Personal Wireless Service Facilities

10. Federal law passed by the U.S. Congress (47 U.S. Code 332(c)(7)(B)) states that:

(i) The regulation of the placement, construction, and modification of personal wireless service facilities by any State or local government or instrumentality thereof—

(I) shall not unreasonably discriminate among providers of functionally equivalent services; and

(II) shall not prohibit or have the effect of prohibiting the provision of personal wireless services.

(ii) A State or local government or instrumentality thereof shall act on any request for authorization to place, construct, or modify personal wireless service facilities within a reasonable period of time after the request is duly filed with such government or instrumentality, taking into account the nature and scope of such request.

(iii) Any decision by a State or local government or instrumentality thereof to deny a request to place, construct, or modify personal wireless service facilities shall be in writing and supported by substantial evidence contained in a written record.

(iv) No State or local government or instrumentality thereof may regulate the placement, construction, and modification of personal wireless service facilities on the basis of the environmental effects of radio frequency emissions to the extent that such facilities comply with the Commission's regulations concerning such emissions.

(v) Any person adversely affected by any final action or failure to act by a State or local government or any instrumentality thereof that is inconsistent with this subparagraph may, within 30 days after such action or failure to act, commence an action in any court of competent jurisdiction. The court shall hear and decide such action on an expedited basis. Any person adversely affected by an act or failure to act by a State or local government or any instrumentality thereof that is inconsistent with clause (iv) may petition the Commission for relief.

11. However, Federal law (47 U.S. Code 332(c)(7)(A)) also states:

Except as provided in this paragraph, nothing in this chapter shall limit or affect the authority of a State or local government or instrumentality thereof over decisions regarding the placement, construction, and modification of personal wireless service facilities.

Federal Rules - Eligible Facilities Requests

12. Federal law passed by the U.S. Congress (47 U.S. Code 1455 (a)(1)) states that:

. . . local government may not deny, and shall approve, any eligible facilities request for a modification of an existing wireless tower or base station that does not substantially change the physical dimensions of such tower or base station.

13. Federal law (U.S. Code 1455(a)(2)) defines “eligible facilities request” as:

. . . any request for modification of an existing wireless tower or base station that involves—

- (A) collocation of new transmission equipment;
- (B) removal of transmission equipment; or
- (C) replacement of transmission equipment.

14. The Code of Federal Regulations (CFR) Title 47, Chapter 1, Subchapter A, Part 1, Subpart U titled “State and Local Government Regulation of the Placement, Construction, and Modification of Personal Wireless Facilities” (Rules adopted by FCC) addresses “eligible facilities requests” in Section 1.6100. This section provides definitions and rules for review of applications. CFR 1.6100(c)(2) states that “Within 60 days of the date on which an applicant submits a request seeking approval under this section, the State or local government shall approve the application. . .” for an eligible facilities request.

15. Federal law preempts certain County regulatory authority over wireless eligible facilities requests. The County Code currently does not reflect requirements of federal law. Therefore, County Code is being updated to incorporate the provisions of federal law.

Federal Rules – Small Wireless Facilities

16. The Code of Federal Regulations (CFR) Title 47, Chapter 1, Subchapter A, Part 1, Subpart U titled “State and Local Government Regulation of the Placement, Construction, and Modification of Personal Wireless Facilities” addresses small wireless facilities in Sections 1.6002 and 1.6003. Definitions are set forth in 47 CFR 1.6002. “Presumptively reasonable periods of time” for local government action on applications are contained in 47 CFR 1.6003(c)(1), as follows:
- . . . Review of an application to collocate a Small Wireless Facility using an existing structure: 60 days.
 - . . . Review of an application to deploy a Small Wireless Facility using a new structure: 90 days. . .
17. Federal law preempts certain County regulatory authority over small wireless facilities. The County Code currently does not reflect requirements of federal law. Therefore, County Code is being updated to incorporate the provisions of federal law.

Federal Rules – Macro Wireless Facilities

18. The Code of Federal Regulations Title 47, Chapter 1, Subchapter A, Part 1, Subpart U titled “State and Local Government Regulation of the Placement, Construction, and Modification of Personal Wireless Facilities” addresses facilities that do not qualify as eligible facilities requests or small wireless facilities (that the County is calling “macro wireless facilities”) in sections 1.6002 and 1.6003. Definitions are set forth in 47 CFR 1.6002. “Presumptively reasonable periods of time” for local government action on applications are contained in 47 CFR 1.6003(c)(1), as follows:
- . . . Review of an application to collocate a facility other than a Small Wireless Facility using an existing structure: 90 days. . .
 - Review of an application to deploy a facility other than a Small Wireless Facility using a new structure: 150 days. . .
19. Federal law preempts certain County regulatory authority over macro wireless facilities. The County Code currently does not reflect requirements of federal law. Therefore, County Code is being updated to incorporate the provisions of federal law.

Whatcom County Comprehensive Plan

20. Whatcom County Comprehensive Plan Chapter 2 - Land Use states that the County has designated telecommunication towers as essential public facilities (p. 2-95).
21. Whatcom County Comprehensive Plan Land Use Policy 2WW-9 states:
 - . . . Personal wireless communication facilities, such as cell phone towers, shall be sited in accordance with Whatcom County Code 20.13
 - . . . Proximity to airports and potential hazards to aviation will be considered when siting new towers or increasing height of existing towers.
22. The Whatcom County Comprehensive Plan Chapter 5 - Utilities states:
 - Utilities, as defined herein and for purposes of the plan, include all lines and facilities used to distribute, collect, transmit, or control electric power, natural gas, petroleum products, information (telecommunications), water, and sewage. . . It is the intent of this plan to support providers of electricity, natural gas, petroleum, telecommunications, and other utilities in fulfilling their public service obligations required by state law to provide service on demand to existing and future customers. It is also the intent of this plan to minimize any negative effects resulting from the provision of that service on the residents, infrastructure, and the environment of the county. . . (p. 5-1).
23. The Whatcom County Comprehensive Plan Utility Chapter states "Telecommunications are provided by multiple telephone, cable television, internet, and wireless communication companies. . ." (p. 5-3).
24. Whatcom County Comprehensive Plan policies relating to utilities include:
 - Policy 5B-3: Recognize the economic opportunities and benefits communication services access provides to the community.
 - Policy 5B-4: Support development regulations that are flexible and receptive to innovations and advances in communication technologies and that recognize the positive impact of moving information rather than people.
 - Policy 5C-1: Support user access to natural gas, electric, and communications utilities.
 - Goal 5D: Minimize the time required for processing utilities permits.

25. Whatcom County Comprehensive Plan Chapter 7 - Economics states:

Along with planning for future water and other infrastructure for economic development, electric energy supply and telecommunications are also important for future economic growth within the county (p. 7-11).
26. The Federal Communication Commission's (FCC) *Declaratory Ruling* (November 18, 2009) states ". . . Wireless services are central to the economic, civic, and social lives of over 270 million Americans . . ." (p. 2).
27. The FCC's *Declaratory Ruling and Third Report and Order* (September 26, 2018) states:

. . . America is in the midst of a transition to the next generation of wireless services, known as 5G. These new services can unleash a new wave of entrepreneurship, innovation, and economic opportunity for communities across the country. . . (p. 2).
28. The FCC's *Declaratory Ruling and Notice of Proposed Rulemaking* (June 9, 2020) states:

. . . We are committed to working with State and local governments to facilitate the deployment of advanced wireless networks in all communities consistent with the decisions already made by Congress, which we expect will usher in a new era of American entrepreneurship, productivity, economic opportunity, and innovation for years to come . . . (p. 3).
29. The subject amendments are primarily intended to bring consistency between federal laws adopted by the U.S. Congress & implementing regulations adopted by the FCC and County codes relating to personal wireless service facilities.
30. The federal laws and regulations are intended, among other things, to facilitate user access and economic opportunities. By virtue of being consistent with federal rules, the County Code amendments should also support user access and facilitate economic opportunities and benefits.
31. Federal regulations set "presumptively reasonable periods of time" for local government permitting of various types of wireless facilities. These federal timelines range from 60 days to 150 days depending on the type and size of wireless facility. The subject County Code amendments are consistent with these federal timelines thereby minimizing the required time for processing permits.

CONCLUSION

The subject Whatcom County Code amendments are consistent with the Whatcom County Comprehensive Plan.

RECOMMENDATION

Based upon the above findings and conclusions, Whatcom County Planning Commission recommends approval of the following amendments to the Whatcom County Code:

Exhibit A, Personal Wireless Service Facilities (WCC 20.13)

Exhibit B, Public Utilities (WCC 20.82)

Exhibit C, Nonconforming Uses and Parcels (WCC 20.83)

Exhibit D, Definitions (WCC 20.97)

Exhibit E, Project Permit Procedures (WCC 22.05)

WHATCOM COUNTY PLANNING COMMISSION



Kelvin Barton, Chair



Tammy Axlund, Secretary

September 8, 2022
Date

9/8/22
Date

Commissioners voted to recommend approval on September 8, 2022 (vote was 7-0 with 2 members absent). Members present at the meeting when the vote was taken: Robert Bartel, Kelvin Barton, Atul Deshmane, Jim Hansen, Kimberley Lund, Dominic Mocerri, and Scott Van Dalen.

From: [Jon H](#)
To: [PDS Planning Commission](#)
Cc: [Kaylee Galloway](#); [Tyler Byrd](#)
Subject: 6/23/2022 Public Meeting about Wireless Service Facilities
Date: Tuesday, June 14, 2022 2:46:49 PM
Attachments: [pdf-emf-final-november-2010.pdf](#)

Hello, I hope you are doing well today. I am writing about a matter that has come up with the planning commission before. The many problems with installing wireless service facilities. While the industry claims that these devices are safe, there is a large, growing, body of evidence showing otherwise.

Even the insurance industry has refused to insure these wireless devices due to unknown risk factors associated with them. As highlighted in the "Lloyds of London" report I attached below Lloyds highlights the many problems with the reports submitted by the industry claiming that these devices are safe and has demanded further study. In short, even Lloyds considers these devices too risky to insure.

The problems don't stop there. I highlight 8 of the biggest issues in this article here but should note that there are even more.

<https://nwcitizen.com/entry/130-foot-cell-tower-approved-for-geneva-neighbors-blindsided/category/councilmember-murphys-proposed-rental-ordinance-is-deeply-flawed>

They are:

1. Placement of the devices often makes no sense and needs to be regulated.
2. People deserve a right to vote on an issue that affects all of them. With these new regulations they get no say at all. They hardly have any now.
3. A 20% loss in home values is common as almost no one wants to live by these devices.
4. The environmental impact of these devices is huge when considering everything from power consumption to tech waste. They use a MINIMUM of 61 times the power of fiber-optic cabling and in many cases can even use hundreds of times more power depending on the configuration. Is this smart to do during a climate crisis?
5. The performance of these devices is terrible, especially when compared with the fiber-optic to the home infrastructure we actually need. Fiber is perfectly safe.
6. More and more studies show us that there are health risks associated with non-ionizing radiation like those found in wireless devices. Especially in the way that they specifically affect VGCCs (Voltage Gated Calcium Channels) in cells. Leading to problems ranging from headaches to tumors. (A link to the VGCC study <https://pubmed.ncbi.nlm.nih.gov/23802593/>)
7. The fake safety argument. (The waves needed for cell phone communications and safety are much larger than being reported to you by the industry and therefore infrastructure can be placed far away from people. We need better bandwidth allocation not small cells, etc.)
-- Many other developed countries have much lower EMF/EMR exposure limits than the US does and their equipment works better than ours does because they back it up with enough fiber. Current wireless schemes put the cart before the horse and try to solve our communications issues by refusing to build the backbone infrastructure needed to do so first. That will never work well.
-- Overall, the way that big wireless is behaving is very much like how the Tobacco Industry behaved when they were claiming that cigarettes are safe. In short, the industry backed studies say wireless is safe **but the independent studies say it's not.**

The current test for cell phone, and related, equipment safety is only 10 minutes long. It's conducted on a mannequin named Sam that is filled with a fluid more like antifreeze than bodily fluid and the mannequin is only checked for heating. No cellular level studies are done. The average American uses their cell phone 5 to 7 hours a day. So obviously we're not doing proper testing to ensure the safety of these devices before distributing them.

I ask the planning commission to halt approval of these new laws in relation to the installation of these devices until further, independent, studies can be done on the many impacts of this technology.

Further justification can be found in my articles and in many other peer reviewed sources like the Environmental health Trust.

<https://ehtrust.org/climate-change-and-5g/>

I am happy to meet with you. A few minutes at a "public meeting" that you've held only after meeting with industry reps. and other special interests is inadequate to explain the other side of this argument. And yes there are 2 sides.

I have almost 30 years of professional IT experience. I have studied tech waste most of my life and even I'm concerned about all of this. Not all technology is benevolent by default. The stakes are too high to blindly approve these new, industry driven, rules.

I can provide many other resources too. Let's break the cycle of Whatcom County blindly making decisions about technology without proper discussions about and research into these topics.

Thanks,
Jon Humphrey
360-389-2527



ELECTRO-MAGNETIC FIELDS FROM MOBILE PHONES: RECENT DEVELOPMENTS

LLOYD'S EMERGING RISKS TEAM REPORT

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EMERGING RISKS TEAM

The Emerging Risks team is part of the Performance Management Directorate at Lloyd's. We define an emerging risk as an issue that is perceived to be potentially significant, but which may not be fully understood or allowed for in insurance terms and conditions, pricing, reserving or capital setting. Our objective is to ensure that the Lloyd's market is aware of potentially significant emerging risks so that it can decide on an appropriate response to them. The Lloyd's Emerging Risks team maintains a database of emerging risks that is updated regularly through conversations with the Lloyd's emerging risks Special Interests Group, which consists of experts within the Lloyd's market put together with help from the Lloyd's Market Association. The team also maintains contact with the academic community, the wider business community and government. Contact with academics is often facilitated through the Lighthill Risk Network, an organisation that is run as not-for-profit funded by AonBenfield, Catlin, Guy Carpenter and Lloyd's.

More details can be found at www.lloyds.com/emergingrisks

EXECUTIVE SUMMARY

This paper considers whether exposure to electromagnetic fields (EMF) from mobile phone use can cause health problems and the impact this could have on the insurance industry. The main conclusions of the report are:

1 THE WORLD HEALTH ORGANISATION RECOMMENDS A PRECAUTIONARY

APPROACH. Despite the view of the WHO and the European Union that there is at present no conclusive evidence of adverse effects caused by EMF they believe the slow emergence of health impacts means that governmental bodies should impose exposure limits as recommended by the International Commission for Non-Ionising Radiation Protection. They also recommend longer term studies with people exposed for over ten years and with those exposed to higher levels.

2 THE MAJORITY OF EPIDEMIOLOGICAL STUDIES SHOW NO INCREASED RISK OF BRAIN CANCER.

Most new scientific research studies into the health effects of EMF focuses on the possible increased risk of brain cancer. Although the majority find no increased risk they conclude that the long latency periods (time between exposure and the appearance of the disease) of some cancers mean that more long-term studies are needed before any risk can be ruled out. Two studies have shown an increased risk of certain types of brain cancer but there are problems associated with the methodology of these studies. Neither in vivo (experiments on laboratory animals) nor in vitro (experiments on cell cultures) studies provide evidence that exposure to EMF can cause an increase in cancer risk.

3 NO CONCLUSIVE EVIDENCE OF OTHER MEDICAL ISSUES HAS YET BEEN

DEMONSTRATED. Other potential health issues resulting from exposure to EMF include self-reported symptoms such as headaches and dizziness, nervous system effects and impacts on reproduction and development. So far there is no conclusive evidence to support the theory that EMF causes any of these problems.

4. MORE RESEARCH NEEDS TO BE CONDUCTED ON HOW EXPOSURE AFFECTS

CHILDREN. It is very difficult to make conclusions about the affects on children from studies on adults. There is some evidence showing that due to physiological differences children are actually subject to exposures higher than the recommended limits. Further research is needed to rule out risks in this area.

5 LEGAL CASES TO DATE FAVOUR THE MOBILE PHONE INDUSTRY.

In *Newman v Motorola* (2002) the judge rejected the plaintiffs' expert witness' evidence that EMF causes brain cancer on the grounds that it was generally not widely accepted by the scientific community, and that there were flaws with recall bias in the studies. In *Murray v Motorola* (2009) the judge ruled that plaintiffs are not able to claim for damage caused by mobile phones which conform to US legislation. However, the case is proceeding alleging the defendants have fixed the results of their exposure tests and have suppressed information.

6 EMF CASES COULD BE MORE COMPLEX THAN ASBESTOS CLAIMS.

Similar issues would occur such as the definition of an actionable injury, policy triggers and apportioning liability. The latter would be even more difficult than asbestos cases since in 70% to 80%¹ of cases mesothelioma is caused by exposure to asbestos, whereas brain cancer arises in many more cases where there has been no exposure to EMF.

CONTENTS

1	Introduction	4
2	Current Intergovernmental Position	5
2.1	World Health Organisation	5
2.2	European Union	5
2.3	Exposure Limits	5
3	Scientific Evidence of health effects due to EMF exposure	6
3.1	Background	6
3.2	Cancer	7
3.3	Radio frequency and self reported symptoms	11
3.4	Nervous system effects	12
3.5	Reproduction and development	12
3.6	Children	12
4	Insurance Implications	14
4.1	Insurance cover	14
4.2	Legal cases	14
4.3	Lessons from Asbestos	16
5	Conclusions	20
6	Next steps	21
	Glossary	22
	Sources of information	23

1. INTRODUCTION

Mobile phone use has increased rapidly worldwide since the early 1990s. In June 2009 there were more than 4.3 billion mobile phone connections around the world². Mobile phones emit radio and microwave frequency electromagnetic fields (EMF), and there are many concerns about possible health effects of such EMF exposure.

There has been wide coverage of this issue in the press as well as a large body of scientific research into the issue. Unfortunately, due to the potential long term impacts of EMF exposure on health, there are so far no definitive conclusions as to whether EMF is harmful or not.

To judge any potential impact of EMF on the insurance industry we should look at both the available scientific research and the implications that a conclusive link between EMF and disease could have to applicable policies.

This document looks first at current views on EMF as stated by international bodies such as the World Health Organisation and the European Union, and then goes on to examine recent scientific research into the field. It finally considers the implications for the insurance industry by scrutinising current legal cases on EMF and any comparisons which can be drawn with asbestos.

2. CURRENT INTERGOVERNMENTAL POSITION

The position of the WHO and the EU is that at present there is no conclusive evidence that EMF exposure under the current legislative levels causes adverse effects on health. More research is needed on long-term studies with people exposed for over ten years. They therefore recommend a precautionary approach to the use of this technology and that governmental bodies impose exposure limits as recommended by the International Commission for Non-Ionising Radiation Protection (ICNIRP).

2.1 WHO

The WHO document 'What effects do mobile phones have on people's health?' published in November 2006 states that "the evidence available does not provide a clear pattern to support an association between exposure to radio frequency (RF) and microwave radiation from mobile phones and direct effects on health."³ However it cautions that lack of available evidence of detrimental effects on health should not be interpreted as evidence of absence of such effects and recommends a precautionary approach to the use of this communication technology until more scientific evidence becomes available. The WHO intend to update its position on EMF and health effects in 2010, after publication of the Interphone study (see section 3.2.1.1).

2.2 EU

The Scientific Committee on Newly Identified and Emerging Health Risks (SCNIEHR) updated its position on the *Health Effects of Exposure to EMF* in 2009⁴. It concludes that mobile phone use for less than ten years is not associated with cancer incidence, though further studies are required to identify whether longer term human exposure might pose some cancer risk. It therefore also recommends a precautionary approach in line with the WHO. In 2008 the EU parliament passed a resolution on the mid-term review of the European Environment and Health Action Plan 2004-2010 which means it must update its position on the health risk associated with EMF and review exposure limits⁵. The parliament is due to respond in 2010.

2.3 Exposure Limits

Guidance on exposure limits is given by the International Commission for Non-Ionizing Radiation Protection (ICNIRP)⁶, which has been adopted by over 80 countries, and the Institute of Electrical and Electronics Engineers (IEEE) in the US. The rate at which radiation is absorbed by the human body is measured by the Specific Absorption Rate (SAR), and maximum levels are set by many governments, based on the ICNIRP and IEEE recommendations.

In the US, the Federal Communications Committee has set a SAR limit of 1.6 watts per kilogram(W/kg), averaged over a volume of 1 gram of tissue, for the head. In Europe, the limit is 2 W/kg, averaged over a volume of 10 grams of tissue⁷. SAR values are difficult to measure and heavily dependent on the size of the averaging volume and so it is not possible to compare the two standards.

Mobile phones are tested under worst case conditions by the committee - at the highest power level. The emitted power is often considerably lower than the maximum power due to various factors like power control and discontinuous transmission.

Guidelines are drawn up with the intention of protecting against acute effects of high levels of EMF exposure, such as stimulation of nerve and muscle cells due to induced currents and tissue heating. The current potential health issues surround the possibility that health effects could occur at exposure levels below those set in the guidelines when exposure is over a longer term.⁸

3. SCIENTIFIC EVIDENCE OF HEALTH EFFECTS

This section looks at recent research into whether EMF exposure from mobile phones can cause adverse health effects. It first considers whether there is an increased risk of cancer by considering epidemiological, in vivo and in vitro evidence. The majority of epidemiological evidence shows no increased risk of brain cancer with EMF exposure. Two studies have shown an increased risk of certain types of brain cancer on the same side of the head as phone use, which is where the EMF is absorbed, however, it could not be concluded whether this was due to a causal effect or recall bias. Neither in vivo nor in vitro studies provide evidence that exposure to EMF can cause an increase in cancer risk. It then goes onto look at other potential health issues including self-reported symptoms, nervous system effects, reproduction and development and potential effects on children – so far there is no conclusive evidence to support the theory that EMF causes any of these problems. It should be noted, however, that more long-term studies are needed before any risk can be ruled out, particularly on children.

3.1 Background

In the 1980s first generation mobile phones, using analogue technology, only transmitted sound. Digital transmission and the global system for mobile communication started in 1991 and included new developments such as data and image transmissions. Third and fourth generation mobile phones currently on the market offer additional services to the user such as high speed internet access. All mobile phone signals transmitted and received are in the form of waves in the Radio Frequency (RF) and Microwave parts of the spectrum.

Waves

RF wave radiation is non ionizing radiation with wavelengths that range from 3kHz to 300MHz.

Microwaves have wavelengths which range from 300Mhz to 300GHz and are also non ionizing.

Non ionizing radiation means that the radiation does not have enough energy to cause direct damage to DNA, and so is unlikely to cause cancer formation via the mechanism of DNA damage.

Since mobile phones are used close to the head and the radiofrequency is absorbed mainly within a small area of the skull near the handset, most research is into the possibility of mobile phone use increasing the risk of brain cancer, focusing on intracranial tumours⁹.

Other research into health effects of mobile phone use looks at self reported symptoms: nervous system effects; reproduction and development; and effects on children, all of which will be considered briefly below.

3.2 Cancer

There are three lines of investigation into whether exposure to EMF is involved in carcinogenesis:

- Epidemiology (the study of groups of people to see if certain factors affect the health of populations).
- In vivo experiments (on laboratory animals).
- In vitro experiments (on cell cultures).

Epidemiology

Epidemiology is the field where the most research has been carried out. Absorption of EMF from mobile phones is highly localised; therefore the preferred side of the head during mobile phone use becomes an important parameter of the exposure estimation. This means there is particular interest in the comparison of cancer rates in ipsilateral phone use (where the phone was used against the same side of the head to where the tumour occurred) and contralateral phone use (where the phone was used against the opposite side of the head to where the tumour developed). It is also interesting to see if more brain tumours occur in the region of the brain nearest the ear, as this is where most of the EMF will be absorbed.

Most epidemiological studies look at whether there is a greater risk of brain cancer with EMF exposure. Many of these studies refer to odds ratios (OR) and confidence levels (CL). The glossary at the conclusion of this report provides an explanation of these terms.

1. Interphone Study

The Interphone study is a series of multi-national case-control studies (see glossary) coordinated by the International Agency for Research on Cancer, designed to assess whether RF exposure from mobile telephones is associated with cancer risk. There were 13 participating countries, and the studies included 2,708 cases of gliomas and 2,408 cases of meningiomas (both benign and malignant), as well as around 1,000 cases of acoustic neuroma, 600 cases of parotid gland tumours and their respective controls(see glossary)¹⁰. Information on past mobile phone use was collected during face-to-face interviews with regular users of a mobile phone. Regular was defined as having had an average of at least one call per week for a period of more than six months.

The results of the study on gliomas and meningiomas (see glossary) were published on 17 May 2010,^{11 12} Surprisingly, the results showed that people who had been a regular mobile phone user are less at risk of developing brain tumours (Glioma OR 0.81, 95% CL 0.70-0.94, Meningioma OR 0.79, 95% CU 0.68-0.91). This possibly reflects participation bias or other methodological limitations. No elevated risks were seen more than ten years after first phone use, or for all deciles of lifetime number of phone calls and nine deciles of cumulative call time. In the highest decile of recalled cumulative call time (more than or equal to 1,640 hours), an increase in risk was seen (Glioma OR was 1.40, 95% CR 1.03-1.89, Meningioma OR 1.15, 95% CL 0.81-1.62) but there were implausible values of reported use in this group, which prevents conclusions being drawn. Increased risks were seen for gliomas in the temporal lobe (the region of the brain located nearest the ear) compared to other lobes of the brain, but because the CLs around the lobe-specific estimates were wide it is again difficult to draw firm conclusions. ORs for glioma tended to be greater in subjects who reported usual phone use on the same side of the head as their tumour than on the opposite side.

Overall the study concludes no increase in risk of glioma or meningioma was observed with use of mobile phones. Though there are suggestions of increased risk in the top 10% of

cumulative call time, gliomas in the temporal lobe and in subjects who reported ipsilateral phone use biases and errors limit the strength of the conclusions and no causal link can be drawn from the study. The study also concludes that the possible effects of long-term heavy use of mobile phones require further investigation

There have been several issues with regards to the Interphone study design:¹³

- a) Selection bias – refusal to participate is related to lower use of mobile phones in controls, and this could result in a downwards bias in odds ratios for regular mobile phone use.
- b) Potential error in the recall of phone use – errors appeared to be larger for duration of calls than for number of calls, and phone use was underestimated by light users and over estimated by heavy users.
- c) The possible effects of recall errors were evaluated and results suggest that random recall errors can lead to a large underestimation in the risk of brain cancer associated with mobile phone use.

In response to these criticisms the IARC published a paper on the methodology used and recalculated the results before production of the findings outlined above¹⁴. This was one of the reasons publication of results were delayed (they were expected in 2005), and though the IARC have made efforts to correct these issues, there is still criticism of the Interphone study. Methodological limitations could be the reason behind some of the findings, particularly those indicating people using mobile phones are less likely to develop brain cancer.

The report concludes saying that the majority of subjects in this study were not heavy users by today's standards, with a median of two to two and a half hours of reported use per month. Today it is not unusual for young people to use mobile phones for an hour a day or more, though increasing use is tempered by lower emissions from newer technology phones and the increasing use of texting and hands free operations that keep the mobile phone away from the head. As this increase in use in young people was not covered by Interphone, CREAL is co-ordinating a new project, MobiKids¹⁵ to investigate this issue. This project is funded by the EU to investigate the risk of brain tumours from mobile phone use in childhood and adolescence.

Two of the most interesting papers in the Interphone study, which do find raised ORs (see glossary) are discussed below.

2. *Lahkola et al 2007*¹⁶

This paper used the protocol of the Interphone study to look at 1,521 glioma patients and 3,301 controls. The study found no evidence of increased risk of glioma related to regular mobile phone use (OR 0.78, 95% CL 0.68-0.91), nor any significant association with duration of use, years since first use, cumulative numbers of calls or cumulative house use. However, for more than ten years of mobile phone use reported on the side of the head where the tumour was located (ipsilateral use), an increased OR of borderline statistical significance (OR 1.39, 95% CI 1.01, 1.92) was found, whereas similar use on the opposite side of the head (contralateral use) resulted in an OR of 0.98 (95%CL 0.71, 1.37). This result was particularly important as it was the first study where an observed increased OR for ipsilateral use was not compensated by an accordingly decreased OR for contralateral use, as would be expected under a hypothesised real effect. However, assuming causality, it would also be expected that the effect of laterality becomes stronger with increasing exposure. For ipsilateral and contralateral use ORs would be more or less close to 1.0 among short-term or occasional mobile phone users, but would then grow with increasing exposure, and this was not found in this study. The report concludes that it found an indication of increased risk in

relation to reported ipsilateral phone use of more than ten years duration, but that this could be due to either chance, causal effect or information bias. As well as the methodological problems outlined above for the whole Interphone study, this paper discussed the potential uncertainty in reporting the side where the mobile phone is held, which introduces random error and potential bias if the case believes the mobile phone was the cause of the cancer.

3. Schoemaker et al 2005¹⁷

This study also used the shared Interphone protocol to look at 678 cases of acoustic neuroma and 3,553 controls. The study found that the risk of acoustic neuroma in relation to regular mobile phone use in the pooled data set was not raised (OR 0.9, 95% CL 0.7–1.1). There was no association of risk with number of years of use, time since first use, lifetime cumulative hours of use, number of calls, or for analogue or digital phones separately, though as noted above cumulative number of hours of phone use and number of calls are subject to substantial misclassification in recall.

The interesting results of this study were that risk of a tumour on the same side of the head as reported phone use (ipsilateral use) was raised for use of ten years or longer (OR 1.8, 95% CL: 1.1–3.1), though risks were not raised for shorter durations of ipsilateral use, nor for overall ipsilateral use.

Owing to the potential for the reported side of use being influenced by recall bias, the study also analysed the relation of tumour laterality to side of handedness, but this produced results which were compatible with, but not strongly supporting, the results on reported side of use. Again, the study outlines the potential of self reported side of phone use as an extremely biased variable, since hearing loss produced by the tumour could cause the user to change use to the other ear, cases could over-report ipsilateral use because they believe it caused their tumour and tumours might be detected earlier in ipsilateral use as they may notice the hearing loss sooner. These biases can act to increase and decrease the risk, and given the multiple, contrary sources of bias the paper concludes no firm conclusions can be drawn from the analysis of side of use.

4. Findings of the WHO¹⁸

The WHO document 'What effects do mobile phones have on people's health?' published in November 2006 states that although weak and inconclusive, epidemiological evidence does not suggest that there are adverse health effects attributable to long term exposure to radio frequency and microwave frequency from mobile phones. However, it notes that recent studies have reported an increased risk of acoustic neuroma and some brain tumours in people who use an analogue mobile phone for more than ten years.

5. Findings of the SCNIEHR¹⁹

The SCNIEHR Reports 'Health Effects of Exposure to EMF' published in 2007 and 2009 comment on the draft findings of the Interphone study. It mentions the pooled analysis of glioma (Lahkola et al. 2007) which showed no increased relative risk for long-term mobile phone users of ten years or more as well as no increased relative risk estimates for the highest categories of lifetime cumulative number of calls or lifetime cumulative duration of calls. It also discusses the meningioma pooled analysis (Lahkola et al. 2008) where relative risk estimates were slightly decreased, e.g. for mobile phone users of ten years or more (OR=0.91, 95% CL: 0.67-1.25). It comments on two meta-analyses of case-control studies which were not part of the Interphone study, Hardell et al. 2008, Kan et al. 2008. No overall risk for brain tumours were found in the work by Kan et al. (2008), whereas both meta-analyses show an increased risk for brain tumours in long-term users (\geq ten years).

However, it concludes that both studies are of limited use because of inappropriate exclusion criteria and the combination of studies.

The paper discusses the validation studies conducted on the Interphone project, as outlined above, and concludes that it remains an open question whether increased ORs observed for ipsilateral use in many studies are a mixture of true effect and reporting bias or are due to such reporting bias in their entirety.

In vivo studies

The SCNIEHR 2009 Paper states that the results of new studies add to the evidence that the RF fields such as those emitted by mobile phones are not carcinogenic in laboratory rodents. Some of the new studies have also used exposure levels up to 4 W/kg which is higher than most previous studies. Thus, these studies provide additional evidence that carcinogenic effects are not likely even at SAR levels that clearly exceed human exposure from mobile phones. Animal studies have not provided evidence that RF fields could induce cancer, enhance the effects of known carcinogens, or accelerate the development of transplanted tumours. However, there remain questions about the adequacy of the experimental models used and scarcity of data at high exposure levels.

The WHO 2006 paper agrees with the SCNIEHR position, and stated that in vivo studies have found very small and reversible physiological changes. Evidence for an increased risk of developing cancer after exposure to RF or microwave fields was extremely weak. However, it cautions that there are difficulties in extrapolating findings from laboratory studies since the whole brain of rodents is exposed to the radiation as opposed to the small part of the brain with human mobile phone use, and thermal effects seen in rodents due to the increase in local temperature of the brain induced by the microwaves are negligible in humans (local increase in brain temperature has been estimated to be up to 0.1° C in humans). As the results of in vivo studies are inconclusive, it therefore concludes that the hypothesis that RF or microwave radiation is harmful and could have unknown or unrecognised effects on health, cannot be rejected.

In vitro studies

The radiation from mobile phones has much lower energy than the energy necessary to break chemical bonds, and it is therefore generally accepted that RF fields do not directly damage DNA and cause cancer by this mechanism. However, it is possible that certain cellular constituents are altered by exposure to EMF, such as free radicals, indirectly affecting DNA²⁰. The WHO 2006 paper²¹ stated that in vitro studies have shown abnormal cell proliferation, changes in cell membranes and movement of ions and substances across membranes, though there are large difficulties interpreting these results. Moreover, a biological mechanism that explains any possible carcinogenic effect from RF or microwave fields has yet to be identified. The EU concurs, stating that in vitro studies regarding genotoxicity fail to provide evidence for an involvement of RF field exposure in DNA damage.

Conclusions on cancer

- Exposure to RF fields is unlikely to cause brain cancer in humans with exposure lasting under ten years²². For exposures over ten years, there are some indications that exposure to EMF can cause increased odds ratios for gliomas²³ and acoustic neuromas²⁴. However, it is not known whether these are causal effects or due to recall bias.

- The conclusion that exposure to RF fields is unlikely to lead to an increase in cancer in humans is consistent with the observation that no visible increases are seen in the age specific incidence rates of tumours of the central nervous system in the Nordic countries over the last decade (Figure 2)²⁵. A noticeable increase in the central nervous system tumour incidence rates from 1970 to the late 1980s, particularly in older men and women, is assumed to be an effect of improved diagnostic methods and appeared long before the widespread use of mobile phones.

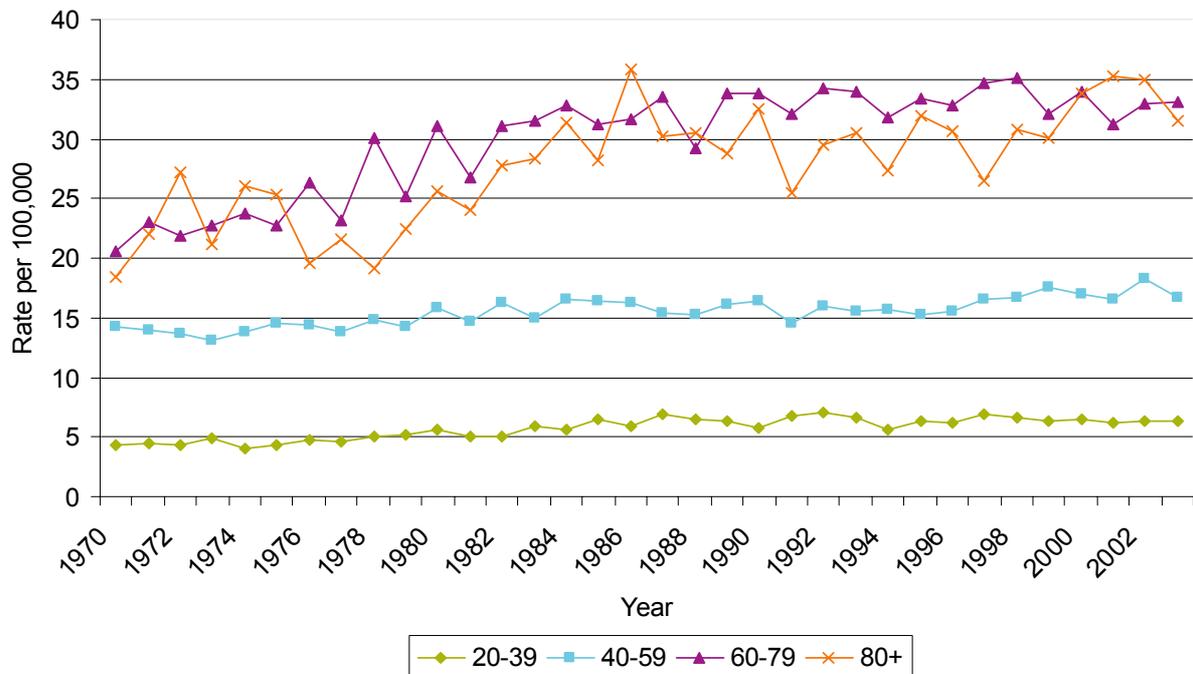


Figure 2: **Incidence of tumours of the central nervous system (CNS)** from 1970 to 2003 among men in the Nordic countries (Denmark, Finland, Iceland, Norway, Sweden), by age groups 20-39, 40-59, 60-79 and 80+ years (Engholm et al. 2008)²⁶

- However, due to very long latency times of some cancers (up to thirty years), it is widely agreed that long term studies are required to identify whether longer-term human exposure to mobile phone radiation may pose cancer risk²⁷.
- The recent implementation of digital mobile phone technology means that studies with exposures over ten years are small, and face many challenges as discussed above. The WHO² cautions that “lack of available evidence of detrimental effects on health should not be interpreted as evidence of absence of such effects” and concludes that more long term studies are required before it can be determined whether long-term exposure to EMF does increase cancer rates.

3.3 RF and self reported symptoms

The SCNIEHR 2009 report²⁸ concluded that scientific studies have failed to provide support for an effect of RF fields on self-reported symptoms, such as headache, fatigue, dizziness and concentration difficulties or well being, sometimes referred to as electromagnetic hypersensitivity (EHS). Scientific studies have indicated that a nocebo effect (an adverse non-specific effect that is caused by expectation or belief that something is harmful) may

play a role in symptom formation. There is no evidence supporting the theory that individuals, including those attributing symptoms to RF exposure, are able to detect RF fields.

3.4 Nervous system effects

The SCNIEHR 2009 report²⁹ states that with the exception of a few findings in otherwise negative studies, there is no evidence that acute or long-term RF exposure at SAR levels relevant for mobile telephony can influence cognitive functions in humans or animals. There is some evidence that RF exposure influences brain activity as seen by electroencephalography (EEG) studies which record electromagnetic activity along the scalp in humans. Human studies also indicate the possibility of effects on sleep and sleep EEG parameters. However, findings are contradictory and there is a need for further studies into mechanisms that can explain possible effects on sleep and EEG. Other studies on functions and aspects of the nervous system, such as cognitive functions, sensory functions, structural stability and cellular responses show no or no consistent effects. There is also no evidence that exposure to RF fields at the levels relevant for mobile telephony have effects on hearing or vision.

3.5 Reproduction and development

The SCNIEHR 2009 reports concludes that the recent studies that addressed RF field effects on prenatal development in animals and the association of maternal mobile phone use with behavioural effects in children show that there are no adverse effects at non-thermal exposure levels.

3.6 Children

There are many concerns about the exposure of children to EMF from mobile phones. The SCNIEHR 2009 report discusses this in detail. Children's nervous systems have completed anatomical development at around two years of age, however, functional development continues up to adulthood, and could possibly be disturbed by RF fields.

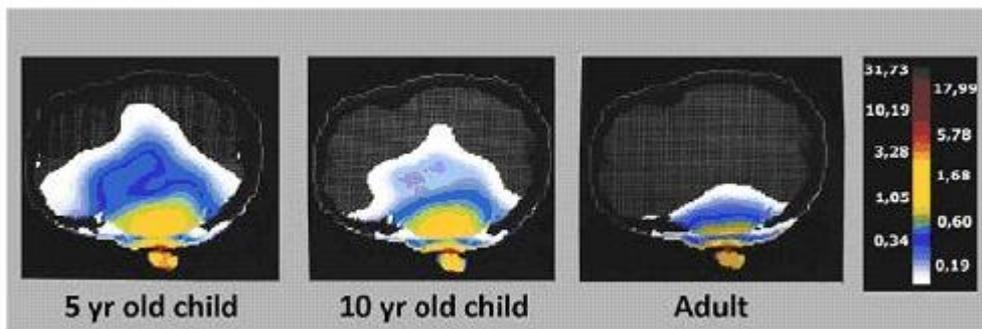


Figure 3: Estimation of the penetration of electromagnetic radiation from a cell phone based on age using computer generated models (scale on right shows the SAR in W/kg)³⁰

There are several differences between exposure to EMFs for children and adults, in that children will have much greater cumulative lifetime exposures and also that dosimetric effects may be different. Part of this is due to children having smaller brains, so more of the brain is exposed to EMF, and part of it is due to greater conductivity of the brain tissue as children's brains contains more water than adult brains.

Several studies (Gabriel 2005, Martens 2005, Schmid and Uberbacher 2005, Peyman et al 2007, Gandhi et al 1996) have indicated children have more conductive brain tissues, which

would lead to higher exposures. However, these were studies on the brains of dead animals and there are difficulties extrapolating this data from animals to children and from dead to living conditions. As shown in figure 3, the study by Gandhi et al (1996) was based on computer generated models.

In another study of a computer generated model of a five year old child it was shown that when the model is exposed to electromagnetic fields at the ICNIPR reference levels of public exposure, the standardised limits were exceeded by 40% (Conil et al. 2008). It is important to realise that this study refers to far-field exposure only, for which the actual exposure levels are orders of magnitude below existing guidelines. Far field exposure can be roughly defined as the recipient of the exposure being more than two wavelengths away from the source of the EMF. This would be from, for example, a transmitter rather than near field exposure which is the recipient being around one wavelength away from the source.

There are many difficulties extrapolating data from adult studies to children, and so it is important that further studies of the exposure of children to EMF should be carried out using a variety of models and exposure conditions. One positive conclusive result with regards to children and EMF exposure is that recent well conducted epidemiological studies provide evidence against an association between RF EMF exposure from broadcast transmitters and the risk of childhood leukaemia.

4. INSURANCE IMPLICATIONS

When considering the potential impact EMF could have on the insurance industry it is of course important to look at what will happen if it is scientifically demonstrated that EMF causes adverse health effects. It is difficult to be certain of any future outcomes so this section looks at where insurance cover is likely to be triggered, the current legal situation with EMF cases and finally considers the issue of asbestos and whether any comparisons can be drawn. If EMF is proved to cause an increased risk of brain cancer it is likely the insurance industry will see claims under product liability policies for bodily injury.

It is informative to look at recent legal cases to assess the current situation and the two following cases will be discussed in more detail below. *Newman v Motorola* (2002) is a very interesting case because the judge rejected the plaintiffs' expert witness' evidence that EMF causes brain cancer on the grounds that it was generally not widely accepted by the scientific community, and that there were flaws with recall bias in the studies.

Murray v Motorola (2009) is another intriguing case because the judge ruled that plaintiffs are not able to claim for damage caused by mobile phones which conform to US legislation. However, the case is proceeding regarding allegations that Motorola et al fixed the results of their exposure tests and have suppressed conclusive information about the health risks EMF poses.

Finally this section will draw comparisons between EMF and asbestos. The issue of asbestos and its implications is widely known throughout the insurance industry, and many comparisons can be drawn with EMF – the initial impression that it was a 'wonder product' coupled with potential very long-term serious health issues not understood at the start of its use. Like asbestos any EMF litigation will probably be long and complex – similar issues could occur such as the definition of an actionable injury, policy triggers and apportioning liability. The last issue will be particularly difficult, since brain cancer occurs without exposure to EMF, whereas mesothelioma usually arises from exposure to asbestos.

4.1 Insurance Cover

Should EMF prove to cause brain cancer, or any other adverse health effects, it is likely the main effect on the insurance industry will concern product liability claims for bodily injury. It is therefore interesting to look at recent legal cases where claimants have taken mobile phone manufacturers to court for bodily injury claims and also to look at asbestos and see what comparisons can be drawn between the two issues.

4.2 Legal cases

Newman v Motorola 2002³¹

In this US case Dr Newman claimed that his use of a wireless handheld telephone manufactured by Motorola caused his brain cancer. He filed for \$800m compensation in 2000. The court focused on the issues of general and specific causation – ie can the use of wireless handheld telephones cause brain cancer and did the use of the Motorola phone cause Dr Newman's brain cancer.

The plaintiff's expert witness claimed that EMF exposure causes brain cancer, a theory which relies on maximum exposure occurring at the location where the phone was held and the cancer occurred. Other witnesses gave evidence that in fact the cancer Dr Newman had was 'deeper' in the brain than normal, and that the highest exposure had in fact not been in the location of the tumour

Both sides filed motions to exclude the other's expert testimony. Because no sufficiently reliable and relevant scientific evidence in support of either general or specific causation had been offered by the plaintiffs, the defendants' motion was granted and the plaintiffs' motion

denied because it failed the Daubert principle (a set of guidelines governing the use of expert witness testimony in the US courts).

The reasons the judge gave for not accepting the plaintiff's evidence was that there had been no acceptance of the plaintiffs' theory and technique of demonstrating cancer causation in the scientific community, pointing to problems with recall bias in the studies he put forward as evidence.

The judge also said that overdue emphasis was put on the positive finding for isolated subgroups of tumours, and pointed out that there has been no overall change in the incidence of tumours such as Dr Newton's, despite the increasing use of cell phones. The judge said that reliable epidemiology evidence is essential before any link between animal studies and human cancer causation can be made. The decision was appealed, but upheld by the appeals court.

Although the ruling on this case was several years ago, there has not been a large amount of new scientific evidence since then. The judge's verdict shows that to be liable, there must be relevant and reliable evidence that exposure to EMF causes brain cancer, and this must be generally accepted in the scientific community. It is also worth noting the emphasis on epidemiological evidence above that of in vivo and in vitro.

Murray v Motorola 2009 ³²

In this US case six separate complaints filed in November 2001 or February 2002 suing defendants including Verizon, Vodafone, Nokia and Motorola were amalgamated together. The case was first heard in the Superior Court of the District of Columbia and then heard in the appeal courts in 2009.

The complaints asserted virtually identical causes for action for intentional fraud and misrepresentation, negligent misrepresentation, strict product liability, failure to warn and defective manufacture and design, negligence, gross negligence, breach of express warranty, breach of implied warranty, conspiracy, violations of the Columbia Consumer Protection Act 2000, civil battery and loss of consortium.

The plaintiffs alleged that Motorola et al have long been aware of numerous studies revealing that EMF from mobile phones have both thermal and non thermal effects that are severely harmful to human health. They allege mobile phone companies manipulated the research of the American National Standards Institute before the standards came in, and when SARs were specified in 1996, the Federal Communications Commission (the US regulator for interstate and international communications) allowed mobile phone manufacturers to self-certify their mobile phones within the SAR limits, even though SAR results are easily manipulated.

The complaints continue that SAR values that the defendants report to the FCC are below the real values and actual values exceed the SAR limits established by the FCC. They also allege that though they were aware of numerous solutions that could virtually eliminate the health hazards, the companies did not adopt these nor warn their users of potential risks or methods that could be used to minimise exposure.

Judge Long, in the original case, said that the gist of the plaintiff's complaints is that mobile phones that are sold in compliance with current FCC rules may nevertheless be deemed unreasonably dangerous under state law, so that wireless carriers and equipment manufacturers potentially may be subject to civil liability on that basis.

Judge Long concluded that the complaints are barred by doctrine of conflict pre-emption because, if successful, they would stand as an obstacle to the accomplishment of federal objectives. By urging a jury to find that the defendant's cell phones emit unreasonably dangerous levels of RF radiation, even though the phones' emissions are within the SAR guidelines adopted by the FCC, the plaintiffs are effectively seeking to lower the FCC's current SAR standards.

The FCC explained that the RF limits it uses "provide a proper balance between the need to protect the public and workers from exposure to excessive RF electromagnetic fields and the need to allow communications services to readily address growing marketplace demands".

The Superior Court ruled that all of the claims are barred on the basis of both express and implied federal pre-emption. Although the Appeal court found no express pre-emption, they concluded that federal law does impliedly pre-empt the plaintiff's claims insofar as they seek to hold defendants liable for bodily injuries from cell phones that met the radio frequency radiation standards adopted by the Federal Communication Commission. However, they concluded that insofar as the plaintiffs' allege that they were injured through use of cell phones that only met the FCC standard due to manipulation of the results; the claims are not federally pre-empted. Federal pre-emption also does not apply to the plaintiffs' claims that phones purchased prior to 1996 (when the FCC applied SARs) have caused injury.

This case is interesting because it shows that as long as manufacturers are making phones which comply with the FCC limits they are not liable for bodily harm caused by the exposure. The case about phones which do not meet the FCC standards has been allowed to proceed – it will be interesting to see the verdict because if the manufacturers are found to have been fixing the results of the standards tests, or to have suppressed evidence that EMF does cause harm then they will not only become liable for damages in this case, but many other cases are likely to follow.

Were a similar case to occur in the UK, then it is possible a "state of the art" defence could be used, whereby as long as at the time of manufacture there was no indication that the product would be dangerous, manufacturers are not liable. This defence is an exception to the Consumer Protection Act 1987 which in the main, states that manufacturers are strictly liable for defective products, and claimants do not have to prove negligence. There is much discussion about the "state of the art defence" in British law and its future is uncertain.

4.2 Lessons from Asbestos

Many comparisons can be drawn between EMF and asbestos, and it is useful to look at the history of asbestos and the implications for the insurance industry to see what could happen with mobile phones if they prove to be harmful.

Asbestos was a 'wonder fibre' when it was first discovered, able to withstand high temperatures but remain soft and pliable³³. Its resistance to heat, electrical and chemical damage, as well as sound absorption and tensile strength properties meant it was widely used in the construction industry as fire retardant coatings, pipe insulation, fireproof drywall, flooring and roofing³⁴.

When it emerged in the 1980s that asbestos caused lung diseases claims for bodily injury started being made, and class action suits were brought in the US. Though asbestos primarily affected workers, it was not a workers compensation act or employer liability problem, but a products liability problem.

The impact on the insurance industry in general, and Lloyd's in particular, is well known. The predicted cost of asbestos to the insurance industry is still rising. The UK Asbestos Working Party Update 2009 stated that the undiscounted cost of UK mesothelioma related claims to UK insurance market from 2009-2040 would be over £8bn which is double their estimate of £4bn presented in a 2004 paper³⁵. Long latency periods and increasing life expectancy mean mesothelioma claims are likely to be with us for many years. The comparison here with EMF is obvious – if it is proven to cause cancer, then the injuries may not become clear until many years after the exposure due to similarly long latency periods. The danger with EMF is that, like asbestos, the exposure insurers face is underestimated and could grow exponentially and be with us for many years.

Asbestos claims are complex, and there have been a large number of court cases on the issues, some of which are still ongoing. The three major issues with asbestos are injury, apportioning liability and the trigger of the insurance contract.

Injury

In terms of injury, simply inhaling asbestos fibres is not an injury, let alone an actionable one, as established in *Bolton MBC v Municipal Mutual Insurance Limited* (2006) and *Durham v BAI (run off)* (2009). In fact, people on the street will have a few thousand asbestos fibres in their lungs, whereas people exposed in industry have a few billions of fibres in their lungs³⁶. Pleural plaques, small localised areas of fibrosis found within the pleura of the lung caused by exposure to asbestos fibres which have no symptoms, were compensated for since the 1980s. However in 2007 the House of Lords ruled on the *Rothwell v Chemical & Insulating Co. Ltd (Rothwell)* case that plaintiffs could not claim for pleural plaques as they do not increase susceptibility to other asbestos related diseases, or shorten life expectancy and so do not constitute an actionable injury unless symptomatic³⁷. The situation differs in Scotland, as in 2009 the Damages (Asbestos-Related Conditions) Scotland Act was introduced, which means insurers will have to compensate for pleural plaques in Scotland. In 2010 the Government upheld the previous House of Lords judgement and restated that this is not the case in England and Wales. In addition, it is worth noting that in the UK psychiatric illness due to anxiety about future disease is not actionable because it is not inevitable that exposure to asbestos will lead to mesothelioma. This is not the case in the US. Anxiety about mobile phones causing cancer is therefore not actionable in the UK, though may be in the US.

Liability

The second major problem with asbestos was how to apportion liability, since claimants may have worked in several workplaces and been exposed to asbestos in more than one place.

In *Fairchild v Glenhaven Funeral Services* (2002) the judge ruled that employers were joint and severally liable and that it was sufficient for the claimant to prove that the defendant had materially increased the risk of contracting the disease. However in *Barker v Corus* (2006) the judge ruled that proportionate liability should be applied, with employers severally but not jointly liable. This was immediately followed by the Compensation Act 2006, in which the government decided all parties were jointly and severally liable^a.

This means a person liable in tort for having caused or permitted a negligent exposure to asbestos shall be 100% liable. *Sienkiewicz v Grief* (2009) confirmed this new tort, and that no mesothelioma is required to prove causation. This is where the biggest difference between asbestos and EMF occurs. Although if it is proved that EMF does cause cancer, the

^a This Act applies only to asbestos

problem of apportioning liability due to different cell phones used at different times will be similar to the difficulties witnessed in determining which company was responsible for the injury caused by asbestos. However the situation is more complex with EMF than asbestos. Mesothelioma is, as a rule of thumb³⁸ caused only by asbestos exposure. In contrast, incidences of brain cancer have been known for many years, and incidence varies hugely due to unknown factors.

This can be seen by looking at a map of the US (Figure 3), which shows the huge variation in brain and nervous system cancers in the US by state. Therefore, it will be hard to decide who is responsible for the injury and whether cell phone antenna contribution can be separated from other potential radio-frequency radiation.

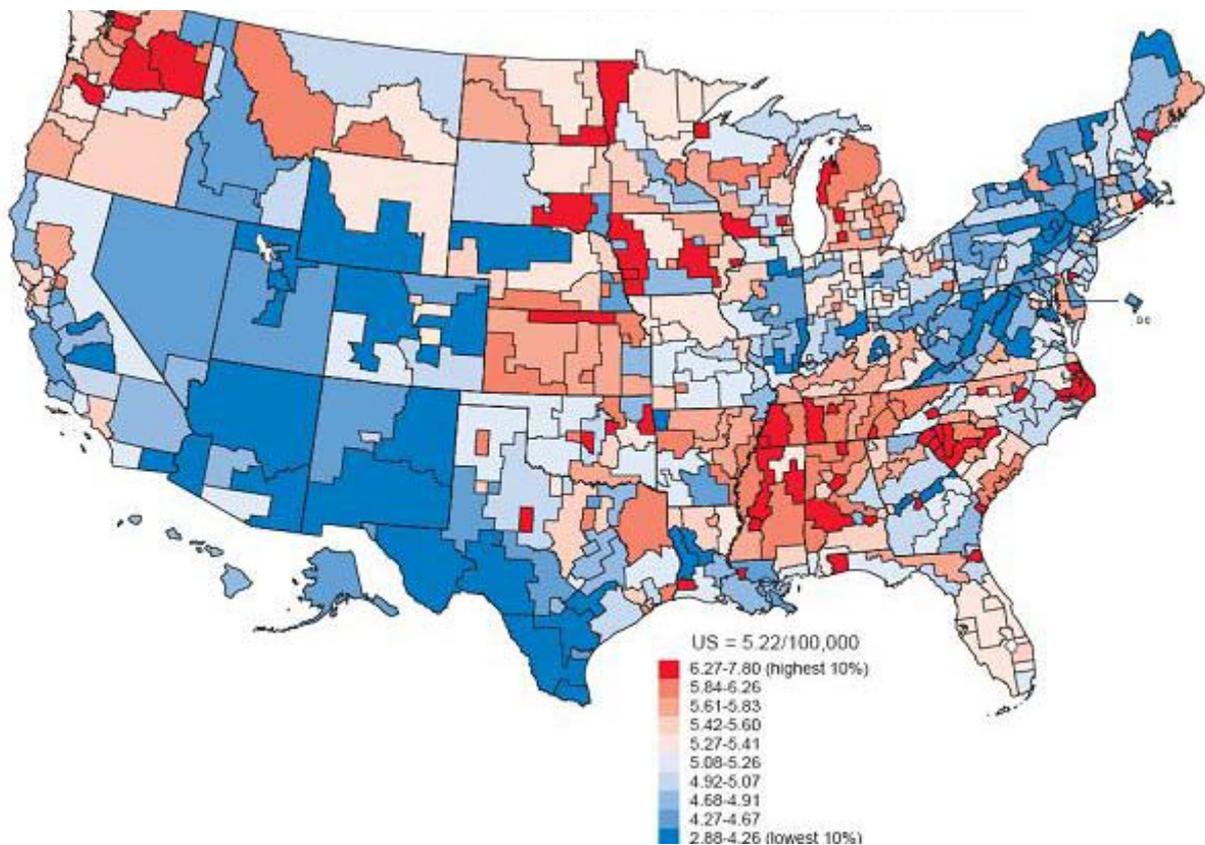


Figure 3: **Cancer Mortality Rates in the US for brain and other nervous system, white males 1970-94**, National Cancer Institute, Cancer Mortality Maps and Graphs³⁹.

Trigger of the insurance contract

Another interesting aspect is deciding when an injury was sustained or caused and accordingly whether an insurance policy will be triggered.

In *Bolton v Municipal Mutual* (2006) it was established that angiogenesis (when the blood supply is established to the tumour), rather than the presence of the first mesothelial cell was the critical turning point. Angeniosis could be up to five years before diagnosis, whereas the first mesotheliomal cell could appear 10-20 years before diagnosis. Product liability policies are usually on a “claims made” basis, meaning the trigger is an injury happening or occurring

during the policy period. The policy is therefore not triggered until an actionable injury occurs ie when the claimant gets cancer, as opposed to when they breathe in asbestos fibres.

Employers' liability policies, on the other hand, are generally not on a "claims made" basis. Before the 1980's they were usually indemnified on injury "sustained" during the policy. In the 1980's this wording was changed to injury "caused" during the policy. There is currently ongoing employers' liability trigger litigation on this issue.

In *Durham v BAI Run off Ltd* (2009) Judge Burton said "sustained" meant "be caused", deciding that injury is sustained and disease is contracted on angiogenesis but that the wording in insurance contracts should be construed to have effect as if there was a causation trigger because that is what everyone would have understood it to mean at the time the contracts were written. There was an appeal on the grounds that this is not in accordance with the ordinary meaning of the word "sustained" and a decision is awaited.

5. CONCLUSIONS

The large bulk of scientific evidence shows that exposure to EMF from mobile phones does not cause cancer, with the exception of exposure over ten years where there are some indications of an increased risk of certain types of brain cancer, namely acoustic neuromas and gliomas. Similarly, other health problems, such as self-reported symptoms do not seem to be caused by EMF. However, the lack of long-term data coupled with the long latency periods of many cancers means that further long-term studies are needed to confirm there is no health risk from long-term low EMF exposure.

With regards to the implication to insurance, as the current scientific evidence stands, it is unlikely that insurers will be liable for compensation for bodily injury on product liability policies. However, as asbestos has shown, new scientific developments coupled with a small number of key legal cases can change the situation very rapidly.

6. NEXT STEPS

Opinion on the issue of whether EMF causes adverse health effects is constantly changing, and therefore to monitor any potential impact EMF could have on the insurance industry it is important to keep up to date with new scientific research as well as legal cases on the subject.

It will also be instructive to review the outcome of *Murray v Motorola*, as this case could prove a turning point in EMF litigation if it is found that manufacturers have suppressed evidence of harmful effects of EMF and are guilty of negligence.

While this paper has looked at the potential health effects caused by EMF exposure during mobile phone use, much higher EMF exposure occurs in industrial situations, such as people working in the electricity generation, transmission and distribution industry⁴⁰, and it may therefore be worthwhile to investigate whether there is more conclusive evidence that EMF exposure in these situations can cause bodily injury.

GLOSSARY

Acoustic neuroma: an acoustic neuroma is a benign tumour that may develop on the hearing and balance nerves near the inner ear. Approximately 3,000 cases are diagnosed each year in the US.

Abestosis: A scarring of the lung tissue from an acid produced by the body's attempts to destroy the asbestos fibres, with a latency period of 10-20 years.

Averaging volume: When analysing the absorption rate, scientists take an area of the brain and average the SAR across that area. The size of this area varies across different countries.

Carcinogenesis: The process by which normal cells are transformed into cancer cells.

Case-control study: Persons who have developed a disease are identified and their past exposure to potential aetiological factors is compared to persons who do not have the disease.

Confidence intervals (CI): Instead of estimating the parameter by a single value, an interval is given that is likely to include the parameter. Thus, confidence intervals are used to indicate the reliability of an estimate. For a 95% confidence interval the smaller the range, the more reliable the result.

Contralateral: On the opposite side.

Dose response: A change in effect on an organism caused by differing levels of exposure (or doses) to a stressor (usually a chemical) after a certain exposure time.

Epidemiology: The study of how often diseases occur in different groups of people and why

Federal pre-emption: Invalidation of state law if it conflicts with federal law. It can be express or implied pre-emption.

Glioma: A cancer of the brain that begins in glial cells (cells that surround and support nerve cells). In the US, the incidence of glioma (the rate of new cases) has been estimated to be 20,000 cases per year⁴¹

Ipsilateral: On the same side.

Loss of consortium: The deprivation of the benefits of a family relationship due to injuries.

Mesothelioma: A cancer of the mesothelial lining of the lungs and the chest cavity, the peritoneum or the pericardium with a latency period of 20-50 years.

Meningioma: A type of slow-growing tumour that forms in the meninges (thin layers of tissue that cover and protect the brain and spinal cord). Most meningiomas are benign and usually occur in adults. In the US, around 6,500 people are diagnosed with this tumour each year.⁴²

Odds ratios: A statistic used to assess the risk of a particular disease if a certain factor is present. It is a relative measure of risk, telling how much more likely it is that someone who is exposed to the factor under study will develop the outcome as compared to someone who is not exposed.

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The following were sources of information used when drafting this report. Links are shown for ease of use and were valid at the time of publishing the report:

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- ⁹ See end note 4
- ¹⁰ **World Health Organisation, International Agency for Research on Cancer**, The INTERPHONE study. Available <http://www.iarc.fr/en/research-groups/RAD/RAd.html>
- ¹¹ **World Health Organisation International Agency for Research on Cancer**, Press release. Available at http://www.iarc.fr/en/media-centre/pr/2010/pdfs/pr200_E.pdf
- ¹² **International Journal of Epidemiology**, The Interphone study group: Brain tumour risk in relation to mobile telephone use: results of the INTERPHONE international case-control study. 2010, No.39 p. 675-695. Available at <http://ije.oxfordjournals.org/cgi/reprint/39/3/675>
- ¹³ **World Health Organisation International Agency for Research on Cancer**, Press release 2008. Available at <http://www.iarc.fr/en/research-groups/RAD/Interphone8oct08.pdf>
- ¹⁴ **European Journal of Epidemiology**, The INTERPHONE study: design, epidemiological methods, and description of the study population Vol 22, No 9, 647-664. Available at <http://www.springerlink.com/content/x88uu6q103076p53/>
- ¹⁵ **Mobi Kids, Study on Communication Technology, Environment and Brain Tumours in Young People**, Press Release 2005. Available at <http://www.mbkds.net/>
- ¹⁶ **International Journal of Cancer**, Mobile phone use and risk of glioma in 5 North European countries 2007 No. 120 p.1769-1775. Available at <http://www3.interscience.wiley.com/cgi-bin/fulltext/114072761/PDFSTART>
- ¹⁷ **British Journal of Cancer**, Mobile phone use and risk of acoustic neuroma: results of the Interphone case-control study in five North European countries, 2005 No. 93p.842 – 848. Available at <http://www.nature.com/bjc/journal/v93/n7/pdf/6602764a.pdf>
- ¹⁸ See endnote 3
- ¹⁹ See endnote 4
- ²⁰ See endnote 10
- ²¹ See endnote 3
- ²² See endnote 4
- ²³ See endnote 11
- ²⁴ See endnote 14
- ²⁵ See endnote 4
- ²⁶ Ibid
- ²⁷ Ibid
- ²⁸ Ibid
- ²⁹ Ibid
- ³⁰ **IEEE Transaction on Microwaves Theory and Techniques**, Electromagnetic Absorption in the Human Head and Neck for Mobile Telephones at 835 and 1900 MHz, 1996, Vol.44, No. 10. Available at <http://ece-classweb.ucsd.edu/fall09/ece222a/HumanAbsorption1.PDF>

SECTION 4

- ³¹ **FindLaw.com**, Memorandum Civil No. CCB-00-26099: Newman v Motorola. Available at <http://fl1.findlaw.com/news.findlaw.com/wsj/docs/cellphone/newmanmotorola93002mem.pdf>

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- ³² **Murray v. Motorola, Inc.**, 2009 D.C. App. LEXIS 652 (D.C. Oct. 29, 2009).
- ³³ **R.J Kiln & Stephen Kiln**, Reinsurance in Practice. Published by Witherby & Co (2001)
- ³⁴ **Wikipedia, Asbestos**. Available at <http://en.wikipedia.org/wiki/Asbestos>
- ³⁵ **The Actuarial Profession, B12: UK Asbestos Working Party update 2009**. Available at <http://www.actuaries.org.uk/sites/all/files/documents/pdf/B12AsbestosWP.pdf>
- ³⁶ **ILL lecture by Colin Edelman QC**, "From mesothelioma to pleural plaques", Given on 23rd March 2010, Lloyd's
- ³⁷ **Ministry of Justice, Ministerial Statement**, Pleural plaques: Jack Straw statement. 2010. Available at <http://www.justice.gov.uk/news/announcement250210a.htm>
- ³⁸ See endnote 37
- ³⁹ **National Cancer Institute**, Cancer Mortality Maps and Graphs. Data available at <http://www3.cancer.gov/atlasplus/charts.html>
- ⁴⁰ **Advisory group on Non-Ionising Radiation**, ELF Electromagnetic Fields and the Risk of Cancer. Available at http://www.hpa.org.uk/web/HPAwebFile/HPAweb_C/1194947420620
- ⁴¹ **Center for Outcomes Research**, The Glioma Overview Project. Available at <http://www.outcomes-umassmed.org/glioma/overviewfromcor.cfm>
- ⁴² **UCLA Health System**, Neurosurgical Diseases and Disorders (M-Z) / Meningioma. Available at <http://neurosurgery.ucla.edu/body.cfm?id=178>

Links to third party sites in this report are provided solely for your convenience. Lloyd's makes no representations as to the security, quality or propriety of any site which may be accessed by following these links and accepts no liability for the content or for any loss or damage caused or alleged to have been caused by the use of or reliance on information contained in such sites or goods or services purchased from them. If you decide to access any of the third party sites linked from this report, you do so entirely at your own risk.



From: [Enoch J Ledet](#)
To: [PDS Planning Commission](#)
Cc: [Enoch J Ledet](#)
Subject: Re: 5G Cell Tower Health/Safety Concerns
Date: Thursday, June 16, 2022 12:09:44 PM
Attachments: [5G Cell Tower, Cell Phones, Smart Meter Safety Concerns.docx](#)

Dear PDS Planning Commission members,

Please find attached website which contains many research review articles on 5G which express potential safety issues associated with broadcast frequencies. Included in this resource are recorded videos from prominent scientists and MDs warning readers/viewers of these safety/health concerns.

Respectfully,
EJ Ledet

Attachment

<https://www.radiationhealthrisks.com/scientific-studies/>

Sent from my iPhone

On Jun 16, 2022, at 10:00 AM, Enoch J Ledet <enoch.ledet@gmail.com> wrote:

As a concerned citizen, LWWSO fee payer, and SVCA member, I wanted to make each of you aware of potential safety issues discussed in attached word document which I compiled and summarized. The Word Document also contains hyperlinks to various resources used in this file.

<https://acrobat.adobe.com/link/track?uri=urn:aaid:scds:US:857ef3b0-04c3-3037-96e9-6259237ab344>

Respectfully,
EJ Ledet
Enoch.ledet@gmail.com

From Jon Humphrey

Thanks Can you share this with the planning commission too please. They're having a meeting on the 23rd to remove all barriers to wireless installation.

Sent from my iPhone

From: [Enoch J Ledet](#)
To: [PDS Planning Commission](#)
Subject: 5G Cell Tower Health/Safety Concerns
Date: Thursday, June 16, 2022 10:00:44 AM
Attachments: [5G Cell Tower, Cell Phones, Smart Meter Safety Concerns.docx](#)

As a concerned citizen, LWWSO fee payer, and SVCA member, I wanted to make each of you aware of potential safety issues discussed in attached word document which I compiled and summarized. The Word Document also contains hyperlinks to various resources used in this file.

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Respectfully,
EJ Ledet
Enoch.ledet@gmail.com

From Jon Humphrey

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Sent from my iPhone

From Sudden Valley NextDoor Discussions:



Enoch J Ledet · Sudden Valley



To solve any event based problem we need to know the what, where, location, impact, and significance. In reading various articles submitted by various neighbors in this blog, based upon what they have sensed (read, heard, etc.) there is disagreement on impact and significance in defining this problem.

So for those interested in continuing discussion on 5G Cell Towers (What) in Bellingham (Where), in 2022 (When), Let's attempt to define both the impact and significance (examples: health and costs).

3h

Like Reply Share

Here are a few articles on potential health/safety/environmental public concerns to discuss /debate/fact check :

<https://www.radiationhealthrisks.com/scientific-studies/>

<https://www.radiationhealthrisks.com/cell-phone-tower-radiation-harmful/>

<https://www.foxnews.com/tech/are-cellphone-towers-hazardous-to-your-health>

<https://blogs.scientificamerican.com/observations/we-have-no-reason-to-believe-5g-is-safe/>

Excerpts:

Study Results Vary Depending On Who Pays For Study

You will see this over and over. There are “thousands” of studies on both sides of this safety argument. The ones put out by government agencies or that are paid for by the technology industry all say that it is all safe and everything is fine.

But all of the truly independent studies, those not by government agencies nor paid for by industry all say that the RF or Microwave radiation put out by cell towers, cell phones, and other wifi or cordless technologies are not safe at all. In fact they say that they are very dangerous.

Comparison of our limit alongside other countries’ standards:

USA\Canada = 1000 microwatts /m² (same as ICNIRP 1998)

Australia = 200 microwatts /m²

Auckland (New Zealand) = 50 microwatts /m²

Now if the safety limits in the US are 1,000 microwatts per unit squared guess what the average smart meter puts out for example? Any guesses? You would think after reading this cell phone health facts website that anything wifi like internet or cell phones would have to be “thousands of times below safety limits set by the FCC” right?

Well the average smart meter on the average home puts out about 60,000 microwatts per unit squared! That is not thousands of times below the safety standard, it is 60 times the US safety standard!

A cell tower has many huge power cables running to it. If a little smart meter is putting out 60 times the RF radiation safety standards a cell tower must be putting out many many many times what a puny little smart meter puts out.

Where I am getting my information about how many microwatts per unit squared (60,000) a smart meter puts out is from Dr. Laura Pressley Ph.D., (who has a doctorate in Physical Chemistry and holds four U.S. Patents in semiconductor device technology). You can watch a video where she talks about this on the videos page of this website.

<https://www.radiationhealthrisks.com/cell-phone-tower-radiation-harmful/>

RF Radiation Independent Studies

In 2012 there is a report published called the Bioinitiative Report at www.bioinitiative.org which is an extensive summary of the health effects associated with low intensity, non-ionizing, electromagnetic radiation.

was released and published by 29 health professionals from ten countries, with medical and Ph.D. degrees. It summarizes the peer reviewed non-ionizing radiation research published from 1996 – 2011. It examines the dangerous health problems associated with exposure to RF and microwave radiation sources such as smart meters, cell phones, cell towers, and the like.

<https://bioinitiative.org/>

BIOINITIATIVE 2012 – CONCLUSIONS Table 1-1

Overall, these 1800 or so new studies report abnormal gene transcription (Section 5); genotoxicity and single-and double-strand DNA damage (Section 6); stress proteins because of the fractal RF-antenna like nature of DNA (Section 7); chromatin condensation and loss of DNA repair capacity in human stem cells (Sections 6 and 15); reduction in free-radical scavengers – particularly melatonin (Sections 5, 9, 13, 14, 15, 16 and 17); neurotoxicity in humans and animals (Section 9), carcinogenicity in humans (Sections 11, 12, 13, 14, 15, 16 and 17); serious impacts on human and animal sperm morphology and function (Section 18); effects on offspring behavior (Section 18, 19 and 20); and effects on brain and cranial bone development in the offspring of animals that are exposed to cell phone radiation during pregnancy (Sections 5 and 18). This is only a snapshot of the evidence presented in the BioInitiative 2012 updated report.”

So the bottom line here is just in this report alone is over 1800 studies discussed and the report was put together by 29 independent scientists in from all around the world. Again the more you dig into this topic the more you will see this pattern. If the study or article was put out by a government or from some entity within the technology industry things are rosy and perfectly safe. If it was put out by someone independent of those sources, their findings are 180 degrees in the opposite direction.

<https://www.biorxiv.org/content/biorxiv/early/2016/05/26/055699.full.pdf>

Respectfully,

EJ Ledet

Enoch.ledet@gmail.com

Sudden Valley Community Association

Addendum Articles

American Cancer Society

RF radiation is “possibly” carcinogenic to humans (IARC).

More longterm studies are needed by FCC.

Hmm, sounds similar to longterm studies on mRNA vaccines by CDC/FDA?

I

Again, it would appear there is a disagreement between large institutions , Gov Agencies, and smaller groups on RF , nIR study results .

<https://www.cancer.org/healthy/cancer-causes/radiation-exposure/smart-meters.html>

Are Smart Meters Safe? - EMP Shield

There are numerous findings and reports from independent studies and major institutes, including the World Health Organization, that indicate that the type of RF and EMF radiation generated by smart meters is considered a Class 2B Carcinogen. Those same studies have shown that these types of Carcinogens are repressible for all sorts of health issues including headaches, dizziness, nausea and even tumors or various types of cancer. Other research has indicated that the type of radiation emitted from

so called smart meters is even capable of altering or destroying DNA. I think we can all agree that having ones DNA irrevocably altered by a piece of technology can't be good for our children or our future generations...

<https://www.empshield.com/smart-meter-safety/>

<https://pubmed.ncbi.nlm.nih.gov/24162060/>

<https://pubmed.ncbi.nlm.nih.gov/18242044/>

Several PubMed articles Show: increases in brain temperature caused by exposure to non ionizing radiation from cell phones ; possible fertility effect on male Sperm;
Possible brain tumor-RF radiation in the frequency range 30 kHz-300 GHz is a Group 2B, that is, a "possible" human carcinogen;
Non-ionizing radiation progressed endometrial hyperplasia in an experimental rat model with/without estrogen exposure; Although radiofrequency from mobile phones has tumour effects on humans, the available scientific evidence is not robust.

More rigorous follow-up studies with larger sample sizes and broader periods are necessary to learn more about the long-term effects.

See attached articles:

<https://pubmed.ncbi.nlm.nih.gov/10533916/>

Males: possible effect on sperm production and infertility.

The study concludes that the RF-EMF may induce oxidative stress with an increased level of reactive oxygen species, which may lead to infertility. This has been concluded based on available evidences from in vitro and in vivo studies suggesting that RF-EMF exposure negatively affects sperm quality.

<https://pubmed.ncbi.nlm.nih.gov/30445985/>

An evaluation of the scientific evidence on the brain tumor risk was made in May 2011 by the International Agency for Research on Cancer at World Health Organization. The scientific panel reached the conclusion that RF radiation from devices that emit non ionizing RF radiation in the frequency range 30 kHz-300 GHz is a Group 2B, that is, a "possible" human carcinogen.

With respect to health implications of digital (wireless) technologies, it is of importance that neurological diseases, physiological addiction, cognition, sleep, and behavioral problems are considered in addition to cancer.

Well-being needs to be carefully evaluated as an effect of changed behavior in children and adolescents through their interactions with modern digital technologies.

<https://pubmed.ncbi.nlm.nih.gov/28504422/>

<https://pubmed.ncbi.nlm.nih.gov/31349952/>

<https://pubmed.ncbi.nlm.nih.gov/28411874/>

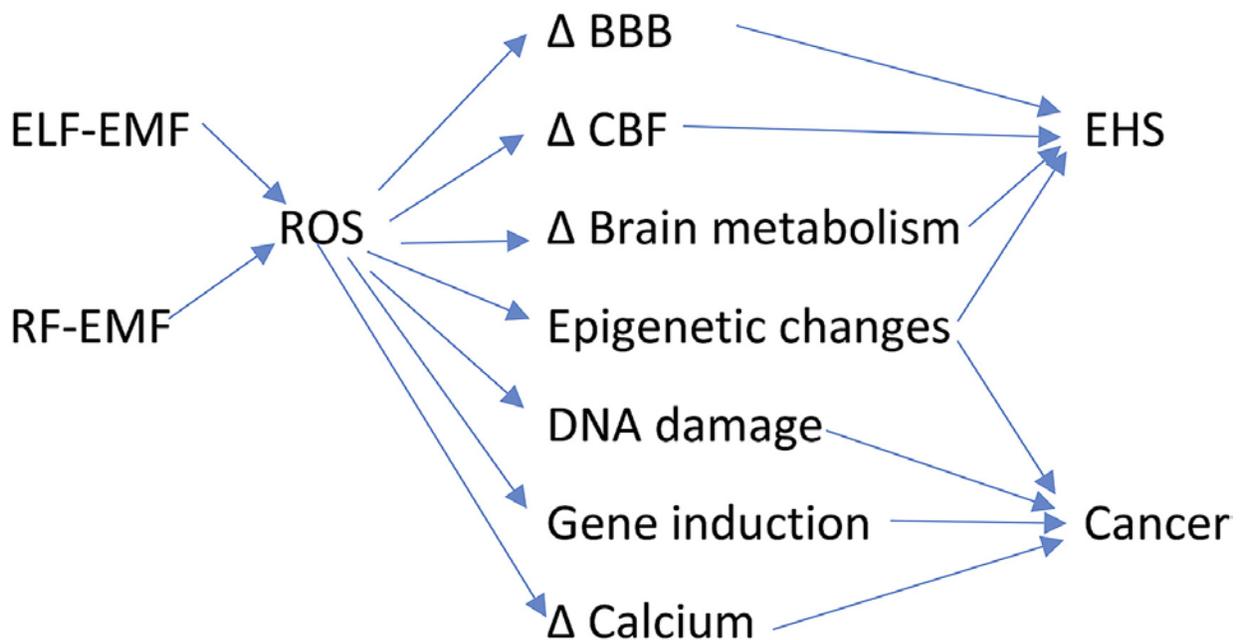
More PubMed articles on non ionizing radiation from cell phones -1434 results

<https://pubmed.ncbi.nlm.nih.gov/?term=Non+ionizing+radiation+from+cell+phones>

Science Direct Article

<https://www.sciencedirect.com/science/article/pii/S0269749118310157>

Radio Frequency - electromagnetic radiation cause oxidative stress and formation of reactive oxygen species which can impact human health



The implication diagram that EMF cause ROS/ oxidative stress -but where is the evidence /causal relationship on affecting Ca channel in NADPH oxidation on cell membrane.

<https://www.sciencedirect.com/science/article/abs/pii/S0269749118310157>

It is known that small voltage changes of about 30 mV in the membrane potential are able to gate this kind of channel [14,15]. Such a change can be caused by the displacement of a single ion by 10–12 m from the electric field of the EMF and in the vicinity of the voltage-gated channels. Hence, EMF-induced oscillating ions can disturb the electrochemical balance of the membrane via the gating of such channels, and those ions crossing such channels can change their normal positions and can produce a false signal for the gating such channels with their charge. This mechanism can also explain the biological action of oscillating magnetic fields by replacing the force of the electric field with the force exerted by an alternating magnetic field and also by accounting for the induced electric field, which is always generated by the pulsed magnetic one. The mechanism concludes that oscillating electric or magnetic fields with frequencies lower than 1.6×10^4 Hz (ELF and VLF fields) can be bioactive, even at very low intensities [2,16]. It is also claimed that pulsed EMFs can even further amplify their biological action compared to continuous EMFs [16,17,18].

<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8470280/>

A third, even more important, reason is based on the fact that the cell membrane has a very high electrical resistance, which acts as amplifier of the electrical gradient (the difference in electrical charge across the cell membrane), amplifying it by about 3000 times. Combining these three distinct reasons, it is implied that the total amplification of the exerted forces by the RF EMF electric fields on the VGCC voltage sensor's 20 electrical charges is equal to 20×120 times (due to the dielectric constant of the fatty inner space of the membrane) $\times 3000$ times (due to the electrical gradient of the membrane), totaling 7,200,000 times. That is, the forces exerted on the VGCC voltage sensor by the RF EMFs are about 7.2 million times stronger than those in the electrically charged groups that are in the hydrophilic environment of our cells, which is where the safety guidelines for the RF EMF are set by ICNIRP. EMFs act via the activation VGCC in the plasma membrane, producing excessive Ca^{2+} , which leads to the pathophysiological effects associated with ROS, such as nitric oxide (NO), superoxide radical ($\text{O}_2^{\bullet-}$), and peroxynitrite (ONOOH) [6]. Studies on the mechanisms related to VGCC and to the associated pleiotropic effects are presented elsewhere [1].

Recent evidence indicates that ROS/RNS-induced OS is among the main intracellular signal transducers, sustaining lysosomal autophagy and nuclear DNA damage response [57,58]. In general, DNA base damage by ROS involves the formation of single lesions in the pyrimidine and purine bases, intra/inter-strand cross-links, purine 5',8-cyclonucleosides, and DNA-protein adducts formed by the reactions of the 2-deoxyribose moiety and/or the nucleobases with ROS such as singlet oxygen ($^1\text{O}_2$), $\bullet\text{OH}$, and HOCl [59

In human neuroblastoma cells, low-level GSM EMFs cause alterations on Amyloid Precursor Protein processing and cellular topology, and changes in monomeric alpha-synuclein accumulation and multimerization, which can happen concurrently by means of the induction of OS and cell death, which are possibly linked to Alzheimer's and Parkinson's diseases [80]. Neurological abnormalities by RF EMF (GSM) are extended to effects on transient and cumulative memory impairments [81] and on short-term memory in mice (by impairing them to pass successfully the Object Recognition Task [82]), possibly due to disturbance of cation channels, particularly that of Ca^{2+} (as also suggested by the EMF effect on the calcium binding protein [83]), and to proteome expression changes in the mouse brain hippocampus and other memory-related brain regions [56].

Conclusions

On the basis of the above findings, an EMF mechanism can involve ROS formation due to membrane and voltage-gated cation channel function deterioration [2,3,7,8] followed by stress activation and heat-shock protein overexpression [56], which may be associated with behavioural and physiological effects such as blood–brain barrier disruption, memory malfunction, changes in gene expression [53], autophagy, apoptosis [53,84] (especially due to modulation [85]), lifespan reduction, DNA damage, and cancer [18].

methods for the in vivo specific detection of the key biological free radicals $\bullet\text{OH}$ and $\text{O}_2\bullet^-$ ([89,90]) are needed in order to unequivocally prove the generation of carcinogenic OS by EMFs.

To the best of our knowledge, the present study provides for the first time a complete and precise biophysical/biochemical picture to explain the great number of experimental and epidemiological findings connecting human-made EMF exposure with DNA damage and related pathologies such as cancer, infertility and neurodegenerative diseases.

The long-existing experimental and epidemiological findings connecting exposure to human-made EMFs and DNA damage, infertility and cancer, are now explained by the presented complete mechanism. The present study should provide a basis for further research and encourage health authorities to take measures for the protection of life on Earth against unrestricted use of human-made EMFs.

18 more recent epidemiological studies, provide substantial evidence that microwave EMFs from cell/mobile phone base stations, excessive cell/mobile phone usage and from wireless smart meters can each produce similar patterns of neuropsychiatric effects, with several of these studies showing clear dose-response relationships. Lesser evidence from 6 additional studies suggests that short wave, radio station, occupational and digital TV antenna exposures may produce similar neuropsychiatric effects. Among the more commonly reported changes are sleep disturbance/insomnia, headache, depression/depressive symptoms, fatigue/tiredness, dysesthesia, concentration/attention dysfunction, memory changes, dizziness, irritability, loss of appetite/body weight, restlessness/anxiety, nausea, skin burning/tingling/dermographism and EEG changes. In summary, then, the mechanism of action of microwave EMFs, the role of the VGCCs in the brain, the impact of non-thermal EMFs on the brain, extensive epidemiological studies performed over the past 50 years,

and five criteria testing for causality,

all collectively show that various non-thermal microwave EMF exposures produce diverse neuropsychiatric effects.

<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8562392/>

<https://www.degruyter.com/document/doi/10.1515/reveh-2015-0001/html>

<https://www.sciencedirect.com/science/article/pii/S0891061815000599>

<https://pubmed.ncbi.nlm.nih.gov/26300312/>

From: [Cindy Franklin](#)
To: [PDS Planning Commission](#)
Subject: Federal grant \$\$ favors fiber - wireless broadband is INFERIOR for many reasons
Date: Monday, June 20, 2022 11:16:47 AM

Hello,

Here is an article discussing the reasons that the NTIA is favoring FIBER over wireless for broadband federal grant \$\$:

<https://potsandpansbyccg.com/2022/06/20/the-ntia-preference-for-fiber/>

It is important to prioritize FiberOptic To and Through the Premises (FTTP) - to every home, school and place of business in Whatcom County. It is a faster, more reliable, safer, more cyber-secure and less energy-intensive on the electrical grid than inferior wireless (which is also a known public health risk due to the microwave radiation emissions).

Thank you for your consideration of this request,

Cindy Franklin
829 Briar Rd.
Bellingham, WA 98225

From: [Enoch J Ledet](#)
To: [PDS Planning Commission](#)
Subject: EJ Ledet 3 Minute Presentation regarding Safety/Health Concerns from 5G Cell Towers, Phones, Smart Meters
Date: Monday, June 20, 2022 11:27:21 AM
Attachments: [20 Adverse Side Effects from RF Radiation.docx](#)

Dear respected Commissioners,

I have previously emailed several prior Word Documents on subject with hyperlinked resources. Due to the 3 minute time allocation, I will confine my comments to attached Word document.

Via Zoom Webinar: Join the meeting using this registration link:
https://us06web.zoom.us/webinar/register/WN_ji3f38tdQn28qf5HChxXpQ

Respectfully,
EJ Ledet
Retired Biochemist/Chemist
Bellingham 98229

Sent from my iPhone

20 Negative Health Symptoms/ Adverse Side Effects from RadioFrequency (RF)Radiation

1. Sleeping Problems
2. Fatigue
3. Learning Problems and Concentration
4. Headaches
5. Tinnitus (Ringing In Ears)
6. Eye Problems
7. Heart Problems, Heart Palpitations and Heart Arrhythmias
8. Leg Cramps
9. Vertigo (Balance Problems)

10. Cancer IARC stated that there is limited evidence that RF radiation causes cancer in animals and humans, and classifies RF radiation as “possibly carcinogenic to humans” (Group 2B). This was based on the finding of a possible link in at least one study between cell phone use and a specific type of brain tumor.”

11. Stress, Agitation, Anxiety, Irritability
12. Depression
13. Seizures
14. Arthritis, Sharp Stabbing Pains, Body Pain
15. Nausea, flu-like symptoms
16. Sinus Problems and Nosebleeds
17. Respiratory Problems and Cough
18. Skin Rashes and Facial Flushing
19. Endocrine Disorders, Thyroid Disorders and Diabetes
20. Children Behavior Problems & Mental Effects

<https://www.radiationhealthrisks.com/health-symptoms-rf-radiation/>

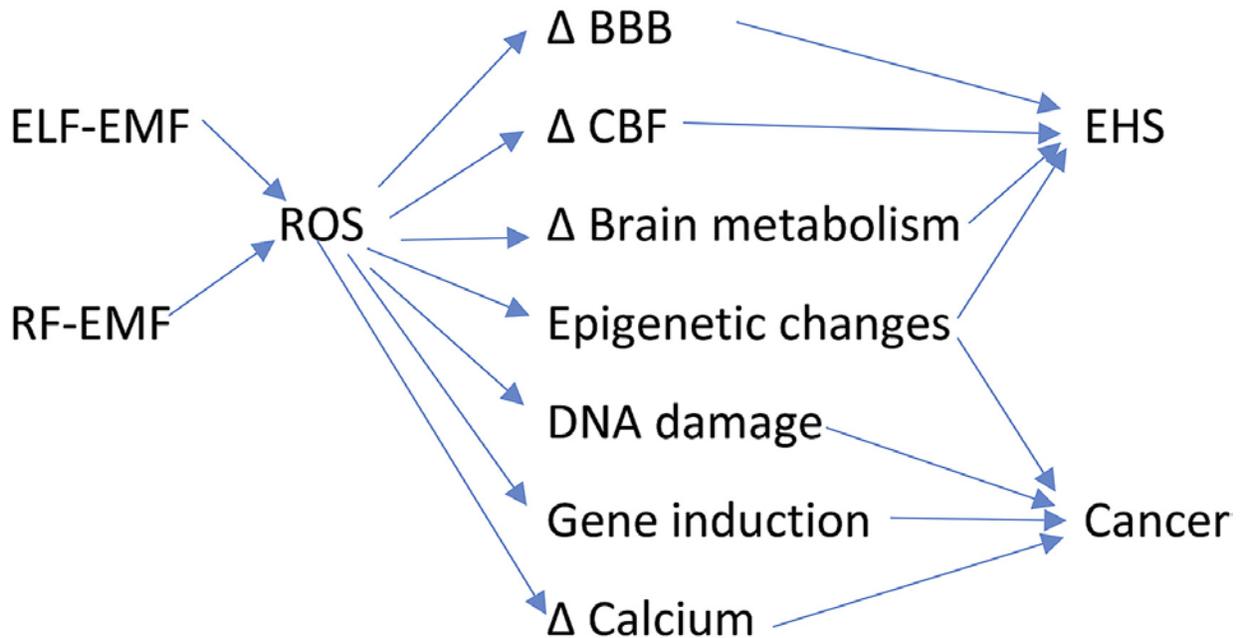
Citing this large body of research, more than 240 scientists who have published peer-reviewed research on the biologic and health effects of non ionizing electromagnetic fields (EMF) signed the International EMF Scientist Appeal, which calls for stronger exposure limits. The appeal makes the following assertions:

“Numerous recent scientific publications have shown that EMF affects living organisms at levels well below most international and national guidelines. Effects include increased cancer risk, cellular stress, increase in harmful free radicals, genetic damages, structural and functional changes of the reproductive system, learning and memory deficits, neurological disorders, and negative impacts on general well-being in humans. Damage goes well beyond the human race, as there is growing evidence of harmful effects to both plant and animal life.”

The scientists who signed this appeal arguably constitute the majority of experts on the effects of non ionizing radiation. They have published more than 2,000 papers and letters on EMF in professional journals.

<https://blogs.scientificamerican.com/observations/we-have-no-reason-to-believe-5g-is-safe/>

Radio Frequency - electromagnetic radiation(RF-EMF) , non-ionizing radiation(nIR) emitted by 5G Cell towers and cell phones can cause oxidative stress (OS) and formation of reactive oxygen species (ROS) which can impact human health.



The implication diagram that EMF cause ROS/ oxidative stress – on Ca ion channels in cell membranes.

Conclusions

On the basis of the above findings, an EMF mechanism can involve ROS formation due to membrane and voltage-gated cation channel function deterioration [2,3,7,8] followed by stress activation and heat-shock protein over-expression [56], which may be associated with behavioral and physiological effects such as blood–brain barrier disruption, memory malfunction, changes in gene expression [53], autophagy, apoptosis [53,84] (especially due to modulation [85]), lifespan reduction, DNA damage, and cancer [18].

<https://www.sciencedirect.com/science/article/abs/pii/S0269749118310157>

[https://www.cell.com/cancer-cell/fulltext/S1535-6108\(17\)30518-4](https://www.cell.com/cancer-cell/fulltext/S1535-6108(17)30518-4)

<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7089381/>

RF Radiation Independent Studies

In 2012 there is a report published called the Bioinitiative Report at www.bioinitiative.org which is an extensive summary of the health effects associated with low intensity, non-ionizing, electromagnetic radiation.

This report was released and published by 29 health professionals from ten countries, with medical and Ph.D. degrees. It summarizes the peer reviewed non-ionizing radiation research published from 1996 – 2011. It examines the dangerous health problems associated with exposure to RF and microwave radiation sources such as smart meters, cell phones, cell towers, and the like.

<https://bioinitiative.org/>

BIOINITIATIVE 2012 – CONCLUSIONS Table 1-1

Overall, these 1800 or so new studies report abnormal gene transcription (Section 5); genotoxicity and single-and double-strand DNA damage (Section 6); stress proteins because of the fractal RF-antenna like nature of DNA (Section 7); chromatin condensation and loss of DNA repair capacity in human stem cells (Sections 6 and 15); reduction in free-radical scavengers – particularly melatonin (Sections 5, 9, 13, 14, 15, 16 and 17); neurotoxicity in humans and animals (Section 9), carcinogenicity in humans (Sections 11, 12, 13, 14, 15, 16 and 17); serious impacts on human and animal sperm morphology and function (Section 18); effects on offspring behavior (Section 18, 19 and 20); and effects on brain and cranial bone development in the offspring of animals that are exposed to cell phone radiation during pregnancy (Sections 5 and 18). This is only a snapshot of the evidence presented in the BioInitiative 2012 updated report.”

So the bottom line here is just in this report alone is over 1800 studies discussed and the report was put together by 29 independent scientists in from all around the world. Again the more you dig into this topic the more you will see this pattern. If the study or article was put out by a government or from some entity within the technology industry things are rosy and perfectly safe. If it was put out by someone independent of those sources, their findings are 180 degrees in the opposite direction.

<https://www.biorxiv.org/content/biorxiv/early/2016/05/26/055699.full.pdf>

Respectfully,

EJ Ledet

Enoch.ledet@gmail.com

Sudden Valley Community Association

From: [Leslie Shankman](#)
To: [PDS Planning Commission](#)
Subject: Public Comments for June 23rd Planning Commission Meeting
Date: Monday, June 20, 2022 12:02:35 PM
Attachments: [2022 June WCFRT to WC Planning Commission.docx](#)

Dear Tammy,

May we ask you to please disperse this email and attachment to the members of the Planning Commission for consideration during the upcoming June 23rd Commission meeting.

The below information via e-mail is most viable as the information links are live, but I have attached the Word Document containing this information as well.

Thank you for acknowledging receipt of this and thank you for delivering it to the Commission.

Sincerely,
Leslie Shankman

June 20, 2022

To: Planning Commission
Re: June 23rd Planning Commission Meeting

We understand that the primary purpose of the upcoming June 23rd meeting is to consider amendments that create consistency between Whatcom County Code and Federal Laws and Regulations regarding small and macro wireless facilities.

We write to you as [Whatcom Citizens for Responsible Technology](#), a group of citizens with a spectrum of skills who promote awareness and sponsor efforts to develop safe, reliable, and equitable Broadband connections.

While we understand that seeking to align County and Federal mandates makes “sense” and would appear to be responsible governing on the part of the Commission, we would like to go on record with information that calls for giving serious consideration to not falling in lock-step with federal mandates.

It is unfortunate that our federal agencies are not making responsible choices for the country’s citizenry, and it is inconvenient that localities are forced to either comply or push back.

For the record, this article from the [Environmental Health Trust](#) highlights efforts

by municipalities that have sought to preserve some autonomy and to serve their citizens with higher standards:

<https://ehtrust.org/usa-city-ordinances-to-limit-and-control-wireless-facilities-small-cells-in-rights-of-ways/>

There is a long list of reasons to consider non-compliance with some of the federal mandates. These include safety, environmental, economic, and sociological considerations.

However, herein we have elected to focus on the public health considerations-- along with the fact that **in August 2021 the U.S. Court of Appeals found that the FCC has failed to establish adequate safety limits for the wireless microwave radiofrequency radiation (RFR)** that is now so ubiquitous and quickly growing in intensity throughout our communities.

We ask that you read and digest the information below and bring these perspectives into your discussion and actions. As fellow citizens of Whatcom County, we thank you for your studied consideration of the information that follows.

Research from epidemiologists, cancer investigators, physicians and other scientific experts has concluded that the 26-year-old FCC wireless radiation exposure limits do not protect public health, especially that of children and pregnant women. In fact, there are no exposure limits for wireless devices simulating use by the smaller developing brains and bodies of children.

A recently conducted \$30 million [U.S. National Toxicology Program \(NTP\) study](#) was commissioned by the FDA to research biological effects of microwave radiofrequency radiation (RFR) on humans and designed by the nation's top researchers at the NIEHS. The results show ["clear evidence" that cell phone radiation causes cancer](#).

FCC lost a recent landmark legal challenge by wireless health and safety advocates regarding the failure of the agency's exposure limits to protect public health

In August, 2021, the [U.S. Court of Appeals - DC Circuit ruled in Environmental Health Trust et al v. FCC](#) that the FCC's 2019 decision to maintain their 26 year-old thermal-based exposure limits demonstrated that the FCC was acting in an **"arbitrary and capricious"** manner **"in its complete failure to respond to comments concerning harm caused by RF radiation"** below the current FCC limits.

The Court pointed out that the FCC ignored the scientific evidence documenting

biological harm at levels hundreds, and even thousands of times below the current FCC wireless exposure “safety” guidelines. The federal Court ruling stated:

“That failure undermines the Commission’s conclusions regarding the adequacy of its testing procedures, particularly as they relate to children, and its conclusions regarding the implications of long-term exposure to RF radiation...all of which depend on the premise that exposure to RF radiation at levels below its current limits causes no negative health effects.”

To date, the FCC has ignored the Court’s August 2021 ruling to re-assess the outdated basis for their current wireless “safety” exposure limits. Instead of acting to protect public health, the FCC continues to facilitate the wireless industry’s unfettered rollout of over 800,000 powerful wireless 4G and 5G transmitters which are being installed right outside homes, schools, and places of work, emitting ever-increasing levels of harmful microwave radio frequency emissions 24/7.

It is apparent that the FCC is captured by the industry it is supposed to regulate. This is documented in [a report by Norm Alster of Harvard’s Safra School of Ethics](#), titled “Captured Agency: How the Federal Communications Commission Is Dominated by the Industries It Presumably Regulates”:

“Industry controls the FCC through a soup-to-nuts stranglehold that extends from its well-placed campaign spending in Congress through its control of the FCC’s congressional oversight committees to its persistent agency lobbying,” Alster wrote.

Verizon, AT&T and the other wireless providers will tell you that exposure to wireless radiation is safe.....**this is not true!** Referencing the manipulative and deceitful tactics used by the wireless industry to spread disinformation about the known public health risks of microwave RFR exposure, a 2018 in depth investigative report in The Nation titled, [“How Big Wireless Made Us Think That Cell Phones Are Safe”](#) reports:

*“As happened earlier with Big Tobacco and Big Oil, **the wireless industry’s own scientists privately warned about the risks**” ...and **“like their tobacco and fossil-fuel brethren, wireless executives have chosen not to publicize what their own scientists have said about the risks of their products.”***

There has been a scientific paradigm shift over these 26 years since the current FCC limits were established. It is now widely accepted by the researchers who study the biological effects of RFR exposure that serious debilitating health

effects can result from exposure to levels far below those currently allowed by the FCC.

These serious public health impacts are documented in thousands of published studies to cause increased cancer risk, cellular oxidation, damage to DNA, disruption to the blood brain barrier, reduced fertility, increased risk of miscarriage, learning and memory deficits and other neurological impacts.

Insurance companies do not insure telecom companies for liability for personal injury that results from RFR exposures

Insurance companies (i.e., Lloyd's of London and Swiss Re) have [declined to insure telecom companies](#) for any liability for personal injury that results from RFR exposures. The insurance industry acknowledges the [high potential of claims of RFR injuries](#) from the public arising from RFR exposure.

Facts and Statements by U.S. Preeminent Scientists and Experts In the Area of RFR Research

The following facts and statements by United States' preeminent scientists and experts in the area of RFR research clearly show that the FCC's 26 year old exposure "safety" limits fail to protect the public from biological harm.

1. In 2011, the World Health Organization/International Agency for Research on Cancer (IARC) [classified radiofrequency electromagnetic fields as possibly carcinogenic to humans.](#)
2. In 2018, the final peer-reviewed results of the \$30 million U.S National Toxicology Program study showed ["clear evidence" of cancer and damage to DNA associated with exposure to cell phone radiation.](#) Since completion of the U.S. NTP study, the results have been [replicated by the Ramazzini Institute](#) which strengthens the study's overall findings.
3. Christopher J. Portier, Ph.D., former Director of the National Center for Environmental Health at the Centers for Disease Control and Prevention (CDC) and a scientific advisor for the WHO, [reviewed the most recent body of scientific research and literature regarding the feasibility of RFR](#) causing specific brain tumors in humans and concluded in March, 2021:
"Given the human, animal and experimental evidence, I assert that, to a reasonable degree of scientific certainty, the probability that RF exposure causes gliomas and neuromas is high."
4. Linda Birnbaum, Ph.D., former Director of the U.S. NIEHS and the National Toxicology Program (NTP), [has stated:](#)

- *“Effects from [wireless] radiofrequency radiation (RFR) such as....increased permeability of the blood brain barrier were reported in these [scientific] publications.”*
- *“The [U.S. NTP] studies established that [very low exposure levels] of RFR exposure had toxicological implications in biological systems.”*
- *“The NTP found and published evidence of DNA damage after only 90 days of exposure.”*
- *“Overall, the NTP findings demonstrate the potential for RFR to cause cancer in humans. The independent peer review of the entire proceedings carried out by toxicologists, pathologists and statisticians independent of the NTP staff conducted March 26-28, 2018, concluded that there was ‘clear evidence of cancer,’.....exposure to RFR is associated with an increase in DNA damage.”*

The FCC does not include protection for children in their Federal RFR “safety” limits

5. [Hugh Taylor](#), Chair of Obstetrics, Gynecology & Reproductive Sciences, Yale School of Medicine:

- *"The fetus is perhaps most vulnerable to these types of environmental insults. When the brain is just forming, when all of the organ systems are just beginning to develop, that's when we are perhaps at our most vulnerable stage."*
- *“The rise in behavioral disorders in human children could be linked to prenatal cell phone exposure.”*

6. [The American Academy of Pediatrics](#), stated in a letter to the FCC:
“Children ... are not little adults and are disproportionately impacted by all environmental exposures, including cell phone radiation. In fact, according to IARC, when used by children, the average RF energy deposition is two times higher in the brain and 10 times higher in the bone marrow of the skull, compared with mobile phone use by adults.”

7. [Ronald Melnick, Ph.D.](#), former NIEHS Senior Toxicologist who led the design of the US NTP study states:
“I strongly feel health and regulatory agencies should promote policies that reduce cell phone radiation exposure, especially for children and pregnant women....The risk can be greater for children than adults due to the increased penetration of the radiation within brains of children and the fact that the developing nervous system is more susceptible to tissue damaging agents.”

In conclusion:

Turning this ship around must start on the local level. Your decisions matter—particularly if the tide of law based on the 2021 Court ruling does finally start to snowball change. ***We do not want Whatcom County to be locked into contracts that might be established now with local telecoms if the greater tide can carry us to more responsible policies and ordinances over the next few years.*** And to create that tide of response and change it is incumbent on local municipalities to push back on laws that put at risk the public health and economic vitality of their citizens.

We, as **Whatcom Citizens for Responsible Technology**, are **motivated by the vision of seeing** Whatcom County as a hub of economic vibrancy that fosters social, intellectual, and business opportunities created by a robust Fiber Optic Network delivering safe, fast, and cyber-secure broadband directly to every home, school, and business setting.

As articulated in [*Fiber, The Coming Tech Revolution and Why America Might Miss It*](#), Susan Crawford, 140-141:

“Fiber brings that entrepreneurial spirit. Fiber brings a relentless optimism and a willingness to act collectively that is fundamental to identity as a community. It offers a culture conducive to trying to be a little bit outside the box. There is no silver bullet in this...it is a silver buckshot approach. We have to do dozens of things because if we don’t do something different, we’re only going to get the same results....”

Respectfully,

Cindy Franklin: Long-time Bellingham resident and environmental activist, researcher and wireless radiation health and safety advocate.

Linda Fels: Member of Bellingham Broadband Advisory Workgroup; retired software developer & nutritional therapist

Jon Humphrey: Tech expert, tech writer, initiator and volunteer in numerous tech projects and advocate for safe, effective, and equitable Broadband and Policy.

Kevin Bardosh: Affiliate Assistant Professor, Center for One Health Research, School of Public Health, University of Washington.

Danica Theissen: Writer, Researcher, Citizen Advocate. Expert in EMF intolerance syndrome.

Leslie Shankman: Writer, Citizen Advocate, Committee Facilitator

From: [Kevin Bardosh](#)
To: [PDS Planning Commission](#)
Subject: Concerning the FCC wireless regulations
Date: Tuesday, June 21, 2022 9:11:21 PM

Dear Tammy Axlund,

Please forward our communication to the 9 planning commission members as soon as you are able to (thank you kindly).

Dear Stephen Jackson, Kimberley Lund, Robert Bartel, Jim Hansen, Dominic Mocerri, Atul Deshmane, Alvin Scott Van Dalen, Kelvin Barton, and Julie Jefferson,

Thank you for taking the time to read this prescient email concerning the upcoming June 23rd decisions. We know that everyone at that meeting will want to make the best decisions for the greatest number of Whatcom County residents. We are making an appeal for the position that the best thing for the people of Whatcom County is fibre optic service in residential areas and a *ban* on all high-energy, 'fifth-generation', wireless Gigahertz frequencies.

The FCC regulations that Whatcom County is being pressured to conform to are regulations that undermine citizen empowerment and local authority. They were propagated under Ajit Pai, former head of the FCC and prior Verizon Communications associate. Ajit Pi's dual role is because the FCC represents the interests of telecommunication corporations. As Ajit Pai says at a Verizon conference, the FCC is what we understand as a 'captured Regulator'.*

We believe that our local planning commissioners are placed specifically to 'stand in the gap' as it were and protect us from the interests of large, profitable corporations. In this case, the telecommunications corporations are manipulating the law through captured federal regulators to favour their own exorbitant profits at the cost of the autonomy of those who reside in Whatcom county and call it home. If there is one reason why *trust* is such a problematic issue in our times it is this plague of corporatism, where corporate interests and profits trump the needs of the human/earth community.

Because of the economic and political climate, many of us don't realize that telecommunication corporations have been de-platforming and censoring (through cooperation with technology platforms such as Google) any discussion about the environmental and health impacts of wireless infrastructure. As unbelievable as it sounds, these same corporations have perpetrated smear campaigns against world renown radiation and bioelectrical experts. Since many of these corporations have ownership of legacy media, all questioning is 'blacked out' on this platform as well. Don't we know the playbook by now with the old tobacco industry tricks?

All media outlets run the mantra that '5G' is safe and you're 'a nutter' to question otherwise- but a little digging reveals that this mantra is in itself corporate propaganda, and very profitable at that.

It's unfortunate that we, a local family in Whatcom County, are caught in the cross-fire. I, Danica, am electro-sensitive, a condition where I suffer symptoms of radiation sickness- migraines, dizziness, vertigo, nauseousness, insomnia and other neurological symptoms around RF radiation. Since I have

this condition, our family can't use cell phones or any wireless devices, though we do use wired internet. Adding more wireless infrastructure to Whatcom County would be catastrophic for me, as the current cell towers already affect me negatively. This condition, known as electro-sensitivity, is rapidly growing, and more and more Americans are realizing that their wireless devices and cell towers are hurting their health and the wellbeing of other fragile species.**

If you do *not* support the FCC wireless regulations you can be completely confident that your position would be ethical and environmentally-friendly. The law is catching up with the telecommunication corporations since their platform, the FCC, recently lost a federal court case for *not* protecting US citizens from dangerous levels of RF radiation. The judges deemed that the FCC was *not protecting citizens from RF radiation that caused health effects such as 'reproductive problems and neurological problems that span from effects on memory to motor abilities.'* ***

How do you think Whatcom citizens are going to feel if you condone these codes that disempower local people when it becomes increasingly clear that corporate influence has undermined public health and safety?

After analysing the scientific evidence on wireless radiation, the judges deemed the FCC 'safety' limits to be *'arbitrary and capricious in its complete failure to respond to comments concerning environmental harm.'****

We are, at its core, asking you to take a hard and seemingly 'unpopular' stance and protect us from corporate profiteering and predatory capitalism- at least until a transparent social/scientific discussion can take place about what is best for our local communities.

We would be happy to meet with you to discuss this issue.

Kindly,

Danica Thiessen, MSc

Kevin Bardosh, PhD

- See video of Ajit Pai here: https://gizmodo.com/leaked-video-shows-fcc-chair-ajit-pai-roasting-himself-1821134881?utm_medium=sharefromsite&utm_source=Gizmodo_twitter



Leaked Video Shows FCC Chair Ajit Pai Roasting Himself With 'Jokes' About Being a Verizon Shill - Gizmodo

The video is a skit that opens to 50 Cent's "In Da Club" and takes place at "Verizon's DC Office" in 2003, where Pai worked as an attorney before joining the FCC a few years later.

** See EHT website here:

<https://ehtrust.org/environmental-effects-of-wireless-radiation-and-electromagnetic-fields/>



Environmental Effects of Wireless Radiation and Electromagnetic Fields - Environmental Health Trust

Examples of Research Studies on Effects to Wildlife The European Scientific Committee on Health, Environmental and Emerging Risks states " The lack of clear evidence to inform the development of exposure guidelines to 5G technology leaves open the possibility of unintended biological consequences." Several literature reviews warn

ehtrust.org

*** See Court case here:

[https://www.cadc.uscourts.gov/internet/opinions.nsf/FB976465BF00F8BD85258730004EFDF7/\\$file/20-1025-1910111.pdf](https://www.cadc.uscourts.gov/internet/opinions.nsf/FB976465BF00F8BD85258730004EFDF7/$file/20-1025-1910111.pdf)

United States Court of Appeals

Ashley S. Boizelle, Deputy General Counsel, Federal Communications Commission, argued the cause for respondents. With her on the brief were Jonathan D. Brightbill, Principal Deputy Assistant Attorney General at the time the brief was filed, U.S. Department of Justice, c Eri Grant, Deputy Assistant Attorney General at the time the brief was filed, Jeffrey Beelaert Justin Hemingerand , Attorneys,

www.cadc.uscourts.gov

Affiliate Assistant Professor, School of Public Health, University of Washington, USA

Honorary Lecturer, Edinburgh Medical School, University of Edinburgh, UK

Research Associate, School of Global Urban and Social Studies, RMIT, Australia

Associate Editor: [Frontiers in Tropical Diseases](#)

[Twitter/Publications/Profile](#)



Wed 6/22/2022 7:33 AM

Leslie Shankman <leslie.shankman@comcast.net>

Considerations for June 23rd Planning Commission Meeting

To PDS_Planning_Commission

Dear Stephen Jackson, Kimberley Lund, Robert Bartel, Jim Hansen, Dominic Mocerri, Atul Deshmane, Alvin Scott Van Dalen, Kelvin Barton, and Julie Jefferson,

Thank you for being aware of the information contained herein as you convene on June 23rd to consider regulations regarding small cell and macro wireless facilities.

Leslie Shankman
Bellingham, WA

To download, share, or print out this article, copy and paste this link:

<https://www.cellphonetaskforce.org/wp-content/uploads/2022/05/Wireless-radiation-and-osteoporosis.pdf>

WIRELESS RADIATION AND OSTEOPOROSIS

I was astonished by the number of people who contacted me after I broke my arm telling me they had broken theirs too -- some of them this year, and others within the last few years. It occurred to me to wonder: has there been a significant increase in osteoporosis and bone fractures around the world? and if so, is this yet another health effect caused by the use of cell phones and their infrastructure irradiating our bones as well as the rest of our bodies?

I remembered reading some fascinating facts about bones in the groundbreaking 1985 book, *The Body Electric*, written by orthopedic surgeon Robert O. Becker. Bones, he discovered, are semiconductors, and they owe their electrical properties to being doped with tiny amounts of copper. The atoms of copper, he found, bond electrically to both apatite crystals and collagen fibers -- the two main components of bone -- and hold them together, "much as wooden pegs fastened the pieces of antique furniture to each other."

"Osteoporosis," wrote Becker, "comes about when copper is somehow removed from the bones. This might occur not only through chemical/metabolic processes, but by a change in the electromagnetic binding force, allowing the pegs to 'fall out.' It's possible that this could result from a change in the overall electrical fields throughout the body or from a change in those surrounding the body in the environment."

I also remembered, from the old Soviet Union literature, summarized in my 1997 book, [Microwaving Our Planet](#), that radio frequency radiation redistributes metals throughout the body.

With these facts in mind, I have searched the world's medical literature for studies on the incidence of both osteoporosis and fractures, and the evidence seems fairly conclusive: (1) There has been an enormous increase in the incidence of both osteoporosis and bone fractures of all

types throughout the world in children and adults since about 1950; (2) the incidences of both continue to rise, worldwide; (3) most studies published in the past couple of decades have found that osteoporosis in children is correlated with the amount of time spent daily looking at screens; (4) rates of osteoporosis do *not* correlate with the amount of time children spend sitting but *not* looking at screens; and (5) these trends are independent of the amount of exercise people get.

The authors of these studies have been at a loss to explain their findings, but they are easily explained when one remembers the electrical properties of bones, and the effects that cell phone and computer screens, all emitting radiation, are likely to have on bones and on the copper atoms within them -- and that exposure to radiation from radio, TV, radar, and (more recently) cell tower antennas has increased tremendously since World War II.

Here is a sampling of the studies I have collected:

- Louis V. Avioli reviewed the world's literature in 1991. During the second half of the twentieth century, he found, both osteoporosis and fracture rates had risen dramatically in the United States, Canada, Norway, Sweden, Spain, Italy, the UK, Belgium, Australia, and elsewhere. The incidence rate of hip fractures in the United States had been increasing by about 40% per decade. (1)
- M.L. Grundill and M.C. Burger, in 2021, found that the incidence rate of hip fractures in a population in South Africa had more than doubled in men and almost sextupled in women compared to what had been reported in 1968. (2)
- Emmanuel K. Dretakis et al. found that the annual number of hip fractures in Crete increased 21% in just four years, from 1982 to 1986, while the population over 50 remained the same. (3)
- Hiroshi Koga et al. examined the records of children aged 6 to 14 in Niigata, Japan. The incidence rate of all fractures more than doubled from the early 1980s to the early 2000s in both girls and boys, and almost tripled in girls in junior high school. (4)
- P. Lüthje et al. found that the incidence rate of hip fractures throughout Finland quadrupled between 1968 and 1988. (5)
- In 2012 Ambrish Mithal and Parjeet Kaur found that hip fracture rates had increased two- to three-fold throughout Asia during the previous 30 years. (6)
- Hiroshi Hagino et al. found that hip fracture rates in Tottori Prefecture, Japan had risen by almost 40% between 1986 and 1992, and by more than 60% in men and about 50% in women between 1986 and 2001. Increases in fracture rates occurred not only in the elderly, but in people in their 30s and 40s. (7)
- In 1989 Karl J. Obrant et al. did an analysis of fracture trends in Malmö, Sweden, where all X-rays have been saved since the beginning of the twentieth century. They found that the

yearly number of fractures in that city had increased seven-fold between 1951 and 1985, and the incidence rate of fractures among children had doubled between 1950 and 1979. ***“There are signs that there is a deterioration of the quality of the skeleton in successive generations,”*** wrote the authors. ***“With the same or even diminished trauma, we sustain more serious and more comminuted fractures today than previously.”*** The increase had nothing to do with changing estrogen levels, because fracture rates had increased even more in men than in women. The daily consumption of both calcium and Vitamin D had increased during that time. But the incidence of hip fractures was higher in cities than in rural environments where, we know, there was less radiation. (8)

- Haiyu Shao et al., in 2015, looking at hours per day spent playing video games by Chinese adolescents, found that adolescents with longer video game time were more likely to have lower bone mass density in their legs, trunk, pelvis, spine, and whole body. (9)
- Anne Winther et al., studying 15- to 18-year-olds in Tromsø, Norway in 2010-2011, found that longer screen time was associated with lower bone mass density in both boys and girls, regardless of the amount of daily physical activity, calcium intake, vitamin D, alcohol consumption, smoking habits, height or weight. (10)
- Sebastien Chastin, examining youths aged 8 to 22 in the U.S. in 2005-2006, found that screen-based sitting was associated with lower bone mass density in hips and spine. Non-screen-based sitting was *not* associated with lower bone mass density. (11)
- Natalie Lundin et al. found that annual incidence rates of pelvic and hip socket fractures in Sweden increased 25% from 2001 to 2016, and that increasing incidence rates were seen in all age groups. (12)
- Daniel Jerrhag et al. found that the incidence rate of forearm fractures in Sweden was 23% higher in 2010 compared with 1999, and that the increase was greater in men and women 17 to 64 years of age than in the elderly. (13)
- Michiel Herteleer et al. found that the incidence rate of pelvic and hip socket fractures in Belgium doubled between 1988 and 2006, and rose another 26% by 2018. (14)
- Neeraj M. Patel found that the annual incidence rate of fractures in children aged 6 to 18 in New York State almost quadrupled between 2006 and 2015. (15)

Donations to support our work are needed. The Cellular Phone Task Force is a 501(c)(3) nonprofit organization, and donations from U.S. residents are tax-deductible. Our Tax ID Number is 11-3394550.

From: [Enoch J Ledet](#)
To: [PDS Planning Commission](#)
Subject: Updated Outline on 5 G Safety and Health Adverse Side Effects with edited resources and conclusion
Date: Thursday, June 23, 2022 10:29:09 AM
Attachments: [20 Adverse Side Effects from RF Radiation.docx](#)

Respectfully,
EJ Ledet

Sent from my iPhone

20 Negative Health Symptoms/ Adverse Side Effects from RadioFrequency (RF)Radiation

1. Sleeping Problems
2. Fatigue
3. Learning Problems and Concentration
4. Headaches
5. Tinnitus (Ringing In Ears)
6. Eye Problems
7. Heart Problems, Heart Palpitations and Heart Arrhythmias
8. Leg Cramps
9. Vertigo (Balance Problems)

10. Cancer IARC stated that there is limited evidence that RF radiation causes cancer in animals and humans, and classifies RF radiation as “possibly carcinogenic to humans” (Group 2B). This was based on the finding of a possible link in at least one study between cell phone use and a specific type of brain tumor.”

11. Stress, Agitation, Anxiety, Irritability
12. Depression
13. Seizures
14. Arthritis, Sharp Stabbing Pains, Body Pain
15. Nausea, flu-like symptoms
16. Sinus Problems and Nosebleeds
17. Respiratory Problems and Cough
18. Skin Rashes and Facial Flushing
19. Endocrine Disorders, Thyroid Disorders and Diabetes
20. Children Behavior Problems & Mental Effects

<https://www.radiationhealthrisks.com/health-symptoms-rf-radiation/>

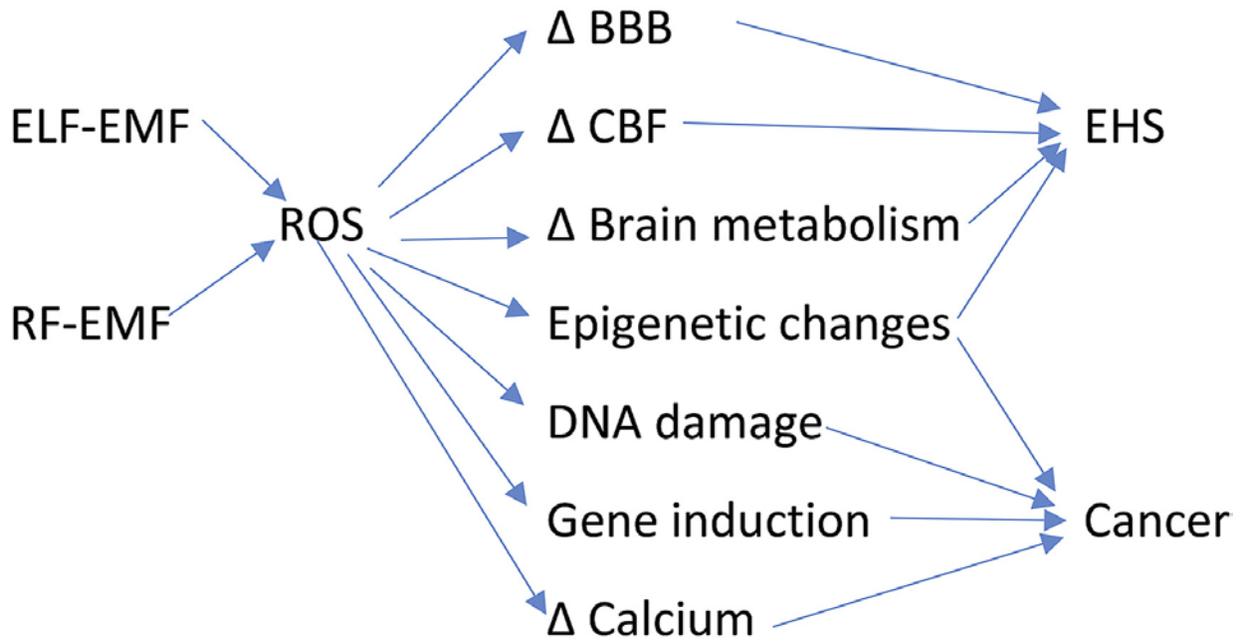
Citing this large body of research, more than 240 scientists who have published peer-reviewed research on the biologic and health effects of non ionizing electromagnetic fields (EMF) signed the International EMF Scientist Appeal, which calls for stronger exposure limits. The appeal makes the following assertions:

“Numerous recent scientific publications have shown that EMF affects living organisms at levels well below most international and national guidelines. Effects include increased cancer risk, cellular stress, increase in harmful free radicals, genetic damages, structural and functional changes of the reproductive system, learning and memory deficits, neurological disorders, and negative impacts on general well-being in humans. Damage goes well beyond the human race, as there is growing evidence of harmful effects to both plant and animal life.”

The scientists who signed this appeal arguably constitute the majority of experts on the effects of non ionizing radiation. They have published more than 2,000 papers and letters on EMF in professional journals.

<https://blogs.scientificamerican.com/observations/we-have-no-reason-to-believe-5g-is-safe/>

Radio Frequency - electromagnetic radiation(RF-EMF) , non-ionizing radiation(nIR) emitted by 5G Cell towers and cell phones can cause oxidative stress (OS) and formation of reactive oxygen species (ROS) which can impact human health.



The implication diagram that EMF cause ROS/ oxidative stress – on Ca ion channels in cell membranes.

Conclusions

On the basis of the above findings, an EMF mechanism can involve ROS formation due to membrane and voltage-gated cation channel function deterioration [2,3,7,8] followed by stress activation and heat-shock protein over-expression [56], which may be associated with behavioral and physiological effects such as blood–brain barrier disruption, memory malfunction, changes in gene expression [53], autophagy, apoptosis [53,84] (especially due to modulation [85]), lifespan reduction, DNA damage, and cancer [18].

Most animal and many cell studies showed increased oxidative stress caused by RF-EMF and ELF-MF. In order to estimate the risk for human health by manmade exposure, experimental studies in humans and epidemiological studies need to be considered as well.

<https://pubmed.ncbi.nlm.nih.gov/33917298/>

<https://pubmed.ncbi.nlm.nih.gov/16125687/>

<https://pubmed.ncbi.nlm.nih.gov/26343967/>

<https://www.sciencedirect.com/science/article/abs/pii/S0269749118310157>

[https://www.cell.com/cancer-cell/fulltext/S1535-6108\(17\)30518-4](https://www.cell.com/cancer-cell/fulltext/S1535-6108(17)30518-4)

<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7089381/>

<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8038719/>

<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8154046/>

RF Radiation Independent Studies

In 2012 there is a report published called the Bioinitiative Report at www.bioinitiative.org which is an extensive summary of the health effects associated with low intensity, non-ionizing, electromagnetic radiation.

This report was released and published by 29 health professionals from ten countries, with medical and Ph.D. degrees. It summarizes the peer reviewed non-ionizing radiation research published from 1996 – 2011. It examines the dangerous health problems associated with exposure to RF and microwave radiation sources such as smart meters, cell phones, cell towers, and the like.

<https://bioinitiative.org/>

2021 Study

Exposure to RFR also statistically significant elevated both intra and extra cellular levels of ROS.

Conclusion: Our observation clearly indicated the induction of BE in cells treated with CCM. To our knowledge, this is the first report that a non-ionizing radiation (900 MHz GSM RFR) can induce bystander effect. As reported for ionizing radiation, our results proposed that ROS can be a potential molecule in indirect effect of RFR. On the other hand, we found the importance of ROS in direct effect of RFR but in different ways.

<https://pubmed.ncbi.nlm.nih.gov/31036329/>

BIOINITIATIVE 2012 – CONCLUSIONS Table 1-1

Overall, these 1800 or so new studies report abnormal gene transcription (Section 5); genotoxicity and single-and double-strand DNA damage (Section 6); stress proteins because of the fractal RF-antenna like nature of DNA (Section 7); chromatin condensation and loss of DNA repair capacity in human stem cells (Sections 6 and 15); reduction in free-radical scavengers – particularly melatonin (Sections 5, 9, 13, 14, 15, 16 and 17); neurotoxicity in humans and animals (Section 9), carcinogenicity in humans (Sections 11, 12, 13, 14, 15, 16 and 17); serious impacts on human and animal sperm morphology and function (Section 18); effects on offspring behavior (Section 18, 19 and 20); and effects on brain and cranial bone development in the offspring of animals that are exposed to cell phone radiation during pregnancy (Sections 5 and 18). This is only a snapshot of the evidence presented in the BioInitiative 2012 updated report.”

So the bottom line here is just in this report alone is over 1800 studies discussed and the report was put together by 29 independent scientists in from all around the world. Again the more you dig into this topic the more you will see this pattern. If the study or article was put out by a government or from some entity within the technology industry things are rosy and perfectly safe. If it was put out by someone independent of those sources, their findings are 180 degrees in the opposite direction.

<https://www.biorxiv.org/content/biorxiv/early/2016/05/26/055699.full.pdf>

So even though ionizing radiation (Gamma Rays , UV) have been shown to directly cause DNA/RNA mutation, non ionizing radiation from LOw Frequency Electromagnetic Radiation (LF-EMF) and Radio Frequencies (RF) radiation can cause reactive oxygen species (ROS) which cause oxidative stress . If RF is not neutralized by external tower/phone barriers and/or by internal antioxidant barriers (Vitamins, Glutathione, Zinc) ROS can cause inflammatory, immunosuppressive diseases, and some cancers.

Russia, Cuba microwave incidents and crowd control weapons use 40-60 GHz frequencies . Guess what 5G uses (40-300GHz). 60 GHZ is absorbed by Oxygen in the air and this RF radiated O2 maybe inhibited from binding to hemoglobin and cause hypoxia/oxidative stress and form more ROS.

Respectfully,

EJ Ledet

Enoch.ledet@gmail.com

Sudden Valley Community Association

From: [Enoch J Ledet](#)
To: [Satpal Sidhu](#); [PDS Planning Commission](#); [Seth Fleetwood](#)
Cc: [Enoch J Ledet](#)
Subject: Re: What are the Health Risks of 5G? All Your Questions Answered.
Date: Sunday, July 24, 2022 8:10:31 AM

Another comprehensive brochure from Europe on Cell Phones RF impacts- How Susceptible are Genes to Mobile Phone Radiation?

<https://acrobat.adobe.com/link/review?uri=urn:aaid:scds:US:a6001083-de76-3e3f-88d7-bbf7cdf0ec21#pageNum=6>

Respectfully,
EJ Ledet

Sent from my iPhone

On Jul 23, 2022, at 8:40 PM, Enoch J Ledet <enoch.ledet@gmail.com> wrote:

Hi Satpal,

In my continuing investigation of 5G Health impacts, I found a comprehensive article published by an Emeritus Biochemistry Professor at WSU. I also found several European Professors who are also asking for a moratorium on 5G installations because of potential longterm health risks to humans.

A Washington State University Emeritus Professor on 5G RF radiation impact to US and Europe (90 pages with over 137 references)

5G: Great risk for EU, U.S. and International Health! Compelling Evidence for Eight Distinct Types of Great Harm Caused by Electromagnetic Field (EMF) Exposures and the Mechanism that Causes Them
Written and Compiled by Martin L. Pall, PhD
Professor Emeritus of Biochemistry and Basic Medical Sciences Washington State University
Address: 638 NE 41st Ave., Portland OR 97232 USA martin_pall@wsu.edu 503-232-3883 May 17, 2018

https://www.jrseco.com/wp-content/uploads/Martin_Pall_PhD_5G_Great_risk_for_EU_US_and_International_Health-Compelling_Evidence.pdf

“more than 180 scientists and doctors from 36 countries warn about the danger of 5G, which will lead to a massive increase in involuntary exposure to electromagnetic radiation. The scientists urge the EU to follow Resolution 1815 of the Council of Europe, asking for an independent task force to reassess the health effects. “

As of March 18, 2022 -422 scientists and medical doctors have signed the appeal.

<http://www.5gappeal.eu/about/>

<https://www.jrseco.com/european-union-5g-appeal-scientists-warn-of-potential-serious-health-effects-of-5g/>

<https://www.jrseco.com/wp-content/uploads/2017-09-13-Scientist-Appeal-5G-Moratorium.pdf>

Respectfully
EJ Ledet

Sent from my iPhone

On Jun 26, 2022, at 7:38 AM, Enoch J Ledet
<enoch.ledet@gmail.com> wrote:

Satpal,

Please read attached article which states that 5G short term and long term health studies need to be conducted.

The old cliché “ Ignorance is no excuse” appropriately applies to 5G

Mankind needs to learn from his mistakes.

Greed, fame, fortune is corrupting Gov 3 letter Agencies. Big Pharma , National Rifle Association , Telecommunication Agencies are examples where \$\$\$ contributions are controlling these organizations and politicians

<https://www.shieldyourbody.com/5g-health-risks/>

Respectfully,

EJ Ledet

Sent from my iPhone

Tammy Axlund

From: Enoch J Ledet <enoch.ledet@gmail.com>
Sent: Saturday, July 23, 2022 8:41 PM
To: Satpal Sidhu
Cc: PDS_Planning_Commission; Seth Fleetwood
Subject: Re: What are the Health Risks of 5G? All Your Questions Answered.

Hi Satpal,

In my continuing investigation of 5G Health impacts, I found a comprehensive article published by an Emeritus Biochemistry Professor at WSU. I also found several European Professors who are also asking for a moratorium on 5G installations because of potential longterm health risks to humans.

A Washington State University Emeritus Professor on 5G RF radiation impact to US and Europe (90 pages with over 137 references)

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Address: 638 NE 41st Ave., Portland OR 97232 USA martin_pall@wsu.edu 503-232-3883 May 17, 2018

https://nam11.safelinks.protection.outlook.com/?url=https%3A%2F%2Fwww.jrseco.com%2Fwp-content%2Fuploads%2FMartin_Pall_PhD_5G_Great_risk_for_EU_US_and_International_Health-Compelling_Evidence.pdf&data=05%7C01%7CPDS_Planning_Commission%40co.whatcom.wa.us%7C647c8dc1c3a646f8ae7308da6d264a36%7C2122bbce9a1d4565931b0c534ef12e43%7C0%7C1%7C637942308495613863%7CUnknown%7CTWFpbGZsb3d8eyJWljojMC4wLjAwMDAiLCJQIjoiV2luMzliLCJBTiI6Ik1haWwiLCJXVCi6Mn0%3D%7C3000%7C%7C%7C&data=B%2FIR4zUygy6OxNhetQnKeshRTNgva94XR%2BUuJMSXjOI%3D&reserved=0

“more than 180 scientists and doctors from 36 countries warn about the danger of 5G, which will lead to a massive increase in involuntary exposure to electromagnetic radiation. The scientists urge the EU to follow Resolution 1815 of the Council of Europe, asking for an independent task force to reassess the health effects. “

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https://nam11.safelinks.protection.outlook.com/?url=http%3A%2F%2Fwww.5gappeal.eu%2Fabout%2F&data=05%7C01%7CPDS_Planning_Commission%40co.whatcom.wa.us%7C647c8dc1c3a646f8ae7308da6d264a36%7C2122bbce9a1d4565931b0c534ef12e43%7C0%7C1%7C637942308495613863%7CUnknown%7CTWFpbGZsb3d8eyJWljojMC4wLjAwMDAiLCJQIjoiV2luMzliLCJBTiI6Ik1haWwiLCJXVCi6Mn0%3D%7C3000%7C%7C%7C&data=wro%2FGxLAGagZ9CclzgPOH%2FyN4swMf0dPI6fsuHEjs4%3D&reserved=0

https://nam11.safelinks.protection.outlook.com/?url=https%3A%2F%2Fwww.jrseco.com%2FEuropean-union-5g-appeal-scientists-warn-of-potential-serious-health-effects-of-5g%2F&data=05%7C01%7CPDS_Planning_Commission%40co.whatcom.wa.us%7C647c8dc1c3a646f8ae7308da6d264a36%7C2122bbce9a1d4565931b0c534ef12e43%7C0%7C1%7C637942308495613863%7CUnknown%7CTWFpbGZsb3d8eyJWljojMC4wLjAwMDAiLCJQIjoiV2luMzliLCJBTiI6Ik1haWwiLCJXVCi6Mn0%3D%7C3000%7C%7C%7C&data=BNtHvYaLWhlL4Z95V4NnMAyVaDZHq%2BnDwOeHPrGzi5E%3D&reserved=0

https://nam11.safelinks.protection.outlook.com/?url=https%3A%2F%2Fwww.jrseco.com%2Fwp-content%2Fuploads%2F2017-09-13-Scientist-Appeal-5G-Moratorium.pdf&data=05%7C01%7CPDS_Planning_Commission%40co.whatcom.wa.us%7C647c8dc1c3a646f8ae73

08da6d264a36%7C2122bbce9a1d4565931b0c534ef12e43%7C0%7C1%7C637942308495613863%7CUnknown%7CTWFpbGZsb3d8eyJWljojMC4wLjAwMDAiLCJQIjoiV2luMzliLCJBTiI6I6k1haWwiLCJXVCI6Mn0%3D%7C3000%7C%7C%7C&data=v2OwKqxI6niOLE2NPYNjAKymeU7CwshH%2FnTfr1m2Ulo%3D&reserved=0

Respectfully
EJ Ledet

Sent from my iPhone

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> [https://nam11.safelinks.protection.outlook.com/?url=https%3A%2F%2Fwww.](https://nam11.safelinks.protection.outlook.com/?url=https%3A%2F%2Fwww.shieldyourbody.com%2F5g-health-risks%2F&data=05%7C01%7CPDS_Plannin)

> [shieldyourbody.com%2F5g-health-risks%2F&data=05%7C01%7CPDS_Plannin](https://nam11.safelinks.protection.outlook.com/?url=https%3A%2F%2Fwww.shieldyourbody.com%2F5g-health-risks%2F&data=05%7C01%7CPDS_Plannin)

> [g_Commission%40co.whatcom.wa.us%7C647c8dc1c3a646f8ae7308da6d264a36%7C2](https://nam11.safelinks.protection.outlook.com/?url=https%3A%2F%2Fwww.g_Commission%40co.whatcom.wa.us%7C647c8dc1c3a646f8ae7308da6d264a36%7C2)

> [122bbce9a1d4565931b0c534ef12e43%7C0%7C1%7C637942308495613863%7CUnknown](https://nam11.safelinks.protection.outlook.com/?url=https%3A%2F%2Fwww.122bbce9a1d4565931b0c534ef12e43%7C0%7C1%7C637942308495613863%7CUnknown)

> [%7CTWFpbGZsb3d8eyJWljojMC4wLjAwMDAiLCJQIjoiV2luMzliLCJBTiI6I6k1haWwiLCJ](https://nam11.safelinks.protection.outlook.com/?url=https%3A%2F%2Fwww.%7CTWFpbGZsb3d8eyJWljojMC4wLjAwMDAiLCJQIjoiV2luMzliLCJBTiI6I6k1haWwiLCJ)

> [XVCI6Mn0%3D%7C3000%7C%7C%7C&data=s2DdW0RR8NBHdMfL3VDkewEtx%2BqdYU](https://nam11.safelinks.protection.outlook.com/?url=https%3A%2F%2Fwww.XVCI6Mn0%3D%7C3000%7C%7C%7C&data=s2DdW0RR8NBHdMfL3VDkewEtx%2BqdYU)

> [Qebfp0omRChpQ%3D&reserved=0](https://nam11.safelinks.protection.outlook.com/?url=https%3A%2F%2Fwww.Qebfp0omRChpQ%3D&reserved=0)

>

> Respectfully,

> EJ Ledet

>

> Sent from my iPhone

From: [Kevin Bardosh](#)
To: [PDS Planning Commission](#); [Danica Thiessen](#)
Subject: Urgent email for the planning commission.
Date: Tuesday, July 26, 2022 3:09:15 PM

Dear Tammy,

Please disperse this email to everyone on the Planning Commission for the upcoming meeting on Thursday, July 28th. We would really appreciate it...

To: Stephen Jackson, Kimberley Lund, Robert Bartel, Jim Hansen, Dominic Mocerri, Atul Deshmane, Alvin Scott Van Dalen, Kelvin Barton, and Julie Jefferson,

We have thoroughly reviewed the proposed Whatcom Codes concerning macro and micro wireless facilities. We are requesting these amendments (below) be incorporated into the updated code for Whatcom County wireless infrastructure.

1. The placement of a micro or macro wireless facility must not increase the RF Radiation on the property of an individual diagnosed with Microwave Illness/Electro-Sensitivity if that would result in their displacement.
2. The placement of a micro or macro wireless facility must consider the potential reproductive, migratory, or behavioural impacts on native species.
3. After being notified about a micro or macro wireless infrastructure, a community has 60 days to organize a response to the proposal and, if 70% of the households within 3000 ft. of the potential wireless infrastructure location decide, and sign documentation, that they do not want the proposed project to proceed in their locality, the proposal is thereby withdrawn in the interest of the majority of the local residents. This amendment is necessary to protect Whatcom County citizens from the significant depreciation of their property values by the imposition of controversial infrastructure without their input.

There is widespread support for the integration of these amendments into Whatcom County Code.

Please feel free to call anytime, 360-933-1683.

We look forward to the Planning Commission meeting at 6:30, Thursday, July 28th.

Kindly,

Danica Thiessen, MSc.
&
Dr Kevin Bardosh, Phd.

Kevin Bardosh, PhD

Affiliate Assistant Professor, School of Public Health, University of Washington, USA

Honorary Lecturer, Edinburgh Medical School, University of Edinburgh, UK

Research Associate, School of Global Urban and Social Studies, RMIT, Australia

Associate Editor: [Frontiers in Tropical Diseases](#)

[Twitter/Publications/Profile](#)



Whatcom County

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

Agenda Bill Master Report

File Number: AB2022-639

File ID:	AB2022-639	Version:	1	Status:	Agenda Ready
File Created:	11/01/2022	Entered by:	MRouse@co.whatcom.wa.us		
Department:	Council Office	File Type:	Special Order of Business		
Assigned to:	Council			Final Action:	
Agenda Date:	11/09/2022			Enactment #:	

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

TITLE FOR AGENDA ITEM:

Approval of Special Standing Meetings for 2023

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
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Attachments: Special Meeting Dates 2023

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
Barry Buchanan
Tyler Byrd
Todd Donovan
Ben Elenbaas
Carol Frazey
Kaylee Galloway
Kathy Kershner

WHATCOM COUNTY COUNCIL
SPECIAL STANDING MEETING
DATES FOR 2023
(OFFICIAL ACTION MAY BE TAKEN AT THESE MEETINGS)

HEALTH BOARD – 10 A.M.

JANUARY 31, 2023
MAY 2, 2023
AUGUST 1, 2023
OCTOBER 3, 2023

WATER WORK SESSIONS – 10:30 A.M.

JANUARY 17, 2023
FEBRUARY 14, 2023
MARCH 14, 2023
APRIL 18, 2023
MAY 16, 2023
JUNE 1, 2023
JULY 18, 2023
SEPTEMBER 19, 2023
OCTOBER 17, 2023
NOVEMBER 14, 2023

LAKE WHATCOM JOINT COUNCILS AND COMMISSION MEETING

DATE AND TIME TO BE ANNOUNCED



Whatcom County

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

Agenda Bill Master Report

File Number: **AB2022-538**

File ID:	AB2022-538	Version:	1	Status:	Introduced
File Created:	09/23/2022	Entered by:	RMyers@co.whatcom.wa.us		
Department:	County Executive's Office	File Type:	Council Appointment Requiring Introduction		
Assigned to:	Council	Final Action:			
Agenda Date:	11/09/2022	Enactment #:			

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

TITLE FOR AGENDA ITEM:

Appointment to fill a vacancy on the Criminal Justice Treatment Account Panel, Substance Use Disorder Treatment Agency Position, Applicant(s): Julie Grendon

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

According to RCW 71.23.580, two position on the Criminal Justice Treatment Account Panel must be appointed by the County Legislative Authority; a treatment provider - Lifeline Connections, Carolyn Mason resigned from her position in March 2022. We are requesting appointment of Julie Grendon, Lifeline Regional Director to the CJTA panel. Lifeline manages the jail behavioral health and re-entry services as well as a local SUD treatment.

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
10/25/2022	Council	INTRODUCED	Council

Attachments: Staff Memo, Grendon Application



Memorandum

TO: SATPAL SIDHU, COUNTY EXECUTIVE

FROM: Jackie Mitchell, Whatcom County Behavioral Health Program Specialist

DATE: OCTOBER 14, 2022

RE: REQUEST COUNCIL APPROVAL FOR A CRIMINAL JUSTICE TREATMENT ACCOUNT PANEL APPOINTMENT

In 2002, the state adopted a statute (RCW 71.24.580) which established the Criminal Justice Treatment Account (CJTA). This law was designed to reduce sentencing guidelines and create alternatives to treat nonviolent offenders with substance use disorders (SUD).

Key provisions of this law included the:

- Establishment of the Criminal Justice Treatment Account (CJTA) which is funded via savings by the Department of Corrections for reducing sentences.
- Allocation of funding to counties for treatment and support services for offenders with SUD.
- Development of a local criminal justice panel to submit a plan for the disposition of funds.

The Health Department created the Whatcom County CJTA panel. According to the RCW, the panel should consist of the following members:

- County Alcohol and Drug Coordinator (Jaculine J. Mitchell)
- County Prosecutor (Eric Richey)
- County Sheriff (Bill Elfo)
- County Superior Court (Dave Reynolds)
- A Drug Court Representative (Thomas Wynne)
- And two positions which must be appointed by the County Council; a substance use disorder treatment agency, and a member of the criminal defense bar.

The County Council approved the appointment of Starck Follis, Director of Whatcom County Public Defenders, as the criminal defense bar representative as of July 6, 2021. Carolyn Mason of Lifeline Connections was also appointed as the SUD Treatment provider July 6, 2021.



The Health Department is asking for the approval of Julie Grendon, Regional Director of Lifeline Connections as the substance use disorder (SUD)treatment agency representative. Julie Grendon manages most of Lifeline’s Whatcom County behavioral health programs, including jail behavioral health and re-entry and the SUD treatment program. Julie is a great fit as a panelist for CJTA funding.

Thanks for your support!

Subject:
Date:

Online Form Submittal: Board and Commission Application
Thursday, October 6, 2022 1:28:30 PM

Board and Commission Application

Step 1

Application for Appointment to Whatcom County Boards and Commissions

Public Statement

THIS IS A PUBLIC DOCUMENT: As a candidate for a public board or commission, the information provided will be available to the County Council, County Executive, and the public. All board and commission members are expected to be fair, impartial, and respectful of the public, County staff, and each other. Failure to abide by these expectations may result in revocation of appointment and removal from the appointive position.

Title *Field not completed.*

First Name Julie

Last Name Grendon

Today's Date 10/6/2022

Street Address [REDACTED]

City [REDACTED]

Zip [REDACTED]

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 [REDACTED]

Secondary Telephone *Field not completed.*

Email Address [REDACTED]

Step 2

1. Name of Board or Committee Criminal Justice Treatment Account (CJTA) Panel

Criminal Justice Treatment Account (CJTA) Panel	Substance abuse treatment provider
2. Do you meet the residency, employment, and/or affiliation requirements of the position for which you're applying?	Yes
3. Which Council district do you live in?	District 5
4. Are you a US citizen?	Yes
5. Are you registered to vote in Whatcom County?	Yes
6. Have you declared candidacy (as defined by RCW 42.17A.055) for a paid elected office in any jurisdiction within the county?	No
7. Have you ever been a member of this Board/Commission?	No
8. Do you or your spouse have a financial interest in or are you an employee or officer of any business or agency that does business with Whatcom County?	Yes
If yes, please explain	I am the Regional Director for Lifeline Connections who has a contract with Whatcom County.
You may attach a resume or detailed summary of experience,	<i>Field not completed.</i>

qualifications, &
interest in response to
the following questions

9. Please describe your occupation (or former occupation if retired), qualifications, professional and/or community activities, and education

I am the Regional Director of Lifeline Connections. a behavioral health agency in Whatcom County. I oversee Outpatient and Community Based Services for Whatcom, Skagit, and Island County including the Behavioral Health and Reentry Services in the Whatcom County Jail. I have a master's degree in clinical Psychology and experience with direct service and supervision with all ages in co-occurring disorders, community and employment services, and with individuals with cognitive and developmental disabilities.

10. Please describe why you're interested in serving on this board or commission

We have a contract with Whatcom County to provide the behavioral health services in the jail that is deeply impacted by the fund source and professionally I have interest in the services provided for the community and in the Whatcom County Jail.

References (please include daytime telephone number):

Wendy Jones, Chief of the Whatcom County Jail
Sheriff's Office Corrections Bureau
311 Grand Ave
Bellingham WA 98225
360-778-6505
WJones@co.whatcom.wa.us
Robin Willins MSW, LICSW
Mental Health Court Program Manager
509 Girard Street
Bellingham, WA 98225
(360) 778-6053
rwillins@co.whatcom.wa.us
Brandy Branch, LMHC SUDP
Vice President of Outpatient and Community Based Services

Signature of applicant: Julie Grendon

Place Signed / Submitted Bellingham, Washington

(Section Break)



Whatcom County

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

Agenda Bill Master Report

File Number: **AB2022-592**

File ID:	AB2022-592	Version:	1	Status:	Introduced
File Created:	10/18/2022	Entered by:	JNixon@co.whatcom.wa.us		
Department:	Council Office	File Type:	Council Appointment Requiring Introduction		
Assigned to:	Council	Final Action:			
Agenda Date:	11/09/2022	Enactment #:			

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

TITLE FOR AGENDA ITEM:

Appointment to fill a vacancy on the Forestry Advisory Committee, Small Forest Landowner Position,
Applicant(s): Holly Koon

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

FORESTRY ADVISORY COMMITTEE

1 vacancy for a Small forest landowner position, partial term ending 1/31/2026.

The Forestry Advisory Committee review issues that affect the forestry industry and makes recommendations to the Whatcom County Council. The committee also provides a forum for all sectors of the forestry community to contribute to discussions on the future of forestry in Whatcom County. Meets monthly as needed.

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
10/25/2022	Council	INTRODUCED	Council

Attachments: Koon Application

Board and Commission Application

Step 1

Application for Appointment to Whatcom County Boards and Commissions

Public Statement

THIS IS A PUBLIC DOCUMENT: As a candidate for a public board or commission, the information provided will be available to the County Council, County Executive, and the public. All board and commission members are expected to be fair, impartial, and respectful of the public, County staff, and each other. Failure to abide by these expectations may result in revocation of appointment and removal from the appointive position.

Title Ms.

First Name Holly

Last Name Koon

Today's Date 10/17/2022

Street Address [REDACTED]

City [REDACTED]

Zip [REDACTED]

Do you live in & are you registered to vote in Whatcom County? Yes

Do you have a different mailing address? YES

Mailing Address [REDACTED]

Primary Telephone [REDACTED]

Secondary Telephone [REDACTED]

Email Address [REDACTED]

Step 2

1. Name of Board or Committee	Forestry Advisory Committee
Forestry Advisory Committee Position:	Small forest landowner
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 3
4. Are you a US citizen?	Yes
5. Are you registered to vote in Whatcom County?	Yes
6. Have you declared candidacy (as defined by RCW 42.17A.055) for a paid elected office in any jurisdiction within the county?	No
7. Have you ever been a member of this Board/Commission?	No
8. Do you or your spouse have a financial interest in or are you an employee or officer of any business or agency that does business with Whatcom County?	No
You may attach a resume or detailed summary of experience, qualifications, & interest in response to	Attached

the following questions

9. Please describe your occupation (or former occupation if retired), qualifications, professional and/or community activities, and education

Please see pages 1-2 of attached document, Holly Koon CV

10. Please describe why you're interested in serving on this board or commission

Please see page 3 of attached document, Personal Statement of Purpose

References (please include daytime telephone number):

Please see page 4 of attached document, List of Professional References

Signature of applicant: Holly Koon

Place Signed / Submitted Deming Washington

(Section Break)

Holly A. Koon

Resume of Professional Qualifications and Experience*

*Note that forestry-related experience is on 2nd page.

EDUCATION

WESTERN WASHINGTON UNIVERSITY

MEd Science Education (Chemistry and Physics)

August 1998

BAEd (Biology/Chemistry Education)

March 1994

PROFESSIONAL CERTIFICATIONS

National Board-Certified Teacher

Adolescent and Young Adult Science

Washington State Continuing Teaching Certificate

4-12 Biology, 4-12 Chemistry

Washington State Continuing Career and Technical Education Certificate

Forestry, Natural Resources, Fire Science

OSPI Certified National Board Facilitator

TEACHING EXPERIENCE

MOUNT BAKER HIGH SCHOOL, *Deming, WA*

1994 – present

Biology, Honors Biology, CP Chemistry, CP Physics, Physical Science, (CTE) Agriculture. North Cascade and Olympic Science Partnership, HS Lead Teacher.

MOUNT BAKER HIGH SCHOOL COMPASS PROGRAM

2009-2011

(School-within-a-school for At-Risk Youth)

MOUNT BAKER JUNIOR HIGH SCHOOL, *Deming, WA*

1994- 1995

Life Science

WASHINGTON STATE POLICY LEADERSHIP

WASHINGTON STATE BOARD OF EDUCATION

SBE Member, appointed by Governor Jay Inslee

2014-2022 (term ended)

OFFICE OF THE SUPERINTENDENT OF PUBLIC INSTRUCTION (OSPI), Olympia, WA

OSPI Planner for Washington NBCT Policy Summit on Second Tier Teacher Licensure

2016

Served on Student Growth Rubric practitioner review panel

2013

Holly A. Koon - Resume of Professional Qualifications and Experience ---Page 2

Policy Leadership Cont....

Served on OSPI "Professional Judgment Panels" for the, *Going the Extra Mile, A Finance System for Student Success* proposal. *May, 2008*

PREVIOUS, FORESTRY-RELEVANT EMPLOYMENT HISTORY

USFS Lead Forestry Technician, Baker River Hot Shot Crew *1991-1994*
Squad Boss, responsible for supervising 9-person squad to execute fire suppression plan at the crew level.

USFS Forestry Technician, Baker River Hot Shot Crew *1988-1991*
Wildland firefighter. Saw team (certified B-bucker and faller), hand crew. Various forestry technician tasks including: tree planting, fuels inventory, fuel consolidation, prescribed burning, applying pesticides and herbicides for big-game control and red-alder release, pre-commercial thinning and hardwood release, trail maintenance,

USFS Fuels Inventory Technician *summer-fall 1987*
Responsible for inventory and calculation of fuel loads for prescription-burning of logged units in the Olympic National Forest. Member of prescribed burning crew.

DNR, Conservation Crew, *Spring 1987*
Member of a 6-member, entry-level forestry conservation crew. Applied pesticides and herbicides for big-game and red-alder release, consolidated slash on logging landings, brushed and maintained trails.

Other, Intermittent (paid) forestry-related experience prior to 1987

Commercial mushroom harvester. Tree planting (multiple species) on private timberland. Assisted in commercial cedar shake bolt salvage: created loads and set chokers on helicopter loads of shake bolts, did spalt cleanup after flights.

OTHER, FORESTRY ADVISORY COMMITTEE- RELEVANT EXPERIENCE

Whatcom County Small Forest Landowner *1993-Present*
Created a forestry plan, planted multiple species of soft and hardwoods, harvested and milled multiple species of hardwoods for personal use and resale, harvested firewood for personal use and resale.

Stuart Mountain Community Forest I-CAT *April, 2022-Present*
Member of 16 person SMCF Interim Community Advisory Team. With technical assistance from the National Park Service Rivers, Trails, and Conservation Assistance Program, the I-CAT is working with the Core Planning Committee to develop a Strategic Vision Framework for Stuart Mountain Community Forest, and promote broad community understanding of the project. The strategic framework for the SMCF includes objectives relating to desired outcomes (timber production, conservation, recreation, etc.) and pathways for community involvement in SMCF, now and in the future.

Family Forest Fish Passages Program *Multiple Projects early 2000s*
Worked with Nooksack Tribe, NSEA and DNR to utilize FFFPP funds to replace culverts with bridges, plant riparian vegetation and perform other fish habitat improvements on the Wheeler and Kendall Creek drainages.

Other Citizen Involvement *Multiple settings and issues, 1991-Present*
Provided written and verbal comment, attended meetings, engaged in community organizing for various forestry-relevant issues. Examples include: Whatcom County Parks and Rec Planning process, DNR Recreation Planning process, Various Forestry Application Permit processes, state-level advocacy for increased DNR law enforcement funding, local advocacy with DNR around public safety and nuisance issues, various Whatcom County PDS/ zoning issues.

Holly A. Koon

Personal Statement of Purpose for Whatcom County Forest Advisory Committee

██████████
██████████

██████████
██████████
██████████

Dear County Council Selection Committee,

I am applying for the vacant, Small Forest Landowner seat on the Whatcom County Timber Advisory Committee because I'm the mother of a 22-year-old, Whatcom County born and raised son who loves this county and wants to spend the rest of his life here. As a mother, I want for my son's future what his father and I have been fortunate to experience ourselves and have taught him to value. Among other things, this includes the ability to: harvest wild mushrooms for his morning omelet; eat venison or locally fished salmon for dinner; go for a spring walk and marvel at the incredible variety and beauty of mycoheterotrophic flowers and other native plants blooming in Whatcom County; and be able to purchase locally harvested, high-quality lumber products to use in building a home that has a reasonable expectation of not vanishing in flood, fire, or landslide.

If selected I promise to bring 4 things to the FAC: An educated perspective rooted in science and data; an ability to locally apply that science based on thousands of hours of actual boots-on-the-ground experience in forestlands in Whatcom County; a deeply personal commitment to Whatcom County's climate resilient future; and a level of previous experience with boards, committees and policy-making to have some idea of what I'm getting into and reliably show up to do it.

Thank you for your consideration,

Sincerely,

Holly Anne Koon

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██████████

██████████
██████████

██████████

██████████

Holly A. Koon

List of Professional References

Matt Durand

Principal, Mt Baker High School

Bellingham, WA 98226

Cell (360)-5947988

Work (360)-383-4500

Fax (360)-383-2029

E-mail: mdurand@mtbaker.wednet.edu

Russ Pfeiffer-Hoyt

President, Mt Baker School Board

6190 Saxon Road

Acme, WA 98220

Home (360) 595-2512

Mt Baker School District (360)-383-2000

Fax (360)-383-2090

E-mail: RPfeiffer-Hoyt@mtbaker.wednet.edu

Anthony Engle

Mt Baker Snoqualmie National Forest, Fire and Aviation Staff Officer (Ret.)

(Former) Superintendent, Baker River Hot Shot Crew

22965 Nature View Dr. SW

Mt Vernon, WA 98284

Cell (360) 202-4979

E-mail: aesedro@gmail.com

Randy Spaulding

Executive Director, Washington State Board of Education

PO Box 47206

600 Washington ST SE

Olympia, WA 98501

Work: (360) 725-6024

Cell: (360) 7894192

Email: Randy.Spaulding@k12.wa.us



Whatcom County

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

Agenda Bill Master Report

File Number: **AB2022-593**

File ID:	AB2022-593	Version:	1	Status:	Introduced
File Created:	10/18/2022	Entered by:	JNixon@co.whatcom.wa.us		
Department:	Council Office	File Type:	Council Appointment Requiring Introduction		
Assigned to:	Council	Final Action:			
Agenda Date:	11/09/2022	Enactment #:			

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

TITLE FOR AGENDA ITEM:

Appointment to fill a vacancy on Drainage District 3, Commissioner Position #3, Applicant(s): Paul Sangha

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

Drainage District #3

1 Vacancy, Commissioner Position 3.

Appointed term will expire at the special district general election of February 2024. District boundary is located 4-5 miles south of Lynden (Green Lake area). Fourmile Creek, tributary to Tenmile Creek/Nooksack River, is the primary channel.

The Whatcom County Council makes appointments. Applicants must be property owners in the district and registered voters in the State of Washington. All terms expire and all positions will be subject to election at the special district general election of February 2024. For more term information, call the Election Division of the County Auditor's Office at 360-778-5100.

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
10/25/2022	Council	INTRODUCED	Council

Attachments: Sangha Application



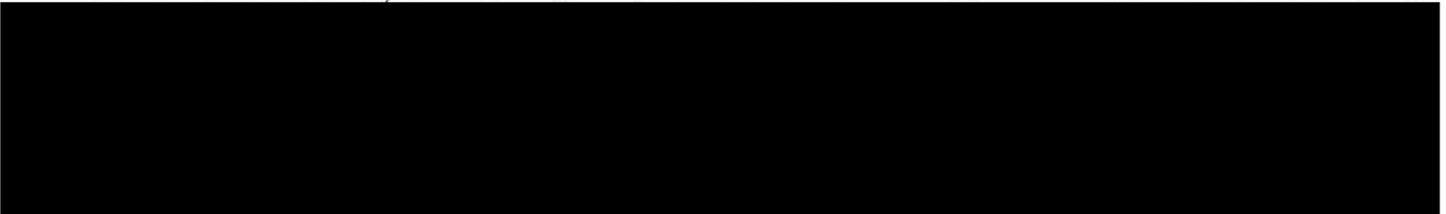
WHATCOM COUNTY COUNCIL

APPLICATION FOR APPOINTMENT TO WHATCOM COUNTY BOARDS AND COMMISSIONS

PLEASE PRINT LEGIBLY and COMPLETE ALL ITEMS

Name: Paul Sangha

Date: 10-15-22

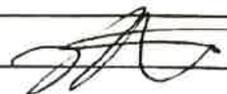


1. Name of board or committee-**please see reverse**: DID #3 Drainage Dist. #3
2. You must specify which position you are applying for.
Please refer to vacancy list. COMMISSIONER
3. Do you meet the residency, employment, and/or affiliation requirements of the position for which you're applying?
(If applicable, please refer to vacancy list.) yes () no
4. Which Council district do you live in? () One () Two () Three Four () Five
5. Are you a US citizen? yes () no
6. Are you registered to vote in Whatcom County? yes () no
7. Have you ever been a member of this Board/Commission? yes () no
If yes, dates: yes
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? () yes no
If yes, please explain: _____
9. Have you declared candidacy (as defined by RCW 42.17A.055, see instructions) for a paid elected office in any jurisdiction within the county? () yes no

You may attach a résumé or detailed summary of experience, qualifications, & interest in response to the following questions.

10. Please describe your occupation (or former occupation if retired), qualifications, professional and/or community activities, and education.
Whatcom County Farmer and Land owner
11. Please describe why you're interested in serving on this board or commission: to help with Ag and Land related issues in Whatcom Co.

References (please include daytime telephone number): _____

Signature of applicant: 

THIS IS A PUBLIC DOCUMENT: As a candidate for a public board or commission, the above information 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.



Whatcom County

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

Agenda Bill Master Report

File Number: **AB2022-602**

File ID:	AB2022-602	Version:	1	Status:	Agenda Ready
File Created:	10/25/2022	Entered by:	SMildner@co.whatcom.wa.us		
Department:	County Executive's Office	File Type:	Executive Appointment		
Assigned to:	Council			Final Action:	
Agenda Date:	11/09/2022			Enactment #:	

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

TITLE FOR AGENDA ITEM:

Request confirmation of the County Executive's appointment of Jackie Dexter to the Marine Resources Committee

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

See staff memorandum

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
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Attachments: Staff memo, Dexter Application

**WHATCOM COUNTY
PUBLIC WORKS DEPARTMENT**

**Jon Hutchings
Director**



NATURAL RESOURCES
322 N. Commercial Street, Suite 110
Bellingham, WA 98225
Telephone: (360) 778-6230
FAX: (360) 778-6231
www.whatcomcounty.us

TO: The Honorable Satpal Singh Sidhu, County Executive

THROUGH: Jon Hutchings, Director

FROM: Gary S. Stoyka, Natural Resources Manager
Austin Rose, Planner I

RE: Marine Resources Committee appointment recommendation

DATE: October 21, 2022

*Pls Appoint.
SS.*

There is currently one vacancy on the Marine Resources Committee (MRC) for an Economic Interest position. One application for the Economic Interest position was received on October 20, 2022 from Ms. Jackie Dexter.

It was decided at a previous MRC meeting by the full committee that the MRC Executive Subcommittee would serve as a "Nominations" committee by reviewing applications and submitting recommendations for appointments. The MRC recommends Mrs. Jackie Dexter to represent an Economic position on the MRC. Mrs. Dexter has extensive experience and knowledge in the aquaculture industry, ranging from academia to the commercial end. She has worked with Olympia oyster restoration projects, water quality, numerous surveys, and is starting a seaweed/kelp farm. Mrs. Dexter's knowledge and continual understanding of the aquaculture industry, in addition to her interest and availability to volunteer with MRC projects will be a valuable contribution to the work of the MRC.

If you have any questions regarding this recommendation, please contact Austin Rose at extension 6286



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	Mrs.
First Name	JACKIE
Last Name	DEXTER
Today's Date	10/20/2022
Street Address	██████████
City	██████
Zip	██████
Do you live in & are you registered to vote in Whatcom County?	Yes
Do you have a different mailing address?	<i>Field not completed.</i>
Primary Telephone	██████████
Secondary Telephone	<i>Field not completed.</i>
Email Address	holdfastmariculture@gmail.com
1. Name of Board or Committee	Marine Resource Committee
Marine Resource Committee Position:	Economic Interest
2. Do you meet the residency, employment, and/or affiliation requirements of the position for which you're applying?	Yes
3. Which Council district do you live in?	District 5
4. Are you a US citizen?	Yes

5. Are you registered to vote in Whatcom County?	Yes
6. Have you declared candidacy (as defined by RCW 42.17A.055) for a paid elected office in any jurisdiction within the county?	No
7. Have you ever been a member of this Board/Commission?	No
8. Do you or your spouse have a financial interest in or are you an employee or officer of any business or agency that does business with Whatcom County?	Yes
If yes, please explain	My husband is employed at Healthy Pet in Ferndale and I am trying to start my own seaweed/kelp farm in northern Whatcom County.
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	Holdfast Mariculture LLC-Owner of future seaweed/kelp farm in northern Whatcom 2022-present Drayton Harbor Oyster Co.-Nursery Manager/Farm Hand/Educational outreach 2018-2022 Swinomish Indian Tribal Community-Shellfish Tech, native Olympia oyster restoration 2015-2016 BS in Biology WWU 2007, Fisheries Cert. BTC 2015 Puget Sound Restoration Fund 2013-2015 Pacific Coast Shellfish Growers Association 2022 Whatcom Marine Resource Committee-Volunteer 2022
10. Please describe why you're interested in serving on this board or commission	I am interested in the Economic position with the Whatcom Marine Resource Committee for the following reasons: Am an environmentalist who is passionate about water quality Am an educated young women eager to share knowledge Am an activist who participates in the community Am a mariculturist promoting a working waterfront with respect to the environment
References (please include daytime telephone number):	Steve Seymour 360-739-2490 Mark Seymour 360-510-3964 Ryan Vasak 360-305-2233
Signature of applicant:	Jackie Dexter
Place Signed / Submitted	Blaine, WA